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

FORM 20-F

(Mark One)

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

OR

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934 For the fiscal year ended December 31, 2009**

OR

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

OR

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

Date of event requiring this shell company report _____

For the transition period from _____ to _____

Commission file number 1-14946

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

(Exact name of Registrant as specified in its charter)

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

United Mexican States
(Jurisdiction of incorporation or organization)

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

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

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

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

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

None
(Title of Class)

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

None
(Title of Class)

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

9,387,360,748 CPOs
19,224,207,531 Series A shares (including Series A shares underlying CPOs)
9,612,103,765 Series B shares (including Series B shares underlying CPOs)

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

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

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

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). N/A

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

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

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

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

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

Item 17 ☐ Item 18 ☑

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

Yes ☐ No ☑

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INTRODUCTION

CEMEX, S.A.B. de C.V. is incorporated as a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) organized under the laws of the United Mexican States, or Mexico. Except as the context otherwise may require, references in this annual report to "CEMEX," "we," "us" or "our" refer to CEMEX, S.A.B. de C.V. and its consolidated entities. See note 3 to our consolidated financial statements included elsewhere in this annual report.

PRESENTATION OF FINANCIAL INFORMATION

Our consolidated financial statements included elsewhere in this annual report have been prepared in accordance with Mexican Financial Reporting Standards, or MFRS, which differ in significant respects from generally accepted accounting principles in the United States, or U.S. GAAP. Beginning on January 1, 2008, according to MFRS B-10, *Inflation Effects* ("MFRS B-10") inflationary accounting is only applied in a high-inflation environment, defined by MFRS B-10 as existing when the cumulative inflation for the preceding three years equals or exceeds 26%. Until December 31, 2007, inflationary accounting was applied to both CEMEX, S.A.B. de C.V. and all of its subsidiaries regardless of the inflation level of their respective countries. Beginning in 2008, only the financial statements of those subsidiaries whose functional currency corresponds to a country under high inflation will be restated to take account of inflation. Designation of a country as a high or low inflation environment takes place at the end of each year, and inflation is applied or suspended prospectively. In 2008, only the financial statements of our subsidiaries in Costa Rica and Venezuela were restated. In 2009, we restated the financial statements of our subsidiaries in Egypt, Nicaragua, Latvia and Costa Rica.

Beginning in 2008, MFRS B-10 eliminated the restatement of the financial statements for the period as well as the comparative financial statements for prior periods into constant values as of the date of the most recent balance sheet. Likewise, beginning in 2008, the amounts of the income statement, statement of cash flows and statement of changes in stockholders' equity are presented in nominal values; meanwhile amounts of financial statements for prior years are presented in constant Pesos as of December 31, 2007, the last date in which inflationary accounting was applied.

Until December 31, 2007, the restatement factors applied to our consolidated financial statements of prior periods were calculated using the weighted average inflation and the fluctuation in the exchange rate of each country in which CEMEX operates relative to the Mexican Peso, weighted according to the proportion that our assets in each country represent of our total assets. Also, see note 25 to our consolidated financial statements for a description of the principal differences between MFRS and U.S. GAAP as they relate to us. Non-Peso amounts included in the financial statements are first translated into Dollar amounts, in each case at a commercially available or an official government exchange rate for the relevant period or date, as applicable, and those Dollar amounts are then translated into Peso amounts at the CEMEX accounting rate, described under "Item 3 — Key Information — Mexican Peso Exchange Rates", as of the relevant period or date, as applicable.

References in this annual report to "U.S.$" and "Dollars" are to U.S. Dollars, references to "€" are to Euros, references to "£" and "Pounds" are to British Pounds, references to "¥" and "Yen" are to Japanese Yen, and, unless otherwise indicated, references to "Ps," "Mexican Pesos" and "Pesos" are to Mexican Pesos. References to "billion" means one thousand million. The Dollar amounts provided below and, unless otherwise indicated elsewhere in this annual report, are translations of Peso amounts at an exchange rate of Ps13.09 to U.S.$1.00, the CEMEX accounting rate as of December 31, 2009. However, in the case of transactions conducted in Dollars, we have presented the Dollar amount of the transaction and the corresponding Peso amount that is presented in our consolidated financial statements. These translations have been prepared solely for the convenience of the reader and should not be construed as representations that the Peso amounts actually represent those Dollar amounts or could be converted into Dollars at the rate indicated. From December 31, 2009 through June 25, 2010, the Peso appreciated by 2.8% against the Dollar, based on the noon buying rate for Pesos. See "Item 3 — Key Information — Selected Consolidated Financial Information."

The noon buying rate for Pesos on December 31, 2009 was Ps13.06 to U.S.$1.00 and on June 25, 2010 was Ps12.70 to U.S.$1.00.

PART I

Item 1 - Identity of Directors, Senior Management and Advisors

Not applicable.

Item 2 - Offer Statistics and Expected Timetable

Not applicable.

Item 3 - Key Information

Brief Summary of our Recent Financial History

As of December 31, 2008, we had approximately Ps258.1 billion (U.S.$18.8 billion) of total debt, not including approximately Ps41.5 billion (U.S.$3.0 billion) of Perpetual Debentures (as defined below), which are not accounted for as debt under MFRS but are considered to be debt for purposes of U.S. GAAP. Most of our outstanding debt as of December 31, 2008 had been incurred to finance our acquisitions, including the acquisition of Rinker Group Limited, or Rinker, in 2007, and our capital expenditure programs. The acquisition of Rinker substantially increased our exposure in the United States, which has been experiencing a sharp downturn in the housing and construction sectors. The downturn in the United States has had adverse effects on our U.S. operations, making it more difficult for us to achieve our goal of decreasing our acquisition-related leverage and, given extremely tight credit markets during the height of the economic crisis, made it increasingly difficult for us to refinance our acquisition-related debt. Nonetheless, after long negotiations, in 2009 we reached a comprehensive financing agreement with our major creditors on August 14, 2009 or, as amended, the Financing Agreement. The Financing Agreement extended the maturities of approximately U.S.$15.1 billion in syndicated and bilateral bank facilities and private placement obligations. As part of the Financing Agreement, we pledged or transferred to a trustee under a security trust substantially all the shares of CEMEX México, S.A. de C.V., or CEMEX México, Centro Distribuidor de Cemento, S.A. de C.V., Mexcement Holdings, S.A. de C.V., Corporación Gouda, S.A. de C.V., CEMEX Trademarks Holding Ltd., New Sunward Holding B.V., or New Sunward, and CEMEX España, S.A., or CEMEX España, as collateral or, the Collateral, and all proceeds of such Collateral, to secure our payment obligations under the Financing Agreement and under several other financing arrangements for the benefit of the participating creditors and holders of debt and other obligations that benefit from provisions in their instruments requiring that their obligations be equally and ratably secured. These subsidiaries collectively own, directly or indirectly, substantially all our operations worldwide.

Since the signing of the Financing Agreement, we have completed a number of capital markets transactions and asset disposals, the majority of the proceeds of which have been used to reduce the amounts outstanding under the Financing Agreement, pay other debt not subject to the Financing Agreement and also to improve our liquidity position.

On September 28, 2009, we sold a total of 1,495 million CPOs, directly or in the form of ADSs, in a global offering for approximately U.S.$1.8 billion in net proceeds.

On October 1, 2009, we completed the sale of our operations in Australia to a subsidiary of Holcim Ltd. for approximately A$2.02 billion (approximately U.S.$1.7 billion).

On December 10, 2009, we issued approximately Ps4.1 billion (approximately U.S.$315 million) in mandatory convertible securities (the "Mandatory Convertible Securities"), in exchange for promissory notes previously issued by CEMEX, S.A.B. de C.V. in the Mexican capital markets (*Certificados Bursátiles*), or CBs, maturing on or before December 31, 2012, pursuant to an exchange offer conducted in México, in transactions exempt from registration pursuant to Regulation S under the Securities Act.

On December 14, 2009, our subsidiary, CEMEX Finance LLC, issued U.S.$1,250 million aggregate principal amount of its 9.50% Senior Secured Notes due 2016 (the "9.50% Dollar-denominated Notes"), and €350 million aggregate principal amount of its 9.625% Senior Secured Notes due 2017 (the "9.625% Euro-denominated Notes"). On January 19, 2010, our subsidiary, CEMEX Finance LLC, issued an additional U.S.$500 million aggregate principal amount of the 9.50% Dollar-denominated Notes.

On March 30, 2010, we closed the offering of U.S.$715 million of our 4.875% Convertible Subordinated Notes due 2015 (the "Optional Convertible Subordinated Notes"), including the initial purchasers' exercise in full of their over-allotment option, in transactions exempt from registration pursuant to Rule 144A under the Securities Act.

On May 12, 2010, our subsidiary CEMEX España, acting through its Luxembourg branch, issued U.S.$1,067,665,000 aggregate principal amount of its 9.25% Senior Secured Notes due 2020 (the "9.25% Dollar-denominated Notes" and, collectively with the 9.50% Dollar-denominated Notes, the "Dollar-denominated Notes") and €115,346,000 aggregate principal amount of its 8.875% Senior Secured Notes due 2017 (the "8.875% Euro-denominated Notes" and, collectively with the 9.625% Euro-denominated Notes, the "Euro-denominated Notes"), in exchange for Dollar-denominated 6.196% fixed-to-floating rate callable perpetual debentures (the "6.196% Perpetual Debentures"), Dollar-denominated 6.640% fixed-to-floating rate callable perpetual debentures (the "6.640% Perpetual Debentures"), Dollar-denominated 6.722% fixed-to-floating rate callable perpetual debentures (the "6.722% Perpetual Debentures") and Euro-denominated 6.277% fixed-to-floating rate callable perpetual debentures (the "6.277% Perpetual Debentures" and, collectively with the 6.196% Perpetual Debentures, the 6.640% Perpetual Debentures and the 6.722% Perpetual Debentures, the "Perpetual Debentures"), pursuant to a private placement exchange offer and consent solicitation (the "2010 Exchange Offer") directed to the holders of Perpetual Debentures, in transactions exempt from registration pursuant to Rule 144A and Regulation S under the Securities Act. We refer to the Dollar-denominated Notes and the Euro-denominated Notes, collectively as the New Senior Secured Notes. The payment of principal, interest and premium, if any, on the New Senior Secured Notes are secured by a first-priority security interest over the Collateral and all proceeds of such Collateral.

We refer to (i) the issuance and sale of U.S.$500 million additional aggregate principal amount of the 9.50% Dollar-denominated Notes in January 2010, (ii) the issuance and sale of U.S.$715 million aggregate principal amount of the Optional Convertible Subordinated Notes in March 2010, and (iii) the issuance of approximately U.S.$1.68 billion aggregate principal amount of the 9.25% Dollar-denominated Notes and approximately €115 million aggregate principal amount of the 8.875% Euro-denominated Notes in exchange for a majority in principal amount of each of the four tranches of Perpetual Debentures in May 2010, collectively as the "2010 Transactions."

As of December 31, 2009, we had approximately Ps211.1 billion (U.S.$16.1 billion) of total debt, not including approximately Ps39.9 billion (U.S.$3.0 billion) of Perpetual Debentures, which are not accounted for as debt under MFRS but are considered to be debt for purposes of U.S. GAAP. See notes 13A, 17D and 25 to our consolidated financial statements included elsewhere in this annual report. As of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, our total debt was approximately Ps226.1 billion (U.S.$17.3 billion), not including approximately Ps17.6 billion (U.S.$1.3 billion) of Perpetual Debentures outstanding after the completion of the 2010 Exchange Offer, but including our debt not subject to the Financing Agreement, which was approximately Ps96.5 billion (U.S.$7.4 billion). Of such *pro forma* total debt amount, approximately Ps6.3 billion (U.S.$481 million) is maturing during 2010; approximately Ps5.1 billion (U.S.$386 million) matures during 2011; approximately Ps17.0 billion (U.S.$1.3 billion) matures during 2012; approximately Ps32.1 billion (U.S.$2.5 billion) matures during 2013; approximately Ps108.8 billion (U.S.$8.3 billion) matures during 2014; and approximately Ps56.8 billion (U.S.$4.3 billion) matures after 2014.

As of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, the Financing Agreement had the following semi-annual amortization schedule, with a final maturity of approximately U.S.$6.9 billion on February 14, 2014:

Repayment Date	Cumulative repayment amount %	Original repayment amount %	Approximate required payment (in millions of Dollars)
June 2010*	4.77%	1.59%	—
December 2010*	19.10%	14.33%	—
June 2011*	20.69%	1.59%	—
December 2011*	33.11%	12.42%	—
June 2012**	35.75%	2.64%	U.S.$ 241
December 2012	38.39%	2.64%	U.S.$ 397
June 2013	46.35%	7.96%	U.S.$ 1,197
December 2013	54.31%	7.96%	U.S.$ 1,197
February 2014	100.00%	45.69%	U.S.$ 6,867

* Repaid in full.

** Approximately U.S.$241 million of this installment remains to be repaid.

Risk Factors

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

The current global economic condition may continue to adversely affect our business, financial condition and results of operations.

The global recession has had and current global economic conditions may continue to have a material adverse impact on our business, financial condition and results of operations throughout our operations worldwide. Our results of operations are highly dependent on the results of our operating subsidiaries in the U.S., Mexico and Western Europe. This has been the deepest and longest global recession in several generations. Despite some aggressive measures taken by governments and central banks thus far, there is still a significant risk that these measures may not prevent the global economy from falling into an even deeper and longer lasting recession. In the construction sector, declines in residential construction in all of our major markets have broadened and intensified in line with the spread and deterioration of the financial crisis. The adjustment process has been more severe in countries that experienced the largest housing market expansion during the years of high credit availability (such as the U.S., Spain, Ireland and the U.K.). Most government sponsored recovery efforts focus on fostering growth in demand from infrastructure projects. The infrastructure plans announced to date by many countries, including the U.S., Mexico and Spain, may not stimulate economic growth or yield the expected results because of delays in implementation and/or bureaucratic issues, among other obstacles. A worsening of the current economic crisis or delays in implementing any such plans could adversely affect demand for our products.

In the U.S., the recession has already been longer and deeper than the previous two recessions during the 1990s and in early 2000. In 2009, housing starts, the primary driver of cement demand in the residential sector, reached their lowest point in recent history, at a rate of 554,000, according to the U.S. Census Bureau. The timing of a housing recovery remains uncertain given the current market environment, tight credit conditions and housing oversupply. As part of the announced government fiscal stimulus

package, the U.S. Congress passed the American Recovery and Reinvestment Act of 2009, which provides approximately U.S.$85 billion for infrastructure spending. To date, however, spending under this program has not been entirely effective to offset the decline in cement and ready-mix concrete demand as a result of current economic conditions. The uncertain economic environment and tight credit conditions also adversely affected the U.S. industrial and commercial sectors during 2009, with contract awards — a leading indicator of construction activity — declining 57% in 2009 compared to 2008, according to FW Dodge. This combination of factors resulted in the worst decline in sales volumes that we have experienced in the United States in recent history. Our U.S. operations' cement and ready-mix concrete sales volumes decreased approximately 32% and 38%, respectively, in 2009 compared to 2008.

The Mexican economy has also been significantly and adversely affected by the global financial crisis. Mexican dependence on the U.S. economy remains very important, and therefore, any downside to the economic outlook in the United States may hinder the recovery in Mexico. The crisis has also adversely affected local credit markets resulting in an increased cost of capital that may negatively impact companies' ability to meet their financial needs. During 2008, the Mexican Peso depreciated by 26% against the Dollar. During 2009, the Mexican Peso had a mild recovery, appreciating by approximately 5% against the Dollar, and has since fluctuated around these new levels. Exchange rate depreciation and/or volatility in the markets would adversely affect our operational and financial results. We cannot be certain that a more pronounced contraction of Mexican economic output will not take place, which would translate into a more challenging outlook for the construction sector and its impact on cement and concrete consumption. According to the Mexican Statistics Office (*Instituto Nacional de Estadística, Geografía e Informática,* or "INEGI"), spending on infrastructure-related projects increased approximately 15% during 2009 versus the same period in 2008. However, we cannot give any assurances that this trend will continue, as the Mexican government's plan to increase infrastructure spending could prove to be, as in other countries, difficult to implement in a timely manner and in the officially announced amounts. As a result of the current economic environment, our cement and ready-mix concrete sales volumes in Mexico decreased approximately 4% and 14%, respectively, in 2009 compared to 2008.

Many Western European countries, including the U.K., France, Spain and Germany, have faced difficult economic environments due to the financial crisis and its impact on their economies, including the construction sectors. If this situation were to deteriorate further, our financial condition and results of operations could be further affected. The situation has been more pronounced in those countries with a higher degree of previous market distortions (especially those experiencing real estate bubbles and durable goods overhangs prior to the crisis), such as Spain, or those more exposed to financial turmoil, such as the U.K. According to OFICEMEN, the Spanish cement trade organization, domestic cement demand in Spain declined 33% in 2009 compared to 2008. Our domestic cement and ready-mix concrete sales volumes in Spain decreased approximately 40% and 44%, respectively, in 2009 compared to 2008. In the U.K., according to the British Cement Association, domestic cement demand decreased approximately 25% in 2009 compared to 2008. Our domestic cement and ready-mix concrete sales volumes in the U.K. decreased approximately 19% and 25%, respectively, in 2009 compared to 2008. In the construction sector, the residential adjustment could last longer than anticipated, while non-residential construction could experience a sharper decline than expected. Finally, the boost to infrastructure spending that is anticipated as a result of the stimulus packages that have been announced by most European countries could be lower than projected due to bureaucratic hurdles, delays in implementation or funding problems. If these risks materialize, our business, financial condition, and results of operations may be adversely affected. The important trade links with Western Europe make some of the Eastern European countries susceptible to the Western European recession. Large financing needs in these countries pose a significant vulnerability. Central European economies could face delays in implementation of European Union Structural Funds (funds provided by the European Union to member states with lowest national incomes per capita) related projects due to logistical and funding problems, which could have a material adverse effect on cement and/or ready-mix concrete demand. In addition, the current concerns about sovereign debt and the budget deficit levels of Greece and several other European Union countries have resulted in increased volatility and risk perception in the financial markets. The plan recently announced by the European Union and the International Monetary Fund to provide approximately €720 billion to support financial stability in Europe is designed to reduce liquidity risk and debt default probability of any individual European Union member. However, under these and similar plans, fiscal adjustments would need to be implemented in countries with unsustainable fiscal deficits, which likely will lead to a decrease in infrastructure investment in some countries, including Spain, which could have a material adverse effect on cement and/or ready-mix concrete demand and/or would delay any expected economic recovery.

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

The Asia-Pacific region will likely be affected if the global economic landscape further deteriorates. An additional increase in country risk and/or decreased confidence among global investors would also limit capital flows and investments in the Asian region. Regarding the Middle East region, lower oil revenues and tighter credit conditions could moderate economic growth and adversely affect construction investments. Our operations in the United Arab Emirates (the "UAE") have been adversely affected by credit concerns and the end of the construction boom. In addition, the accumulated housing overhang, the rapid decline in property values, and the radical change in the international financial situation could prompt a sudden adjustment of the residential markets in some of the countries in the region.

If the global economy were to continue to deteriorate and fall into an even deeper and longer lasting recession, or even a depression, our business, financial condition, and results of operations would be adversely affected.

The Financing Agreement contains restrictive covenants and limitations that could significantly affect our ability to operate our business.

The Financing Agreement requires us, beginning June 30, 2010, to comply with several financial ratios and tests, including a consolidated coverage ratio of EBITDA to consolidated interest expense of not less than (i) 1.75:1 for each semi-annual period beginning on June 30, 2010 through the period ending June 30, 2011, (ii) 2.00:1 for each semi-annual period after June 30, 2011 through the period ending December 31, 2012 and (iii) 2.25:1 for the remaining semi-annual periods to December 31, 2013. In addition, the Financing Agreement allows us a maximum consolidated leverage ratio of total debt (including the Perpetual Debentures) to EBITDA for each semi-annual period not to exceed 7.75:1 for the period ending June 30, 2010 and decreasing gradually for subsequent semi-annual periods to 3.50:1 for the period ending December 31, 2013. Our ability to comply with these ratios may be affected by current global economic conditions and high volatility in foreign exchange rates and the financial and capital markets. Pursuant to the Financing Agreement, we are also prohibited from making aggregate capital expenditures in excess of (i) U.S.$700 million for the year ending December 31, 2010 and (ii) U.S.$800 million for each year thereafter until the debt under the Financing Agreement has been repaid in full. For the year ended December 31, 2009, we recorded U.S.$636 million in capital expenditures.

We are also subject to a number of negative covenants that, among other things, restrict or limit our ability to: (i) create liens; (ii) incur additional debt; (iii) change our business or the business of any obligor or material subsidiary (as defined in the Financing Agreement); (iv) enter into mergers; (v) enter into agreements that restrict our subsidiaries' ability to pay dividends or repay intercompany debt; (vi) acquire assets; (vii) enter into or invest in joint venture agreements; (viii) dispose of certain assets; (ix) grant additional guarantees or indemnities; (x) declare or pay cash dividends or make share redemptions; (xi) issue shares; (xii) enter into certain derivatives transactions; (xiii) exercise any call option in relation to any perpetual bonds we issue unless the exercise of the call options does not have a materially negative impact on our cash flow; and (xiv) transfer assets from subsidiaries or more than 10% of shares in subsidiaries into or out of CEMEX España or its subsidiaries if those assets or subsidiaries are not controlled by CEMEX España or any of its subsidiaries. The Financing Agreement also contains a number of affirmative covenants that, among other things, require us to provide periodic financial information to our lenders.

Pursuant to the Financing Agreement, however, a number of those covenants and restrictions will automatically cease to apply or become less restrictive if (i) we receive an investment-grade rating from two of Standard & Poor's, Moody's Investors Service, Inc. and Fitch Ratings; (ii) we reduce the indebtedness under the Financing Agreement by at least 50.96% (approximately U.S.$7.6 billion) from the original amount of U.S.$15.1 billion; (iii) our consolidated leverage ratio for the two most recently completed semi-annual testing periods is less than or equal to 3.5:1; and (iv) no default under the Financing Agreement is continuing. Restrictions that will cease to apply when we satisfy such conditions include the capital expenditure limitations mentioned above, any applicable margin increases that were due to a failure to meet amortization targets, and several negative covenants, including limitations on our ability to declare or pay cash dividends and distributions to shareholders, limitations on our ability to repay existing financial indebtedness, certain asset sale restrictions, the quarterly cash balance sweep, certain mandatory prepayment provisions, and restrictions on exercising call options in relation to any perpetual bonds we issue (provided that participating creditors will continue to receive the benefit of any restrictive covenants that other creditors receive relating to other financial indebtedness of ours in excess of U.S.$75 million). At such time, several baskets and caps relating to negative covenants will also increase, including permitted financial indebtedness, permitted guarantees and limitations on liens. However, there can be no assurance that we will be able to meet the conditions for these restrictions to cease to apply prior to the final maturity date under the Financing Agreement.

The Financing Agreement contains events of default, some of which may be outside our control. Such events of default include defaults based on (i) non-payment of principal, interest, or fees when due; (ii) material inaccuracy of representations and warranties; (iii) breach of covenants; (iv) bankruptcy or insolvency of CEMEX, any borrower under an existing facility agreement (as defined in the Financing Agreement) or any other of our material subsidiaries (as defined in the Financing Agreement); (v) inability to pay debts as they fall due or by reason of actual financial difficulties, suspension or threatened suspension of payments on debts exceeding U.S.$50 million or commencement of negotiations to reschedule debt exceeding U.S.$50 million; (vi) a cross-default in relation to financial indebtedness in excess of U.S.$50 million; (vii) a change of control with respect to CEMEX; (viii) a change to the ownership of any of our subsidiary obligors under the Financing Agreement, unless the proceeds of such disposal are used to prepay Financing Agreement debt; (ix) enforcement of the share security; (x) final judgments or orders in excess of U.S.$50 million that are neither discharged nor bonded in full within 60 days thereafter; (xi) any restrictions not already in effect as of August 14, 2009 limiting transfers of foreign exchange by any obligor for purposes of performing material obligations under the Financing Agreement; (xii) any material adverse change arising in the financial condition of CEMEX and each of its subsidiaries, taken as a whole, which greater than 66.67% of the participating creditors determine would result in our failure, taken as a whole, to perform payment obligations under the existing facilities or the Financing Agreement; and (xiii) failure to comply with laws or our obligations under the Financing Agreement cease to be legal. If an event of default occurs and is continuing, upon the authorization of 66.67% of the participating creditors, the creditors have the ability to accelerate all outstanding amounts due under the existing facilities. Acceleration is automatic in the case of insolvency.

Some of the restrictions and limitations contained in the Financing Agreement may limit our planning flexibility and our ability to react to changes in our business and the industry, and may place us at a competitive disadvantage compared to competitors who may have fewer restrictions or limitations. There can be no assurance that we will be able to comply with the restrictive covenants and limitations contained in the Financing Agreement. Further, there can be no assurances that, because of the existence of such limitations, particularly limitations in respect of the incurrence of capital expenditures, we will be able to maintain our operating margins and deliver financial results comparable to the results obtained in the past under similar economic conditions. Our failure to comply with such covenants and limitations could result in an event of default, which could materially and adversely affect our business and financial condition.

We pledged the capital stock of the subsidiaries that represent substantially all of our business as collateral to secure our payment obligations under the Financing Agreement, other financing arrangements and the New Senior Secured Notes.

As part of the Financing Agreement, we pledged or transferred to a trustee under a security trust the Collateral and all proceeds of such Collateral to secure our payment obligations under the Financing Agreement and under a number of other financing arrangements for the benefit of the participating creditors and holders of debt and other obligations that benefit from provisions in their instruments requiring that their obligations be equally and ratably secured. The payment of principal, interest and premium, if any, on the New Senior Secured Notes are secured by a first-priority security interest over the Collateral and all proceeds of such Collateral. As of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, Collateral and all proceeds of such Collateral secured (i) approximately Ps190.5 billion (U.S.$14.6 billion) aggregate principal amount of debt under the Financing Agreement and other financing arrangements, and (ii) approximately Ps17.6 billion (U.S.$1.3 billion) aggregate principal amount of dual-currency notes issued in connection with the Perpetual Debentures, which are not accounted for as debt under MFRS but are considered to be debt for purposes of U.S. GAAP. These subsidiaries collectively own, directly or indirectly, substantially all of our operations worldwide. Provided that no default has occurred which is continuing, as defined under the Financing Agreement, the Collateral will be released automatically if we meet specified debt reduction and financial covenant targets.

The interest rate of our debt included in the Financing Agreement may increase if we do not meet certain amortization targets.

Conditional interest rate increases that may occur with respect to our financial indebtedness included in the Financing Agreement could adversely affect our business. In general, our existing bank facilities that are included in the Financing Agreement bear interest at a base rate plus an applicable margin, a LIBOR rate plus an applicable margin or a Euribor rate plus an applicable margin. The base rates, LIBOR rates and Euribor rates applicable to our existing bank facilities remain in place, and under the Financing Agreement, the applicable margin for each bank facility is set at 4.5% per annum; however, if we are unable to repay at least 50.96%, approximately U.S.$7.6 billion of the aggregate initial exposures of the participating creditors between the closing of the Financing Agreement and December 31, 2011, the applicable margin will increase by 0.5% or 1.0% per annum, depending upon the difference between such target amortization and the actual amortizations paid as of December 31, 2011.

As of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, we had reduced indebtedness under the Financing Agreement by approximately U.S.$5.2 billion, thereby avoiding an interest rate increase that otherwise could have been applicable as of December 2010 pursuant to the terms of the Financing Agreement.

The private placement obligations subject to the Financing Agreement bear interest at a rate of 8.91% (except for the private placement obligations denominated in Japanese Yen, which bear a corresponding rate of 6.625%) per annum. The interest rate on such private placement obligations is subject to the same adjustment as described above. An interest rate increase due to a failure to meet amortization targets will cease to apply on the Covenant Reset Date (as defined in the Financing Agreement). There can be no assurance that we will be able to satisfy the requirements necessary to prevent such pricing increase.

We have a substantial amount of debt maturing in the next several years, including a significant portion of debt not subject to the Financing Agreement and, if we are unable to secure refinancing on favorable terms or at all, we may not be able to comply with our upcoming payment obligations.

As of December 31, 2009, we had approximately Ps211.1 billion (U.S.$16.1 billion) of total debt, not including approximately Ps39.9 billion (U.S.$3.0 billion) of Perpetual Debentures, which are not accounted for as debt under MFRS but are considered to be debt for purposes of U.S. GAAP. See notes 13A, 17D and 25 to our consolidated financial statements included elsewhere in this annual report. As of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, our total debt was approximately Ps226.1 billion (U.S.$17.3 billion), not including approximately Ps17.6 billion (U.S.$1.3 billion) of Perpetual Debentures outstanding after the completion of the 2010 Exchange Offer, but including our debt not subject to the Financing Agreement, which was approximately Ps96.5 billion (U.S.$7.4 billion). Of such *pro forma* total debt amount, approximately Ps6.3 billion (U.S.$481 million) is maturing during 2010; approximately Ps5.1 billion (U.S.$386 million) matures during 2011; approximately Ps17.0 billion (U.S.$1.3 billion) matures during 2012; approximately Ps32.1 billion (U.S.$2.5 billion) matures during 2013; approximately Ps108.8 billion (U.S.$8.3 billion) matures during 2014; and approximately Ps56.8 billion (U.S.$4.3 billion) matures after 2014.

If we are unable to comply with our upcoming principal maturities under our indebtedness (including the Financing Agreement), or refinance our indebtedness, our debt could be accelerated. Acceleration of our debt would have a material adverse effect on our business and financial condition.

We may not be able to generate sufficient cash to service all of our indebtedness or satisfy our short-term liquidity needs, and we may be forced to take other actions to satisfy our obligations under our indebtedness and our short-term liquidity needs, which may not be successful.

Historically, we have addressed our liquidity needs (including funds required to make scheduled principal and interest payments, refinance debt, and fund working capital and planned capital expenditures) with operating cash flow, borrowings under credit facilities, receivables and inventory financing facilities, proceeds of debt and equity offerings and proceeds from asset sales.

As of December 31, 2009, we had approximately U.S.$506 million in outstanding receivables financing facilities, which primarily consisted of four securitization programs. On May 19, 2010, we entered into a one-year accounts receivable securitization program for our U.S. operations for up to U.S.$300 million in funded amounts, replacing our prior program that was scheduled to mature in 2010. The securitization program in France is scheduled to mature on July 31, 2010. The other two securitization programs in Mexico and Spain, with a combined funded amount of U.S.$217 million at December 31, 2009, expire in 2011. We cannot ensure that, going forward, we will be able to roll over or renew these programs, which could adversely affect our liquidity.

The global equity and credit markets in the last two years have experienced significant price volatility, dislocations and liquidity disruptions, which have caused market prices of many stocks to fluctuate substantially and the spreads on prospective and outstanding debt financings to widen considerably. This volatility and illiquidity has materially and adversely affected a broad range of fixed income securities. As a result, the market for fixed income securities has experienced decreased liquidity, increased price volatility, credit downgrade events and increased defaults. Global equity markets have also been experiencing heightened volatility and turmoil, with issuers exposed to the credit markets being most seriously affected. The disruptions in the financial and credit markets may continue to adversely affect our credit rating and the market value of our common stock, our CPOs and our ADSs. If the current pressures on credit continue or worsen, and alternative sources of financing continue to be limited, we may be dependent on the issuance of equity as a source to repay our existing indebtedness, including meeting amortization requirements under the Financing

Agreement. On September 28, 2009, we sold a total of 1,495 million CPOs, directly or in the form of ADSs, in a global offering for approximately U.S.$1.8 billion in net proceeds. On December 10, 2009, we issued approximately Ps4.1 billion in Mandatory Convertible Securities in exchange for CBs. On December 14, 2009, we closed the offerings of U.S.$1,250 million aggregate principal amount of 9.50% Dollar-denominated Notes and €350 million aggregate principal amount of 9.625% Euro-denominated Notes, and on January 19, 2010, we closed the offering of U.S.$500 million additional aggregate principal amount of the 9.50% Dollar-denominated Notes. On March 30, 2010, we closed the offering of U.S.$715 million aggregate principal amount of the Optional Convertible Subordinated Notes. On May 12, 2010, our subsidiary, CEMEX España, acting through its Luxembourg branch, issued U.S.$1,067,665,000 aggregate principal amount of its 9.25% Dollar-denominated Notes, and €115,346,000 aggregate principal amount of its 8.875% Euro-denominated Notes in exchange for Perpetual Debentures. However, conditions in the capital markets have been such that traditional sources of capital, including equity capital, from time to time have not been available to us on reasonable terms or at all. As a result, there is no guarantee that we will be able to successfully raise additional debt or equity capital at all or on terms that are favorable.

The Financing Agreement restricts us from incurring additional debt, subject to certain exceptions. The debt covenant under the Financing Agreement permits us to incur a liquidity facility or facilities entered into with a participating creditor under the Financing Agreement in an amount not to exceed U.S.$1.0 billion (of which up to U.S.$500 million may be secured). In addition, the Financing Agreement requires proceeds from asset disposals, incurrence of debt and issuance of equity, and cash flow to be applied to the prepayments of the exposures of participating creditors subject to our right to retain cash on hand up to U.S.$650 million, including the amount of undrawn commitments of a permitted liquidity facility or facilities (unless the proceeds are used to refinance existing indebtedness on the terms set forth in the Financing Agreement), and to temporarily reserve proceeds from asset disposals and permitted refinancings to be applied to the repayment of certain CBs.

As a result of the current global economic environment and uncertain market conditions, we may not be able to complete asset divestitures on terms that we find economically attractive or at all.

If the global recession deepens and our operating results worsen significantly, if we were unable to complete debt or equity offerings or if our planned divestitures and/or our cash flow or capital resources prove inadequate, we could face liquidity problems and may not be able to comply with our upcoming principal payment maturities under our indebtedness or refinance our indebtedness.

The indentures governing the New Senior Secured Notes and the terms of our other indebtedness impose significant operating and financial restrictions, which may prevent us from capitalizing on business opportunities and may impede our ability to refinance our debt and the debt of our subsidiaries.

The indentures governing the New Senior Secured Notes and the other instruments governing our consolidated indebtedness impose significant operating and financial restrictions on us. These restrictions will limit our ability, among other things, to: (i) incur debt; (ii) pay dividends on stock; (iii) redeem stock or redeem subordinated debt; (iv) make investments; (v) sell assets, including capital stock of subsidiaries; (vi) guarantee indebtedness; (vii) enter into agreements that restrict dividends or other distributions from restricted subsidiaries; (viii) enter into transactions with affiliates; (ix) create or assume liens; (x) engage in mergers or consolidations; and (xi) enter into a sale of all or substantially all of our assets.

These restrictions could limit our ability to seize attractive growth opportunities for our businesses that are currently unforeseeable, particularly if we are unable to incur financing or make investments to take advantage of these opportunities.

These restrictions may significantly impede our ability, and the ability of our subsidiaries, to develop and implement refinancing plans in respect of our debt or the debt of our subsidiaries.

Each of the covenants is subject to a number of important exceptions and qualifications. The breach of any of these covenants could result in a default under the indentures governing the New Senior Secured Notes and under other existing debt obligations, as a result of the cross-default provisions contained in the documentation governing such debt obligations. In the event of a default under the indentures governing the New Senior Secured Notes, the holders of New Senior Secured Notes could seek to declare all amounts outstanding under the New Senior Secured Notes, together with accrued and unpaid interest, if any, to be immediately due and payable. If the indebtedness under the New Senior Secured Notes, or certain other existing debt obligations were to be accelerated, we can offer no assurance that our assets would be sufficient to repay in full that indebtedness and our other indebtedness. Furthermore, upon the occurrence of a cross-default under the Financing Agreement, or under other credit facilities or any of our other debt instruments, the lenders could elect to declare all amounts outstanding thereunder, together with accrued interest, to be immediately due and payable. If the lenders accelerate payment of those amounts, we can offer no assurance that our assets will be sufficient to repay in full those amounts or to satisfy all of our other liabilities.

In addition, in connection with the entry into new financings or amendments to existing financing arrangements, our and our subsidiaries' financial and operational flexibility may be further reduced as a result of more restrictive covenants, requirements for security and other terms that are often imposed on sub-investment grade entities.

Our ability to comply with our debt maturities in 2012 and subsequent years may depend on our making asset sales, and there is no assurance that we will be able to execute such sales on terms favorable to us or at all.

In the short term, we intend to use our capital resources, cash flow from operations, proceeds from capital markets debt and equity offerings and proceeds from the sale of assets to repay debt in order to reduce our leverage, strengthen our capital structure and regain our financial flexibility. Our ability to comply with our payment obligations under the Financing Agreement and other indebtedness may depend in large part on asset sales, and there is no assurance that we will be able to execute such sales on terms favorable to us or at all.

In connection with our asset divestment initiatives, on June 15, 2009, we sold three quarries (located in Nebraska, Wyoming and Utah) and our 49% joint venture interest in the operations of a quarry located in Granite Canyon, Wyoming, to Martin Marietta Materials, Inc. for U.S.$65 million. On October 1, 2009, we completed the sale of our operations in Australia to a subsidiary of Holcim Ltd. for approximately A$2.02 billion (approximately U.S.$1.7 billion) in net proceeds, of which we used approximately U.S.$1.37 billion to prepay indebtedness under the Financing Agreement and approximately U.S.$248 million to strengthen our liquidity position. In addition, the sale of our operations in Australia resulted in the deconsolidation of approximately U.S.$131 million in debt in connection with a credit facility borrowed by our subsidiaries in Australia. As a result of the restrictions under the Financing Agreement and other debt instruments, the current global economic environment and uncertain market conditions, we may not be able to complete asset divestitures on terms that we find economically attractive or at all. The current volatility of the credit and capital markets can significantly affect us due to the limited availability of funds to potential acquiring parties. The lack of acquisition financing in the current economic environment and existing relatively high levels of indebtedness among many industry peers may likely make it difficult for potential interested acquirers to purchase our assets. In addition, high levels of consolidation in our industry in some jurisdictions may further limit potential assets sales to interested parties due to antitrust considerations. Given market conditions at the time of any future asset sales, we can not assure you that we may not be forced to sell our assets at prices substantially lower than their fair market value.

If we are unable to complete asset divestitures and our cash flow or capital resources prove inadequate, we could face liquidity problems in 2012 and subsequent years and may not be able to comply with payment obligations under our indebtedness.

We may not be able to realize the expected benefits from acquisitions, some of which may have a material impact on our business, financial condition and results of operations.

Our ability to realize the expected benefits from acquisitions depends, in large part, on our ability to integrate acquired operations with our existing operations in a timely and effective manner. These efforts may not be successful. The acquisition of Rinker substantially increased our exposure in the United States, which has been experiencing a sharp downturn in the housing and construction sectors. The downturn in the United States has had adverse effects on our operations in the U.S., making it more difficult for us to achieve our goal of decreasing our acquisition-related leverage. We also may not be able to achieve all the anticipated cost savings from the Rinker acquisition. Our financial statements for the year ended December 31, 2008 included non-cash charges of approximately U.S.$1.5 billion for impairment losses in accordance with MFRS, of which approximately U.S.$1.3 billion related to impairment of goodwill (mainly related to the Rinker acquisition). Considering differences in the measurement of fair value, including the selection of economic variables, as well as the methodology for determining final impairment losses between MFRS and U.S. GAAP, our preliminary impairment losses in 2008 under U.S. GAAP amounted to approximately U.S.$4.9 billion, including the impairment losses determined under MFRS, of which approximately U.S.$4.7 billion related to impairment of goodwill. After finalizing our 2008 impairment exercise under U.S. GAAP during 2009, our impairment losses were reduced by approximately U.S.$71 million. See note 25 to our consolidated financial statements included elsewhere in this annual report.

We did not recognize goodwill impairment losses under MFRS nor U.S. GAAP for the year ended December 31, 2009. Although we currently are seeking to dispose of assets to reduce our overall leverage and the Financing Agreement and other debt instruments restrict our ability to acquire assets, we may in the future acquire new operations and integrate such operations into our existing operations, and some of such acquisitions may have a material impact on our business, financial condition and results of operations. We cannot assure you that we will be successful in identifying or acquiring suitable assets in the future. If we fail to achieve the anticipated cost savings from any acquisitions, our business, financial condition and results of operations would be materially and adversely affected.

As a result of the sale of our operations in Australia, for the year ended December 31, 2009, we recognized a loss on sale, net of income tax, and the reclassification of foreign currency translation effects accrued in equity and included under “Other comprehensive income”, for an aggregate amount of approximately Ps5.9 billion (U.S.$446 million). This is reflected in a single line item of “Discontinued operations.” See note 4B to our consolidated financial statements included elsewhere in this annual report.

Our use of derivative financial instruments has negatively affected our operations especially in volatile and uncertain markets.

We have used, and may continue to use, derivative financial instruments to manage the risk profile associated with interest rates and currency exposure of our debt, to reduce our financing costs, to access alternative sources of financing and to hedge some of our financial risks. However, there is no assurance that our use of such instruments will allow us to achieve these objectives due to the inherent risks in any derivatives transaction. For the year ended December 31, 2008, we had a net loss of approximately Ps15.2 billion (U.S.$1.4 billion) from financial instruments as compared to a net gain of approximately Ps2.4 billion (U.S.$218 million) in 2007. For the year ended December 31, 2009, we had a net loss of approximately Ps2.1 billion (U.S.$156 million) from financial instruments. These losses resulted from a variety of factors, including losses related to changes in the fair value of equity derivative instruments attributable to the generalized decline in price levels in the capital markets worldwide, losses related to changes in the fair value of cross-currency swaps and other currency derivatives attributable to the appreciation of the Dollar against the Euro, and losses related to changes in the fair value of interest rate derivatives primarily attributable to the decrease in the five-year interest rates in Euros and Dollars.

During 2009, we reduced the aggregate notional amount of our derivatives, thereby reducing the risk of cash margin calls. This initiative included closing substantially all notional amounts of derivative instruments related to our debt (currency and interest rate derivatives) and the settlement of our inactive derivative financial instruments, which we finalized during April 2009. The Financing Agreement and other debt instruments significantly restrict our ability to enter into derivative transactions.

As of December 31, 2009, our derivative financial instruments that had a potential impact on our comprehensive financing result consisted of equity forward contracts on third party shares and equity derivatives under our own shares, a forward instrument over the Total Return Index of the Mexican Stock Exchange and interest rate derivatives related to energy projects. See note 13B to our consolidated financial statements included elsewhere in this annual report. In addition, our comprehensive financing result may be affected by the capped call transaction entered into in connection with the March 2010 issuance of the Optional Convertible Subordinated Notes. See "Item 5 — Operating and Financial Review and Prospects — Recent Developments — Recent Developments Relating to Our Indebtedness — Issuance of 4.875% Optional Convertible Subordinated Notes Due 2015."

Most derivative financial instruments are subject to margin calls in case the threshold set by the counterparties is exceeded. If we resume using derivative financing instruments in the future, the cash required to cover margin calls in several scenarios may be substantial and may reduce the funds available to us for our operations or other capital needs. The mark-to-market changes in some of our derivative financial instruments are reflected in our income statement, which could introduce volatility in our controlling interest net income and our related ratios. In the current environment, the creditworthiness of our counterparties may deteriorate substantially, preventing them from honoring their obligations to us. We maintain equity derivatives that in a number of scenarios may require us to cover margin calls that could reduce our cash availability. If we resume using derivative financing instruments, or with respect to our outstanding equity derivative positions, we may incur net losses from our derivative financial instruments. See "Item 5 — Operating and Financial Review and Prospects — Critical Accounting Policies — Our Financial Derivatives Instruments."

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

As of December 31, 2009, approximately 40% of our total assets were intangible assets, of which approximately 64% corresponded to goodwill related primarily to our acquisitions of RMC Group, p.l.c., or RMC and Rinker. Goodwill is recognized at the acquisition date based on the preliminary allocation of the purchase price to the fair value of the assets acquired and liabilities assumed. If applicable, goodwill is subsequently adjusted for any correction to the preliminary assessment given to the assets acquired and/or liabilities assumed within the twelve-month period following the purchase date.

Our consolidated financial statements have been prepared in accordance with MFRS, which differ significantly from U.S. GAAP with respect to the methodology used to determine the final impairment loss, when applicable, including the selection of key assumptions related to the determination of the assets' fair value. Pursuant to our policy under MFRS, goodwill and other intangible assets of indefinite life are not amortized and are tested for impairment when impairment indicators exist or in the fourth quarter of each year, by determining the value in use of the reporting units to which those intangible assets relate (a reporting unit comprises multiple cash generating units), which is the result of the discounted amount of estimated future cash flows expected to be generated by the reporting units. An impairment loss is recognized under MFRS if the value in use is lower than the net book value of the reporting unit. We determine the discounted amount of estimated future cash flows over a period of five years, unless a longer period is justified in a specific country, considering the economic cycle of the reporting units and prevailing industry conditions. Impairment tests are sensitive to the projected future prices of our products, trends in operating expenses, local and international economic trends in the construction industry, as well as the long-term growth expectations in the different markets, among other factors. We use after-tax discount rates, which are applied to after-tax cash flows for each reporting unit. Undiscounted cash flows are significantly

sensitive to the growth rates in perpetuity used. Likewise, discounted cash flows are significantly sensitive to the discount rate used. The higher the growth rate in perpetuity applied, the higher the amount obtained of undiscounted future cash flows by reporting unit. Conversely, the higher the discount rate applied, the lower the amount obtained of discounted estimated future cash flows by reporting unit. See note 12B to our consolidated financial statements included elsewhere in this annual report.

During the fourth quarter of 2008, the global economic crisis caused financing scarcity in almost all productive sectors, resulting in a decrease in economic activity in all of our markets and a worldwide downturn in macroeconomic indicators. This effect lowered the overall growth expectations within the countries in which we operate, particularly affecting the construction industry due to the cancellation or deferral of several investment projects. These conditions, which constitute an impairment indicator, remained during a significant portion of 2009. During the fourth quarters of 2009 and 2008, we performed our annual goodwill impairment testing under MFRS. These tests coincided with the negative economic environment previously described. For the year ended December 31, 2008, we recognized goodwill impairment losses under MFRS of approximately Ps18.3 billion (U.S.$1.3 billion), of which the impairment corresponding to the United States reporting unit was approximately Ps16.8 billion (U.S.$1.2 billion). The estimated impairment loss in the United States during 2008 is mainly related to the acquisition of Rinker in 2007 and overall was attributable to the negative economic situation expected in the markets during 2009 and 2010, particularly in the construction industry. Those factors significantly affected the variables included in the projections of estimated cash flows in comparison with valuations made at the end of 2007. For the year ended December 31, 2009, we did not recognize goodwill impairment losses despite the economic conditions prevailing during the year, considering that in such period, the main global stock markets started their stabilization and achieved growth as compared to the closing pricing levels in 2008. Likewise, the reference interest rates at the end of 2009 decreased with respect to their level in 2008 due to an increase in liquidity in the debt and equity markets, which slightly reduced the risk premium in the countries where we operate. These elements jointly generated a decrease in the discount rates in 2009 in comparison with the 2008 discount rates and consequently generated an increase in the value in use of the reporting units. See notes 11 and 12B to our audited consolidated financial statements incorporated by reference in this annual report.

As mentioned above, differences between MFRS and U.S. GAAP with respect to the methodology used to determine the final impairment loss, when applicable, including the selection of key assumptions related to the determination of the assets' fair value, led to a materially greater impairment loss under U.S. GAAP, as compared to that recognized in our 2008 consolidated financial statements under MFRS. For the year ended December 31, 2008, we recognized goodwill impairment losses under U.S. GAAP of approximately U.S.$4.7 billion (compared to U.S.$1.3 billion under MFRS), of which an estimated impairment corresponding to the United States reporting unit was recognized for approximately U.S.$4.5 billion (compared to U.S.$1.2 billion of goodwill impairment losses recognized under MFRS) related to the completion of the second step required to allocate the fair value of the U.S. reporting unit's net assets. During 2009, we completed our U.S. GAAP reconciliation in connection with the year 2008 impairment exercise and reduced final impairment losses under U.S. GAAP by approximately U.S.$71 million. See note 25 to our consolidated financial statements included elsewhere in this annual report.

Due to the important role that economic factors play in testing goodwill for impairment, a further downturn in the global economy in the future could necessitate new impairment tests and a possible downward readjustment of our goodwill for impairment under both MFRS and U.S. GAAP. Such an impairment test could result in additional impairment charges which could be material to our financial statements.

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

CEMEX, S.A.B. de C.V. is a holding company with no significant assets other than the stock of its direct and indirect subsidiaries and our holdings of cash and marketable securities. In general, our ability to repay debt and pay dividends depends on the continued transfer to us of dividends and other income from our wholly-owned and non-wholly-owned subsidiaries. The ability of our subsidiaries to pay dividends and make other transfers to us is limited by various regulatory, contractual and legal constraints.

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

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

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

The instruments governing our debt contain cross-default and cross-acceleration provisions that may cause substantially all of the debt we have issued or incurred to become immediately due and payable as a result of a default under any one of our debt instruments.

Instruments governing our other debt contain certain affirmative and negative covenants. Our failure to comply with the obligations contained in indentures or other instruments governing our indebtedness could result in an event of default under the applicable instrument, which could result in the related debt and the debt issued under other instruments becoming immediately due and payable. In such event, we would need to raise funds from alternative sources, which may not be available to us on favorable terms, on a timely basis or at all. Alternatively, such default could require us to sell our assets and otherwise curtail operations in order to pay our creditors.

We are subject to restrictions due to non-controlling interests in our consolidated subsidiaries.

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

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

As of December 31, 2009, we had approximately Ps211.1 billion (U.S.$16.1 billion) of total debt, not including approximately Ps39.9 billion (U.S.$3.0 billion) of Perpetual Debentures, which are not accounted for as debt under MFRS but are considered to be debt for purposes of U.S. GAAP. See notes 13A, 17D and 25 to our consolidated financial statements included elsewhere in this annual report. A substantial portion of our outstanding debt is denominated in Dollars. As of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, our Dollar-denominated debt represented approximately 65% of our total debt, not including approximately U.S.$965 million aggregate principal amount of Perpetual Debentures outstanding after the completion of the 2010 Exchange Offer. Our Dollar-denominated debt must be serviced with funds generated by our subsidiaries. Although the acquisition of Rinker increased our U.S. assets substantially, we nonetheless continue to rely on our non-U.S. assets to generate revenues to service our Dollar-denominated debt. Consequently, we have to use revenues generated in Pesos, Euros or other currencies to service our Dollar-denominated debt. See "Item 5 —Operating and Financial Review and Prospects — Qualitative and Quantitative Market Disclosure — Interest Rate Risk, Foreign Currency Risk and Equity Risk — Foreign Currency Risk." A devaluation or depreciation in the value of the Peso, Euro, Pound or any of the other currencies of the countries in which we operate, compared to the Dollar, could adversely affect our ability to service our debt. In 2009, Mexico, Spain, the United Kingdom and the Rest of Europe region (which includes our subsidiaries in Germany, France, Ireland, Poland, Croatia, Austria, Hungary, the Czech Republic, Latvia and other assets in the European region), our main non-Dollar-denominated operations, together generated approximately 57% of our total net sales in Peso terms (approximately 21%, 5%, 8% and 23%, respectively), before eliminations resulting from consolidation. In 2009, approximately 19% of our sales were generated in the United States. During 2009, the Peso appreciated approximately 5% against the Dollar, the Euro appreciated approximately 2% against the Dollar and the Pound appreciated approximately 10% against the Dollar. If we enter into future currency hedges in the future, these may not be effective in covering all our currency-related risks. Our consolidated reported results for any period and our outstanding indebtedness as of any date are significantly affected by fluctuations in exchange rates between the Peso and other currencies, as those fluctuations influence the amount of our indebtedness when translated into Pesos and also result in foreign exchange gains and losses as well as gains and losses on derivative contracts we may have entered into to hedge our exchange rate exposure.

In addition, as of December 31, 2009, our Euro denominated debt, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, represented approximately 25% of our total debt, not including approximately €266 million aggregate principal amount of the 6.277% Perpetual Debentures outstanding after the completion of the 2010 Exchange Offer. We cannot guarantee that we will generate sufficient revenues in Euros from our operations in Spain and the Rest of Europe to service these obligations.

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

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

Our operations are subject to environmental laws and regulations.

Our operations are subject to a broad range of environmental laws and regulations in each of the jurisdictions in which we operate. The enactment of stricter laws and regulations, or stricter interpretation of existing laws or regulations, may impose new risks or costs on us or result in the need for additional investments in pollution control equipment, which could result in a material decline in our profitability. Efforts to address climate change through domestic federal, state and regional laws and regulations, as well as through international agreements and the laws and regulations of other countries, to reduce the emissions of greenhouse gases ("GHGs") can create risks and uncertainties for our business. This is because the cement manufacturing process requires the

combustion of large amounts of fuel and creates carbon dioxide ("CO2") as a byproduct of the calcination process. Such risks could include costs to purchase allowances or credits to meet GHG emission caps, costs required to provide equipment to reduce emissions to comply with GHG limits or required technological standards, or decreased profits or losses arising from decreased demand for goods or higher production costs resulting directly or indirectly from the imposition of legislative or regulatory controls.

At the U.S. federal level, there are pending in Congress several pieces of legislation that would establish caps or limits on GHG emissions. For example, in 2009, the House of Representatives passed the American Clean Energy & Security Act, which, among other things establishes a cap on emissions of GHGs from a number of industries in the United States, including cement manufacturing, beginning in 2012. This legislation would require such covered industries to obtain allowances corresponding to their annual emissions of GHGs. The legislation also would authorize the imposition of international reserve allowance program to imports of certain energy intensive goods to cover the GHG emissions associated with the production of the imported goods. Legislation has been introduced in the Senate which parallels the House bill in many significant ways, although it postpones by three years the regulation of industrial sources of GHG emissions.

It is not possible at this time to predict whether any domestic federal climate change legislation may be finally enacted, what that legislation may provide or whether it may impact existing federal regulations or state laws or regulations on GHG emissions (see below). Therefore, it is not possible at this time to predict how such legislation would impact our U.S. operations. However, any impositions by legislation of significant costs or limitations on raw materials, fuel or production, or requirements for reductions of GHG emissions, could have a significant impact on the cement manufacturing industry and a material economic impact on our U.S. operations, including from competition from imports from countries where such costs are not imposed on manufacturing.

The U.S. Environmental Protection Agency (the "EPA") has also promulgated a series of regulations pertaining to emissions of GHGs from industrial sources. The EPA issued a Mandatory Reporting of GHG Rule, effective December 29, 2009, which requires certain covered sectors, including cement manufacturing, with GHG emissions above an established threshold to inventory and report their GHG emissions annually on a facility-by-facility basis. This regulation is not expected to have a material economic impact on us.

In 2010, EPA also completed a series of rulemakings which will likely result in the imposition of GHG emission limits for major stationary sources, including cement plants, beginning January 2, 2011. In 2009, EPA found that GHG emissions from light-duty vehicles constitute an endangerment of human health and the environment, and, based on that finding, published in May 2010 its light-duty vehicle rule, which establishes the first federal controls of GHG emissions from mobile sources. In its Reconsideration of its PSD Interpretive Memorandum Rule (April 2, 2010) and its Tailoring Rule (June 3, 2010), EPA has determined that the light-duty vehicle rule makes GHGs "subject to regulation" under the Clean Air Act, thereby triggering requirements under the Act's Prevention of Significant Deterioration ("PSD") program. The PSD program requires new major sources of regulated pollutants or major modifications at existing major sources to secure pre-construction permits, which establish, among other things, limits on pollutants based on Best Available Control Technology ("BACT"). According to EPA's rules, stationary sources, such as cement manufacturing, which are already regulated under the PSD program for non-GHG pollutants, would need to apply PSD for GHG emissions as of January 2, 2011, for any GHG emissions above 75,000 tons/year of carbon dioxide equivalent ("CO2e"). Therefore, new cement plants or existing plants undergoing modification which would be major sources for non-GHG pollutants regulated under the Clean Air Act would need to acquire PSD permits for construction or modification of plants which would emit 75,000 or more tons/year CO2e, of GHGs, and would have to determine and install BACT controls for those emissions. By July 2011, any new source that emits 100,000 tons/year CO2e or any existing source that emits 100,000 tons/year CO2e GHGs and undergoes modifications that would emit 75,000 tons/year CO2e, must comply with PSD obligations. PSD permits can involve significant costs and delay. While the cost to CEMEX is unknown at this time, the costs of such GHG regulation of stationary sources through PSD could have a material economic impact on our U.S. operations and the U.S. cement manufacturing industry.

In addition to pending U.S. federal legislation and regulation, states and regions are establishing or seeking to establish their own programs to reduce GHG emissions, including from manufacturing sectors. For example, California passed AB 32 into law in 2006, which, among other things, seeks a statewide reduction of GHG emissions to 1990 levels by 2020. In December 2008, the California Air Resource Board approved a plan to implement AB32, which includes a cap-and-trade program beginning in 2012. Work on these regulations is ongoing, as are efforts in other states and regional programs in the west and midwest regions of the U.S. (the Northeast Regional Greenhouse Gas Initiative ("RGGI") currently only regulates GHGs from regional electricity generation.) It is not possible at this time to predict how these state and regional efforts, which generally have not yet resulted in actual regulatory controls on GHG emissions from industrial manufacturing, would impact our U.S. operations, and they may be affected by federal climate legislation.

Finally, there are ongoing efforts on the international front to address GHG emissions. We are actively monitoring negotiations of the United Nations Framework Convention on Climate Change ("UNFCCC"), and we operate in countries that are signatories to the Kyoto Protocol, which establishes GHG emission reduction targets for developed country parties to the protocol, such as the countries of the European Union. Hence, our operations in the United Kingdom, Spain and the Rest of Europe are subject to binding caps on CO2 emissions imposed by member states of the European Union as a result of the European Commission's directive establishing the European Emissions Trading System ("ETS") to implement the Kyoto Protocol. Under this directive, companies receive from the relevant member states set limitations on the levels of CO2 emissions from their industrial facilities. These allowances are tradable so as to enable companies that manage to reduce their emissions to sell their excess allowances to companies that are not reaching their emissions objectives. Failure to meet the emissions caps is subject to significant monetary penalties. For the years 2008 through 2012, the European Commission significantly reduced the overall availability of allowances. As a result of continuing uncertainty regarding final allowances, it is premature to draw conclusions regarding the overall position of all of our European cement plants.

Under the ETS, we seek to reduce the impact of any excess emissions by either reducing the level of CO2 released in our facilities or by implementing clean development mechanism ("CDM") projects under the Kyoto Protocol in emerging markets. If we are not successful in implementing emission reductions in our facilities or obtaining credits from CDM projects, we may have to purchase a significant amount of allowances in the market, the cost of which may have an impact on our operating results.

It is more difficult to estimate the potential impact of any international agreements under the UNFCCC or through other international or multilateral instruments. The recently concluded Conference of Parties in Copenhagen failed to produce a successor to the Kyoto Protocol with binding legal obligations for GHG emission reductions. The 2010 Conference of Parties will be in Cancun, Mexico, and we will continue to monitor developments carefully to determine what impact these discussions may have on our operations around the world.

In conclusion, given the uncertain nature of the actual or potential statutory and regulatory requirements for GHG emissions at the federal, state, regional and international levels, we cannot predict the impact on our operations or financial condition or make a reasonable estimate of the potential costs to the company that may result from such requirements. However, the impact of any such requirements, whether individually or cumulatively, could have a material economic impact on our operations in the United States and in other countries.

In addition to the risks identified above arising from actual or potential statutory and regulatory controls, severe weather, rising seas, higher temperatures and other effects that may be attributable to climate change may impact any manufacturing sector in terms of direct costs (e.g., property damage and disruption to operations) and indirect costs (e.g., disruption to customers and suppliers, higher insurance premiums). We do not believe that any such impacts on our operations would significantly differ from those to other sectors and the public at large.

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

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

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

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

With the acquisitions of RMC in 2005 and Rinker in 2007, our geographic diversity has significantly increased. As of December 31, 2009, we had operations in Mexico, the United States, the United Kingdom, Spain, the Rest of Europe region, the South America, Central America and the Caribbean region (which includes our subsidiaries in Colombia, Costa Rica, the Dominican Republic, Panama, Nicaragua, Puerto Rico, Guatemala, Argentina and other assets in the Caribbean region), Africa and the Middle East (which includes our subsidiaries in Egypt, the UAE and Israel) and Asia (which includes our subsidiaries in the Philippines, Thailand, Malaysia, Bangladesh and other assets in the Asian region).

We sold our operations in Australia on October 1, 2009. As of December 31, 2009, after eliminations resulting from consolidation, our Mexican operations represented approximately 11% of our total assets, our U.S. operations represented approximately 43% of our total assets, our operations in Spain represented approximately 11% of our total assets, our operations in the United Kingdom represented approximately 7% of our total assets, our operations in the Rest of Europe represented approximately 10% of our total assets, our South America, Central America and the Caribbean operations represented approximately 6% of our total assets, our Africa and the Middle East operations represented approximately 3% of our total assets, our Asia operations represented approximately 2% of our total assets, and our other operations represented approximately 7% of our total assets. For the year ended December 31, 2009, before eliminations resulting from consolidation, our operations in Mexico represented approximately 21% of our net sales, our operations in the U.S. represented approximately 19% of our net sales, our operations in Spain represented approximately 5% of our net sales, our operations in the United Kingdom represented approximately 8% of our net sales, our operations in the Rest of Europe represented approximately 23% of our net sales, our operations in South America, Central America and the Caribbean represented approximately 10% of our net sales, our operations in Africa and the Middle East represented approximately 7% of our net sales, our operations in Asia represented approximately 3% of our net sales and our other operations represented approximately 4% of our net sales. Adverse economic conditions in any of these countries or regions may produce a negative impact on our net income. For a geographic breakdown of our net sales for the year ended December 31, 2009, please see “Item 4 — Information on the Company — Geographic Breakdown of Our 2009 Net Sales.”

Our operations in South America, Central America and the Caribbean are faced with several risks that are more significant than in other countries. These risks include political instability and economic volatility. For example, on August 18, 2008, Venezuelan officials took physical control of the facilities of CEMEX Venezuela, S.A.C.A., or CEMEX Venezuela, following the issuance on May 27, 2008 of governmental decrees confirming the expropriation of all of CEMEX Venezuela’s assets, shares and business. The government of Venezuela has paid no compensation to the CEMEX affiliates, CEMEX Caracas Investments B.V. and CEMEX Caracas II Investments B.V. (together, “CEMEX Caracas”), which held a 75.7% interest in CEMEX Venezuela, or to any other

former CEMEX Venezuela shareholder. On October 16, 2008, CEMEX Caracas filed a request for arbitration against the government of Venezuela before the International Centre for Settlement of Investment Disputes, or ICSID, pursuant to the bilateral investment treaty between the Netherlands and Venezuela, seeking relief for the expropriation of their interest in CEMEX Venezuela. The ICSID arbitral tribunal, or ICSID Tribunal, has been constituted. We are unable at this preliminary stage to estimate the likely range of potential recovery (if any) or to determine what position the government of Venezuela will take in these proceedings, the nature of the award that may be issued by the ICSID Tribunal, and the difficulties of collection of any possible monetary award issued to CEMEX Caracas, among other matters. See "Item 4 — Information on the Company — Regulatory Matters and Legal Proceedings — Other Legal Proceedings — Expropriation of CEMEX Venezuela and ICSID Arbitration."

Our operations in Africa and the Middle East have faced instability as a result of, among other things, civil unrest, extremism, and the deterioration of general diplomatic relations in the region. There can be no assurance that political turbulence in the Middle East will abate in the near future or that neighboring countries, including Egypt and the UAE, will not be drawn into conflicts or experience instability.

There have been terrorist attacks in countries in which we maintain operations, and ongoing threats of future terrorist attacks. There can be no assurance that there will not be other attacks or threats that will lead to an economic contraction or erection of material barriers to trade in any of our markets. An economic contraction in any of our major markets could affect domestic demand for cement and have a material adverse effect on our operations.

Our operations can be affected by adverse weather conditions.

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

The new Mexican tax consolidation regime may have an adverse effect on cash flow, financial condition and net income.

During November 2009, the Mexican Congress approved a general tax reform, effective as of January 1, 2010. Specifically, the tax reform requires CEMEX to retroactively pay taxes (at current rates) on items in past years that were eliminated in consolidation or that reduced consolidated taxable income ("Additional Consolidation Taxes"). This tax reform will require CEMEX to pay taxes on certain previously exempt intercompany dividends, certain other special tax items, and operating losses generated by members of the consolidated tax group not recovered by the individual company generating such losses within the succeeding 10-year period, which may have an adverse effect on our cash flow, financial condition and net income. The Additional Consolidation Taxes must be paid over a five-year time period. This tax reform also increases the statutory income tax rate from 28% to 30% for the years 2010 to 2012, 29% for 2013, and 28% for 2014 and future years.

For the 2010 fiscal year, CEMEX will be required to pay (at the new, 30% tax rate) 25% of the Additional Consolidation Taxes for the period between 1999 and 2004. The remaining 75% will be payable as follows: 25% for 2011, 20% for 2012, 15% for 2013 and 15% for 2014. Additional Consolidation Taxes arising after 2004 will be taken into account in the sixth fiscal year after their occurrence and will be payable over the succeeding five years in the same proportions (25%, 25%, 20%, 15% and 15%). Applicable taxes payable as a result of this tax reform will be increased by inflation adjustments as required by Mexican Income Tax Law

(*Ley del Impuesto Sobre la Renta*). In connection with the changes in the tax consolidation regime in Mexico, as of December 31, 2009, we recognized a liability of approximately Ps10.5 billion (U.S.$799 million), of which approximately Ps8.2 billion (U.S.$628 million) were recognized under "Other non-current assets" in connection with the net liability recognized before the new tax law and that we expect to realize in connection with the payment of this tax liability; and approximately Ps2.2 billion (U.S.$171 million) were recognized under "Retained earnings," considering special provisions under MFRS, for the portion, according to the new law, related to: (a) the difference between the sum of the equity of the controlled entities for tax purposes and the equity for tax purposes of the consolidated entity; (b) dividends from the controlled entities for tax purposes to CEMEX, S.A.B. de C.V.; and (c) other transactions among the companies included in the tax consolidation that represented the transfer of resources within such group. In our U.S. GAAP reconciliation of our 2009 financial statements, the approximately Ps2.2 billion (U.S.$171 million) recognized under "Retained earnings" under MFRS were reclassified to income tax expense for the period under U.S. GAAP.

Our estimated payment schedule of taxes payable resulting from changes in the tax consolidation regime is as follows: approximately Ps388 million (U.S.$30 million) in 2010, approximately Ps570 million (U.S.$44 million) in 2011, approximately Ps716 million (U.S.$55 million) in 2012, approximately Ps707 million (U.S.$54 million) in 2013, approximately Ps1.3 billion (U.S.$98 million) in 2014 and approximately Ps6.8 billion (U.S.$519 million) in 2015 and thereafter. See notes 3N and 16A to our consolidated financial statements included elsewhere in this annual report.

On February 15, 2010, we filed a constitutional challenge (*juicio de amparo*) against this tax reform. However, we cannot assure you that we will prevail in this constitutional challenge.

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

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

The protections afforded to non-controlling shareholders in Mexico are different from those in the United States and may be more difficult to enforce.

Under Mexican law, the protections afforded to non-controlling shareholders are different from those in the United States. In particular, the legal framework and case law pertaining to disputes between shareholders and us, our directors, our officers or our controlling shareholders, if any, are less developed under Mexican law than United States law, generally only permits shareholder derivative suits (i.e., suits for our benefit as opposed to the direct benefit of our shareholders) and there are different procedural requirements for bringing shareholder lawsuits, such as shareholder derivative suits, which differ from those you may be familiar with under U.S. and other laws. There is also a substantially less active plaintiffs' bar dedicated to the enforcement of shareholders' rights in Mexico than in the United States. As a result, in practice it may be more difficult for our non-controlling shareholders to enforce their rights against us or our directors or controlling shareholders than it would be for shareholders of a United States company.

ADS holders may only vote the series B shares represented by the CPOs deposited with the ADS depositary through the ADS depositary and are not entitled to vote the series A shares represented by the CPOs deposited with the ADS depositary or to attend shareholders' meetings.

Under the terms of the ADSs and our by-laws, a holder of an ADS has the right to instruct the ADS depositary to exercise voting rights only with respect to series B shares represented by the CPOs deposited with the depositary, but not with respect to the series A shares represented by the CPOs deposited with the depositary. ADS holders will not be able to exercise their right to vote unless they withdraw the CPOs underlying their ADSs (and, in the case of non-Mexican holders, even if they do so, they may not vote the Series A shares represented by the CPOs) and may not receive voting materials in time to ensure that they are able to instruct the depositary to vote the CPOs underlying their ADSs or receive sufficient notice of a shareholders' meeting to permit them to withdraw their CPOs to allow them to cast their vote with respect to any specific matter. In addition, the depositary and its agents may not be able to send out voting instructions on time or carry them out in the manner an ADS holder has instructed. As a result, ADS holders may not be able to exercise their right to vote and they may lack recourse if the CPOs underlying their ADSs are not voted as they requested. In addition, ADS holders are not entitled to attend shareholders' meetings. ADS holders will also not be permitted to vote the CPOs underlying the ADSs directly at a shareholders' meeting or to appoint a proxy to do so without withdrawing the CPOs. If the ADS depositary does not receive voting instructions from a holder of ADSs in a timely manner such holder will nevertheless be treated as having instructed the ADS depositary to give a proxy to a person we designate to vote the B shares underlying the CPOs represented by the ADSs in his/her discretion. The ADS depositary or the custodian for the CPOs on deposit may represent the CPOs at any meeting of holders of CPOs even if no voting instructions have been received. The CPO trustee may represent the A shares and the B shares represented by the CPOs at any meeting of holders of A shares or B shares even if no voting instructions have been received. By so attending, the ADS depositary, the custodian or the CPO trustee, as applicable, may contribute to the establishment of a quorum at a meeting of holders of CPOs, A shares or B shares, as appropriate.

Preemptive rights may be unavailable to ADS holders.

ADS holders may be unable to exercise preemptive rights granted to our shareholders, in which case ADS holders could be substantially diluted following future equity or equity-linked offerings. Under Mexican law, whenever we issue new shares for payment in cash or in kind, we are generally required to grant preemptive rights to our shareholders, except if the shares are issued in respect of a public offering or if the relevant shares underlie convertible securities. However, ADS holders may not be able to exercise these preemptive rights to acquire new shares unless both the rights and the new shares are registered in the United States or an exemption from registration is available. We cannot assure you that we would file a registration statement in the United States at the time of any rights offering.

Non-Mexicans may not hold our Series A shares directly and must have them held in a trust at all times.

Non-Mexican investors in our CPOs or ADSs may not directly hold the underlying Series A shares, but may hold them indirectly through our CPO trust. Upon the early termination or expiration of the 30-year term of our CPO trust, the underlying Series A shares of our CPOs held by non-Mexican investors must be placed in a new trust similar to the current CPO trust for non- Mexican investors to continue to hold an economic interest in such shares. We cannot assure you that a new trust similar to the CPO trust will be created or that the relevant authorization for the creation of the new trust or the transfers of our Series A shares to such new trust will be obtained. In that event, since non-Mexican holders currently cannot hold Series A shares directly, they may be required to sell all of their Series A shares to a Mexican individual or corporation.

Mexican Peso Exchange Rates

Mexico has had no exchange control system in place since the dual exchange control system was abolished on November 11, 1991. The Mexican Peso has floated freely in foreign exchange markets since December 1994, when the Mexican Central Bank (*Banco de México*) abandoned its prior policy of having an official devaluation band. Since then, the Peso has been subject to substantial fluctuations in value. The Peso appreciated against the Dollar by approximately 5% in 2005, depreciated against the Dollar by approximately 2%, 1% and 26% in 2006, 2007 and 2008, respectively, and appreciated against the Dollar by approximately 5% in 2009. These percentages are based on the exchange rate that we use for accounting purposes, or the CEMEX accounting rate. CEMEX accounting rates represent the average of three different exchange rates that are provided to us by Banco Nacional de México, S.A., Integrante de Grupo Financiero Banamex, or Banamex. For any given date, the CEMEX accounting rate may differ from the noon buying rate for Pesos in New York City published by the U.S. Federal Reserve Bank of New York.

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

	CEMEX Accounting Rate				Noon Buying Rate			
	End of Period	Average (1)	High	Low	End of Period	Average (1)	High	Low
Year ended December 31,								
2005	10.62	10.85	11.38	10.42	10.63	10.89	11.41	10.41
2006	10.80	10.91	11.49	10.44	10.80	10.90	11.46	10.43
2007	10.92	10.93	11.07	10.66	10.92	10.93	11.27	10.67
2008	13.74	11.21	13.96	9.87	13.83	11.15	13.92	9.92
2009	13.09	13.51	15.57	12.62	13.06	13.50	15.41	12.63
Monthly (2009-2010)								
November	12.94		13.42	12.84	12.92		13.38	12.86
December	13.09		13.10	12.62	13.06		13.08	12.63
January	13.10		13.10	12.65	13.03		13.03	12.65
February	12.78		13.22	12.78	12.76		13.19	12.76
March	12.36		12.75	12.36	12.54		12.74	12.47
April	12.31		12.39	12.16	12.23		12.41	12.16
May	12.93		13.15	12.27	12.86		13.14	12.27

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

(2) On June 25, 2010, the CEMEX accounting rate was Ps12.66 to U.S.$1.00. Between January 1, 2010 and June 25, 2010, the Peso appreciated by 3.41% against the Dollar.

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

Selected Consolidated Financial Information

The financial data set forth below as of and for each of the five years ended December 31, 2009 have been derived from our audited consolidated financial statements. The financial data set forth below as of December 31, 2009 and 2008 and for each of the three years ended December 31, 2009, 2008 and 2007, have been derived from, and should be read in conjunction with, and are qualified in their entirety by reference to, the consolidated financial statements and the notes thereto included elsewhere in this annual report. Our audited consolidated financial statements for the year ended December 31, 2009 were approved by our shareholders at the 2010 annual general meeting (which was held on April 29, 2010).

The operating results of newly acquired businesses are consolidated in our financial statements beginning on the date that we assume operating control which is normally the acquisition date. Therefore, all periods presented do not include operating results corresponding to newly acquired business before we assumed operating control. Likewise, the operating results of any business sold are included until the disposal date. Consequently, all periods presented include operating results corresponding to disposed business before we lost operating control. As a result, the financial data for the years ended December 31, 2005, 2006, 2007, 2008 and 2009 may not be entirely comparable.

When a business disposal is significant and meets certain materiality thresholds, the operating results of the disposed business are reclassified line-by-line to the single line item "Discontinued operations" before consolidated net income for all periods presented. On October 1, 2009, we sold our operations in Australia. As a result of this significant divestiture, the assets and liabilities associated with the operations in Australia are presented in the balance sheet as of December 31, 2008 as "Discontinued operations" in the corresponding captions within current or non-current assets and liabilities, as the case may be. Likewise, the operations in Australia included in the income statements for the years ended December 31, 2009, 2008 and 2007, were reclassified to the single line item of "Discontinued operations," which includes, in 2009, a loss on sale, net of income tax, and the reclassification of foreign currency translation effects accrued in equity for an aggregate amount of approximately Ps$5.9 billion (U.S.$446 million). See note 4B to our consolidated financial statements included elsewhere in this annual report.

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

The acquisition date of Rinker was July 1, 2007. Our consolidated financial information for the year ended December 31, 2007 includes Rinker's results of operations for the six-month period ended December 31, 2007. However, as mentioned above, the results of operations of our Australian assets were reclassified for all periods and presented in the single line item of "Discontinued operations."

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

Beginning on January 1, 2008, according to MFRS B-10, inflationary accounting is only applied in a high-inflation environment, defined by the MFRS B-10 as existing when the cumulative inflation for the preceding three years equals or exceeds 26%. Until December 31, 2007, inflationary accounting was applied to all CEMEX subsidiaries regardless of the inflation level of their respective country. Beginning in 2008, only the financial statements of those subsidiaries whose functional currency corresponds to a country under high inflation will be restated to take account of inflation. Designation of a country as a high or low inflation environment takes place at the end of each year and inflation is applied or suspended prospectively. In 2008, only the financial statements of our subsidiaries in Costa Rica and Venezuela were restated. In 2009, we restated the financial statements of our subsidiaries in Egypt, Nicaragua, Latvia and Costa Rica.

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

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

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

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

The Dollar amounts provided below and, unless otherwise indicated, elsewhere in this annual report, are translations of Peso amounts at an exchange rate of Ps13.09 to U.S.$1.00, the CEMEX accounting rate as of December 31, 2009. However, in the case of transactions conducted in Dollars, we have presented the Dollar amount of the transaction and the corresponding Peso amount that is presented in our consolidated financial statements. These translations have been prepared solely for the convenience of the reader and should not be construed as representations that the Peso amounts actually represent those Dollar amounts or could be converted into Dollars at the rate indicated. The noon buying rate for Pesos on December 31, 2009 was Ps13.06 to U.S.$1.00. From December 31, 2009 through June 25, 2010, the Peso appreciated by 2.8% against the Dollar, based on the noon buying rate for Pesos.

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

	As of and for the year ended December 31,				
	2005	2006	2007	2008	2009
	(in millions of Pesos, except ratios and share and per share amounts)				
Income Statement Information:					
Net sales	Ps192,392	Ps213,767	Ps228,152	Ps225,665	Ps197,801
Cost of sales(1)	(116,422)	(136,447)	(151,439)	(153,965)	(139,672)
Gross profit	75,970	77,320	76,713	71,700	58,129
Operating expenses	(44,743)	(42,815)	(45,103)	(45,612)	(42,289)
Operating income	31,227	34,505	31,610	26,088	15,840
Other expense, net(2)	(3,976)	(580)	(2,984)	(21,403)	(5,529)
Comprehensive financing result(3)	3,076	(505)	1,018	(28,326)	(15,106)
Equity in income of associates	1,098	1,425	1,487	869	154
Income (loss) before income tax	31,425	34,845	31,131	(22,772)	(4,641)
Discontinued operations(4)	—	—	288	2,097	(4,276)
Non-controlling interest net income	692	1,292	837	45	240
Controlling interest net income	26,519	27,855	26,108	2,278	1,409
Basic earnings per share(5)(6)	1.28	1.29	1.17	0.10	0.06
Diluted earnings per share(5)(6)	1.27	1.29	1.17	0.10	0.06
Dividends per share(5)(7)(8)	0.27	0.28	0.29	N/A	N/A
Number of shares outstanding(5)(9)	21,144	21,987	22,927	22,985	25,643
Balance Sheet Information:					
Cash and temporary investments	7,552	18,494	8,108	12,900	14,104
Net working capital(10)	15,920	10,389	15,108	16,358	12,380
Current assets of discontinued operations	—	—	4,813	4,672	—

	As of and for the year ended December 31,				
	2005	2006	2007	2008	2009
	(in millions of Pesos, except per share amounts)				
Investments in associates, other investments and non-current accounts receivable	19,579	18,678	19,140	35,702	32,144
Property, machinery and equipment, net	195,165	201,425	250,015	270,281	258,863
Goodwill, intangible assets and other deferred charges, net	69,014	70,526	185,051	224,587	234,509
Non-current assets of discontinued operations	—	—	26,865	24,857	—
Total assets	336,081	351,083	542,314	623,622	582,286
Short-term debt	14,954	14,657	36,160	95,269	7,393
Long-term debt	104,061	73,674	180,636	162,805	203,751
Non-controlling interest and Perpetual Debentures(12)	6,637	22,484	40,985	46,575	43,697
Total controlling interest	123,381	150,627	163,168	190,692	213,873
Book value per share(5)(9)(13)	5.84	6.85	7.32	8.30	8.34
Other Financial Information:					
Operating margin	16.2%	16.1%	13.9%	11.6%	8.0%
Operating EBITDA(14)	44,672	48,466	48,752	45,787	36,153
Ratio of Operating EBITDA to interest expense, capital securities dividends and preferred equity dividends(14)	6.76	8.38	5.53	4.49	2.68
Investment in property, machinery and equipment, net	9,862	16,067	21,779	20,511	6,655
Depreciation and amortization	13,706	13,961	17,666	19,699	20,313
Net cash flow provided by continuing operations(15)	43,080	47,845	45,625	38,455	33,728
Basic earnings per CPO(5)(6)	3.84	3.87	3.51	0.30	0.18

	As of and for the year ended December 31,				
	2005	2006	2007	2008	2009
	(in millions of Pesos, except per share amounts)				
U.S. GAAP(16):					
Income Statement Information:					
Net sales	Ps172,632	Ps203,660	Ps226,742	Ps224,804	Ps197,801
Operating income (loss)(11)	27,038	32,804	28,623	(42,233)	10,396
Controlling interest net income (loss)	23,933	26,384	21,367	(61,886)	(5,904)
Basic earnings (loss) per share	1.15	1.23	0.96	(2.69)	(0.23)
Diluted earnings (loss) per share	1.14	1.23	0.96	(2.69)	(0.23)
Balance Sheet Information:					
Total assets	317,896	351,927	563,565	605,072	558,541
Perpetual debentures(12)	—	14,037	33,470	41,495	39,859
Long-term debt(12)	89,402	69,375	164,497	162,810	203,602
Non-controlling interest	6,200	7,581	8,010	5,105	3,865
Total controlling interest	120,539	153,239	172,217	151,294	165,539

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

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

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

(4) On October 1, 2009, we completed the sale of our operations in Australia to a subsidiary of Holcim Ltd. for approximately A$2.02 billion (approximately U.S.$1.7 billion). "Discontinued operations" includes the results of our operations in Australia, net of income tax, for the years ended December 31, 2007, 2008 and 2009. See note 4B to our consolidated financial statements included elsewhere in this annual report.

(5) Our capital stock consists of series A shares and series B shares. Each of our CPOs represents two series A shares and one series B share. As of December 31, 2009, approximately 97.7% of our outstanding share capital was represented by CPOs. Each of our ADSs represents ten CPOs.

(6) Earnings per share are calculated based upon the weighted average number of shares outstanding during the year, as described in note 19 to our consolidated financial statements included elsewhere in this annual report. Basic earnings per CPO is determined by multiplying the basic earnings per share for each period by three (the number of shares underlying each CPO). Basic earnings per CPO is presented solely for the convenience of the reader and does not represent a measure under MFRS. As shown in notes 19 and 4B to our consolidated financial statements included elsewhere in this annual report, and in connection with the sale of our Australian operations, for the years ended December 31, 2009, 2008 and 2007, "Basic earnings per share" under MFRS includes Ps0.22, Ps0.01 and Ps1.16 from "Continuing operations", respectively, and Ps(0.16), Ps0.09 and Ps0.01 from "Discontinued operations", respectively. Likewise, for the years ended December 31, 2009, 2008 and 2007, "Diluted earning per share" under MFRS includes Ps0.22, Ps0.01 and Ps1.16 from "Continuing operations", respectively, and Ps(0.16), Ps0.09 and Ps0.01 from "Discontinued operations", respectively. For the years ended December 31, 2009, 2008 and 2007, "Basic Earnings per share" under U.S. GAAP (see note 25) includes Ps(0.05), Ps(2.73) and Ps0.95 from "Continuing operations", respectively, and Ps(0.18), Ps0.04 and Ps0.01 from "Discontinued operations", respectively. Likewise, for the years ended December 31, 2009, 2008 and 2007, "Diluted earnings per share" under U.S. GAAP includes Ps(0.05), Ps(2.73) and Ps0.95 from "Continuing operations", respectively, and Ps(0.18), Ps0.04 and Ps0.01 from "Discontinued operations", respectively.

(7) For purposes of the table, dividends declared at each year's annual shareholders' meeting are reflected as dividends of the preceding year.

(8) With the exception of the 2009 and 2008 fiscal years, in prior years, our board of directors has proposed and our shareholders have approved dividend proposals, whereby our shareholders have had a choice between stock dividends or cash dividends declared in respect of the prior year's results, with the stock issuable to shareholders who receive the stock dividend being issued at a 20% discount from then current market prices. The dividends declared per share or per CPO, expressed in Pesos, in connection with fiscal year 2005 were Ps0.81 per CPO (or Ps0.27 per share); 2006, Ps0.84 per CPO (or Ps0.28 per share); and 2007, Ps0.87 per CPO (or Ps0.29 per share). As a result of dividend elections made by shareholders, in 2006, Ps161 million in cash was paid and approximately 212 million additional CPOs were issued in respect of dividends declared for the 2005 fiscal year; in 2007, Ps147 million in cash was paid and approximately 189 million additional CPOs were issued in respect of dividends declared for the 2006 fiscal year; and in 2008, Ps214 million in cash was paid and approximately 284 million additional CPOs were issued in respect of dividends declared for the 2007 fiscal year. We did not declare a dividend for fiscal years 2008 and 2009. At our 2008 annual shareholders' meeting, held on April 23, 2009, our shareholders approved a recapitalization of retained earnings. At our 2009 annual shareholders' meeting, held on April 29, 2010, our shareholders again approved a recapitalization of retained earnings. New CPOs issued pursuant to the recapitalization were allocated to shareholders on a pro-rata basis. As a result, shares equivalent to approximately 384 million CPOs were issued in 2010 and allocated in the form of new CPOs to shareholder on a *pro rata* basis. In both the 2009 and 2010 recapitalizations, CPO holders received one new CPO for each 25 CPOs held and ADS holders received one new ADS for each 25 ADS held. There was no cash distribution and no entitlement to fractional shares in both the 2009 and 2010 recapitalizations.

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

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

(11) Operating loss under U.S. GAAP for the year ended December 31, 2008 includes impairment losses of approximately Ps67.2 billion (U.S.$4.9 billion). See note 25 to our consolidated financial statements included elsewhere in this annual report.

(12) Non-controlling interest, as of December 31, 2006, 2007, 2008 and 2009, includes approximately U.S.$1.3 billion (Ps14.6 billion), U.S.$3.1 billion (Ps33.5 billion), U.S.$3.0 billion (Ps41.5 billion) and U.S.$3.0 billion (Ps39.9 billion), respectively, that represents the nominal amount of the Perpetual Debentures, denominated in Dollars and Euros, issued by entities that consolidate for accounting purposes. In accordance with MFRS, Perpetual Debentures qualify as equity due to their perpetual nature and the option to defer the coupons. However, for purposes of our U.S. GAAP reconciliation, we recognized the Perpetual Debentures as debt and coupon payments thereon as part of financial expenses in our statements of operations under U.S. GAAP. On May 12, 2010, we closed the 2010 Exchange Offer directed to the holders of the Perpetual Debentures, and CEMEX España, acting through its Luxembourg branch, issued U.S.$1,067,665,000 aggregate principal amount of its 9.25% Dollar-denominated Notes, and €115,346,000 aggregate principal amount of its 8.875% Euro-denominated Notes, in exchange for a majority in principal amount of each of the four tranches of Perpetual Debentures. After the completion of the 2010 Exchange Offer, U.S.$146,902,000 in aggregate principal amount of the 6.196% Perpetual Debentures, U.S.$368,882,000 in aggregate principal amount of the 6.640% Perpetual Debentures, U.S.$448,943,000 in aggregate principal amount of the 6.722% Perpetual Debentures and €266,052,000 in aggregate principal amount of the 6.277% Perpetual Debentures remained outstanding. See "Item 5 — Operating and Financial Review and Prospects — Recent Developments — 2010 Exchange Offer."

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

(14) Operating EBITDA equals operating income before amortization expense and depreciation. Commencing January 1, 2005, MFRS ceased amortization of goodwill and CEMEX assesses goodwill for impairment annually unless events occur that require more frequent reviews. Operating EBITDA and the ratio of Operating EBITDA to interest expense are presented herein because we believe that they are widely accepted as financial indicators of our ability to internally fund capital expenditures and service or incur debt. Operating EBITDA and such ratios should not be considered as indicators of our financial performance, as alternatives to cash flow, as measures of liquidity or as being comparable to other similarly titled measures of other companies. Operating EBITDA is reconciled below to operating income under MFRS before giving effect to any non-controlling interest, and to net cash flows provided by operating activities, which we consider to be the most comparable measure as determined under MFRS. Interest expense and preferred equity dividends under MFRS do not include coupon payments and issuance costs of the Perpetual Debentures, which are included in "Non-controlling interest", issued by consolidated entities of approximately Ps152.0 million for 2006, approximately Ps1.8 billion for 2007, approximately Ps2.6 billion for 2008 and approximately Ps2.7 billion for 2009, as described in note 17D to our consolidated financial statements included elsewhere in this annual report.

	For the year ended December 31,				
	2005	2006	2007	2008	2009
	(in millions of Pesos)				
Reconciliation of operating EBITDA to Net cash flows provided by continuing operations					
Operating EBITDA	44,672	48,466	48,752	45,787	36,153
Less:					
Operating depreciation and amortization expense	13,445	13,961	17,142	19,699	20,313
Operating income	31,227	34,505	31,610	26,088	15,840
Plus / minus:					
Changes in working capital excluding income taxes	(3,109)	2,270	(877)	1,299	(2,599)
Operating depreciation and amortization expense	13,445	13,961	17,142	19,699	20,313
Other cash expenses, net	1,517	(2,891)	(3,484)	(8,631)	174
Net cash flows provided by continuing operations after income taxes	43,080	47,845	44,391	38,455	33,728

(15) For the three years ended December 31, 2005, 2006 and 2007, statements of cash flows were not required under MFRS; therefore, net cash flows provided by operating activities included in this item for such years refer to net resources provided by operating activities as determined for the Statements of Changes in Financial Position and represent controlling interest net income plus items not affecting cash flows plus changes in working capital excluding effects from acquisitions and including inflation effects and unrealized foreign exchange effects. See note 3A to our consolidated financial statements included elsewhere in this annual report.

(16) We have restated the information at and for the years ended December 31, 2005 and 2006 under U.S. GAAP to constant Pesos as of December 31, 2007, the last date in which inflationary accounting was generally applied, using the inflation factor derived from the national consumer price index, or NCPI, in Mexico, as required by Regulation S-X under the U.S. Securities Exchange Act of 1934, or the Exchange Act, instead of using the weighted average restatement factors used by us until December 31, 2007 according to MFRS and applied to the information presented under MFRS of prior years. See note 3A to our consolidated financial statements included elsewhere in this annual report.

Item 4 - Information on the Company

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

Business Overview

We are a publicly traded stock corporation with variable capital, or *sociedad anónima bursátil de capital variable*, organized under the laws of the United Mexican States, or Mexico, with our principal executive offices in Av. Ricardo Margáin Zozaya #325, Colonia Valle del Campestre, Garza García, Nuevo León, México 66265. Our main phone number is (011-5281) 8888-8888.

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

As of December 31, 2009, we were the third largest cement company in the world, based on installed capacity of approximately 97.3 million tons. As of December 31, 2009, we were the largest ready-mix concrete company in the world with annual sales volumes of approximately 54 million cubic meters, and one of the largest aggregates companies in the world with annual sales volumes of approximately 168 million tons, in each case based on our annual sales volumes in 2009. We are also one of the world's largest traders of cement and clinker, having traded approximately 7 million tons of cement and clinker in 2009. We are a holding company primarily engaged, through our operating subsidiaries, in the production, distribution, marketing and sale of cement, ready-mix concrete, aggregates and clinker.

We are a global cement manufacturer with operations in North America, Europe, South America, Central America, the Caribbean, Africa, the Middle East and Asia. As of December 31, 2009, we had total assets of approximately Ps582.3 billion (U.S.$44.5 billion) and an equity market capitalization of approximately Ps149.5 billion (U.S.$11.4 billion).

As of December 31, 2009, our main cement production facilities were located in Mexico, the United States, Spain, the United Kingdom, Germany, Poland, Croatia, Latvia, Colombia, Costa Rica, the Dominican Republic, Panama, Nicaragua, Puerto Rico, Egypt, the Philippines and Thailand. As of December 31, 2009, our assets, cement plants and installed capacity, on an unconsolidated basis by region, were as set forth below. Installed capacity, which refers to theoretical annual production capacity, represents gray cement equivalent capacity, which counts each ton of white cement capacity as approximately two tons of gray cement capacity.

	As of December 31, 2009		
	Assets after eliminations (in billions of Pesos)	Number of cement plants	Installed cement production capacity (millions of tons per annum)
North America			
Mexico	65	15	29.3
United States(1)	250	14	17.9
Europe			
Spain	67	8	11.0
United Kingdom	38	3	2.8
Rest of Europe(2)	58	8	12.4
South America, Central America and the Caribbean(3)	33	11	12.8
Africa and the Middle East(4)	19	1	5.4
Asia(5)	11	3	5.7
Cement and Clinker Trading Assets and Other Operations	41	—	—

The above table includes our proportional interest in the installed capacity of companies in which we hold a non-controlling interest.

(1) On January 22, 2010, we announced the permanent closure of our Davenport cement plant located in northern California.

(2) Includes our subsidiaries in Germany, France, Ireland, Poland, Croatia, Austria, Hungary, the Czech Republic, Latvia and other assets in the European region, and, for purposes of the columns labeled “Assets after eliminations” and “Installed cement production capacity,” includes our approximately 34% interest, as of December 31, 2009, in a Lithuanian cement producer that operated one cement plant with annual installed capacity of 1.3 million tons of cement as of December 31, 2009.

(3) Includes our subsidiaries in Colombia, Costa Rica, the Dominican Republic, Panama, Nicaragua, Puerto Rico, Guatemala, Argentina and other assets in the Caribbean region.

(4) Includes our subsidiaries in Egypt, the UAE and Israel.

(5) Includes our subsidiaries in the Philippines, Thailand, Malaysia, Bangladesh and other assets in the Asian region.

Except for 2008 and 2009 and as of the date of this report, during the last two decades, we had embarked on a major geographic expansion program to diversify our cash flows and enter markets whose economic cycles within the cement industry largely operate independently from those of Mexico and which offer long-term growth potential. We have built an extensive network of marine and land-based distribution centers and terminals that give us marketing access around the world. The following have been our most significant acquisitions over the last five years:

- On July 1, 2007, we completed (for accounting purposes) our acquisition of Rinker for a total consideration of approximately U.S.$14.2 billion, excluding the approximately U.S.$1.3 billion of Rinker’s debt. Rinker, then headquartered in Australia, was a leading international producer and supplier of materials, products and services used primarily in the

construction industry, with operations primarily in the United States and Australia, and limited operations in China. Rinker's operations in the United States consisted of two cement plants located in Florida with an installed capacity of 1.9 million tons of cement and 172 ready-mix concrete plants. In Australia, through its ready-mix subsidiary, Rinker operated 344 operating plants including 84 quarries and sand mines, 243 concrete plants and 17 concrete pipe and product plants, as of such date. In China, through its ready-mix subsidiary, Rinker operated four concrete plants in the northern cities of Tianjin and Qingdao.

- On March 1, 2005, we completed our acquisition of RMC for a total purchase price of approximately U.S.$4.3 billion, excluding approximately U.S.$2.2 billion of assumed debt. RMC, then headquartered in the United Kingdom, was one of Europe's largest cement producers and one of the world's largest suppliers of ready-mix concrete and aggregates, with operations in 22 countries, primarily in Europe and the United States. The assets acquired included 13 cement plants with an approximate installed capacity of 17 million tons, located in the United Kingdom, the United States, Germany, Croatia, Poland and Latvia.

We periodically review and reconfigure our operations in implementing our post-merger integration process, and we sometimes divest assets that we believe are less important to our strategic objectives. In addition, in connection with our ongoing efforts to strengthen our capital structure, regain financial flexibility and meet our obligations under the Financing Agreement, we began a process aimed at divesting several assets management regards as non-core. The following have been our most significant divestitures and reconfigurations over the last five years:

- On October 1, 2009, we completed the sale of our operations in Australia to a subsidiary of Holcim Ltd. The net proceeds from this sale were approximately A$2.02 billion (approximately U.S.$1.7 billion).
- On June 15, 2009, we sold three quarries (located in Nebraska, Wyoming and Utah) and our 49% joint venture interest in the operations of a quarry located in Granite Canyon, Wyoming, to Martin Marietta Materials, Inc. for U.S.$65 million.
- On December 26, 2008, we sold our Canary Islands operations (consisting of cement and ready-mix concrete assets in Tenerife and 50% of the shares in two joint-ventures, Cementos Especiales de las Islas, S.A. (CEISA) and Inprocoi, S.L.) to several Spanish subsidiaries of Cimpor Cimentos de Portugal SGPS, S.A. for €162 million (approximately U.S.$227 million).
- On January 11, 2008, in connection with our acquisition of Rinker, and as part of our agreements with Ready Mix USA, Inc., or Ready Mix USA, a privately owned ready-mix concrete producer with operations in the Southeastern United States, we contributed and sold to Ready Mix USA LLC, our ready-mix concrete joint venture with Ready Mix USA (described below) certain assets located in Georgia, Tennessee and Virginia, which had a fair value of approximately U.S.$437 million. We received U.S.$120 million in cash for the assets sold to Ready Mix USA LLC, and the remaining assets were treated as a U.S.$260 million contribution by us to Ready Mix USA LLC. As part of the same transaction, Ready Mix USA contributed U.S.$125 million in cash to Ready Mix USA LLC, which in turn received bank loans of U.S.$135 million. Ready Mix USA LLC made a special distribution in cash to us of U.S.$135 million. Ready Mix USA manages all the assets acquired. Following this transaction, Ready Mix USA LLC will continue to be owned 50.01% by Ready Mix USA and 49.99% by CEMEX. See "Item 4 — Information on the Company — North America — Our U.S. Operations — Overview" for a description of Ready Mix USA LLC's recent asset sale.

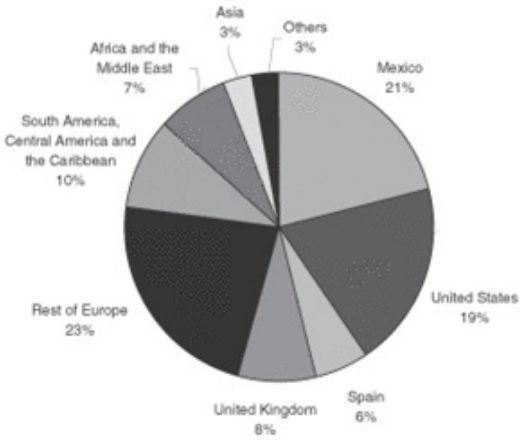
- During 2008, we sold in several transactions our operations in Italy consisting of four cement grinding mill facilities for an aggregate amount of approximately €148 million (approximately U.S.$210 million).
- As required by the Antitrust Division of the United States Department of Justice, pursuant to a divestiture order in connection with the Rinker acquisition, in December 2007, we sold to the Irish building materials producer CRH plc, ready-mix concrete and aggregates plants in Arizona and Florida for approximately U.S.$250 million, of which approximately U.S.$30 million corresponded to the sale of assets we owned prior to our Rinker acquisition.
- During 2006, we sold our 25.5% interest in the Indonesian cement producer PT Semen Gresik for approximately U.S.$346 million including dividends declared of approximately U.S.$7 million.
- On March 2, 2006, we sold 4K Beton A/S, our Danish subsidiary, which operated 18 ready-mix concrete plants in Denmark, to Unicon A/S, a subsidiary of Cementir Group, an Italian cement producer, for approximately €22 million (approximately U.S.$29 million). As part of the transaction, we purchased from Unicon A/S two companies engaged in the ready-mix concrete and aggregates business in Poland for approximately €12 million (approximately U.S.$16 million). We received net cash proceeds of approximately €6 million (approximately U.S.$8 million), after cash and debt adjustments, from this transaction.
- On December 22, 2005, we terminated our 50/50 joint ventures with Lafarge Asland in Spain and Portugal, which we acquired in the RMC acquisition. Under the terms of the termination agreement, Lafarge Asland received a 100% interest in both joint ventures and we received approximately U.S.$61 million in cash, as well as 29 ready-mix concrete plants and five aggregates quarries in Spain.
- As a condition to closing the RMC acquisition, we agreed with the U.S. Federal Trade Commission, or FTC, to divest several ready-mix concrete and related assets. On August 29, 2005, we sold RMC's operations in the Tucson, Arizona area to California Portland Cement Company for a purchase price of approximately U.S.$16 million.
- On July 1, 2005, we and Ready Mix USA established two jointly-owned limited liability companies, CEMEX Southeast, LLC, a cement company, and Ready Mix USA LLC, a ready-mix concrete company, to serve the construction materials market in the southeast region of the United States. Under the terms of the limited liability company agreements and related asset contribution agreements, we contributed two cement plants (Demopolis, Alabama and Clinchfield, Georgia) and 11 cement terminals to CEMEX Southeast, LLC, then representing approximately 98% of its contributed capital, while Ready Mix USA contributed cash to CEMEX Southeast, LLC, then representing approximately 2% of its contributed capital. In addition, we contributed our ready-mix concrete, aggregates and concrete block assets in the Florida panhandle and southern Georgia to Ready Mix USA LLC, then representing approximately 9% of its contributed capital, while Ready Mix USA contributed all its ready-mix concrete and aggregate operations in Alabama, Georgia, the Florida panhandle and Tennessee, as well as its concrete block operations in Arkansas, Tennessee, Mississippi, Florida and Alabama to Ready Mix USA LLC, then representing approximately 91% of its contributed capital. We own a 50.01% interest, and Ready Mix USA owns a 49.99% interest, in the profits and losses and voting rights of CEMEX Southeast, LLC, while Ready Mix USA owns a 50.01% interest, and we own a 49.99% interest, in the profits and losses and voting rights of Ready Mix USA LLC. In a separate transaction, on September 1, 2005, we sold 27 ready-mix concrete plants and four concrete block facilities located in the Atlanta, Georgia metropolitan area to Ready Mix USA LLC for approximately U.S.$125 million.

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

In connection with our ongoing efforts to strengthen our capital structure and regain financial flexibility, we began a process aimed at divesting several assets management regards as non-core. In addition to the 2008 sales of our Canary Islands and Italian operations, in 2009 we sold: (i) three quarries (located in Nebraska, Wyoming and Utah), (ii) our 49% joint venture interest in the operations of a quarry located in Granite Canyon, Wyoming, and (iii) our operations in Australia. Additionally, we are currently engaged in marketing for sale additional other assets in our portfolio, which we do not consider strategic.

Geographic Breakdown of Our 2009 Net Sales

The following chart indicates the geographic breakdown of our net sales, after eliminations resulting from consolidation, for the year ended December 31, 2009:



For a description of a breakdown of total revenues by geographic markets for each of the years ended December 31, 2007, 2008 and 2009, please see “Item 5 — Operating and Financial Review and Prospects.”

Our Products

We always strive to provide superior building solutions in the markets we serve. To this end, we tailor our products and services to suit customers’ specific needs, from home construction, improvement and renovation to agricultural, industrial and marine/hydraulic applications.

Cement

Cement is a binding agent, which, when mixed with sand, stone or other aggregates and water, produces either ready-mix concrete or mortar. Whether in bags or in bulk, we provide our customers with high-quality branded cement products and services. We tap our professional knowledge and experience to develop customized products that fulfill our clients' specific requirements and foster sustainable construction. In many of the countries where we have cement operations, a large proportion of cement sold is bagged, branded product. We often deliver the product to a large number of distribution outlets such that our bagged, branded cement is available to the end users in a point of sale in close proximity to where the product will be used. We strive to develop brand equity in our bagged product.

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

There are two primary processes used to manufacture cement: the dry process and the wet process. The dry process is more fuel efficient. As of December 31, 2009, 59 of our 63 operative production plants used the dry process, four used the wet process. Our operative production plants that use the wet process are located in Colombia, Nicaragua, Poland, and the United Kingdom. In the wet process, the raw materials are mixed with water to form slurry, which is fed into a kiln. Fuel costs are greater in the wet process than in the dry process because the water that is added to the raw materials to form slurry must be evaporated during the clinker manufacturing process. In the dry process, the addition of water and the formation of slurry are eliminated, and clinker is formed by calcining the dry raw materials. In the most modern application of this dry process technology, the raw materials are first blended in a homogenizing silo and processed through a pre-heater tower that utilizes exhaust heat generated by the kiln to pre-calcine the raw materials before they are calcined to produce clinker.

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

Ready-Mix Concrete

Ready-mix concrete is a combination of cement, fine and coarse aggregates, admixtures (which control properties of the concrete including plasticity, pumpability, freeze-thaw resistance, strength and setting time), and water. We tailor our ready-mix concrete to fit our clients' specific needs. By changing the proportion of water, aggregates, and cement in the mix, we modify our concrete's resistance, manageability, and finish. We also use additives to customize our concrete consistent with the transportation time from our plant to the project, weather conditions at the construction site, and the project's specifications. From our water-resistant to our self-compacting concrete, we produce a great variety of specially designed concrete to meet the many challenges of modern construction.

Aggregates

We are one of the world's largest suppliers of aggregates: primarily the crushed stone, sand and gravel, used in virtually all forms of construction. Customers use our aggregates for a wide array of uses, from a key component in the construction and maintenance of highways, walkways, and railways to an indispensable ingredient in concrete, asphalt, and mortar.

Aggregates are obtained from land-based sources such as sand and gravel pits and rock quarries or by dredging marine deposits.

Hard Rock Production. Rock quarries usually operate for at least 30 years and are developed in distinct benches or steps. A controlled explosion is normally used to release the rock from the working face. It is then transported by truck or conveyor to a crusher to go through a series of crushing and screening stages to produce a range of final sizes to suit customers' needs. Dry stone is delivered by road, rail or water from the quarry.

Sand and Gravel Production. Sand and gravel quarries are much shallower than rock quarries and are usually worked and restored in progressive phases. Water can either be pumped out of the quarries allowing them to be worked dry or they can be operated as lakes with extraction below water. A conveyor draws the raw material into the processing plant where it is washed to remove unwanted clay and to separate sand. Sand separated during processing is dewatered and stockpiled. Gravel then passes over a series of screens that sieve the material into different sizes. Processing separates the gravel into stockpiles in a range of sizes for delivery.

Marine Aggregate Production. A significant proportion of the demand for aggregates is satisfied from river, lake, and seabeds. Marine resources are increasingly important to the sustainable growth of the building materials industry. Marine aggregates also play an important role in replenishing beaches and protecting coastlines from erosion. At sea, satellite navigation is used to position a vessel precisely within its licensed dredging area. Vessels trail a pipe along the seabed and use powerful suction pumps to draw sand and gravel into the cargo hold. Dredged material is discharged at wharves, where it is processed, screened and washed for delivery.

Related Products

We rely on our close relationship with our customers to offer them complementary products for their construction needs, from rods, blocks, concrete tubing, and asphalt to electrical supplies, paint, tile, lumber and other fixtures.

User Base

Cement is the primary building material in the industrial and residential construction sectors of most of the markets in which we operate. The lack of available cement substitutes further enhances the marketability of our product. The primary end-users of cement in each region in which we operate vary but usually include, among others, wholesalers, ready-mix concrete producers, industrial customers and contractors in bulk. Additionally, sales of bagged cement to individuals for self-construction and other basic needs are a significant component of the retail sector. The end-users of ready-mix concrete generally include homebuilders, commercial and industrial building contractors and road builders. Major end-users of aggregates include ready-mix concrete producers, mortar producers, general building contractors and those engaged in road building activity, asphalt producers and concrete product producers. In summary, because of their many favorable qualities, builders worldwide use our cement, ready-mix concrete and aggregates for almost every kind of construction project, from hospitals and highways to factories and family homes.

Our Business Strategy

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

Focus on our core business of cement, ready-mix concrete and aggregates

We plan to continue focusing on our core businesses, the production and sale of cement, ready-mix concrete and aggregates, and the vertical integration of these businesses, leveraging our global presence and extensive operations worldwide. We believe that managing our cement, ready-mix concrete and aggregates operations as an integrated business allows us to capture a greater portion of the cement value chain, as our established presence in ready-mix concrete secures a distribution channel for our cement products. Moreover, we believe that vertical integration brings us closer to the end consumer. We believe that this strategic focus has historically enabled us to grow our existing businesses and expand our operations internationally, particularly in high-growth markets and higher-margin products. In less than 20 years, we have evolved from primarily a Mexican cement producer to a global building materials company with a diversified product portfolio across a balanced mix of developed and emerging economies.

We intend to continue focusing on our most promising, structurally attractive markets with considerable infrastructure needs and housing deficits, where we have substantial market share, benefit from competitive advantages and are able to re-invest in high-return projects and business lines as the economic conditions in these markets improve. We believe that some of our principal markets (particularly the United States, Mexico, Colombia, Central America, Egypt, Eastern Europe and Asia) are poised for economic growth, as significant investments are made in infrastructure, notably by the economic stimulus programs that have been announced by governments in these markets.

We are focused on managing costs and maintaining profitability in the current economic environment, and we believe that we are well-positioned to benefit when the construction cycle recovers. A combination of continued government stimulus spending and renewed focus on infrastructure investment in many of our markets, along with some recovery for housing and for non-residential construction, could translate into substantial growth in demand for our products.

We will continue to analyze our current portfolio and monitor opportunities for asset divestitures, as evidenced by our disposals in the U.S., Spain and Italy and our disposal of our operations in Australia.

Provide our customers with the best value proposition

We want CEMEX to be the supplier of choice for our customers, whether global construction firms or individuals building their family's first home. We want to provide them with the most efficient and effective building solutions for their construction project, large or small. We seek a clear understanding of what they require to meet their needs.

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

We continue to focus on developing new competitive advantages that will differentiate us from our competitors. For example, by directly bidding for, and managing the implementation of, concrete pavement projects, we are consolidating our leadership position in the infrastructure segment in Mexico. These concrete pavement projects include the refurbishment of major highways in Mexico City, such as Circuito Interior and Av. López Portillo, among others.

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

Our global building materials trading network, which is one of the largest in the world, plays a fundamental and evolving role in fulfilling our objectives. Our network of strategically located terminals allows us to build strong relationships with reliable suppliers and shippers around the world, which we believe translates into a superior value proposition for our customers. We can direct building materials (primarily cement, clinker and slag) from markets with excess capacity to markets where they are needed most and, in the process, optimize the allocation of our worldwide production capacity.

Maximize our operating efficiency

We have a long history of successfully operating world-class cement production facilities in developed and emerging markets and have consistently demonstrated our ability to produce cement at a lower cost compared to industry standards in these markets. We continue to strive to reduce our overall cement production related costs and corporate overhead through disciplined cost management policies and through improving efficiencies by removing redundancies. We also implemented several worldwide standard platforms as part of this process. In addition, we implemented centralized management information systems throughout our operations, including administrative, accounting, purchasing, customer management, budget preparation and control systems, which have helped us reduce costs. In a number of our core markets, such as Mexico, we launched aggressive initiatives aimed at reducing the use of fossil fuels, consequently reducing our overall energy costs.

Furthermore, significant economies of scale in key markets allow us to obtain competitive freight contracts for key components of our cost structure, such as fuel and coal, among others. Our cost-reduction program has helped further streamline our businesses and, in important markets, such as the United States, we have made a concerted effort to structure our asset portfolio to better capture any potential upturn in demand through optimized processes, streamlined cost structures and efficient management systems.

Through a worldwide import and export strategy, we will continue to seek to optimize capacity utilization and maximize profitability by redirecting our products from countries experiencing economic downturns to target export markets where demand may be greater. Our global trading system enables us to coordinate our export activities globally and take advantage of demand opportunities and price movements worldwide. Should demand for our products in the United States improve, we believe we are well-positioned to service this market through our established presence in the southern and southwestern regions of the country and our ability to import to the United States.

Our industry relies heavily on natural resources and energy, and we use cutting-edge technology to increase energy efficiency, reduce carbon dioxide emissions and optimize our use of raw materials and water. We are committed to measuring, monitoring and improving our environmental performance. In the last few years, we have implemented various procedures to improve the environmental impact of our activities as well as our overall product quality, such as a reduction of carbon dioxide emissions, an increased use of alternative fuels to reduce our reliance on primary fuels, an increased number of sites with local environmental impact plans in place and the use of alternative raw materials in our cement.

Foster our sustainable development

We are committed to our sustainable growth and development. Our approach is based on working closely with our stakeholders, including our employees and their families, our neighbors, and our business partners, to help solve the local and global sustainability challenges of our business, such as climate change, access to affordable housing, and development of infrastructure. To this end, we focus on three areas:

- First, we continue to work to increase our competitiveness. We seek to improve our operational excellence and efficiency and to follow high ethical standards to achieve long-term sustainable growth. We also offer innovative products and services for a sustainable, energy-efficient construction industry.
- Second, we aim to minimize the impacts of our operations. We provide a safe and healthy workplace and work to reduce our environmental footprint and inconvenience to our neighbors. We also encourage our business partners to take the same approach.
- Third, we reach out to our stakeholders, whose support is crucial for our success. Creating long-term relationships with these groups increases our competitiveness and helps us to find new ways to reduce our negative impacts.

Our priorities include health and safety, local environmental management, climate change, land management and biodiversity, providing the communities in which we work access to housing and community infrastructure, and sustainable construction.

Health and Safety. The health and safety of our employees is critical to our ability to conduct our business. In 2009, we reduced our total lost-time injuries, or LTI, by 33% to 3.2 incidents per million hours worked.

Local Environmental Management. We are committed to mitigating the impact of our business activities across all phases of our operations. In 2009, we increased to 60% the proportion of clinker produced in kilns with continuous monitoring of major emissions (dust, nitrogen oxide (NO_x) and sulfur oxide (SO_x)), surpassing our target for 2010. In 2009, we also reduced our emissions of dust, SO_x and NO_x per ton of cement produced by 60%, 25% and 19%, respectively, compared with 2005 levels.

Climate Change. Climate change poses significant challenges to our society, and we are committed to applying our skills, technologies, and determination to contribute to the development of a low-carbon economy. We have reduced our specific net CO2 emissions by 20.7% per ton of cement produced from 1990 levels, and we are on track to achieve a 25% reduction by 2015. We have also increased our use of alternative fuels, including more environmentally friendly energy sources such as household, industrial and agricultural waste, from 10.3% in 2008 to 16.4% in 2009. Consequently, we have already achieved our target for 2015, and we are on track to reach our target of 23% by 2020.

Land Management and Biodiversity. We manage the land within and around our operations to protect biodiversity and maximize our contribution to nature conservation. Overall, we have quarry rehabilitation plans in place at 82% of our active cement and aggregates sites, and we are on track to achieve our target of 100% by 2015. In collaboration with Birdlife International, we have also conducted a study that mapped the proximity of all of our quarry sites worldwide to key biodiversity areas.

Access to Improved Housing and Community Infrastructure . We seek to increase access to better housing and construction infrastructure for underserved communities. In 2009, *Patriomonio Hoy*, our flagship low-income housing program, received the UN HABITAT Business Award in the category of affordable housing. With nearly 100 service centers in five countries (Mexico, Colombia, Nicaragua, Costa Rica and the Dominican Republic) the program has assisted more than 260,000 families to better their housing conditions.

Sustainable Construction. Buildings are responsible for as much as 40% of the energy used in most countries. When properly designed and constructed, concrete buildings can improve energy efficiency and can last for decades with little or no maintenance. Led by our global center for technology and innovation in Switzerland, our research labs are designing and developing more energy-efficient, sustainable building materials, such as our self-compacting concrete and our high-insulation concrete forms.

In conjunction with these priorities, in 2009 we launched a new global program to foster a culture of innovation throughout CEMEX. This effort facilitates the exchange of knowledge and ideas among experts from across our operations network to develop initiatives targeted at reducing energy use, increasing the use of alternative fuels, improving customer service and promoting new ready-mix concrete products for sustainable construction.

Recruit, retain and cultivate world-class managers

Our senior management team has a strong track record operating diverse businesses throughout the cement value chain in emerging and developed economies globally. As part of our strategy, we have diversified selectively into markets that have long-term growth potential. We have a presence in more than 50 countries and have consummated eight significant acquisitions during the last 12 years, including the acquisitions of RMC in 2005 and Rinker in 2007.

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

Strengthen Our Capital Structure and Regain Our Financial Flexibility

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

Global Refinancing. On August 14, 2009, we entered into the Financing Agreement. The Financing Agreement extended the maturities of approximately U.S.$15.1 billion in syndicated and bilateral bank facilities and private placement obligations and provides for a semi-annual amortization schedule, with a final maturity of approximately U.S.$6.9 billion on February 14, 2014. We have since then successfully completed (i) several capital markets transactions (including a global equity offering, the issuance of the Mandatory Convertible Securities in Mexico in exchange for CBs, the issuance of the New Senior Secured Notes, the issuance of the Optional Convertible Subordinated Notes and the consummation of the 2010 Exchange Offer), and (ii) the sale of our operations in Australia and some of our U.S. assets. As of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, we had reduced indebtedness under the Financing Agreement by approximately U.S.$5.2 billion and the weighted average life of our indebtedness as of that date was 4.4 years. We believe that our new financial profile and resulting amortization schedule will enable us to operate in the normal course of business and take advantage of a potential upturn in the business cycle in our core markets. In addition, we expect that the new financial profile will allow us to conduct our planned asset divestitures under better terms and conditions.

Asset Divestitures. We began a process to divest assets in order to reduce our debt and streamline operations, taking into account our cash liquidity needs and prevailing economic conditions and their impact on the value of the asset or business unit being divested. In addition to the October 1, 2009 sale of our operations in Australia for approximately A$2.02 billion (approximately U.S.$1.7 billion), we sold our operations in the Canary Islands and Italy for approximately €310 million (U.S.$437 million) in 2008, and on

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

Global Cost-Reduction Program. In response to decreased demand in most of our markets as a result of the global economic recession, in 2008 we identified and began implementing a global cost-reduction program intended to reduce our annual cost structure to a level consistent with the decline in demand for our products. During 2009, we completed the implementation of the initial stage of our global cost-reduction program, resulting in approximately U.S.$900 million of estimated annual cost savings. We estimate that approximately 60% of these cost-reduction savings are sustainable in the long-term; the remainder is short-term cost savings resulting from the scaling down of our operations in response to reduced demand for our products in the construction industry. Our global cost-reduction program encompasses different undertakings, including headcount reductions, capacity closures across the cement value chain and a general reduction in global operating expenses. We expect to continue with our cost-reduction initiatives in 2010.

In connection with the implementation of our cost-reduction program, and as part of our ongoing efforts to eliminate redundancies at all levels and streamline corporate structures to increase our efficiency and reduce operating expenses, we have reduced our global headcount by approximately 23%, from 61,545 employees as of December 31, 2007 to 47,624 employees as of December 31, 2009. Both figures exclude personnel from our operations in Australia sold in October, 2009 and our operations in Venezuela which were expropriated in 2008. Additionally, we implemented a salary freeze at several levels of our corporate and administrative personnel that resulted in annual cost reductions of approximately U.S.$19 million.

In addition, during 2009, we temporarily shut down (for a period of at least two months) several cement production lines in order to rationalize the use of our assets and reduce the accumulation of our inventories. On January 22, 2010, we announced the permanent closure of our Davenport cement plant located in northern California. The plant had been closed on a temporary basis since March 2009 due to economic conditions. We have been serving our customers in the region through our extensive network of terminals in northern California, which are located in Redwood City, Richmond, West Sacramento and Sacramento. Our state-of-the-art cement facility in Victorville, California will continue to provide cement to this market more efficiently than the Davenport plant, as it has done so since March 2009. Similar actions were taken in our ready-mix concrete and aggregates businesses. Such rationalizations included, among others, our operations in Mexico, the United States, Spain and the United Kingdom. Opened in 1906, Davenport was the least efficient of our 14 plants in the United States. We have no other set plans for the Davenport facility at this time. Furthermore, we reduced our energy costs by actively managing our energy contracting and sourcing, and by increasing the use of alternative fuels. We believe that these cost-reduction measures better position us to quickly adapt to potential increases in demand and thereby benefit from the operating leverage we have built into our cost structure going forward.

Lower Capital Expenditures. In light of the continued weak demand for our products throughout most of our markets, we reduced (as agreed with our creditors under the Financing Agreement) capital expenditures related to maintenance and expansion of our operations to U.S.$636 million during 2009, from approximately U.S.$2.2 billion during 2008. This reduction in capital expenditures has been implemented to maximize our free cash flow generation available for debt service and debt reduction, consistent with our ongoing efforts to strengthen our capital structure, improve our conversion of operating EBITDA to free cash flow and regain our financial flexibility. Pursuant to the Financing Agreement, we cannot make aggregate capital expenditures in excess of (i) U.S.$700 million for the year ending December 31, 2010 and (ii) U.S.$800 million for each year thereafter until the debt under the Financing Agreement has been repaid in full. We believe that these reductions in capital expenditures do not affect our world-class operating and quality standards.

Having completed our initial refinancing process and several capital markets transactions to reduce our outstanding indebtedness under the Financing Agreement, implemented our initial cost-reduction measures and executed significant divestitures, we expect to emerge from the global economic crisis substantially stronger, leaner and better-positioned to take advantage of the expected business cycle upturn in our core markets.

Our Corporate Structure

CEMEX, S.A.B. de C.V. is a holding company, and we operate our business through subsidiaries that, in turn, hold interests in our cement and ready-mix concrete operating companies, as well as other businesses. The following chart summarizes our corporate structure as of December 31, 2009. The chart also shows, for each company, our approximate direct or indirect percentage equity or economic ownership interest. The chart has been simplified to show only our major holding companies in the principal countries in which we operate and does not include our intermediary holding companies and our operating company subsidiaries.


CEMEX, S.A.B. de C.V. (Mexico)
CEMEX México, S.A. de C.V. (Mexico) 100% (1)
Empresas Tolteca de México, S.A. de C.V. (Mexico) 100%
Centro Distribuidor de Cemento, S.A. de C.V. (Mexico) 100% (2)
New Sunward Holding B.V. (Netherland) 100% (3) (4)
New Sunward Holding Financial Ventures B.V. (Netherland) 100%
CEMEX España, S.A. (Spain) 99.8% (5) (6)
CEMEX France Gestion (S.A.S.) (France) 100%
CEMEX UK (United Kingdom) 100% (7)
CEMEX Investments Limited (United Kingdom) 100% (8)
CEMEX Colombia, S.A. (Colombia) 99.7%
CEMEX Corp. (United States) 100%
CEMEX Inc. (United States) 100%
Cemex Materials LLC. (United States) 100%
CEMEX Polska sp.z.o.o. (Poland) 100%
CEMEX Hrvatska d.d. (Croatia) 100% (17)
RMC Industries (Malaysia) Sdn Bkd (Malaysia) 100%
CEMEX SIA (Latvia) 100%
CEMEX Czech Operations, s.r.o. (Czech Rep.) 100%
Assuit Cement Company (Egypt) 95.8%
CEMEX (Costa Rica), S.A. (Costa Rica) 99.1%
EMBRA AS (Scandinavia) 100% (9)
Readymix Argentina, S.A. (Argentina) 100%
CEMEX de Puerto Rico, Inc. (Puerto Rico) 100%
CEMEX Venezuela, S.A.C.A. (Venezuela) 75.7% (16)
CEMEX Nicaragua, S.A. (Nicaragua) 100% (13)
CEMEX Deutschland AG (Germany) 100%
Akmenes Cementas AB (Lithuania) 33.9%
Cemento Bayano, S.A. (Panama) 99.5%
CEMEX Dominicana, S.A. (Dominican Republic) 100%
CEMEX Austria AG (Austria) 100%
CEMEX Jamaica (Jamaica) 100%
CEMEX Asia Holdings, Ltd. (Singapore) 100% (15)
Cemex Hungária Kft (Hungary) 100%
Readymix plc (Ireland) 61.2% (14)
Solid Cement Corp. (Philippines) 100% (10) (11)
CEMEX (Thailand) Co. Ltd. (Thailand) 100% (11)
CEMEX Holdings (Israel) Limited (Israel) 100%
UAE (United Arab Emirates) 49% (12)
APO Cement Corporation (Philippines) 100% (11)

(1) Includes approximate 99.87% interest pledged as part of the Collateral.

(2) Includes approximate 99.99% interest pledged as part of the Collateral.

(3) Includes approximate 100% interest pledged as part of the Collateral.

(4) CEMEX, S.A.B. de C.V. and Centro Distribuidor de Cemento, S.A. de C.V. indirectly hold 100% of New Sunward through other intermediate subsidiaries.

(5) Includes the interest of New Sunward, CEMEX, S.A.B. de C.V. and other subsidiaries of the group.

(6) Includes approximate 99.47% interest pledged as part of the Collateral.

(7) Includes CEMEX España's 90% interest and the CEMEX France Gestion (S.A.S.) 10% interest.

(8) Formerly RMC.

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

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

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

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

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

(14) Registered business name is CEMEX Ireland.

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

(16) On June 18, 2008, the Government of Venezuela promulgated a Nationalization Decree, mandating that the cement production industry in Venezuela be reserved for the Government of Venezuela. On August 18, 2008, an Expropriation Decree was issued by the President of Venezuela.

(17) As of December 4, 2009, Dalmacijacement d.d. changed its name to CEMEX Hrvatska d.d.

North America

For the year ended December 31, 2009, our business in North America, which includes our operations in Mexico and the United States, represented approximately 40% of our net sales before eliminations. As of December 31, 2009, our business in North America represented approximately 48% of our total installed cement capacity and approximately 54% of our total assets.

Our Mexican Operations

Overview. Our Mexican operations represented approximately 21% of our net sales in Peso terms, before eliminations resulting from consolidation, and approximately 11% of our total assets for the year ended December 31, 2009.

As of December 31, 2009, we owned 100% of the outstanding capital stock of CEMEX México. CEMEX México is a direct subsidiary of CEMEX and is both a holding company for some of our operating companies in Mexico and an operating company involved in the manufacturing and marketing of cement, plaster, gypsum, groundstone and other construction materials and cement by-products in Mexico. CEMEX México, indirectly, is also the holding company for our international operations. CEMEX México, together with its Mexican subsidiaries, accounts for a substantial part of the revenues and operating income of our operations in Mexico.

In September 2006, we announced a plan to construct a new kiln at our Tepeaca cement plant in Puebla, Mexico. The current production capacity of the Tepeaca cement plant is approximately 3.3 million tons of cement per year. The construction of the new kiln, which is designed to increase our total production capacity in the Tepeaca cement plant to approximately 7.4 million tons of cement per year, is expected to be completed in 2013. As of December 31, 2009, we made total capital expenditures in the construction of this new production line of approximately U.S.$570 million, which includes capital expenditures for about U.S.$429 million until 2008 and U.S.$30 million in 2009. We expect to spend approximately U.S.$4 million in capital expenditures for Tepeaca during 2010. We expect that this investment will be fully funded with free cash flow that we generate during the construction period of the plant.

In 2001, we launched the Construrama program, a registered brand name for construction material stores. Through the Construrama program, we offer to a group of our distributors in Mexico the opportunity to sell a variety of products under the Construrama brand name, a concept that includes the standardization of stores, image, marketing, products and services. As of December 31, 2009, more than 850 independent concessionaries with more than 2,200 stores were integrated into the Construrama program, with nationwide coverage.

The Mexican Cement Industry. According to the INEGI, Mexico's construction GDP decreased 7.5% in 2009. For the full year 2009, total construction investment decreased by approximately 2.3%. The main decreases were in the commercial and industrial sectors, which fell by approximately 16% during 2009 and the formal housing sector, which fell by approximately 24%. These decreases were partially offset by the retail (self-construction) sector, which grew by approximately 4%, and the infrastructure sector, which grew by approximately 15%.

Cement in Mexico is sold principally through distributors, with the remaining balance sold through ready-mix concrete producers, manufacturers of pre-cast concrete products and construction contractors. Cement sold through distributors is mixed with aggregates and water by the end user at the construction site to form concrete. Ready-mix concrete producers mix the ingredients in plants and deliver it to local construction sites in mixer trucks, which pour the concrete. Unlike more developed economies, where purchases of cement are concentrated in the commercial and industrial sectors, retail sales of cement through distributors in 2009 accounted for more than 60% of the demand in Mexico. Individuals who purchase bags of cement for self-construction and other basic construction needs are a significant component of the retail sector. We estimate that about 30% of total demand in Mexico comes from individuals who address their own construction needs. We believe that this large retail sales base is a factor that significantly contributes to the overall performance of the cement market in Mexico.

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

Competition. In the early 1970s, the cement industry in Mexico was regionally fragmented. However, over the last 40 years, cement producers in Mexico have increased their production capacity and the cement industry in Mexico has consolidated into a national market, thus becoming increasingly competitive. The major cement producers in Mexico are CEMEX; Holcim Apasco, an affiliate of Holcim Ltd.; Sociedad Cooperativa Cruz Azul, a Mexican operator; Cementos Moctezuma, an associate of Ciments Molins; Grupo Cementos Chihuahua, a Mexican operator in which we own a 49% interest; and Lafarge Cementos, a subsidiary of Lafarge. The major ready-mix concrete producers in Mexico are CEMEX, Holcim Apasco, Sociedad Cooperativa Cruz Azul and Cementos Moctezuma.

Our Mexican Operating Network

During 2009, we operated 13 out of a total of 15 plants (two of the 15 were temporarily shut down given market conditions) and 91 distribution centers (including seven marine terminals) located throughout Mexico. We operate modern plants on the Gulf of Mexico and Pacific coasts, allowing us to take advantage of low-land transportation costs to export to the U.S., Caribbean, Central and South American markets.

Products and Distribution Channels

Cement. Our cement operations represented approximately 55% of our Mexican operations' net sales before eliminations resulting from consolidation in 2009. Our domestic cement sales volume represented approximately 97% of our total cement sales volume in Mexico for 2009. As a result of the retail nature of the Mexican market, our Mexican operations are not dependent on a limited number of large customers. The five most important distributors in the aggregate accounted for approximately 6.5% of our total cement sales in Mexico by volume in 2009.

Ready-Mix Concrete. Our ready-mix operations represented approximately 22% of our Mexican operations' net sales before eliminations resulting from consolidation in 2009. Our ready-mix operations in Mexico purchase all their cement requirements from our cement operations in Mexico. Ready-mix concrete is sold through our own internal sales force and facilities network.

Aggregates. Our aggregates operations represented approximately 3% of our Mexican operations' net sales before eliminations resulting from consolidation in 2009.

Exports. Our operations in Mexico export a portion of their cement production, mainly in the form of cement and to a lesser extent in the form of clinker. Exports of cement and clinker by our operations in Mexico represented approximately 3% of our total cement sales volume in Mexico for 2009. In 2009, approximately 19% of our cement and clinker exports from Mexico were to the United States, 71% to Central America and the Caribbean and 10% to South America.

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

Our exports of Mexican gray cement from Mexico to the United States were subject to an anti-dumping order that was imposed by the Commerce Department on August 30, 1990. In March 2006, the Mexican and U.S. governments entered into an agreement to eliminate U.S. anti-dumping duties on Mexican cement imports following a three-year transition period beginning in 2006. In 2006, 2007 and 2008, Mexican cement imports into the U.S. were subject to volume limitations of 3.0 million, 3.1 million and 3.0 million tons per year, respectively. Quota allocations to companies in Mexico that import cement into the U.S. are made on a regional basis. The transitional anti-dumping duty during the three-year transition period was lowered to U.S.$3.00 per ton, effective as of April 3, 2006, from the previous amount of approximately U.S.$26.00 per ton. Restrictions imposed by the United States on cement imports from Mexico were eliminated in April 2009. For a more detailed description of the terms of the agreement between the Mexican and U.S. governments, please see " — Information on the Company — Regulatory Matters and Legal Proceedings — Anti-Dumping."

Production Costs. Our cement plants in Mexico primarily utilize petcoke, but several are designed to switch to fuel oil and natural gas with minimum downtime. We have entered into two 20-year contracts with Petróleos Mexicanos, or PEMEX, pursuant to which PEMEX has agreed to supply us with a total of 1.75 million tons of petcoke per year, including Termoeléctrica del Golfo's (or "TEG") coke consumption, through 2022 and 2023. Petcoke is petroleum coke, a solid or fixed carbon substance that remains after the distillation of hydrocarbons in petroleum and that may be used as fuel in the production of cement. The PEMEX petcoke contracts have reduced the volatility of our fuel costs. In addition, since 1992, our operations in Mexico have begun to use alternative fuels, to further reduce the consumption of residual fuel oil and natural gas. These alternative fuels represented approximately 8% of the total fuel consumption for our Mexican operations in 2009.

In 1999, we reached an agreement with the TEG consortium for the financing, construction and operation of a 230 megawatt ("MW") energy plant in Tamuin, San Luis Potosi, Mexico. We entered into this agreement in order to reduce the volatility of our energy costs. The total cost of the project was approximately U.S.$360 million. The power plant commenced commercial operations in April 2004. In February 2007, the original members of the consortium sold their participations in the project to a subsidiary of The AES Corporation. As part of the original agreement, we committed to supply the energy plant with all fuel necessary for its operations, a commitment that has been hedged through a 20-year agreement we entered into with PEMEX. These agreements were reestablished under the same conditions in 2007 with the new operator and the term was extended until 2027. The agreement with PEMEX, however, was not modified and terminates in 2024. Consequently, for the last 3 years of the agreement, we intend to purchase the required fuel in the market. For the years ended December 31, 2007, 2008 and 2009, the power plant has supplied approximately 60%, 60%, and 74%, respectively, of our overall electricity needs during such years for our cement plans in Mexico.

In April 2007, we and the Spanish construction company Acciona, S.A., or Acciona, formed an alliance to develop a wind farm project for the generation of 250 MW in Juchitan, Oaxaca, Mexico. We acted as promoters of the project, which was named EURUS. Acciona provided the required financing, constructed the facility and currently operates the wind farm. The installation of 167 wind turbines in the farm was finished on November 15, 2009. The agreements between us and Acciona established that our cement plants in Mexico should acquire a portion of the energy generated by the wind farm for a period of at least 20 years, beginning on the date in which the 250 MW would be interconnected with the grid of *Comisión Federal de Electricidad*, a national utility company in Mexico. As of December 31, 2009, EURUS had not reached the committed limit capacity to declare the beginning of commercial operations and operated on a testing phase. The power plant had a cost of approximately U.S.$550 million.

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

Description of Properties, Plants and Equipment. As of December 31, 2009, there were 15 wholly-owned cement plants located throughout Mexico, of which two are temporarily shut down, with a total theoretical installed capacity of 29.3 million tons per year. We have exclusive access to limestone quarries and clay reserves near each of our plant sites in Mexico. We estimate that these limestone and clay reserves have an average remaining life of more than 60 years, assuming 2009 production levels. As of December 31, 2009, all our production plants in Mexico utilized the dry process.

As of December 31, 2009, we had a network of 84 land distribution centers in Mexico, which are supplied through a fleet of our own trucks and rail cars, as well as leased trucks and rail facilities, and operated seven marine terminals. In addition, we had more than 320 ready-mix concrete plants in 79 cities throughout Mexico, more than 2,700 ready-mix concrete delivery trucks and 16 aggregates quarries.

As part of our global cost-reduction program, we have made temporary capacity adjustments and rationalizations in four of our cement plants in Mexico. In addition, in 2009 we closed approximately 6% of our production capacity in our ready-mix plants throughout Mexico.

Capital Expenditures. We made capital expenditures of approximately U.S.$398 million in 2007, U.S.$497 million in 2008 and U.S.$84 million in 2009 in our operations in Mexico. We currently expect to make capital expenditures of approximately U.S.$108 million in our operations in Mexico during 2010.

Our U.S. Operations

Overview. Our operations in the U.S. represented approximately 19% of our net sales in Peso terms, before eliminations resulting from consolidation, and approximately 43% of our total assets, for the year ended December 31, 2009. As of December 31, 2009, we held 100% of CEMEX, Inc., our operating subsidiary in the United States.

As of December 31, 2009, we had a cement manufacturing capacity of approximately 17.9 million tons per year in our U.S. operations, including nearly 1.2 million tons representing our proportional interests through associates. As of December 31, 2009, we operated a geographically diverse base of 14 cement plants located in Alabama, California, Colorado, Florida, Georgia, Kentucky, Ohio, Pennsylvania, Tennessee and Texas. As of that date, we also had 48 rail or water served active cement distribution terminals in the United States. As of December 31, 2009, we had 336 ready-mix concrete plants located in the Carolinas, Florida, Georgia, Texas, New Mexico, Nevada, Arizona, California, Oregon and Washington and aggregates facilities in North Carolina, South Carolina, Arizona, California, Florida, Georgia, Kentucky, New Mexico, Nevada, Oregon, Texas, and Washington, not including the assets of Ready Mix USA LLC, as described below.

On July 1, 2005, we and Ready Mix USA, a privately owned ready-mix concrete producer with operations in the southeastern United States, established two jointly-owned limited liability companies, CEMEX Southeast, LLC, a cement company, and Ready Mix USA LLC, a ready-mix concrete company, to serve the construction materials market in the southeast region of the United States. Under the terms of the limited liability company agreements and related asset contribution agreements, we contributed two cement plants (Demopolis, Alabama and Clinchfield, Georgia) and 11 cement terminals to CEMEX Southeast, LLC, then representing approximately 98% of its contributed capital, while Ready Mix USA contributed cash to CEMEX Southeast, LLC, then representing approximately 2% of its contributed capital. In addition, we contributed our ready-mix concrete, aggregates and concrete block assets in the Florida panhandle and southern Georgia to Ready Mix USA LLC, then representing approximately 9% of its contributed

capital, while Ready Mix USA contributed all its ready-mix concrete and aggregates operations in Alabama, Georgia, the Florida panhandle and Tennessee, as well as its concrete block operations in Arkansas, Tennessee, Mississippi, Florida and Alabama to Ready Mix USA LLC, then representing approximately 91% of its contributed capital. We own a 50.01% interest, and Ready Mix USA owns a 49.99% interest, in the profits and losses and voting rights of CEMEX Southeast, LLC, while Ready Mix USA owns a 50.01% interest, and we own a 49.99% interest, in the profits and losses and voting rights of Ready Mix USA LLC. CEMEX Southeast, LLC is managed and fully consolidated by us, and Ready Mix USA LLC is managed by Ready Mix USA and is accounted for by us under the equity method.

Under the Ready Mix USA LLC joint venture, we are required to contribute to the Ready Mix USA joint venture any ready-mix concrete and concrete block assets we acquire inside the joint venture region, while any aggregates assets acquired inside the region may be added to the Ready Mix USA joint venture at the option of the non-acquiring member. Building materials, pipe, transport and storm water treatment assets are not subject to the contribution clause under the Ready Mix USA joint venture. The value of the contributed assets is to be determined based on a formula by the Ready Mix USA joint venture.

Starting on June 30, 2008, Ready Mix USA has had the right to require us to acquire Ready Mix USA's interest in CEMEX Southeast, LLC and ready Mix USA LLC at a price equal to the greater of a) eight times the companies' operating cash flow for the trailing twelve months, b) eight times the average of these companies' operating cash flow for the previous three years, or c) the net book value of the combined companies' assets. This option will expire on July 1, 2030. As of December 31, 2009, we had not recognized a liability in connection with the Ready Mix USA's option as the fair value of the assets would exceed the cost of the option if the option were exercised.

On September 1, 2005, we sold 27 ready-mix concrete plants and four concrete block facilities located in the Atlanta, Georgia metropolitan area to Ready Mix USA LLC for approximately U.S.$125 million.

On January 11, 2008, in connection with our acquisition of Rinker, and as part of our agreements with Ready Mix USA, we contributed and sold to Ready Mix USA LLC certain assets located in Georgia, Tennessee and Virginia, which had a fair value of approximately U.S.$437 million. We received U.S.$120 million in cash for the assets sold to Ready Mix USA LLC, and the remaining assets were treated as a U.S.$260 million contribution by us to Ready Mix USA LLC. As part of the same transaction, Ready Mix USA contributed U.S.$125 million in cash to Ready Mix USA LLC, which in turn, received bank loans of U.S.$135 million, and Ready Mix USA LLC made a special distribution in cash to us of U.S.$135 million. Ready Mix USA manages all the assets acquired. Following this transaction, Ready Mix USA LLC will continue to be owned 50.01% by Ready Mix USA and 49.99% by CEMEX. The assets contributed and sold by us include: 11 concrete plants, 12 limestone quarries, four concrete maintenance facilities, two aggregate distribution facilities and two administrative offices in Tennessee; three granite quarries and one aggregates distribution facility in Georgia; and one limestone quarry and one concrete plant in Virginia. All these assets were acquired by us through our acquisition of Rinker.

On February 22, 2010, Ready Mix USA LLC completed the sale of 12 active quarries and certain other assets to SPO Partners & Co. for U.S.$420 million. The active quarries, which consist of two granite quarries in Georgia, nine limestone quarries in Tennessee, and one limestone quarry in Virginia, are operated by Ready Mix USA LLC and were deemed non-strategic by CEMEX and Ready Mix USA LLC. The proceeds from the sale were partly used to reduce debt of Ready Mix USA LLC, and to effect a cash distribution of approximately U.S.$100 million to each joint venture partner, including CEMEX. As of the date of this annual report, we have received approximately U.S.$70 million of this cash distribution, and we expect to receive the remaining approximately U.S.$30 million in the third quarter of 2010. We do not consolidate the results of Ready Mix USA LLC, and we expect to use the cash proceeds we receive from this divestment to reduce our outstanding debt and to enhance our liquidity position. After the assets sale and the cash distributions, Ready Mix USA LLC will continue to be owned 50.01% by Ready Mix USA and 49.99% by CEMEX.

On September 18, 2007, we announced our intention to begin the permitting process for the construction of a 1.7 million ton cement manufacturing facility near Seligman, Arizona. The state-of-the-art facility will manufacture cement to serve the future growth of Arizona, including the Phoenix metropolitan area. As a result of current market conditions and consistent with the reduction of our expansion capital expenditure program, we have delayed the completion of this project. As of December 31, 2009, we had spent a total of approximately U.S.$16 million on this project. We do not plan to incur capital expenditures in the construction of the Seligman Crossing Plant during 2010.

In February 2006, we announced a plan to construct a second kiln at our Balcones cement plant in New Braunfels, Texas in order to increase our cement production capacity to support strong demand amidst a shortfall in regional supplies of cement. The production capacity of the Balcones cement plant was approximately 1.1 million tons per year. The construction of the new kiln, which was designed to increase our total production capacity in the Balcones cement plant to approximately 2.2 million tons per year, was completed in the third quarter of 2008, although minor expenditures were made in 2009 and are scheduled to be made during 2010. We expect to spend a total of approximately U.S.$386 million in the construction of this new kiln, including U.S.$27 million in 2006, U.S.$187 million in 2007, U.S.$147 million in 2008, U.S.$9 million in 2009 and an expected U.S.$16 million during 2010.

In October 2005, Rinker announced that it had commenced detailed plant engineering for the construction of a second kiln at the cement plant in Brooksville, Florida in order to increase the cement production capacity by 50%. The production capacity of the Brooksville South plant was approximately 0.7 million tons per year. The construction of the new kiln was completed in the third quarter of 2008, with minor expenditures made during 2009. We and Rinker together spent approximately U.S.$244 million in the construction of this new kiln, including U.S.$2 million in 2005, U.S.$58 million in 2006, U.S.$121 million in 2007, U.S.$58 million in 2008 and U.S.$5 million during 2009.

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

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

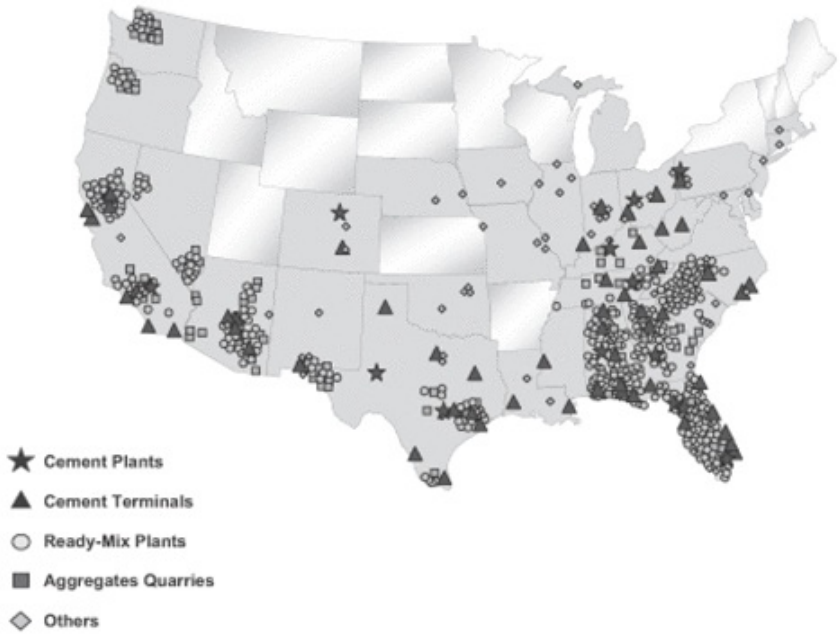
The construction industry is experiencing the worst downturn in over 70 years as the fallout from the collapse of the housing sector caused massive losses in the financial sector, which resulted in extremely tight credit conditions and a deep U.S. recession. Under these conditions, cement demand declined 9.9% in 2007, 15.8% in 2008 and 27% in 2009. In response to the global economic slowdown experienced in the past years, the Federal Reserve and Treasury have taken unprecedented actions to stabilize the financial sector such as the U.S.$787 billion economic stimulus package. These expansionary monetary and fiscal policies resulted in real GDP growth of 2.2% and 5.7% for the third and fourth quarters of 2009, respectively. The decline in the construction sector stabilized in the second half of 2009 and is now expected to improve in 2010 as infrastructure spending increases from the economic stimulus package and the housing sector begins to recover. We believe that our operations in the U.S. are well positioned to take advantage of the potential increased spending in infrastructure resulting from the stimulus package.

Competition. The cement industry in the U.S. is highly competitive. We compete with national and regional cement producers in the U.S. Our principal competitors in the United States are Holcim, Lafarge, Buzzi-Unicem, Heidelberg Cement and Ash Grove Cement.

The U.S. ready-mix concrete industry is highly fragmented. According to the National Ready Mixed Concrete Association ("NRMCA"), it is estimated that there are about 6,000 ready mixed concrete plants that produce ready-mix concrete in the U.S. and about 70,000 ready mixed concrete mixer trucks that deliver the product to the point of placement. The NRMCA estimates that the value of ready mixed concrete produced by this industry is estimated at U.S.$30 billion. Given that the ready-mix concrete industry has historically consumed approximately 75% of all cement produced annually in the U.S., many cement companies choose to develop concrete plant capabilities.

Aggregates are widely used throughout the U.S. for all types of construction because they are the most basic materials for building activity. The U.S. aggregates industry is highly fragmented and geographically dispersed. According to the U.S. Geological Survey, during 2009 an estimated 4,000 companies operated approximately 6,400 sand and gravel sites and 1,600 companies operated 4,000 crushed stone quarries and 86 underground mines in the 50 U.S. states.

Our United States Operating Network. The map below reflects the location of our operating assets, including our cement plants and cement terminals in the United States (including the assets held through the Ready Mix USA LLC joint venture) as of December 31, 2009. The map does not give effect to the recently announced sale of quarries by the Ready Mix USA LLC joint venture described above.



Products and Distribution Channels

Cement. Our cement operations represented approximately 31% of our U.S. operations' net sales before eliminations resulting from consolidation in 2009. We deliver a substantial portion of cement by rail. Occasionally, these rail shipments go directly to customers. Otherwise, shipments go to distribution terminals where customers pick up the product by truck or we deliver the product by truck. The majority of our cement sales are made directly to users of gray Portland and masonry cements, generally within a radius of approximately 200 miles of each plant.

Ready-Mix Concrete. Our ready-mix concrete operations represented approximately 31% of our U.S. operations' net sales before eliminations resulting from consolidation in 2009. Our ready-mix concrete operations in the U.S. purchase most of their cement requirements from our operations in the U.S. and roughly half of their aggregates requirements from our aggregates operations in the U.S. In addition, our 49.99%-owned Ready Mix USA LLC joint venture purchases most of its cement requirements from our cement operations in the U.S. Our ready-mix concrete products are mainly sold to residential, commercial and public contractors and to building companies.

Aggregates. Our aggregates operations represented approximately 19% of our U.S. operations' net sales before eliminations resulting from consolidation in 2009. At 2009 production levels, and based on 95 active locations, it is anticipated that our construction aggregates reserves in the U.S. will last for 30 years or more. Our aggregates are consumed mainly by our internal operations and by our trade customers in the ready-mix, concrete products and asphalt industries. Ready Mix USA LLC purchases most of its aggregates requirements from third parties.

Production Costs. The largest cost components of our plants were electricity and fuel, which accounted for approximately 36% of our U.S. operations' total production costs in 2009. We are currently implementing a program to gradually replace coal with more economic fuels such as petcoke and tires, which has resulted in reduced energy costs. By retrofitting our cement plants to handle alternative energy fuels, we have gained more flexibility in supplying our energy needs and have become less vulnerable to potential price spikes. In 2009, the use of alternative fuels offset the effect on our fuel costs of a significant increase in coal prices. Power costs in 2009 represented approximately 17% of our U.S. cement operations' cash manufacturing cost, which represents production cost before depreciation. We have improved the efficiency of our U.S. operations' electricity usage, concentrating our manufacturing activities in off-peak hours and negotiating lower rates with electricity suppliers.

Description of Properties, Plants and Equipment. As of December 31, 2009, we operated 14 cement manufacturing plants in the U.S., with a total installed capacity of 17.9 million tons per year, including nearly 1.2 million tons representing our proportional interests through associates. As of that date, we operated a distribution network of 48 cement terminals, 6 of which are deep-water terminals. All our cement production facilities in 2009 were wholly-owned except for the Louisville, Kentucky plant, which is owned by Kosmos Cement Company, a joint venture in which we own a 75% interest and a subsidiary of Dyckerhoff AG owns a 25% interest, and the Demopolis, Alabama and Clinchfield, Georgia plants, which are owned by CEMEX Southeast, LLC, an entity in which we own a 50.01% interest and Ready Mix USA owns a 49.99% interest. As of December 31, 2009, we had 336 wholly-owned ready-mix concrete plants and 95 aggregates quarries.

As of December 31, 2009, we also had interests in 188 ready-mix concrete plants and 25 aggregates quarries, which are owned by Ready Mix USA LLC, an entity in which Ready Mix USA owns a 50.01% interest and we own a 49.99% interest.

As of December 31, 2009, we distributed fly ash through 12 terminals and 13 third-party-owned utility plants, which operate both as sources of fly ash and distribution terminals. As of that date, we also owned 150 concrete block, paver, pipe, precast, asphalt and gypsum products distribution facilities, and had interests in 21 concrete block facilities, which are owned by Ready Mix USA LLC.

As part of our global cost-reduction program we have made temporary capacity adjustments and rationalizations in three of our cement plants in the U.S. Our Brooksville plant, located near our recently expanded capacity Brooksville South plant in Florida, has already shut down cement production. In addition, we have closed around 39% of our ready-mix concrete plants, around 47% of our concrete block plants and around 27% of our aggregates quarries in the U.S.

On January 22, 2010, we announced the permanent closure of our Davenport cement plant located in northern California. The plant had been closed on a temporary basis since March 2009 due to the economic conditions. We have been serving our customers in the region through our extensive network of terminals in northern California, which are located in Redwood City, Richmond, West Sacramento and Sacramento. Our state-of-the-art cement facility in Victorville, California will continue to provide cement to this market more efficiently than the Davenport plant, as it has done so since March 2009. Opened in 1906, Davenport was the least efficient of our 14 plants in the United States to operate. We have no other set plans for the Davenport facility at this time. See note 23 to our consolidated financial statements included elsewhere in this annual report for a description of the potential impact of the closure of our Davenport facility.

On February 22, 2010, we announced that our Ready Mix USA LLC joint venture had completed the sale of 12 active quarries to SPO Partners & Co. The active quarries consist of two granite quarries in Georgia, nine limestone quarries in Tennessee, and one limestone quarry in Virginia.

Capital Expenditures. We made capital expenditures of approximately U.S.$496 million in 2007, U.S.$391 million in 2008 and U.S.$60 million in 2009 in our operations in the U.S. We currently expect to make capital expenditures of approximately U.S.$119 million in our U.S. operations during 2010. We do not expect to be required to contribute any funds with respect to the assets of the companies jointly-owned with Ready Mix USA as capital expenditures during 2010.

Europe

For the year ended December 31, 2009, our business in Europe, which includes our operations in Spain, the United Kingdom and our Rest of Europe segment, as described below, represented approximately 36% of our net sales before eliminations resulting from consolidation. As of December 31, 2009, our business in Europe represented approximately 27% of our total installed capacity and approximately 28% of our total assets.

Our Spanish Operations

Overview. Our operations in Spain represented approximately 5% of our net sales in Peso terms, before eliminations resulting from consolidation, and approximately 11% of our total assets, for the year ended December 31, 2009.

As of December 31, 2009, we held approximately 99.8% of CEMEX España, our main operating subsidiary in Spain. Our cement activities in Spain are conducted by CEMEX España. Our ready-mix concrete activities in Spain are conducted by Hormicemex, S.A., a subsidiary of CEMEX España, and our aggregates activities in Spain are conducted by Aricemex S.A., also a subsidiary of CEMEX España. CEMEX España is also a holding company for most of our international operations.

In March 2006, we announced a plan to invest approximately €47 million in the construction of a new cement mill and dry mortar production plant in the Port of Cartagena in Murcia, Spain, including approximately €11 million in 2006, €19 million in 2007, €3 million in 2008, and €0.2 million in 2009. The first phase, which includes the cement mill with production capacity of nearly one million tons of cement per year, was completed in the last quarter of 2007. Execution of the second phase, which includes the new dry mortar plant with a production capacity of 200,000 tons of dry mortar per year, is at an initial stage, with no material investments expected during 2010.

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

In February 2007, we announced that Cementos Andorra, a joint venture between us and Spanish investors (the Burgos family), intends to build a new cement production facility in Teruel, Spain. The new cement plant is expected to have an annual capacity in excess of 650,000, tons and will be completed depending on the improvement of market conditions in Spain. Our investment in the construction of the plant is expected to be approximately €138 million, including approximately €28 million in 2007, €58 million in 2008, €30 million in 2009 and an expected €6 million during 2010. We hold a 99.34% interest in Cementos Andorra, and the Burgos family holds a 0.66% interest.

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

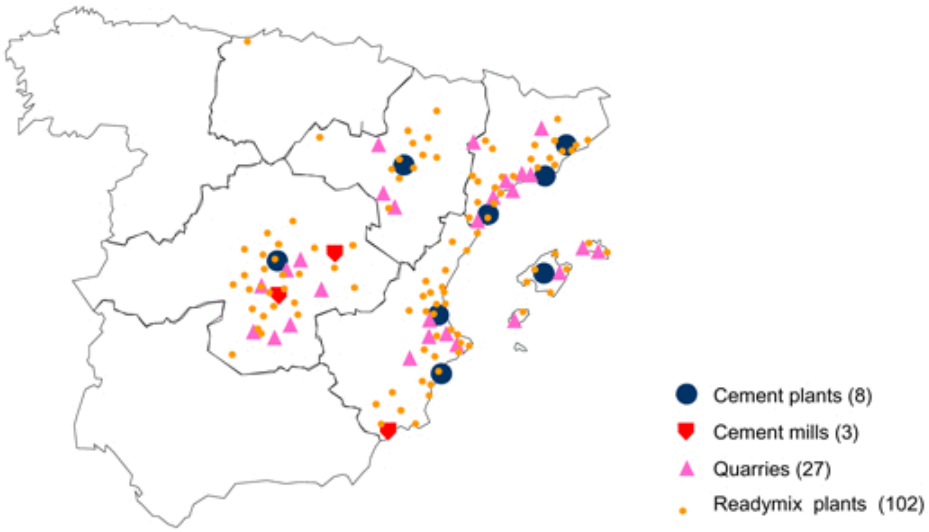
The Spanish Cement Industry. According to our latest estimates, in 2009, investment in the Spanish construction sector fell by approximately 11% when compared to 2008, primarily as a result of a severe correction in the housing sector, which fell by approximately 57%. According to the latest estimates from the *Asociación de Fabricantes de Cemento de España* , or OFICEMEN, the Spanish cement trade organization, cement consumption in Spain in 2009 decreased 33% compared to 2008.

During the past several years, the level of cement imports into Spain has been influenced by the strength of domestic demand and fluctuations in the value of the Euro against other currencies. According to OFICEMEN, cement imports increased approximately 9% in 2006 and decreased approximately 10% in 2007, 40% in 2008 and 62% in 2009. Clinker imports were significant, with increases of approximately 20% in 2006 and 27% in 2007, but experienced a sharp decline of 46% in 2008 and a 60% decline in 2009. Imports primarily have had an impact on coastal zones, since transportation costs make it less profitable to sell imported cement in inland markets.

Spain has traditionally been one of the leading exporters of cement in the world exporting up to 13 million tons per year. In recent years, Spanish cement and clinker export volumes have fluctuated, reflecting the rapid changes of demand in the Mediterranean basin as well as the strength of the Euro and the changes in the domestic market. According to OFICEMEN, these export volumes decreased 22% in 2006 and 3% in 2007, and increased 102% in 2008 and 22% in 2009.

Competition. According to our estimates, as of December 31, 2009, we were one of the five largest multinational producers of clinker and cement in Spain. Competition in the ready-mix concrete industry is intense in large urban areas. The overall high degree of competition in the Spanish ready-mix concrete industry is reflected in the multitude of offerings from a large number of concrete suppliers. We have focused on developing value added products and attempting to differentiate ourself in the marketplace. The distribution of ready-mix concrete remains a key component of CEMEX España's business strategy.

Our Spanish Operating Network



Products and Distribution Channels

Cement. Our cement operations represented approximately 58% of our Spanish operations' net sales before eliminations resulting from consolidation in 2009. CEMEX España offers various types of cement, targeting specific products to specific markets and users. In 2009, approximately 15% of CEMEX España's domestic sales volume consisted of bagged cement through distributors, and the remainder of CEMEX España's domestic sales volume consisted of bulk cement, primarily to ready-mix concrete operators, which include CEMEX España's own subsidiaries, as well as industrial customers that use cement in their production processes and construction companies.

Ready-Mix Concrete. Our ready-mix concrete operations represented approximately 22% of our Spanish operations' net sales before eliminations resulting from consolidation in 2009. Our ready-mix concrete operations in Spain in 2009 purchased almost 100% of their cement requirements from our cement operations in Spain, and approximately 70% of their aggregates requirements from our Spanish aggregates operations.

Aggregates. Our aggregates operations represented approximately 7% of our Spanish operations' net sales before eliminations resulting from consolidation in 2009.

Exports. Exports of cement by our operations in Spain represented approximately 6% of our Spanish operations' net sales before eliminations resulting from consolidation in 2009. Export prices are usually lower than domestic market prices, and costs are usually higher for export sales. Of our total export sales from Spain in 2009, 4% consisted of white cement, 3% of gray cement and 93% of grey clinker. In 2009, 98% of our exports from Spain were to Africa, and 2% to other countries.

Production Costs. We have improved the profitability of our operations in Spain by introducing technological improvements that have significantly reduced our energy costs, including the use of alternative fuels, in accordance with our cost reduction efforts. In 2009, we burned organic waste, tires and plastics as fuel, achieving, in 2009, a 26.5% substitution rate for petcoke in our gray and white clinker kilns for the year. During 2010, we expect to increase the quantity of these alternative fuels and to reach a substitution level of around 34%.

Description of Properties, Plants and Equipment. As of December 31, 2009, our operations in Spain included 8 cement plants, with an installed cement capacity of 11 million tons, including 1.1 million tons of white cement. As of that date, we also owned two cement mills and operated one mill under a lease contract, 23 distribution centers, including eight land and 15 marine terminals, 102 ready-mix concrete plants, 27 aggregates quarries and 11 mortar plants. As of December 31, 2009, we owned eight limestone quarries located in close proximity to our cement plants, which have useful lives ranging from 10 to 30 years, assuming 2009 production levels. Additionally, we have rights to expand these reserves to around 50 years of limestone reserves, assuming 2009 production levels.

As part of our global cost-reduction program we have made temporary capacity adjustments and rationalizations in several of our cement plants in Spain. During 2009, our eight cement plants have partially stopped cement production for more than two months. In addition to these partial stoppages, our Vilanova plant, located in Tarragona, and our Escombreras grinding mill, located in Cartagena, were closed temporarily during 2009, and will only resume production on a need basis. Moreover, the San Vicente plant, located in Alicante, and the Muel grinding mill, located in Aragon, have been permanently shutdown. Additionally, approximately 23% of our ready-mix concrete plants and 11% of our aggregates quarries in Spain have been also temporarily closed.

Capital Expenditures. We made capital expenditures of approximately U.S.$213 million in 2007, U.S.$177 million in 2008 and U.S.$74 million in 2009 in our operations in Spain. We currently expect to make capital expenditures of approximately U.S.$51 million in our operations in Spain during 2010, including those related to the construction of the new cement production facility in Teruel, described above.

Our U.K. Operations

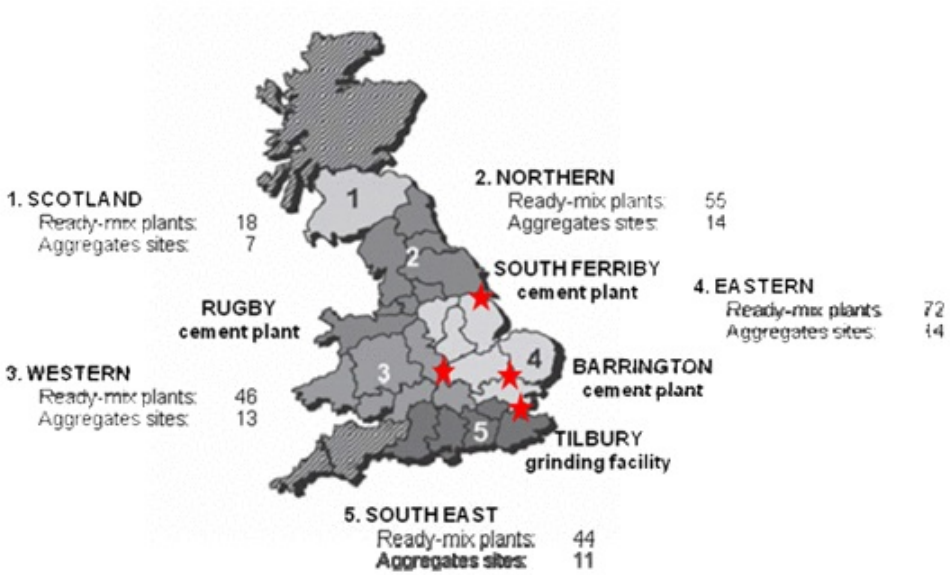
Overview. Our operations in the U.K. represented approximately 8% of our net sales in Peso terms, before eliminations resulting from consolidation, and approximately 7% of our total assets for the year ended December 31, 2009.

As of December 31, 2009, we held 100% of CEMEX Investments Limited (formerly RMC), our holding subsidiary in the United Kingdom. We are a leading provider of building materials in the United Kingdom with vertically integrated cement, ready-mix concrete, aggregates and asphalt operations. We are also an important provider of concrete and precast materials solutions such as concrete blocks, concrete block paving, roof tiles, flooring systems and sleepers for rail infrastructure.

The U.K. Construction Industry. According to the U.K.'s Office for National Statistics, the level of GDP in 2009 as a whole in the U.K. was 5.2% lower than in 2008. Total construction output fell 11% in 2009, as compared to a 0.4% decline in 2008 over the preceding year. The new private housing sector declined by 28%, and while the new public housing sector declined by approximately 5% in 2009, the rest of the public construction sector showed growth. Infrastructure construction grew by 10%, while public works other than public housing grew by 27% in 2009. Commercial construction activity fell by 20%, while industrial construction activity declined by 34% in 2009. Repair and maintenance activity grew by 8% in 2009.

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

Our U.K. Operating Network



Products and Distribution Channels

Cement. Our cement operations represented approximately 16% of our U.K. operations' net sales before eliminations resulting from consolidation for the year ended December 31, 2009. About 82% of our cement sales were of bulk cement, with the remaining 18% in bags. Our bulk cement is mainly sold to ready-mix concrete, concrete block and pre-cast product customers and contractors. Our bagged cement is primarily sold to national builders' merchants. During 2009, we did not import any cement or clinker.

Ready-Mix Concrete. Our ready-mix concrete operations represented approximately 27% of our U.K. operations' net sales before eliminations resulting from consolidation in 2009. Special products, including self-compacting concrete, fiber-reinforced concrete, high strength concrete, flooring concrete and filling concrete, represented 11% of our 2009 sales volume. Our ready-mix concrete operations in the U.K. in 2009 purchased approximately 82% of their cement requirements from our cement operations in the U.K. and approximately 78% of their aggregates requirements from our aggregates operations in the U.K. Our ready-mix concrete products are mainly sold to public, commercial and residential contractors.

Aggregates. Our aggregates operations represented approximately 26% of our U.K. operations' net sales before eliminations resulting from consolidation in 2009. In 2009, our aggregates sales in the U.K. were divided as follows: 49% were sand and gravel, 41% limestone and 10% hard stone. In 2009, 15% of our aggregates volumes were obtained from marine sources along the U.K. coast. In 2009, approximately 44% of our aggregates production in the U.K. was consumed by our own ready-mix concrete operations as well as our asphalt, concrete block and precast operations. We also sell aggregates to major contractors to build roads and other infrastructure projects.

Production Costs

Cement. In 2009, we saw improved productivity at all three of our cement plants in the U.K., which achieved a combined operational efficiency of 87%. We continued to implement our cost reduction programs and increased the use of alternative fuels by more than 30% in 2009.

Ready-Mix Concrete. In 2009, we reduced our total production costs by approximately 22% by continuing to implement our cost reduction plans and down-sizing to match lower sales.

Aggregates. In 2009, we reduced fixed production costs by approximately 12% through a site rationalization program and cost controls in response to the market decline.

Description of Properties, Plants and Equipment. As of December 31, 2009, we owned three cement plants and one clinker grinding facility in the United Kingdom (excluding our Rochester grinding plant, which ceased operations in October 2009 and our Barrington plant, which closed permanently in November 2008). Assets in operation at year-end 2009 represent an installed cement capacity of 2.8 million tons per year. As of that date, we also owned 6 cement import terminals and operated 235 ready-mix concrete plants and 59 aggregates quarries in the United Kingdom. In addition, we had operating units dedicated to the asphalt, concrete blocks, concrete block paving, roof tiles, sleepers and flooring businesses in the United Kingdom.

In order to ensure increased availability of blended cements, which are more sustainable based on their reduced clinker factor and use of by-products from other industries, we have built a new grinding and blending facility at the Port of Tilbury, located on the Thames river east of London. The new facility, which started operations during May 2009, has an annual capacity of approximately 1.2 million tons per annum and has increased our cement capacity in the U.K. by 20%. In total, we spent approximately U.S.$91 million in the construction of this new grinding mill: U.S.$28 million in 2007, U.S.$41 million in 2008 and U.S.$22 million in 2009.

As part of our global cost-reduction program we have made temporary capacity adjustments and rationalizations in our Barrington cement plant which shut down cement production. In addition, we have closed approximately 6% of our ready-mix concrete plants and 10% of our aggregates quarries in the U.K.

Capital Expenditures. We made capital expenditures of approximately U.S.$133 million in 2007, U.S.$132 million in 2008 and U.S.$58 million in 2009 in our operations in the U.K. We currently expect to make capital expenditures of approximately U.S.$41 million in our operations in the U.K. during 2010.

Our Rest of Europe Operations

Our operations in the Rest of Europe which, as of December 31, 2009, consisted of our operations in Germany, France, Ireland, Poland, Croatia, the Czech Republic, Latvia, Austria and Hungary, as well as our other European assets and our approximately 34% non-controlling interest in a Lithuanian company, represented approximately 23% of our 2009 net sales in Peso terms, before eliminations resulting from consolidation, and approximately 10% of our total assets in 2009.

Our German Operations

Overview. As of December 31, 2009, we held 100% of CEMEX Deutschland AG, our holding subsidiary in Germany. We are a leading provider of building materials in Germany, with vertically integrated cement, ready-mix concrete, aggregates and concrete products operations (consisting mainly of prefabricated concrete ceilings and walls). We maintain a nationwide network for ready-mix concrete and aggregates in Germany.

The German Cement Industry. According to Euroconstruct, total construction in Germany decreased by 1.2% in 2009. Data from the Federal Statistical Office indicate a decrease in construction investments of 0.7% for 2009. Construction in the residential sector also decreased by 0.8%. The modest declines reflect the positive effects of the German stimulus package. According to the German Cement Association, total cement consumption in Germany decreased by 8%, to 25.3 million tons in 2009. The ready-mix concrete market showed a similar decline with a decrease of 8.3%. The drop in the aggregates market was slightly more moderate, declining 6.4%.

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

Our German Operating Network

Description of Properties, Plants and Equipment. As of December 31, 2009, we operated two cement plants in Germany (not including the Mersmann plant). As of December 31, 2009, our installed cement capacity in Germany was 5.3 million tons per year (excluding the Mersmann plant cement capacity). As of that date, our operations in Germany also included four cement grinding mills, 176 ready-mix concrete plants, 41 aggregates quarries, two land distribution centers for cement, six land distribution centers for aggregates, and three maritime terminals, two for cement and one for aggregates. In 2006, we closed the kiln at the Mersmann cement plant, and we do not contemplate resuming kiln operations at this plant, grinding and packing activities have remained operational.

Capital Expenditures. We made capital expenditures of approximately U.S.$78 million in 2007, U.S.$49 million in 2008 and U.S.$31 million in 2009 in our operations in Germany, and we currently expect to make capital expenditures of approximately U.S.$43 million in 2010.

Our French Operations

Overview. As of December 31, 2009, we held 100% of CEMEX France Gestion (S.A.S.), our holding subsidiary in France. We are a leading ready-mix concrete producer and a leading aggregates producer in France. We distribute the majority of our materials by road and a significant quantity of aggregates by waterways, seeking to maximize the use of this efficient and sustainable alternative.

The French Cement Industry. According to Euroconstruct, total construction output in France declined by 17.8% in 2009. The decrease was primarily driven by decreases of residential construction of 17.8% and an estimated decrease of 7% in the public works sector. According to the French cement producers association, total cement consumption in France reached 20.4 million tons in 2009, a decrease of 15.5% compared to 2008.

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

Description of Properties, Plants and Equipment. As of December 31, 2009, we operated 239 ready-mix concrete plants in France, one maritime cement terminal located in LeHavre, on the northern coast of France, 20 land distribution centers and 42 aggregates quarries.

Capital Expenditures. We made capital expenditures of approximately U.S.$47 million in 2007, U.S.$41 million in 2008 and U.S.$15 million in 2009 in our French operations, and we currently expect to make capital expenditures of approximately U.S.$25 million during 2010.

Our Irish Operations

Overview. As of December 31, 2009, we held approximately 61.2% of Readymix Plc, our operating subsidiary in the Republic of Ireland. Our operations in Ireland produce and supply sand, stone and gravel as well as ready-mix concrete, mortar and concrete blocks. As of December 31, 2009, we operated 43 ready-mix concrete plants, 27 aggregates quarries and 15 block plants located in the Republic of Ireland, Northern Ireland and the Isle of Man. We import and distribute cement in the Isle of Man.

The Irish Construction Industry. According to Euroconstruct, total construction output in the Republic of Ireland is estimated to have decreased by 38% in 2009. The decrease reflected the continued contraction in the housing sector. We estimate that total cement consumption in the Republic of Ireland and Northern Ireland reached 2.8 million tons in 2009, a decrease of 46% compared to total cement consumption in 2008.

Competition. Our main competitors in the ready-mix concrete and aggregates markets in the Republic of Ireland are CRH, the Lagan Group and Kilsaran.

Capital Expenditures. We made capital expenditures of approximately U.S.$28 million in 2007, U.S.$49 million in 2008 and U.S.$0.3 million in 2009 in our operations in the Republic of Ireland. We currently expect to make capital expenditures of approximately U.S.$2 million in our Irish operations during 2010.

Our Polish Operations

Overview. As of December 31, 2009, we held 100% of CEMEX Polska Sp. z.o.o., or CEMEX Polska, our holding subsidiary in Poland. We are a leading provider of building materials in Poland serving the cement, ready-mix concrete and aggregates markets. As of December 31, 2009, we operated two cement plants and one grinding mill in Poland, with a total installed cement capacity of three million tons per year. As of that date, we also operated, 39 ready-mix concrete plants and nine aggregates quarries in Poland, including one in which we have a 92.5% interest. As of that date, we also operated ten land distribution centers and two maritime terminals in Poland.

The Polish Cement Industry. According to the Central Statistical Office in Poland, total construction output in Poland increased by 3.7% in 2009 (gross value added in construction by 4.7%). In addition, according to the Polish Cement Association, total cement consumption in Poland reached approximately 15.4 million tons in 2009, a decrease of 10.4% compared to 2008.

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

Capital Expenditures. We made capital expenditures of approximately U.S.$37 million in 2007, U.S.$104 million in 2008 and U.S.$7 million in 2009 in our operations in Poland, and we currently expect to make capital expenditures of approximately U.S.$19 million in Poland during 2010.

Our Southeast European Operations

Overview. As of December 31, 2009, we held 100% of CEMEX Hrvatska d.d., or Hrvatska, our operating subsidiary in Croatia. We are the largest cement producer in Croatia based on installed capacity as of December 31, 2009, according to our estimates. As of December 31, 2009, we operated three cement plants in Croatia, with an installed capacity of 2.4 million tons per year. As of that date, we also operated ten land distribution centers, three maritime cement terminals, eight ready-mix concrete facilities and one aggregates quarry in Croatia, Bosnia and Herzegovina, Slovenia, Serbia and Montenegro.

The Croatian Cement Industry. According to the Croatian Cement Association, total cement consumption in Croatia alone reached almost 2.4 million tons in 2009, a decrease of 21% compared to 2008.

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

Capital Expenditures. We made capital expenditures of approximately U.S.$17 million in 2007, U.S.$14 million in 2008 and U.S.$8 million in 2009 in our South-East European operations, and we currently expect to make capital expenditures of approximately U.S.$10 million in the region during 2010.

Our Czech Republic Operations

Overview. As of December 31, 2009, we held 100% of CEMEX Czech Operations, s.r.o., our operating subsidiary in the Czech Republic. We are a leading producer of ready-mix concrete and aggregates in the Czech Republic. We also distribute cement in the Czech Republic. As of December 31, 2009, we operated 54 ready-mix concrete plants and nine aggregates quarries in the Czech Republic. As of that date, we also operated one cement grinding mill and one cement terminal in the Czech Republic.

The Czech Cement Industry. According to the Czech Statistical Office, total construction output in the Czech Republic decreased by 0.6% in 2009. The decrease was primarily driven by a slowdown in civil engineering works. According to the Czech Cement Association, total cement consumption in the Czech Republic reached almost 4.3 million tons in 2009, a decrease of 20% compared to 2008.

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

Capital Expenditures. We made capital expenditures of approximately U.S.$11 million in 2007, U.S.$12 million in 2008 and U.S.$2 million in 2009 in our operations in the Czech Republic and we currently expect to make capital expenditures of approximately U.S.$5 million in the Czech Republic during 2010.

Our Latvian Operations

Overview. As of December 31, 2009, we held 100% of SIA CEMEX, our operating subsidiary in Latvia. We are the only cement producer and a leading ready-mix cement producer and supplier in Latvia. From cement plant in Latvia we also supply markets in other Baltic countries and northwest Russia. As of December 31, 2009, we operated one cement plant in Latvia with an installed cement capacity of 1.3 million tons per year. As of that date, we also operated five ready-mix concrete plants in Latvia and one aggregates quarry.

In April 2006, we initiated a plan to expand our cement plant in Latvia in order to increase our cement production capacity by one million tons per year to support strong demand in the region. The construction was completed during May 2009, although expenditures will continue to be made through 2010. We made capital expenditures in relation to the capacity expansion project of approximately U.S.$11 million in 2006, U.S.$86 million in 2007, U.S.$174 million in 2008 and U.S.$113 in 2009, and an expected U.S.$16 million during 2010.

Capital Expenditures. In total, we made capital expenditures of approximately U.S.$100 million in 2007, U.S.$187 million in 2008 and U.S.$115 million in 2009 in our operations in Latvia, and we currently expect to make capital expenditures of approximately U.S.$23 million in our operations in Latvia during 2010, including those related to the expansion of our cement plant described above.

Our Lithuanian Equity Investment

Overview. As of December 31, 2009, we owned an approximate 34% interest in Akmenes Cementas AB, a Lithuanian cement producer, which operates one cement plant in Lithuania with an installed cement capacity of 1.3 million tons per year.

Our Austrian Operations

Overview. As of December 31, 2009, we held 100% of CEMEX Austria AG, our holding subsidiary in Austria. We are a leading participant in the concrete and aggregates markets in Austria and also produce admixtures. As of December 31, 2009, we owned 38 ready-mix concrete plants and operated six additional plants through joint ventures. We also owned 23 aggregates quarries, including seven quarries which are currently operated by third parties, and had non-controlling interests in three quarries.

The Austrian Cement Industry. According to the European Commission, total construction investment in Austria declined by 4.2% in 2009. The decline was primarily driven by a reduction in public and commercial projects. According to our estimates, total cement consumption in Austria decreased by 16.5% in 2009, compared to 2008.

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

Capital Expenditures. We made capital expenditures of approximately U.S.$8 million in 2007, U.S.$15 million in 2008 and U.S.$4 million in 2009 in our operations in Austria. We currently expect to make capital expenditures of approximately U.S.$4 million in our operations in Austria during 2010.

See " — Regulatory Matters and Legal Proceedings" for a description of the ongoing arbitration relating to the proposed sale of our Austrian and Hungarian operations.

Our Hungarian Operations

Overview. As of December 31, 2009, we held 100% of CEMEX Hungária Kft, our main operating subsidiary in Hungary. As of December 31, 2009, we owned 30 ready-mix concrete plants and six aggregates quarries, and we had non-controlling interests in eight other ready-mix concrete plants and two other aggregates quarries.

The Hungarian Cement Industry. According to the European Commission, total construction output in Hungary decreased by 4.3% in 2009. The decrease was primarily driven by a drop in the construction of buildings. Total cement consumption in Hungary was 3.4 million tons in 2009, a decrease of 15% compared to 2008.

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

Capital Expenditures. We made capital expenditures of approximately U.S.$12 million in 2007 and U.S.$4 million in 2008. No significant capital expenditures were made in 2009 in our operations in Hungary. We currently expect to make capital expenditures of approximately U.S.$3 million in our operations in Hungary during 2010.

See " — Regulatory Matters and Legal Proceedings" for a description of the ongoing arbitration relating to the proposed sale of our Austrian and Hungarian operations.

Our Other European Operations

Overview. As of December 31, 2009, we operated ten marine cement terminals in Finland, Norway and Sweden through Embra AS, a leading bulk-cement importer in the Nordic region.

Capital Expenditures. We made capital expenditures of approximately U.S.$1 million during 2007, U.S.$1 million during 2008 and U.S.$0.1 million during 2009 in our other operations in Europe. We currently expect to make capital expenditures of approximately U.S.$0.3 million in our other operations in Europe during 2010.

South America, Central America and the Caribbean

For the year ended December 31, 2009, our business in South America, Central America and the Caribbean, Colombia, Argentina, Costa Rica, the Dominican Republic, Panama, Nicaragua, Puerto Rico and Jamaica, as well as other assets in the Caribbean, represented approximately 10% of our net sales before eliminations resulting from consolidation. As of December 31, 2009, our business in South America, Central America and the Caribbean represented approximately 13% of our total installed capacity and approximately 6% of our total assets. See "— Regulatory Matters and Legal Proceedings" for a description of the ongoing arbitration relating to our Venezuelan operations.

Our Colombian Operations

Overview. As of December 31, 2009, we owned approximately 99.7% of CEMEX Colombia, S.A., or CEMEX Colombia, our main operating subsidiary in Colombia. As of December 31, 2009, CEMEX Colombia was the second-largest cement producer in Colombia, based on installed capacity according to the Colombian Institute of Cement Producers. For the year ended December 31, 2009, our operations in Colombia, represented approximately 3% of our net sales before eliminations resulting from consolidation and approximately 2% of our total assets.

CEMEX Colombia has a significant market share in the cement and ready-mix concrete market in the "Urban Triangle" of Colombia comprising the cities of Bogotá, Medellín and Cali. During 2009, these three metropolitan areas accounted for approximately 43.7% of Colombia's cement consumption. CEMEX Colombia's Ibague plant, which uses the dry process and is strategically located in the Urban Triangle, is Colombia's largest and had an installed capacity of 2.5 million tons as of December 31, 2009. CEMEX Colombia, through its Bucaramanga and Cúcuta plants, is also an active participant in Colombia's northeastern market. CEMEX Colombia's strong position in the Bogotá ready-mix concrete market is largely due to its access to a ready supply of aggregates deposits in the Bogotá area. See "Item 5 — Recent Developments — Recent Developments Relating to Regulatory Matters and Legal Proceedings" for a description of a temporary injunction ordering the suspension of CEMEX's mining activities in Colombia at the El Tunjuelo quarry, located in Bogotá, Colombia.

The Colombian Cement Industry. According to the Colombian Institute of Cement Producers, the installed capacity for cement in Colombia in 2009 was 16.8 million tons. According to that organization, total cement consumption in Colombia reached 8.4 million tons during 2009, a decrease of 7.1% from 2008, while cement exports from Colombia reached 0.7 million tons. We estimate that close to 50% of cement in Colombia is consumed by the self-construction sector, while the housing sector accounts for 30% of total cement consumption and has been growing in recent years. The other construction sectors in Colombia, including the public works and commercial sectors, account for the balance of cement consumption in Colombia.

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

Our Colombian Operating Network

Products and Distribution Channels

Cement. Our cement operations represented approximately 64% of our Colombian operations' net sales before eliminations resulting from consolidation in 2009.

Ready-Mix Concrete. Our ready-mix concrete operations represented approximately 24% of our Colombian operations' net sales before eliminations resulting from consolidation in 2009.

Aggregates. Our aggregates operations represented approximately 3% of our Colombian operations' net sales before eliminations resulting from consolidation in 2009.

Description of Properties, Plants and Equipment. As of December 31, 2009, CEMEX Colombia owned six cement plants, having a total installed capacity of 4.8 million tons per year. Two of these plants utilize the wet process and four plants utilize the dry process. CEMEX Colombia also has an internal electricity generating capacity of 24.7 megawatts. As of December 31, 2009, CEMEX Colombia owned three land distribution centers, one mortar plant, 26 ready-mix concrete plants, and seven aggregates operations. As of that date, CEMEX Colombia also owned five limestone quarries with minimum reserves sufficient for over 100 years at 2009 production levels.

Capital Expenditures. We made capital expenditures of approximately U.S.$15 million in 2007, U.S.$19 million in 2008 and U.S.$5 million in 2009 in our operations in Colombia. We currently expect to make capital expenditures of approximately U.S.$18 million in our operations in Colombia during 2010.

Our Costa Rican Operations

Overview. As of December 31, 2009, we owned an approximate 99.1% interest in CEMEX (Costa Rica), S.A., or CEMEX Costa Rica, our main operating subsidiary in Costa Rica and a leading cement producer in the country. As of December 31, 2009, CEMEX Costa Rica operated one cement plant in Costa Rica, with an installed capacity of 0.9 million tons, and operated a grinding mill in the capital city of San José. As of December 31, 2009, CEMEX Costa Rica operated five ready-mix concrete plants, one aggregates quarry, and one land distribution center.

The Costa Rican Cement Industry. Approximately 1.2 million tons of cement were sold in Costa Rica during 2009, according to the *Cámara de la Construcción de Costa Rica*, the Costa Rican construction industry association. The cement market in Costa Rica is a predominantly retail market, and we estimate that over two thirds of cement sold is bagged cement.

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

Exports. During 2009, cement exports by our operations in Costa Rica represented approximately 9% of our total production in Costa Rica. In 2009, 92% of our exports of cement from Costa Rica were to El Salvador, and the remaining exports were to Panama.

Capital Expenditures. We made capital expenditures of approximately U.S.$5 million in 2007, U.S.$7 million in 2008 and U.S.$3 million in 2009 in our operations in Costa Rica. We currently expect to make capital expenditures of approximately U.S.$11 million in our operations in Costa Rica during 2010.

Our Dominican Republic Operations

Overview. As of December 31, 2009, we held 100% of CEMEX Dominicana, S.A., or CEMEX Dominicana, our main operating subsidiary in the Dominican Republic and a leading cement producer in the country. CEMEX Dominicana's sales network covers the country's main consumption areas, which are Santo Domingo, Santiago de los Caballeros, La Vega, San Pedro de Macoris, Samana and Bavaro. CEMEX Dominicana also has an 18-year lease arrangement with the Dominican Republic government related to the mining of gypsum, which has enabled CEMEX Dominicana to supply all local and regional gypsum requirements.

The Dominican Cement Industry. In 2009, cement consumption in the Dominican Republic reached 2.9 million tons.

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

Description of Properties, Plants and Equipment. As of December 31, 2009, CEMEX Dominicana operated one cement plant in the Dominican Republic, with an installed capacity of 2.6 million tons per year, and held a non-controlling interest in one grinding mill. As of that date, CEMEX Dominicana also owned 10 ready-mix concrete plants, two aggregates quarries, two land distribution centers and two marine terminals.

Capital Expenditures. We made capital expenditures of approximately U.S.$11 million in 2007, U.S.$12 million in 2008 and U.S.$6 million in 2009 in our operations in the Dominican Republic. We currently expect to make capital expenditures of approximately U.S.$10 million in our operations in the Dominican Republic during 2010.

Our Panamanian Operations

Overview. As of December 31, 2009, we held an approximate 99.5% interest in Cemento Bayano, S.A., or Cemento Bayano, our main operating subsidiary in Panama and a leading cement producer in the country. As of December 31, 2009, Cemento Bayano operated one cement plant in Panama, with an installed capacity of 2.1 million tons per year. As of that date, Cemento Bayano also owned and operated 14 ready-mix concrete plants, three aggregates quarries and three land distribution centers.

On February 6, 2007, we announced our intent to build a new kiln at our Bayano plant in Panama. The project was completed in the fourth quarter of 2009 although expenditures are scheduled to be made during 2010. The new kiln increased cement installed capacity to 2.1 million tons per year. We spent approximately U.S.$218 million on the new kiln, which includes U.S.$31 million in 2007, U.S.$104 million in 2008 and U.S.$83 million in 2009. We currently expect to make capital expenditures of approximately U.S.$24 million for the Bayano expansion project during 2010.

The Panamanian Cement Industry. Approximately 1.6 million cubic meters of ready-mix concrete were sold in Panama during 2009, according to our estimates. Cement consumption in Panama increased 4.9% in 2009, according to our estimates.

Competition. The cement industry in Panama includes two cement producers: Cemento Bayano and Cemento Panamá, an affiliate of Colombian Cementos Argos.

Capital Expenditures. We made capital expenditures of approximately U.S.$63 million in 2007, U.S.$118 million in 2008 and U.S.$88 million in 2009 in our operations in Panama. We currently expect to make capital expenditures of approximately U.S.$43 million in our operations in Panama during 2010.

Our Nicaraguan Operations

Overview. As of December 31, 2009, we owned 100% of CEMEX Nicaragua, S.A., or CEMEX Nicaragua, our main operating subsidiary in Nicaragua. As of that date, CEMEX Nicaragua leased and operated one cement plant with an installed capacity of 0.6 million tons. Since March 2003, CEMEX Nicaragua has also leased a 100,000 ton milling plant in Managua, which has been used exclusively for petcoke milling.

The Nicaraguan Cement Industry. According to our estimates, approximately 0.6 million tons of cement were sold in Nicaragua during 2009. According to our estimates, approximately 103 thousand cubic meters of ready-mix concrete were sold in Nicaragua during 2009. According to our estimates, approximately 3.5 million tons of aggregates were sold in Nicaragua during 2009.

Competition. Two market participants compete in the cement industry in Nicaragua: CEMEX Nicaragua and Holcim (Nicaragua) S.A.

Description of Properties, Plants and Equipment. As of December 31, 2009, we operated one fixed ready-mix concrete plant and four mobile plants, three aggregate quarries and one distribution center in Nicaragua.

Capital Expenditures. We made capital expenditures of approximately U.S.$5 million in 2007, U.S.$4 million in 2008 and U.S.$0.7 million in 2009 in our Nicaraguan operations. We currently expect to make capital expenditures of approximately U.S.$5 million in our operations in Nicaraguan during 2010.

Our Puerto Rican Operations

Overview. As of December 31, 2009, we owned 100% of CEMEX de Puerto Rico, Inc., or CEMEX Puerto Rico, our main operating subsidiary in Puerto Rico. As of December 31, 2009, CEMEX Puerto Rico operated one cement plant, with an installed cement capacity of approximately 1.2 million tons per year. As of that date, CEMEX Puerto Rico also owned and operated 11 ready-mix concrete plants, one aggregates quarry and two land distribution centers.

The Puerto Rican Cement Industry. In 2009, cement consumption in Puerto Rico reached 1.0 million tons.

Competition. The cement industry in Puerto Rico in 2009 was comprised of two cement producers: CEMEX Puerto Rico, and Essroc San Juan, Inc., an affiliate of Italcementi, and Antilles Cement Co., an independent importer.

Capital Expenditures. We made capital expenditures of approximately U.S.$19 million in 2007, U.S.$5 million in 2008 and U.S.$0.9 million in 2009 in our operations in Puerto Rico. We currently expect to make capital expenditures of approximately U.S.$4 million in our operations in Puerto Rico during 2010.

Our Guatemalan Operations

Overview. In January 2006, we acquired a 51% equity interest in a cement grinding mill facility in Guatemala for approximately U.S.$17 million. As of December 31, 2009, the cement grinding mill had an installed capacity of 500,000 tons per year. In addition, we also owned and operated three land distribution centers and a clinker silo close to a maritime terminal in Guatemala, as well as four ready-mix plants.

Capital Expenditures. We made capital expenditures of approximately U.S.$1 million in 2007, U.S.$4 million in 2008 and U.S.$0.4 million in 2009 in Guatemala, and we currently expect to make capital expenditures of approximately U.S.$2 million in Guatemala during 2010.

Our Other South America, Central America and the Caribbean Operations

Overview. As of December 31, 2009, we held 100% of Readymix Argentina S.A., which operates five ready-mix concrete plants in Argentina.

We believe that the Caribbean region holds considerable strategic importance because of its geographic location. As of December 31, 2009, we operated a network of eight marine terminals in the Caribbean region, which facilitated exports from our operations in several countries, including Mexico, Dominican Republic, Costa Rica, Puerto Rico, Spain, Colombia and Panama. Three of our marine terminals are located in the main cities of Haiti, two are in the Bahamas, and one is in Manaus, Brazil. We also have a non-controlling interest in two other terminals, one in Bermuda and another in the Cayman Islands.

As of December 31, 2009, we had non-controlling positions in Trinidad Cement Limited, with cement operations in Trinidad and Tobago, Barbados and Jamaica, as well as a non-controlling position in Caribbean Cement Company Limited in Jamaica, National Cement Ltd. in the Cayman Islands and Maxcem Bermuda Ltd. in Bermuda. As of December 31, 2009, we also held a 100% interest in CEMEX Jamaica Limited, which operates a calcinated lime plant in Jamaica with a capacity of 120,000 tons per year. As of December 31, 2009, we also held a non-controlling position in Sociedad de Cementos Antillanos, a company with cement operations in Guadalupe and Martinique.

Capital Expenditures. We made capital expenditures in our other operations in South America, Central America and the Caribbean of approximately U.S.$3 million in 2007, U.S.$2 million in 2008 and U.S.$1 million in 2009. We currently expect to make capital expenditures of approximately U.S.$3 million in our other operations in South America, Central America and the Caribbean during 2010.

On April 8, 2010, we announced our plans to contribute, as an initial investment, up to U.S.$100 million for a non-controlling interest in a new investment vehicle know as Blue Rock. Blue Rock, which will not be controlled by us, intends to invest in the cement industry and related assets. As of the date of this annual report, a potential investment in Peru, the construction of a new cement plant with an initial production capacity of approximately one million metric tons per year, has been identified. According to the proposed project, it is expected that the plant would be completed in 2013, with a total investment of approximately U.S.$230 million. Although we do not anticipate being in a control position to affect the decisions of Blue Rock's management, given our investment and industry expertise, Blue Rock's management could decide to enter into a contract with us, providing for our assistance in the development, building and operation of the plant. Depending on the amount raised from third-party investors and the availability of financing, Blue Rock's management may also decide to invest in other assets in the cement industry.

Africa and the Middle East

For the year ended December 31, 2009, our business in Africa and the Middle East, which includes our operations in Egypt, the UAE and Israel, represented approximately 7% of our net sales before eliminations resulting from consolidation. As of December 31, 2009, our business in Africa and the Middle East represented approximately 6% of our total installed capacity and approximately 3% of our total assets.

Our Egyptian Operations

Overview. As of December 31, 2009, we had a 95.8% interest in Assiut Cement Company, or CEMEX Egypt, our main operating subsidiary in Egypt.

Competition. As of December 31, 2009, we operated one cement plant in Egypt, with an installed capacity of approximately 5.4 million tons. This plant is located approximately 280 miles south of Cairo and serves the upper Nile region of Egypt, as well as Cairo and the delta region, Egypt's main cement market. In addition, as of December 31, 2009, we operated six ready-mix concrete plants, one aggregates quarry and seven land distribution centers and one maritime terminal in Egypt. For the year ended December 31, 2009, our operations in Egypt represented approximately 4% of our net sales before eliminations resulting from consolidation and approximately 1% of our total assets.

The Egyptian Cement Industry. According to our estimates, the Egyptian market consumed approximately 48.2 million tons of cement during 2009. Cement consumption increased by 25.4% in 2009, mainly driven by the residential and infrastructure sectors. As of December 31, 2009, the cement industry in Egypt had a total of 10 cement producers, with an aggregate annual installed cement capacity of approximately 46 million tons. According to the Egyptian Cement Council, during 2009, Holcim and Lafarge (shareholders in Egyptian Cement Company), CEMEX (Assiut) and Italcementi (Suez Cement, Torah Cement and Helwan Portland Cement), four of the largest cement producers in the world, represented approximately 57% of the total installed capacity in Egypt. Other significant competitors in the Egyptian market are Arabian Cement, Titan (Alexandria Portland Cement and Beni Suef Cement), Ameriyah (Cimpor), National, Sinai, Misr Beni Suef and Misr Quena Cement Companies.

Cement. For the year ended December 31, 2009, cement represented approximately 89% of our Egyptian operations' net sales before eliminations resulting from consolidation.

Ready-Mix Concrete. For the year ended December 31, 2009, ready-mix concrete represented approximately 9% of our Egyptian operations' net sales before eliminations resulting from consolidation.

Capital Expenditures. We made capital expenditures of approximately U.S.$27 million in 2007, U.S.$59 million in 2008 and U.S.$23 million in 2009 in our operations in Egypt. We currently expect to make capital expenditures of approximately U.S.$27 million in our operations in Egypt during 2010.

Our UAE Operations

Overview. As of December 31, 2009, we held a 49% equity interest (and 100% economic benefit) in three UAE companies: CEMEX Topmix LLC and CEMEX Supermix LLC, two ready-mix holding companies, and CEMEX Falcon LLC, which specializes in the trading and production of cement and slag. We are not allowed to have a controlling interest in these companies (UAE law requires 51% ownership by UAE nationals). However, through agreements with other shareholders in these companies, we have purchased the remaining 51% of the economic benefits in each of the companies. As a result, we own a 100% economic interest in all three companies. As of December 31, 2009, we owned 16 ready-mix concrete plants and a new cement and slag grinding facility in the UAE, serving the markets of Dubai, Abu Dhabi, and Sharjah.

Capital Expenditures. We made capital expenditures of approximately U.S.$55 million in 2007, U.S.$19 million in 2008 and U.S.$3 million in 2009 in our operations in the UAE. We currently expect to make capital expenditures of approximately U.S.$3 million in our operations in the UAE during 2010.

Our Israeli Operations

Overview. As of December 31, 2009, we held 100% of CEMEX Holdings (Israel) Ltd., our main operating subsidiary in Israel. We are a leading producer and supplier of raw materials for the construction industry in Israel. In addition to ready-mix concrete and aggregates, we produce a diverse range of building materials and infrastructure products in Israel. As of December 31, 2009, we operated 55 ready-mix concrete plants, nine aggregates quarries, one concrete products plant, one admixtures plant, one asphalt plant, one lime factory and one blocks factory in Israel.

Capital Expenditures. We made capital expenditures of approximately U.S.$5 million in 2007, U.S.$7 million in 2008 and U.S.$2 million in 2009 in our operations in Israel, and we currently expect to make capital expenditures of approximately U.S.$5 million in our operations in Israel during 2010.

Asia

For the year ended December 31, 2008, our operations in Asia, consisting of our operations in the Philippines, Thailand and Malaysia, as well as our other assets in Asia) represented approximately 3% of our net sales before eliminations resulting from consolidation. As of December 31, 2009, our operations in Asia represented approximately 6% of our total installed capacity and approximately 2% of our total assets.

Sale of Our Operations in Australia

On October 1, 2009, we completed the sale of our operations in Australia to a subsidiary of Holcim Ltd. The net proceeds from this sale were approximately A$2.02 billion (approximately U.S.$1.7 billion), of which we used approximately U.S.$1.37 billion to prepay indebtedness under the Financing Agreement and approximately U.S.$248 million to strengthen our liquidity position. In addition, the sale of the operations in Australia resulted in the deconsolidation of approximately U.S.$131 million in debt in connection with a credit facility for our operations in Australia. For the nine months ended September 30, 2009, our Australian operations' net sales and operating income were approximately Ps13.0 billion (approximately U.S.$964 million) and approximately Ps1.2 billion (approximately U.S.$89 million), respectively, and for the nine-month period ended September 30, 2008, approximately Ps13.9 billion (approximately U.S.$1.1 billion) and Ps1.3 billion (approximately U.S.$99 million), respectively. Our consolidated income statements present the results of our operations in Australia, net of income tax, for the nine-month period ended September 30, 2009, the twelve-month period ended December 31, 2008 and the six-month period ended December 31, 2007 in a single line item as "Discontinued operations." See note 4B to our consolidated financial statements included elsewhere in this annual report.

Our Philippine Operations

Overview. As of December 31, 2009, on a consolidated basis through various subsidiaries, we held 100% of the economic benefits of our two operating subsidiaries in the Philippines, Solid and APO Cement Corporation (APO). For the year ended December 31, 2009, our operations in the Philippines represented approximately 2% of our net sales before eliminations resulting from consolidation and approximately 1% of our total assets.

The Philippine Cement Industry. According to Cement Manufacturers' Association of the Philippines, or CEMAP, cement consumption in the Philippine market, which is primarily retail, totaled 14.7 million tons during 2009. Demand for cement in the Philippines increased by approximately 10.4% in 2009 against 2008. As of December 31, 2009, the Philippine cement industry had a total of 17 cement plants. Annual installed clinker capacity is 21 million metric tons, according to CEMAP.

Competition. As of December 31, 2009, our major competitors in the cement market in the Philippines were Lafarge, Holcim, Taiheiyo, Pacific, Northern and Goodfound.

Description of Properties, Plants and Equipment. As of December 31, 2009, our operations in the Philippines included two cement plants with a total capacity of 4.5 million tons per year, one aggregates quarry, nine land distribution centers and four marine distribution terminals.

Cement. For the year ended December 31, 2009, our cement operations represented 100% of our Philippine operations' net sales before eliminations resulting from consolidation.

Capital Expenditures. We made capital expenditures of approximately U.S.$15 million in 2007, U.S.$15 million in 2008 and U.S.$6 million in 2009 in our operations in the Philippines. We currently expect to make capital expenditures of approximately U.S.$10 million in our operations in the Philippines during 2010.

Our Thai Operations

Overview. As of December 31, 2009, we held, on a consolidated basis, 100% of the economic benefits of CEMEX (Thailand) Co. Ltd., or CEMEX (Thailand), our main operating subsidiary in Thailand. As of December 31, 2009, CEMEX (Thailand) owned one cement plant in Thailand, with an installed capacity of approximately 1.2 million tons.

The Thai Cement Industry. According to our estimates, at December 31, 2009, the cement industry in Thailand had a total of 16 cement plants, with an aggregate annual installed capacity of approximately 55.4 million tons. We estimate that there are six major cement producers in Thailand, four of which represent approximately 97% of installed capacity and 96% of the market.

Competition. Our major competitors in Thailand, which have a significantly larger presence than CEMEX (Thailand), are Siam Cement, Holcim, TPI Polene and Italcementi.

Capital Expenditures. We made capital expenditures of approximately U.S.$4 million in 2007 and U.S.$3 million in 2008 in our operations in Thailand. We made no significant capital expenditures in our operations in Thailand during 2009, and we do not expect to make any significant capital expenditures during 2010.

Our Malaysian Operations

Overview. As of December 31, 2009, we held on a consolidated basis approximately 100% of the economic benefits of our operating subsidiaries in Malaysia. We are a leading ready-mix concrete producer in Malaysia, with a significant share in the country's major urban centers. As of December 31, 2009, we operated 15 ready-mix concrete plants, five asphalt plants and three aggregates quarries in Malaysia.

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

Capital Expenditures. We made capital expenditures of approximately U.S.$2 million in 2007, U.S.$3 million in 2008 and U.S.$1 million in 2009 in our operations in Malaysia. We currently expect to make capital expenditures of approximately U.S.$2 million in our operations in Malaysia during 2010.

Our Other Asian Operations

Overview. Since April 2001, we have been operating a grinding mill near Dhaka, Bangladesh. As of December 31, 2009, this mill had a production capacity of 520,000 tons per year. A majority of the supply of clinker for the mill is produced by our operations in the region. In addition, since June 2001, we have also operated a cement terminal in the port of Taichung located on the west coast of Taiwan.

As of December 31, 2009, we also operated four ready-mix concrete plants in China, located in the northern cities of Tianjin and Qingdao.

Capital Expenditures. We made capital expenditures in our other operations in Asia of approximately U.S.$5 million in 2007, less than U.S.$1 million in 2008 and U.S.$1 million in 2009. We currently expect to make capital expenditures of approximately U.S.$3 million in our other operations in Asia during 2010.

Our Trading Operations

In 2009, we traded approximately 8.3 million tons of cementitious materials, including 7.3 million tons of cement and clinker. Approximately 78% of our cement and clinker trading volume in 2009 consisted of exports from our operations in Costa Rica, Croatia, the Dominican Republic, Germany, Guatemala, Latvia, Mexico, the Philippines, Poland, Puerto Rico, Spain and the U.S. The remaining approximately 22% was purchased from third parties in countries such as Austria, Barbados, Belgium, China, Colombia, Croatia, Denmark, Jamaica, Lithuania, Mexico, Slovakia, South Korea, Taiwan, Thailand and Turkey. As of December 31, 2009, we had trading activities in 96 countries. In 2009, we traded approximately 1.0 million metric tons of granulated blast furnace slag, a non-clinker cementitious material.

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

Freight rates, which account for a large share of the total import supply cost, have been subject to significant volatility in recent years. Our trading operations, however, have obtained significant savings by contracting maritime transportation in due time and by using our own and chartered fleet, which transported approximately 31% of our cement and clinker import volume during 2009.

In addition, based on our spare fleet capacity, we provide freight service to third parties, thus generating additional revenues.

Regulatory Matters and Legal Proceedings

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

Anti-Dumping

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

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

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

As of April 30, 2010, there was no accrued liability for dumping duties. All liabilities accrued for past anti-dumping duties have been eliminated.

Antitrust Proceedings

Polish Antitrust Investigation. Between May 31, 2006 and June 2, 2006, officers of the Polish Competition and Consumer Protection Office, or the Protection Office, assisted by police officers, conducted a search of the Warsaw office of CEMEX Polska, one of our indirect subsidiaries in Poland, and of the offices of other cement producers in Poland. These searches took place as a part of the exploratory investigation that the head of the Protection Office started on April 26, 2006. On January 2, 2007, CEMEX Polska received a notification from the Protection Office informing it of the formal initiation of an antitrust proceeding against all cement producers in Poland, including CEMEX Polska and another of our indirect subsidiaries in Poland. The notification alleged that there was an agreement between all cement producers in Poland regarding prices and other sales conditions of cement, an agreed division of the market with respect to the sale and production of cement, and the exchange of confidential information, all of which limited competition in the Polish market with respect to the production and sale of cement. On December 9, 2009, the Protection Office delivered to CEMEX Polska its decision against Polish cement producers related to an investigation which covered a period from 1998 to 2006. The decision imposes fines on a number of Polish cement producers, including CEMEX Polska. The fine imposed on CEMEX Polska is approximately Polish Zloty 115.56 million (approximately U.S.$39.4 million as of April 30, 2010, based on an exchange rate of Polish Zloty 2.9305 to U.S.$1.00), which is 10% of CEMEX Polska's total revenue in 2008. CEMEX Polska disagrees with the decision, denies that it committed the practices alleged by the Protection Office and filed an appeal before the Polish Court of Competition and Consumer Protection on December 23, 2009. The decision will not be enforced until two appeal instances are exhausted. According to the current Polish court practices these two appeal proceedings should take at least three years. As of December 31, 2009, we made an accounting provision for Polish Zloty 68.4 million (approximately U.S.$23.9 million as of December 31, 2009, based on an exchange rate of Polish Zloty 2.8629 to U.S.$1.00).

Antitrust Investigations in the U.K. and Germany. Between November 4 and 6, 2008, officers of the European Commission, assisted by local officials, conducted unannounced inspections at our offices in the United Kingdom and Germany. The European Commission alleges that we may have participated in anti-competitive agreements and/or concerted practices in breach of Article 81 of the European Commission (the "EC") Treaty and/or Article 53 of the European Environment Agency (the "EEA") Agreement and abusive conduct in breach of Article 82 of the EC Treaty and/or Article 54 of the EEA Agreement. The allegations extend to several markets worldwide, including in particular the European Economic Area. If those allegations are substantiated, significant penalties may be imposed on our subsidiaries operating in such markets. On September 30, 2009, the European Commission requested information from our offices in the U.K. and Germany by sending two follow-up questionnaires, the first one seeking to clarify the information gathered during the inspection and the second concerning economic data. The replies to these questionnaires were submitted to the European Commission on November 16, 2009 (questionnaire I) and December 7, 2009 (questionnaire II). We will continue to cooperate with the European Commission officials in connection with this investigation.

Antitrust Investigations in Spain. On September 22 and 23, 2009, officers of the European Commission, in conjunction with local officials of the Spanish national competition enforcement authority (*Comisión Nacional de la Competencia* or "CNC"), conducted an unannounced inspection at our offices in Madrid, Spain. The European Commission alleges that we may have participated in anti-competitive agreements and/or concerted practices in breach of Article 101 (formerly Article 81) of the EC Treaty and/or Article 53 of the EEA Agreement and abusive conduct in breach of Article 102 (formerly Article 82) of the EC Treaty and/or Article 54 of the EEA Agreement. The allegations extend to several markets worldwide, including in particular the European Economic Area. If those allegations are substantiated, significant penalties may be imposed on our subsidiaries operating in such markets. According to EU Regulation 1/2003, the European Commission may impose penalties of up to 10% of the total turnover of the relevant companies for the last year preceding the imposition of the fine for which the financial statements have been approved by the shareholders' meeting of the relevant companies, if it proves the above mentioned unlawful practices. It is our understanding that this investigation is related to the investigations in the U.K. and Germany described above. We fully cooperated and will continue to cooperate with the European Commission officials in connection with this investigation.

On September 22, 2009, the CNC investigative department (*Dirección de Investigación*) carried out another inspection, separate from the investigation conducted by the European Commission, in the context of possible anticompetitive practices in the production and distribution of mortar, ready-mix concrete and aggregates within the Autonomous Community of Navarre ("Navarre"). We fully cooperated and provided the CNC inspectors all the information requested. On December 15, 2009, the CNC started a procedure against CEMEX España and four other companies with activities in Navarre for alleged practices prohibited under the Spanish competition law. The allegations against CEMEX España relate to several of our ready-mix plants located in Navarre, which we operated from January 2006 (as a result of the RMC acquisition) until September 2008, when we ceased operations for these plants. According to the rules of the CNC, the maximum fine that could be imposed for this claim would be 10% of the total turnover of the relevant companies for the calendar year preceding the imposition of the fine for which the financial statements have been approved by the shareholders' meeting of the relevant companies, if it proves the above mentioned unlawful practices. We fully cooperated and will continue to cooperate with the CNC officials in connection with this investigation.

Antitrust Investigations in Mexico. In January and March 2009, we were notified of two findings of presumptive responsibility against CEMEX issued by the Mexican Competition Authority (*Comisión Federal de Competencia* or "CFC"), alleging certain violations of Mexican antitrust laws. We believe these findings contain substantial violations of rights granted by the Mexican Constitution. In February 2009, we filed a constitutional challenge (*juicio de amparo*), as well as a denial of the allegations, in the first case. In April 2009, we filed a constitutional challenge (*juicio de amparo*) to the second case, and in May 2009, we denied the allegations in the second case. The circuit court determined in the first case that CEMEX lacked standing since the notice of presumptive responsibility does not affect any of CEMEX's rights; therefore, CEMEX should wait until the CFC concludes the proceedings and issues a final ruling.

Antitrust Litigation in Germany. On August 5, 2005, Cartel Damages Claims, SA, or CDC, filed a lawsuit in the District Court in Düsseldorf, Germany against CEMEX Deutschland AG and other German cement companies. CDC originally sought €102 million (approximately U.S.$142.6 million) in respect of damage claims by 28 entities relating to alleged price and quota fixing by German cement companies between 1993 and 2002, which entities had assigned their claims to CDC. CDC is a Belgian company established by two lawyers in the aftermath of the German cement cartel investigation that took place from July 2002 to April 2003 by Germany's Federal Cartel Office, with the express purpose of purchasing potential damages claims from cement consumers and pursuing those claims against the alleged cartel participants. In January 2006, another entity assigned alleged claims to CDC, and the amount of damages being sought by CDC increased to €113.5 million plus interest (approximately U.S.$158.6 million plus interest). On February 21, 2007, the District Court allowed this lawsuit to proceed without going into the merits of this case by issuing an interlocutory judgment. All defendants appealed, but the appeal was dismissed on May 14, 2008. The lawsuit will proceed in a court of first instance.

In the meantime, CDC acquired new claims by assignment and announced an increase in the claim to €131 million (approximately U.S.$173.3 million). As of April 30, 2010, we had accrued liabilities regarding this matter for a total amount of approximately €20 million (approximately U.S.$26.4 million).

Antitrust Cases in Egypt. On October 4, 2007, all Egyptian cement producers (including CEMEX Egypt) were referred to the public prosecutor for an alleged agreement on price fixing. The country manager and director of sales of CEMEX Egypt were both named as defendants. The case was referred to criminal court on February 13, 2008, and the final court hearing was held on August 25, 2008. At this hearing, the court announced its decision imposing the maximum penalty of 10 million Egyptian Pounds (approximately U.S.$1.8 million) on each entity accused. CEMEX Egypt was required to pay a fine of 20 million Egyptian Pounds (approximately U.S.$3.6 million), since its two executives named above were found guilty. The case was appealed to the Court of Appeals, which confirmed the fine on December 31, 2008. We decided not to proceed with a further appeal to the Court of Cassation and paid the fine.

On July 29, 2009, two Egyptian contractors filed lawsuits against four cement producers, including CEMEX Egypt, demanding compensation of 20 million Egyptian Pounds (approximately U.S.$4.0 million) from the four cement producers (5 million Egyptian Pounds or approximately U.S.$1 million from each defendant). The plaintiffs are using as a precedent the case mentioned in the prior paragraph, and as a main proof of their allegation, an Egyptian Court decision convicting all cement producers in Egypt of antitrust activities and price fixing. At the latest hearing for one of the cases, on April 24, 2010 the court decided to refer the matter back to the prosecutor's office for further investigation and for a report on the investigations to be presented at the next hearing, which will be held on July 10, 2010. The other case had its last hearing on December 16, 2009, where the claimants requested the court to release CEMEX Egypt from the claim. On May 11, 2010, the court released CEMEX Egypt from the claim, and the case is now closed. These cases are the first of their kind in Egypt due to the recent enactment of the Law on Competition Protection and Prevention of Monopolistic Practices No. 3 in 2005. Even if we prevail in these cases, these claims may have a material adverse impact if they were to become a precedent and may create a risk of similar claims in the future.

Antitrust Cases in Florida. In October 2009, CEMEX Corp. and other cement and concrete suppliers were named as defendants in several purported class action lawsuits alleging price-fixing in Florida. The purported class action lawsuits are of two distinct types: The first type were filed by entities purporting to have purchased cement or ready-mix concrete directly from one or more of the defendants. The second group of plaintiffs are entities purporting to have purchased cement or ready-mix concrete indirectly from one or more of the defendants. Underlying all proposed suits is the allegation that the defendants conspired to raise the price of cement and concrete and hinder competition in Florida. On January 7, 2010, both groups of plaintiffs independently filed consolidated amended complaints substituting CEMEX, Inc. and some of its subsidiaries for the original defendant, CEMEX Corp. CEMEX believes that the lawsuits are without merit and intends to defend them vigorously.

Environmental Matters

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

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

We regularly incur capital expenditures that have an environmental component or that are impacted by environmental regulations. However, we do not keep separate accounts for such mixed capital and environmental expenditures. Environmental expenditures that extend the life, increase the capacity, improve the safety or efficiency of assets or are incurred to mitigate or prevent future environmental contamination may be capitalized. Other environmental costs are expensed when incurred. For the year ended December 31, 2007, our environmental capital expenditures were not material. For the year ended December 31, 2008, our environmental capital expenditures were approximately U.S.$62 million. For the year ended December 31, 2009, our sustainability capital expenditures (including our environmental expenditures and investments in alternative fuels and cementitious materials) were approximately U.S.$77 million. However, our environmental expenditures may increase in the future.

The following is a discussion of environmental regulations and related matters in our major markets.

Mexico. We were one of the first industrial groups in Mexico to sign an agreement with the *Secretaría del Medio Ambiente y Recursos Naturales*, or SEMARNAT, the Mexican government's environmental ministry, to carry out voluntary environmental audits in our 15 Mexican cement plants under a government-run program. In 2001, the Mexican environmental protection agency in charge of the voluntary environmental auditing program, the *Procuraduría Federal de Protección al Ambiente*, or PROFEPA, which is part of SEMARNAT, completed the audit of our 15 cement plants and awarded all our plants a *Certificado de Industria Limpia*, or Clean Industry Certificate, certifying that our plants are in full compliance with environmental laws. The Clean Industry Certificates are strictly renewed every two years. As of the date of this annual report, our cement plants have Clean Industry Certificates or are in the process of renewing them. We expect renewal of all currently expired Clean Industry Certificates.

For over a decade, the technology for recycling used tires into an energy source has been employed in our Ensenada and Huichapan plants. By the end of 2006, all our cement plants in Mexico were using tires as an alternative fuel. Municipal collection centers in Tijuana, Mexicali, Ensenada, Mexico City, Reynosa, Nuevo Laredo and Guadalajara currently enable us to recycle an estimated 10,000 tons of tires per year. Overall, approximately 8.25% of the total fuel used in our 15 operating cement plants in Mexico during 2009 was comprised of alternative fuels.

Between 1999 and April 30, 2010, our Mexican operations have invested approximately U.S.$50.80 million in the acquisition of environmental protection equipment and the implementation of the ISO 14001 environmental management standards of the International Organization for Standardization, or ISO. The audit to obtain the renewal of the ISO 14001 certification took place during April 2006. All our operating cement plants in Mexico and an aggregates plant in Monterrey have obtained the renewal of the ISO 14001 certification for environmental management systems.

United States. CEMEX, Inc. is subject to a wide range of U.S. Federal, state and local laws, regulations and ordinances dealing with the protection of human health and the environment. These laws are strictly enforced and can lead to significant monetary penalties for noncompliance. These laws regulate water discharges, noise, and air emissions, including dust, as well as the handling, use and disposal of hazardous and non-hazardous waste materials. These laws also create a shared liability by responsible parties for the cost of cleaning up or correcting releases to the environment of designated hazardous substances. We therefore may have to remove or mitigate the environmental effects of the disposal or release of these substances at CEMEX, Inc.'s various operating facilities or elsewhere. We believe that our current procedures and practices for handling and managing materials are generally consistent with the industry standards and legal and regulatory requirements, and that we take appropriate precautions to protect employees and others from harmful exposure to hazardous materials. See "Item 3 — Key Information — Risk Factors — Our operations are subject to environmental laws and regulations."

As of April 30, 2010, CEMEX, Inc. and its subsidiaries had accrued liabilities specifically relating to environmental matters in the aggregate amount of approximately U.S.$34.1 million. The environmental matters relate to (i) the disposal of various materials, in accordance with past industry practice, which might be categorized as hazardous substances or wastes, and (ii) the cleanup of sites used or operated by CEMEX, Inc., including discontinued operations, regarding the disposal of hazardous substances or wastes, either individually or jointly with other parties. Most of the proceedings are in the preliminary stages, and a final resolution might take several years. For purposes of recording the provision, CEMEX, Inc. considers that it is probable that a liability has been incurred and the amount of the liability is reasonably estimable, whether or not claims have been asserted, and without giving effect to any possible future recoveries. Based on information developed to date, CEMEX, Inc. does not believe it will be required to spend significant sums on these matters, in excess of the amounts previously recorded. The ultimate cost that might be incurred to resolve these environmental issues cannot be assured until all environmental studies, investigations, remediation work, and negotiations with or litigation against potential sources of recovery have been completed.

In 2007, the EPA launched a CAA enforcement initiative against the U.S. cement industry. The primary goal of the initiative is to assess the industry's historic compliance with the CAA's New Source Review program and to reduce emissions from the industry through the installation of add-on controls. Like other companies, CEMEX is actively engaged with the EPA on their investigations and has entered into a U.S.$2 million settlement resolving allegations at the cement facility in Victorville, California. Currently, the EPA is investigating several of our other facilities.

In 2002, CEMEX Construction Materials Florida, LLC (formerly Rinker Materials of Florida, Inc.) ("CEMEX Florida"), a subsidiary of CEMEX, Inc., was granted a federal quarry permit and was the beneficiary of another federal quarry permit for the Lake Belt area in South Florida. The permit held by CEMEX Florida covered CEMEX Florida's SCL and FEC quarries. CEMEX Florida's Kendall Krome quarry is operated under the permit of which it was a beneficiary. The FEC quarry is the largest of CEMEX Florida's quarries measured by volume of aggregates mined and sold. CEMEX Florida's Miami cement mill is located at the SCL quarry and is supplied by that quarry, while the FEC and Kendall Krome quarries have supplied aggregates to CEMEX and third party users. In response to litigation brought by environmental groups concerning the manner in which the federal quarry permits were granted, in January 2009, the U.S. District Court for the Southern District of Florida ordered the withdrawal of the federal quarry permits of CEMEX Florida's SCL, FEC and Kendall Krome quarries. The judge ruled that there were deficiencies in the procedures and analysis undertaken by the Army Corps of Engineers, or the Corps, in connection with the issuance of the permits. Upon appeal, on January 21, 2010, the Eleventh Circuit Court of Appeals affirmed the district court's ruling withdrawing the federal quarry permits of the three CEMEX Florida quarries as well as other third-party federal quarry permits subject to the litigation. On January 29, 2010, the Corps completed a multi-year review commenced as a result of the above-mentioned litigation and issued a Record of Decision (ROD) supporting the issuance of new federal quarry permits for the FEC and SCL quarries. Excavation of new aggregates was stopped at the FEC and SCL quarries from January 20, 2009 until new permits were issued. The FEC permit was issued on February 3, 2010, and the SCL permit on February 18, 2010. The ROD also indicated that a number of potential environmental impacts must be addressed at the wetlands located at the Kendall Krome site before a new federal quarry permit may be issued for mining at that quarry. It is unclear how long it will take to fully address the Corps' concerns regarding mining in the Kendall Krome wetlands. While no new aggregates will be quarried from wetland areas at Kendall Krome pending the resolution of the potential environmental issues, the FEC and SCL quarries will continue to operate, and we believe that we have sufficient reserves in our existing Florida quarries to meet our ongoing needs. If CEMEX Florida were unable to maintain the new Lake Belt permits, CEMEX Florida would need to source aggregates, to the extent available, from other locations in Florida or import aggregates. This would likely affect operating income from our Florida operations. Any adverse impacts on the Florida economy arising from the cessation or significant restriction of quarrying operations in the Lake Belt area could also have a material adverse effect on our financial results.

Europe. In Great Britain, future expenditure on closed and current landfill sites has been assessed and quantified over the period in which the sites are considered to have the potential to cause environmental harm, generally consistent with the regulatory view of up to 60 years from the date of closure. The assessed expenditure relates to the costs of monitoring the sites and the installation, repair and renewal of environmental infrastructure. The costs have been quantified on a net present value basis in the amount of approximately £128.5 million (approximately U.S.$207.7 million) as of December 31, 2009, and we made an accounting provision for this amount at December 31, 2009.

In 2003, the European Union adopted a directive in order to help it fulfill its commitments under the Kyoto Protocol on climate change; this directive defines and establishes a GHG emissions allowance trading scheme within the European Union, i.e., it caps carbon dioxide emissions from installations involved in energy activities, the production and processing of ferrous metals, the cement and lime industries and the pulp, paper and board production businesses. Installations in these sectors have to monitor their emissions of CO2 and surrender every year allowances (the right to emit one metric ton of CO2) that cover their emissions. Allowances are issued by member states according to their National Allocation Plans, or NAPs; the NAPs not only set the total number of allowances for a given phase, but also define how they are allocated among participating installations. So far most allowances have been allocated for free, but some member states sell up to 10% of their total allowance volume in auctions or on exchanges. Allowances are tradable so as to enable companies that manage to reduce their emissions to sell their excess allowances to companies that exceed their allocated quota. Failure to meet the emissions caps can subject a company to heavy penalties.

Companies can also use credits issued under the flexible mechanisms of the Kyoto protocol to fulfill their European obligations. Credits for emission reduction projects obtained under these mechanisms are recognized, up to specified levels, under the ETS as allowances substitutes. The main source of those credits are projects registered under the so-called Clean Development Mechanism ("CDM"), but Joint Implementation ("JI") credits are also eligible; the difference between these credits is dependent on which country is hosting the project: CDM projects are implemented in developing countries, JI projects in developed ones.

As required by the directive, each of the member states established a NAP that defines the free allocation to each industrial facility for Phase II (2008 through 2012). Although the overall yearly volume of allowances in Phase II is significantly lower than that during Phase I of the ETS (2005-2007), we do not see any significant risk that CEMEX will be short of allowances in Phase II. This assessment stems from various factors, notably a reasonable allocation policy in some countries, our efforts to reduce emissions per unit of clinker produced, reduced demand for our products due to the current economic circumstances, and the use of several risk-free financial instruments. We expect to be a net seller of allowances over Phase II. In addition, we are actively pursuing a strategy aimed at generating additional emission credits through the implementation of CDM projects in Latin America, North Africa and Southeast Asia. Despite having already sold a substantial amount of allowances for Phase II, we believe the overall volume of transactions is justified by our most conservative emissions forecast, meaning that the risk of having to buy allowances in the market in the remainder of Phase II is very low. As of April 30, 2010, the price of carbon dioxide allowances for Phase II on the spot market was approximately €15.75 per ton (approximately U.S.$20.94 as of April 30, 2010). We are taking appropriate measures to minimize our exposure to this market while assuring the supply of our products to our customers.

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

In the case of the U.K., Germany, Poland and Latvia, NAPs have been approved by the European Commission, and allowances have been issued to our existing installations.

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

On May 18, 2009, the Environment Ministry of the Republic of Latvia published the amount of allocation of EUAs from the New Entrants Reserve to our Broceni plant expansion project.

On May 29, 2007, the Polish government filed an appeal before the Court of First Instance in Luxembourg regarding the European Commission's rejection of the initial version of the Polish NAP. The Polish government has issued allowances at the level already accepted by the European Commission, which is lower than the Polish government proposal by 76 million EUA per year. However, on September 23, 2009, the same Court annulled the European Commission's decision that reduced the number of EUAs in the Polish NAP. The Court found that such reduction was not justified, arguing that the European Commission should not ignore the historical and forecasted data that Poland used to establish the basis of the NAP allocation. On March 19, 2010, the European Commission and the Government of Poland reached an agreement to maintain the originally approved cap for 2010 through 2012 (the remainder of the EU ETS Phase II period). Nonetheless, the European Commission is expected to appeal the Court of First Instance's decision to the European Supreme Court, as its resolution could impact similar cases against the European Commission raised by other Eastern European member states.

Croatia has implemented an emissions trading scheme designed to be compatible with the one in force in the European Union, although no emission allowances can be exchanged between the two schemes. The first period of compliance is 2010-2012, and the final NAP was published in July 2009. We do not expect the commencement of the Croatian emissions trading scheme to substantially affect our overall position, particularly as the allocation to CEMEX Croatia is larger than previously anticipated.

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

Tariffs

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

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

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

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

Tax Matters

Mexico. Pursuant to amendments to the Mexican income tax law (*Ley del Impuesto sobre la Renta*), which became effective on January 1, 2005, Mexican companies with direct or indirect investments in entities incorporated in foreign countries whose income tax liability in those countries is less than 75% of the income tax that would be payable in Mexico will be required to pay taxes in Mexico on passive income, such as dividends, royalties, interest, capital gains and rental fees obtained by such foreign entities, except for income derived from entrepreneurial activities in such countries, which is not subject to tax under these amendments. We filed two motions in the Mexican federal courts challenging the constitutionality of the amendments. Although we obtained a favorable ruling

from the lower Mexican federal court, on September 9, 2008, the Mexican Supreme Court on appeal ruled against our constitutional challenge of the controlled foreign corporation tax rules in effect in Mexico for tax years 2005 to 2007. Since the Mexican Supreme Court's decision does not pertain to an amount of taxes due or other tax obligations, we will self-assess any taxes due through the submission of amended tax returns. We have not yet determined the amount of tax or the periods affected, but the amount could be material. If the Mexican tax authorities do not agree with our self-assessment of the taxes due for past periods, they may assess additional amounts of taxes past due, which could be material and may impact our cash flows.

The Mexican Congress approved several amendments to the Mexican Asset Tax Law (*Ley del Impuesto al Activo*) that came into effect on January 1, 2007. As a result of such amendments, all Mexican corporations, including us, were no longer allowed to deduct liabilities from calculation of the asset tax. We believe that the Asset Tax Law, as amended, is against the Mexican Constitution. We challenged the Asset Tax Law through appropriate judicial action (*juicio de amparo*), and the Mexican Supreme Court ruled that the reform does not violate the Mexican Constitution. In addition, the Mexican Supreme Court ordered the lower courts to resolve all pending proceedings based upon criteria provided by the Mexican Supreme Court. However, we will not be affected by this resolution since we have already calculated and paid the applicable asset tax in accordance with the Mexican Asset Tax Law.

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

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

During November 2009, the Mexican Congress approved a general tax reform, effective as of January 1, 2010. Specifically, the tax reform requires CEMEX to retroactively pay taxes (at current rates) on items in past years that were eliminated in consolidation or that reduced consolidated taxable income ("Additional Consolidation Taxes"). This tax reform will require CEMEX to pay taxes on certain previously exempt intercompany dividends, certain other special tax items, and operating losses generated by members of the consolidated tax group not recovered by the individual company generating such losses within the succeeding 10-year period, which may have an adverse effect on our cash flow, financial condition and net income. The Additional Consolidation Taxes must be paid over a five-year time period. This tax reform also increases the statutory income tax rate from 28% to 30% for the years 2010 to 2012, 29% for 2013, and 28% for 2014 and future years.

For the 2010 fiscal year, CEMEX will be required to pay (at the new, 30% tax rate) 25% of the Additional Consolidation Taxes for the period between 1999 and 2004. The remaining 75% will be payable as follows: 25% for 2011, 20% for 2012, 15% for 2013 and 15% for 2014. Additional Consolidation Taxes arising after 2004 will be taken into account in the sixth fiscal year after their occurrence and will be payable over the succeeding five years in the same proportions (25%, 25%, 20%, 15% and 15%). Applicable taxes payable as a result of this tax reform will be increased by inflation adjustments as required by Mexican Income Tax Law (*Ley del Impuesto Sobre la Renta*). In connection with the changes in the tax consolidation regime in Mexico, as of December 31, 2009, we recognized a liability of approximately Ps10.5 billion (U.S.$799 million), of which approximately Ps8.2 billion (U.S.$628 million) were recognized under "Other non-current assets" in connection with the net liability recognized before the new tax law and that we expect to realize in connection with the payment of this tax liability; and approximately Ps2.2 billion (U.S.$171 million) were recognized under "Retained earnings," considering special provisions under MFRS for the portion, according to the new law, related to: (a) the difference between the sum of the equity of the controlled entities for tax purposes and the equity for tax purposes of the consolidated entity; (b) dividends from the controlled entities for tax purposes to CEMEX, S.A.B. de C.V.; and (c) other transactions among the companies included in the tax consolidation group that represented the transfer of resources within such group. In our U.S. GAAP reconciliation of our 2009 financial statements, the approximately Ps2.2 billion (U.S.$171 million) recognized under "Retained earnings" under MFRS was reclassified to income tax expense for the period under U.S. GAAP.

On February 15, 2010, we filed a constitutional challenge (*juicio de amparo*) against this tax reform. However, we cannot assure you that we will prevail in this constitutional challenge.

On March 31, 2010, additional tax rules (*miscelanea fiscal*) were published in connection with the general tax reform approved by the Mexican Congress in November 2009. These new rules provide certain taxpayers with benefits arising from the years 1999 to 2004. As of the date of this annual report we are not able to assess if similar tax rules will be published in the future and provide us with benefits in relation to the Additional Consolidation Taxes arising after 2004.

Other Legal Proceedings

Expropriation of CEMEX Venezuela and ICSID Arbitration. On August 18, 2008, Venezuelan officials took physical control of the facilities of CEMEX Venezuela, following the issuance of several governmental decrees purporting to authorize the takeover by the government of Venezuela of all of CEMEX Venezuela's assets, shares and business. Around the same time, the Venezuelan government removed the board of directors of CEMEX Venezuela and replaced its senior management. Venezuela has paid no compensation to CEMEX Venezuela's shareholders for such action. On October 16, 2008, CEMEX Caracas, which held a 75.7% interest in CEMEX Venezuela, filed a request for arbitration against the government of Venezuela before the ICSID seeking relief for the expropriation of their interest in CEMEX Venezuela. In the ICSID proceedings against Venezuela, CEMEX Caracas is seeking: (a) a declaration that the government of Venezuela is in breach of its obligations under a bilateral investment treaty between the Netherlands and Venezuela (the "Treaty"), the Venezuelan Foreign Investment Law and customary international law; (b) an order that the government of Venezuela restore to CEMEX Caracas their interest in, and control over, CEMEX Venezuela; (c) in the alternative, an order that the government of Venezuela pay CEMEX Caracas full compensation with respect to its breaches of the Treaty, the Venezuelan Foreign Investment Law and customary international law, in an amount to be determined in the arbitration, together with interest at a rate not less than LIBOR, compounded until the time of payment; and (d) an order that the government of Venezuela pay all costs of and associated with the arbitration, including CEMEX Caracas's legal fees, experts' fees, administrative fees and the fees and expenses of the arbitral tribunal. The ICSID Tribunal was constituted on July 6, 2009. We are unable at this preliminary stage to estimate the likely range of potential recovery or to determine what position Venezuela will take in these proceedings, the nature of the award that may be issued by the ICSID Tribunal or the likely extent of collection of any possible monetary award issued to CEMEX Caracas.

Separately, the government of Venezuela claims that three cement transportation vessels, which the former CEMEX Venezuela transferred to a third party before the expropriation, continue to be the property of the former CEMEX Venezuela. The government of Venezuela successfully petitioned a Panamanian court, which is the country where the vessels are flagged, to enforce an interim measure issued by a Venezuelan court barring further transfer or disposition of the vessels. However, on December 28, 2009, the Supreme Court of Panama overruled the Panamanian court's ruling that barred further transfer or disposition of the vessels. We believe that the government of Venezuela's position that the vessels continue to be the property of the former CEMEX Venezuela is without merit, and the appropriate affiliates of CEMEX will continue to resist efforts by the government of Venezuela to assert ownership rights over the vessels.

Colombian Construction Claims. On August 5, 2005, the Urban Development Institute (*Instituto de Desarrollo Urbano*) and an individual filed a lawsuit in the Fourth Anti-Corruption Court of Bogotá (*Fiscalía Cuarta Anticorrupción de Bogotá*) against a subsidiary of CEMEX Colombia, claiming that it was liable, along with the other members of the *Asociación Colombiana de Productores de Concreto*, or ASOCRETO, a union formed by all the ready-mix concrete producers in Colombia, for the premature distress of the roads built for the mass public transportation system of Bogotá using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs allege that the base material supplied for the road construction failed to

meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs seek the repair of the roads in a manner which guarantees their service during the 20-year period for which they were originally designed, and estimate that the cost of such repair will be approximately CoP$100 billion (approximately U.S.$50.7 million as of April 30, 2010, based on an exchange rate of CoP$1,969.75 to U.S.$1.00, which was the Colombian Peso/Dollar exchange rate on April 30, 2010, as published by the *Banco de la República de Colombia*, the Central Bank of Colombia). The lawsuit was filed within the context of a criminal investigation of two ASOCRETO officers and other individuals, alleging that the ready-mix concrete producers were liable for damages if the ASOCRETO officers were criminally responsible. On January 21, 2008, CEMEX Colombia was subject to a judicial order, issued by the court, sequestering a quarry called El Tujuelo, as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required within a period of 10 days to deposit with the court in cash CoP$337.8 billion (approximately U.S.$171.4 million as of April 30, 2010, based on an exchange rate of CoP$1,969.75 to U.S.$1.00), instead of being allowed to post an insurance policy to secure such recovery. CEMEX Colombia asked for reconsideration, and the court allowed CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision, in order to reduce the amount of the insurance policy, and also requested that the guarantee be covered by all defendants in the case. On March 9, 2009, the Superior Court of Bogotá reversed this decision, allowing CEMEX to offer a security in the amount of CoP$20 billion (approximately U.S.$10.1 million as of April 30, 2010, based on an exchange rate of CoP$1,969.75 to U.S.$1.00). CEMEX gave the aforementioned security, and on July 27, 2009, the Superior Court of Bogotá lifted the attachment on the quarry. One of the plaintiffs appealed this decision, but the Supreme Court of Bogotá confirmed the lifting of the attachment. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Colombia.

Croatian Concession Litigation. After an extended consultation period, in April 2006, the cities of Kaštela and Solin in Croatia published their respective Master (physical) Plans defining the development zones within their respective municipalities, adversely impacting the mining concession granted to Hrvatska, our subsidiary in Croatia, by the Government of Croatia in September 2005. During the consultation period, Hrvatska submitted comments and suggestions to the Master Plans, but these were not taken into account or incorporated into the Master Plans by Kaštela and Solin. Most of these comments and suggestions were intended to protect and preserve the rights of Hrvatska's mining concession. Immediately after publication of the Master Plans, Hrvatska filed a series of lawsuits and legal actions before the local and federal courts to protect its acquired rights under the mining concessions including: (i) on May 17, 2006, a constitutional appeal before the constitutional court in Zagreb, seeking a declaration by the court concerning Hrvatska constitutional claim for decrease and obstruction of rights earned by investment, and seeking prohibition of implementation of the Master Plans; this appeal is currently under review by the Constitutional Court in Croatia, and we cannot predict when it will be resolved; and (ii) on May 17, 2006, an administrative proceeding seeking a declaration from the Government of Croatia confirming that Hrvatska acquired rights under the mining concessions. The ruling of the Croatian administrative body confirms that the Hrvatska acquired rights according to the previous decisions. The Administrative Court in Croatia has ruled in favor of Hrvatska, validating the legality of the mining concession granted to Hrvatska by the Government of Croatia, in September 2005. We are still waiting for an official declaration from the Constitutional Court regarding an open question that Hrvatska has formally made as to whether the cities of Solin and Kaštela, within the scope of their Master Plans, can unilaterally change the borders of exploited fields. We believe that a declaration of the Constitutional Court will enable us to seek compensation for the losses caused by the proposed border changes.

Personal Injury Lawsuit in Puerto Rico. On April 21, 2007, the First Instance Court for the Commonwealth of Puerto Rico issued a summons against our subsidiary Hormigonera Mayagüezana Inc., or "Hormigonera, seeking damages in the amount of U.S.$39 million, after the death of two people in an accident in which a Hormigonera concrete mixer truck was involved. This case was handled by the insurance company AON, since the claim was covered by CEMEX's insurance policy. The insurance company settled the case in June 2009 for approximately U.S.$1.05 million, which was covered completely by the insurance policies and not by CEMEX Puerto Rico. A final ruling adjudicating the controversy was issued by the court on September 4, 2009. In the ruling the court acknowledged and accepted the settlement agreement reached by the parties, which covered all claims. The settlement agreement awarded a specific amount in compensatory damages to each of the plaintiffs, as well as a full voluntary dismissal and waiver of all filed and future related claims against all defendants in the case.

Florida Litigation Relating to the Brooksville South Project. In November 2008, AMEC/Zachry, the general contractor for the Brooksville South expansion project in Florida, filed a lawsuit against CEMEX Florida in Florida State Court in Orlando (Complex Commercial Litigation Division), alleging delay damages, seeking an equitable adjustment to the Design/Build contract and payment of change orders. AMEC/Zachry seeks U.S.$60 million as compensation. In February 2009, AMEC/Zachry filed an amended complaint asserting a claim by AMEC E&C Services, Inc. against CEMEX Materials, LLC ("CEMEX Materials") as the guarantor of the Design/Build contract. CEMEX Florida answered the suit, denying any breach of contract and asserting affirmative defenses and counterclaims against AMEC/Zachry for breach of contract. CEMEX Florida also asserted certain claims against AMEC, plc as the guarantor for the contract and FLSmidth as the equipment manufacturer. In September 2009, FLSmidth filed a motion for summary judgment against CEMEX Florida seeking dismissal of its claim. During preparations for responding to FLSmidth's motion for summary judgment, CEMEX Florida discovered new evidence, and on October 13, 2009, CEMEX Florida amended its cross-claim against FLSmidth to include a fraudulent inducement cause of action. If CEMEX Florida is successful in this claim, the contract with FLSmidth will be voided. During November 2009, the court conducted hearings on FLSmidth's motion for summary judgment. On April 20, 2010, the court granted in part and denied in part FLSmidth's motion for summary judgment against CEMEX. The court dismissed CEMEX's tort claims against FLSmidth for common law indemnification, negligent misrepresentation, rescission, unjust enrichment, and tortuous interference with a contract. This includes CEMEX's claims to attack and circumvent the limitation of damages provision of a relevant agreement. The court allowed CEMEX's breach of contract claim to continue. On April 27, 2010, CEMEX filed a motion for reconsideration of the court's findings arguing the court applied the wrong standard of review when ruling on the motion. On June 1, 2010, FLS filed its opposition to CEMEX's motion for reconsideration. Discovery is underway but remains preliminary, and therefore we are unable to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Florida or CEMEX Materials.

Panamanian Height Restriction Litigation. On July 30, 2008, the Panamanian *Autoridad de Aeronáutica Civil* denied a request by our subsidiary Cemento Bayano, S.A. to erect structures above the permitted height restriction applicable to certain areas surrounding Calzada Larga Airport. This height restriction is set according to applicable legal regulations and reaches the construction area of the cement plant's second line. According to design plans, ten of the planned structures would exceed the permitted height. Cemento Bayano has formally requested the above-mentioned authority to reconsider its denial. On October 14, 2008, The Panamanian *Autoridad de Aeronáutica Civil* granted permission to construct the tallest building of the second line, under the following conditions: (a) Cemento Bayano, S.A. shall assume any liability arising out of any incident or accident caused by the construction of such building; and (b) there will be no further permissions for additional structures. Cemento Bayano, S.A. filed an appeal with respect to the second condition and has submitted a request for permission in respect to the rest of the structures. On March 13, 2009, the *Autoridad de Aeronáutica Civil* issued a ruling stating that (a) should an accident occur in the perimeter of the Calzada Larga Airport, an investigation shall be conducted in order to determine the cause and further responsibility; and (b) there will be no further permissions for additional structures of the same height as the tallest structure already granted. Therefore, additional permits may be obtained as long as the structures are lower than the tallest building, on a case-by-case analysis to be conducted by the authority. On June 11, 2009, the Panamanian *Autoridad de Aeronáutica Civil* issued a ruling denying a permit for additional structures above the permitted height restriction applicable to certain areas surrounding Calzada Larga Airport. On June 16, 2009, Cemento Bayano, S.A. requested the abovementioned authority to reconsider its denial. As of the date of this annual report, the *Panamanian Autoridad de Aeronaútica Civil* has not yet issued a ruling pursuant to our request for reconsideration. We continue to negotiate with officials at the *Panamanian Autoridad de Aeronaútica Civil* in hopes of attaining a negotiated settlement that addresses all their concerns.

Australian Takeovers Panel Litigation. On August 12, 2007, the Australian Takeovers Panel (the "Panel") published a declaration of unacceptable circumstances, namely, that CEMEX's May 7, 2007 announcement that it would allow Rinker shareholders to retain the final dividend of A$0.25 per Rinker share constituted a departure from CEMEX's announcement on April 10, 2007 that its offer of U.S.$15.85 per share was its "best and final offer." On September 27, 2007, the Panel ordered CEMEX

to pay compensation of A$0.25 per share to certain Rinker shareholders for the net number of Rinker shares in which they disposed of a beneficial interest during the period from April 10, 2007 to May 7, 2007. CEMEX believes that the market was fully informed by its announcements on April 10, 2007, and notes that the Panel made no finding that CEMEX breached any law. On September 27, 2007, the Panel made an order staying the operation of the orders until further notice pending CEMEX's application for judicial review of the Panel's decision. CEMEX applied to the Federal Court of Australia for such a judicial review. That application was dismissed on October 23, 2008. CEMEX's appeal to the full court of the Federal Court of Australia was dismissed on June 30, 2009, and CEMEX did not seek to appeal to the High Court. Accordingly, the Panel's orders came into effect and CEMEX was required to invite the relevant shareholders to make claims for the compensation ordered by the Panel by August 11, 2009 unless the shareholder can demonstrate to the Australian Securities & Investments Commission ("ASIC") that special circumstances apply. As of April 30, 2010, some applications for special circumstances are still being considered by ASIC and by the Panel (in the later case due to referral by ASIC). To date, CEMEX has deposited a total of A$16.36 million (approximately U.S.$17.69 million as of March 31, 2010) into a bank account against which payments to claimants are being made. As of April 30, 2010, payouts for close to the total deposited amount have been made, and CEMEX will deposit additional funds as required when new valid claims are made. Upon conclusion of the process, any remaining funds which are not claimed will be returned to CEMEX.

Texas General Land Office Litigation. The Texas General Land Office ("GLO") alleged that CEMEX Construction Materials South, LLC failed to pay approximately U.S.$550 million in royalties related to mining by CEMEX and its predecessors since the 1940s on lands that, when transferred originally by the State of Texas, contained reservation of mineral rights. The petition filed by the GLO also states that the State is seeking injunctive relief, although the State has not acted on such request. On December 17, 2009, the Texas court handling this matter granted CEMEX's motion for summary judgment finding that the GLO's claims had no merit. The GLO filed a Motion for Reconsideration that was denied by the court. The court separated the parties' ancillary claims, including CEMEX's counter claims and third party claims against Texas Land Commissioner Jerry Patterson and the State's trespass to try title claim against CEMEX, from the case's central claims of breach of contract, conversion and injunction, holding that these ancillary claims should be held in abeyance until resolution of the GLO's appeal. The GLO filed its appeal on March 25, 2010 and its appellate brief on May 28, 2010. The GLO has also requested that the Court of Appeals hear oral arguments in this matter. CEMEX is working on its response brief which is due June 27, 2010. CEMEX will continue to vigorously defend the claim.

Strabag Arbitration. Following an auction process, we (through our subsidiary RMC Holding B.V.) entered into a share purchase agreement, dated July 30, 2008 (the "SPA"), to sell our operations in Austria (consisting of 26 aggregates and 41 ready-mix concrete plants) and Hungary (consisting of 6 aggregates, 29 ready-mix concrete and 4 paving stone plants) to Strabag SE, one of Europe's leading construction and building materials groups ("Strabag"), for €310 million (approximately U.S.$410.2 million as of April 30, 2010). On February 10, 2009, the Hungarian Competition Council approved the sale of the Hungarian assets subject to the condition that Strabag sell the ready-mix concrete plant operating in Salgótarján to a third party within the next year. On April 28, 2009, the Austrian Cartel Court (*Kartellgericht*) (the "ACC") approved the sale of the Austrian assets subject to the condition that Strabag sell to a third party several ready-mix concrete plants, including the Nordbahnhof plant in Vienna. The Nordbahnhof plant had, however, already been dismantled by the time of the approval, so this condition could not be satisfied. Contrary to our recommendation that a supplementary application should have been made to the ACC, Strabag and the Austrian competition authority appealed the decision of the ACC. On July 1, 2009, Strabag gave notice of its purported rescission of the SPA, arguing that the antitrust condition precedent under the SPA had not been satisfied before the contractual cut-off date of June 30, 2009. On the same day, we notified Strabag that we considered their purported rescission invalid. In the face of Strabag's continued refusal to cooperate in making a supplementary application to the ACC, we rescinded the SPA with effect from September 16, 2009. On October 19, 2009, we (through RMC Holding B.V.) filed a claim against Strabag before the International Arbitration Court of the International Chamber of Commerce, requesting a declaration that Strabag's rescission of the SPA was invalid, that our rescission was lawful and effective and claiming damages in a substantial amount likely to exceed €150 million (approximately U.S.$198.5 million as of April 30, 2010). On December 23, 2009, Strabag filed its answer to our request for arbitration asking the tribunal to dismiss the claim and also filed a counterclaim for an amount of €800,000 (approximately U.S.$1.05 million as of April 30, 2010) as damages and applied for security for costs in the

amount of €1,000,000 (approximately U.S.$1.3 million as of February 28, 2010) in the form of an on-demand bank guarantee. The security for costs application was withdrawn by Strabag on March 9, 2010. We consider Strabag's counterclaim to be unfounded, and we will continue to demand that Strabag respond to CEMEX for the damages caused by Strabag's breach of contract. The arbitral tribunal was constituted on February 16, 2010 and a first procedural hearing was held on March 23, 2010 at which the parties agreed on the terms of reference and procedural rules in accordance with Article 18 of the ICC Rules of Arbitration.

Colombia Environmental Litigation. On June 5, 2010, the District of Bogotá's environmental secretary (*Secretaría Distrital de Ambiente de Bogot á*), issued a temporary injunction suspending all mining activities at CEMEX Colombia's El Tunjuelo quarry, located in Bogotá, Colombia. As part of the temporary injunction, Holcim Colombia and Fundación San Antonio (local aggregates producers which also have mining activities located in the same area as the El Tunjuelo quarry) have also been ordered to suspend mining activities in that area. The District of Bogotá's environmental secretary alleges that during the past 60 years, CEMEX Colombia and the other companies have illegally changed the course of the Tunjuelo river, have used the percolating waters without permission and have improperly used the edge of the river for mining activities. In connection with the temporary injunction, on June 5, 2010, CEMEX Colombia received a formal notification from the District of Bogotá's environmental secretary informing it of the initiation of proceedings to impose fines against CEMEX Colombia. CEMEX Colombia has requested that the temporary injunction be revoked, arguing that its mining activities are supported by all authorizations required pursuant to the applicable environmental laws and that all the environmental impact statements submitted by CEMEX Colombia have been reviewed and authorized by the Environmental Ministry (*Ministerio del Medio Ambiente, Vivienda y Desarrollo Territorial*). On June 11, 2010, the local authorities in Bogotá, in compliance with the District of Bogotá's environmental secretary's decision, sealed off the mine to machinery and prohibited the extraction of our aggregates inventory. Although there is not an official quantification of the possible fine, the District of Bogotá's environmental secretary has publicly declared that the fine could be as much as CoP$300 billion (approximately U.S.$155 million as of June 14, 2010, based on an exchange rate of CoP$1.925 to U.S.$1.00). The temporary injunction does not currently compromise the production and supply of ready-mix concrete to any of our clients in Colombia. CEMEX Colombia is analyzing its legal strategy to defend itself against these proceedings. At this stage, we are not able to assess the likelihood of an adverse result or potential damages which could be borne by CEMEX Colombia.

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

Item 4A - Unresolved Staff Comments

Not applicable.

Item 5 - Operating and Financial Review and Prospects

Cautionary Statement Regarding Forward-Looking Statements

This annual report contains forward-looking statements that reflect our current expectations and projections about future events based on our knowledge of present facts and circumstances and assumptions about future events. In this annual report, the words "expects," "believes," "anticipates," "estimates," "intends," "plans," "probable" and variations of such words and similar expressions are intended to identify forward-looking statements. Such statements necessarily involve risks and uncertainties that could cause actual results to differ materially from those anticipated. Some of the risks, uncertainties and other important factors that could cause results to differ, or that otherwise could impact us or our subsidiaries, include:

- the cyclical activity of the construction sector;

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

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

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

Overview

The following discussion should be read in conjunction with our consolidated financial statements included elsewhere in this annual report. Our financial statements have been prepared in accordance with MFRS, which differ in certain respects from U.S. GAAP.

Mexico experienced annual inflation rates of 4.0% in 2007, 6.4% in 2008 and 3.8% in 2009. Until December 31, 2007, MFRS required that our consolidated financial statements during the periods presented recognize the effects of inflation. Beginning January 1, 2008, however, under MFRS, inflation accounting is applied only in high inflation environments. See note 3A to our consolidated financial statements included elsewhere in this annual report.

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

The following table sets forth selected consolidated financial information as of and for each of the three years ended December 31, 2007, 2008 and 2009 by principal geographic sector expressed as an approximate percentage of our total consolidated group. Through the Rinker acquisition, we acquired new operations in the United States, which have had a significant impact on our operations in that sector, and we acquired operations in Australia, which we sold in October 2009, in which sector we did not have operations prior to the Rinker acquisition. The financial information as of and for the year ended December 31, 2007 in the table below includes the consolidation of Rinker's operations for the six-month period ended December 31, 2007, excluding our operations in Australia which were sold in October 2009. The financial information as of and for the years ended December 31, 2008 and 2009 in the table below includes the consolidation of Rinker's operations for the entire years ended December 31, 2008 and 2009, excluding our operations in Australia which were sold in October 2009. We operate in countries and regions with economies in different stages of development and structural reform, with different levels of fluctuation in exchange rates, inflation and interest rates. These economic factors may affect our results of operations and financial condition depending upon the depreciation or appreciation of the exchange rate of each country and region in which we operate compared to the Mexican Peso and the rate of inflation of each of these countries and regions. Beginning in 2008, MFRS B-10 has eliminated the restatement amounts of financial statements for the period into constant values as well as the comparative financial statements for prior periods as of the date of the most recent balance sheet. Beginning in 2008, the amounts of the statement of income, statement of cash flow and statement of changes in stockholders' equity are presented in nominal values; meanwhile, amounts of financial statements for prior years are presented in constant Pesos as of December 31, 2007, the last date in which inflationary accounting was applied. This index was calculated based upon the inflation rates of the countries in which we operate and the changes in the exchange rates of each of these countries, weighted according to the proportion that our assets in each country represent of our total assets. The rates of inflation used for the restatement of our financial information to constant Mexican Pesos, as of December 31, 2007, may affect the comparability of our results of operations and consolidated financial position from period to period.

	% Mexico	% United States	% Spain	% United Kingdom	% Rest of Europe	% South America, Central America and the Caribbean	% Africa and the Middle East	% Asia	% Others	Combined	Elimi-nations	Consoli-dated
	(in millions of Mexican Pesos, except percentages)											
Net Sales For the Period Ended(1):												
December 31, 2007	17%	22%	10%	9%	19%	10%	4%	2%	7%	245,304	(17,152)	228,152
December 31, 2008	18%	22%	8%	8%	21%	11%	5%	2%	5%	235,553	(9,888)	225,665
December 31, 2009	21%	19%	5%	8%	23%	10%	7%	3%	4%	205,137	(7,336)	197,801
Operating Income For the Period Ended(2):												
December 31, 2007	40%	19%	19%	(1)%	10%	18%	5%	3%	(13)%	31,610	—	31,610
December 31, 2008	55%	(1)%	15%	(3)%	15%	22%	10%	3%	(16)%	26,088	—	26,088
December 31, 2009	88%	(42)%	11%	(3)%	18%	36%	25%	8%	(41)%	15,840	—	15,840
Total Assets at(2)(3):												
December 31, 2007	12%	48%	8%	6%	10%	7%	2%	2%	5%	516,590	—	516,590
December 31, 2008	11%	47%	10%	6%	10%	6%	4%	2%	4%	594,093	—	594,093
December 31, 2009	11%	43%	11%	7%	10%	6%	3%	2%	7%	582,286	—	582,286

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

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

(3) Total assets at year-end 2007 and 2008 exclude assets of our Australian discontinued operations. See note 4B to our consolidated financial statements included elsewhere in this annual report.

Critical Accounting Policies

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

Income Taxes

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

For the recognition of deferred tax assets derived from net operating losses and their corresponding valuation reserve, we make an assessment of:

(a) the aggregate amount of self-determined tax loss carryforwards included in our income tax returns in each country that we consider the tax authorities would not reject based on available evidence; and

(b) the likelihood of the recoverability of such tax loss carryforwards prior to their expiration through an analysis of estimated future taxable income.

If we consider that it is more likely than not that the tax authorities would reject a self-determined deferred tax asset, we would decrease its deferred tax assets. Likewise, if we consider that we would not be able to use a deferred tax carryforward asset before its expiration, we would increase our valuation reserve. Both situations would result in additional income tax expense in the income statement for the period in which such determination is made.

We consider all available positive and negative evidence including factors such as market conditions, industry analysis, our expansion plans, projected taxable income, carryforward periods, current tax structure, potential changes or adjustments in tax structure, tax planning strategies, future reversals of existing temporary differences, etc., in the determination of whether it is more likely than not that such deferred tax assets will ultimately be realized.

Every reporting period, we analyze our actual results versus our estimates and adjust our tax asset valuations as necessary. If actual results vary from our estimates, the deferred tax asset and/or valuations may be affected and necessary adjustments will be made based on relevant information. Any adjustments recorded will affect our net income in such period.

Our overall strategy is to structure our worldwide operations to minimize or defer the payment of income taxes on a consolidated basis. Many of the activities we undertake in pursuing this tax reduction strategy are highly complex and involve interpretations of tax laws and regulations in multiple jurisdictions and are subject to review by the relevant taxing authorities. It is possible that the taxing authorities could challenge our application of these regulations to our operations and transactions. The taxing authorities have in the past challenged interpretations that we have made and have assessed additional taxes. Although we have from time to time paid some

of these additional assessments, in general we believe that these assessments have not been material and that we have been successful in sustaining our positions. No assurance can be given, however, that we will continue to be as successful as we have been in the past or that pending appeals of current tax assessments will be judged in our favor.

Recognition of the effects of inflation

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

- Inflationary accounting will be applied only in a high-inflation environment, defined by MFRS B-10 as existing when the cumulative inflation for the preceding three years equals or exceeds 26%. Until December 31, 2007, inflationary accounting was applied to all of our subsidiaries regardless of the inflation level of their respective country. Beginning in 2008, only the financial statements of those subsidiaries whose functional currency corresponds to a country under high inflation will be restated to take account of inflation.
- The new standard eliminates the alternative to restate inventories using specific cost indexes, as well as the rule to restate fixed assets of foreign origin using the factor that considers the inflation of the country of origin of the asset and the variation in the foreign exchange rate between the currency of the country of origin and the country holding the asset. MFRS B-10 establishes the use of the factors derived from the general price indexes of the country holding the assets as the sole alternative for restatement.
- MFRS B-10 eliminates the requirement to restate the amounts of the income statement for the period (constant peso amounts), as well as the comparative financial statements for prior periods, into constant peso amounts as of the most recent balance sheet date. Beginning in 2008, the income statement is presented in nominal values, and, as long as the cumulative inflation for the preceding three years in Mexico is below 26%, the financial statements for periods prior to 2008 will be presented in constant Pesos as of December 31, 2007, the last date when inflationary accounting was applied generally.
- When moving from a high-inflation to a low-inflation environment, MFRS B-10 provides that the restatement adjustments as of the date of discontinuing the inflationary accounting should prevail as part of the carrying amounts. When moving from a low-inflation to a high-inflation environment, the initial restatement factor for properties, machinery and equipment, as well as for intangible assets, should consider the cumulative inflation since the last time inflationary accounting was discontinued. As a result of the adoption of MFRS B-10, the accumulated result for holding non-monetary assets at December 31, 2007, included within “Deficit in equity restatement” (see note 3O to the financial statements included elsewhere in this annual report), was reclassified to “Retained earnings”. As of December 31, 2007, most of our subsidiaries operated in low-inflation environments; therefore, restatement of their historical cost financial statements to take account of inflation was suspended starting January 1, 2008.

Under inflationary accounting, until December 31, 2007, the inflation effects arising from holding monetary assets and liabilities were reflected in the income statements as monetary position result. Inventories, fixed assets and deferred charges, with the exception of fixed assets of foreign origin and the equity accounts, were restated to account for inflation using the consumer price index applicable in each country. Fixed assets of foreign origin were restated using the inflation index of the assets’ origin country and the

variation in the foreign exchange rate between the country of origin currency and the functional currency. The result was reflected as an increase or decrease in the carrying value of each item, and was presented in consolidated stockholders' equity in the line item "Effects from Holding Non-Monetary Assets." Income statement accounts were also restated for inflation into constant Mexican Pesos as of the reporting date.

Foreign currency translation

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

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

Derivative financial instruments

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

Derivative financial instruments are recognized as assets or liabilities in the balance sheet at their estimated fair value, and the changes in such fair values are recognized in the income statement for the period in which they occur, except for changes in the fair value of derivative instruments that are designated and effective as hedges of the variability in the cash flows associated with existing assets or liabilities and/or forecasted transactions. Some of our instruments have been designated as accounting hedges of debt or equity instruments. See note 3K to our consolidated financial statements included elsewhere in this annual report.

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

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

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

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

Impairment of long-lived assets

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

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

For the years ended December 31, 2007, 2008 and 2009, the geographic segments we reported in note 4 to our consolidated financial statements included elsewhere in this annual report, each integrated by multiple cash generating units, also represent our reporting units for purposes of testing goodwill for impairment. Based on our analysis, we concluded that the operating components that integrate the reported segments have similar economic characteristics, by considering: (a) the reported segments are the level used by us to organize and evaluate our activities in the internal information system, (b) the homogenous nature of the items produced and traded in each operative component, which are all used by the construction industry, (c) the vertical integration in the value chain of the products comprising each component, (d) the type of clients, which are substantially similar in all components, (e) the operative integration among operating components, evidenced by the adoption of shared service centers, and (f) the compensation system of any of our country operations is based on the consolidated results of the geographic segment and not on the particular results of the components.

Significant judgment is required to appropriately assess the value in use of our reporting units. Impairment evaluations are significantly sensitive to, among other factors, the estimation of future prices of our products, the development of operating expenses, local and international economic trends in the construction industry, as well as the long-term growth expectations in the different markets. Likewise, the discount rates and the rates of growth in perpetuity used have an effect on such impairment evaluations. We

use specific discount rates for each reporting unit, which consider the weighted average cost of capital of each geographic segment. This determination requires substantial judgment and is highly complex when considering the many countries in which we operate, each of which has its own economic circumstances that have to be monitored. Additionally, we monitor the lives assigned to these long-lived assets for purposes of depreciation and amortization, when applicable. This determination is subjective and is integral to the determination of whether impairment has occurred.

During the fourth quarter of 2008, the global economic environment was negatively affected by the intensification of the turmoil in several major financial institutions, which caused a liquidity shortage for companies in almost all productive sectors which, in turn, resulted in a significant decrease in overall economic activity and a downturn in global equity markets. These situations generated a reduction of growth expectations in the countries in which we operate, motivated by the cancellation or deferral of several investment projects, particularly affecting the construction industry. These conditions remained during a significant portion of 2009. During the fourth quarters of 2009 and 2008, we performed our annual goodwill impairment testing. These tests coincided with the negative economic environment previously described. See note 12B to our consolidated financial statements included elsewhere in this annual report.

The discount rate and the cash flows from each country include their respective income tax rates. Discount rates and growth rates in perpetuity used in the reporting units that represent most of the consolidated balance of goodwill under MFRS in 2009 and 2008 are as follows:

	Discount rates		Growth rates	
Reporting units	2009	2008	2009	2008
United States	8.5%	9.2%	2.9%	2.9%
Spain	9.4%	10.8%	2.5%	2.5%
Mexico	10.0%	12.0%	2.5%	2.5%
Colombia	10.2%	11.8%	2.5%	2.5%
France	9.6%	11.2%	2.5%	2.5%
United Arab Emirates	11.4%	13.0%	2.5%	2.5%
United Kingdom	9.4%	9.8%	2.5%	2.5%
Egypt	10.0%	12.8%	2.5%	2.5%
Range of discount rates in other countries	9.6% – 14.6%	11.3% – 15.0%	2.5%	2.5%

For the year ended December 31, 2009, we did not recognize goodwill impairment losses despite the economic conditions prevailing during the year, considering that in such period, the main global stock markets started their stabilization and achieved growth as compared to the closing pricing levels in 2008. Likewise, the reference interest rates at the end of 2009 decreased with respect to their level in 2008 due to an increase in liquidity in the debt and equity markets, which slightly reduced the risk premium in the countries where we operate. These elements jointly generated a decrease in the discount rates in 2009 in comparison with the 2008 discount rates and consequently generated an increase in the value in use of the reporting units. See notes 11 and 12B to our consolidated financial statements included elsewhere in this annual report.

Based on impairment tests made during the fourth quarter of 2008 under MFRS in connection with the annual review (see note 12 to our consolidated financial statements included elsewhere in this annual report), goodwill impairment losses were determined for our reporting units in the United States, Ireland and Thailand for approximately Ps17.5 billion (U.S.$1.3 billion). Likewise, considering triggering events in the United States during the fourth quarter of 2008, we tested our intangible assets of definite life in that country and determined that the net book value of certain trademarks exceeded their related value in use and recorded impairment losses of approximately Ps1.6 million (U.S.$116 million) (see note 12 to our financial statements included elsewhere in this annual report). In addition, during 2009 and 2008, we recognized impairment losses during the fourth quarter in connection with the permanent closing of operating assets for an aggregate amount of approximately Ps503 million (U.S.$38 million) and Ps1.0 billion (U.S.$76 million), respectively. See note 11 to our consolidated financial statements included elsewhere in this annual report.

Considering differences in the measurement of fair value, including the selection of economic variables and market considerations, as well as the methodology for determining final impairment losses between MFRS and U.S. GAAP, our impairment losses under U.S. GAAP in 2008 amounted to approximately U.S.$4.9 billion, including the impairment losses determined under MFRS, of which, approximately U.S.$4.7 billion refer to impairment of goodwill. After finalizing out 2008 impairment exercise under U.S. GAAP during 2009, our impairment losses were reduced by approximately U.S.$71 million. See note 25 to our consolidated financial statements included elsewhere in this annual report.

Valuation reserves on accounts receivable and inventories

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

Asset retirement obligations

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

Asset retirement obligations are related mainly to future costs of demolition, cleaning and reforestation, so that at the end of their operation, raw materials extraction sites, maritime terminals and other production sites are left in acceptable condition. Significant judgment is required in assessing the estimated cash outflows that will be disbursed upon retirement of the related assets. See notes 3L and 14 to our consolidated financial statements included elsewhere in this annual report.

Transactions in our own stock

From time to time we have entered into various transactions involving our own stock. These transactions have been designed to achieve various financial goals but were primarily executed to give us a means of satisfying future transactions that may require us to deliver significant numbers of shares of our own stock. These transactions are described in detail in the notes to our consolidated financial statements included elsewhere in this annual report. We have viewed these transactions as hedges against future exposure even though they do not meet the definition of hedges under accounting principles. There is significant judgment necessary to properly account for these transactions, as the obligations underlying the related transactions are required to be reflected at market value, with the changes in such value reflected in our income statement. These transactions raise the possibility that we could be required to reflect losses on the transactions in our own shares without having a converse reflection of gains on the transactions under which we would deliver such shares to others. See notes 3T, 18 and 20C to our consolidated financial statements included elsewhere in this annual report.

Results of Operations

Consolidation of Our Results of Operations

Our consolidated financial statements, included elsewhere in this annual report, include those subsidiaries in which we hold a controlling interest or which we otherwise control. Until December 31, 2008, financial statements of such joint ventures were consolidated through the proportional integration method, considering our interest in the results of operations, assets and liabilities of such entities, based on International Accounting Standard No. 31, "Interest in Joint Ventures." No significant effects resulted from the adoption of MFRS B-8 in 2009, considering that we sold our joint venture investments in Spain during 2008. See note 12A to our consolidated financial statements included elsewhere in this annual report.

Full consolidation or the equity method, as applicable, is applied for those joint ventures in which one of the venture partners controls the entity's administrative, financial and operating policies.

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

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

For the periods ended December 31, 2007, 2008 and 2009, our consolidated results reflect the following transactions:

- On October 1, 2009, we completed the sale of our operations in Australia to a subsidiary of Holcim Ltd. for approximately A$2.02 billion (approximately U.S.$1.7 billion). Our consolidated income statements present the results of our operations in Australia, net of income tax, for the nine-month period ended September 30, 2009, the twelve-month period ended December 31, 2008 and the six-month period ended December 31, 2007 in a single line item as "Discontinued operations." Accordingly, our consolidated statement of cash flows for the year ended December 31, 2008 was reclassified. See note 4B to our consolidated financial statements included elsewhere in this annual report.
- On June 15, 2009, we sold three quarries (located in Nebraska, Wyoming and Utah) and our 49% joint venture interest in the operations of a quarry located in Granite Canyon, Wyoming, to Martin Marietta Materials, Inc. for U.S.$65 million.
- On December 26, 2008, we sold our Canary Islands operations (consisting of cement and ready-mix concrete assets in Tenerife and 50% of the shares in two joint-ventures, Cementos Especiales de las Islas, S.A. (CEISA) and Inprocoi, S.L.) to several Spanish subsidiaries of Cimpor Cimentos de Portugal SGPS, S.A. for €162 million (approximately U.S.$227 million).
- During 2008, we sold in several transactions our operations in Italy consisting of four cement grinding mill facilities for an aggregate amount of approximately €148 million (approximately U.S.$210 million), generating a gain of approximately €8 million (U.S.$12 million), which was recognized within "Other expenses, net."

- On July 1, 2007, for accounting purposes under MFRS, we completed the acquisition of 100% of the Rinker shares for a total consideration of approximately U.S.$14.2 billion (approximately Ps155.6 billion) excluding the assumption of approximately U.S.$1.3 billion (approximately Ps13.9 billion) of Rinker's debt. For accounting purposes, July 1, 2007 was established as Rinker's acquisition date and we began consolidating the financial results of Rinker on such date. Our consolidated financial statements for the year ended December 31, 2007 include Rinker's results of operations for the six-month period ended December 31, 2007 only, and our consolidated financial statements statements for the years ended December 31, 2008 and 2009 include Rinker's results of operations for the entire year.
- As required by the Antitrust Division of the United States Department of Justice, pursuant to a divestiture order in connection with the Rinker acquisition, in December 2007, we sold to the Irish building materials producer CRH plc, ready-mix concrete and aggregates plants in Arizona and Florida for approximately U.S.$250 million of which approximately U.S.$30 million corresponded to the sale of assets we owned prior to our Rinker acquisition.
- On January 11, 2008, in connection with our acquisition of Rinker, and as part of our agreements with Ready Mix USA, we contributed and sold to Ready Mix USA LLC, our ready-mix concrete joint venture with Ready Mix USA, certain assets located in Georgia, Tennessee and Virginia, which had a fair value of approximately U.S.$437 million. We received U.S.$120 million in cash for the assets sold to Ready Mix USA LLC, and the remaining assets were treated as a U.S.$260 million contribution by us to Ready Mix USA LLC. As part of the same transaction, Ready Mix USA contributed U.S.$125 million in cash to Ready Mix USA LLC, which in turn received bank loans of U.S.$135 million. Ready Mix USA LLC made a special distribution in cash to us of U.S.$135 million.

Selected Consolidated Income Statement Data

The following table sets forth our selected consolidated income statement data for each of the three years ended December 31, 2007, 2008 and 2009 expressed as a percentage of net sales.

	Year Ended December 31,		
	2007	2008	2009
Net sales	100.0	100.0	100.0
Cost of sales	(66.4)	(68.2)	(70.6)
Gross profit	33.6	31.8	29.4
Administrative and selling expenses	(14.1)	(14.3)	(14.5)
Distribution expenses	(5.7)	(5.9)	(6.9)
Total operating expenses	(19.8)	(20.2)	(21.4)
Operating income	13.8	11.6	8.0
Other expenses, net	(1.3)	(9.5)	(2.8)
Comprehensive financing result:			
Financial expense	(3.9)	(4.6)	(6.8)
Financial income	0.4	0.2	0.2
Results from financial instruments	1.1	(6.7)	(1.1)
Foreign exchange result	(0.1)	(1.7)	(0.1)
Monetary position result	3.0	0.2	0.2
Net comprehensive financing result	0.5	(12.6)	(7.6)
Equity in income of associates	0.7	0.4	0.1
Income before income tax	13.7	(10.1)	(2.3)
Income taxes	(2.0)	10.2	5.3
Income before discontinued operations	11.7	0.1	3.0
Discontinued operations	0.1	0.9	(2.2)
Consolidated net income	11.8	1.0	0.8

Year Ended December 31, 2009 Compared to Year Ended December 31, 2008

Summarized in the table below are the percentage (%) increases (+) and decreases (-) for the year ended December 31, 2009 compared to the year ended December 31, 2008 in our domestic cement and ready-mix concrete sales volumes as well as export sales volumes of cement and domestic cement and ready-mix concrete average prices for each of our geographic segments.

The financial information in the table below does not include volume and price data of our Venezuelan operations expropriated by the Venezuelan government in 2008 or our operations in Australia which were sold on October 1, 2009.

	Domestic Sales Volumes		Export Sales Volumes	Average Domestic Prices in Local Currency(1)	
Geographic Segment	Cement	Ready-Mix Concrete	Cement	Cement	Ready-Mix Concrete
North America					
Mexico	-4%	-14%	-61%	+2%	+1%
United States(2)	-32%	-38%	N/A	-6%	-8%
Europe					
Spain(3)	-40%	-44%	+77%	-10%	-8%
U.K.	-19%	-25%	N/A	+8%	+2%
Rest of Europe	-17%	-17%	N/A	-4%	-1%
South/Central America and the Caribbean(4)					
Colombia	-6%	-17%	N/A	+10%	-6%
Rest of South/Central America and the Caribbean(5)	-40%	-43%	N/A	+8%	+6%
Africa and the Middle East(6)					
Egypt	+13%	+9%	N/A	+13%	+12%
Rest of Africa and the Middle East(7)	+204%	-17%	N/A	-24%	-3%
Asia(8)					
Philippines	+9%	N/A	-12%	+7%	N/A
Rest of Asia(9)	-21%	-18%	N/A	-3%	Flat

N/A = Not Applicable

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

(2) On June 15, 2009, we sold three quarries (located in Nebraska, Wyoming and Utah) and our 49% joint venture interest in the operations of a quarry located in Granite Canyon, Wyoming.

(3) On December 26, 2008, we sold our Canary Islands operations (consisting of cement and ready-mix concrete assets in Tenerife and 50% of the shares in two joint-ventures, Cementos Especiales de las Islas, S.A. (CEISA) and Inprocoi, S.L.).

(4) Our South America, Central America and the Caribbean segment includes our operations in Colombia and the operations listed in note 5 below; however, in the above table, our operations in Colombia are presented separately from our other operations in the segment for purposes of the presentation of our operations in the region.

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

(6) Our Africa and the Middle East segment includes our operations in Egypt and the operations listed in note 7 below.

(7) Our Rest of Africa and the Middle East segment includes the operations in the UAE and Israel.

(8) Our Asia segment includes the operations in the Philippines, as well as limited operations in China we acquired as a result of the Rinker acquisition and the operations listed in note 9 below. On October 1, 2009, we completed the sale of our operations in Australia, which had been included as a separate geographical segment following our 2007 acquisition of Rinker.

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

On a consolidated basis, our cement sales volumes decreased approximately 17%, from 78.5 million tons in 2008 to 65.1 million tons in 2009, and our ready-mix concrete sales volumes decreased approximately 24%, from 71.0 million cubic meters in 2008 to 53.9 million cubic meters in 2009. Our net sales decreased approximately 12%, from Ps225.7 billion in 2008 to Ps197.9 billion in 2009, and our operating income decreased approximately 39%, from Ps26.1 billion in 2008 to Ps15.8 billion in 2009.

The following tables present selected condensed financial information of net sales and operating income for each of our geographic segments for the years ended December 31, 2008 and 2009. Variations in net sales determined on the basis of Mexican Pesos include the appreciation or depreciation which occurred during the period between the local currencies of the countries in the regions vis-à-vis the Mexican Peso; therefore, such variations differ substantially from those based solely on the countries' local currencies:

Geographic Segment	Variations in Local Currency(1)	Approximate Currency Fluctuations, Net of Inflation Effects	Variations in Mexican Pesos	Net Sales For the Year Ended December 31, 2008	2009
				(in millions of Pesos)	
North America					
Mexico	-1%	—	-1%	Ps42,856	Ps42,339
United States(2)	-40%	+14%	-26%	52,040	38,472
Europe					
Spain(3)	-44%	+9%	-35%	17,493	11,308
United Kingdom	-19%	+3%	-16%	19,225	16,126
Rest of Europe	-19%	+12%	-7%	49,819	46,532
South/Central America and the Caribbean(4)					
Venezuela	N/A	N/A	-100%	4,443	–
Colombia	-9%	+10%	+1%	6,667	6,766
Rest of South/Central America and the Caribbean(5)	-39%	+31%	+8%	13,044	14,031
Africa and Middle East(6)					
Egypt	+27%	+33%	+60%	5,219	8,371
Rest of Africa and the Middle East(7)	-23%	+17%	-6%	6,831	6,425
Asia(8)					
Philippines	+15%	+17%	+32%	2,928	3,867
Rest of Asia(9)	-18%	+16%	-2%	2,626	2,566
Others(10)	-45%	+12%	-33%	12,362	8,334
Net sales before eliminations			-13%	235,553	205,137
Eliminations from consolidation				(9,888)	(7,336)
Consolidated net sales			-12%	Ps225,665	Ps197,801

Geographic Segment	Variations in Local Currency(1)	Approximate Currency Fluctuations, Net of Inflation Effects	Variations in Mexican Pesos	Operating Income For the Year Ended December 31, 2008	2009
				(in millions of Pesos)	
North America					
Mexico	-2%	—	-2%	Ps 14,254	Ps 13,965
United States(2)	-1,967%	-3,997%	5,964%	-111	-6,731
Europe					
Spain(3)	-55%	+2%	-53%	3,883	1,836
United Kingdom	+39%	+1%	+40%	-801	-481
Rest of Europe	-37%	+12%	-25%	3,781	2,827
South/Central America and the Caribbean(4)					
Venezuela	N/A	N/A	-100%	958	—
Colombia	+4%	+15%	+19%	2,235	2,662
Rest of South/Central America and the Caribbean(5)	-32%	+46%	+14%	2,622	3,002
Africa and Middle East(6)					
Egypt	+19%	+40%	+59%	Ps 2,104	Ps 3,335
Rest of Africa and the Middle East(7)	11%	+56%	+45%	494	715
Asia(8)					
Philippines	+39%	+27%	+66%	711	1,180
Rest of Asia(9)	+85%	+115%	+200%	27	81
Others(10)	-45%	-16%	-61%	-4,069	-6,551
Consolidated operating income			-39%	Ps 26,088	Ps 15,840

N/A = Not Applicable

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

(2) On June 15, 2009, we sold three quarries (located in Nebraska, Wyoming and Utah) and our 49% joint venture interest in the operations of a quarry located in Granite Canyon, Wyoming.

(3) On December 26, 2008, we sold our Canary Islands operations (consisting of cement and ready-mix concrete assets in Tenerife and 50% of the shares in two joint-ventures, Cementos Especiales de las Islas, S.A. (CEISA) and Inprocoi, S.L.).

(4) Our South America, Central America and the Caribbean segment includes our operations in Venezuela, Colombia and the operations listed in note 5 below; however, in the above table, our operations in Venezuela and Colombia are presented separately from our other operations in the segment for purposes of the presentation of our operations in the region. Our consolidated financial statements for the year ended December 31, 2008 includes the results from operations relating to Venezuela for the seven-month period ended July 31, 2008 due to the expropriation of CEMEX Venezuela. See note 12A to our consolidated financial statements included elsewhere in this annual report.

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

(6) Our Africa and the Middle East segment includes our operations in Egypt and the operations listed in note 7 below.

(7) Our Rest of Africa and the Middle East segment includes our operations in the UAE and Israel.

(8) Our Asia segment includes our operations in the Philippines, as well as limited operations in China we acquired as a result of the Rinker acquisition and the operations listed in note 9 below. On October 1, 2009, we completed the sale of our operations in Australia, which had been included as a separate geographical segment following our 2007 acquisition of Rinker. See "Item 4 — Information on the Company — Asia — Sale of Our Australian Operations." Our consolidated income statements present the results of our operations in Australia, net of income tax, for the nine-month period ended September 30, 2009, the twelve-month period ended December 31, 2008 and the six-month period ended December 31, 2007 in a single line item as "Discontinued operations." See note 4B to our consolidated financial statements included elsewhere in this annual report.

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

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

Net sales. Our consolidated net sales decreased approximately 12%, from approximately Ps225.6 billion in 2008 to Ps197.8 billion in 2009. The decrease in net sales was primarily attributable to lower volumes and prices mainly from our U.S. and Spanish operations. The infrastructure sector continues to be the main driver of demand in most of our markets. Our consolidated income statements present the results of our operations in Australia, net of income tax, for the nine-month period ended September 30, 2009, the twelve-month period ended December 31, 2008 and the six-month period ended December 31, 2007 in a single line item as "Discontinued operations." Accordingly, our consolidated statement of cash flows for the year ended December 31, 2008 was reclassified. See note 4B to our consolidated financial statements included elsewhere in this annual report. Set forth below is a quantitative and qualitative analysis of the effects of the various factors affecting our net sales on a geographic segment basis.

Mexico

Our Mexican operations' domestic cement sales volumes decreased approximately 4% in 2009 compared to 2008, and ready-mix concrete sales volumes decreased approximately 14% during the same period. Our Mexican operations' net sales represented approximately 21% of our total net sales in 2009, in Peso terms, before eliminations resulting from consolidation. The residential and infrastructure sectors continue to be the main drivers of cement demand in the country. In 2009, activity from other construction sectors softened as they were affected by the overall challenging macroeconomic environment. Our Mexican operations' cement export volumes, which represented approximately 3% of our Mexican cement sales volumes in 2009, decreased approximately 61% in 2009 compared to 2008, primarily as a result of lower export volumes to the United States. Of our Mexican operations' total cement export volumes during 2009, 19% was shipped to the United States, 71% to Central America and the Caribbean and 10% to South America. Our Mexican operations' average domestic sales price of cement increased approximately 2% in Peso terms in 2009 compared to 2008, and the average sales price of ready-mix concrete increased approximately 1% in Peso terms over the same period. For the year ended December 31, 2009, cement represented approximately 55%, ready-mix concrete approximately 22% and our aggregates and other businesses approximately 23% of our Mexican operations' net sales before eliminations resulting from consolidation.

As a result of the decreases in domestic cement and ready-mix concrete sales volumes, partially offset by the increase in domestic cement and ready-mix concrete sales prices, our Mexican net sales, in Peso terms, declined slightly in 2009 compared to 2008.

United States

Our U.S. operations' domestic cement sales volumes, which include cement purchased from our other operations, decreased approximately 32% in 2009 compared to 2008, and ready-mix concrete sales volumes decreased approximately 38% during the same period. The decreases in our U.S. operations' domestic cement and ready-mix concrete sales volumes resulted primarily from significantly weaker demand in all our U.S. markets, as decreased confidence and lower activity across all sectors resulted in lower volumes. Overall construction activity weakened further as economic conditions continued to worsen and credit availability became

extremely scarce. Our United States operations represented approximately 19% of our total net sales in 2009 in Peso terms, before eliminations resulting from consolidation. Our U.S. operations average sales price of domestic cement decreased approximately 6% in Dollar terms in 2009 compared to 2008, and the average sales price of ready-mix concrete decreased approximately 8% in Dollar terms over the same period. The decreases in average prices were primarily due to decreased demand as a result of recessionary economic conditions and tight credit availability. For the year ended December 31, 2009, cement represented approximately 31%, ready-mix concrete approximately 31% and our aggregates and other businesses approximately 38% of our United States operations' net sales before eliminations resulting from consolidation.

As a result of the decreases in cement and ready-mix concrete sales volumes and average sales prices, net sales from our United States operations, in Dollar terms, decreased approximately 40% in 2009 compared to 2008. The decrease in net sales in the United States during 2009 compared to 2008 resulted from weaker demand in our U.S. markets, the recessionary economic conditions and tight credit availability.

Spain

Our Spanish operations' domestic cement sales volumes decreased approximately 40% in 2009 compared to 2008, while ready-mix concrete sales volumes decreased approximately 44% during the same period. The decreases in domestic cement and ready-mix concrete sales volumes were the result of the country's continued challenging economic environment. Overall economic activity continues to worsen and has negatively affected overall cement demand. No particular segment in the construction sector is experiencing growth. Additionally, infrastructure projects continue to be on hold given the lack of liquidity and overall tighter credit conditions. Our Spanish operations' 2009 net sales represented approximately 5% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Spanish operations' cement export volumes, which represented approximately 14% of our Spanish cement sales volumes in 2009, increased by approximately 77% in 2009 compared to 2008, primarily as a result of lower domestic sales and higher export volumes to Africa. Of our Spanish operations' total cement export volumes in 2009, 7% was shipped to Europe and the Middle East, 90% to Africa, and 3% to other countries. Our Spanish operations' average domestic sales price of cement decreased approximately 10% in Euro terms in 2009 compared to 2008, and the average price of ready-mix concrete decreased approximately 8% in Euro terms over the same period. For the year ended December 31, 2009, cement represented approximately 58%, ready-mix concrete approximately 22% and our aggregates and other businesses approximately 20% of our Spanish operations' net sales before eliminations resulting from consolidation.

As a result of the decreases in domestic cement sales volumes and ready-mix concrete sales volumes, our Spanish net sales, in Euro terms, decreased approximately 44% in 2009 compared to 2008.

United Kingdom

Our United Kingdom operations' domestic cement sales volumes decreased approximately 19% in 2009 compared to 2008, and ready-mix concrete sales volumes decreased approximately 25% during the same period. The decreases in domestic cement and ready-mix concrete sales volumes resulted primarily from a deteriorating macroeconomic environment in the United Kingdom. Lower liquidity has affected construction spending and the initiation of new projects in all construction market segments. The decrease in domestic cement demand during 2009 was primarily driven by less construction spending and fewer new projects. Our United Kingdom operations' 2009 net sales represented approximately 8% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our United Kingdom operations' average domestic sales price of cement increased approximately 8% in Pound terms in 2009 compared to 2008, and the average price of ready-mix concrete increased approximately 2% in Pound terms over the same period. For the year ended December 31, 2009, cement represented approximately 16%, ready-mix concrete approximately 27% and our aggregates and other businesses approximately 57% of our United Kingdom operations' net sales before eliminations resulting from consolidation.

As a result of the decreases in domestic cement and ready-mix concrete sales volumes, net sales from our United Kingdom operations, in Pound terms, decreased approximately 19% in 2009 compared to 2008.

Rest of Europe

Our operations in our Rest of Europe segment in 2009 consisted of our operations in Germany, France, Croatia, Poland, Latvia, the Czech Republic, Ireland, Italy, Austria, Hungary, Portugal, Finland, Norway and Sweden. Our Rest of Europe operations' domestic cement sales volumes decreased approximately 17% in 2009 compared to 2008, and ready-mix concrete sales volumes decreased approximately 17% during the same period. The decrease in domestic cement and ready-mix concrete sales volumes resulted primarily from a slowdown in the housing sector and delays in infrastructure projects as a result of the harsh winter. Our Rest of Europe operations' net sales for the year ended December 31, 2009 represented approximately 23% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Rest of Europe operations' average domestic sales price of cement decreased approximately 4% in Euro terms in 2009 compared to 2008, and the average price of ready-mix concrete decreased approximately 1% in Euro terms over the same period. For the year ended December 31, 2009, cement represented approximately 23%, ready-mix concrete approximately 47% and our aggregates and other businesses approximately 30% of our Rest of Europe operations' net sales before eliminations resulting from consolidation.

As a result of the decreases in domestic cement and ready-mix concrete sales prices and sales volumes, net sales in the Rest of Europe, in Euro terms, decreased approximately 19% in 2009 compared to 2008. Set forth below is a discussion of sales volumes in Germany and France, the most significant countries in our Rest of Europe segment, based on net sales.

In Germany, domestic cement sales volumes decreased approximately 18% in 2009 compared to 2008, and ready-mix concrete sales volumes in those operations decreased approximately 9% during the same period. The decrease in domestic cement and ready-mix concrete sales volumes resulted primarily from lower demand in the non-residential and infrastructure sectors. Our German operations' average domestic sales price of cement increased approximately 10% in Euro terms in 2009 compared to 2008, and the average price of ready-mix concrete increased approximately 4% in Euro terms over the same period. As a result of the decreases in domestic cement and ready-mix concrete sales volumes, net sales in Germany, in Euro terms, decreased approximately 11% in 2009 compared to 2008.

In France, ready-mix concrete sales volumes decreased approximately 18% in 2009 compared to 2008, primarily as a result of the continued challenging situation in the building materials sector. Activity from the residential and industrial and commercial sectors continues to be very weak. Our French operations' average sales price of ready-mix concrete increased approximately 3% in Euro terms in 2009 compared to 2008. As a result of lower ready-mix concrete volumes, despite improved pricing, net sales in France, in Euro terms, decreased approximately 16% in 2009 compared to 2008.

For the reasons mentioned above, net sales before eliminations resulting from consolidation in our Rest of Europe operations, in Euro terms, decreased approximately 19% in 2009 compared to 2008.

South America, Central America and the Caribbean

Our operations in South America, Central America and the Caribbean in 2009 consisted of our operations in Colombia, Costa Rica, the Dominican Republic, Panama, Nicaragua, Puerto Rico, Jamaica and Argentina, as well as several cement terminals and other assets in other Caribbean countries and our trading operations in the Caribbean region. Most of these trading operations consist of the resale in the Caribbean region of cement produced by our operations in Mexico.

Our South America, Central America and the Caribbean operations' domestic cement sales volumes decreased approximately 30% in 2009 compared to 2008, and ready-mix concrete sales volumes decreased approximately 34% over the same period. The decrease in domestic cement and ready-mix concrete sales volumes is primarily attributable to lower economic activity and the consolidation of the results of operations from our operations in Venezuela for the seven-month period ended July 31, 2008 (prior to its expropriation by the Venezuelan government) . Our South America, Central American and the Caribbean operations' average domestic sales price of cement increased approximately 8% in Dollar terms in 2009 compared to 2008, while the average sales price of ready-mix concrete decreased approximately 8% in Dollar terms over the same period. For the year ended December 31, 2009, our South America, Central America and the Caribbean operations represented approximately 10% of our total net sales in Peso terms, before eliminations resulting from consolidation. As a result of the decreases in domestic cement and ready-mix concrete sales volumes, net sales in our South America, Central America and the Caribbean operations, in Dollar terms, decreased approximately 32% in 2009 compared to 2008. For the year ended December 31, 2009, cement represented approximately 68%, ready-mix concrete approximately 21% and our aggregates and other businesses approximately 11% of our South and Central America and the Caribbean operations' net sales before eliminations resulting from consolidation. Set forth below is a discussion of sales volumes in Colombia, the most significant country in our South America, Central America and the Caribbean segment, based on net sales.

Our Colombian operations' cement volumes decreased approximately 6% in 2009 compared to 2008, and ready-mix concrete sales volumes decreased approximately 17% during the same period. The decreases in sales volumes resulted primarily from lower economic activity, especially in the self-construction and low income sectors. For the year ended December 31, 2009, Colombia represented approximately 3% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Colombian operations' average domestic sales price of cement increased approximately 10% in Colombian Peso terms in 2009 compared to 2008, while the average price of ready-mix concrete decreased approximately 6% in Colombian Peso terms over the same period. As a result of the decreases in domestic cement and ready-mix concrete sales volumes, partially offset by the increase in domestic cement and ready-mix concrete sales prices, net sales of our Colombian operations, in Colombian Peso terms, decreased approximately 9% in 2009 compared to 2008. For the year ended December 31, 2009, cement represented approximately 64%, ready-mix concrete approximately 24% and our aggregates and other businesses approximately 12% of our Colombian operations' net sales before eliminations resulting from consolidation.

Our Rest of South and Central America and the Caribbean operations' cement volumes decreased approximately 40% in 2009 compared to 2008, and ready-mix concrete sales volumes decreased approximately 43% during the same period, mainly as a result of the expropriation of CEMEX Venezuela in 2008. For the year ended December 31, 2008, our net sales from our Rest of South and Central America and the Caribbean operations included the results of operations from our operations in Venezuela for the seven-month period ended July 31, 2008 (prior to its expropriation by the Venezuelan government). For the year ended December 31, 2009, the Rest of South and Central America and the Caribbean represented approximately 7% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Rest of South and Central America and the Caribbean operations' average domestic sales price of cement increased approximately 8% in Dollar terms in 2009 compared to 2008, and the average sales price of ready-mix concrete increased approximately 6% in Dollar terms over the same period. For these reasons, net sales of our Rest of South and Central America and the Caribbean operations, in Dollar terms, decreased approximately 39% in 2009 compared to 2008. For the year ended December 31, 2009, cement represented approximately 70%, ready-mix concrete approximately 19% and our other businesses approximately 11% of our Rest of South and Central America and the Caribbean operations' net sales before eliminations resulting from consolidation.

For the reasons mentioned above, net sales before eliminations resulting from consolidation in our South and Central America and the Caribbean operations, in Dollar terms, decreased approximately 32% in 2009 compared to 2008.

Africa and the Middle East

Our operations in Africa and the Middle East consist of our operations in Egypt, the most significant operations in this geographic segment, and the UAE and Israel. Our Africa and Middle East operations' domestic cement sales volumes increased approximately 22% in 2009 compared to 2008, and ready-mix concrete sales volumes decreased approximately 14% during the same period. The increase in domestic cement sales volumes was primarily as a result of the increase in sales volumes in our Egyptian operations. For the year ended December 31, 2009, Africa and the Middle East represented approximately 7% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Africa and the Middle East operations' average domestic sales price of cement increased approximately 8% in Dollar terms in 2009, and the average price of ready-mix concrete decreased approximately 8% in Dollar terms over the same period. For the year ended December 31, 2009, cement represented approximately 53%, ready-mix concrete approximately 36% and our other businesses approximately 11% of our African and the Middle Eastern operations' net sales before eliminations resulting from consolidation.

Our Egyptian operations' domestic cement sales volumes increased approximately 13% in 2009 compared to 2008, and Egyptian ready-mix concrete sales volumes increased approximately 9% during the same period. The increases in volumes resulted primarily from the positive trend in the informal residential and infrastructure sectors, which led to higher sales volumes of building materials. The high-income housing sector started to slow down in response to the macroeconomic situation, while the self-construction sector maintained its stability. For the year ended December 31, 2009, Egypt represented approximately 4% of our total net sales in Peso terms, before eliminations resulting from consolidation. The average domestic sales price of cement increased approximately 13% in Egyptian pound terms in 2009 compared to 2008, and ready-mix concrete sales prices increased approximately 12% in Egyptian pound terms. During 2009, our Egyptian operations did not export any cement as production was only directed to meet increased domestic demand. As a result of the increases in domestic cement and ready-mix concrete sales volumes and sales prices, net sales of our Egyptian operations, in Egyptian pound terms, increased approximately 27% in 2009 compared to 2008. For the year ended December 31, 2009, cement represented approximately 89%, ready-mix concrete approximately 9% and our other businesses approximately 2% of our Egyptian operations' net sales before eliminations resulting from consolidation.

Our Rest of Africa and the Middle East operations' ready-mix concrete sales volumes decreased approximately 17% in 2009 compared to 2008 primarily as a result of economic conditions, which have had a negative effect on the commercial and residential sectors, and the average ready-mix concrete sales price decreased approximately 3%, in Dollar terms, in 2009 compared to 2008. For the year ended December 31, 2009, the UAE and Israel represented approximately 3% of our total net sales in Peso terms, before eliminations resulting from consolidation. As a result of the decreases in ready-mix concrete average sales price and sales volumes, net sales of our Rest of Africa and the Middle East operations, in Dollar terms, decreased approximately 23% in 2009 compared to 2008. The decrease in net sales, in Dollar terms, in our Rest of Africa and the Middle East operations was due to a 4% decrease in net sales in Israel and a 36% decrease in net sales in the UAE. They represent 66% and 34%, respectively, of our Rest of Africa and the Middle East operations. For the year ended December 31, 2009, cement represented approximately 12%, ready-mix concrete represented approximately 66% and our other businesses approximately 22% of our Rest of Africa and the Middle East operations' net sales before eliminations resulting from consolidation.

As a result of the decreases in ready-mix concrete average sales price and sales volumes in our Rest of Africa and Middle East operations, partially offset by the increase in average sales price and sales volumes in our Egyptian operations, net sales before eliminations resulting from consolidation in our Rest of Africa and the Middle East operations, in Dollar terms, decreased approximately 2% in 2009 compared to 2008.

Asia

Our operations in Asia in 2009 consisted of our operations in the Philippines, Thailand, Bangladesh, Taiwan, Malaysia, and the operations we acquired from Rinker in China. Our Asian operations' domestic cement sales volumes remained flat in 2009 compared to 2008. Our Asian operations' ready-mix concrete sales volumes decreased approximately 18% in 2009 compared to 2008, primarily as a result of the decrease in our ready-mix concrete sales volumes in our Malaysian operations. The average sales price of domestic cement increased 1% and the average sales price of ready-mix concrete in our Asian operations remained flat in Dollar terms in 2009 compared to 2008. The main drivers of demand in the segment continue to be the commercial and infrastructure sectors.

For the year ended December 31, 2009, Asia represented approximately 3% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Asian operations' cement export volumes, which represented approximately 16% of our Asian operations' cement sales volumes in 2009, decreased approximately 12% in 2009 compared to 2008 primarily due to decreased cement demand in the Europe region. Of our Asian operations' total cement export volumes during 2009, approximately 21% was shipped to Africa, 57% was shipped to Europe and 22% to southeast Asia. For the year ended December 31, 2009, cement represented approximately 70%, ready-mix concrete approximately 24% and our other businesses approximately 6% of our Asian operations' net sales before eliminations resulting from consolidation.

Our Philippines operations' domestic cement volumes increased approximately 9% in 2009 compared to 2008. For the year ended December 31, 2009, the Philippines represented approximately 2% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Philippines operations' average domestic sales price of cement increased approximately 7% in Philippine Peso terms in 2009 compared to 2008. As a result, net sales of our Philippines operations, in Philippine Peso terms, increased approximately 15% in 2009 compared to 2008. For the year ended December 31, 2009, cement represented 100% of our Philippine operations' net sales before eliminations resulting from consolidation.

Our Rest of Asia operations' ready-mix concrete sales volumes, which include our Malaysian operations (representing nearly all our ready-mix concrete sales volumes in the Rest of Asia region), decreased approximately 18% in 2009 compared to 2008 due to the finalization of large infrastructure projects and reduced exports. The average sales price of ready-mix concrete remained flat, in Dollar terms, during 2009. For the reasons mentioned above, net sales of our Rest of Asia operations, in Dollar terms, decreased approximately 18% in 2009 compared to 2008. For the year ended December 31, 2009, cement represented approximately 28%, ready-mix concrete approximately 57% and our other businesses approximately 15% of our Rest of Asia operations' net sales before eliminations resulting from consolidation.

For the reasons described above, our Asian operations' net sales before eliminations resulting from consolidation, in Dollar terms, decreased approximately 4% in 2009 compared to 2008.

On October 1, 2009, we completed the sale of our operations in Australia to a subsidiary of Holcim Ltd. for approximately A$2.02 billion (approximately U.S.$1.7 billion). Our consolidated income statements present the results of our operations in Australia, net of income tax, for the nine-month period ended September 30, 2009, the twelve-month period ended December 31, 2008 and the six-month period ended December 31, 2007 in a single line item as "Discontinued operations." Accordingly, our consolidated statement of cash flows for the year ended December 31, 2008 was reclassified. See note 4B to our consolidated financial statements included elsewhere in this annual report.

Others

Our Others segment includes our worldwide cement, clinker and slag trading operations, our information technology solutions company and other minor subsidiaries. Net sales of our Others segment decreased approximately 45% before eliminations resulting from consolidation in 2009 compared to 2008 in Dollar terms, primarily as a result of a decrease of approximately 54% in our worldwide cement, clinker and slag trading operations and a decrease of approximately 17% in sales by our information technology solutions company. For the year ended December 31, 2009, our trading operations' net sales represented approximately 48%, and our information technology solutions company 32%, of our Others segment's net sales.

Cost of Sales. Our cost of sales, including depreciation, decreased approximately 9%, from Ps154 billion in 2008 to Ps139.7 billion in 2009, primarily due to the decrease in sales volumes mentioned above. As a percentage of net sales, cost of sales increased from 68% in 2008 to 71% in 2009, mainly as a result of lower economies of scale due to lower volumes, especially in the United States, Spain and Mexico. In our cement and aggregates business, we have several producing plants and many selling points. Our cost of sales excludes freight expenses of finished products from our producing plants to our selling points, the expenses related to personnel and equipment comprising our selling network and those expenses related to warehousing at the points of sale, which were included as part of our administrative and selling expenses line item in the amount of approximately Ps11.1 billion in 2008 and Ps9.3 billion in 2009. Likewise, cost of sales excludes freight expenses from the points of sale to the customers' locations, which are included as part of our distribution expenses line item and which, for the years ended December 31, 2008 and 2009, represented expenses of approximately Ps13.4 billion and Ps13.7 billion, respectively. Cost of sales includes the expenses related to warehousing at the producing plants as well as transfer costs within our producing plants.

Gross Profit. For the reasons explained above, our gross profit decreased approximately 19%, from approximately Ps71.7 billion in 2008 to approximately Ps58.1 billion in 2009. As a percentage of net sales, gross profit decreased from approximately 32% in 2008 to 29% in 2009. In addition, our gross profit may not be directly comparable to those of other entities that include in cost of sales freight expenses of finished products from the producing plants to their selling points, and the costs related to their sales force and warehousing at the point of sale, which in CEMEX are included within administrative and selling expenses, and the cost associated with freight to the customers' locations, which in CEMEX are included as part of our distribution expenses, and which in aggregate represented costs of approximately Ps24.4 billion in 2008 and approximately Ps22.9 billion in 2009.

Operating Expenses. Our operating expenses decreased approximately 7%, from approximately Ps45.6 billion in 2008 to Ps42.3 billion in 2009, mainly as a result of cost reduction initiatives. As a percentage of net sales, our operating expenses decreased approximately 1%, reflecting our cost reduction initiatives, partially mitigated by lower volumes in our operations year over year. Operating expenses include administrative, selling and distribution expenses. See note 3Q to our consolidated financial statements included elsewhere in this annual report.

Operating Income. For the reasons mentioned above, our operating income decreased approximately 39%, from approximately Ps26.1 billion in 2008 to approximately Ps15.8 billion in 2009. As a percentage of net sales, operating income decreased from approximately 12% in 2008 to 8% in 2009. Additionally, set forth below is a quantitative and qualitative analysis of the effects of the various factors affecting our operating income on a geographic segment basis.

Mexico

Our Mexican operations' operating income decreased approximately 2%, from approximately Ps14.3 billion in 2008 to approximately Ps14 billion in 2009 in Peso terms. The decrease in operating income was primarily attributable to the decreases in domestic cement and ready-mix concrete sales volumes explained above.

United States

Our U.S. operations' operating loss increased substantially, from an operating loss of Ps111 million in 2008 to an operating loss of Ps6.7 billion in Peso terms. As mentioned above, the decrease in operating income resulted primarily from a significantly weaker demand in all our U.S. markets, as decreased confidence and lower activity across all sectors resulted in lower volumes. Overall construction activity weakened further as economic conditions continued to worsen and credit availability became extremely scarce.

Spain

Our Spanish operations' operating income decreased approximately 53%, from approximately Ps3.9 billion in 2008 to Ps1.8 billion in 2009 in Peso terms. The decrease in operating income resulted primarily from the country's continued challenging economic environment. Overall economic activity continues to worsen and has negatively affected overall cement demand. No particular segment in the construction sector is experiencing growth. Additionally, infrastructure projects continue to be on hold given the lack of liquidity and overall tighter credit conditions.

United Kingdom

Our United Kingdom operations' operating loss decreased approximately 40%, from a loss of Ps801 million in 2008 to a loss of Ps481 million in 2009 in Peso terms. The decrease in the operating loss of our United Kingdom operations during 2009 compared to 2008 resulted primarily from a decrease in cost of sales (variable and fixed) of 21% in Pound terms (from £716 million in 2008 to £564 million in 2009). Also in 2009, operating expenses decreased 17% in Pound terms as a result of cost and expense reductions to adjust our operations to the current market conditions.

Rest of Europe

Our Rest of Europe operations' operating income decreased approximately 25%, from approximately Ps3.8 billion in 2008 to Ps2.8 billion in 2009 in Peso terms and approximately 37% in Euro terms. The decrease in our Rest of Europe operations' operating income resulted from the decrease in net sales from our French and Germany operations.

In Germany, operating income increased approximately 73%, from Ps419 million in 2008 to Ps724 million in 2009 in Peso terms. The increase resulted primarily from a decrease in cost of sales of 12% in Euro terms. Additionally, in 2009, operating expenses decreased 11% in Euro terms, mainly as a result of our cost reduction efforts to adjust our operations to current market conditions.

In France, operating income decreased approximately 11%, from approximately Ps1.3 billion in 2008 to Ps1.1 billion in 2009 in Peso terms. The decrease resulted primarily from the decrease in ready-mix concrete sales volumes.

South America, Central America and the Caribbean

Our South America, Central America and the Caribbean operations' operating income decreased approximately 3%, from approximately Ps5.8 billion in 2008 to approximately Ps5.7 billion in 2009 in Peso terms. In Dollar terms, operating income decreased approximately 22% for the same period. The decrease in operating income was primarily attributable to the decreases in domestic cement and ready-mix concrete sales volumes, which was primarily attributable to lower economic activity and the consolidation of the results of operations from our operations in Venezuela for the seven-month period ended July 31, 2008 (prior to its expropriation by the Venezuelan government).

In Colombia, operating income increased approximately 19%, from approximately Ps2.2 billion in 2008 to approximately Ps2.7 billion in 2009 in Peso terms. The increase resulted primarily from our cost reduction efforts to adjust our operations to the existing market conditions.

Africa and the Middle East

Our Africa and the Middle East operations' operating income increased approximately 56%, from approximately Ps2.6 billion in 2008 to Ps4 billion in 2009 in Peso terms. In Dollar terms, the increase in operating income was approximately 10% during the same period. The increase in operating income resulted primarily from the increase in domestic cement and ready-mix concrete sales prices and sales volumes in our Egyptian operations.

Operating income from our Egyptian operations increased approximately 59%, from approximately Ps2.1 billion in 2008 to Ps3.3 billion in 2009, primarily as a result of increases in the average domestic cement and ready-mix concrete sales prices and sales volumes. Our Rest of Africa and the Middle East operations increased approximately 45%, from an operating income of Ps494 million in 2008 to an operating income of Ps715 million in 2009 in Peso terms. The increase in operating income in the Rest of Africa and the Middle East resulted primarily from a decrease in cost of sales and operating expenses in Israel and UAE.

Asia

Our Asia operations' operating income increased approximately 71%, from Ps738 million in 2008 to approximately Ps1.3 billion in 2009 in Peso terms and increased approximately 33% in Dollar terms. The increase in operating income resulted primarily from the increase in our Philippines operations' net sales, while cost of sales remained flat and operating expenses decreased 8% in Dollar terms as a result of our global cost-reduction efforts.

Our Philippines operating income increased approximately 66%, from Ps711 million in 2008 to approximately Ps1.2 billion in 2009 in Peso terms.

On October 1, 2009, we completed the sale of our operations in Australia to a subsidiary of Holcim Ltd. for approximately A$2.02 billion (approximately U.S.$1.7 billion). Our consolidated income statements present the results of our operations in Australia, net of income tax, for the nine-month period ended September 30, 2009, the twelve-month period ended December 31, 2008 and the six-month period ended December 31, 2007 in a single line item as "Discontinued operations." Accordingly, our consolidated statement of cash flows for the year ended December 31, 2008 was reclassified. See note 4B to our consolidated financial statements included elsewhere in this annual report.

Others

Operating loss in our Others segment increased approximately 61%, from a loss of approximately Ps4.1 billion in 2008 to a loss of approximately Ps6.6 billion in 2009 in Peso terms, primarily explained by a decrease in operating income of 83% in our worldwide cement, clinker and slag trading operations.

Other Expenses, Net. Our other expenses, net, decreased significantly, from approximately Ps21.4 billion in 2008 to approximately Ps5.5 billion in 2009, primarily due to the 2008 impairment losses of goodwill and other long-lived assets in the amount of approximately Ps21.1 billion as described in note 12B to our consolidated financial statements included elsewhere in this annual report.

The most significant items included under this caption in 2008 and 2009 are as follows:

	2008	2009
	(in millions of Pesos)	
Impairment losses	Ps(21,125)	Ps (889)
Restructuring costs	(3,141)	(1,100)
Charitable contributions	(174)	(264)
Current and deferred ESPS	2,283	(8)
Results from sales of assets and others, net	754	(3,268)
	Ps (21,403)	(5,529)

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

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

	Year Ended December 31,	
	2008	2009
	(in millions of Pesos)	
Comprehensive financing result:		
Financial expense	Ps(10,199)	Ps(13,513)
Financial income	513	385
Results from financial instruments	(15,172)	(2,127)
Foreign exchange result	(3,886)	(266)
Monetary position result	418	415
Comprehensive financing result	Ps(28,326)	Ps(15,106)

Our comprehensive financing result improved from a loss of approximately Ps28.3 billion in 2008 to a loss of approximately Ps15.1 billion in 2009. The components of the change are shown above. Our financial expense increased approximately 32%, from approximately Ps10.2 billion in 2008 to approximately Ps13.5 billion in 2009. The increase was primarily attributable to the change in interest rates and the recognition of fees related to the Financing Agreement. Our financial income decreased 25%, from Ps513 million in 2008 to Ps385 million in 2009, primarily attributable to significantly lower interest rates. Our results from financial instruments improved significantly, from a loss of approximately Ps15.2 billion in 2008 to a loss of approximately Ps2.1 billion in

2009. The decrease in our loss from financial instruments was primarily attributable to the closing of a significant portion of our derivatives instruments explained below. Our net foreign exchange result improved from a loss of approximately Ps3.9 billion in 2008 to a loss of Ps266 million in 2009, mainly due to the appreciation of the Mexican Peso and the Euro against the Dollar. Our monetary position result (generated by the recognition of inflation effects over monetary assets and liabilities) decreased approximately 1%, from a gain of Ps418 million during 2008 to a gain of Ps415 million during 2009.

During 2009, certain financing costs associated with the Financing Agreement were capitalized under MFRS. See note 12 to our consolidated financial statements included elsewhere in this annual report. In the U.S. GAAP reconciliation of our 2009 financial statements, we include a reconciliation item as some of these financing costs under U.S. GAAP should be expensed as incurred and recognized in our income statement. See note 25 to our consolidated financial statements included elsewhere in this annual report.

Derivative Financial Instruments. For the years ended December 31, 2008, our derivative financial instruments that had a potential impact on our comprehensive financing result consisted of foreign exchange derivative instruments (excluding our foreign exchange forward contracts designated as hedges of our net investment in foreign subsidiaries), interest rate swaps, cross-currency swaps, including our derivative instruments related to the issuance of the Perpetual Debentures by consolidated entities, equity forward contracts and interest rate derivatives related to energy projects as discussed in notes 13C and 13D to our consolidated financial statements included elsewhere in this annual report.

As required in the context of our renegotiation with our major lenders prior to entering into the Financing Agreement, during the first half of 2009, we closed a significant portion of our derivative instruments. Furthermore, during July 2009, we closed the Japanese Yen cross-currency swap derivatives associated with the Perpetual Debentures. Therefore, as of December 31, 2009, our derivative financial instruments that had a potential impact on our comprehensive financing result consisted of equity forward contracts, a forward instrument over the Total Return Index of the Mexican Stock Exchange and interest rate derivatives related to energy projects as discussed in note 13C to our consolidated financial statements included elsewhere in this annual report.

For the year ended December 31, 2009, we had a net loss of approximately Ps2.1 billion in the item “Results from financial instruments” as compared to a net loss of approximately Ps15.2 billion in 2008. The loss in 2009 is mainly attributable to the currency derivatives we held and closed during the year, offset by the positive result from changes in market value of the equity derivatives remaining in our portfolio.

Income Taxes. Our effective tax rate in 2008 and 2009 resulted in negative rates of 101.0% and 227.7%, respectively. Our income tax effect in the income statement, which is primarily comprised of income taxes plus deferred income taxes, decreased from an income of approximately Ps23 billion in 2008 to an income of approximately Ps10.6 billion in 2009, mainly attributable to an increase in taxable earnings in our Mexican and South American operations. Our current income tax expense increased 9%, from approximately Ps8 billion in 2008 to approximately Ps8.7 billion in 2009. Our deferred tax benefit decreased from approximately Ps31 billion in 2008 to approximately Ps19.3 billion in 2009. The decrease was primarily attributable to the utilization of tax loss carryforwards during the period, the increases in the statutory income tax rate in Mexico from 28% to 30% in future periods, as well as to the increase in valuation allowances relating to tax loss carryforwards. For the years ended December 31, 2008 and 2009, our statutory income tax rate was 28%. See “Item 3 — Key Information — Risk Factors — The new Mexican tax consolidation regime may have an adverse effect on cash flow, financial condition and net income.”

Consolidated Net Income. For the reasons described above, our consolidated net income (before deducting the portion allocable to non-controlling interest) for 2009 decreased approximately Ps674 million, or 29%, from approximately Ps2.3 billion in 2008 to approximately Ps1.7 billion in 2009. As a percentage of net sales, consolidated net income remained flat at approximately 1% in 2008 and 2009.

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

Non-controlling net income increased substantially, from Ps45 million in 2008 to Ps240 million in 2009, mainly as a result of a significant increase in the net income of the consolidated entities in which others have a non-controlling interest. As a result, the percentage of our consolidated net income allocable to non-controlling interests increased from 2% in 2008 to 15% in 2009. Controlling interest net income decreased by approximately 38% from approximately Ps2.3 billion in 2008 to approximately Ps1.4 billion in 2009. As a percentage of net sales, controlling interest net income remained flat in 2009 compared to 2008.

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

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

The financial information in the table below does not include the volume and price data for of our operations in Australia which were sold on October 1, 2009.

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

N/A = Not Applicable

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

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

(3) Our South America, Central America and the Caribbean segment includes our operations in Venezuela, Colombia and the operations listed in note 4 below; however, in the above table, our operations in Venezuela and Colombia are presented separately from our other operations in the segment for purposes of the presentation of our operations in the region. Our consolidated financial statements for the year ended December 31, 2008 include the results from operations relating to Venezuela for the entire year ended December 31, 2007 and for only the seven-month period ended July 31, 2008 due to the expropriation of CEMEX Venezuela. See note 12A to our consolidated financial statements included elsewhere in this annual report.

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

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

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

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

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

On a consolidated basis, our cement sales volumes decreased approximately 10%, from 87.3 million tons in 2007 to 78.5 million tons in 2008, and our ready-mix concrete sales volumes decreased approximately 8%, from 77.3 million cubic meters in 2007 to 71.0 million cubic meters in 2008. Our net sales decreased approximately 1%, from approximately Ps228.2 billion in 2007 to approximately Ps225.7 billion in 2008, and our operating income decreased approximately 17%, from Ps31.6 billion in 2007 to approximately Ps26.1 billion in 2008.

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

Geographic Segment	Variations in Local Currency (1)	Approximate Currency Fluctuations, Net of Inflation Effects	Variations in Mexican Pesos	Net Sales For the Year Ended December 31, 2007	Net Sales For the Year Ended December 31, 2008
				(in millions of Pesos)	
North America					
Mexico	+2%	—	+2%	41,814	42,856
United States(2)	-5%	—	-5%	54,607	52,040
Europe					
Spain	-26%	—	-26%	23,781	17,493
United Kingdom	-8%	-6%	-14%	22,432	19,225
Rest of Europe	+4%	+2%	+6%	47,100	49,819
South/Central America and the Caribbean(3)					
Venezuela	-38%	-1%	-39%	7,317	4,443
Colombia	+8%	+3%	+11%	6,029	6,667
Rest of South/Central America and the Caribbean(4)	+20%	+2%	+22%	10,722	13,044
Africa and Middle East(5)					
Egypt	+35%	+5%	+40%	3,723	5,219
Rest of Africa and the Middle East(6)	+42%	+4%	+46%	4,666	6,831
Asia(7)					
Philippines	Flat	-8%	-8%	3,173	2,928
Rest of Asia(8)	+25%	+2%	+27%	2,068	2,626
Others(9)	-32%	+1%	-31%	17,872	12,362
Net sales before eliminations			-4%	245,304	235,553
Eliminations from consolidation				(17,152)	(9,888)
Consolidated net sales			-1%	228,152	225,665

Geographic Segment	Variations in Local Currency (1)	Approximate Currency Fluctuations, Net of Inflation Effects	Variations in Mexican Pesos	Operating Income For the Year Ended December 31, 2007	2008
				(in millions of Pesos)	
North America					
Mexico	+14	—	+14%	12,549	14,254
United States(2)	-99%	-3%	-102%	5,966	(111)
Europe					
Spain	-35%	-1%	-36%	6,028	3,883
United Kingdom	-91%	+12%	-79%	(446)	(801)
Rest of Europe	+27%	-12%	+15%	3,281	3,781
South/Central America and the Caribbean(3)					
Venezuela	-49%	-2%	-51%	1,971	958
Colombia	+7%	+3%	+10%	2,037	2,235
Rest of South/Central America and the Caribbean(4)	+31%	+2%	+33%	1,975	2,622
Africa and Middle East(5)					
Egypt	+33%	+4%	+37	1,534	2,104
Rest of Africa and the Middle East(6)	+1,053%	+15%	+1,068%	(51)	494
Asia(7)					
Philippines	-9%	-7%	-16%	851	711
Rest of Asia(8)	-7%	-11%	-18%	33	27
Others(9)	-11%	+10%	-1%	(4,118)	(4,069)
Consolidated operating income			-17%	31,610	26,088

N/A = Not Applicable

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

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

(3) Our South America, Central America and the Caribbean segment includes our operations in Venezuela, Colombia and the operations listed in note 4 below; however, in the above table, our operations in Venezuela and Colombia are presented separately from our other operations in the segment. Our consolidated financial statements for the year ended December 31, 2008 include the results from operations relating to Venezuela for the entire year ended December 31, 2007 and for only the seven-month period ended July 31, 2008 due to the expropriation of CEMEX Venezuela. See note 12A to our consolidated financial statements included elsewhere in this annual report.

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

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

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

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

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

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

Net Sales. Our consolidated net sales decreased approximately 1%, from approximately Ps228.2 billion in 2007 to approximately Ps225.7 billion in 2008. The decrease in net sales was primarily attributable to the decreases shown in our main operating segments including Spain, the United Kingdom and the United States. The decreases in the United States were partially attributable to the consolidation of the results of our U.S. Rinker operations for an additional six months during 2008. These decreases were partially offset by an increase in net sales in our Africa and Middle East segment. Set forth below is a quantitative and qualitative analysis of the effects of the various factors affecting our net sales on a geographic segment basis.

Mexico

Our Mexican operations' domestic cement sales volumes decreased approximately 4% in 2008 compared to 2007, and ready-mix concrete sales volumes decreased approximately 6% during the same period. Our Mexican operations' net sales represented approximately 19% of our total net sales in 2008, in Peso terms, before eliminations resulting from consolidation. The residential and infrastructure sectors continue to be the main drivers of cement demand in the country. In 2008, activity from other construction sectors started to soften as they were affected by the overall challenging macroeconomic environment. Our Mexican operations' cement export volumes, which represented approximately 7% of our Mexican cement sales volumes in 2008, decreased approximately 8% in 2008 compared to 2007, primarily as a result of lower export volumes to the United States. Of our Mexican operations' total cement export volumes during 2008, 56% was shipped to the United States, 37% to Central America and the Caribbean and 7% was shipped to South America. Our Mexican operations' average domestic sales price of cement increased approximately 5% in Peso terms in 2008 compared to 2007, and the average sales price of ready-mix concrete increased approximately 4% in Peso terms over the same period. For the year ended December 31, 2008, cement represented approximately 57%, ready-mix concrete approximately 26% and our aggregates and other businesses approximately 17% of our Mexican operations' net sales before eliminations resulting from consolidation.

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

United States

Our U.S. operations' domestic cement sales volumes, which include cement purchased from our other operations, decreased approximately 14% in 2008 compared to 2007, and ready-mix concrete sales volumes decreased approximately 13% during the same period, including the consolidation of the results of Rinker operations in such country for an additional six months during 2008. The decreases in our U.S. operations' domestic cement and ready-mix concrete sales volumes resulted primarily from significantly weaker demand in all of our U.S. markets, as decreased confidence and lower activity across all sectors resulted in lower volumes. Overall construction activity weakened further as economic conditions continued to worsen and credit availability became very scarce. Our United States operations represented approximately 23% of our total net sales in 2008 in Peso terms, before eliminations resulting

from consolidation. Our U.S. operations average sales price of domestic cement decreased approximately 1% in Dollar terms in 2008 compared to 2007, and the average sales price of ready-mix concrete decreased approximately 1% in Dollar terms over the same period. The decreases in average prices were primarily due to decreased demand as a result of recessionary economic conditions and tight credit availability. For the year ended December 31, 2008, cement represented approximately 27%, ready-mix concrete approximately 30% and our aggregates and other businesses approximately 43% of our United States operations' net sales before eliminations resulting from consolidation.

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

Spain

Our Spanish operations' domestic cement sales volumes decreased approximately 30% in 2008 compared to 2007, while ready-mix concrete sales volumes decreased approximately 26% during the same period. The decreases in domestic cement and ready-mix concrete sales volumes were the result of the country's continued challenging economic environment. Our Spanish operations' 2008 net sales represented approximately 8% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Spanish operations' cement export volumes, which represented approximately 5% of our Spanish cement sales volumes in 2008, increased substantially by approximately 302% in 2008 compared to 2007, primarily as a result of sales of cement for the North of Africa and the Mediterranean markets. Of our Spanish operations' total cement export volumes in 2008, 27% was shipped to Europe and the Middle East, 72% to Africa, and 1% to other countries. Our Spanish operations' average domestic sales price of cement increased approximately 4% in Euro terms in 2008 compared to 2007, and the average price of ready-mix concrete increased approximately 4% in Euro terms over the same period. For the year ended December 31, 2008, cement represented approximately 54%, ready-mix concrete approximately 24% and our other businesses approximately 22% of our Spanish operations' net sales before eliminations resulting from consolidation.

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

United Kingdom

Our United Kingdom operations' domestic cement sales volumes decreased approximately 16% in 2008 compared to 2007, and ready-mix concrete sales volumes decreased approximately 21% during the same period. The decreases in domestic cement and ready-mix concrete sales volumes resulted primarily from a deteriorating macroeconomic environment in the United Kingdom. Lower liquidity affected construction spending and the initiation of new projects in all market segments. The decrease in the domestic cement demand during 2008 was primarily driven by less construction spending and fewer new projects. Our United Kingdom operations' 2008 net sales represented approximately 9% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our United Kingdom operations' average domestic sales price of cement increased approximately 8% in Pound terms in 2008 compared to 2007, and the average price of ready-mix concrete increased approximately 8% in Pound terms over the same period. For the year ended December 31, 2008, cement represented approximately 14%, ready-mix concrete approximately 29% and our aggregates and other businesses approximately 57% of our United Kingdom operations' net sales before eliminations resulting from consolidation.

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

Rest of Europe

Our operations in our Rest of Europe segment in 2008 consisted of our operations in Germany, France, Croatia, Poland, Latvia, the Czech Republic, Ireland, Italy, Austria, Hungary, Portugal, Finland, Norway and Sweden. Our Rest of Europe operations' domestic cement sales volumes decreased approximately 3% in 2008 compared to 2007, and ready-mix concrete sales volumes decreased approximately 1% during the same period. The decrease in domestic cement and ready-mix concrete sales volumes resulted primarily from a general decline in activity in the residential, non-residential and infrastructure sectors, which was partially offset by increases in our domestic cement and ready-mix concrete sales volumes in our German operations. Our Rest of Europe operations' net sales for the year ended December 31, 2008 represented approximately 22% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Rest of Europe operations' average domestic sales price of cement increased approximately 13% in Euro terms in 2008 compared to 2007, and the average price of ready-mix concrete increased approximately 6% in Euro terms over the same period. For the year ended December 31, 2008, cement represented approximately 25%, ready-mix concrete approximately 47% and our other businesses approximately 28% of our Rest of Europe operations' net sales before eliminations resulting from consolidation.

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

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

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

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

South America, Central America and the Caribbean

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

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

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

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

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

Africa and the Middle East

Our operations in Africa and the Middle East consist of our operations in Egypt, the UAE and Israel. Our Africa and Middle East operations' domestic cement sales volumes increased approximately 8% in 2008 compared to 2007, and ready-mix concrete sales volumes remained flat during the same period. The increase in domestic cement sales volumes increased primarily as a result of the increase in demand in our Egyptian operations. For the year ended December 31, 2008, Africa and the Middle East represented approximately 5% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Africa and the Middle

East operations' average domestic sales price of cement increased approximately 28% in Dollar terms in 2008, and the average price of ready-mix concrete increased approximately 36% in Dollar terms over the same period. For the year ended December 31, 2008, cement represented approximately 37%, ready-mix concrete approximately 46% and our other businesses approximately 17% of our African and the Middle East operations' net sales before eliminations resulting from consolidation.

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

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

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

Asia

Our operations in Asia consist of our operations in the Philippines, Thailand, Bangladesh, Taiwan, Malaysia, and the limited operations we acquired from Rinker in China. Our Asian operations' domestic cement sales volumes decreased approximately 1% in 2008 compared to 2007. Our Asian operations' ready-mix concrete sales volumes increased approximately 19% in 2008 compared to 2007, primarily due to the consolidation of the results of the operations we acquired from Rinker in China for an additional six months in 2008 compared to 2007. The average sales price of ready-mix concrete in our Asian operations increased by approximately 28% in Dollar terms in 2008 compared to 2007. The main drivers of demand in the segment continue to be the commercial and infrastructure sectors.

For the year ended December 31, 2008, Asia represented approximately 2% of our total net sales in Peso terms, before eliminations resulting from consolidation. Our Asian operations' cement export volumes, which represented approximately 21% of our Asian operations' cement sales volumes in 2008, decreased approximately 35% in 2008 compared to 2007 primarily due to decreased cement demand in the Europe region. Of our Asian operations' total cement export volumes during 2008, approximately 47% was shipped to Africa, 40% was shipped to Europe and 13% to southeast Asia. For the year ended December 31, 2008, cement represented approximately 66%, ready-mix concrete approximately 27% and our other businesses approximately 7% of our Australian and Asian operations' net sales before eliminations resulting from consolidation.

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

Our Rest of Asia operations' ready-mix concrete sales volumes, which include our Malaysian operations (representing nearly all our ready-mix concrete sales volumes in the Rest of Asia region), increased approximately 19% in 2008 compared to 2007. The average sales price of ready-mix concrete increased approximately 28%, in Dollar terms, during 2008. For the reasons mentioned above, net sales of our Rest of Asia operations, in Dollar terms, increased approximately 25% in 2008 compared to 2007. For the year ended December 31, 2008, cement represented approximately 29%, ready-mix concrete approximately 56% and our other businesses approximately 15% of our Rest of Asia operations' net sales before eliminations resulting from consolidation.

For the reasons described above, our Asian operations' net sales in Dollar terms increased approximately 5% in 2008 compared to 2007. Substantially all the increase in net sales in our Asian operations during 2008 compared to 2007 resulted from the consolidation of our China operations acquired from Rinker for an additional six months in 2008 compared to 2007, which was partially offset by the decrease in net sales in the Philippines.

Others

Our Others segment includes our worldwide cement, clinker and slag trading operations, our information technology solutions company and other minor subsidiaries. Net sales of our Others segment decreased approximately 33% before eliminations resulting from consolidation in 2008 compared to 2007 in Dollar terms, primarily as a result of a decrease of approximately 26% in our worldwide cement, clinker and slag trading operations and a decrease of approximately 19% in our information technology solutions company. For the year ended December 31, 2008, our trading operations' net sales represented approximately 57% and our information technology solutions company 22% of our Others segment's net sales.

*Cost of Sale*s. Our cost of sales, including depreciation, increased approximately 2%, from approximately Ps151.4 billion in 2007 to approximately Ps154 billion in 2008, primarily due to the consolidation of the results of Rinker operations in the United States for an additional six months during 2008, as well as higher electricity cost and lower economies of scale resulting from lower volumes. These increases in cost were partially offset by the sale of emission allowances for approximately U.S.$310 million. According to our policy, these revenues are viewed as a reduction of our consolidated cost of sales. As a percentage of net sales, cost of sales increased from 66% in 2007 to 68% in 2008. In our cement and aggregates business, we have several producing plants and many selling points. Our cost of sales excludes freight expenses of finished products from our producing plants to our selling points, the expenses related to personnel and equipment comprising our selling network and those expenses related to warehousing at the points of sale, which were included as part of our administrative and selling expenses line item in the amount of approximately Ps10.4 billion in 2007 and Ps11.1 billion in 2008. Likewise, cost of sales excludes freight expenses from the points of sale to the customers' locations, which are

included as part of our distribution expenses line item and which, for the years ended December 31, 2007 and 2008, represented expenses of approximately Ps13.1 billion and Ps13.4 billion, respectively. Cost of sales include the expenses related to warehousing at the producing plants as well as transfer costs within our producing plants.

Gross Profit. For the reasons explained above, our gross profit decreased approximately 7%, from approximately Ps76.7 billion in 2007 to Ps71.7 billion in 2008. As a percentage of net sales, gross profit decreased from approximately 34% in 2007 to 32% in 2008. In addition, our gross profit may not be directly comparable to those of other entities that include in cost of sales freight expenses of finished products from the producing plants to their selling points, and the costs related to their sales force and warehousing at the point of sale, which in CEMEX are included within administrative and selling expenses, and the cost associated with freight to the customers' locations, which in CEMEX are included as part of our distribution expenses, and which in aggregate represented costs of approximately Ps23.4 billion in 2007 and Ps24.4 billion in 2008.

Operating Expenses. Our operating expenses increased approximately 1%, from approximately Ps45.1 billion in 2007 to Ps45.6 billion in 2008, mainly as a result of the consolidation of the results of Rinker operations in the United States for an additional six months during 2008, which was partially mitigated by our cost-reduction initiatives. As a percentage of net sales, our operating expenses remained flat in 2007 compared to 2008, reflecting our cost-reduction efforts. Operating expenses include administrative, selling and distribution expenses. See note 2R to our consolidated financial statements included elsewhere in this annual report.

Operating Income. For the reasons mentioned above, our operating income decreased approximately 17%, from approximately Ps31.6 billion in 2007 to approximately Ps26.1 billion in 2008. As a percentage of net sales, operating income decreased from approximately 14% in 2007 to 12% in 2008. Additionally, set forth below is a quantitative and qualitative analysis of the effects of the various factors affecting our operating income on a geographic segment basis.

Mexico

Our Mexican operations' operating income increased approximately 14%, from approximately Ps12.5 billion in 2007 to Ps14.3 billion in 2008 in Peso terms. The increase in operating income was primarily attributable to our cost-reduction initiatives and increases in average domestic cement and ready-mix concrete sales prices, partially offset by the reduction in sales volumes due to the overall challenging macroeconomic environment.

United States

Our U.S. operations' operating income decreased substantially, from approximately Ps6 billion in 2007 to an operating loss of Ps111 million in 2008 in Peso terms. As mentioned above, the decrease in operating income resulted primarily from a significantly weaker demand in all of our U.S. markets, as decreased confidence and lower activity across all sectors resulted in lower volumes. Overall construction activity weakened further as economic conditions continued to worsen and credit availability became very scarce.

Spain

Our Spanish operations' operating income decreased approximately 36%, from approximately Ps6 billion in 2007 to approximately Ps3.9 billion in 2008 in Peso terms and 35% in Euro terms. The decrease in operating income resulted primarily from the country's continued challenging economic environment.

United Kingdom

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

Rest of Europe

Our Rest of Europe operations' operating income increased approximately 15%, from approximately Ps3.3 billion in 2007 to approximately Ps3.8 billion in 2008 in Peso terms and 27% in Euro terms. The increase in our Rest of Europe operations' operating income resulted from increases in average domestic cement and ready-mix concrete sales prices, partially offset by decreases in domestic cement and ready-mix concrete sales volume.

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

In France, operating income increased approximately 39%, from Ps926 million in 2007 to approximately Ps1.3 billion in 2008 in Peso terms. In Euro terms, operating income increased by 39%. The increase in Euro terms resulted primarily from an increase in net sales described above complemented by a decrease in operating expenses.

South America, Central America and the Caribbean

Our South America, Central America and the Caribbean operations' operating income decreased approximately 3%. from approximately Ps6 billion in 2007 to approximately Ps5.8 billion in 2008 in Peso terms. In Dollar terms, operating income remained flat for the same period. The decrease in operating income was primarily attributable to the consolidation of CEMEX Venezuela for an additional five months in 2007 compared to 2008 due to the expropriation by the Venezuelan government, which was partially offset by an increase in net sales in Dollar terms.

In Colombia, operating income increased approximately 10%, from approximately Ps2.0 billion in 2007 to approximately Ps2.2 billion in 2008 in Peso terms. In Dollar terms, operating income increased 12% for the same period. The increase resulted primarily from increases in average domestic cement and ready-mix concrete sales prices, partially offset by decreases in domestic cement and ready-mix concrete sales volumes.

Africa and the Middle East

Our Africa and the Middle East operations' operating income increased approximately 75%, from approximately Ps1.5 billion in 2007 to approximately Ps2.6 billion in 2008 in Peso terms. In Dollar terms, the increase in operating income was approximately 76% during the same period. The increase in operating income resulted primarily from increases in average ready-mix concrete sales volumes and domestic cement and ready-mix concrete sales prices.

Operating income from our Egyptian operations increased approximately 37%, from approximately Ps1.5 billion in 2007 to approximately Ps2.1 billion in 2008 in Peso terms and 38% in Dollar terms, primarily as a result of higher demand after the holidays and lower steel prices which had a positive effect on cement consumption. High-income housing started to slow down in response to the macroeconomic situation, while the self-construction sector maintained its stability. Our Rest of Africa and the Middle East operations increased from an operating loss of Ps51 million in 2007 to an operating income of Ps494 million in 2008 in Peso terms. The increase in operating income in Dollar terms in the Rest of Africa and Middle East resulted primarily from an increase in net sales.

Asia

Our Asia operations' operating income decreased approximately 17%, from Ps884 million in 2007 to Ps738 million in 2008 in Peso terms and 58% in Dollar terms. The decrease in operating income resulted primarily from the consolidation of Rinker's operations for an additional six months in 2008 compared to 2007.

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

Others

Operating loss in our Others segment decreased approximately 1%, from a loss of approximately Ps4.1 billion in 2007 to a loss of approximately Ps4.1 billion in 2008 in Peso terms. The decrease in operating loss can be primarily explained by an improvement in operative expenses in some of our subsidiaries.

Other Expenses, Net. Our other expenses, net, increased significantly, from approximately Ps3.3 billion in 2007 to approximately Ps21.5 billion in 2008, primarily due to the impairment losses of goodwill and other long-lived assets in the amount of approximately Ps21.1 billion as described in notes 6, 9 and 10 to our consolidated financial statements included elsewhere in this annual report.

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

	2007	2008
	(in millions of Pesos)	
Impairment losses	Ps (195)	Ps(21,125)
Restructuring costs	(1,058)	(3,141)
Charitable contributions	(367)	(174)
Current and deferred ESPS	(246)	2,283
Results from sales of assets and others, net	(1,118)	754
	Ps(2,984)	Ps (21,403)

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

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

- appreciation or depreciation resulting from the valuation of financial instruments, including derivative instruments and marketable securities, as well as the realized gain or loss from the sale or liquidation of such instruments or securities;
- foreign exchange gains or losses associated with monetary assets and liabilities denominated in foreign currencies; and
- beginning in 2008, gains and losses resulting from having monetary liabilities or assets exposed to inflation (monetary position result) in countries under high inflation environments. Until December 31, 2007, monetary position results were calculated on each country's net monetary position no matter the level of inflation.

	Year Ended December 31,	
	2007	2008
	(in millions of Pesos)	
Comprehensive financing result:		
Financial expense	Ps(8,808)	Ps(10,199)
Financial income	823	513
Results from financial instruments	2,387	(15,172)
Foreign exchange result	(274)	(3,886)
Monetary position result	6,890	418
Comprehensive financing result	Ps 1,018	Ps(28,326)

Our comprehensive financing result decreased from a gain of approximately Ps1.0 billion in 2007 to a loss of approximately Ps28.3 billion in 2008. The components of the change are shown above. Our financial expense increased approximately 16%, from Ps8.8 billion in 2007 to approximately Ps10.2 billion in 2008. The increase was primarily attributable to the increase in our total debt resulting from the acquisition of Rinker in 2007, which was partially mitigated by the lower interest rates and the effect of our interest rate derivatives position. Our financial income decreased 38%, from Ps823 million in 2007 to Ps513 million in 2008. The decrease was primarily due to a decline in our short-term investments as well as the lower interest rates. Our results from financial instruments decreased significantly, from a gain of approximately Ps2.4 billion in 2007 to a loss of approximately Ps15.2 billion in 2008, primarily attributable to significant valuation changes in our derivatives financial instrument portfolio during 2008 compared to 2007 (discussed below). Our net foreign exchange result deteriorated from a loss of Ps274 million in 2007 to a loss of approximately Ps3.9 billion in 2008, mainly due to the depreciation of the Mexican Peso and the Euro against the Dollar. Our monetary position result (generated by the recognition of inflation effects over monetary assets and liabilities) decreased approximately 94%, from a gain of approximately Ps6.9 billion during 2007 to a gain of Ps418 million during 2008, mainly because until December 31, 2007, this effect was determined for all subsidiaries without considering the inflation level, while commencing January 1, 2008 this effect is determined only for high-inflation environment countries as discussed in note 2S to our consolidated financial statements included elsewhere in this annual report.

Derivative Financial Instruments. For the years ended December 31, 2007 and 2008, our derivative financial instruments that had a potential impact on our comprehensive financing result consisted of foreign exchange derivative instruments (excluding our foreign exchange forward contracts designated as hedges of our net investment in foreign subsidiaries), interest rate swaps, cross-currency swaps, including our derivative instruments related to the issuance of the Perpetual Debentures by consolidated entities, equity forward contracts and interest rate derivatives related to energy projects as discussed in notes 13C and 13D to our consolidated financial statements included elsewhere in this annual report.

For the year ended December 31, 2008, we had a net loss of approximately Ps15.2 billion in the item "Results from financial instruments" as compared to a net gain of approximately Ps2.4 billion in 2007. The loss in 2008 is mainly attributable to valuation losses related to changes in the fair value of equity forward contracts for approximately Ps7.8 billion, cross-currency swaps and other currency derivatives for approximately Ps7 billion and interest rate derivatives for approximately Ps2.4 billion. These losses were

partially offset by a net valuation gain of approximately Ps1,963 in connection with changes in the fair value of our cross-currency swaps related to the Perpetual Debentures, exchanging Dollars for Japanese Yen and gains in other marketable securities of approximately Ps80 million. The losses related to equity forward contracts are attributable to the generalized decline of price levels in all the capital markets worldwide. The decline in our debt related cross-currency swaps is primarily attributable to the appreciation of the Dollar against the Euro. The estimated fair value loss of the interest rate derivatives is primarily attributable to the decrease in the five-year interest rates in Euros and Dollars. The estimated fair value gain of the cross-currency swaps associated with the Perpetual Debentures is primarily attributable to the decrease in the ten-year Yen interest rate.

Income Taxes. Our effective tax rate decreased significantly, from 14.4% in 2007 to (101.0%) in 2008. Our tax expense, which primarily consisted of income taxes plus deferred taxes, decreased significantly, from an expense of approximately Ps4.5 billion in 2007 to an income of approximately Ps23 billion in 2008. Our current income tax expense increased 66% from approximately Ps4.5 billion in 2007 to approximately Ps8 billion in 2008. Our deferred tax benefit increased significantly, from Ps336 million in 2007 to Ps31 billion in 2008. The increase was attributable to a deferred tax benefit resulting from changes in the value of our net investments, operating losses, and the favorable resolution of certain tax contingencies. For the years ended December 31, 2007 and 2008, our statutory income tax rate was 28%.

Consolidated Net Income. For the reasons described above, our consolidated net income (before deducting the portion allocable to non-controlling interest) for 2008 decreased approximately Ps24.6 billion, or 91%, from approximately Ps26.9 billion in 2007 to Ps2.3 billion in 2008. As a percentage of net sales, consolidated net income decreased from 12% in 2007 to 1% in 2008.

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

Non-controlling Interest Net Income. Non-controlling interest net income decreased approximately 95%, from Ps837 million in 2007 to Ps45 million in 2008, mainly as a result of a significant decrease in the net income of the consolidated entities in which others have a non-controlling interest. The percentage of our consolidated net income allocable to non-controlling interests decreased from 3% in 2007 to 2% in 2008. Controlling interest net income decreased by approximately 91%, from approximately Ps26.1 billion in 2007 to approximately Ps2.3 billion in 2008. As a percentage of net sales, controlling interest net income decreased from 11% in 2007 to 1% in 2008.

Liquidity and Capital Resources

Operating Activities

We have satisfied our operating liquidity needs primarily through operations of our subsidiaries and expect to continue to do so for both the short and long-term. Although cash flow from our operations has historically met our overall liquidity needs for operations, by servicing debt and funding capital expenditures and acquisitions, our subsidiaries are exposed to risks from changes in foreign currency exchange rates, price and currency controls, interest rates, inflation, governmental spending, social instability and other political, economic and/or social developments in the countries in which they operate, any one of which may materially reduce our net income and cash from operations. Consequently, we also rely on cost-cutting and operating improvements to optimize capacity utilization and maximize profitability. Our consolidated net cash flows provided by operating activities were approximately Ps45.6 billion in 2007, and our cash flows provided by continuing operations were Ps38.5 billion in 2008 and Ps33.7 billion in 2009.

Operating cash flows from discontinued operations in Australia were Ps2.8 billion in 2008 and Ps1.0 billion in 2009. Due to the specific geographical characteristics of the segment, discontinued cash flows are not expected to be recovered via synergies or other strategies. See our Statements of Cash Flows for 2009 and 2008 and our Statement of Changes in Financial Position for 2007, included elsewhere in this annual report.

Sources and Uses of Cash

Beginning in 2008, the new MFRS B-2, Statement of Cash Flows ("MFRS B-2"), established the incorporation of a new cash flow statement, included elsewhere in this annual report, which presents cash inflows and outflows in nominal currency as part of the basic financial statements, replacing the statement of changes in financial position, which included inflation effects and foreign exchange effects not realized. Considering transition rules under MFRS B-2, only the cash flow statement is presented for the periods 2008 and 2009, and the statements of changes in financial position, included elsewhere in this annual report, for the year ended December 31, 2007, are presented in constant Pesos as of December 31, 2007.

As a result, our review of sources and uses of resources presented below for 2008 and 2009 refers to nominal amounts included in our statement of cash flows for 2008 and 2009, respectively, while our review for 2007 refers to constant Peso amounts as of December 31, 2007, included in our statements of changes in the financial position at the end of 2007.

Our primary sources and uses of cash during the years ended December 31, 2007, 2008 and 2009 were as follows:

	2008	2009
	(in millions of Pesos)	
Operating activities		
Controlling interest net income	Ps2,323	Ps1,649
Discontinued operations	2,097	(4,276)
Net income from continuing operations	226	5,925
Non-cash items	40,555	34,603
Changes in working capital, excluding financial expense and income taxes	1,299	(2,599)
Net cash flows provided by operating activities before interest expense and income taxes	42,080	37,929
Income taxes paid in cash	(3,625)	(4,201)
Net cash flows provided by continuing operations	38,455	33,728
Net cash flow provided by discontinued operations	2,817	1,023
Net cash flows provided by operating activities	41,272	34,751
Investing activities		
Property, machinery and equipment, net	(20,511)	(6,655)
Disposal of subsidiaries and associates, net	10,845	21,115
Other investments	(3,597)	(8,254)
Net cash flows (used in) provided by investing activities of continuing operations	(13,263)	6,206
Net cash flows used in investing activities of discontinued operations	(1,367)	(491)
Net cash flows (used in) provided by investing activities	(14,630)	5,715
Financing activities		
Repayment of debt, net	(3,611)	(35,812)
Financial expense paid in cash including Perpetual Debentures	(11,784)	(14,607)
Issuance of common stock	—	23,953
Dividends paid	(215)	—
Financing derivatives	(9,909)	(8,513)
Non-current liabilities, net	1,471	(2,795)
Net cash flows used in financing activities of continuing operations	(24,048)	(37,774)
Net cash flows provided by financing activities of discontinued operations	359	628
Net cash flows used in financing activities	(23,689)	(37,146)
Conversion effects	1,277	(2,116)
Increase in cash and cash equivalents of continuing operations	1,144	2,160
Increase in cash and cash equivalents of discontinued operations	1,809	1,160
Cash and cash equivalents at beginning of year	8,670	12,900
Cash and cash equivalents at end of year	Ps12,900	Ps14,104

	2007 (in millions of Pesos)
Operating activities	
Controlling interest net income	Ps26,108
Non-cash items	17,804
Net change in working capital	1,713
Net resources provided by operating activities	45,625
Investing activities	
Capital expenditures, net of disposals	(21,779)
Disposal (acquisition) of subsidiaries and associates	(146,663)
Other investments and monetary foreign currency effect	(17,356)
Net resources used in investing activities	(185,798)
Financing activities	
Proceeds from debt (repayments), net, excluding debt assumed through business acquisitions	114,065
Issuance of Perpetual Debentures, net of interest paid	16,981
Issuance of common stock	6,399
Dividends paid	(6,636)
Other financing activities, net	(460)
Net resources provided by (used in) in financing activities	130,349
Increase (decrease) in cash and cash equivalents	(9,824)
Cash and cash equivalents at beginning of year	18,494
Cash and cash equivalents at end of year	Ps8,670

2009. During 2009, in nominal Peso terms and including the negative foreign currency effect of our initial balances of cash and cash equivalents generated during the period of approximately Ps2.1 billion, there was an increase in cash and cash equivalents of continuing and discontinued operations of approximately Ps2.2 billion and Ps1.2 billion, respectively. This increase was generated by net cash flows provided by operating activities, which after income taxes paid in cash of approximately Ps4.2 billion, amounted to approximately Ps34.8 billion, and by net resources provided by investing activities of approximately Ps5.7 billion, which were partially offset by net resources used in financing activities of approximately Ps37.1 billion.

For the year ended December 31, 2009, our net resources provided by operating activities included a net increase in working capital of approximately Ps2.6 billion, which was mainly generated by decreases in trade payables and other accounts payable and accrued expenses for an aggregate amount of approximately Ps10.6 billion, partially offset by decreases in trade receivables and other accounts receivable and decreases in inventories for an aggregate amount of approximately Ps8 billion.

During 2009, our net resources used in financing activities of approximately Ps37.1 billion included new borrowings of approximately Ps40.2 billion which, in conjunction with net resources provided by operating activities and resources obtained from the sale of subsidiaries and affiliates of approximately Ps21.1 billion and the equity issuance of approximately Ps24 billion, were disbursed mainly in connection with: a) debt repayments of approximately Ps76.0 billion; b) net losses realized in derivative financial instruments of approximately Ps8.5 billion; c) capital expenditures of approximately Ps8.7 billion; d) financial expenses, including perpetual instruments, for approximately Ps14.6 billion; and e) restructuring fees for approximately Ps8.4 billion.

The resources obtained during 2009 from the sale of subsidiaries and associates for approximately Ps21.1 billion principally consisted of the sale of our operations in Australia. See note 4B to our consolidated financial statements included elsewhere in this annual report.

2008. During 2008, in nominal Peso terms and including the positive foreign currency effect of our initial balances of cash and cash equivalents generated during the period of approximately Ps1.3 billion, there was an increase in cash and cash equivalents of continuing and discontinued operations of approximately Ps1.2 billion and Ps1.8 billion, respectively. This increase was generated by net cash flows provided by operating activities, which after income taxes paid in cash of approximately Ps3.6 billion, amounted to approximately Ps41.3 billion, which was partially offset by net resources used in investing activities of approximately Ps14.6 billion and by net resources used in financing activities for approximately Ps23.7 billion.

For the year ended December 31, 2008, our net resources provided by operating activities included a net reduction in working capital of approximately Ps1.3 billion, which was mainly generated by decreases in trade receivables resulting from our securitization programs in Mexico and the U.S. and decreases in other accounts receivable and other assets for an aggregate amount of approximately Ps4.7 billion, partially offset by increases in inventories and decreases in trade payables and other accounts payable and accrued expenses for an aggregate amount of approximately Ps3.4 billion.

During 2008, our net resources used in financing activities of approximately Ps23.7 billion included new borrowings of approximately Ps59.6 billion, which in conjunction with net resources provided by operating activities and resources obtained from the sale of subsidiaries and affiliates of approximately Ps10.8 billion, were disbursed mainly in connection with: a) debt repayments of approximately Ps63.2 billion; b) net losses realized in derivative financial instruments of approximately Ps9.9 billion; c) capital expenditures for approximately Ps23.2 billion; and d) financial expenses, including those relating to the Perpetual Debentures, for approximately Ps11.8 billion.

The resources obtained during 2008 from the sale of subsidiaries and affiliates for approximately Ps10.8 billion principally consisted of the sale of a 9.5% interest in Axtel, S.A.B. de C.V. (“AXTEL”), the sale/contribution of assets to our associate, Ready Mix USA LLC, the sale of our operations in the Canary Islands and the sale of our operations in Italy, all of which occurred in 2008 and are detailed in notes 10A and 12A to our consolidated financial statements included elsewhere in this annual report.

2007. As of December 31, 2007, in constant Peso terms as of the same date, there was a decrease in cash and cash equivalents of approximately Ps9.8 billion. This decrease was generated by net resources used in investing activities of approximately Ps185.8 billion, which was partially offset by net resources provided by operating activities of approximately Ps45.6 billion and net resources provided by financing activities of approximately Ps130.3 billion.

For the year ended December 31, 2007, our net resources provided by operating activities included net resources from working capital of approximately Ps1.7 billion, which were mainly originated by decreases in trade receivables resulting from our securitization programs in Mexico and the U.S., decreases in other accounts receivable and other assets and increases in other accounts payable for an aggregate amount of approximately Ps3.5 billion, partially offset by increases in inventories and decreases in trade payables for an aggregate amount of approximately Ps1.8 billion.

During 2007, our net resources provided by financing activities for approximately Ps130.3 billion included new borrowings for approximately Ps206.7 billion and the issuance of Perpetual Debentures for approximately Ps18.8 billion, which, in conjunction with net resources provided by operating activities, were disbursed mainly in connection with: a) the acquisition of Rinker, net of cash and cash equivalents as well as net of assets sold in December 2007 as required by the Department of Justice of the United States for approximately Ps169.5 billion, including debt assumed of approximately Ps 13.9 billion; b) debt repayments of approximately Ps84.4 billion; and c) capital expenditures for approximately Ps22.3 billion.

Capital Expenditures

As of December 31, 2009, in connection with our significant projects, we had contractually committed capital expenditures of approximately U.S.$854 million, including our base capital expenditures expected to be incurred in 2010. This amount is expected to be incurred over the next 2.5 years, according to the evolution of the related projects. Our capital expenditures incurred for the years ended December 31, 2009 and 2008, and our expected capital expenditures during 2010, which include an allocation to 2010 of a portion of our total future committed amount, are as follows:

	Actual		Estimated in
	2008	2009	2010
	(in millions of Dollars)		
North America(1)	U.S.$888	144	228
Europe(2)	790	314	237
Central and South America and the Caribbean(3)	171	104	94
Africa and the Middle East	85	28	35
Asia and Australia (in 2009, Asia only)	90	8	15
Others(4)	129	38	21
Total consolidated	U.S.$2,153	636	630
Of which:			
Expansion capital expenditures(5)	U.S.$1,591	401	205
Base capital expenditures(6)	562	235	425

(1) In North America, our estimated capital expenditures during 2010 include amounts related to the expansion of the Tepeaca plant in Mexico and the expansion of the Balcones plant in the United States.

(2) In Europe, our estimated capital expenditures during 2010 include amounts related to the construction of the new cement production facility in Teruel, Spain and the expansion of our cement plant in Latvia.

(3) In Central and South America and the Caribbean, our estimated capital expenditures during 2010 include the construction of the new kiln in Panama.

(4) Our "Others" capital expenditures expected during 2010 and thereafter include our trading activities as well as our corporate requirements.

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

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

Pursuant to the Financing Agreement, we are prohibited from making aggregate capital expenditures in excess of U.S.$700 million for the year ending December 31, 2010 and U.S.$800 million for each year thereafter until the debt under the Financing Agreement has been repaid in full.

Our Indebtedness

As of December 31, 2009, we had approximately Ps211.1 billion (U.S.$16.1 billion) of total debt, not including approximately Ps39.9 billion (U.S.$3.0 billion) of the Perpetual Debentures, which are not accounted for as debt under MFRS but are considered to be debt for purposes of U.S. GAAP. See notes 13A, 17D and 25 to our consolidated financial statements included elsewhere in this annual report. As of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, we had approximately U.S.$17.3 billion (Ps226.1 billion) of consolidated debt, not including approximately U.S.$1.3 billion (Ps17.6 billion) of Perpetual Debentures outstanding after the completion of the 2010 Exchange Offer. Of such total consolidated debt, approximately 3% was short-term and 97% was long-term, and approximately 65% was Dollar-denominated, approximately 9% was Peso-denominated, approximately 25% was Euro-denominated, and immaterial amounts were denominated in

other currencies. The weighted average interest rates of our debt as of December 31, 2009 in our main currencies were 5.9% on our Dollar-denominated debt, 6.9% on our Peso-denominated debt, and 5.6% on our Euro-denominated debt. The foregoing debt information does not include the Perpetual Debentures issued by the special purpose vehicles C5 Capital (SPV) Limited, C8 Capital (SPV) Limited, C10 Capital (SPV) Limited and C10-EUR Capital (SPV) Limited in December 2006 and February and May 2007 described below. See " — Liquidity and Capital Resources — The Perpetual Debentures."

On March 10, 2009, our credit ratings were downgraded below investment grade by Standard & Poor's and by Fitch. The loss of our investment grade ratings has negatively impacted and will continue to negatively impact the availability of financing and the terms on which we could refinance our debt, including the imposition of more restrictive covenants and higher interest rates.

On August 14, 2009, we entered into the Financing Agreement. The Financing Agreement extended the maturities of approximately U.S.$15.1 billion in syndicated and bilateral bank facilities and private placement obligations, providing for a semi-annual amortization schedule, with a final amortization payment of approximately U.S.$6.9 billion on February 14, 2014. We intend to meet such amortization payments prior to final maturity using funds from a variety of sources, including free cash flow from our operations and net cash proceeds from asset sales as well as debt and/or equity security issuances, the receipt of which will trigger mandatory prepayments. The Financing Agreement provides that cash on hand, for any period for which it is being calculated, in excess of U.S.$650 million is required to be applied to prepay the indebtedness under the Financing Agreement.

As of December 31, 2009, we had approximately Ps211.1 billion (U.S.$16.1 billion) of total debt, not including approximately Ps39.9 billion (U.S.$3.0 billion) of Perpetual Debentures, which are not accounted for as debt under MFRS but are considered to be debt for purposes of U.S. GAAP. See notes 13A, 17D and 25 to our consolidated financial statements included elsewhere in this annual report. As of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, our indebtedness under the Financing Agreement was approximately Ps129.6 billion (U.S.$9.9 billion) and approximately Ps17.6 billion (U.S.$1.3 billion) of the Perpetual Debentures issued by special purpose vehicles, which are not subject to the Financing Agreement, and approximately Ps96.5 billion (U.S.$7.4 billion) of other debt not subject to the Financing Agreement, which remains payable pursuant to its original maturities. See " — Recent Developments — Recent Developments Relating to Our Indebtedness — 2010 Exchange Offer." As of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, we had reduced indebtedness under the Financing Agreement by approximately U.S$5.2 billion (thereby satisfying all required amortization payments under the Financing Agreement through December 2011 and a portion of the June 2012 amortization payment), and we had an aggregate principal amount of outstanding debt under the Financing Agreement of approximately Ps8.4 billion (U.S.$638 million) maturing during 2012; approximately Ps31.3 billion (U.S.$2.4 billion) maturing during 2013; and approximately Ps89.9 billion (U.S.$6.9 billion) maturing during 2014. See "Item 3 — Key Information — Risk Factors — We have a substantial amount of debt maturing in the next several years, including a significant portion of debt not subject to the Financing Agreement and, if we are unable to secure refinancing on favorable terms or at all, we may not be able to comply with our upcoming payment obligations" for a description of our total debt and related maturities.

As part of the Financing Agreement, we pledged the Collateral and all proceeds of the Collateral to secure our payment obligations under the Financing Agreement and under a number of other financing arrangements for the benefit of the participating creditors and holders of debt and other obligations that benefit from provisions in their instruments requiring that their obligations be equally and ratably secured. In addition, the guarantors under our existing bank facilities (other than CEMEX, Inc. (one of our subsidiaries in the United States)) have guaranteed the obligations to the participating creditors under the Financing Agreement. See "Item 3 — Key Information — Risk Factors — We pledged the capital stock of the subsidiaries that represent substantially all of our business as collateral to secure our payment obligations under the Financing Agreement, other financing arrangements and the New Senior Secured Notes."

The Financing Agreement requires us to comply with several financial ratios and tests, including a consolidated coverage ratio of EBITDA to consolidated interest expense of not less than (i) 1.75:1 for each semi-annual period beginning on June 30, 2010 through the period ending June 30, 2011, (ii) 2.00:1 for each semi-annual period through the period ending December 31, 2012 and (iii) 2.25:1 for the remaining semi-annual periods to December 31, 2013. In addition, the Financing Agreement allows us a maximum consolidated leverage ratio of total debt (including the Perpetual Debentures) to EBITDA for each semi-annual period of 7.75:1 for the period ending June 30, 2010 and decreasing gradually for subsequent semi-annual periods to 3.50:1 for the period ending December 31, 2013. The full principal amount of the Mandatory Convertible Securities and the Optional Convertible Subordinated Notes are excluded from the consolidated leverage ratio calculations under the Financing Agreement. However, interest payments made with respect to the Mandatory Convertible Securities and the Optional Convertible Subordinated Notes are included as interest expense for purposes of the consolidated coverage ratio calculations under the Financing Agreement.

The Financing Agreement restricts us from incurring additional debt, subject to certain exceptions. The debt covenant under the Financing Agreement permits us to incur a liquidity facility or facilities entered into with a participating creditor under the Financing Agreement in an amount not to exceed U.S.$1 billion (of which up to U.S.$500 million may be secured). In addition, the Financing Agreement requires proceeds from asset disposals, incurrence of debt and issuance of equity, and cash flow to be applied to the prepayments of the exposures of participating creditors subject to our right to retain cash on hand up to U.S.$650 million (including the amount of undrawn commitments of a permitted liquidity facility or facilities) and to temporarily reserve proceeds from asset disposals and permitted refinancings to be applied to the repayment of CBs.

In addition, under the Financing Agreement, if we are unable to repay at least 50.96%, or approximately U.S.$7.6 billion, of the aggregate initial exposures of the participating creditors between the closing of the Financing Agreement and December 31, 2011, the applicable margin of the debt subject to the Financing Agreement will increase by 0.5% or 1.0% per annum, depending upon the difference between such target amortization and the actual amortizations paid as of December 31, 2011. See “Item 3 — Key Information — Risk Factors — The interest rate of our debt included in the Financing Agreement may increase if we do not meet certain amortization targets.”

On November 11, 2009, we launched an exchange offer in Mexico, in transactions exempt from registration pursuant to Regulation S under the Securities Act, directed to holders of CBs maturing on or before December 31, 2012, in order to exchange such CBs for the Mandatory Convertible Securities. Pursuant to the exchange offer, on December 10, 2009, we issued approximately Ps4.1 billion (approximately U.S.$315 million) in Mandatory Convertible Securities in exchange for CBs with original maturities of approximately Ps325 million, Ps1.7 billion and Ps2.1 billion in 2010, 2011 and 2012, respectively, that were canceled. The Mandatory Convertible Securities are mandatorily convertible into newly issued CPOs at a conversion price of Ps23.92 per CPO (calculated as the volume-weighted average price of the CPO for the ten trading days prior to the closing of the exchange offer multiplied by a conversion premium of approximately 1.65), accrue interest, payable in cash, at 10% per annum, provide for the payment of a cash penalty fee, equal to approximately one year of interest, upon the occurrence of certain anticipated conversion events, and mature on November 28, 2019. This transaction did not result in cash proceeds to us or any of our subsidiaries. Under MFRS, the Mandatory Convertible Securities represent a combined instrument with liability and equity components. The liability component, approximately Ps2.1 billion as of December 31, 2009, corresponds to the net present value of interest payments due under the Mandatory Convertible Securities, assuming no early conversion, and was recognized under “Other Financial Obligations” in our balance sheet. The equity component, approximately Ps2.0 billion as of December 31, 2009, represents the difference between principal amount and the liability component and was recognized within “Other equity reserves” net of commissions in our balance sheet. See notes 13A and 17B in our consolidated financial statements included elsewhere in this annual report.

On December 14, 2009, our subsidiary, CEMEX Finance LLC, issued U.S.$1,250 million aggregate principal amount of 9.50% Dollar-denominated Notes, and €350 million aggregate principal amount of 9.625% Euro-denominated Notes, in transactions exempt from registration pursuant to Rule 144A and Regulation S under the Securities Act. On January 19, 2010, our subsidiary, CEMEX Finance LLC, issued U.S.$500 million additional aggregate principal amount of the 9.50% Dollar-denominated Notes. The payment

of principal, interest and premium, if any, on the 9.50% Dollar-denominated Notes and 9.625% Euro-denominated Notes is fully and unconditionally guaranteed by CEMEX, S.A.B. de C.V., CEMEX México, CEMEX España, CEMEX Corp., CEMEX Concretos, S.A. de C.V., Empresas Tolteca de México, S.A. de C.V. and New Sunward. The 9.50% Dollar-denominated Notes and 9.625% Euro-denominated Notes are secured by a first-priority security interest over the Collateral and all proceeds of the Collateral, unless and until the Collateral shall have been released as provided for in the 9.50% Dollar-denominated Notes and 9.625% Euro-denominated Notes Indentures and under the Intercreditor Agreement. We used the net proceeds from the offerings of the 9.50% Dollar-denominated Notes and 9.625% Euro-denominated Notes to repay indebtedness under the Financing Agreement and for general corporate purposes. The indentures governing the 9.50% Dollar-denominated Notes and 9.625% Euro-denominated Notes impose significant operating and financial restrictions on us. These restrictions limit our ability, among other things, to: (i) incur debt; (ii) pay dividends on stock; (iii) redeem stock or redeem subordinated debt; (iv) make investments; (v) sell assets, including capital stock of subsidiaries; (vi) guarantee indebtedness; (vii) enter into agreements that restrict dividends or other distributions from restricted subsidiaries; (viii) enter into transactions with affiliates; (ix) create or assume liens; (x) engage in mergers or consolidations; and (xi) enter into a sale of all or substantially all of our assets.

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

Most of our outstanding indebtedness has been incurred to finance our acquisitions and to finance our capital expenditure programs. CEMEX México, our principal Mexican subsidiary and indirect owner of our international operations, has indebtedness or has provided guarantees of our indebtedness, including under the Financing Agreement and the New Senior Secured Notes, but excluding under the Perpetual Debentures, in the amount of approximately U.S.$14.9 billion (Ps195.0 billion), as of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom. CEMEX España, a holding company for most of our international operations outside Mexico and our main operating subsidiary in Spain, has indebtedness or has provided guarantees of our indebtedness, including under the Financing Agreement, the 9.50% Dollar-denominated Notes and 9.625% Euro-denominated Notes, but excluding the Perpetual Debentures, in the amount of approximately U.S.$14.7 billion (Ps193.0 billion) as of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom. In addition, CEMEX España, acting through its Luxembourg branch, issued the 9.25% Dollar-denominated Notes and the 8.875% Euro-denominated Notes which are guaranteed by CEMEX México, CEMEX and New Sunward. Our subsidiaries CEMEX Corp., CEMEX Concretos, S.A. de C.V., Empresas Tolteca de México, S.A. de C.V. and New Sunward. also provided guarantees under the Financing Agreement, the 9.50% Dollar-denominated Notes and the 9.625% Euro-denominated Notes.

Historically, we have addressed our liquidity needs (including funds required to make scheduled principal and interest payments, refinance debt, and fund working capital and planned capital expenditures) with operating cash flow, borrowings under credit facilities, receivables and inventory financing facilities, proceeds of debt and equity offerings and proceeds from asset sales.

As of December 31, 2009, we had approximately U.S.$506 million in outstanding receivables financing facilities, which primarily consisted of four securitization programs. On May 19, 2010, we entered into a one-year accounts receivable securitization program for our U.S. operations for up to U.S.$300 million in funded amounts, replacing our prior program that was scheduled to mature in 2010. The securitization program in France is scheduled to mature on July 31, 2010. The other two securitization programs in Mexico and Spain, with a combined funded amount of U.S.$217 million at December 31, 2009, expire in 2011. We cannot ensure that, going forward, we will be able to roll over or renew these programs, which could adversely affect our liquidity.

The global equity and credit markets in the last two years have experienced significant price volatility, dislocations and liquidity disruptions, which have caused market prices of many stocks to fluctuate substantially and the spreads on prospective and outstanding debt financings to widen considerably. This volatility and illiquidity has materially and adversely affected a broad range of fixed income securities. As a result, the market for fixed income securities has experienced decreased liquidity, increased price volatility, credit downgrade events and increased defaults. Global equity markets have also been experiencing heightened volatility and turmoil, with issuers exposed to the credit markets being most seriously affected. The disruptions in the financial and credit markets may continue to adversely affect our credit rating and the market value of our common stock, our CPOs and our ADSs. If the current pressures on credit continue or worsen, and alternative sources of financing continue to be limited, we may be dependent on the issuance of equity as a source to repay our existing indebtedness, including meeting amortization requirements under the Financing Agreement. On September 28, 2009, we sold a total of 1,495 million CPOs, directly or in the form of ADSs, in a global offering for approximately U.S.$1.8 billion in net proceeds. On December 10, 2009, we issued approximately Ps4.1 billion in Mandatory Convertible Securities in exchange for CBs. On December 14, 2009, we closed the offerings of U.S.$1,250 million aggregate principal amount of 9.50% Dollar-denominated Notes and €350 million aggregate principal amount of 9.625% Euro-denominated Notes, and on January 19, 2010, we closed the offering of U.S.$500 million additional aggregate principal amount of the 9.50% Dollar-denominated Notes. On March 30, 2010, we closed the offering of U.S.$715 million aggregate principal amount of the Optional Convertible Subordinated Notes. On May 12, 2010, our subsidiary, CEMEX España, acting through its Luxembourg branch, issued U.S.$1,067,665,000 aggregate principal amount of its 9.25% Dollar-denominated Notes, and €115,346,000 aggregate principal amount of its 8.875% Euro-denominated Notes in exchange for Perpetual Debentures. However, conditions in the capital markets have been such that traditional sources of capital, including equity capital, from time to time have not been available to us on reasonable terms or at all. As a result, there is no guarantee that we will be able to successfully raise additional debt or equity capital at all or on terms that are favorable. See “Item 3 — Key Information — Risk Factors — We may not be able to generate sufficient cash to service all of our indebtedness and we may be forced to take other actions to satisfy our obligations under our indebtedness, which may not be successful.”

As a result of the current global economic environment and uncertain market conditions, we may not be able to complete asset divestitures on terms that we find economically attractive or at all.

If the global recession deepens and our operating results worsen significantly, if we were unable to complete debt or equity offerings or if our planned divestitures and/or our cash flow or capital resources prove inadequate, we could face liquidity problems and may not be able to comply with our upcoming principal payment maturities under our indebtedness or refinance our indebtedness.

We have sought and obtained waivers and amendments to several of our debt instruments relating to a number of financial ratios in the past. Our ability to comply with these ratios may be affected by current global economic conditions and high volatility in foreign exchange rates and the financial and capital markets. We may need to seek waivers or amendments in the future. However, we cannot assure you that any future waivers, if requested, will be obtained. If we are unable to comply with the provisions of our debt instruments, and are unable to obtain a waiver or amendment, the indebtedness outstanding under such debt instruments could be accelerated. Acceleration of these debt instruments would have a material adverse effect on our financial condition.

Financing Activities

As of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, we had approximately U.S.$17.3 billion of total outstanding debt, not including approximately U.S.$1.3 billion of the Perpetual Debentures issued by special purpose vehicles and not tendered in the 2010 Exchange Offer, which are not accounted for as debt under MFRS but are considered to be debt for purposes of U.S. GAAP. Our financing activities through December 31, 2008 are described in our previous annual reports on Form 20-F. The following is a description of our financings in 2009:

- During January 2009, we completed a refinancing plan consisting of (i) combining multiple short-term bilateral facilities into two long-term syndicated facilities, (ii) extending the maturity of certain debt, and (iii) amending leverage ratios and other covenants in various facilities.
- Prior to January 27, 2009, we had approximately U.S.$2.7 billion of debt in the form of a variety of short-term bilateral facilities with individual banks, scheduled to mature in 2009 and early 2010. On January 27, 2009, approximately U.S.$2.1 billion of these bilateral facilities were refinanced in two long-term syndicated joint facilities. The final maturity for the amounts refinanced in these new long-term facilities was February 2011, with U.S.$750 million amortizing in 2009 and U.S.$286 million amortizing in 2010. These facilities were subsequently refinanced through the Financing Agreement.
- Prior to January 27, 2009, we also had U.S.$3.0 billion of debt in the form of a syndicated loan facility due in December 2009 at the CEMEX España level. On January 27, 2009, we extended the final maturity of approximately U.S.$1.7 billion under this facility by one year to December 2010. The remaining approximately U.S.$1.3 billion remained due in December 2009. This facility was subsequently refinanced through the Financing Agreement.
- During the first quarter of 2009, we entered into a Conditional Waiver and Extension Agreement with a group of our bank lenders (the "Conditional Waiver and Extension Agreement"). The lenders party to the Conditional Waiver and Extension Agreement initially agreed to extend to July 31, 2009 scheduled principal payment obligations which were originally due between March 24, 2009 and July 31, 2009. We entered into the Conditional Waiver and Extension Agreement to give us time to negotiate a broader debt refinancing, which we eventually completed through the Financing Agreement.
- During April 2009, our subsidiary CEMEX Concretos, S.A. de C.V. closed with Banobras S.N.C., a Mexican government development bank, a Ps5.0 billion credit facility under a government program established to support infrastructure development in Mexico. As of December 31, 2009, we had outstanding drawdowns of Ps1.1 billion under this facility, made to partially finance current and future public works awarded to CEMEX in Mexico. This facility is part of a government program to provide financing to suppliers and contractors in the infrastructure sector in Mexico.
- On August 14, 2009, we entered into the Financing Agreement. The Financing Agreement extended the maturities of approximately U.S.$15.1 billion in syndicated and bilateral bank facilities and private placement obligations, providing for a semi-annual amortization schedule, with a final amortization payment of approximately U.S.$6.9 billion on February 14, 2014. We intend to meet such amortization payments prior to final maturity using funds from a variety of sources, including free cash flow from our operations and net cash proceeds from asset sales as well as debt and/or equity security issuances, the receipt of which will trigger mandatory prepayments. The Financing Agreement provides that cash on hand, for any period for which it is being calculated, in excess of U.S.$650 million is required to be applied to prepay the indebtedness under the Financing Agreement. As of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, we had reduced indebtedness under the Financing Agreement by approximately U.S.$5.2 billion (thereby satisfying all required amortization payments under the Financing Agreement through December 2011 and a portion of the amortization payment of June 2012).
- On September 28, 2009, we sold a total of 1,495 million CPOs, directly or in the form of ADSs, in a global offering for approximately U.S.$1.8 billion in net proceeds.

- On November 11, 2009, we launched an exchange offer in Mexico, in transactions exempt from registration pursuant to Regulation S under the Securities Act, directed to holders of CBs maturing on or before December 31, 2012, in order to exchange such CBs for the Mandatory Convertible Securities. Pursuant to the exchange offer, on December 10, 2009, we issued approximately Ps4.1 billion (approximately U.S.$315 million) in Mandatory Convertible Securities in exchange for CBs with original maturities of approximately Ps325 million, Ps1.7 billion and Ps2.1 billion in 2010, 2011 and 2012, respectively, that were canceled.
- On December 14, 2009, we closed the offerings of U.S.$1,250 million aggregate principal amount of 9.50% Dollar-denominated Notes and €350 million aggregate principal amount of 9.625% Euro-denominated Notes, in transactions exempt from registration pursuant to Rule 144A and Regulation S under the Securities Act.

For a description of our financing activities after December 31, 2009, see " — Recent Developments — Recent Developments Relating to Our Indebtedness."

Our Equity Forward Arrangements

In connection with the sale of shares of AXTEL (see note 13C part IV to our consolidated financial statements included elsewhere in this annual report) and in order to benefit from a future increase in the prices of such entity, on March 31, 2008, CEMEX entered into a forward contract with cash settlement over the price of 119 million CPOs of AXTEL with maturity in April 2011. The fair value of such contract as of December 31, 2009, was a gain of approximately U.S.$54 million (Ps707 million). Changes in the fair value of this instrument generated a gain in the 2009 income statement of approximately U.S.$32 million (Ps435 million). The counterparties involved have exercised an option to maintain the transaction until October 2011.

The Perpetual Debentures

As of December 31, 2007, 2008 and 2009, non-controlling interest stockholders' equity includes approximately U.S.$3.1 billion (Ps33.5 billion), U.S.$3.0 billion (Ps41.5 billion) and U.S.$3.0 billion (Ps39.9 billion), respectively, representing the principal amount of the Perpetual Debentures. These debentures have no fixed maturity date and do not represent a contractual payment obligation for us. Based on their characteristics, these debentures, issued through special purpose vehicles, or SPVs, qualify as equity instruments under MFRS and are classified within non-controlling interest as they were issued by consolidated entities, considering that there is no contractual obligation to deliver cash or any other financial asset, the Perpetual Debentures do not have any maturity date, meaning that they were issued to perpetuity, and we have the unilateral right to defer indefinitely the payment of interest due on the debentures. The classification of the debentures as equity instruments for accounting purposes under MFRS was made under applicable International Financial Reporting Standards, or IFRS, which were applied to these transactions in compliance with the supplementary application of IFRS in Mexico. Issuance costs, as well as the interest expense, which is accrued based on the principal amount of the Perpetual Debentures, are included within "Other equity reserves" and represented expenses of approximately Ps2.7 billion in 2009, Ps2.6 billion in 2008 and Ps1.8 billion in 2007. The different SPVs were established solely for purposes of issuing the Perpetual Debentures and are included in our consolidated financial statements. As of December 31, 2009, and after giving effect to the 2010 Exchange Offer, our outstanding Perpetual Debentures were as follows:

Issuer	Issuance Date	Nominal Amount (in millions)	Amount Following the 2010 Exchange Offer (in millions)	Repurchase Option	Interest Rate
C5 Capital (SPV) Limited	December 2006	U.S.$350	U.S.$ 146.9	Fifth anniversary	6.196%
C8 Capital (SPV) Limited	February 2007	U.S.$750	U.S.$ 368.9	Eighth anniversary	6.640%
C10 Capital (SPV) Limited	December 2006	U.S.$900	U.S.$ 448.9	Tenth anniversary	6.722%
C10-EUR Capital (SPV) Limited	May 2007	€730	€266.1	Tenth anniversary	6.277%

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

As described below and in note 17D to our financial statements included elsewhere in this annual report, there have been derivative instruments associated with the Perpetual Debentures issued by special purpose vehicles C5 Capital (SPV) Limited, C8 Capital (SPV) Limited, C10 Capital (SPV) Limited and C10-EUR Capital (SPV) Limited through which we have changed the risk profile associated with interest rates and foreign exchange rates in respect of these debentures. In order to eliminate our exposure to Yen and to Yen interest rates, on May 22, 2009, we delivered the required notices under the documentation governing the dual-currency notes and the related Perpetual Debentures, informing debenture holders our decision to exercise our right to defer by one day the scheduled interest payment otherwise due and payable on June 30, 2009. As a result, during July 2009, the interest rate on the dual-currency notes converted from a Yen floating rate into a Dollar or Euro fixed rate, as applicable, as of June 30, 2009, and the associated Yen cross-currency swap derivatives were unwound, and the notes trustees received approximately U.S.$94 million that are being used to pay future coupons on the Perpetual Debentures, as adjusted by the 2010 Exchange Offer. See " — Recent Developments — Recent Developments Relating to Our Indebtedness — 2010 Exchange Offer."

Our Receivables Financing Arrangements

Our subsidiaries in Spain, the United States, Mexico and France have established sales of trade accounts receivable programs with financial institutions, referred to as securitization programs. Through the securitization programs, our subsidiaries effectively surrender control, risks and the benefits associated with the accounts receivable sold; therefore, the amount of receivables sold is recorded as a sale of financial assets and the balances are removed from the balance sheet at the moment of sale, except for the amounts that the counterparties have not paid, which are reclassified to other accounts receivable. See notes 6 and 7 to our consolidated financial statements included elsewhere in this annual report. The balances of receivables sold pursuant to these securitization programs as of December 31, 2007, 2008 and 2009 were approximately Ps12.3 billion (U.S.$1.1 billion), Ps14.7 billion (U.S.$1.1 billion) and Ps9.6 billion (U.S.$735 million), respectively. The accounts receivable qualifying for sale do not include amounts over specified days past due or concentrations over specified limits to any one customer, according to the terms of the programs. Expenses incurred under these programs, originated by the discount granted to the acquirers of the accounts receivable, are recognized in the income statements as financial expense and were approximately Ps673 million (U.S.$62 million) in 2007, Ps656 million (U.S.$58 million) in 2008 and Ps645 million (U.S.$47 million) in 2009. The proceeds obtained through these programs have been used primarily to reduce net debt and improve working capital. On July 31, 2009, the securitization program in France was extended until July 31, 2010. On May 19, 2010, we entered into a one-year accounts receivable securitization program for our U.S. operations for up to U.S.$300 million in funded amounts, replacing our prior program.

Stock Repurchase Program

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

In connection with our 2007 annual shareholders' meetings held on April 24, 2008, our shareholders approved stock repurchase programs in an amount of up to Ps6.0 billion (nominal amount) to be implemented between April 2008 and April 2009. No shares were purchased under this program. In connection with our 2008 and 2009 annual shareholders' meetings held on April 23, 2009 and April 29, 2010, no stock repurchase program was proposed between April 2009 and April 2010 and between April 2010 and April 2011, respectively.

Subject to limited exceptions, we are not permitted to repurchase shares of our capital stock under the Financing Agreement.

Recent Developments

Recent Developments Relating to Our Indebtedness

CBs call option exercise. On June 17, 2010, we announced the exercise of our call option with respect to certain CBs otherwise maturing in March 2011 for an aggregate principal amount of approximately Ps 1.4 million (U.S.$110 million). CEMEX, S.A.B. de C.V. used proceeds from the issuance of the Optional Convertible Subordinated Notes in March 2010 to pay for the redeemed CBs on June 25, 2010.

CB Tender Offers. On June 2, 2010, we announced the early payment of approximately Ps2.6 billion (approximately U.S.$202 million) in CBs, following a public cash tender offer in Mexico to redeem outstanding CBs for up to approximately Ps6.1 billion (approximately U.S.$467 million). The series of CBs included in the offer represent all long term CBs issued by CEMEX with maturities through March 10, 2011. The offer period was from May 6, 2010 to June 2, 2010. CEMEX, S.A.B. de C.V. purchased the CBs with funds obtained from the issuance of the Optional Convertible Subordinated Notes.

2010 Exchange Offer. On April 5, 2010, we commenced an exchange offer and consent solicitation directed to the holders of the 6.196% Perpetual Debentures, 6.640% Perpetual Debentures, 6.722% Perpetual Debentures and 6.277% Perpetual Debentures. Pursuant to the terms of the 2010 Exchange Offer, we offered the holders of each series of the Perpetual Debentures New Senior Secured Notes in exchange for their U.S. Dollar-denominated and Euro-denominated Perpetual Debentures, in private placement transactions exempt from registration pursuant to Section 4(2) of the Securities Act and Regulation S under the Securities Act. The 2010 Exchange Offer was originally set to expire on April 30, 2010 but was extended to May 7, 2010, and the New Senior Secured Notes were issued by our subsidiary CEMEX España, acting through its Luxembourg branch on May 12, 2010. U.S.$1,035,273,000 of the U.S. Dollar-denominated Perpetual Debentures were exchanged for U.S.$774,859,000 of the U.S. Dollar-denominated New Senior Secured Notes and €463,948,000 of the Euro-denominated Perpetual Debentures were exchanged for €115,346,000.00 of Euro-denominated New Senior Secured Notes and U.S.$292,806,000 of the U.S. Dollar-denominated New Senior Secured Notes. The payment of principal, interest and premium, if any, on the New Senior Secured Notes is fully and unconditionally guaranteed by CEMEX, S.A.B. de C.V., CEMEX México, and New Sunward. The New Senior Secured Notes are secured by a first-priority security interest over the Collateral and all proceeds of the Collateral. After the 2010 Exchange Offer expired and the New Senior Secured Notes were issued, U.S.$146,902,000 in aggregate principal amount of the 6.196% Perpetual Debentures, U.S.$368,882,000 in aggregate principal amount of the 6.640% Perpetual Debentures, U.S.$448,943,000 in aggregate principal amount of the 6.722% Perpetual Debentures and €266,052,000 in aggregate principal amount of the 6.277% Perpetual Debentures remained outstanding. As a result of the 2010 Exchange Offer, CEMEX's overall indebtedness (including the Perpetual Debentures, which are not accounted for as debt under MFRS but are considered to be debt for purposes of U.S. GAAP) was reduced by approximately U.S.$437 million (calculated by using the representative Euro/Dollar exchange rate published by the European Central Bank on April 1, 2010, of 1.3468 Euros per U.S. Dollar).

Issuance of 4.875% Optional Convertible Subordinated Notes Due 2015. On March 30, 2010, we closed the offering of U.S.$715 million of the Optional Convertible Subordinated Notes, including the initial purchasers' exercise in full of their over-allotment option, in transactions exempt from registration pursuant to Rule 144A under the Securities Act. Interest on the Optional Convertible Subordinated Notes is payable semi-annually in arrears on March 15 and September 15 of each year, commencing on September 15, 2010. The Optional Convertible Subordinated Notes are convertible by holders into ADSs at a conversion price of U.S.$13.60 per ADS (subject to adjustment in certain events) at any time prior to the close of business on the fourth business day immediately preceding the maturity date for the Optional Convertible Subordinated Notes. The initial conversion rate was 73.5402 ADSs per U.S.$1,000 principal amount of Optional Convertible Subordinated Notes and has been adjusted to 76.4818 ADSs per U.S.$1,000 principal amount of Optional Convertible Subordinated Notes reflecting the issuance of CPOs in connection with the recapitalization of earnings approved by shareholders at the 2010 annual shareholders meeting. The Optional Convertible Subordinated Notes are

subordinated in right of payment to all of our existing and future senior indebtedness, including the New Senior Secured Notes and liabilities preferred by statute, and rank at least equal in right of payment to all of our existing and future unsecured subordinated indebtedness. We used a portion of the net proceeds from the offering of the Optional Convertible Subordinated Notes to fund the purchase of a capped call transaction described below, to repay indebtedness, including CBs maturing through March 2011 tendered in our CB Tender Offers, CBs maturing in March 2011 paid as a result of our CB call option exercise and approximately U.S.$250 million of indebtedness under the Financing Agreement, and temporarily reserve proceeds to be applied to the repayment of remaining series of CBs maturing in March 2011. In connection with the offering of the Optional Convertible Subordinated Notes, we entered into a capped call transaction with an affiliate of Citigroup Global Markets, Inc., the sole global coordinator and sole structuring agent of the Optional Convertible Subordinated Notes. The capped call transaction covers, subject to customary anti-dilution adjustments, approximately 52.58 million ADSs. The capped call transaction had a cap price 80% higher than the closing price of our ADSs on March 24, 2010 and will be cash-settled. Because the capped call transaction is cash-settled, it does not provide an offset to any ADSs we may deliver to holders upon conversion of the Optional Convertible Subordinated Notes.

Financing Agreement Amendments. On March 18, 2010, the required lenders under the Financing Agreement consented to amendments that will provide us increased flexibility in relation to our activities going forward and that we believe will assist us in refinancing existing financial indebtedness and reducing leverage. The amendments include, but are not limited to, the following: (i) increasing the time after a fundraising by which the proceeds of that fundraising need to be applied pursuant to the terms of the Financing Agreement, (ii) permitting us to designate the proceeds from specified fundraisings to a reserve for the repayment of our Mexican public debt instruments and CBs coming due within a particular relevant period, (iii) providing that all prepayments under the Financing Agreement, other than prepayments of amounts equal to cash balances above U.S.$650 million, are applied in reduction of the repayment installments in chronological order, (iv) permitting the issuance of optional convertible subordinated securities and the purchase of related call spread or capped call transactions, and (v) adjusting the limit on investments in joint ventures by any amounts which we may receive from joint ventures during the financial year, with retroactive effect to January 1, 2010.

Reopening of Offering of 9.50% Dollar-denominated Notes in January 2010. On January 19, 2010, our subsidiary, CEMEX Finance LLC, issued an additional U.S.$500 million aggregate principal amount of its 9.50% Dollar-denominated Notes, which were originally issued on December 14, 2009 in the amount of U.S.$1,250 million, in transactions exempt from registration pursuant to Rule 144A and Regulation S under the Securities Act. The payment of principal, interest and premium, if any, on the 9.50% Dollar-denominated Notes is fully and unconditionally guaranteed by CEMEX, S.A.B. de C.V., CEMEX México, CEMEX España, CEMEX Corp., CEMEX Concretos, S.A. de C.V., Empresas Tolteca de México, S.A. de C.V. and New Sunward. The 9.50% Dollar-denominated Notes are secured by a first-priority security interest over the Collateral and all proceeds of the Collateral. The additional U.S.$500 million of the 9.50% Dollar-denominated Notes were issued at a price of U.S.$105.25 per U.S.$100 principal amount plus accrued interest from December 14, 2009, have a yield to maturity of 8.477% and are callable commencing on the fourth anniversary of the first issuance date of the 9.50% Dollar-denominated Notes. Of the net proceeds from the offering, U.S.$411 million was used to prepay principal outstanding under the Financing Agreement. The remaining proceeds were used for general corporate purposes.

Recent Developments Relating to Regulatory Matters and Legal Proceedings

On June 5, 2010, the District of Bogotá's environmental secretary (*Secretaría Distrital de Ambiente de Bogotá*), issued a temporary injunction suspending all mining activities at CEMEX Colombia's El Tunjuelo quarry, located in Bogotá, Colombia. As part of the temporary injunction, Holcim Colombia and Fundación San Antonio (local aggregates producers which also have mining activities located in the same area as the El Tunjuelo quarry) have also been ordered to suspend mining activities in that area.

The District of Bogotá's environmental secretary alleges that during the past 60 years, CEMEX Colombia and the other companies have illegally changed the course of the Tunjuelo river, have used the percolating waters without permission and have improperly used the edge of the river for mining activities. In connection with the temporary injunction, on June 5, 2010, CEMEX Colombia received a formal notification from the District of Bogotá's environmental secretary informing it of the initiation of proceedings to impose fines against CEMEX Colombia.

CEMEX Colombia has requested that the temporary injunction be revoked, arguing that its mining activities are supported by all authorizations required pursuant to the applicable environmental laws and that all the environmental impact statements submitted by CEMEX Colombia have been reviewed and authorized by the Environmental Ministry (*Ministerio del Medio Ambiente, Vivienda y Desarrollo Territorial*).

On June 11, 2010, the local authorities in Bogotá, in compliance with the District of Bogotá's environmental secretary's decision, sealed off the mine to machinery and prohibited the extraction of our aggregates inventory. Although there is not an official quantification of the possible fine, the District of Bogotá's environmental secretary has publicly declared that the fine could be as much as CoP$300 billion (approximately U.S.$155 million as of June 14, 2010, based on an exchange rate of CoP$1.925 to U.S.$1.00). The temporary injunction does not currently compromise the production and supply of ready-mix concrete to any of our clients in Colombia.

CEMEX Colombia is analyzing its legal strategy to defend itself against these proceedings. At this stage, we are not able to assess the likelihood of an adverse result or potential damages which could be borne by CEMEX Colombia.

Recent Developments Relating to Changes in Our Senior Management Team

On February 9, 2010, we announced changes to our senior management team effective March 1, 2010. Fernando A. González was appointed Executive Vice President, Planning & Finance. Mr. González, who has served CEMEX in a variety of executive capacities since 1989, and has been a member of CEMEX's Executive Committee since 2003, will be responsible for all corporate strategic and developmental functions, including CEMEX's relationships with the capital markets and Technology and Energy. We also announced the retirement of Héctor Medina, Executive Vice President of Finance and Legal, and Armando J. García, Executive Vice President of Technology, Energy and Sustainability. Mr. Medina and Mr. García each participated in an early retirement program for senior executives. Mr. García remains a member of CEMEX's board of directors, on which he has served since 1983.

Recent Developments Relating to Our Receivables Financing Arrangements

On May 19, 2010, we renewed and extended for one year our securitization program of accounts receivables for our United States operations for up to U.S.$300 million in funded amounts. As a result, our U.S. securitization program expires on May 18, 2011.

Recent Developments Relating to Investments

On April 8, 2010, we announced our plans to contribute, as an initial investment, up to U.S.$100 million for a non-controlling interest in a new investment vehicle know as Blue Rock. Blue Rock, which will not be controlled by us, intends to invest in the cement industry and related assets. As of the date of this annual report, a potential investment in Peru, the construction of a new cement plant with an initial production capacity of approximately one million metric tons per year, has been identified. According to the proposed project, it is expected that the plant would be completed in 2013, with a total investment of approximately U.S.$230 million. Although we do not anticipate being in a control position to affect the decisions of Blue Rock's management, given our investment and industry expertise, Blue Rock's management could decide to enter into a contract with us, providing for our assistance in the development, building and operation of the plant. Depending on the amount raised from third party investors and the availability of financing, Blue Rock's management may also decide to invest in other assets in the cement industry.

Research and Development, Patents and Licenses, etc.

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

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

Our Information Technology divisions have developed information management systems and software relating to cement and ready-mix concrete operational practices, automation and maintenance. These systems have helped us to better serve our clients with respect to purchasing, delivery and payment.

R&D activities comprise part of the daily routine of the departments and divisions mentioned above; therefore, the costs associated with such activities are expensed as incurred. However, the costs incurred in the development of software for internal use are capitalized and amortized in operating results over the estimated useful life of the software, which is approximately four years.

In 2007, 2008 and 2009, the combined total expense of the departments of the Vice President of Energy and the Vice President of Technology, which includes R&D activities, amounted to approximately U.S.$40 million, U.S.$31 million and U.S.$30 million, respectively.

Summary of Material Contractual Obligations and Commercial Commitments

The Financing Agreement

On August 14, 2009, we entered into the Financing Agreement. The Financing Agreement extended the maturities of approximately U.S.$15.1 billion in syndicated and bilateral bank and private placement obligations and provides for a semi-annual amortization schedule, with a final maturity of approximately U.S.$6.9 billion on February 14, 2014.

The Financing Agreement requires us, beginning June 30, 2010, to comply with several financial ratios and tests, including a consolidated coverage ratio of EBITDA to consolidated interest expense of not less than (i) 1.75:1 for each semi-annual period beginning on June 30, 2010 through the period ending June 30, 2011, (ii) 2.00:1 for each semi-annual period after June 30, 2011 through the period ending December 31, 2012 and (iii) 2.25:1 for the remaining semi-annual periods to December 31, 2013. In addition, the Financing Agreement allows us a maximum consolidated leverage ratio of total debt (including the Perpetual

Debentures) to EBITDA for each semi-annual period not to exceed 7.75:1 for the period ending June 30, 2010 and decreasing gradually for subsequent semi-annual periods to 3.50:1 for the period ending December 31, 2013. Our ability to comply with these ratios may be affected by current global economic conditions and high volatility in foreign exchange rates and the financial and capital markets. Pursuant to the Financing Agreement, we are also prohibited from making aggregate capital expenditures in excess of (i) U.S.$700 million for the year ending December 31, 2010 and (ii) U.S.$800 million for each year thereafter until the debt under the Financing Agreement has been repaid in full. For the year ended December 31, 2009, we recorded U.S.$636 million in capital expenditures.

We are also subject to a number of negative covenants that, among other things, restrict or limit our ability to: (i) create liens; (ii) incur additional debt; (iii) change our business or the business of any obligor or material subsidiary (as defined in the Financing Agreement); (iv) enter into mergers; (v) enter into agreements that restrict our subsidiaries' ability to pay dividends or repay intercompany debt; (vi) acquire assets; (vii) enter into or invest in joint venture agreements; (viii) dispose of certain assets; (ix) grant additional guarantees or indemnities; (x) subject to limited exceptions, declare or pay cash dividends or make share redemptions; (xi) issue shares; (xii) enter into certain derivatives transactions; (xiii) exercise any call option in relation to any perpetual bonds we issue unless the exercise of the call options does not have a materially negative impact on our cash flow; and (xiv) transfer assets from subsidiaries or more than 10% of shares in subsidiaries into or out of CEMEX España or its subsidiaries if those assets or subsidiaries are not controlled by CEMEX España or any of its subsidiaries. The Financing Agreement also contains a number of affirmative covenants that, among other things, require us to provide periodic financial information to our lenders.

Pursuant to the Financing Agreement, however, a number of those covenants and restrictions will automatically cease to apply or become less restrictive if (i) we receive an investment-grade rating from two of Standard & Poor's, Moody's Investors Service, Inc. and Fitch Ratings; (ii) we reduce the indebtedness under the Financing Agreement by at least 50.96% (approximately U.S.$7.6 billion) from the original amount of U.S.$15.1 billion; (iii) our consolidated leverage ratio for the two most recently completed semi-annual testing periods is less than or equal to 3.5:1; and (iv) no default under the Financing Agreement is continuing. Restrictions that will cease to apply when we satisfy such conditions include the capital expenditure limitations mentioned above, any applicable margin increases that were due to a failure to meet amortization targets, and several negative covenants, including limitations on our ability to declare or pay cash dividends and distributions to shareholders, limitations on our ability to repay existing financial indebtedness, certain asset sale restrictions, the quarterly cash balance sweep, certain mandatory prepayment provisions, and restrictions on exercising call options in relation to any perpetual bonds we issue (provided that participating creditors will continue to receive the benefit of any restrictive covenants that other creditors receive relating to other financial indebtedness of ours in excess of U.S.$75 million). At such time, several baskets and caps relating to negative covenants will also increase, including permitted financial indebtedness, permitted guarantees and limitations on liens. However, there can be no assurance that we will be able to meet the conditions for these restrictions to cease to apply prior to the final maturity date under the Financing Agreement.

The Financing Agreement contains events of default, some of which may be outside our control. Such events of default include defaults based on (i) non-payment of principal, interest, or fees when due; (ii) material inaccuracy of representations and warranties; (iii) breach of covenants; (iv) bankruptcy or insolvency of CEMEX, any borrower under an existing facility agreement (as defined in the Financing Agreement) or any other of our material subsidiaries (as defined in the Financing Agreement); (v) inability to pay debts as they fall due or by reason of actual financial difficulties, suspension or threatened suspension of payments on debts exceeding U.S.$50 million or commencement of negotiations to reschedule debt exceeding U.S.$50 million; (vi) a cross-default in relation to financial indebtedness in excess of U.S.$50 million; (vii) a change of control with respect to CEMEX; (viii) a change to the ownership of any of our subsidiary obligors under the Financing Agreement, unless the proceeds of such disposal are used to prepay Financing Agreement debt; (ix) enforcement of the share security; (x) final judgments or orders in excess of U.S.$50 million that are neither discharged nor bonded in full within 60 days thereafter; (xi) any restrictions not already in effect as of August 14, 2009 limiting transfers of foreign exchange by any obligor for purposes of performing material obligations under the Financing Agreement; (xii) any material adverse change arising in the financial condition of CEMEX and each of its subsidiaries, taken as a whole, which

greater than 66.67% of the participating creditors determine would result in our failure, taken as a whole, to perform payment obligations under the existing facilities or the Financing Agreement; and (xiii) failure to comply with laws or our obligations under the Financing Agreement cease to be legal. If an event of default occurs and is continuing, upon the authorization of 66.67% of the participating creditors, such creditors have the ability to accelerate all outstanding amounts due under the existing facilities. Acceleration is automatic in the case of insolvency.

The Mandatory Convertible Securities

On December 10, 2009, we issued approximately Ps4.1 billion (approximately U.S.$315 million) in Mandatory Convertible Securities, in exchange for CBs maturing on or before December 31, 2012, pursuant to an exchange offer conducted in Mexico, in transactions exempt from registration pursuant to Regulation S under the Securities Act. The Mandatory Convertible Securities are mandatorily convertible into newly issued CPOs at a conversion price of Ps23.92 per CPO (calculated as the volume-weighted average price of the CPO for the ten trading days prior to the closing of the exchange offer multiplied by a conversion premium of approximately 1.65), accrue interest, payable in cash, at 10% per annum, provide for the payment of a cash penalty fee, equal to approximately one year of interest, upon the occurrence of certain anticipated conversion events, and mature on November 28, 2019. After giving effect to any dilution adjustments in respect of the recapitalization of earnings approved by shareholders at the 2010 shareholders meeting, the conversion ratio for the Mandatory Convertible Securities as of the date of filing of this annual report is 386.88 CPOs per Ps8,900 of principal amount of Mandatory Convertible Securities.

The 9.50% Dollar-denominated Notes and the 9.625% Euro-denominated Notes

On December 14, 2009, our subsidiary, CEMEX Finance LLC, issued U.S.$1,250 million aggregate principal amount of the 9.50% Dollar-denominated Notes, and €350 million aggregate principal amount of the 9.625% Euro-denominated Notes. On January 19, 2010, our subsidiary, CEMEX Finance LLC, issued an additional U.S.$500 million aggregate principal amount of the 9.50% Dollar-denominated Notes. CEMEX, S.A.B. de C.V., CEMEX México, CEMEX España, CEMEX Corp., CEMEX Concretos, S.A. de C.V., Empresas Tolteca de México, S.A. de C.V. and New Sunward have fully and unconditionally guaranteed the performance of all obligations of CEMEX Finance LLC under the 9.50% Dollar-denominated Notes and the 9.625% Euro-denominated Notes on a senior basis.

The Optional Convertible Subordinated Notes

On March 30, 2010, we closed the offering of U.S.$715 million of our 4.875% Convertible Subordinated Notes due 2015, including the initial purchasers' exercise in full of their over-allotment option, in transactions exempt from registration pursuant to Rule 144A under the Securities Act. Interest on the Optional Convertible Subordinated Notes is payable semi-annually in arrears on March 15 and September 15 of each year, commencing on September 15, 2010. The Optional Convertible Subordinated Notes are convertible by holders into ADSs at an initial conversion price of U.S.$13.60 per ADS (subject to an anti-dilution adjustment) at any time prior to the close of business on the fourth business day immediately preceding the maturity date for the Optional Convertible Subordinated Notes. The conversion rate will initially be 73.5402 ADSs per U.S.$1,000 principal amount of Optional Convertible Subordinated Notes. The Optional Convertible Subordinated Notes are subordinated in right of payment to all of our existing and future senior indebtedness, including the New Senior Secured Notes and liabilities preferred by statute, and rank at least equal in right of payment to all of our existing and future unsecured subordinated indebtedness.

The 9.25% Dollar-denominated Notes and the 8.875% Euro-denominated Notes

On May 12, 2010, our subsidiary CEMEX España, acting through its Luxembourg branch, issued U.S.$1,067,665,000 aggregate principal amount of the 9.25% Dollar-denominated Notes and €115,346,000 aggregate principal amount of the 8.875% Euro-denominated Notes, in exchange for the Perpetual Debentures, pursuant to the 2010 Exchange Offer, in private transactions exempt

from registration pursuant to Section 4(2) of the Securities Act and Regulation S under the Securities Act. CEMEX, S.A.B. de C.V., CEMEX México and New Sunward have fully and unconditionally guaranteed the performance of all obligations of CEMEX España under the 9.25% Dollar-denominated Notes and the 8.875% Euro-denominated Notes on a senior basis. The payment of principal, interest and premium, if any, on the 9.25% Dollar-denominated Notes and the 8.875% Euro-denominated Notes is secured by a first-priority security interest over the Collateral and all proceeds of such Collateral.

The indentures governing the New Senior Secured Notes impose significant operating and financial restrictions on us. These restrictions will limit our ability, among other things, to: (i) incur debt; (ii) pay dividends on stock; (iii) redeem stock or redeem subordinated debt; (iv) make investments; (v) sell assets, including capital stock of subsidiaries; (vi) guarantee indebtedness; (vii) enter into agreements that restrict dividends or other distributions from restricted subsidiaries; (viii) enter into transactions with affiliates; (ix) create or assume liens; (x) engage in mergers or consolidations; and (xi) enter into a sale of all or substantially all of our assets.

Commercial Commitments

As of December 31, 2008 and 2009, we had commitments for the purchase of raw materials for an approximate amount of U.S.$194 million and U.S.$172 million, respectively.

In 1999, we reached an agreement with a consortium for the financing, construction and operation of " *Termoeléctrica del Golfo*," a 230 megawatt energy plant in Tamuin, San Luis Potosí, Mexico. We entered into this agreement in order to reduce the volatility of our energy costs. The total cost of the project was approximately U.S.$360 million. The power plant commenced commercial operations in April 2004. In February 2007, the original members of the consortium sold their participations in the project to a subsidiary of The AES Corporation. As part of the original agreement, we committed to supply the energy plant with all fuel necessary for its operations, a commitment that has been hedged through a 20-year agreement we entered into with PEMEX. These agreements were reestablished under the same conditions in 2007 with the new operator and the term was extended until 2027. The agreement with PEMEX, however, was not modified and terminates in 2024. Consequently, for the last 3 years of the agreement, we intend to purchase the required fuel in the market. For the years ended December 31, 2007, 2008 and 2009, the power plant has supplied approximately 59.7%, 60.4%, and 73.7%, respectively, of our overall Mexican cement plants electricity needs during such years.

Starting on June 30, 2008, Ready Mix USA has had the right to require us to acquire Ready Mix USA's interest in CEMEX Southeast, LLC and Ready Mix USA LLC at a price equal to the greater of a) eight times the companies' operating cash flow for the trailing twelve months, b) eight times the average of the companies' operating cash flow for the previous three years, or c) the net book value of the combined companies' assets. Without giving effect to Ready Mix USA LLC's recent asset sale, we estimate this price would have been approximately U.S.$457 million as of December 31, 2009. This option will expire on July 1, 2030.

In March 1998, we entered into a 20-year contract with PEMEX providing that PEMEX's refinery in Cadereyta would supply us with 0.9 million tons of petcoke per year, commencing in 2003. In July 1999, we entered into a second 20-year contract with PEMEX providing that PEMEX's refinery in Madero would supply us with 0.85 million tons of petcoke per year, commencing in 2002. We expect the PEMEX petcoke contracts to reduce the volatility of our fuel costs and provide us with a consistent source of petcoke throughout their 20-year terms (which expire in July 2023 for the Cadereyta refinery contract and October 2022 for the Madero refinery contract).

Contractual Obligations

As of December 31, 2008 and 2009, we had the following material contractual obligations:

Obligations	2008	2009				
	Total	Less than 1 year	1-3 Years	3-5 Years	More than 5 Years	Total
		(in millions of Dollars)				
Long-term debt	U.S.$ 15,997	292	2,826	10,764	1,969	15,851
Capital lease obligation	27	9	5	1	—	15
Total long-term debt and capital lease obligation (1)	16,024	301	2,831	10,765	1,969	15,866
Operating leases(2)	960	236	349	195	140	920
Interest payments on debt(3)	1,272	1,004	2,254	1,550	336	5,144
Interest rate derivatives(4)	92	—	—	—	—	—
Pension plans and other benefits(5)	1,598	162	326	323	859	1,670
Inactive derivative financial instruments(6)	385	—	—	—	—	—
Total contractual obligations	U.S.$ 20,331	1,703	5,760	12,833	3,304	23,600
Total contractual obligations (Pesos)	Ps279,348	22,292	75,399	167,984	43,249	308,924

(1) Does not include the Perpetual Debentures (approximately Ps39.9 billion (U.S.$3.0 billion) as of December 31, 2009), which are not accounted for as debt under MFRS. See " — Recent Developments — Recent Developments Relating to Our Indebtedness — 2010 Exchange Offer." The scheduling of debt payments, which includes current maturities, does not consider the effect of any refinancing of debt that may occur during the following years. In the past we have replaced our long-term obligations for others of similar nature.

(2) The amounts of operating leases have been determined on the basis of nominal cash flows. We have operating leases, primarily for operating facilities, cement storage and distribution facilities and certain transportation and other equipment, under which we are required to make annual rental payments plus the payment of certain operating expenses. Rental expense was approximately U.S.$195 million (Ps2.1 billion), U.S.$198 million (Ps2.2 billion) and U.S.$243 million (Ps3.3 billion) in 2007, 2008 and 2009, respectively.

(3) For purposes of determining future estimated interest payments on our floating rate debt, we used the interest rates in effect as of December 31, 2008 and 2009.

(4) The estimated cash flows under interest rate derivatives include the approximate cash flows under our interest rate and cross-currency swap contracts, and represent the net amount between the rate we pay and the rate received under such contracts. For purposes of determining future estimated cash flows, we used the interest rates applicable under such contracts as of December 31, 2008 and 2009.

(5) Amounts relating to planned funding of pensions and other post-retirement benefits represent estimated annual payments under these benefits for the next 10 years, determined in local currency and translated into U.S. Dollars at the effective exchange rates as of December 31, 2008 and 2009. Future payments include the estimate of new retirees during such future years.

(6) Refers to estimated contractual obligations in connection with positions of inactive derivative financial instruments. See note 13D to our consolidated financial statements included elsewhere in this annual report.

See " — Recent Developments — Recent Developments Relating to Our Indebtedness — 2010 Exchange Offer" for a discussion of the 2010 Exchange Offer.

Off-Balance Sheet Arrangements

We do not have any off-balance sheet arrangements that are reasonably likely to have a material effect on our financial condition, operating results, liquidity or capital resources.

CEMEX Venezuela

As of and for the periods ended December 31, 2007 and July 31, 2008, measured in Pesos, our Venezuelan operations accounted for approximately 2.9% and 3.0% of our consolidated revenues, respectively, and 2.1% at the end of both periods of our consolidated

total assets. In the event our affiliates receive compensation as a result of proceedings they have initiated against Venezuela for the expropriation of their investment in CEMEX Venezuela, it is expected that the award of such relief will enable us to reduce consolidated debt and/or to expand total installed capacity. Accordingly, we believe that the expropriation of our affiliates' investment in CEMEX Venezuela will not have a material impact on our consolidated financial position, liquidity or results of operations. At the present time, however, it is not possible to predict the timing or amount of any award of restitution and/or compensation, the extent to which any order of restitution can be enforced, or the extent to which any monetary relief can be collected following an award. Until restitution and/or compensation is received, we will be negatively affected, although we do not expect such negative effect to be significant in light of our overall consolidated financial position.

We consolidated the income statement of CEMEX Venezuela in our results of operations for the seven-month period ended July 31, 2008. For balance sheet purposes, as of December 31, 2008, our investment in Venezuela was presented within "Other investments and non current accounts receivable." As of December 31, 2007, 2008, and 2009, the net book value of our investment in Venezuela was approximately Ps6.7 billion, Ps6.9 billion, and Ps6.1 billion, respectively, corresponding to the interest of our affiliates of approximately 75.7%.

See note 12A to our consolidated financial statements included elsewhere in this annual report.

See "Item 4 — Information on the Company — Regulatory Matters and Legal Proceedings — Other Legal Proceedings — Expropriation of CEMEX Venezuela and ICSID Arbitration."

Qualitative and Quantitative Market Disclosure

Our Derivative Financial Instruments

For the year ended December 31, 2008, we had a net loss of approximately Ps15.2 billion (U.S.$1.4 billion) from financial instruments as compared to a net gain of Ps2.4 billion (U.S.$218 million) in 2007. For the year ended December 31, 2009, we had a net loss of approximately Ps2.1 billion (U.S.$156 million) from financial instruments.

In 2009, we have reduced the aggregate notional amount of our derivatives, thereby reducing the risk of cash margin calls. This initiative has included closing substantially all notional amounts of derivative instruments related to our debt (currency and interest rate derivatives) and the settlement of our inactive derivative financial instruments (see notes 13C and D to our consolidated financial statements included elsewhere in this annual report), which we finalized during April 2009. The Financing Agreement significantly restricts our ability to enter into derivative transactions.

We use derivative financial instruments in order to change the risk profile associated with changes in interest rates and foreign exchange rates of debt agreements, as a vehicle to reduce financing costs, as an alternative source of financing in connection with our executive stock option programs, to effectively increase the conversion price of the Optional Convertible Subordinated Notes for CEMEX and as hedges of: (i) highly probable forecasted transactions and (ii) our net assets in foreign subsidiaries. Before entering into any transaction, we evaluate, by reviewing credit ratings and our business relationship according to our policies, the creditworthiness of the financial institutions and corporations that are prospective counterparties to our derivative financial instruments. We select our counterparties to the extent we believe that they have the financial capacity to meet their obligations in relation to these instruments. Under current financial conditions and volatility, we can not assure that risk of non-compliance with the obligations agreed to with such counterparties is minimal.

The fair value of derivative financial instruments is based on estimated settlement costs or quoted market prices and supported by confirmations of these values received from the counterparties to these financial instruments.

The notional amounts of derivative financial instrument agreements are used to measure interest to be paid or received and do not represent the amount of exposure to credit loss.

	At December 31, 2008		At December 31, 2009		
	Notional amount	Estimated fair value	Notional amount	Estimated fair value	Maturity Date
	(in millions of Dollars)				
Equity forward contracts	258	(12)	54	54	October 2011
Other forward contracts	40	(5)	55	1	October 2010
Other Equity Derivatives	500	(44)	860	(79)	April 2013
Foreign exchange forward contracts	940	(2)	—	—	—
Derivatives related to Perpetual Debentures	3,020	266	—	—	—
Interest rate swaps	15,319	(18)	—	—	—
Cross-currency swaps	528	(57)	—	—	—
Derivatives related to energy	208	54	202	27	September 2022

Our Equity Derivative Forward Contracts. In December 2007, CEMEX negotiated an equity forward contract covering approximately 47 million of CPOs originally scheduled to mature in March 2008. The notional amount of the contract was approximately U.S.$121 million (Ps1.3 billion). This contract was negotiated to hedge future exercises of options under CEMEX's executive stock option programs. During 2008, the hedge was increased to approximately 81 million CPOs with a notional amount of U.S.$206 million. During October 2008, a significant decrease in the price of CPOs accelerated the anticipated settlement of these contracts, which generated a loss of approximately U.S.$153 million (Ps2.1 billion), recognized in the results for the period. As of December 2009, these instruments no longer exist. See note 13C part VI to our consolidated financial statements included elsewhere in this annual report.

In connection with the sale of shares of AXTEL (see note 13C part IV to our consolidated financial statements included elsewhere in this annual report) and in order to benefit from a future increase in the prices of such entity, on March 31, 2008, CEMEX entered into a forward contract with cash settlement over the price of 119 million CPOs of AXTEL with maturity in April 2011. The fair value of such contract as of December 31, 2009, was a gain of approximately U.S.$54 million (Ps707 million). Changes in the fair value of this instrument generated a gain in the 2009 income statement of approximately U.S.$32 million (Ps435 million). The counterparties involved have exercised their options to maintain the transaction until October 2011.

Our Other Forward Contracts. During 2008, CEMEX negotiated a forward contract over the Total Return Index of the Mexican Stock Exchange, maturing in October 2009 through which CEMEX maintains exposure to increases or decreases of such index. At maturity in 2009, CEMEX renegotiated this contract and extended its maturity until October 2010. During 2009, changes in the fair value of this instrument generated a gain in the income statement of approximately U.S.$18 million (Ps245 million). See note 13C part V to our consolidated financial statements included elsewhere in this annual report.

Our Other Equity Derivative Contracts. These derivatives are described as options over the CPO price. In June 2008, CEMEX entered into a three year maturity structured transaction, under which it issued debt for U.S.$500 million approximately (Ps6.9 billion) paying an interest expense of LIBOR plus 132.5 bps., which includes options over the price of CEMEX's ADSs. In case the ADS price exceeds approximately U.S.$30.40 after adjustments made of the date of this annual report, the net interest rate under the issuance is considered to be zero. This rate increases as the price of the share decreases, with a maximum rate of 12% when the ADS price is lower than approximately U.S.$20.50. CEMEX measures the option over the price of the ADS at fair value, recognizing the amount in the income statement. As of December 31, 2009, the fair value includes a deposit in margin accounts of U.S.$54 million (Ps707 million), which is presented net within liabilities as a result of an offsetting agreement with the counterparty. See note 13C part VI to our consolidated financial statements included elsewhere in this annual report.

In April 2008, Citibank entered into put option transactions on CEMEX's CPOs with a Mexican trust that CEMEX established on behalf of its Mexican pension fund and certain of CEMEX's directors and current and former employees (the "participating individuals"). The transaction was structured with two main components. Under the first component, the trust sold, for the benefit of CEMEX's Mexican pension fund, put options to Citibank in exchange for a premium of approximately U.S.$38 million. The premium was deposited into the trust and was used to purchase, on a prepaid forward basis, securities that track the performance of the Mexican Stock Exchange. Under the second component, the trust sold, on behalf of the participating individuals, additional put options to Citibank in exchange for a premium of approximately U.S.$38 million, which was used to purchase prepaid forward CPOs. These prepaid forward CPOs, together with additional CPOs representing an equal amount in U.S. Dollars, were deposited into the trust by the participating individuals as security for their obligations, and represent the maximum exposure of the participating individuals under this transaction. The put options gave Citibank the right to require the trust to purchase, in April 2013, approximately 125.6 million CPOs at a price of U.S.$2.8660 per CPO (120% of the initial CPO price in Dollars after adjustments made as of the date of this annual report). If the value of the assets held in the trust (32.1 million CPOs and the securities that track the performance of the Mexican Stock Exchange) are insufficient to cover the obligations of the trust, a guarantee will be triggered and CEMEX, S.A.B. de C.V. will be required to purchase in April 2013 the total CPOs at a price per CPO equal to the difference between U.S.$2.8660 and the market value of the assets of the trust. The purchase price per CPO in Dollars and the corresponding number of CPOs under this transaction are subject to dividend adjustments. As of December 31, 2009, the fair value of the guarantee granted by CEMEX, S.A.B. de C.V. was approximately U.S.$143 million (Ps1.9 billion), an amount that was recognized as a provision against the income statement within "Results from financial instruments." Based on the guarantee, CEMEX, S.A.B. de C.V. was required to deposit approximately U.S.$141 million (Ps1.8 billion) in margin accounts, which according to the agreements with the counterparty, were offset with the obligation, resulting in a net liability of approximately U.S.$2 million (Ps26 million).

Our Foreign Exchange Forward Contracts. Until October, 2008, in order to hedge financial risks associated with variations in foreign exchange rates of certain net investments in foreign countries denominated in Euros and Dollars vis-à-vis the Peso, and consequently reducing volatility in the value of stockholders' equity in CEMEX's reporting currency, CEMEX negotiated foreign exchange forward contracts with different maturities until 2010. Changes in the estimated fair value of these instruments were recorded in stockholders' equity as part of the foreign currency translation effect. In October 2008, as part of the closing process of positions exposed to fluctuations in exchange rates vis-à-vis the Peso previously described, CEMEX entered into foreign exchange forward contracts with opposite exposure to the original contracts. As a result of these new positions, changes in the fair value of the original instruments will be offset in results by an equivalent opposite amount generated by these new derivative positions. The designation of original positions as hedges of CEMEX's net exposure over investment in foreign subsidiaries in stockholders' equity ended when the contracts of new offsetting derivative positions ended in October 2008. Therefore, changes in fair value of original positions and new offsetting derivative positions are recognized prospectively in the income statement within the inactive derivative financial instruments (see note 13D to our consolidated financial statements included elsewhere in this annual report). Valuation effects were registered within comprehensive income until the accounting hedge was revoked, adjusting the cumulative effect for translation of foreign subsidiaries.

Our Interest Rate Swaps. All outstanding interest rate swaps were settled in April 2009 (see note 13B to our consolidated financial statements included elsewhere in this annual report). Changes in fair value of interest rate swaps, recognized in the results for the period, generated losses of U.S.$2 million (Ps$27 million) in 2009 and U.S.$170 million (Ps$1.9 billion) in 2008. See note 13C part I to our consolidated financial statements included elsewhere in this annual report.

Our Cross-currency Swaps. All outstanding cross-currency swap contracts as of December 31, 2009 were settled in April 2009 (see note 13B to our consolidated financial statements included elsewhere in this annual report). In 2009 and 2008, changes in the fair value of cross-currency swap contracts, recognized in the results of the period, generated losses of U.S.$61 million (Ps$830 million) and approximately U.S.$216 million (Ps$2.4 billion), respectively. Additionally, as of December 31, 2008, we recognized a net liability of U.S.$57 million (Ps783 million) related to the estimated fair value of all cross-currency swap contracts, both short-term and long-term. See note 13C part II to our consolidated financial statements included elsewhere in this annual report.

Our Derivatives Related to Energy Projects. As of December 31, 2008 and 2009, we had an interest rate swap maturing in September 2022, for notional amounts of U.S.$208 million and U.S.$202 million, respectively, negotiated to exchange floating for fixed interest rates, in connection with agreements we entered into for the acquisition of electric energy for a 20-year period commencing in 2003. During the life of the derivative contract and over its notional amount, we will pay LIBO rates and receive a 5.4% fixed rate until maturity in September 2022. In addition, during 2001, CEMEX sold a floor option, which had a notional amount of U.S.$149 million in 2006, and that was settled in 2007, generating a loss of U.S.$16 million (Ps175 million) in 2007. As of December 31, 2007, after giving effect to the settlement of the floor option, the fair value of the swap represented a gain of U.S.$14 million (Ps153 million). During 2009, the change in the fair value of this instrument generated a loss of approximately U.S.$27 million (Ps367 million). Changes in fair value of these contracts were recognized in earnings during the respective period. See note 13C part I to our consolidated financial statements included elsewhere in this annual report.

Our Derivative Instruments Related to Perpetual Equity Instruments . In connection with the issuance of the debentures by the special purpose vehicles C5 Capital (SPV) Limited and C10 Capital (SPV) Limited in December 2006 described above, pursuant to which we paid a fixed Dollar rate of 6.196% on a notional amount of U.S.$350 million and a fixed Dollar rate of 6.722% on a notional amount of U.S.$900 million, respectively, we decided to change the foreign exchange exposure on the coupon payments from Dollars to Yen. In order to do so, we contemporaneously entered into two cross-currency swaps: a U.S.$350 million notional amount five-year cross-currency swap, pursuant to which, we received a fixed rate in Dollars of 6.196% of the notional amount and paid six-month Yen LIBOR multiplied by a factor of 4.3531, and a U.S.$900 million notional amount ten-year cross-currency swap, pursuant to which we received a fixed rate in Dollars of 6.722% of the notional amount and paid six-month Yen LIBOR multiplied by a factor of 3.3878. Each cross-currency swap included an extinguishable swap, which provided that if the relevant debentures were extinguished for certain stated conditions but before the maturity of the cross-currency swap, such cross-currency swap would be automatically extinguished, with no amounts payable by the swap counterparties. In addition, in order to eliminate variability during the first two years in the Yen-denominated payments due under the cross-currency swaps, we entered into foreign exchange forwards for a notional amount of U.S.$89 million, under which we paid Dollars and received payments in Yen. Changes in fair value of all the derivative instruments associated with the Perpetual Debentures were recognized in the income statement as part of the comprehensive financing result.

In connection with the issuance of the Perpetual Debentures by the special purpose vehicles C8 Capital (SPV) Limited and C10-EUR Capital (SPV) Limited in February and May 2007 described above, pursuant to which we paid a fixed Dollar rate of 6.640% on a notional amount of U.S.$750 million and a fixed Euro rate of 6.277% on a notional amount of €730 million, respectively, we decided to change the foreign exchange exposure on the coupon payments from Dollars and Euros to Yen. In order to do so, we contemporaneously entered into two cross-currency swaps: a U.S.$750 million notional amount eight-year cross-currency swap, pursuant to which we received a fixed rate in Dollars of 6.640% of the notional amount and paid six-month Yen LIBOR multiplied by a factor of 3.55248, and a €730 million notional amount ten-year cross-currency swap, pursuant to which we received a fixed rate in Euros of 6.277% of the notional amount and paid twelve-month Yen LIBOR multiplied by a factor of 3.1037. Each cross-currency swap included an extinguishable swap, which provided that if the relevant debentures are extinguished for certain stated conditions but before the maturity of the cross-currency swap, such cross-currency swap would be automatically extinguished, with no amounts payable by the swap counterparties. In addition, in order to eliminate variability during the first two years in the Yen-denominated payments due under the cross-currency swaps, we entered into foreign exchange forwards for notional amounts of U.S.$273 million, under which CEMEX paid Dollars and received payments in Yen. Changes in fair value of all the derivative instruments associated with the Perpetual Debentures were recognized in the income statement as part of the comprehensive financing result.

During 2009, we terminated all the above-described derivative instruments related to the Perpetual Debentures.

Our Capped Call Transaction. On March 30, 2010, in connection with the offering of the Optional Convertible Subordinated Notes, we entered into a capped call transaction with an affiliate of Citigroup Global Markets, Inc., the sole global coordinator and sole structuring agent of the Optional Convertible Subordinated Notes. The capped call transaction covers, subject to customary anti-dilution adjustments, approximately 52.58 million ADSs. The capped call transaction was designed to effectively increase the conversion price of the Optional Convertible Subordinated Notes for CEMEX. The capped call transaction had a cap price 80% higher than the closing price of our ADSs on March 24, 2010 (the pricing date for the Optional Convertible Subordinates Note) and will be cash-settled. Because the capped call transaction is cash-settled, it does not provide an offset to any ADSs we may deliver to holders upon conversion of the Optional Convertible Subordinated Notes.

Our Inactive Derivative Instruments. In order to eliminate the derivative instrument portfolio exposure to fluctuations in the foreign exchange rate of the Mexican Peso against foreign currencies and to the price drop of CEMEX's ADSs and CPOs, and considering contractual limitations to extinguish contracts before their maturity date, between October 14 and 16, 2008, CEMEX contracted new derivative instruments with the same counterparties. These instruments represented the opposite position to the original derivative instruments, effectively offsetting the volatility of these instruments in the income statement. As of December 31, 2008, derivative instruments involved in the restructuring are disclosed as inactive positions and their valuation effects are presented within "Other financial obligations" in the balance sheet and represented a net liability of U.S.$385 million (approximately Ps5.3 billion).

As of December 31, 2008, related to compensation agreements included in the contracts of derivative instruments, the balance of deposits in margin accounts of U.S.$198 million (approximately Ps2.7 billion) of inactive positions are presented net within CEMEX's liabilities with its counterparties. As of December 31, 2009, CEMEX had no inactive positions in its derivative portfolio. As of December 31, 2008, inactive derivative instruments were as follows:

	2008	
	Notional amount*	Fair value
	(in millions of Dollars)	
Short-term Cross-currency Swaps ("CCS") original derivative position(1)	U.S.$ 460	(48)
Short-term CCS offsetting derivative position	460	18
Long-term CCS original derivative position(2)	1,299	(257)
Long-term CCS offsetting derivative position	1,299	58
Original CCS net of its offsetting derivative position		(229)
Deposit in margin accounts		126
Fair value of CCS, net of margin account deposit		(103)
Short-term foreign exchange forward contracts original position(3)	2,616	(599)
Short-term foreign exchange forward contracts original position	2,616	270
Long-term foreign exchange forward contracts original position(4)	110	(30)
Long-term foreign exchange forward contracts net offsetting position	110	15
Original foreign exchange forward contract, net of its offsetting position		(344)
Deposit in margin accounts		72
Fair value of foreign exchange forward contracts, net of margin account deposit		(272)
CCS related to original debt position(5)	900	2
Forward contracts related to new offsetting debt position	900	(12)
Original CCS net of its forward contract offsetting debt position		(10)
Total		U.S.$ (385)

* Notional amounts of original derivative positions and net offsetting derivative positions are not cumulative, considering that the effects of an instrument are proportionally inverse to the effect of other instrument, therefore, eliminated.

(1) The original derivative position refers to short-term CCS that exchanged approximately Ps4.9 billion for U.S.$460 million, receiving an average rate of 9.0% in Mexican Pesos and paying a rate of 2.3% in Dollars, whose scheduled maturity was in May 2009.

(2) The original derivative position refers to long-term CCS that exchanged Ps628 million *Unidades de Inversión*, or UDIs, and approximately Ps11.5 billion for U.S.$1.3 billion, receiving an average rate of 4.0% in UDIs and 8.9% in Pesos, and paying a rate of 1.8% in Dollars, whose last scheduled maturity was in November 2017.

(3) The original derivative position refers to short-term foreign exchange with a notional amount of approximately U.S.$1.8 billion of Peso/Euro contracts and U.S.$857 million of Peso/Dollar contracts, whose last scheduled maturity was in September 2009 related to the hedges of some foreign investments.

(4) The original derivative position refers to foreign exchange forward contracts for a notional amount of U.S.$110 million, related, as in the paragraph above, to hedges of stockholders' equity. They related to forward Peso/Euro contracts, whose last maturity was in January 2010.

(5) The original derivative position refers to CCS with maturity in June 2011 which exchanged Dollar per Japanese Yen, receiving a rate in Dollars of 2.8113% and paying a rate in Japanese Yen of 1.005%.

Interest Rate Risk, Foreign Currency Risk and Equity Risk

Interest Rate Risk. The table below presents tabular information of our fixed and floating rate long-term foreign currency-denominated debt as of December 31, 2009. It includes the effects generated by the interest rate swaps and the cross-currency swap contracts that we have entered into, covering a portion of our financial debt originally negotiated in Pesos and Dollars. See note 13 to our consolidated financial statements included elsewhere in this annual report. Average floating interest rates are calculated based on forward rates in the yield curve as of December 31, 2009. Future cash flows represent contractual principal payments. The fair value of our floating rate long-term debt is determined by discounting future cash flows using borrowing rates available to us as of December 31, 2009 and is summarized as follows:

	Expected maturity dates as of December 31, 2009							
Long-Term Debt(1)	2010	2011	2012	2013	2014	After 2015	Total	Fair Value
	(in millions of Dollars equivalents of debt denominated in foreign currencies)							
Variable rate	299	1,263	1,292	2,300	6,612	13	11,779	11,672
Average interest rate	5.85%	7.46%	8.48%	9.23%	9.54%	7.20%		
Fixed rate	2	114	163	155	1,699	1,956	4,088	4,087
Average interest rate	7.82%	7.82%	7.81%	7.69%	7.64%	9.11%		

(1) The information above includes the current maturities of the long-term debt. Total long-term debt as of December 31, 2009 does not include the Perpetual Debentures for an aggregate amount of approximately U.S.$3.0 billion (approximately Ps39.9 billion), issued by consolidated entities. See note 17D to our consolidated financial statements included elsewhere in this annual report.

As of December 31, 2009, we were subject to the volatility of the floating interest rates, which, if such rates were to increase, may adversely affect our financing cost and our net income. As of December 31, 2009, 72% of our foreign currency-denominated long-term debt bore floating rates at a weighted average interest rate of LIBOR plus 473 basis points.

As of December 31, 2009, we held interest rate swaps for a notional amount of U.S.$202 million and with a fair value of approximately U.S.$27 million. Pursuant to these interest rate swaps, we receive fixed rates and deliver

variable rates over the notional amount. These derivatives, even when they do not meet the criteria to be considered hedging items for accounting purposes, complement our financial strategy and mitigate our overall exposure to floating rates. See "— Qualitative and Quantitative Market Disclosure — Our Derivative Financial Instruments — Our Interest Rate Swaps."

The potential change in the fair value as of December 31, 2009 of these contracts that would result from a hypothetical, instantaneous decrease of 50 basis points in the interest rates would be a gain of approximately U.S.$8 million (Ps105 million).

Foreign Currency Risk. Due to our geographic diversification, our revenues are generated in various countries and settled in different currencies. However, some of our production costs, including fuel and energy, and some of our cement prices, are periodically adjusted to take into account fluctuations in the Dollar/Peso exchange rate. For the year ended December 31, 2009, approximately 21% of our net sales, before eliminations resulting from consolidation, were generated in Mexico, 19% in the United States, 5% in Spain, 8% in the United Kingdom, 23% in our Rest of Europe segment, 10% in South America, Central America and the Caribbean, 7% in Africa and the Middle East, 3% in Asia and 4% from other regions and our cement and clinker trading activities. As of December 31, 2009, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, our debt amounted to approximately Ps226.1 billion (U.S.$17.3 billion), of which approximately 65% was Dollar-denominated, 9% was Peso-denominated, 25% was Euro-denominated, and immaterial amounts were denominated in other currencies; therefore, we had a foreign currency exposure arising from the Dollar-denominated debt, and the Euro-denominated debt, versus the currencies in which our revenues are settled in most countries in which we operate. See "— Liquidity and Capital Resources — Our Indebtedness," and "Item 3 — Risk Factors — We have to service our Dollar-denominated obligations with revenues generated in Pesos or other currencies, as we do not generate sufficient revenue in Dollars from our operations to service all our Dollar-denominated obligations. This could adversely affect our ability to service our obligations in the event of a devaluation or depreciation in the value of the Peso, or any of the other currencies of the countries in which we operate, compared to the Dollar. In addition, our consolidated reported results and outstanding indebtedness are significantly affected by fluctuations in exchange rates between the Peso and other currencies." In addition, as of December 31, 2009, our Euro denominated debt, after giving *pro forma* effect to the 2010 Transactions and the application of the net proceeds therefrom, represented approximately 25% of our total debt, not including approximately €266 million aggregate principal amount of the 6.277% Perpetual Debentures outstanding after the completion of the 2010 Exchange Offer. We cannot guarantee that we will generate sufficient revenues in Euros from our operations in Spain and the Rest of Europe to service these obligations. As of December 31, 2009, all cross-currency swaps had been settled.

Equity Risk. As described above, we have entered into equity forward contracts on AXTEL CPOs. Upon liquidation, the equity forward contracts provide physical settlement and the effects are recognized in the income statement. At maturity, if these forward contracts are not settled or replaced, or if we default on these agreements, our counterparties may sell the shares of the underlying contracts. Under these equity forward contracts, there is a direct relationship in the change in the fair value of the derivative with the change in value of the underlying asset.

As of December 31, 2009, the potential change in the fair value of these contracts that would result from a hypothetical, instantaneous decrease of 10% in the market price of AXTEL CPOs would be a loss of approximately U.S.$10 million (Ps131 million).

In addition, we have entered into forward contracts on the Total Return Index of the Mexican Stock Exchange through which we maintain exposure to changes of such index, until maturity in October 2010. Upon liquidation, these forward contracts provide a cash settlement of the estimated fair value and the effects are recognized in the income statement. Under these equity forward contracts, there is a direct relationship in the change in the fair value of the derivative with the change in value of the Total Return Index of the Mexican Stock Exchange.

As of December 31, 2009, the potential change in the fair value of these contracts that would result from a hypothetical, instantaneous decrease of 10% in the aforementioned index would be a loss of approximately U.S.$5 million (Ps65 million).

As of December 31, 2009, we were subject to the volatility of the market price of the CPOs in relation to our options over the CPO price and our put option transactions on the CPOs, as described in " — Qualitative and Quantitative Market Disclosure — Our Derivative Financial Instruments — Our Other Equity Derivative Contracts." A decrease in the market price of the CPOs may adversely affect our result from financial instruments and our net income.

As of December 31, 2009, the potential change in the fair value of these contracts that would result from a hypothetical, instantaneous decrease of 10% in the market price of the CPOs would be a loss of approximately U.S.$15 million (Ps196 million).

In connection with the offering of the Optional Convertible Subordinated Notes issued in March 2010, we entered into a capped call transaction with an affiliate of Citigroup Global Markets, Inc., the sole global coordinator and sole structuring agent of the Optional Convertible Subordinated Notes. See " — Recent Developments — Recent Developments Relating to Our Indebtedness — Issuance of 4.875% Optional Convertible Subordinated Notes due 2015" and " — Qualitative and Quantitative Market Disclosure — Our Derivative Financial Instruments Our Capped Call Transaction."

Investments, Acquisitions and Divestitures

The transactions described below represent our principal investments, acquisitions and divestitures completed during 2007, 2008 and 2009.

Investments and Acquisitions

On July 1, 2007, for accounting purposes, we completed the acquisition of 100% of the Rinker shares for a total consideration of approximately U.S.$14.2 billion (approximately Ps155.6 billion) (excluding the assumption of approximately U.S.$1.3 billion (approximately Ps13.9 billion) of Rinker's debt).

In addition to the above-mentioned acquisitions, our net investment in property, machinery and equipment, as reflected in our consolidated financial statements (see note 11 to our consolidated financial statements included elsewhere in this annual report), excluding acquisitions of equity interests in subsidiaries and associates, was approximately Ps22.0 billion (U.S.$ 2.0 billion) in 2007, Ps23.2 billion (U.S.$ 2.1 billion) in 2008 and Ps8.7 billion (U.S.$636 million) in 2009. This net investment in property, machinery and equipment has been applied to the construction and upgrade of plants and equipment, to the maintenance of plants and equipment, including environmental controls and technology updates.

As of the date of this annual report, we have allocated over U.S.$205 million in our 2010 budget to continue with this effort.

Divestitures

On October 1, 2009, we completed the sale of our operations in Australia to a subsidiary of Holcim Ltd for A$2.02 billion (approximately U.S.$1.7 billion).

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

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

On July 31, 2008, we agreed to sell our operations in Austria (consisting of 26 aggregates and 41 ready-mix concrete plants) and Hungary (consisting of 6 aggregates, 29 ready-mix concrete and 4 paving stone plants) to Strabag SE, one of Europe's leading construction and building materials groups, for €310 million (approximately U.S.$433 million). See " — Regulatory Matters and Legal Proceedings — Other Legal Proceedings — Strabag Arbitration." for a description of the ongoing arbitration relating to the proposed sale of our Austrian and Hungarian operations.

During 2008, we sold in several transactions our operations in Italy consisting of four cement grinding mill facilities for an aggregate amount of approximately €148 million (approximately U.S.$210 million).

As required by the Antitrust Division of the United States Department of Justice, pursuant to a divestiture order in connection with the Rinker acquisition, in December 2007, we sold to the Irish building materials producer CRH plc, ready-mix concrete and aggregates plants in Arizona and Florida for approximately U.S.$250 million, of which approximately U.S.$30 million corresponded to the sale of assets we owned prior to our Rinker acquisition.

On July 1, 2005, we and Ready Mix USA established two jointly-owned limited liability companies, CEMEX Southeast, LLC, a cement company, and Ready Mix USA LLC, a ready-mix concrete company, to serve the construction materials market in the southeast region of the United States. Under the terms of the limited liability company agreements and related asset contribution agreements, we contributed two cement plants (Demopolis, Alabama and Clinchfield, Georgia) and 11 cement terminals to CEMEX Southeast, LLC, then representing approximately 98% of its contributed capital, while Ready Mix USA contributed cash to CEMEX Southeast, LLC then representing approximately 2% of its contributed capital. In addition, we contributed our ready-mix concrete, aggregates and concrete block assets in the Florida panhandle and southern Georgia to Ready Mix USA LLC, then representing approximately 9% of its contributed capital, while Ready Mix USA contributed all its ready-mix concrete and aggregate operations in Alabama, Georgia, the Florida panhandle and Tennessee, as well as its concrete block operations in Arkansas, Tennessee, Mississippi, Florida and Alabama to Ready Mix USA LLC, then representing approximately 91% of its contributed capital. We own a 50.01% interest, and Ready Mix USA owns a 49.99% interest, in the profits and losses and voting rights of CEMEX Southeast, LLC, while Ready Mix USA owns a 50.01% interest, and we own a 49.99% interest, in the profits and losses and voting rights of Ready Mix USA LLC. In a separate transaction, on September 1, 2005, we sold 27 ready-mix concrete plants and four concrete block facilities located in the Atlanta, Georgia metropolitan area to Ready Mix USA LLC for approximately U.S.$125 million. In January 2008, we and Ready Mix USA agreed to expand the scope of the Ready-Mix USA, LLC joint venture. As part of the transaction, which closed on January 11, 2008, we contributed assets valued at approximately $260 million to the joint venture and sold additional assets to the joint venture for approximately $120 million in cash. As part of the transaction, Ready Mix USA made a $125 million cash contribution to the joint venture and the joint venture made a $135 million special distribution to us. Ready Mix USA will manage all the newly acquired assets. Following the transaction, the joint venture will continue to be owned 50.01% by Ready Mix USA and 49.99% by us. The assets contributed and sold by CEMEX include: 11 concrete plants, 12 limestone quarries, four concrete maintenance facilities, two aggregate distribution facilities and two administrative offices in Tennessee; three granite quarries and one aggregates distribution facility in Georgia; and one limestone quarry and one concrete plant in Virginia. All these assets were acquired by us through our acquisition of Rinker. See "Item 4 — Information on the Company — North America — Our U.S. Operations — Overview" for a description of Ready Mix USA LLC's recent asset sale.

See note 12A to our consolidated financial statements included elsewhere in this annual report.

Item 6 - Directors, Senior Management and Employees

Senior Management and Directors

Senior Management

On May 1, 2009, we announced a reorganization of our senior management in order to align responsibilities with the current situation of the company, and to bring new perspectives and opportunities to reinforce our operational and financial performance. On February 9, 2010, we announced changes to our senior management team effective as of March 1, 2010. Fernando A. González was appointed Executive Vice President of Planning and Finance. Mr. González will be responsible for all corporate strategic and developmental functions, including CEMEX's relationships with the capital markets and Technology and Energy. We also announced the retirement of Héctor Medina, Executive Vice President of Finance and Legal, and Armando J. García, Executive Vice President of Technology, Energy and Sustainability. Mr. Medina and Mr. García each participated in an early retirement program for senior executives. Mr. García remains a member of CEMEX's board of directors, on which he has served since 1983. Set forth below is the name and position of each member of our senior management team as of March 1, 2010. The terms of office of the senior managers are indefinite.

Name, Position (Age)	Experience
Lorenzo H. Zambrano, Chief Executive Officer (66)	Joined CEMEX in 1968. During his career with CEMEX, Mr. Zambrano has been involved in all operational aspects of our business. He held several positions in CEMEX prior to his appointment as Director of Operations in 1981. In 1985, Mr. Zambrano was appointed chief executive officer, and in 1995 he was elected chairman of the board of directors. Mr. Zambrano is a graduate of Instituto Tecnológico y de Estudios Superiores de Monterrey, A.C., or ITESM, with a degree in mechanical engineering and administration and has an M.B.A. from Stanford University. Mr. Zambrano has been a member of our board of directors since 1979 and chairman of our board of directors since 1995. He is a member of the board of directors of IBM and the international advisory board of Citigroup. He is also a member of the board of directors of Fomento Económico Mexicano, S.A.B. de C.V. Mr. Zambrano is chairman of the board of directors of Consejo de Enseñanza e Investigación Superior, A.C., which manages ITESM, and a member of the board of directors of Museo de Arte Contemporáneo de Monterrey A.C. (MARCO). Mr. Zambrano participated in the chairman's Council of Daimler Chrysler AG until July 2005, was a member of the Stanford University's Graduate School of Business Advisory Council until 2006, of the board of directors of Vitro, S.A.B. until 2007, of the board of directors of Alfa, S.A.B. de C.V. until 2008, and of the board of directors of Grupo Televisa S.A.B. and Grupo Financiero Banamex, S.A. de C.V. until April 2009. In recognition of his business and philanthropic record, Mr. Zambrano has received several awards and recognitions, including the Woodrow Wilson Center's Woodrow Wilson Award for Corporate Citizenship, the America's Society Gold Medal Distinguished Service Award, and Stanford University's Graduate School of Business Alumni Association's Ernest C. Arbuckle Award.

Name, Position (Age)	Experience
	Mr. Zambrano is a first cousin of Lorenzo Milmo Zambrano and Rogelio Zambrano Lozano, both members of our board of directors, as well as of Rodrigo Treviño, our Chief Financial Officer. He is also a second cousin of Roberto Zambrano Villarreal and second uncle of Tomas Milmo Santos, both members of our board of directors.
Víctor Romo, Executive Vice President of Administration (52)	Joined CEMEX in 1985 and has served as director of administration of CEMEX España from 1992 to 1994, general director of administration and finance of CEMEX España from 1994 to 1996, president of CEMEX Venezuela from 1996 to 1998, president of the South American and Caribbean region from 1998 to May 2003, and executive vice president of administration since May 2003. He is a certified public accountant and received a master's degree in administration and finance from ITESM. Previously, he worked for Grupo Industrial Alfa, S.A. de C.V. from 1979 to 1985.
Fernando A. González, Executive Vice President of Planning and Finance (55)	Joined CEMEX in 1989, and has served as corporate vice-president of strategic planning from 1994 to 1998, president of CEMEX Venezuela from 1998 to 2000, president of CEMEX Asia from 2000 to May 2003, and president of the South American and Caribbean region from May 2003 to February 2005. In March 2005, he was appointed president of the expanded European Region, in February 2007, President of the Europe, Middle East, Africa, Asia and Australia Region, and in May 2009, executive vice president of planning and development. In February 2010, Mr. Gonzalez was appointed Executive Vice President of Planning and Finance. Mr. González earned his B.A. and M.B.A. degrees from ITESM.
Francisco Garza, President of the Americas Region (55)	Joined CEMEX in 1988 and has served as director of trading from 1988 to 1992, president of CEMEX USA from 1992 to 1994, president of CEMEX Venezuela from 1994 to 1996 and Cemento Bayano from 1995 to 1996, president of CEMEX Mexico and CEMEX USA from 1996 to 1998, president of the North American region and trading from 1998 to 2009. In 2009 he was appointed president of the Americas region. He is a graduate in business administration from ITESM and has an M.B.A. from the Johnson School of Management at Cornell University in 1982.
Juan Romero Torres, President of the Europe, Middle East, Africa, Asia and Australia Region (53)	Joined CEMEX in 1989 and has occupied several senior management positions, including president of CEMEX Colombia, president of CEMEX Mexico, and president of the South America and Caribbean region. In May 2009, he was appointed president of the Europe, Middle East, Africa, Asia and Australia region. Mr. Romero graduated from Universidad de Comillas in Spain, where he studied Law and Economic and Enterprise Sciences.
Rodrigo Treviño, Chief Financial Officer (53)	Joined CEMEX in 1997 and has served as chief financial officer since then. He has both Bachelor and Master of Science degrees in industrial engineering from Stanford University. Prior to joining CEMEX, he served as the country corporate officer for Citicorp/Citibank Chile from 1995 to 1996, and worked at Citibank, N.A. from 1979 to 1994. Mr. Treviño is a first cousin of Lorenzo H. Zambrano, our chief executive officer and chairman of our board of directors.
Ramiro G. Villarreal, General Counsel (62)	Joined CEMEX in 1987 and has served as general counsel since then, and also has served as secretary of our board of directors since 1995. He is a graduate of the Universidad Autónoma de Nuevo León with a degree in law. He also received a Master of Science degree in finance from the University of Wisconsin. Prior to joining CEMEX, he served as assistant general director of Grupo Financiero Banpais from 1985 to 1987.

Name, Position (Age)	Experience
Rafael Garza, Chief Accounting Officer (47)	Joined CEMEX in 1985 and has served as chief accounting officer since 1999. Mr. Garza is a certified public accountant and recieved a master's degree in administration and finance from ITESM. He also attended executive programs at ITAM, IPADE and Harvard University. He is currently member of the boards of directors of Consejo Mexicano para la Investigación y Desarrollo de Normas de Información Financiera, or CINIF, of Universidad Regiomontana, A.C., and of Grupo Cementos Chihuahua, S.A.B. de C.V.

Board of Directors

Set forth below are the names of the current members of our board of directors, elected at our 2009 annual shareholders' meeting held on April 29, 2010. At this shareholders' meeting, no alternate directors were elected. Members of our board of directors serve for one-year terms.

Name (Age)	Experience
Lorenzo H. Zambrano, Chairman (66)	See "— Senior Management."
Lorenzo Milmo Zambrano (73)	Has been a member of our board of directors since 1977. He is also chief executive officer of Inmobiliaria Ermiza, S.A. de C.V. He is a first cousin of Lorenzo H. Zambrano, chairman of our board of directors and our chief executive officer, a first cousin of Rogelio Zambrano Lozano, and an uncle of Tomas Milmo Santos, both members of our board of directors.
Armando J. García Segovia (58)	Mr. García has been a member of our board of directors since 1983. He initially joined CEMEX in 1975 and rejoined CEMEX in 1985. He served as Director of Operational and Strategic Planning from 1985 to 1988, Director of Operations from 1988 to 1991, Director of Corporate Services and Affiliate Companies from 1991 to 1994, Director of Development from 1994 to 1996, General Director of Development from 1996 to 2000, Executive Vice President of Development from 2000 to May 2009, and Executive Vice President for Technology, Energy and Sustainability from May 1, 2009 to March 31, 2010. He is a graduate of ITESM with a degree in mechanical engineering and administration and received an M.B.A. from the University of Texas. He was employed at Cydsa, S.A. from 1979 to 1981 and at Conek, S.A. de C.V. from 1981 to 1985. He also serves as a member of the board of directors of Grupo Cementos de Chihuahua, S.A.B. de C.V., and GCC Cemento, S.A. de C.V. He was also vice president of COPARMEX, member of the board and former chairman of the Private Sector Center for Sustainable Development Studies (Centro de Estudios del Sector Privado para el Desarrollo Sostenible), and member of the board of the World Environmental Center. He is also founder and chairman of the board of Comenzar de Nuevo, A.C. He is a first cousin of Rodolfo García Muriel, a member of our board of directors.

Name (Age)	Experience
Rodolfo García Muriel (64)	Has been a member of our board of directors since 1985 and member of our finance committee since 2009. He is the chief executive officer of Compañía Industrial de Parras, S.A. de C.V. He is a member of the board of directors of Inmobiliaria Romacarel, S.A.P.I. de C.V., Comfort Jet, S.A. de C.V., and member of the regional board of Banamex. Mr. García Muriel is also vice president of the Textile Industry National Chamber (*Cámara Nacional de la Industria Textil*). He is a first cousin of Armando J. García Segovia, a member of our board of directors.
Rogelio Zambrano Lozano (53)	Has been a member of our board of directors since 1987 and president of our finance committee since 2009. He is also a member of the advisory board of Grupo Financiero Banamex Accival, S.A. de C.V., Zona Norte, and member of the boards of Directors of Carza, S.A. de C.V., Plaza Sesamo, S.A. de C.V., Hospital San José, and ITESM. He is a first cousin of Lorenzo H. Zambrano, chairman of our board of directors and our chief executive officer, a first cousin of Lorenzo Milmo Zambrano, a member of our board of directors and uncle of Tomás Milmo Santos, a member of our board of directors.
Roberto Zambrano Villarreal (65)	Has been a member of our board of directors since 1987. He was president of our audit committee from 2002 to 2006, President of our corporate practices and audit committee from 2006 to 2009, and president of our new audit committee since 2009. He is also a member of the board of directors of CEMEX México, S.A. de C.V. He is chairman of the board of directors of Desarrollo Integrado, S.A. de C.V., Administración Ficap, S.A. de C.V., Aero Zano, S.A. de C.V., Ciudad Villamonte, S.A. de C.V., Focos, S.A. de C.V., C & I Capital, S.A. de C.V., Industrias Diza, S.A. de C.V., Inmobiliaria Sanni, S.A. de C.V., Inmuebles Trevisa, S.A. de C.V., Servicios Técnicos Hidráulicos, S.A. de C.V., Mantenimiento Integrado, S.A. de C.V., Pilatus PC-12 Center de México, S.A. de C.V., and Pronatura, A.C. He is a member of the board of directors of S.L.I. de México, S.A. de C.V., and Compañía de Vidrio Industrial, S.A. de C.V.
Bernardo Quintana Isaac (68)	Has been a member of our board of directors since 1990 and of our corporate practices committee since 2009. He is chairman of the board of directors of Empresas ICA, S.A.B. de C.V., where he was also chief executive officer until December, 2006. Mr. Quintana Isaac was a member of Patronato UNAM until May 2009. Mr. Quintana Isaac is president of Grupo Aeroportuario del Centro Norte, S.A.B. de C.V., Fundación ICA and of the Foundation for Mexican Letters (*Fundación para las Letras Mexicanas*), and member of the board of GRUMA, S.A.B. de C.V., Grupo Financiero Banamex, S.A. de C.V., and Banco Nacional de México, S.A. He is also a member of the Mexican Council of Businessmen (*Consejo Mexicano de Hombres de Negocios*) and Fundación UNAM.
Dionisio Garza Medina (56)	Has been a member of our board of directors since 1995 and president of our corporate practices committee since 2009. He is honorary chairman and member of the board of Alfa, S.A.B. de C.V. where he was chairman and chief executive officer until March 2010. Mr. Garza Medina is member of the advisory board of the Mexican Minister of Economy, the advisory committee of the David Rockefeller Center for Latin American Studies at Harvard. He is chairman of the Harvard Business School Latin American advisory board, the Advisory Council of Stanford's Engineering School and the Trilateral Commission. Additionally, Mr. Garza Medina is chairman of the board of the Universidad de Monterrey.

Name (Age)	Experience
Alfonso Romo Garza (59)	Has been a member of our board of directors since 1995, member of our audit committee from 2002 to 2006, member of our corporate practices and audit committee from 2006 to 2009, member of our new audit committee since 2009, and member of our finance committee since 2009. He is chairman of the board and chief executive officer of Savia, S.A. de C.V. and member of the boards of Grupo Maseca, S.A.B. de C.V., The Donald Danforth Plant Science Center, and Synthetic Genomics, among others.
Tomás Milmo Santos (45)	Has been a member of our board of directors since 2006 and member of our finance committee since 2009. Mr. Milmo Santos served as an alternate member of our board of directors from 2001 to 2006. He is chief executive officer and president of the board of directors of AXTEL, a telecommunications company that operates in the local, long distance and data transfer market. He is also a member of the board of directors of Cemex México S.A. de C.V., HSBC Mexico, and ITESM. Mr. Milmo Santos is the second nephew of Lorenzo H. Zambrano, chief executive officer and chairman of our board of directors and the nephew of Lorenzo Milmo Zambrano, member of our board of directors.
José Manuel Rincón Gallardo (67)	Has been a member of our board of directors since 2003. He is also a member of our audit committee, where he qualifies as a "financial expert" for purposes of the Sarbanes-Oxley Act of 2002. He is president of the board of directors of Sonoco de México S.A. de C.V., member of the board of directors and audit committees of Grupo Financiero Banamex, S.A. de C.V., Grupo Herdez, S.A. de C.V., General de Seguros, S.A.B., Kansas City Southern and Grupo Aeroportuario del Pacífico, S.A. de C.V., and member of the board of directors of Laboratorios Sanfer-Hormona. Mr. Rincón Gallardo is a member of the Instituto Mexicano de Contadores Públicos, A.C., he was managing partner of KPMG Mexico, and was member of the board of directors of KPMG United States and KPMG International.
José Antonio Fernández Carbajal (56)	Has been a member of our board of directors and member of our corporate practices committee since 2009. He is chairman of the board of directors of Fomento Económico Mexicano S.A.B. de C.V. ("FEMSA") since 2001 and its chief executive officer since 1995, chairman of the board of directors of Coca-Cola Femsa, S.A.B. de C.V., and vice president of the board of directors of ITESM. He is also a member of the board of directors of Grupo Financiero BBVA Bancomer, S.A. de C.V., BBVA Bancomer, S.A., Industrias Peñoles, S.A.B. de C.V., Grupo Industrial Bimbo, S.A.B. de C.V., Grupo Televisa, S.A.B. de C.V., Grupo Xignux S.A. de C.V., and Controladora Vuela Compañía de Aviación, S.A. de C.V. Mr. Fernández is also chairman of the board of Fundación FEMSA and of the U.S.-Mexico Foundation, and co-directs the Mexican Chapter of the Woodrow Wilson Center as president since 2003.
Rafael Rangel Sostmann (68)	Has been a member of our board of directors and member of our corporate practices committee since 2009 and member of our audit committee since 2010. Mr. Rangel Sostmann has been president of ITESM since 1985. He is also a member of the board of directors of Fundación Santos y de la Garza Evia, I.B.P., which owns Hospital San José de Monterrey.

Board Practices

In compliance with the new Mexican securities markets law (*Ley del Mercado de Valores*), which was enacted on December 28, 2005 and became effective on June 28, 2006, our shareholders approved, at a general extraordinary meeting of shareholders held on April 27, 2006, a proposal to amend various articles of our by-laws, or *estatutos sociales*, in order to improve our standards of corporate governance and transparency, among other matters. The amendments include outlining the fiduciary duties of the members of our board of directors, who are now required:

- to perform their duties in a value-creating manner for the benefit of CEMEX without favoring a specific shareholder or group of shareholders;
- to act diligently and in good faith by adopting informed decisions; and
- to comply with their duty of care and loyalty, abstaining from engaging in illicit acts or activities.

The new law also eliminated the position of statutory examiner, whose duties of surveillance are now the responsibility of the board of directors, fulfilled through the new corporate practices and audit committee, as well as through the external auditor who audits the entity's financial statements, each within its professional role. With its new surveillance duties, our board of directors is no longer in charge of managing CEMEX; instead, this is the responsibility of our chief executive officer.

Pursuant to the new law and our by-laws, at least 25% of our directors must qualify as independent directors.

We have not entered into any service contracts with our directors that provide for benefits upon termination of employment.

The Audit Committee, the Corporate Practices Committee and the Finance Committee

The new Mexican securities market law required us to create a corporate practices committee comprised entirely of independent directors, in addition to our then existing audit committee. In compliance with this new requirement, in 2006 we increased the responsibilities of our audit committee and changed its name to "corporate practices and audit committee." To further enhance the effectiveness of our corporate governance, at our annual shareholders meeting of April 23, 2009, our shareholders approved the division of this committee into two distinct committees with different members and responsibilities, the audit committee and the corporate practices committee. In addition, at a meeting held on May 28, 2009, our board of directors approved the creation of the finance committee.

Our audit committee is responsible for:

- evaluating our internal controls and procedures, and identifying deficiencies;
- following up with corrective and preventive measures in response to any non-compliance with our operation and accounting guidelines and policies;

- evaluating the performance of our external auditors;
- describing and valuing non-audit services performed by our external auditor;
- reviewing our financial statements;
- assessing the effects of any modifications to the accounting policies approved during any fiscal year; and
- overseeing measures adopted as a result of any observations made by our shareholders, directors, executive officers, employees or any third parties with respect to accounting, internal controls and internal and external audit, as well as any complaints regarding management irregularities, including anonymous and confidential methods for addressing concerns raised by employees.

Our corporate practices committee is responsible for:

- evaluating the hiring, firing and compensation of our chief executive officer;
- reviewing the hiring and compensation policies for our executive officers;
- reviewing related party transactions;
- reviewing policies regarding use and corporate assets;
- reviewing unusual or material transactions; and
- evaluating waivers granted to our directors or executive officers regarding seizure of corporate opportunities.

Our finance committee is responsible for:

- evaluating the company's financial plans;
- reviewing the company's financial strategy and its implementation; and
- analyzing risks in connection with the company's financial structure, interest rate and currency volatility, and refinancing.

Under our bylaws and Mexican securities laws, all members of the corporate practices committee and the audit committee, including their presidents, are required to be independent directors.

Set forth below are the names of the members of our current audit committee, corporate practices committee and finance committee. The terms of the members of both committees are indefinite, and members may only be removed by a resolution of the board of directors. José Manuel Rincón Gallardo qualifies as an "audit committee financial expert" for purposes of the Sarbanes Oxley Act of 2002. See "Item 16A — Audit Committee Financial Expert."

Audit Committee:	
Roberto Zambrano Villarreal, President	See "— Board of Directors."
José Manuel Rincón Gallardo	See "— Board of Directors."
Alfonso Romo Garza	See "— Board of Directors."
Rafael Rangel Sostmann	See "— Board of Directors."
Corporate Practices Committee:	
Dionisio Garza Medina, President	See "— Board of Directors."
Bernardo Quintana Isaac	See "— Board of Directors."
Jose Antonio Fernandez Carbajal	See "— Board of Directors."
Rafael Rangel Sostmann	See "— Board of Directors."
Finance Committee:	
Rogelio Zambrano Lozano, President	See "— Board of Directors."
Rodolfo García Muriel	See "— Board of Directors."
Alfonso Romo Garza	See "— Board of Directors."
Tomás Milmo Santos	See "— Board of Directors."

Compensation of Our Directors and Members of Our Senior Management

For the year ended December 31, 2009, the aggregate amount of compensation we paid, or our subsidiaries paid, to all members of our board of directors, alternate members of our board of directors and senior managers, as a group, was approximately U.S.$10.3 million. Approximately U.S.$9.1 million of this amount was paid as base compensation and U.S.$1.2 million corresponding to the compensation expense of 1.4 million CPOs granted during 2009 pursuant to the Restricted Stock Incentive Plan, or RSIP, described below under "— Restricted Stock Incentive Plan (RSIP)". In addition, for the year ended December 31, 2009, we set aside or accrued approximately U.S.$0.8 million to provide pension, retirement or similar benefits for all members of our board of directors, alternate members of our board of directors and senior managers, as a group.

In addition, our key executives, including our senior management, participate in a bonus plan that distributes a bonus pool based on our operating performance. This bonus is calculated and paid annually, a portion in cash and another portion in restricted CPOs under a RSIP, according to responsibility level. During 2009, no performance bonuses were paid to our senior managers.

Employee Stock Option Plan (ESOP)

In 1995, we adopted an employee stock option plan, or ESOP, under which we were authorized to grant members of our board of directors, members of our senior management and other eligible employees options to acquire our CPOs. Our obligations under the plan are covered by shares held in a trust created for such purpose (initially 216,300,000 shares). As of December 31, 2009, options to acquire 3,580,993 CPOs remained outstanding under the original ESOP, with a weighted average exercise price of approximately Ps6.49 per CPO, and a weighted average remaining tenure of approximately 0.6 years.

In November 2001, starting with the 2001 voluntary exchange program described below, we incorporated new features to our ESOP, including an escalating strike price in Dollars, increasing at an annual rate of 7%, adjusted downward by dividends paid. Options under this amended ESOP were hedged by non-dilutive equity forward contracts.

In February and December 2004, in the context of the voluntary exchange program and the voluntary early exercise program described below, we further amended our ESOP. The amendments provided, among other things, that the options would be automatically exercised at predetermined prices per CPO if, at any time during the life of the options, the CPO closing market price reached or exceeded those predetermined prices. As of December 31, 2009, all predetermined prices had been reached and, therefore, all options under the amended ESOP with predetermined exercise prices had been automatically exercised. Under the terms of the amended ESOP, all gains realized through exercise of the options were invested in restricted CPOs. The restricted CPOs received upon exercise of the options are held in a trust on behalf of each employee. The restrictions gradually lapse, at which time the CPOs become freely transferable and the employee may withdraw them from the trust.

CEMEX, Inc. ESOP

As a result of the acquisition of CEMEX, Inc. (formerly Southdown, Inc.) in November 2000, we established a stock option program for CEMEX, Inc.'s executives for the purchase of our ADSs. The options granted under the program have a fixed exercise price in Dollars equivalent to the average market price of one ADS during a six month period before the grant date and have a 10-year term. Twenty-five percent of the options vested annually during the first four years after their grant date. The options are covered using shares currently owned by our subsidiaries, thus potentially increasing stockholders' equity and the number of shares outstanding. As of December 31, 2009, considering the options granted since 2001, and the exercise of options that has occurred through that date, options to acquire 1,445,236 ADSs remained outstanding under this program. These options have a weighted average exercise price of approximately U.S.$1.36 per CPO, or U.S.$13.60 per ADS as each ADS currently represents 10 CPOs.

The November 2001 Voluntary Exchange Program

In November 2001, we implemented a voluntary exchange program to offer participants in our ESOP new options in exchange for their existing options. The new options had an escalating strike price in Dollars and were hedged by our equity forward contracts, while the old options had a fixed strike price in Pesos. The executives who participated in this program exchanged their options to purchase CPOs at a weighted average strike price of Ps34.11 per CPO, for cash equivalent to the intrinsic value on the exchange date and new options to purchase CPOs with an escalating Dollar strike price set at U.S.$4.93 per CPO as of December 31, 2001, growing by 7% per annum less dividends paid on the CPOs. Of the old options, 57,448,219 (approximately 90.1%) were exchanged for new options in the voluntary exchange program and 8,695,396 were not exchanged. In the context of the program, 81,630,766 new options were issued, in addition to 7,307,039 of the new options that were purchased by participants under a voluntary purchase option that was also part of the exchange. As of December 31, 2009, considering the options granted under the program, the exercise of options through that date, the result of the February 2004 exchange program described below and the 2004 voluntary early exercise program, 1,353,920 options to acquire 7,119,529 CPOs remained outstanding under this program, with a weighted average exercise price of approximately U.S.$1.43 per CPO. As of December 31, 2009, the outstanding options under this program had a remaining tenure of approximately 2.3 years.

The February 2004 Voluntary Exchange Program

In February 2004, we implemented a voluntary exchange program to offer ESOP participants, as well as holders of options granted under our existing voluntary employee stock option plan, or VESOP, new options in exchange for their existing options. Under the terms of the exchange offer, participating employees surrendered their options in exchange for new options with an initial strike price of U.S.$5.05 per CPO and a life of 8.4 years, representing respectively the weighted average strike price and maturity of existing options. The strike price of the new options increased annually at a 7% rate, less dividends paid on the CPOs. Holders of these options were entitled to receive an annual payment of U.S.$0.10 net of taxes per option outstanding as of the payment date until exercise or maturity of the options, which was scheduled to grow annually at a 10% rate.

The new options were exercisable at any time at the discretion of their holders, and would be automatically exercised if, at any time during the life of the options, the closing CPO market price reached U.S.$7.50. Any gain realized through the exercise of these options was required to be invested in restricted CPOs at a 20% discount to market. The restrictions would be removed gradually within a period of between two and four years, depending on the exercise date.

As a result of the voluntary exchange offer, 122,708,146 new options were issued in exchange for 114,121,358 existing options, which were subsequently cancelled. All options not exchanged in the offer maintained their existing terms and conditions.

On January 17, 2005, the closing CPO market price reached U.S.$7.50 and, as a result, all existing options under this program were automatically exercised. Holders of these options received the corresponding gain in restricted CPOs, as described above.

The 2004 Voluntary Early Exercise Program

In December 2004, we offered ESOP and VESOP participants new options, conditioned on the participants exercising and receiving the intrinsic value of their existing options. As a result of this program, 120,827,370 options from the February 2004 voluntary exchange program, 16,580,004 options from other ESOPs, and 399,848 options from VESOP programs were exercised, and we granted a total of 139,151,236 new options. The new options had an initial strike price of U.S.$7.4661 per CPO, which was U.S.$0.50 above the closing CPO market price on the date on which the old options were exercised, and which increased at a rate of 5.5% per annum. All gains from the exercise of these new options would be paid in restricted CPOs. The restrictions would be removed gradually within a period of between two and four years, depending on the exercise date.

The new options could be exercised at any time at the discretion of their holders. Of the 139,151,236 new options, 120,827,370 would be automatically exercised if the closing CPO market price reached U.S.$8.50, while the remaining 18,323,866 options did not have an automatic exercise threshold. Holders of these options were entitled to receive an annual payment of U.S.$0.10 net of taxes per option outstanding as of the payment date until exercise or maturity of the options or until the closing CPO market price reached U.S.$8.50, which payment was scheduled to grow annually at a 10% rate.

On June 17, 2005, the closing CPO market price reached U.S.$8.50, and, as a result, all outstanding options subject to automatic exercise were automatically exercised and the annual payment to which holders of the remaining options were entitled was terminated. As of December 31, 2009, options to acquire 70,481,496 CPOs remained outstanding under this program, with an exercise price of approximately U.S.$2 per CPO and a remaining tenure of approximately 2.5 years.

For accounting purposes under MFRS and U.S. GAAP, as of December 31, 2009, we accounted for the options granted under the February 2004 voluntary exchange program by means of the fair value method through earnings. See notes 3T and 18 to our consolidated financial statements included elsewhere in this annual report.

Consolidated ESOP Information

Stock options activity during 2008 and 2009, the balance of options outstanding as of December 31, 2008 and 2009 and other general information regarding our stock option programs, is presented in note 18 to our consolidated financial statements included elsewhere in this annual report.

As of December 31, 2009, the following ESOP options to purchase our securities were outstanding:

Title of security underlying options	Number of CPOs or CPO equivalents underlying options	Expiration Date	Range of exercise prices per CPO or CPO equivalent
CPOs (Pesos)	3,580,993	2010-2011	Ps4.7-8.1
CPOs (Dollars) (may be instantly cash-settled)	7,119,529	2011-2013	U.S.$1.2-1.6
CPOs (Dollars) (receive restricted CPOs)	70,481,496	2012	U.S.$ 2.0
CEMEX, Inc. ESOP	14,452,360	2011-2015	U.S.$1-1.9

As of December 31, 2009, our senior management and directors held the following ESOP options to acquire our securities:

Title of security underlying options	Number of CPOs or CPO equivalents underlying options	Expiration Date	Range of exercise prices per CPO or CPO equivalent
CPOs (Dollars) (receive restricted CPOs)	29,009,183	2012	U.S.$2

As of December 31, 2009, our employees and former employees, other than senior management and directors, held the following ESOP options to acquire our securities:

Title of security underlying options	Number of CPOs or CPO equivalents underlying options	Expiration Date	Range of exercise prices per CPO or CPO equivalent
CPOs (Pesos)	3,580,993	2010-2011	Ps4.7-8.1
CPOs (Dollars) (may be instantly cash-settled)	7,119,529	2011-2013	U.S.$1.2-1.6
CPOs (Dollars) (receive restricted CPOs)	41,472,313	2012	U.S.$2
CEMEX, Inc. ESOP	14,452,360	2011-2015	U.S.$1-1.9

Restricted Stock Incentive Plan (RSIP)

Since January 2005, we have been changing our long-term variable compensation programs from stock option grants to restricted stock awards under a Restricted Stock Incentive Plan, or RSIP. Under the terms of the RSIP, eligible employees are allocated a specific number of restricted CPOs as variable compensation to be vested over a four-year period. Before 2006, we distributed annually to a trust an amount in cash sufficient to purchase in the market, on behalf of each eligible employee, 25% of such employee's allocated number of CPOs. During 2006, in order to reduce the volatility of our RSIP, we began to distribute annually an amount in cash sufficient to purchase 100% of the allocated CPOs for each eligible employee. Although the vesting period of the restricted CPOs and other features of the RSIP did not change as a result of this new policy, the nominal amount of annual compensation received by eligible employees increased in proportion to the additional number of CPOs received as a result of the new policy. The CPOs purchased by the trust will be held in a restricted account by the trust on behalf of each employee for one year. At the end of the one-year period the restrictions will lapse, at which time the CPOs will become freely transferable and the employee may withdraw them from the trust.

During 2009 the benefits of RSIP remained the same as the previous year; however, the methodology of the grant had some modifications. First, CPOs were not purchased in the open market as it did before, but instead issued new CPOs to cover the RSIP. Second, CEMEX now plans to issue the RSIP in four blocks of 25% per year. This change does not represent a cost reduction. The total number of CEMEX CPOs granted during 2009 was approximately 50.9 million, of which approximately 5.8 million are related to senior management and the board of directors. In 2009, approximately 25% of the CPOs were issued, representing 13.7 million CPOs, of which 1.4 million were related to senior management and the board of directors. See note 18 to our consolidated financial statements included elsewhere in this annual report.

Employees

As of December 31, 2009, we had approximately 47,624 employees worldwide, which represented a decrease of approximately 12% from year-end 2008. We reduced our headcount by 23% as a result of the implementation of our global cost-reduction program since 2007, as part of our ongoing efforts to align our company with new market conditions and increase our efficiency and lower costs.

The following table sets forth the number of our full-time employees and a breakdown of their geographic location at the end of each of the last three fiscal years (excludes personnel in Venezuela and Australia in all periods):

	2007	2008	2009
North America			
Mexico	15,368	13,972	12,411
United States	16,445	12,532	10,107
Europe			
Spain	3,520	3,314	2,671
United Kingdom	5,549	4,205	3,794
Rest of Europe	11,226	10,706	9,748
South America, Central America and the Caribbean	5,590	5,296	4,930
Africa and the Middle East	2,523	2,633	2,390
Asia	1,324	1,277	1,573

Employees in Mexico have collective bargaining agreements on a plant-by-plant basis, which are renewable on an annual basis with respect to salaries and on a biannual basis with respect to benefits. During 2009, more than 130 contracts with different labor unions were renewed.

Approximately 30% of our employees in the United States are represented by unions, with the largest number being members of the International Brotherhood of Teamsters, the Laborers' Union of North America, the International Brotherhood of Boilermakers, and the International Union of Operating Engineers. Collective bargaining agreements are in effect at all our U.S. plants and have various expiration dates from May 31, 2010 through August 31, 2015.

Our Spanish union employees have collective bargaining agreements that are renewable every two to three years on a company-by-company basis. Employees in the ready-mix concrete, mortar, aggregates and transport sectors have collective bargaining agreements by sector. Executive compensation in Spain is subject to our institutional policies and influenced by the local labor market.

In the United Kingdom, our cement, roof tiles and cement logistics operations have collective bargaining agreements with the Unite union (following the merger of the Transport & General Workers union and Amicus union). The rest of our operations in the United Kingdom are not part of collective bargaining agreements; however, there are local agreements for consultation and employee representation with Unite union, and the GMB union (Britain's general labor union).

In Germany, most of our employees work under collective bargaining agreements with the Industriegewerkschaft — Bauen Agrar Umwelt — IG B.A.U. union. In addition to the collective bargaining agreements, there are internal company agreements, negotiated between the workers council and the company itself.

In France, less than 9% of our employees are members of one of the five main unions. Each union is represented in our French subsidiary, mainly in Paris, Lyon and in Southern France. All agreements are negotiated with unions and non-union representatives elected in the local workers council (Comité d'Entreprise) for periods of four years. The elections were held in April 2010.

In Colombia, a single union represents the union employees of the Bucaramanga and Cúcuta cement plants. There are also collective agreements with non-union workers at the Caracolito/Ibagué cement plant, Santa Rosa cement plant and all ready-mix concrete plants in Colombia.

Overall, we consider our relationships with labor unions representing our employees to be satisfactory

Share Ownership

As of March 31, 2010, our senior management and directors and their immediate families owned, collectively, approximately 3.09% of our outstanding shares, including shares underlying stock options and restricted CPOs under our ESOPs. This percentage does not include shares held by the extended families of members of our senior management and directors, since, to the best of our knowledge, no voting arrangements or other agreements exist with respect to those shares. As of March 31, 2010, no individual director or member of our senior management beneficially owned one percent or more of any class of our outstanding capital stock.

Item 7 - Major Shareholders and Related Party Transactions

Major Shareholders

Based upon information contained in a statement on Schedule 13G filed with the SEC on February 12, 2010, as of December 31, 2009, Southeastern Asset Management, Inc., an investment adviser registered under the U.S. Investment Advisers Act of 1940, as amended, beneficially owned 103,939,301 ADSs and 39,769,690 CPOs, representing a total 1,079,162,700 CPOs or approximately 11.2% of our then outstanding capital stock. Southeastern Asset Management, Inc. does not have voting rights different from our other non-Mexican holders of CPOs.

Based upon information contained in a statement on Schedule 13G filed with the SEC on February 12, 2010, as of December 31, 2009, Dodge & Cox, an investment adviser registered under the U.S. Investment Advisers Act of 1940, as amended, beneficially owned 67,904,593 ADSs, representing 679,045,930 CPOs or approximately 7.1% of our then outstanding capital stock. Dodge & Cox does not have voting rights different from our other non-Mexican holders of CPOs.

Other than Southeastern Asset Management, Inc. and Dodge & Cox, the CPO trust and the shares and CPOs owned by our subsidiaries, we are not aware of any person that is the beneficial owner of five percent or more of any class of our voting securities.

As of March 31, 2010, our outstanding capital stock consisted of 19,230,964,771 Series A shares and 9,615,482,385 Series B shares, in each case including shares held by our subsidiaries.

As of March 31, 2010, a total of 18,784,686,646 Series A shares and 9,392,343,323 Series B shares were held by the CPO trust. Each CPO represents two Series A shares and one Series B share. A portion of the CPOs is represented by ADSs. Under the terms of the CPO trust agreement, non-Mexican holders of CPOs and ADSs have no voting rights with respect to the A shares underlying those CPOs and ADSs. All ADSs are deemed to be held by non-Mexican nationals. At every shareholders' meeting, the A shares held in the CPO trust are voted in accordance with the vote cast by holders of the majority of A shares held by Mexican nationals and B shares voted at that meeting of shareholders.

As of March 31, 2010, through our subsidiaries, we owned approximately 16.1 million CPOs, representing approximately 0.2% of our outstanding CPOs and approximately 0.2% of our outstanding voting stock. These CPOs are voted at the direction of our management. From time to time, our subsidiaries are active participants in the trading market for our capital stock; as a result, the levels of our CPO and share ownership by those subsidiaries are likely to fluctuate. Our voting rights over those CPOs are the same as those of any other CPO holder. As of the same date, we did not hold any CPOs in derivative instruments hedging expected cash flows of stock options exercises.

Our by-laws, or estatutos sociales, provide that our board of directors must authorize in advance any transfer of voting shares of our capital stock that would result in any person's, or group's acting in concert, becoming a holder of 2% or more of our voting shares.

Mexican securities regulations provide that our majority-owned subsidiaries may neither directly or indirectly invest in our CPOs nor other securities representing our capital stock. The Mexican securities authority could require any disposition of the CPOs or of other securities representing our capital stock so owned and/or impose fines on us if it were to determine that the ownership of our CPOs or of other securities representing our capital stock by our subsidiaries, in most cases, negatively affects the interests of our shareholders. Notwithstanding the foregoing, the exercise of all rights pertaining to our CPOs or to other securities representing our capital stock in accordance with the instructions of our subsidiaries does not violate any provisions of our bylaws or the bylaws of our subsidiaries. The holders of these CPOs or of other securities representing our capital stock are entitled to exercise the same rights relating to their CPOs or their other securities representing our capital stock, including all voting rights, as any other holder of the same series.

As of March 23, 2010, we had 126,770 ADS holders of record in the United States, holding approximately 58% of our outstanding CPOs.

On April 27, 2006, our shareholders approved a stock split, which occurred on July 17, 2006. In connection with the stock split, each of our existing series A shares was surrendered in exchange for two new series A shares, and each of our existing series B shares was surrendered in exchange for two new series B shares. Concurrent with this stock split, we authorized the amendment of the CPO trust agreement pursuant to which our CPOs are issued to provide for the substitution of two new CPOs for each of our existing CPOs, with each new CPO representing two new series A shares and one new series B share. In connection with the stock split and at our request, Citibank, N.A., as depositary for the ADSs, distributed one additional ADS for each ADS outstanding as of the record date for the stock split. The ratio of CPOs to ADSs did not change as a result of the stock split; each ADS represents ten new CPOs following the stock split and the CPO trust amendment. The proportional equity interest participation of existing shareholders did not change as a result of the stock split. The financial data set forth in this annual report have been adjusted to give effect to the stock split.

Related Party Transactions

Bernardo Quintana Isaac, a member of our board of directors, is chief executive officer and chairman of the board of directors of Grupo ICA, S.A. de C.V., or Grupo ICA, a large Mexican construction company. In the ordinary course of business, we extend financing to Grupo ICA for varying amounts at market rates, as we do for our other customers.

Jose Antonio Fernandez Carbajal, a member of our board of directors, is president and chief executive officer of FEMSA, a large multinational beverage company. In the ordinary course of business, we pay and receive various amounts to and from FEMSA for products and services for varying amounts on market terms. Mr. Fernandez Carbajal is also vice-chairman of the board of Consejo de Enseñanza e Investigación Superior, A.C. (the managing entity of ITESM,) of which Lorenzo H. Zambrano, our chief executive officer and chairman of our board of directors, is chairman of the board, and which in 2008 and 2009 received contributions by CEMEX for amounts that were not material.

Rafael Rangel Sostmann, a member of our board of directors, is the Dean of ITESM.

During 2009 and as of June 15, 2010, we did not have any outstanding loans to any of our directors or members of senior management.

Item 8 - Financial Information

Consolidated Financial Statements and Other Financial Information

See “Item 18 — Financial Statements” and “Index to Consolidated Financial Statements.”

Legal Proceedings

See “Item 4 — Information on the Company — Regulatory Matters and Legal Proceedings.”

Dividends

A declaration of any dividend is made by our shareholders at a general ordinary meeting. Any dividend declaration is usually based upon the recommendation of our board of directors. However, the shareholders are not obligated to approve the board’s recommendation. We may only pay dividends from retained earnings included in financial statements that have been approved by our shareholders and after all losses have been paid for, a legal reserve equal to 5% of our paid-in capital has been created and our shareholders have approved the relevant dividend payment. According to 1999 Mexican tax reforms, all shareholders, excluding Mexican corporations, that receive a dividend in cash or in any other form are subject to a withholding tax. See “Item 10 — Additional Information — Taxation — Mexican Tax Considerations.” Since we conduct our operations through our subsidiaries, we have no significant assets of our own except for our investments in those subsidiaries. Consequently, our ability to pay dividends to our shareholders is dependent upon our ability to receive funds from our subsidiaries in the form of dividends, management fees, or otherwise. The Financing Agreement effectively prohibits us from declaring and paying cash dividends or making other cash distributions to our shareholders. See “Item 3 — Key Information — Risk Factors — Our ability to repay debt and pay dividends depends on our subsidiaries’ ability to transfer income and dividends to us and contractual restrictions binding on us.”

The recommendation of our board of directors as to whether to pay and the amount of any annual dividends has been and will continue to be, in absence of contractual restrictions to pay or declare dividends, based upon, among other things, earnings, cash flow, capital requirements, contractual restrictions, and our financial condition and other relevant factors.

Owners of ADSs on the applicable record date will be entitled to receive any dividends payable in respect of the A shares and the B shares underlying the CPOs represented by those ADSs; however, as permitted by the deposit agreement pursuant to which our ADSs are issued, we may instruct the ADS depositary not to extend the option to elect to receive cash in lieu of the stock dividend to the holders of ADSs, as we did in connection with the dividend for the 2006 and 2007 fiscal years, as described below. The ADS depositary will fix a record date for the holders of ADSs in respect of each dividend distribution. Unless otherwise stated, the ADS depositary has agreed to convert cash dividends received by it in respect of the A shares and the B shares underlying the CPOs represented by ADSs from Pesos into Dollars and, after deduction or after payment of expenses of the ADS depositary, to pay those dividends to holders of ADSs in Dollars. We cannot assure holders of our ADSs that the ADS depositary will be able to convert dividends received in Pesos into Dollars.

The following table sets forth the amounts of annual cash dividends paid in Pesos, on a per share basis, and a convenience translation of those amounts into Dollars based on the CEMEX accounting rate as of December 31, 2009:

	Dividends Per Share	
	Constant Pesos	Dollars
2005	0.25	0.02
2006	0.27	0.02
2007	0.28	0.03
2008	0.29	0.03
2009	N/A	N/A
2010	N/A	N/A

Dividends declared at each year's annual shareholders' meeting are in respect of dividends for the preceding year. In previous years, our board of directors has proposed, and our shareholders have approved, dividend proposals, whereby our shareholders have had a choice between stock dividends or cash dividends declared in respect of the prior year's results, with the stock issuable to shareholders who receive the stock dividend being issued at a 20% discount from then current market prices. The dividends declared per share or per CPO in these years, expressed in Pesos as of December 31, 2009 were as follows: 2005, Ps0.75 per CPO (or Ps0.25 per share); 2006, Ps0.81 per CPO (or Ps0.27 per share); 2007, Ps0.84 per CPO (or Ps0.28 per share); and 2008, Ps0.87 per CPO (or Ps0.29 per share). As a result of dividend elections made by shareholders, in 2005, Ps449 million in cash was paid and approximately 266 million additional CPOs were issued in respect of dividends declared for the 2004 fiscal year; in 2006, Ps161 million in cash was paid and approximately 212 million additional CPOs were issued in respect of dividends declared for the 2005 fiscal year; in 2007, Ps147 million in cash was paid and approximately 189 million additional CPOs were issued in respect of dividends declared for the 2006 fiscal year; and in 2008, Ps214 million in cash was paid and approximately 284 million additional CPOs were issued in respect of dividends declared for the 2007 fiscal year.

We did not declare a cash dividend for fiscal year 2008. At our 2008 annual shareholders' meeting, held on April 23, 2009, our shareholders approved a recapitalization of retained earnings. New CPOs issued pursuant to the recapitalization were allocated to shareholders on a pro-rata basis. As a result, shares equivalent to approximately 334 million CPOs were issued and paid. CPO holders received one new CPO for each 25 CPOs held and ADS holders received one new ADS for each 25 ADSs held. There was no cash distribution and no entitlement to fractional shares.

We did not declare a dividend for fiscal year 2009. At our 2009 annual shareholders' meeting, held on April 29, 2010, our shareholders approved a recapitalization of retained earnings. New CPOs issued pursuant to the recapitalization were allocated to shareholders on a pro-rata basis. As a result, shares equivalent to approximately 384 million CPOs were issued and paid. CPO holders received one new CPO for each 25 CPOs held and ADS holders received one new ADS for each 25 ADS held. There was no cash distribution and no entitlement to fractional shares.

Significant Changes

Except as described herein, no significant change has occurred since the date of our consolidated financial statements included elsewhere in this annual report.

Item 9 - Offer and Listing

Market Price Information

Our CPOs are listed on the Mexican Stock Exchange and trade under the symbol "CEMEX.CPO." Our ADSs, each of which currently represents ten CPOs, are listed on the New York Stock Exchange and trade under the symbol "CX." The following table sets forth, for the periods indicated, the reported highest and lowest market quotations in nominal Pesos for CPOs on the Mexican Stock Exchange and the high and low sales prices in Dollars for ADSs on the NYSE. The information below gives effect to the two-for-one stock split in our CPOs and ADSs approved by our shareholders on April 27, 2006, which occurred on July 17, 2006, and prior stock splits.

Calendar Period	CPOs(1)		ADSs	
	High	Low	High	Low
Yearly				
2005	33.25	18.88	30.99	17.06
2006	39.35	27.25	36.04	23.78
2007	44.50	27.23	41.34	24.81
2008	33.80	5.55	32.61	4.01
2009	19.19	6.16	14.58	3.94
Quarterly				
2009				
First quarter	14.36	6.16	10.74	3.94
Second quarter	15.31	8.51	11.39	6.17
Third quarter	19.19	10.40	14.58	7.63
Fourth quarter	18.24	13.50	13.96	10.03
2010				
First quarter	16.16	11.72	12.58	8.83
Monthly				
2009-2010				
November	15.85	13.57	12.04	10.03
December	15.95	14.02	12.27	10.76
January	16.16	11.92	12.58	9.07
February	12.85	11.72	9.90	8.83
March	13.82	12.27	11.05	9.58
April	15.30	12.75	12.60	10.26
May	15.10	12.86	12.35	9.75

Source: Based on data of the Mexican Stock Exchange and the NYSE.

(1) As of December 31, 2009, approximately 97.7% of our outstanding share capital was represented by CPOs.

On June 25, 2010, the last reported closing price for CPOs on the Mexican Stock Exchange was Ps13.24 per CPO, and the last reported closing price for ADSs on the NYSE was U.S.$10.36 per ADS.

Item 10 - Additional Information

Articles of Association and By-laws

General

Pursuant to the requirements of Mexican corporation law, our articles of association and by-laws, or *estatutos sociales*, have been registered with the Mercantile Section of the Public Register of Property and Commerce in Monterrey, Mexico, under entry number 21, since June 11, 1920.

We are a holding company engaged, through our operating subsidiaries, primarily in the production, distribution, marketing and sale of cement, ready-mix concrete and clinker. Our objectives and purposes can be found in article 2 of our by-laws. We are a global cement manufacturer, with our current operations in North, Central and South America, Europe, the Caribbean, Asia, Australia and Africa. We plan to continue focusing on the production and sale of cement and ready-mix concrete, as we believe that this strategic focus has enabled us to grow our existing businesses and to expand our operations internationally.

We have two series of common stock, the series A common stock, with no par value, or A shares, which can only be owned by Mexican nationals, and the series B common stock, with no par value, or B shares, which can be owned by both Mexican and non-Mexican nationals. Our by-laws state that the A shares may not be held by non-Mexican persons, groups, units or associations that are foreign or have participation by foreign governments or their agencies. Our by-laws also state that the A shares shall at all times account for a minimum of 64% of our total outstanding voting stock. Other than as described herein, holders of the A shares and the B shares have the same rights and obligations.

In 1994, we changed from a fixed capital corporation to a variable capital corporation in accordance with Mexican corporation law and effected a three-for-one split of all our outstanding capital stock. As a result, we changed our corporate name from CEMEX, S.A. to CEMEX, S.A. de C.V., established a fixed capital account and a variable capital account and issued one share of variable capital stock of the same series for each eight shares of fixed capital stock held by any shareholder, after giving effect to the stock split. At our 2005 annual shareholders' meeting held on April 27, 2006, pursuant to requirements of the new Mexican securities markets law, our shareholders authorized the change of CEMEX's legal and commercial name to CEMEX, *Sociedad Anónima Bursátil de Capital Variable*, or CEMEX, S.A.B. de C.V., effective as of July 3, 2006, indicating that we are a publicly traded stock corporation.

Each of our fixed and variable capital accounts is comprised of A shares and B shares. Under the new Mexican securities law and our by-laws, holders of shares representing variable capital are not entitled to have those shares redeemed.

Shareholder authorization is required to increase or decrease either the fixed capital account or the variable capital account. Shareholder authorization to increase or decrease the fixed capital account must be obtained at an extraordinary meeting of shareholders. Shareholder authorization to increase or decrease the variable capital account must be obtained at an ordinary general meeting of shareholders.

On September 15, 1999, our shareholders approved a stock split, and for every one of our shares of any series we issued two series A shares and one series B share. Concurrently with this stock split, we also consummated an exchange offer to exchange new CPOs and new ADSs representing the new CPOs for our then existing A shares, B shares and ADSs, and converted our then existing CPOs into the new CPOs.

On June 1, 2001, the Mexican securities law (*Ley de Mercado de Valore*s) was amended to increase the protection granted to minority shareholders of Mexican listed companies and to commence bringing corporate governance procedures of Mexican listed companies in line with international standards.

On February 6, 2002, the Mexican securities authority (*Comisión Nacional Bancaria y de Valore*s) issued an official communication authorizing the amendment of our by-laws to incorporate additional provisions to comply with the new provisions of the Mexican securities law. Following approval from our shareholders at our 2002 annual shareholders' meeting, we amended and restated our by-laws to incorporate these additional provisions, which consist of, among other things, protective measures to prevent share acquisitions, hostile takeovers, and direct or indirect changes of control. As a result of the amendment and restatement of our by-laws, the expiration of our corporate term of existence was extended from 2019 to 2100.

On March 19, 2003, the Mexican securities authority issued new regulations designed to (i) further implement minority rights granted to shareholders by the Mexican securities law and (ii) simplify and comprise in a single document provisions relating to securities offerings and periodic reports by Mexican-listed companies.

On April 24, 2003, our shareholders approved changes to our by-laws, incorporating additional provisions and removing some restrictions. The changes that are still in force are as follows:

- The limitation on our variable capital was removed. Formerly, our variable capital was limited to ten times our minimum fixed capital.
- Increases and decreases in our variable capital now require the notarization of the minutes of the ordinary general shareholders' meeting that authorize such increase or decrease, as well as the filing of these minutes with the Mexican National Securities Registry (*Registro Nacional de Valores*), except when such increase or decrease results from (i) shareholders exercising their redemption rights or (ii) stock repurchases.
- The cancellation of registration of our shares in the Securities Section of the Mexican National Securities Registry now involves an amended procedure, which is described below under "Repurchase Obligation." In addition, any amendments to the article containing these provisions no longer require the consent of the Mexican securities authority and 95% approval by shareholders entitled to vote.

On December 30, 2005, a new Mexican securities law was published in an attempt to continue bringing corporate governance procedures of Mexican listed companies in line with international standards. This new law includes provisions increasing disclosure information requirements, improving minority shareholder rights, and strengthening corporate governance standards.

Under the new Mexican securities law, we were required to adopt specific amendments to our by-laws within 180 days of the effective date of the new law. Following approval from our shareholders at our 2005 annual shareholders' meeting held on April 27, 2006, we amended and restated our by-laws to incorporate these amendments. The amendments to our by-laws became effective on July 3, 2006. The most significant of these amendments were as follows:

- The change of our corporate name from CEMEX, S.A. de C.V. to CEMEX, S.A.B. de C.V., which means that we are now called a Publicly Held Company (*Sociedad Anónima Bursátil* or S.A.B.).
- The creation of a corporate practices committee, which is a new committee of our board of directors and which is comprised exclusively of independent directors. See "Item 6 — Directors, Senior Management and Employees — Board Practices — The Audit Committee, the Corporate Practices Committee and the Financing Committee."
- The elimination of the position of statutory examiner (*Comisario*) and the assumption of its responsibilities by the board of directors through the audit committee and the new corporate practices committee, as well as through the external auditor who audits our financial statements, each within its professional role.
- The express attribution of certain duties (such as the duty of loyalty and the duty of care) and liabilities on the members of the board of directors as well as on the relevant officers.
- The implementation of a mechanism for claims of a breach of a director's or officer's duties, to be brought by us or by holders of 5% or more of our shares.
- An increase in the responsibilities of the audit committee.
- The chief executive officer is now the person in charge of managing the company; previously, this was the duty of the board of directors. The board of directors now supervises the chief executive officer.
- Shareholders are given the right to enter into certain agreements with other shareholders.

At a general extraordinary meeting of shareholders held on April 28, 2005, our shareholders approved a two-for-one stock split, which became effective on July 1, 2005. In connection with this stock split, each of our existing series A shares was surrendered in exchange for two new series A shares, and each of our existing series B shares was surrendered in exchange for two new series B shares. Concurrent with this stock split, we authorized the amendment of the CPO trust agreement pursuant to which our CPOs are issued to provide for the substitution of two new CPOs for each of our existing CPOs, with each new CPO representing two new series A shares and one new series B share. The number of our existing ADSs did not change as a result of the stock split. Instead, the ratio of CPOs to ADSs was modified so that each existing ADS represented ten new CPOs following the stock split and the CPO trust amendment.

At the 2005 annual shareholders' meeting held on April 27, 2006, our shareholders approved a new stock split, which became effective on July 17, 2006. In connection with this new two-for-one stock split, each of our existing series A shares was surrendered in exchange for two new series A shares, and each of our existing series B shares was surrendered in exchange for two new series B shares. Concurrent with this stock split, we authorized the amendment of the CPO trust agreement pursuant to which our CPOs are issued to provide for the substitution of two new CPOs for each of our existing CPOs, with each new CPO representing two new

series A shares and one new series B share. In connection with the stock split and at our request, Citibank, N.A., as depositary for the ADSs, distributed one additional ADS for each ADS outstanding as of the record date for the stock split. The ratio of CPOs to ADSs did not change as a result of the stock split; each ADS continued to represent ten CPOs following the stock split and the CPO trust amendment. The proportional equity interest participation of existing shareholders did not change as a result of this stock split.

As of December 31, 2009, our capital stock consisted of 31,529,291,658 issued shares. As of December 31, 2009, series A shares represented 67% of our capital stock, or 21,019,527,772 shares, of which 19,224,207,531 shares were subscribed and paid, 92,799 shares were treasury shares, 395,227,442 shares were issued pursuant to our employee stock compensation plans and subscribed to by Banamex as trustee thereunder but had not yet been paid (these shares have been and will continue to be gradually paid upon exercise of the corresponding stock compensation plans), 344,960,064 shares that guarantee the issuance of convertible securities and 1,055,039,936 shares authorized for the issuance of stock or convertible securities. As of December 31, 2009, series B shares represented 33% of our capital stock, or 10,509,763,886 shares, of which 9,612,103,765 shares were subscribed and paid, 46,400 shares were treasury shares, 197,613,721 shares were issued pursuant to our employee stock option plans and subscribed to by Banamex, as trustee thereunder, but had not yet been paid (these shares have been and will continue to be gradually paid upon exercise of the corresponding stock options), 172,480,032 shares that guarantee the issuance of convertible securities and 527,519,968 shares authorized for the issuance of stock or convertible securities. Of the total of our A shares and B shares outstanding as of December 31, 2009, 13,068,000,000 shares corresponded to the fixed portion of our capital stock and 18,461,291,658 shares corresponded to the variable portion of our capital stock.

We did not declare a cash dividend for fiscal year 2008. At our 2008 annual shareholders' meeting, held on April 23, 2009, our shareholders approved a recapitalization of retained earnings. New CPOs issued pursuant to the recapitalization were allocated to shareholders on a pro-rata basis. As a result, shares equivalent to approximately 334 million CPOs were issued and paid. CPO holders received one new CPO for each 25 CPOs held and ADS holders received one new ADS for each 25 ADSs held. There was no cash distribution and no entitlement to fractional shares.

We did not declare a dividend for fiscal year 2009. At our 2009 annual shareholders' meeting, held on April 29, 2010, our shareholders approved a recapitalization of retained earnings. New CPOs issued pursuant to the recapitalization were allocated to shareholders on a pro-rata basis. As a result, shares equivalent to approximately 384 million CPOs were issued and paid. CPO holders received one new CPO for each 25 CPOs held and ADS holders received one new ADS for each 25 ADS held. There was no cash distribution and no entitlement to fractional shares

Changes in Capital Stock and Preemptive Rights

Our by-laws allow for a decrease or increase in our capital stock if it is approved by our shareholders at a shareholders' meeting. Additional shares of our capital stock, having no voting rights or limited voting rights, are authorized by our by-laws and may be issued upon the approval of our shareholders at a shareholders' meeting, with the prior approval of the Mexican securities authority.

Our by-laws provide that shareholders have preemptive rights with respect to the class and in proportion to the number of shares of our capital stock that they hold, before any increase in the number of outstanding A shares, B shares, or any other existing series of shares, as the case may be. This preemptive right to subscribe is not applicable to increases of our capital through public offers or through the issuance of our own shares previously acquired by us. Preemptive rights give shareholders the right, upon any issuance of shares by us, to purchase a sufficient number of shares to maintain their existing ownership percentages. Preemptive rights must be exercised within the period and under the conditions established for that purpose by the shareholders, and our by-laws and applicable law provide that this period must be 15 days following the publication of the notice of the capital increase in the *Periódico Oficial del Estado de Nuevo León*.

Pursuant to our by-laws, significant acquisitions of shares of our capital stock and changes of control of CEMEX require prior approval from our board of directors. Our board of directors must authorize in advance any transfer of voting shares of our capital stock that would result in any person or group becoming a holder of 2% of more of our shares. Our board of directors shall consider the following when determining whether to authorize such transfer of voting shares: a) the type of investors involved; b) whether the acquisition would result in the potential acquirer exercising a significant influence or being able to obtain control; c) whether all applicable rules and our by-laws have been observed by the potential acquirer; d) whether the potential acquirers are our competitors and there is a risk of affecting market competition, or the potential acquirers could have access to confidential and privileged information; e) the moral and economic solvency of the potential acquirers; f) the protection of minority rights and the rights of our employees; and g) whether an adequate base of investors would be maintained. If our board of directors denies the authorization, or the requirements established in our by-laws are not complied with, the persons involved in the transfer shall not be entitled to exercise the voting rights corresponding to the transferred shares, and such shares shall not be taken into account for the determination of the quorums of attendance and voting at shareholders' meetings, nor shall the transfers be recorded in the shareholder ledger and the registry done by Indeval, the Mexican securities depositary, shall not have any effect.

Any acquisition of shares of our capital stock representing 30% or more of our capital stock by a person or group of persons requires prior approval from our board of directors and, in the event approval is granted, the acquirer has an obligation to make a public offer to purchase all of the outstanding shares of our capital stock. In the event the requirements for significant acquisitions of shares of our capital stock are not met, the persons acquiring such shares will not be entitled to any corporate rights with respect to such shares, such shares will not be taken into account for purposes of determining a quorum for shareholders' meetings, we will not record such persons as holders of such shares in our shareholder ledger, and the registry done by the Indeval shall not have any effect.

Our by-laws require the stock certificates representing shares of our capital stock to make reference to the provisions in our by-laws relating to the prior approval of the board of directors for significant share transfers and the requirements for recording share transfers in our shareholder ledger. In addition, shareholders are responsible for informing us within five business days whenever their shareholdings exceed 5%, 10%, 15%, 20%, 25% and 30% of the outstanding shares of a particular class of our capital stock. We are required to maintain a shareholder ledger that records the names, nationalities and domiciles of all significant shareholders, and any shareholder that meets or exceeds these thresholds must be recorded in this ledger if such shareholder is to be recognized or represented at any shareholders' meeting. If a shareholder fails to inform us of its shareholdings reaching a threshold as described above, we will not record the transactions that cause such threshold to be met or exceeded in our shareholder ledger, and such transaction will have no legal effect and will not be binding on us.

Our by-laws also require that our shareholders comply with legal provisions regarding acquisitions of securities and certain shareholders' agreements that require disclosure to the public.

Repurchase Obligation

In accordance with Mexican securities regulations, our majority shareholders are obligated to make a public offer for the purchase of stock to the minority shareholders if the listing of our stock with the Mexican Stock Exchange is canceled, either by resolution of our shareholders or by an order of the Mexican securities authority. The price at which the stock must be purchased by the majority shareholders is the higher of:

- the weighted average price per share based on the weighted average trading price of our CPOs on the Mexican Stock Exchange during the latest period of 30 trading days preceding the date of the offer, for a period not to exceed six months; or

- the book value per share, as reflected in the last quarterly report filed with the Mexican securities authority and the Mexican Stock Exchange.

Our board of directors shall prepare and disclose to the public through the Mexican Stock Exchange, within ten business days after the day the public offer begins, and after consulting the corporate practices and audit committee, its opinion regarding the price of the offer and any conflicts of interests that each of its members may have regarding such offer. This opinion may be accompanied by an additional opinion issued by an independent expert that we may hire.

Following the expiration of this offer, if the majority shareholders do not acquire 100% of the paid-in capital, such shareholders must place in a trust set up for that purpose for a six-month period an amount equal to that required to repurchase the remaining shares held by investors who did not participate in the offer. The majority shareholders are not obligated to make the offer to purchase if shareholders representing 95% of our share capital waive that right, and the amount offered for the shares is less than 300,000 UDIs (*Unidades de Inversión*), which are Mexican Peso-denominated investment units that reflect inflation variations. For purposes of these provisions, majority shareholders are shareholders who own a majority of our shares and have sufficient voting power to control decisions at general shareholders' meetings, or who may elect a majority of our board of directors.

Shareholders' Meetings and Voting Rights

Shareholders' meetings may be called by:

- our board of directors or the corporate practices and audit committee;
- shareholders representing at least 10% of the then outstanding shares of our capital stock, by requesting that the chairman of our board of directors or our corporate practices and audit committee call such a meeting;
- any shareholder (i) if no meeting has been held for two consecutive years or when the matters referred to in Article 181 of the General Law of Commercial Companies *(Ley General de Sociedades Mercantiles*) have not been dealt with, or (ii) when, for any reason, the required quorum for valid sessions of the corporate practices and audit committee was not reached and the board of directors failed to make the appropriate provisional appointments; or
- a Mexican court, in the event our board of directors or the corporate practices and audit committee do not comply with the valid shareholders' request indicated above.

Notice of shareholders' meetings must be published in the official gazette for the State of Nuevo León, Mexico or any major newspaper published and distributed in the City of Monterrey, Nuevo León, Mexico. The notice must be published at least 15 days prior to the date of any shareholders' meeting. Consistent with Mexican law, our by-laws further require that all information and documents relating to the shareholders' meeting be available to shareholders from the date the notice of the meeting is published.

General shareholders' meetings can be ordinary or extraordinary. At every general shareholders' meeting, each holder of A shares and B shares is entitled to one vote per share. Shareholders may vote by proxy duly appointed in writing. Under the CPO trust agreement, holders of CPOs who are not Mexican nationals cannot exercise voting rights corresponding to the A shares represented by their CPOs.

An annual general ordinary shareholders' meeting must be held during the first four months after the end of each of our fiscal years to consider the approval of a report of our board of directors regarding our performance and our financial statements for the preceding fiscal year and to determine the allocation of profits from the preceding year. In addition, our annual general ordinary shareholders' meeting must:

- review the annual reports of our corporate practices and audit committee, our chief executive officer, and our board of directors;
- elect, remove, or substitute the members of our board of directors;
- determine the level of independence of the members of our board of directors; and
- approve any transaction that represents 20% or more of the net worth of CEMEX.

A general extraordinary shareholders' meeting may be called at any time to deal with any of the matters specified by Article 182 of the General Law of Commercial Companies, which include, among other things:

- extending our corporate existence;
- our early dissolution;
- increasing or reducing our fixed capital stock;
- changing our corporate purpose;
- changing our country of incorporation;
- changing our form of organization;
- a proposed merger;
- issuing preferred shares;
- redeeming our own shares;
- any amendment to our by-laws; and
- any other matter for which a special quorum is required by law or by our by-laws.

In order to vote at a meeting of shareholders, shareholders must (i) appear on the list that Indeval and the Indeval participants holding shares on behalf of the shareholders prepare prior to the meeting or must deposit prior to that meeting, or (ii) prior to the meeting, deposit the certificates representing their shares at our offices or in a Mexican credit institution or brokerage house, or

foreign bank approved by our board of directors to serve this function. The certificate of deposit with respect to the share certificates must be presented to our company secretary at least 48 hours before a meeting of shareholders. Our company secretary verifies that the person in whose favor any certificate of deposit was issued is named in our share registry and issues an admission pass authorizing that person's attendance at the meeting of shareholders.

Our by-laws provide that a shareholder may only be represented by proxy in a shareholders' meeting with a duly completed form provided by us authorizing the proxy's presence. In addition, our by-laws require that the secretary acting at the shareholders' meeting publicly affirm the compliance by all proxies with this requirement.

A shareholders' resolution is required to take action on any matter presented at a shareholders' meeting. At an ordinary meeting of shareholders, the affirmative vote of the holders of a majority of the shares present at the meeting is required to adopt a shareholders' resolution. At an extraordinary meeting of shareholders, the affirmative vote of at least 50% of the capital stock is required to adopt a shareholders' resolution, except that when amending Article 7 (with respect to measures limiting shareholding ownership), Article 10 (relating to the register of shares and significant participations) or Article 22 (specifying the impediments to being appointed a member of our board of directors) of our by-laws, the affirmative vote of at least 75% of the voting stock is needed. The quorum for a first ordinary meeting of shareholders is 50% of our outstanding and fully paid shares, and for the second ordinary meeting is any number of our outstanding and fully paid shares. The quorum for the first extraordinary shareholders' meeting is 75% of our outstanding and fully paid shares, and for the second extraordinary meeting is 50% of our outstanding and fully paid shares.

Rights of Minority Shareholders

At our general annual shareholders' meeting, any shareholder or group of shareholders representing 10% or more of our voting stock has the right to appoint or remove one member of our board of directors, in addition to the directors appointed by the majority. Such appointment may only be revoked by other shareholders when the appointment of all other directors is also revoked.

Our by-laws provide that holders of at least 10% of our capital stock are entitled to demand the postponement of the voting on any resolution of which they deem they have not been sufficiently informed.

Under Mexican law, holders of at least 20% of our outstanding capital stock entitled to vote on a particular matter may seek to have any shareholder action with respect to that matter set aside, by filing a complaint with a court of law within 15 days after the close of the meeting at which that action was taken and showing that the challenged action violates Mexican law or our by-laws. Relief under these provisions is only available to holders who were entitled to vote on, or whose rights as shareholders were adversely affected by, the challenged shareholder action and whose shares were not represented when the action was taken or, if represented, voted against it.

Under Mexican law, an action for civil liabilities against directors may be initiated by a shareholders' resolution. In the event shareholders decide to bring an action of this type, the persons against whom that action is brought will immediately cease to be directors. Additionally, shareholders representing not less than 33% of the outstanding shares may directly exercise that action against the directors; provided that:

- those shareholders shall not have voted against exercising such action at the relevant shareholders' meeting; and
- the claim covers all of the damage alleged to have been caused to us and not merely the damage suffered by the plaintiffs.

Under our by-laws, shareholders representing 5% or more of our outstanding capital stock may initiate actions exclusively on behalf of CEMEX against members of our board of directors, our corporate practices and audit committee, our chief executive officer, or any relevant executives, for breach of their fiduciary duties or for committing illicit acts or activities. The only requirement is that the claim covers all of the damage alleged to have been caused to us and not merely the damage suffered by the plaintiffs.

Any recovery of damages with respect to these actions will be for our benefit and not that of the shareholders bringing the action.

Registration and Transfer

Our common stock is evidenced by share certificates in registered form with registered dividend coupons attached. Our shareholders may hold their shares in the form of physical certificates or through institutions that have accounts with Indeval. Accounts may be maintained at Indeval by brokers, banks and other entities approved by the Mexican securities authority. We maintain a stock registry, and, in accordance with Mexican law, only those holders listed in the stock registry and those holding certificates issued by Indeval and by Indeval participants indicating ownership are recognized as our shareholders.

Redemption

Our capital stock is subject to redemption upon approval of our shareholders at an extraordinary shareholders' meeting.

Share Repurchases

If approved by our shareholders at a general shareholders' meeting, we may purchase our outstanding shares for cancellation. We may also repurchase our equity securities on the Mexican Stock Exchange at the then-prevailing market prices in accordance with the Mexican securities law. If we intend to repurchase shares representing more than 1% of our outstanding shares at a single trading session, we must inform the public of such intention at least ten minutes before submitting our bid. If we intend to repurchase shares representing 3% or more of our outstanding shares during a period of twenty trading days, we are required to conduct a public tender offer for such shares. We must conduct share repurchases through the person or persons approved by our board of directors, through a single broker dealer during the relevant trading session, and without submitting bids during the first and the last 30 minutes of each trading session. We must inform the Mexican Stock Exchange of the results of any share repurchase no later than the business day following any such share repurchase.

Directors' and Shareholders' Conflict of Interest

Under Mexican law, any shareholder who has a conflict of interest with us with respect to any transaction is obligated to disclose such conflict and is prohibited from voting on that transaction. A shareholder who violates this prohibition may be liable for damages if the relevant transaction would not have been approved without that shareholder's vote.

Under Mexican law, any director who has a conflict of interest with us in any transaction must disclose that fact to the other directors and is prohibited from participating and being present during the deliberations and voting on that transaction. A director who violates this prohibition will be liable for damages. Additionally, our directors may not represent shareholders in our shareholders' meetings.

Withdrawal Rights

Whenever our shareholders approve a change of corporate purpose, change of nationality or transformation from one form of corporate organization to another, Mexican law provides that any shareholder entitled to vote on that change who has voted against it may withdraw from CEMEX and receive an amount calculated as specified by Mexican law attributable to such shareholder's shares, provided that such shareholder exercises that right within 15 days following the meeting at which the change was approved.

Dividends

At the annual ordinary general shareholders' meeting, our board of directors submits, for approval by our shareholders, our financial statements together with a report on them prepared by our board of directors and the statutory auditors. Our shareholders, once they have approved the financial statements, determine the allocation of our net income, after provision for income taxes, legal reserve and statutory employee profit sharing payments, for the preceding year. All shares of our capital stock outstanding at the time a dividend or other distribution is declared are entitled to share equally in that dividend or other distribution.

Liquidation Rights

In the event we are liquidated, the surplus assets remaining after payment of all our creditors will be divided among our shareholders in proportion to the respective shares held by them. The liquidator may, with the approval of our shareholders, distribute the surplus assets in kind among our shareholders, sell the surplus assets and divide the proceeds among our shareholders or put the surplus assets to any other uses agreed to by a majority of our shareholders voting at an extraordinary shareholders' meeting.

Differences Between Our Corporate Governance Practices and NYSE Standards for Domestic Companies

For a description of significant ways in which our corporate governance practices differ from those required of domestic companies under NYSE standards, please visit our website at www.cemex.com (under the heading "Investor Center/Corporate Governance").

Material Contracts

On March 17, 2006, we registered a Ps5 billion revolving promissory note program (*programa dual revolvente de certificados burstátiles*) with the Mexican securities authority. We have subsequently increased the authorized amount under this program. On March 31, 2010, we received authorization from the Mexican securities authority for a Ps10 billion revolving promissory note program. For a description of recent activity under this program, see "Item 5 — Operating and Financial Review and Prospects — Liquidity and Capital Resources — Financing Activities."

On December 6, 2006, CEMEX España entered into a U.S.$9 billion committed facilities agreement, to partially fund the acquisition of Rinker. The first facility was a U.S.$3 billion 364-day multicurrency revolving loan denominated in Dollars or Euros with two optional 6-month extensions. The second facility is a multicurrency three-year U.S.$3 billion term loan denominated in Dollars or Euros. The third facility is a multicurrency five-year U.S.$3 billion term loan denominated in Dollars or Euros. On December 21, 2006, the facilities agreement was amended to include new lenders. The first facility was canceled on June 19, 2007, effective as of June 22, 2007. The facilities agreement was amended and restated on December 19, 2008, to incorporate, among other things, amendments to the leverage ratios and other technical amendments as well as to extend part of the maturities under the second facility; the facilities agreement was further amended and restated on January 27, 2009, to extend, re-tranche and re-denominate commitments under the second facility. On August 14, 2009, the facilities agreement was overridden by the Financing Agreement.

On December 18, 2006, CEMEX, through two special purpose vehicles, issued two tranches of fixed-to-floating rate callable Perpetual Debentures. C5 Capital (SPV) Limited issued U.S.$350 million in Perpetual Debentures under the first tranche, with the issuer having the option to redeem the debentures on December 31, 2011 and on each interest payment date thereafter. C10 Capital (SPV) Limited issued U.S.$900 million in original principal amount of Perpetual Debentures under the second tranche, with the issuer having the option to redeem the debentures on December 31, 2016 and on each interest payment date thereafter. Both tranches pay coupons denominated in Dollars at a fixed rate until the call date and at a floating rate thereafter. On February 12, 2007, CEMEX, through a special purpose vehicle, issued a third tranche of fixed-to-floating rate callable Perpetual Debentures. C8 Capital (SPV) Limited issued U.S.$750 million in original principal amount of Perpetual Debentures under this third tranche, with the issuer having the option to redeem the debentures on December 31, 2014 and on each interest payment date thereafter. This third tranche also pays coupons denominated in Dollars at a fixed rate until the call date and at a floating rate thereafter. On May 9, 2007, CEMEX, through a special purpose vehicle, issued a fourth tranche of fixed-to-floating rate callable Perpetual Debentures. C10-EUR Capital (SPV) Limited issued €730 million in original principal amount of Perpetual Debentures under this fourth tranche, with the issuer having the option to redeem the debentures on June 30, 2017 and on each interest payment date thereafter. This fourth tranche pays coupons denominated in Euros at a fixed rate until the call date and at a floating rate thereafter. Due to their perpetual nature and optional deferral of coupons, these transactions, in accordance with MFRS, qualify as equity. On May 22, 2009, we notified the debenture holders of our decision to exercise our option to defer, by one day, the scheduled interest payments otherwise due and payable on June 30, 2009. See "Item 5 — Operating and Financial Review and Prospects — Liquidity and Capital Resources—The Perpetual Debentures". For a discussion of the 2010 Exchange Offer see "Item 5—Operating and Financial Review and Prospects—Recent Developments—2010 Exchange Offer."

On March 5, 2007, CEMEX Finance Europe B.V., issued €900 million in notes paying a fixed coupon of 4.75% and maturing in 2014. The notes have been listed for trading on the London Stock Exchange's Professional Securities Market. The notes are guaranteed by CEMEX España.

On June 2, 2008, CEMEX, through one of its subsidiaries, closed two identical U.S.$525 million facilities with a group of relationship banks. Each facility allowed the principal amount to be automatically extended for consecutive six month periods indefinitely after a period of three years by CEMEX and included an option of CEMEX to defer interest at any time (except in limited situations), subject to the absence of an event of default under the facility. The amounts outstanding under the facilities, because of the interest deferral provision and the option of CEMEX to extend the maturity of the principal amounts indefinitely, had been treated as equity for accounting purposes in accordance with MFRS and as debt under U.S. GAAP, in the same manner as CEMEX's outstanding Perpetual Debentures. Obligations of CEMEX under each facility rank *pari-passu* with CEMEX's obligations under the Perpetual Debentures and its senior unsecured indebtedness. Within the first three years that each facility is in place, CEMEX, subject to the satisfaction of specified conditions, had options to convert all (and not part) of the respective amounts outstanding under the respective facilities into maturity loans, each with a fixed maturity date of June 30, 2011. CEMEX exercised its conversion options under both facilities on December 31, 2008. The two facilities were amended on January 22, 2009. On August 14, 2009, the two facilities were overridden by the Financing Agreement.

In June 2008, CEMEX entered into a structured transaction comprised of: (i) a U.S.$500 million Credit Agreement, dated June 25, 2008 and amended on December 18, 2008 and January 22, 2009, among CEMEX, S.A.B. de C.V., as borrower, CEMEX México, as guarantor, and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch, as lender; (ii) a U.S.$500 million aggregate notional amount of Put Spread Option Confirmations, dated June 3, 2008 and June 5, 2008, between Centro Distribuidor de Cemento, S.A. de C.V. and Banco Santander, S.A., Institución de Banca Múltiple, Grupo Financiero Santander; and (iii) a Framework Agreement, dated June 25, 2008, by and among CEMEX, S.A.B. de C.V., CEMEX México, Banco Santander (Mexico), S.A., Institución de Banca Múltiple, Grupo Financiero Santander and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch. On August 14, 2009, the structured transaction was overridden by the Financing Agreement.

On January 27, 2009, CEMEX entered into a U.S.$437.50 million and Ps4.77 billion joint bilateral facility. The credit agreement is guaranteed by CEMEX México and CEMEX Concretos, S.A. de C.V. On August 14, 2009, the joint bilateral facility was overridden by the Financing Agreement.

On January 27, 2009, CEMEX España, entered into a U.S.$617.5 million and €587.5 million joint bilateral facility. The joint bilateral facility is guaranteed by CEMEX Australia Holdings Pty Limited and CEMEX Inc. The joint bilateral facility was amended on January 30, 2009 to incorporate a number of minor technical modifications. On August 14, 2009, the joint bilateral facility was overridden by the Financing Agreement.

On August 14, 2009, we entered into the Financing Agreement. The Financing Agreement extended the maturities of approximately U.S.$15.0 billion in syndicated and bilateral bank facilities and private placement obligations, providing for a semi-annual amortization schedule, with a final amortization payment of approximately U.S.$6.8 billion on February 14, 2014. We intend to meet such amortization payments prior to final maturity using funds from a variety of sources, including free cash flow from our operations and net cash proceeds from asset sales as well as debt and/or equity security issuances (including those from the Convertible Notes offering), the receipt of which will trigger mandatory prepayments. The Financing Agreement provides that cash on hand, for any period for which it is being calculated, in excess of U.S.$650 million is required to be applied to prepay the indebtedness under the Financing Agreement.

On September 28, 2009, we sold a total of 1,495 million CPOs, directly or in the form of ADSs, in a global offering for approximately U.S.$1.8 billion in net proceeds.

On November 11, 2009, we launched an exchange offer in Mexico, in transactions exempt from registration pursuant to Regulation S under the Securities Act, directed to holders of CBs maturing on or before December 31, 2012, in order to exchange such CBs for the Mandatory Convertible Securities. Pursuant to the exchange offer, on December 10, 2009, we issued approximately Ps4.1 billion (approximately U.S.$315 million) in Mandatory Convertible Securities in exchange for CBs with original maturities of approximately Ps325 million, Ps1.7 billion and Ps2.1 billion in 2010, 2011 and 2012, respectively, that were canceled. The Mandatory Convertible Securities are mandatorily convertible into newly issued CPOs at a conversion price of Ps23.92 per CPO (calculated as the volume-weighted average price of the CPO for the ten trading days prior to the closing of the exchange offer multiplied by a conversion premium of approximately 1.65), accrue interest, payable in cash, at 10% per annum, provide for the payment of a cash penalty fee, equal to approximately one year of interest, upon the occurrence of certain anticipated conversion events, and mature on November 28, 2019. This transaction did not result in cash proceeds to us or any of our subsidiaries. Under MFRS, the Mandatory Convertible Securities represent a combined instrument with liability and equity components. The liability component, approximately Ps2,090 million as of December 31, 2009, corresponds to the net present value of interest payments due under the Mandatory Convertible Securities, assuming no early conversion, and was recognized under “Other Financial Obligations” in our balance sheet. The equity component, approximately Ps1,971 million as of December 31, 2009, represents the difference between principal amount and the liability component and was recognized within “Other equity reserves” net of commissions in our balance sheet. See notes 13A and 17B in our consolidated financial statements included elsewhere in this annual report.

On December 14, 2009, our subsidiary, CEMEX Finance LLC, issued U.S.$1,250 million aggregate principal amount of 9.50% Dollar-denominated Notes, and €350 million aggregate principal amount of 9.625% Euro-denominated Notes, in transactions exempt from registration pursuant to Rule 144A and Regulation S under the Securities Act. On January 19, 2010, our subsidiary, CEMEX Finance LLC, issued U.S.$500 million additional aggregate principal amount of the 9.50% Dollar-denominated Notes. The payment of principal, interest and premium, if any, on the 9.50% Dollar-denominated Notes and the 9.625% Euro-denominated Notes are fully and unconditionally guaranteed by CEMEX, S.A.B. de C.V., CEMEX México, CEMEX España, CEMEX Corp., CEMEX Concretos, S.A. de C.V., Empresas Tolteca de México, S.A. de C.V. and New Sunward. The 9.50% Dollar-denominated Notes and 9.625% Euro-denominated Notes are secured by a first-priority security interest over the Collateral and all proceeds of such Collateral, unless and until the Collateral shall have been released as provided for in the 9.50% Dollar-denominated Notes and the 9.625% Euro-denominated Notes Indentures and under the Intercreditor Agreement. We used the net proceeds from the offerings of the 9.50% Dollar-denominated Notes and 9.625% Euro-denominated Notes to repay indebtedness under the Financing Agreement and for general corporate purposes.

See “Item 5 — Recent Developments — Recent Developments Relating to Our Indebtedness “ for a description of the 2010 Transactions.

Exchange Controls

See “Item 3 — Key Information — Mexican Peso Exchange Rates.”

Taxation

Mexican Tax Considerations

General

The following is a summary of certain Mexican federal income tax considerations relating to the ownership and disposition of our CPOs or ADSs.

This summary is based on Mexican income tax law that is in effect on the date of this annual report, which is subject to change. This summary is limited to non-residents of Mexico, as defined below, who own our CPOs or ADSs. This summary does not address all aspects of Mexican income tax law. Holders are urged to consult their tax counsel as to the tax consequences that the purchase, ownership and disposition of our CPOs or ADSs, may have.

For purposes of Mexican taxation, an individual is a resident of Mexico if he or she has established his or her home in Mexico. If the individual also has a home in another country, he or she will be considered a resident of Mexico if his or her center of vital interests is in Mexico. Under Mexican law, an individual’s center of vital interests is in Mexico if, among other things:

- more than 50% of the individual’s total income in the relevant year comes from Mexican sources; or
- the individual’s main center of professional activities is in Mexico.

A legal entity is a resident of Mexico if it is organized under the laws of Mexico or if it maintains the principal administration of its business or the effective location of its management in Mexico.

A Mexican citizen is presumed to be a resident of Mexico for tax purposes unless such person or entity can demonstrate otherwise. If a legal entity or an individual is deemed to have a permanent establishment in Mexico for tax purposes, all income attributable to such permanent establishment will be subject to Mexican taxes, in accordance with relevant tax provisions.

Individuals or legal entities that cease to be residents of Mexico must notify the tax authorities within 15 business days before their change of residency.

A non-resident of Mexico is a legal entity or individual that does not satisfy the requirements to be considered a resident of Mexico for Mexican federal income tax purposes.

Taxation of Dividends

Dividends, either in cash or in any other form, paid to non-residents of Mexico with respect to A shares or B shares represented by the CPOs (or in the case of holders who hold CPOs represented by ADSs), will not be subject to withholding tax in Mexico.

Disposition of CPOs or ADSs

Gains on the sale or disposition of ADSs by a holder who is a non-resident of Mexico will not be subject to Mexican tax.

Gains on the sale or disposition of CPOs by a holder who is a non-resident of Mexico will not be subject to any Mexican tax if the sale is carried out through the Mexican Stock Exchange or other recognized securities market, as determined by Mexican tax authorities. Gains realized on sales or other dispositions of CPOs by non-residents of Mexico made in other circumstances would be subject to Mexican income tax.

Under the terms of the Convention Between the United States and Mexico for Avoidance of Double Taxation and Prevention of Fiscal Evasion with Respect to Income Taxes, and a Protocol thereto, the Tax Treaty, gains obtained by a U.S. Shareholder eligible for benefits under the Tax Treaty on the disposition of CPOs will not generally be subject to Mexican tax, provided that such gains are not attributable to a permanent establishment of such U.S. Shareholder in Mexico and that the eligible U.S. Shareholder did not own, directly or indirectly, 25% or more of our outstanding stock during the 12-month period preceding the disposition. In the case of non-residents of Mexico eligible for the benefits of a tax treaty, gains derived from the disposition of ADSs or CPOs may also be exempt, in whole or in part, from Mexican taxation under a treaty to which Mexico is a party.

Deposits and withdrawals of ADSs will not give rise to any Mexican tax or transfer duties.

The term U.S. Shareholder shall have the same meaning ascribed below under the section "— U.S. Federal Income Tax Considerations."

Estate and Gift Taxes

There are no Mexican inheritance or succession taxes applicable to the ownership, transfer or disposition of ADSs or CPOs by holders that are non-residents of Mexico, although gratuitous transfers of CPOs may, in some circumstances, cause a Mexican federal tax to be imposed upon a recipient. There are no Mexican stamp, issue, registration or similar taxes or duties payable by holders of ADSs or CPOs.

U.S. Federal Income Tax Considerations

General

The following is a summary of the material U.S. federal income tax consequences relating to the ownership and disposition of our CPOs and ADSs.

This summary is based on provisions of the U.S. Internal Revenue Code, or the Code, of 1986, as amended, U.S. Treasury regulations promulgated under the Code, and administrative rulings, and judicial interpretations of the Code, all as in effect on the date of this annual report and all of which are subject to change, possibly retroactively. This summary is limited to U.S. Shareholders (as defined below) who hold our ADSs or CPOs, as the case may be, as capital assets. This summary does not discuss all aspects of U.S. federal income taxation which may be important to an investor in light of its individual circumstances, for example, an investor subject to special tax rules (e.g., banks, thrifts, real estate investment trusts, regulated investment companies, insurance companies, dealers in securities or currencies, expatriates, tax-exempt investors, persons who own 10% or more of our voting stock, or holders whose functional currency is not the Dollar or U.S. Shareholders who hold a CPO or an ADS as a position in a "straddle," as part of a "synthetic security" or "hedge," as part of a "conversion transaction" or other integrated investment, or as other than a capital asset). In addition, this summary does not address any aspect of state, local or foreign taxation.

For purposes of this summary, a "U.S. Shareholder" means a beneficial owner of CPOs or ADSs, who is for U.S. federal income tax purposes:

- an individual who is a citizen or resident of the United States for U.S. federal income tax purposes;
- a corporation or other entity taxable as a corporation that is created or organized in the United States or under the laws of the United States or any political subdivision thereof;
- an estate the income of which is subject to U.S. federal income tax regardless of its source; or
- a trust that (i) is subject to the primary supervision of a court within the United States and with respect to which one or more U.S. persons are authorized to control all substantial decisions or (ii) has a valid election in effect under applicable U.S. Treasury regulations to be treated as a United States person.

If a partnership (including any entity treated as a partnership for U.S. federal income tax purposes) is the beneficial owner of CPOs or ADSs, the U.S. federal income tax treatment of a partner in such partnership will generally depend upon the status of the partner and the activities of the partnership. A partner in a partnership that is the beneficial owner of CPOs or ADSs is urged to consult its own tax advisor regarding the associated tax consequences.

U.S. Shareholders should consult their own tax advisors as to the particular tax consequences to them under United States federal, state and local, and foreign laws relating to the ownership and disposition of our CPOs and ADSs.

Ownership of CPOs or ADSs in general

In general, for U.S. federal income tax purposes, U.S. Shareholders who own ADSs will be treated as the beneficial owners of the CPOs represented by those ADSs, and each CPO will represent a beneficial interest in two A shares and one B share.

Taxation of distributions with respect to CPOs and ADSs

A distribution of cash or property with respect to the A shares or B shares represented by CPOs, including CPOs represented by ADSs, generally will be treated as a dividend to the extent paid out of our current or accumulated earnings and profits, as determined under U.S. federal income tax principles, and will be includible in the gross income of a U.S. Shareholder as foreign source "passive" income on the date the distribution is received by the CPO trustee or successor thereof. Any such dividend will not be eligible for the dividends-received deduction allowed to corporate U.S. Shareholders. To the extent, if any, that the amount of any distribution by us exceeds our current and accumulated earnings and profits as determined under U.S. federal income tax principles, it will be treated first as a tax-free return of the U.S. Shareholder's adjusted tax basis in the CPOs or ADSs, as applicable, and thereafter as capital gain.

The gross amount of any dividends paid in Pesos will be includible in the income of a U.S. Shareholder in a Dollar amount calculated by reference to the exchange rate in effect the day the Pesos are received by the CPO trustee or successor thereof whether or not the Pesos are converted into Dollars on that day. Generally, any gain or loss resulting from currency exchange fluctuations during the period from the date the dividend payment is includible in income to the date such payment is converted into Dollars will be treated as ordinary income or loss. Such gain or loss will generally be income from sources within the United States for foreign tax credit limitation purposes.

Dividend income is generally taxed as ordinary income. However, a maximum United States federal income tax rate of 15 percent will apply to "qualified dividend income" received by U.S. Shareholders that are individuals (as well as certain trusts and estates) in taxable years beginning before January 1, 2011, provided that certain holding period requirements are met. "Qualified dividend income" includes dividends paid on shares of "qualified foreign corporations" if, among other things: (i) the shares of the foreign corporation are readily tradable on an established securities market in the United States, or (ii) the foreign corporation is eligible with respect to substantially all of its income for the benefits of a comprehensive income tax treaty with the United States which contains an exchange of information program.

We believe that we are a "qualified foreign corporation" because (i) the ADSs trade on the New York Stock Exchange and (ii) we are eligible for the benefits of the comprehensive income tax treaty between Mexico and the United States which includes an exchange of information program. Accordingly, we believe that any dividends we pay should constitute "qualified dividend income" for United States federal income tax purposes. There can be no assurance, however, that we will continue to be considered a "qualified foreign corporation" and that our dividends will continue to be "qualified dividend income."

Taxation of capital gains on disposition of CPOs or ADSs

The sale, exchange, redemption, or other disposition of CPOs or ADSs will result in the recognition of gain or loss by a U.S. Shareholder for U.S. federal income tax purposes in an amount equal to the difference between the amount realized on the disposition and the U.S. Shareholder's tax basis in the CPOs or ADSs, as applicable. Such gain or loss will be long-term capital gain or loss if the U.S. Shareholder's holding period for the CPOs or ADSs exceeds one year at the time of disposition. Long-term capital gain recognized by a U.S. Shareholder that is an individual (as well as certain trusts and estates) upon the sale or exchange of CPOs or ADSs in a taxable year which

begins before January 1, 2011 generally will be subject to a maximum United States federal income tax rate of 15 percent. The deduction of capital losses is subject to limitations. Gain from the disposition of CPOs or ADSs generally will be treated as U.S. source for foreign tax credit purposes; losses generally will be allocated against U.S. source income. Deposits and withdrawals of CPOs by U.S. Shareholders in exchange for ADSs will not result in the realization of gain or loss for U.S. federal income tax purposes.

United States backup withholding and information reporting

A U.S. Shareholder may, under certain circumstances, be subject to information reporting with respect to some payments to that U.S. Shareholder such as dividends or the proceeds of a sale or other disposition of the CPOs or ADSs. Backup withholding at a rate of 28 percent also may apply to amounts paid to such holder unless such holder (i) is a corporation or comes within certain exempt categories and demonstrates this fact when so required, or (ii) provides a correct taxpayer identification number and otherwise complies with applicable requirements of the backup withholding rules. Backup withholding is not an additional tax. Amounts withheld as backup withholding may be creditable against the U.S. Shareholder's federal income tax liability, and the U.S. Shareholder may obtain a refund of any excess amounts withheld under the backup withholding rules by filing the appropriate claim for refund with the Internal Revenue Service ("IRS") and timely furnishing any required information.

Pursuant to the Hiring Incentives to Restore Employment Act enacted on March 18, 2010, an individual U.S. Shareholder may be required to submit to the IRS certain information with respect to his or her beneficial ownership of CPOs or ADSs, unless such CPOs or ADSs are held on his or her behalf by a U.S. financial institution. The new law also imposes penalties if an individual U.S. Shareholder is required to submit such information to the IRS and fails to do so. U.S. Shareholders should consult their tax advisors regarding the application of the new law in their particular circumstances.

Documents on Display

We are subject to the informational requirements of the Securities Exchange Act of 1934 and, in accordance with these requirements, file reports and information statements and other information with the SEC. These reports and information statements and other information filed by us with the SEC can be inspected and copied at the public reference room of the SEC at 100 F Street, N.E., Washington, D.C. 20549.

In reviewing the agreements included as exhibits to this annual report, please remember they are included to provide you with information regarding their terms and are not intended to provide any other factual or disclosure information about us or the other parties to the agreements.

The agreements may contain representations and warranties by each of the parties to the applicable agreement. These representations and warranties have been made solely for the benefit of the other parties to the applicable agreement and:

- should not in all instances be treated as categorical statements of fact, but rather as a way of allocating the risk to one of the parties if those statements prove to be inaccurate;
- have been qualified by disclosures that were made to the other party in connection with the negotiation of the applicable agreement, which disclosures are not necessarily reflected in the agreement;

- may apply standards of materiality in a way that is different from what may be viewed as material to you or other investors; and
- were made only as of the date of the applicable agreement or such other date or dates as may be specified in the agreement and are subject to more recent developments.

Accordingly, these representations and warranties may not describe the actual state of affairs as of the date they were made or at any other time.

Item 11 - Qualitative and Quantitative Disclosures About Market Risk

See "Item 5 — Operating and Financial Review and Prospects – Qualitative and Quantitative Market Disclosure – Our Derivative Financial Instruments."

Item 12 - Description of Securities Other than Equity Securities

12A. Debt Securities

Not applicable.

12B. Warrants and Rights

Not applicable.

12C. Other Securities

Not applicable.

12D. American Depositary Shares

Depositary Fees and Charges

Under the terms of the Deposit Agreement for CEMEX, S.A.B. de C.V.'s ADSs, an ADS holder may have to pay the following service fees to the depositary:

Services	Fees
Issuance of ADSs upon deposit of eligible securities	Up to 5¢ per ADS issued.
Surrender of ADSs for cancellation and withdrawal of deposited securities	Up to 5¢ per ADS surrendered.
Exercise of rights to purchase additional ADSs	Up to 5¢ per ADS issued.
Distribution of cash (i.e., upon sale of rights and other entitlements)	Up to 2¢ per ADS held.

An ADS holder also is responsible to pay fees and expenses incurred by the ADS depositary and taxes and governmental charges including, but not limited to:

- transfer and registration fees charged by the registrar and transfer agent for eligible and deposited securities, such as upon deposit of eligible securities and withdrawal of deposited securities;
- expenses incurred for converting foreign currency into Dollars;
- expenses for cable, telex and fax transmissions and for delivery of securities;
- expenses incurred in connection with compliance with exchange control regulations and other applicable regulatory requirements;
- fees and expenses incurred in connection with the delivery of deposited securities; and
- taxes and duties upon the transfer of securities, such as when eligible securities are deposited or withdrawn from deposit.

We have agreed to pay some of the other charges and expenses of the ADS depositary. Note that the fees and charges that a holder of ADSs is required to pay may vary over time and may be changed by us and by the ADS depositary. ADS holders will receive notice of the changes. The fees described above may be amended from time to time.

Depositary Payments for the Year Ended December 31, 2009

In 2009, we received approximately U.S.$1.8 million from our Depositary Bank, Citibank, N.A., to reimburse us for contributions towards our investor relations activities (including but not limited to investor meetings, conferences, and fees to investor relations service vendors), and other miscellaneous expenses related to the listing of our ADSs on the NYSE.

PART II

Item 13 - Defaults, Dividend Arrearages and Delinquencies

None.

Item 14 - Material Modifications to the Rights of Security Holders and Use of Proceeds

None.

Item 15 - Controls and Procedures

Disclosure Controls and Procedures

We maintain a system of disclosure controls and procedures designed to provide reasonable assurance that information required to be disclosed in the reports that we file under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, and that such information is communicated to our management, including our chief executive officer and executive vice president of planning and finance, to allow timely decisions regarding required disclosure.

Our chief executive officer and executive vice president of planning and finance have evaluated the effectiveness of our disclosure controls and procedures (as such term is defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act). Based on such evaluation, such officers have concluded that our disclosure controls and procedures are effective as of December 31, 2009.

Annual Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in the rules promulgated under the Exchange Act. Internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of our financial reporting and the preparation of financial statements for external reporting purposes in accordance with generally accepted accounting principles. Because of its inherent limitations, internal control over financial reporting is not intended to provide absolute assurance that a misstatement of our financial statements would be prevented or detected.

Under the supervision and with the participation of our management, including our chief executive officer and principal financial and accounting officers, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework in "Internal Control — Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission. The evaluation included a review of the documentation of controls, evaluation of the design effectiveness of controls, and testing of the operating effectiveness of controls.

Based on this evaluation, our management has concluded that internal control over financial reporting was effective as of December 31, 2009.

KPMG Cárdenas Dosal, S.C., the registered public accounting firm that audited our financial statements included elsewhere in this annual report, has issued an attestation report on our internal control over financial reporting.

Changes in Internal Control Over Financial Reporting

During 2009, we completed the homologation process related to the IT platform in all our operations in the U.S., including our Enterprise Resource Planning system, in order to support our business model. Our management believes this business model improves the efficiency of our operations and financial information process.

We identified no other changes in our internal control over financial reporting during 2009 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

Item 16A - Audit Committee Financial Expert

Our board of directors has determined that it has at least one "audit committee financial expert" (as defined in Item 16A of Form 20-F) serving on its audit committee. Mr. José Manuel Rincón Gallardo meets the requisite qualifications.

Item 16B - Code of Ethics

We have adopted a written code of ethics that applies to all our senior executives, including our principal executive officer, principal financial officer and principal accounting officer.

You may view our code of ethics in the corporate governance section of our website (www.cemex.com), or you may request a copy of our code of ethics, at no cost, by writing to or telephoning us as follows:

CEMEX, S.A.B. de C.V.
Av. Ricardo Margáin Zozaya #325
Colonia Valle del Campestre
Garza García, Nuevo León, México 66265.
Attn: Luis Hernández
Telephone: (011-5281) 8888-8888

Item 16C - Principal Accountant Fees and Services

Audit Fees: KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide charged us approximately Ps205 million in fiscal year 2009 in connection with the professional services rendered for the audit of our annual financial statements and services normally provided by them relating to statutory and regulatory filings or engagements. In fiscal year 2008, KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide billed us approximately Ps203 million for these services.

Audit-Related Fees: KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide billed us approximately Ps66 million in fiscal year 2009 for assurance and related services reasonably related to the performance of our audit. In fiscal year 2008, KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide charged us approximately Ps48 million for audit-related services.

Tax Fees: KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide charged us approximately Ps11 million in fiscal year 2009 for tax compliance, tax advice and tax planning. KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide billed us approximately Ps30 million for tax-related services in fiscal year 2008.

All Other Fees: KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide billed us Ps10 million in fiscal year 2009 for products and services other than those comprising audit fees, audit-related fees and tax fees. In fiscal year 2008, KPMG Cárdenas Dosal, S.C. in Mexico and KPMG firms worldwide charged us approximately Ps3 million for products and services in this category. These fees relate mainly to services provided by KPMG to us with respect to our due diligence activities around the world.

Audit Committee Pre-approval Policies and Procedures

Our audit committee is responsible, among other things, for the appointment, compensation and oversight of our external auditors. To assure the independence of our independent auditors, our audit committee pre-approves annually a catalog of specific audit and non-audit services in the categories Audit Services, Audit-Related Services, Tax-Related Services, and Other Services that may be performed by our auditors, as well as the budgeted fee levels for each of these categories. All other permitted services must receive a specific approval from our audit committee. Our external auditor periodically provides a report to our audit committee in order for our audit committee to review the services that our external auditor is providing, as well as the status and cost of those services.

During 2009, none of the services provided to us by our external auditors were approved by our audit committee pursuant to the de minimis exception to the pre-approval requirement provided by paragraph (c)(7)(i)(c) of Rule 2-01 of Regulation S-X.

Item 16D - Exemptions from the Listing Standards for Audit Committees

Not applicable.

Item 16E - Purchases of Equity Securities by the Issuer and Affiliated Purchasers

In connection with our 2005 and 2006 annual shareholders' meetings held on April 27, 2006, and April 26, 2007, respectively, our shareholders approved stock repurchase programs in an amount of up to Ps6.0 billion (nominal amount) implemented between April 2006 and April 2008. No shares were purchased under these programs.

In connection with our 2007 shareholders' meeting held on April 24, 2008, our shareholders approved a stock repurchase program in an amount of up to Ps6.0 billion (nominal amount) to be implemented between April 2008 and April 2009. No shares were repurchased under this program.

In connection with our 2008 and 2009 shareholders' meetings held on April 23, 2009, and April 29, 2010, respectively, no stock repurchase programs were submitted for the approval of our shareholders.

Item 16G - Corporate Governance

Section 303A.11 of the New York Stock Exchange ("NYSE") Listed Company Manual ("LCM"), requires that listed foreign private issuers, such as CEMEX, disclose any significant ways in which their corporate governance practices differ from those followed by U.S. companies under NYSE listing standards.

CEMEX's corporate governance practices are governed by its bylaws, by the corporate governance provisions set forth in the *Ley del Mercado de Valores* (the "Mexican Securities Market Law"), the *Circular de Emisoras* (the "Mexican Regulation for Issuers") issued by the *Comisión Nacional Bancaria y de Valores* (the "Mexican Banking and Securities Commission") and the *Reglamento Interior de la Bolsa Mexicana de Valores* (the "Mexican Stock Exchange Rules") (the Mexican Securities Market Law, the Mexican Regulation for Issuers and the Mexican Stock Exchange Rules, collectively the "Mexican Laws and Regulations"), and by applicable U.S. securities laws. CEMEX is also subject to the rules of the NYSE to the extent they apply to foreign private issuers. Except for those specific rules, foreign private issuers are permitted to follow home country practice in lieu of the provisions of Section 303A of the LCM.

CEMEX, on a voluntary basis, also complies with the *Código de Mejores Prácticas Corporativas* (the "Mexican Code of Best Corporate Practices") as indicated below, which was promulgated by a committee established by the *Consejo Coordinador Empresarial* ("Mexican Corporate Coordination Board"). The Mexican Corporate Coordination Board provides recommendations for better corporate governance practices for listed companies in Mexico, and the Mexican Code of Best Corporate Practices has been endorsed by the Mexican Banking and Securities Commission.

The following is a summary of significant ways in which our corporate governance practices differ from those required to be followed by U.S. domestic companies under the NYSE's listing standards.

NYSE LISTING STANDARDS	CEMEX CORPORATE GOVERNANCE PRACTICE
303A.01 Listed companies must have a majority of independent directors.	Pursuant to the Mexican Securities Market Law, we are required to have a board of directors with a maximum of 21 members, 25% of whom must be independent. Determination as to the independence of our directors is made upon their election by our shareholders at the corresponding meeting. Currently, our Board of Directors has 12 members and 3 alternate members, of which more than 25% are independent under the Mexican Securities Market Law. The Mexican Securities Market Law sets forth, in article 26, the definition of "independence," which differs from the one set forth in Section 303A.02 of the LCM. Generally, under the Mexican Securities Market Law, a director is not independent if such director is an employee or officer of the company or its subsidiaries; an individual that has significant influence over the company or its subsidiaries; a shareholder that is part of a group that controls the company; or, if there exist certain relationships between a company and a director, entities with which the director is associated or family members of the director.

NYSE LISTING STANDARDS	CEMEX CORPORATE GOVERNANCE PRACTICE
303A.03 Non-management directors must meet at regularly executive sessions without management.	Under our bylaws and the Mexican Laws and Regulations, our non-management and independent directors are not required to meet in executive sessions. Our Board of Directors must meet at least once every three months.
303A.04 Listed companies must have a nominating/corporate governance committee composed of independent directors.	Under our bylaws and the Mexican Laws and Regulations, we are not required to have a nominating committee. We do not have such a committee. Our Corporate Practices Committee operates pursuant to the provisions of the Mexican Securities Market Law and our bylaws. Our Corporate Practices Committee is composed of four independent directors. Our Corporate Practices Committee is responsible for evaluating the performance of our executive officers; reviewing related party transactions; reviewing the compensation paid to executive officers; evaluating any waivers granted to directors or executive officers for their taking of corporate opportunities; and carrying out the activities described under Mexican law. Our Corporate Practices Committee meets as required by our bylaws and by the Mexican Laws and Regulations.
303A.05 Listed companies must have a compensation committee composed of independent directors.	Under our bylaws and the Mexican Laws and Regulations, we are not required to have a compensation committee. We do not have such committee.
303A.06 Listed companies must have an audit committee that satisfies the requirements of Rule 10A-3 under the Exchange Act.	Our Audit Committee operates pursuant to the provisions of the Mexican Securities Market Law and our bylaws. Our Audit Committee is composed of four members. According to our by-laws, all of the members must be independent. Our Audit Committee is responsible for evaluating the company's internal controls and procedures, identifying any material deficiencies it finds; following up with any corrective or preventive measures adopted with respect to the non-compliance with the operation and accounting guidelines and policies; evaluating the performance of the external auditors; describing and valuating those non-audit services rendered by the external auditor; reviewing the company's financial statements; assessing the effects of any modifications to the accounting policies approved during a fiscal year; overseeing measures adopted as result of any observations made by shareholders, directors, executive officers, employees or any third parties with respect to accounting, internal controls and internal and external audit, as well as any complaints regarding irregularities on management, including anonymous and confidential methods for addressing concerns raised by employees; assuring the execution of resolutions adopted at shareholders' or board of directors' meetings. Our Board of Directors has determined that it has an "audit committee financial expert", for purposes of the Sarbanes-Oxley Act of 2002, serving on its Audit Committee.

NYSE LISTING STANDARDS	CEMEX CORPORATE GOVERNANCE PRACTICE
	Our Audit Committee meets as required by our bylaws and by the Mexican Laws and Regulations.
303A.09 Listed companies must adopt and disclose corporate governance guidelines.	Under our bylaws and the Mexican Laws and Regulations, we are not required to adopt corporate governance guidelines, but, on an annual basis, we file a report with the *Bolsa Mexicana de Valores* (the "Mexican Stock Exchange") regarding our compliance with the Mexican Code of Best Corporate Practices.
303A.10 Listed companies must adopt and disclose a code of business conduct and ethics for directors, officers and employees, and promptly disclose any waivers of the code for directors or executive officers.	We have adopted a written code of ethics that applies to all of employees, including our principal executive officer, principal financial officer and principal accounting officer.
Equity compensation plans Equity compensation plans require shareholder approval, subject to limited exemptions.	Shareholder approval is not expressly required under our bylaws for the adoption and amendment of an equity compensation plan. No equity compensation plans have been submitted for approval by our shareholders.

PART III

Item 17 - Financial Statements

Not applicable.

Item 18 - Financial Statements

See pages F-1 through F-82, incorporated herein by reference.

Item 19 - Exhibits

1.1	Amended and Restated By-laws of CEMEX, S.A.B. de C.V. (a)
2.1	Form of Trust Agreement between CEMEX, S.A.B. de C.V., as founder of the trust, and Banco Nacional de México, S.A. regarding the CPOs. (b)
2.2	Amendment Agreement to the Trust Agreement dated November 21, 2002, between CEMEX, S.A.B. de C.V., as founder of the trust, and Banco Nacional de México, S.A. regarding the CPOs. (c)
2.3	Form of CPO Certificate. (b)
2.4	Form of Second Amended and Restated Deposit Agreement (A and B share CPOs), dated August 10, 1999, among CEMEX, S.A.B. de C.V., Citibank, N.A. and holders and beneficial owners of American Depositary Shares. (b)
2.4.1	Amendment No. 1 to the Second Amended and Restated Deposit Agreement, dated as of July 1, 2005, by and among CEMEX, S.A.B. de C.V., Citibank, N.A., as Depositary, and all holders and beneficial owners from time to time of American Depositary Shares evidenced by American Depositary Receipts issued thereunder, including the form of ADR attached thereto. (j)
2.4.2	Letter Agreement, dated October 12, 2007, by and between CEMEX, S.A.B. de C.V. and Citibank, N.A., as Depositary supplementing the Second Amended and Restated Deposit Agreement, as amended, to enable the Depositary to establish a direct registration system for the ADSs. (j)
2.4.3	Letter Agreement, dated March 30, 2010 by and between CEMEX, S.A.B. de C.V. and Citibank, N.A., as Depositary supplementing the Second Amended and Restated Deposit Agreement, as amended, to set forth the terms upon which CEMEX, S.A.B. de C.V. is to deposit CPOs upon conversion of the 4.875% Subordinated Convertible Notes due 2015 and the Depositary is to issue ADSs upon deposit of such CPOs. (j)
2.5	Form of American Depositary Receipt (included in Exhibit 2.3) evidencing American Depositary Shares. (b)
2.6	Form of Certificate for shares of Series A Common Stock of CEMEX, S.A.B. de C.V. (b)
2.7	Form of Certificate for shares of Series B Common Stock of CEMEX, S.A.B. de C.V. (b)
4.1	€250,000,000 and ¥19,308,000,000 Amended and Restated Term and Revolving Facilities Agreement, originally dated March 30, 2004, amended on October 10, 2006 and April 7, 2009, among CEMEX España, as borrower, Banco Bilbao Vizcaya Argentaria, S.A. and Société Générale, as mandated lead arrangers, and the several banks and other financial institutions named therein, as lenders. (i)
4.2	U.S.$700,000,000 Amended and Restated Credit Agreement, dated June 6, 2005, among CEMEX, S.A.B. de C.V., as borrower and CEMEX México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., as guarantors, Barclays Bank PLC, as issuing bank and documentation agent, ING Bank N.V., as issuing bank, Barclays Capital, as joint bookrunner, and ING Capital LLC, as joint bookrunner and administrative agent. (g)
4.2.1	Amendment No. 1 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated June 21, 2006. (g)
4.2.2	Amendment and Waiver Agreement to U.S.$700,000,000 Amended and Restated Credit Agreement, dated December 1, 2006. (g)
4.2.3	Amendment No. 3 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated May 9, 2007. (g)
4.2.4	Amendment No. 4 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated December 19, 2008. (i)
4.2.5	Amendment No. 5 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated January 22, 2009. (i)

4.3	U.S.$2,300,000,000 Amended and Restated Term and Revolving Facilities Agreement, originally dated September 24, 2004, amended on November 8, 2004, February 25, 2005, July 7, 2005, June 30, 2006, December 18, 2008, for CEMEX España, S.A., as borrower, arranged by Citigroup Global Markets Limited and Goldman Sachs International with Citibank International PLC, as agent. (i)
4.7	U.S.$1,200,000,000 Term Credit Agreement, dated May 31, 2005, among CEMEX, S.A.B. de C.V., as borrower, CEMEX México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., as guarantor, Barclays Bank PLC, as administrative agent, Barclays Capital, as joint lead arranger and joint bookrunner, and Citigroup Global Markets Inc., as documentation agent, joint lead arranger and joint bookrunner. (f)
4.7.1	Amendment No. 1 to U.S.$1,200,000,000 Term Credit Agreement, dated June 19, 2006. (g)
4.7.2	Amendment and Waiver Agreement to U.S.$1,200,000,000 Term Credit Agreement, dated November 30, 2006. (g)
4.7.3	Amendment No. 3 to U.S.$1,200,000,000 Term Credit Agreement, dated May 9, 2007. (g)
4.7.4	Amendment No. 4 to U.S.$1,200,000,000 Term Credit Agreement, dated December 19, 2008. (i)
4.7.5	Amendment No. 5 to U.S.$1,200,000,000 Term Credit Agreement, dated January 22, 2009. (i)
4.8	U.S.$700,000,000 Amended and Restated Term and Revolving Facilities Agreement, originally dated June 27, 2005, amended on June 22, 2006, November 30, 2006, December 19, 2008 and January 23, 2009, for New Sunward Holding B.V., as borrower, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and Empresas Tolteca De México, S.A. de C.V., as guarantors, arranged by Banco Bilbao Vizcaya Argentaria, S.A., BNP Paribas and Citigroup Global Markets Limited, as mandated lead arrangers and joint bookrunners, the several financial institutions named therein, as Lenders, and Citibank, N.A., as agent. (i)
4.9	Amended and Restated Limited Liability Company Agreement of CEMEX Southeast LLC, dated July 1, 2005, among CEMEX Southeast LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.9.1	Amendment No. 1 to Amended and Restated Limited Liability Company Agreement of CEMEX Southeast LLC, dated September 1, 2005, among CEMEX Southeast LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.10	Limited Liability Company Agreement of Ready Mix USA, LLC, dated July 1, 2005, among Ready Mix USA, LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.10.1	Amendment No. 1 to Limited Liability Company Agreement of Ready Mix USA, LLC, dated September 1, 2005, among Ready Mix USA, LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.11	Asset and Capital Contribution Agreement, dated July 1, 2005, among Ready Mix USA, Inc., CEMEX Southeast Holdings, LLC, and CEMEX Southeast LLC. (f)
4.12	Asset and Capital Contribution Agreement, dated July 1, 2005, among Ready Mix USA, Inc., CEMEX Southeast Holdings, LLC, and Ready Mix USA, LLC. (f)
4.13	Asset Purchase Agreement, dated September 1, 2005, between Ready Mix USA, LLC and RMC Mid-Atlantic, LLC. (f)
4.14	U.S.$1,200,000,000 Acquisition Facility Agreement, dated October 24, 2006, between CEMEX S.A.B. de C.V., as borrower, CEMEX México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., as guarantors, and BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as agent. (g)
4.15	U.S.$6,000,000,000 Amended and Restated Acquisition Facilities Agreement, originally dated December 6, 2006, amended on January 27, 2007, December 19, 2008 and January 27, 2009, between CEMEX España, S.A., as borrower, Citigroup Global Markets Limited, The Royal Bank of Scotland PLC, and Banco Bilbao Vizcaya Argentaria, S.A. as mandated lead arrangers and joint bookrunners, as amended on December 21, 2006. (i)
4.16	Debenture Purchase Agreement, dated December 11, 2006, among C5 Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and J.P. Morgan Securities Inc, as representative of the several initial institutional purchasers named therein, in connection with the issuance by C5 Capital (SPV) Limited of U.S.$350,000,000 aggregate principal amount of 6.196% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)

4.17	Debenture Purchase Agreement, dated December 11, 2006, among C10 Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and J.P. Morgan Securities Inc, as representative of the several initial institutional purchasers named therein, in connection with the issuance by C10 Capital (SPV) Limited (CEMEX, S.A.B. de C.V.) of U.S.$900,000,000 aggregate principal amount of 6.722% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)
4.18	Note Indenture, Dated as of December 18, 2006, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $350,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.18.1	First Supplemental Note Indenture, dated as of August 10, 2009, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, supplementing the Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $350,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.18.2	Second Supplemental Note Indenture, dated as of May 12, 2010, by and among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, The Bank of New York Mellon, as trustee, Swap 5 Capital (SPV) Limited and C5 Capital (SPV) Limited., supplementing the Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $350,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.19	Note Indenture, dated as of December 18, 2006, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $900,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.19.1	First Supplemental Note Indenture, dated as of August 10, 2009, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, supplementing the Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $900,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.19.2	Second Supplemental Note Indenture, dated as of May 12, 2010, by and among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, The Bank of New York Mellon, as trustee, Swap 10 Capital (SPV) Limited and C10 Capital (SPV) Limited., supplementing the Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $900,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.20	Debenture Purchase Agreement, dated February 6, 2007, among C8 Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and J.P. Morgan Securities Inc, as representative of the several initial institutional purchasers named therein, in connection with the issuance by C8 Capital (SPV) Limited of U.S.$750,000,000 aggregate principal amount of 6.640% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)
4.21	Note Indenture, dated as of February 12, 2007, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $750,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.21.1	First Supplemental Note Indenture, dated as of August 10, 2009, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, supplementing the Note Indenture, dated as of February 12, 2007, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $750,000,000 Callable Perpetual Dual-Currency Notes. (j)

4.21.2	Second Supplemental Note Indenture, dated as of May 12, 2010, by and among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, The Bank of New York Mellon, as trustee, Swap 8 Capital (SPV) Limited and 8 Capital (SPV) Limited., supplementing the Note Indenture, dated as of February 12, 2007, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $750,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.22	Trust Deed, dated February 28, 2007, among CEMEX Finance Europe B.V., as issuer, and several institutional purchasers, relating to the issuance by CEMEX Finance Europe B.V. of €900,000,000 aggregate principal amount of 4.75% Notes due 2014. (g)
4.23	Bid Agreement, dated April 9, 2007, among CEMEX, S.A.B. de C.V., CEMEX Australia Pty Ltd and Rinker Group Limited. (g)
4.24	Debenture Purchase Agreement, dated May 3, 2007, among C10-EUR Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and the institutional purchasers named therein, in connection with the issuance by C10-EUR Capital (SPV) Limited of €730,000,000 aggregate principal amount of 6.277% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)
4.25	Note Indenture, dated as of May 9, 2007, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. €730,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.25.1	First Supplemental Note Indenture, dated as of August 10, 2009, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, supplementing the Note Indenture, dated as of May 9, 2007, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. €730,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.25.2	Second Supplemental Note Indenture, dated as of May 12, 2010, by and among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, The Bank of New York Mellon, as trustee, Swap C10-EUR Capital (SPV) Limited and C10-EUR Capital (SPV) Limited., supplementing the Note Indenture, dated as of February 12, 2007, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. €730,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.26	U.S.$525,000,000 Senior Unsecured Maturity Loan "A" Agreement, dated December 31, 2008, among New Sunward Holding B.V. as borrower, CEMEX S.A.B. de C.V. and CEMEX México, S.A. de C.V., as guarantors, and a group of banks as lenders, HSBC Securities (USA) Inc., Banco Santander S.A. and The Royal Bank of Scotland Plc, as joint lead arrangers and Joint Bookrunners, and ING Capital LLC, as administrative agent. (i)
4.27.1	Amendment No. 1 to U.S.$525,000,000 Senior Unsecured Maturity Loan "A" Agreement, dated January 22, 2009. (i)
4.27.2	U.S.$525,000,000 Senior Unsecured Maturity Loan "B" Agreement, dated December 31, 2008, among New Sunward Holding B.V. as borrower, CEMEX S.A.B. de C.V. and CEMEX México, S.A. de C.V., as guarantors, and a group of banks as lenders, HSBC Securities (USA) Inc., Banco Santander S.A. and The Royal Bank of Scotland Plc, as joint lead arrangers and Joint Bookrunners, and ING Capital LLC, as administrative agent. (i)
4.27.3	Amendment No. 1 to U.S.$525,000,000 Senior Unsecured Maturity Loan "B" Agreement, dated January 22, 2009. (i)
4.28	Forward Transaction (CEMEX Shares) Confirmation, Forward Transaction (NAFTRAC Shares) and Put Option Transaction Confirmation, with Credit Support Annex, each dated April 23, 2008, between Citibank, N.A. and a Mexican trust established by CEMEX on behalf of CEMEX's Mexican pension fund and certain of CEMEX's directors and current and former employees. (h)

4.29	Structured Transaction, dated June 2008, comprised of: (i) U.S.$500 million Credit Agreement, dated June 25, 2008, among CEMEX, S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V, as guarantor, and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch, as lender; (ii) U.S.$500 million aggregate notional amount of Put Spread Option Confirmations, dated June 3, 2008 and June 5, 2008, between Centro Distribuidor de Cemento, S.A. de C.V. and Banco Santander, S.A., Institución de Banca Múltiple, Grupo Financiero Santander; and (iii) Framework Agreement, dated June 25, 2008, by and among CEMEX, S.A.B. de C.V., CEMEX México S.A. de C.V, Banco Santander (Mexico), S.A., Institución de Banca Múltiple, Grupo Financiero Santander and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch. (h)
4.30.1	Amendment No. 1 to U.S.$500 million Credit Agreement, dated December 18, 2008. (i)
4.30.2	Amendment No. 2 to U.S.$500 million Credit Agreement, dated January 22, 2009. (i)
4.31	U.S.$437,500,000.00 and Ps$ 4,773,282,950.00 Credit Agreement, dated January 27, 2009 among CEMEX, S.A.B. de C.V., as borrower, CEMEX México, S.A. de C.V. and CEMEX Concretos, S.A. de C.V., as guarantors, and a group of banks, as lenders, BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as administrative agent, and BBVA Bancomer, S.A., Institución De Banca Múltiple, Grupo Financiero BBVA Bancomer, Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Santander Investment Securities Inc., and The Royal Bank of Scotland PLC, each a joint arranger and joint bookrunner. (i)
4.32	U.S$617,500,000 and €587,500,000 Facilities Agreement dated January 27, 2009, and among CEMEX España, S.A., as the obligors and original guarantors; Banco Santander, S.A. and The Royal Bank of Scotland PLC, as coordinators, financial institutions, as lenders; and The Royal Bank of Scotland PLC, as agent. (i)
4.33	Financing Agreement for CEMEX, S.A.B. de C.V., dated August 14, 2009, with the financial institutions and noteholders named therein as Participating Creditors and Citibank International plc acting as Administrative Agent and Wilmington Trust (London) Limited acting as Security Agent. (j)
4.33.1	Amendment Agreement, dated December 1, 2009, between CEMEX, S.A.B. de C.V. acting for itself and as agent on behalf of each Obligor and Citibank International plc acting for itself and as Administrative Agent on behalf of the Financing Parties, related to the Financing Agreement, dated August 14, 2009. (j)
4.33.2	Amendment Agreement, dated March 18, 2010, between CEMEX, S.A.B. de C.V. acting for itself and as agent on behalf of each Obligor and Citibank International plc acting for itself and as Administrative Agent on behalf of the Financing Parties, related to the Financing Agreement, dated August 14, 2009. (j)
4.34	Omnibus Amendment and Waiver Agreement, dated August 14, 2009, by and among CEMEX, S.A.B. de C.V., New Sunward Holding B.V. CEMEX Materials, LLC, as borrowers, CEMEX México, S.A. de C.V., Empresas Tolteca de México, S.A. de C.V., CEMEX Concretos, S.A. de C.V., CEMEX España, S.A. as guarantors, the financial institutions listed therein in their capacities as lenders under certain Existing Agreements (as defined therein) and the financial institutions listed in therein in their capacity as administrative agents under certain Existing Agreements. (j)
4.35	Intercreditor Agreement, dated August 14, 2009, by and among Citibank International plc as Administrative Agent, The Participating Creditors (as named therein), CEMEX, S.A.B. de C.V. and certain of its subsidiaries as Original Borrowers, Original Guarantors and Original Security Providers, and Wilmington Trust (London) Limited acting as Security Agent and others. (j)
4.35.1	Amendment Agreement, dated December 1, 2009, between CEMEX, S.A.B. de C.V. acting for itself and as agent on behalf of each Obligor and Citibank International plc acting for itself and as Administrative Agent on behalf of the Financing Parties and Wilmington Trust (London) Limited acting as Security Agent, relating to the Intercreditor Agreement, dated August 14, 2009. (j)
4.36	Consolidated Amended and Restated Note Purchase Agreement, dated August 14, 2009, relating to CEMEX España Finance LLC's U.S.$882,407,495.57 8.91% Senior Notes, Series A, due 2014 and ¥1,185,389,696.06 6.625% Senior Notes, Series B, due 2014. (j)
4.37	Amended and Restated Consolidated Note Guarantee, dated August 14, 2009, relating to CEMEX España Finance LLC's U.S.$882,407,495.57 8.91% Senior Notes, Series A, due 2014 and ¥1,185,389,696.06 6.625% Senior Notes, Series B, due 2014. (j)
4.38	Deed of Pledge of Registered Shares, dated August 14, 2009, by and among CEMEX Dutch Holdings B.V., Sunward Holdings B.V., Sunward Acquisitions N.V., CEMEX International Finance Company, Corporación Gouda S.A. de C.V, Mexcement Holdings S.A. de C.V, New Sunward Holding B.V, and Wilmington Trust (London) Limited as Security Agent concerning the she shares of New Sunward Holding B.V. (j)

4.38.1	Deed of Supplemental Pledge of Registered Shares, dated October 23, 2009, by and among CEMEX Dutch Holdings B.V., Sunward Holdings B.V., Sunward Acquisitions N.V., CEMEX International Finance Company, Corporación Gouda S.A. de C.V,, Mexcement Holdings S.A. de C.V, New Sunward Holding B.V, and Wilmington Trust (London) Limited as Security Agent concerning the she shares of New Sunward Holding B.V. (j)
4.39	Share Pledge Agreement, dated August 14, 2009, by and among CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V. , Interamerican Investments Inc., Empresas Tolteca de México, S.A. de C.V. as Pledgors and Wilmington Trust (London) Limited as Security Agent concerning 99.57% of the shares of CEMEX Trademarks Holding Ltd. (j)
4.40	Deed of Pledge of Registered Shares, dated September 4, 2009, by and among CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V. , Interamerican Investments Inc., Empresas Tolteca de México, S.A. de C.V. as Pledgors and Wilmington Trust (London) Limited as Security Agent concerning 99.57% of the shares of CEMEX Trademarks Holding Ltd. (j)
4.41	Irrevocable Mexican Security Trust Agreement, dated September 3, 2009, CEMEX, S.A.B. de C.V., Empresas Tolteca de México, S.A. de C.V., Impra Café, S.A. de C.V., Interamerican Investments, Inc., CEMEX México, S.A. de C.V., and Centro Distribuidor de Cemento, S.A. de C.V., as settlors; CEMEX México, S.A. de C.V., Centro Distribuidor de Cemento, S.A. de C.V., Mexcement Holdings, S.A. de C.V. and Corporación Gouda, S.A. de C.V., as issuers; Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, in its capacity as trustee; and Wilmington Trust (London) Limited, on its own behalf and in its capacity as Security Agent. (j)
4.41.1	Accession Letter, dated December 14, 2009, among CEMEX, S.A.B. de C.V., Empresas Tolteca de México, S.A. de C.V., Impra Café, S.A. de C.V., Interamerican Investments, Inc., CEMEX México, S.A. de C.V., and Centro Distribuidor de Cemento, S.A. de C.V, Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, and Wilmington Trust (London) Limited, relating to CEMEX Finance LLC's U.S.$1,250,000,000 of 9.50% senior secured notes due December 14, 2016, and €350,000,000 of 9.625% senior secured notes due December 14, 2017, guaranteed by CEMEX SAB, CEMEX México, Tolteca, CEMEX Concretos, S.A. de C.V., CEMEX España, S.A., CEMEX Corp. and New Sunward Holding B.V. (j)
4.41.2	Accession Letter, dated January 19, 2010, among CEMEX, S.A.B. de C.V., Empresas Tolteca de México, S.A. de C.V., Impra Café, S.A. de C.V., Interamerican Investments, Inc., CEMEX México, S.A. de C.V., and Centro Distribuidor de Cemento, S.A. de C.V, Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, and Wilmington Trust (London) Limited, relating to CEMEX Finance LLC's US$500,000,000.00 of 9.50% senior secured notes due December 14, 2016, guaranteed by CEMEX SAB, CEMEX México, Tolteca, CEMEX Concretos, S.A. de C.V., CEMEX España, S.A., CEMEX Corp. and New Sunward Holding B.V. (j)
4.41.3	Accession Letter, dated May 12, 2010, among CEMEX, S.A.B. de C.V., Empresas Tolteca de México, S.A. de C.V., Impra Café, S.A. de C.V., Interamerican Investments, Inc., CEMEX México, S.A. de C.V., and Centro Distribuidor de Cemento, S.A. de C.V, Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, and Wilmington Trust (London) Limited, relating to CEMEX España, S.A., acting through its Luxembourg Branch's, US$1,067,665,000 of 9.25% senior secured notes due 2020, and €115,346,000 of 8.875% senior secured notes due 2017. (j)
4.42	Underwriting Agreement, dated September 22, 2009, by and among CEMEX, S.A.B. de C.V. and J.P Morgan Securities Inc, Citigroup Global Markets Inc., and Santander Investment Securities, as Representatives of the several Underwriters listed in Schedule 1 thereto, relating to CEMEX, S.A.B. de C.V.'s 975,000,000 CPOs. (j)
4.43	Underwriting Agreement, dated September 22, 2009, by and among Acciones y Valores Banamex, S.A. de C.V., Casa de Bolsa, a company of Grupo Financiero Banamex,, J.P. Morgan Casa de Bolsa, S.A. de C.V., J.P. Morgan Grupo Financiero , Casa de Bolsa Santander, S.A. de C.V., Grupo Financiero Santander, Casa de Bolsa BBVA Bancomer, S.A. de C.V., Grupo Financiero BBVA Bancomer, and HSBC Casa de Bolsa, S.A. de C.V., Grupo Financiero HSBC , CEMEX, S.A.B. de C.V., Centro Distribuidor de Cemento, S.A. de C.V., Empresas Tolteca de Mexico, S.A. de C.V. and Petrocemex, S.A. de C.V, relating to CEMEX, S.A.B. de C.V.'s 1,495,000,000 CPOs. (j)
4.44	Share Pledge Agreement, dated September 29, 2009, by and among New Sunward Holding B.V., CEMEX, S.A.B. de C.V., Sunward Acquisitions N.V. as Pledgors, Wilmington Trust (London) Limited, as Security Agent and the Secured Parties concerning the shares of CEMEX España, S.A. (j)

4.44.1	Accession Deed, dated December 2, 2009, issued by The Bank of New York Mellon, as Trustee, and CEMEX España, S.A., concerning the shares of CEMEX España, S.A. relating to the issuance by CEMEX Finance LLC of U.S.$1,250,000,000 9.5% Senior Secured Notes due 2016. (j)
4.44.2	Accession Deed, dated December 14, 2009, issued by The Bank of New York Mellon, as Trustee, and CEMEX España, S.A., concerning the shares of CEMEX España, S.A. relating to the issuance by CEMEX Finance LLC of €350,000,000 9.625% Senior Secured Notes due 2017. (j)
4.44.3	Accession Deed, dated January 19, 2010, issued by The Bank of New York Mellon, as Trustee, and CEMEX España, S.A., concerning the shares of CEMEX España, S.A. relating to the issuance by CEMEX Finance LLC of U.S.$500,000,000 9.50% Senior Secured Notes due 2016. (j)
4.44.4	Accession Deed, dated May 12, 2010, concerning the shares of CEMEX España, S.A., issued by The Bank of New York Mellon, as Trustee, and CEMEX España, S.A., relating to the issuance of U.S.$1,067,665,000 aggregate principal amount of 9.25% U.S. Dollar-Denominated Senior Secured Notes Due 2020 and €115,346,000 aggregate principal amount of the 8.875% Euro-Denominated Senior Secured Notes due 2017. (j)
4.45	Underwriting Agreement (*Contrato de Colocación*), dated as of December 3, 2009, by and among CEMEX, S.A.B. de C.V. as issuer, Casa de Bolsa Santander, S.A. de C.V., Grupo Financiero Santander, HSBC Casa de Bolsa, S.A. de C.V., Grupo Financiero HSBC, Acciones y Valores Banamex, S.A. de C.V., Casa de Bolsa, Integrante del Grupo Financiero Banamex, Casa de Bolsa BBVA Bancomer, S.A. de C.V., Grupo Financiero BBVA, as underwriters in connection with the issuance by CEMEX, S.A.B. de C.V. of Mandatory Convertible Bonds. (j)
4.46	Purchase Agreement, dated December 9, 2009, between CEMEX Finance LLC, as issuer, the Note Guarantors party thereto and several institutional purchasers named therein, in connection with the issuance by CEMEX Finance LLC of U.S.$1,250,000,000 9.5% Senior Secured Notes due 2016. (j)
4.47	Purchase Agreement, dated December 9, 2009, between CEMEX Finance LLC, as issuer, the Note Guarantors party thereto and several institutional purchasers named therein, in connection with the issuance by CEMEX Finance LLC of €350,000,000 9.625% Senior Secured Notes Due 2017. (j)
4.48	Indenture dated December 10, 2009, by and among CEMEX, S.A.B. de C.V., as issuer, Banco Mercantil de Norte Sociedad Anonima, Institución de Banca Múltiple, Grupo Financiero Banorte, as common representative and calculation agent in connection with the issuance by CEMEX, S.A.B. de C.V., of Mandatory Convertible Bonds. (j)
4.49	Indenture, dated December 14, 2009, among CEMEX Finance LLC, the Note Guarantors party thereto and the Bank of New York Melon, as Trustee relating to the issuance by CEMEX Finance LLC of € 350,000,000 9.625% Senior Secured Notes Due 2017. (j)
4.50	Indenture, dated December 14, 2009, among CEMEX Finance LLC, the Note Guarantors party thereto and the Bank of New York Melon, as Trustee relating to the issuance by CEMEX Finance LLC of U.S.$1,250,000,000 9.5% Senior Secured Notes due 2016. (j)
4.50.1	Supplemental Indenture No. 1, dated January 19, 2010, among CEMEX Finance LLC, the Note Guarantors party thereto, and The Bank of New York Mellon, as trustee relating to the issuance by CEMEX Finance LLC of U.S.$500,000,000 9.5% Senior Secured Notes due 2016. (j)
4.51	Purchase Agreement, dated January 13, 2010, among CEMEX Finance LLC, as issuer, and several institutional purchasers named therein, in connection with the issuance by CEMEX Finance LLC of U.S.$500,000,000 9.50% Senior Secured Notes due 2016. (j)
4.52	Purchase Agreement, dated March 24, 2010, among CEMEX, S.A.B. de C.V. as issuer, and several institutional purchasers named therein, in connection with the issuance by CEMEX, S.A.B. de C.V. of U.S.$715,000,000 4.875% Convertible Subordinated Notes due 2015. (j)
4.53	Master Terms and Conditions Agreement, dated March 24, 2010, by and between Citibank, N.A. and CEMEX, S.A.B. de C.V., relating to the capped call transaction entered into in connection with issuance by CEMEX, S.A.B. de C.V. of U.S.$715,000,000 aggregate principal amount of 4.875% Convertible Subordinated Notes due 2015. (j)
4.54	Indenture, dated March 30, 2010, among CEMEX, S.A.B. de C.V., The Bank of New York Mellon, as trustee, and The Bank of New York Mellon, S.A., Institución De Banca Múltiple, as Mexican Trustee with respect to the issuance by CEMEX, S.A.B. de C.V.of $715,000,000 aggregate principal amount of 4.875% Convertible Subordinated Notes due 2015. (j)

4.55	Security Agreement, dated March 30, 2010, by and between Citibank, N.A. and CEMEX, S.A.B. de C.V. relating to the capped call transaction entered into in connection with issuance by CEMEX, S.A.B. de C.V. of U.S.$715,000,000 aggregate principal amount of 4.875% Convertible Subordinated Notes due 2015. (j)
4.56	Collateral Agreement, dated March 30, 2010, among Citibank, N.A., CEMEX, S.A.B. de C.V. and Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria relating to the capped call transaction entered into in connection with issuance by CEMEX, S.A.B. de C.V. of U.S.$715,000,000 aggregate principal amount of 4.875% Convertible Subordinated Notes due 2015.(j)
4.57	Amended and Restated Dealer Manager Agreement, dated May 6, 2010, among CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures, B.V., CEMEX España acting through its Luxembourg branch, J.P Morgan Securities Inc., J.P. Morgan Securities Ltd., Citigroup Global Markets Inc, Citigroup Global Markets Ltd., C5 Capital (SPV) Ltd., C8 Capital (SPV) Ltd., C10 Capital (SPV) Ltd., and C-10 Capital (SPV) Ltd. (collectively, the Capital SPVs) in connection with the offers to exchange any and all of the outstanding fixed-to-floating rate callable perpetual debentures, issued by the Capital SPVs, for 9.25% U.S. Dollar-denominated senior secured notes due 2020, in the case of the USD Exchange Offers and 8.875% Euro-denominated senior secured notes due 2017, issued by CEMEX España, S.A., acting through its Luxembourg branch. (j)
4.58	Indenture, dated May 12, 2010, among CEMEX España acting through its Luxembourg branch, as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, with respect to the issuance of U.S.$1,067,665,000 aggregate principal amount of 9.25% U.S. Dollar-Denominated Senior Secured Notes Due 2020 and €115,346,000 aggregate principal amount of the 8.875% Euro-Denominated Senior Secured Notes Due 2017. (j)
8.1	List of subsidiaries of CEMEX, S.A.B. de C.V. (j)
12.1	Certification of the Principal Executive Officer of CEMEX, S.A.B. de C.V. pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. (j)
12.2	Certification of the Principal Financial Officer of CEMEX, S.A.B. de C.V. pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. (j)
13.1	Certification of the Principal Executive and Financial Officers of CEMEX, S.A.B. de C.V. pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. (j)
14.1	Consent of KPMG Cárdenas Dosal, S.C. to the incorporation by reference into the effective registration statements of CEMEX, S.A.B. de C.V. under the Securities Act of 1933 of their report with respect to the consolidated financial statements of CEMEX, S.A.B. de C.V., which appears in this Annual Report on Form 20-F. (j)

(a) Incorporated by reference to Post-Effective Amendment No. 4 to the Registration Statement on Form F-3 of CEMEX, S.A.B. de C.V. (Registration No. 333-11382), filed with the Securities and Exchange Commission on August 27, 2003.

(b) Incorporated by reference to the Registration Statement on Form F-4 of CEMEX, S.A.B. de C.V. (Registration No. 333-10682), filed with the Securities and Exchange Commission on August 10, 1999.

(c) Incorporated by reference to the 2002 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on April 8, 2003.

(d) Incorporated by reference to the 2003 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on May 11, 2004.

(e) Incorporated by reference to the 2004 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on May 27, 2005.

(f) Incorporated by reference to the 2005 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on June 8, 2006.

(g) Incorporated by reference to the 2006 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on June 27, 2007.

(h) Incorporated by reference to the 2007 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on June 30, 2008.

(i) Incorporated by reference to the 2008 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on June 30, 2009.

(j) Filed herewith.

In reviewing the agreements included as exhibits to this annual report, please remember they are included to provide you with information regarding their terms and are not intended to provide any other factual or disclosure information about us or the other parties to the agreements.

The agreements may contain representations and warranties by each of the parties to the applicable agreement. These representations and warranties have been made solely for the benefit of the other parties to the applicable agreement and:

- should not in all instances be treated as categorical statements of fact, but rather as a way of allocating the risk to one of the parties if those statements prove to be inaccurate;
- have been qualified by disclosures that were made to the other party in connection with the negotiation of the applicable agreement, which disclosures are not necessarily reflected in the agreement;
- may apply standards of materiality in a way that is different from what may be viewed as material to you or other investors; and
- were made only as of the date of the applicable agreement or such other date or dates as may be specified in the agreement and are subject to more recent developments.

Accordingly, these representations and warranties may not describe the actual state of affairs as of the date they were made or at any other time.

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SIGNATURES

CEMEX, S.A.B. de C.V. hereby certifies that it meets all of the requirements for filing on Form 20-F and that it has duly caused and authorized the undersigned to sign this annual report on its behalf.

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

By: /s/ Lorenzo H. Zambrano
Name: Lorenzo H. Zambrano
Title: Chief Executive Officer

Date: June 30, 2010

INDEX TO AUDITED CONSOLIDATED FINANCIAL STATEMENTS

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
CEMEX, S.A.B. de C.V.:

We have audited the accompanying consolidated balance sheets of CEMEX, S.A.B. de C.V. and subsidiaries (the Company) as of December 31, 2009 and 2008, and the related consolidated income statements and consolidated statements of stockholders' equity for the years ended December 31, 2009, 2008 and 2007, and the consolidated statements of cash flows for the years ended December 31, 2009 and 2008, and the consolidated statement of changes in financial position for the year ended December 31, 2007. These consolidated financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these consolidated financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States) and with auditing standards generally accepted in Mexico. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement and are prepared in accordance with Mexican Financial Reporting Standards. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the consolidated financial statements referred to above present fairly, in all material respects, the financial position of CEMEX, S.A.B. de C.V. and subsidiaries as of December 31, 2009 and 2008, and the results of their operations and the changes in their stockholders' equity for each of the years ended December 31, 2009, 2008 and 2007, their cash flows for the years ended December 31, 2009 and 2008 and changes in their financial position for the year ended December 31, 2007, in conformity with Mexican Financial Reporting Standards.

Mexican Financial Reporting Standards vary in certain significant respects from U.S. generally accepted accounting principles. Information relating to the nature and effect of such differences is presented in note 25 to the consolidated financial statements.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), CEMEX, S.A.B. de C.V. and subsidiaries' internal control over financial reporting as of December 31, 2009, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO), and our report dated June 25, 2010 expressed an unqualified opinion on the effectiveness of the Company's internal control over financial reporting.

KPMG Cárdenas Dosal, S.C.

/s/ Celin Zorrilla Rizo
Monterrey, N.L., Mexico
June 25, 2010

INTERNAL CONTROL REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
CEMEX, S.A.B. de C.V.:

We have audited CEMEX, S.A.B. de C.V. and subsidiaries' (the Company) internal control over financial reporting as of December 31, 2009, based on criteria established in *Internal Control– Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). CEMEX, S.A.B. de C.V.'s management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying Annual Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audit also included performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, CEMEX, S.A.B. de C.V. and subsidiaries maintained, in all material respects, effective internal control over financial reporting as of December 31, 2009, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO).

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) and with auditing standards generally accepted in Mexico, the consolidated balance sheets of CEMEX, S.A.B. de C.V. and subsidiaries as of December 31, 2009 and 2008, and the related consolidated income statements and consolidated statements of changes in stockholders' equity for the years ended December 31, 2009, 2008 and 2007, and the consolidated statements of cash flows for the years ended December 31, 2009 and 2008, and the consolidated statement of changes in financial position for the year ended December 31, 2007, and our report dated June 25, 2010 expressed an unqualified opinion on those consolidated financial statements.

KPMG Cárdenas Dosal, S.C.

/s/ Celin Zorrilla Rizo
Monterrey, N.L. Mexico
June 25, 2010

CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
Consolidated Balance Sheets
(Millions of Mexican pesos)

	Notes	December 31, 2009	2008
ASSETS			
CURRENT ASSETS			
Cash and investments	**5**	Ps 14,104	12,900
Trade receivables less allowance for doubtful accounts	**6**	13,383	15,921
Other accounts receivable	**7**	9,340	9,537
Inventories, net	**8**	17,191	21,215
Other current assets	**9**	2,752	3,950
Current assets of discontinued operations	**4B**	—	4,672
Total current assets		56,770	68,195
NON-CURRENT ASSETS			
Investments in associates	**10A**	11,113	11,893
Other investments and non-current accounts receivable	**10B**	21,031	23,809
Property, machinery and equipment, net	**11**	258,863	270,281
Goodwill, intangible assets and deferred charges, net	**12**	234,509	224,587
Non-current assets of discontinued operations	**4B**	—	24,857
Total non-current assets		525,516	555,427
TOTAL ASSETS		**Ps 582,286**	**623,622**
LIABILITIES AND STOCKHOLDERS' EQUITY			
CURRENT LIABILITIES			
Short-term debt including current maturities of long-term debt	**13A**	Ps 7,393	95,269
Other financial obligations	**13A and D**	375	3,462
Trade payables		18,194	20,778
Other accounts payable and accrued expenses	**14**	23,251	30,673
Current liabilities of discontinued operations	**4B**	—	2,555
Total current liabilities		49,213	152,737
NON-CURRENT LIABILITIES			
Long-term debt	**13A**	203,751	162,805
Other financial obligations	**13B and D**	1,715	1,823
Employee benefits	**15**	7,458	6,791
Deferred income taxes	**16B**	32,642	38,045
Other non-current liabilities	**14**	29,937	22,710
Long-term liabilities of discontinued operations	**4B**	—	1,444
Total non-current liabilities		275,503	233,618
TOTAL LIABILITIES		**324,716**	**386,355**
STOCKHOLDERS' EQUITY			
Controlling interest:			
Common stock and additional paid-in capital	**17A**	102,761	74,288
Other equity reserves	**17B**	28,647	28,730
Retained earnings	**17C**	81,056	85,396
Net income		1,409	2,278
Total controlling interest		213,873	190,692
Non-controlling interest and perpetual debentures	**17D**	43,697	46,575
TOTAL STOCKHOLDERS' EQUITY		**257,570**	**237,267**
TOTAL LIABILITIES AND STOCKHOLDERS' EQUITY		**Ps 582,286**	**623,622**

The accompanying notes are part of these consolidated financial statements.

CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
Consolidated Income Statements

(Millions of Mexican pesos, except for earnings per share)

	Note		Years ended December 31, 2009	2008	2007
Net sales	3P	Ps	197,801	225,665	228,152
Cost of sales	3Q		(139,672)	(153,965)	(151,439)
Gross profit			**58,129**	**71,700**	**76,713**
Administrative and selling expenses			(28,611)	(32,262)	(32,031)
Distribution expenses			(13,678)	(13,350)	(13,072)
Total operating expenses	3Q		(42,289)	(45,612)	(45,103)
Operating income			**15,840**	**26,088**	**31,610**
Other expenses, net	3S		(5,529)	(21,403)	(2,984)
Operating income after other expenses, net			**10,311**	**4,685**	**28,626**
Comprehensive financing result:					
Financial expense	13		(13,513)	(10,199)	(8,808)
Financial income			385	513	823
Results from financial instruments	13		(2,127)	(15,172)	2,387
Foreign exchange results			(266)	(3,886)	(274)
Monetary position result	3R		415	418	6,890
Comprehensive financing result			(15,106)	(28,326)	1,018
Equity in income of associates			154	869	1,487
Income (loss) before income tax			**(4,641)**	**(22,772)**	**31,131**
Income tax benefit (expense)	16		10,566	22,998	(4,474)
Income before discontinued operations	4B		**5,925**	**226**	**26,657**
Discontinued operations			(4,276)	2,097	288
Consolidated net income			1,649	2,323	26,945
Non-controlling interest net income			240	45	837
CONTROLLING INTEREST NET INCOME		**Ps**	**1,409**	**2,278**	**26,108**
BASIC EARNINGS PER SHARE OF CONTINUING OPERATIONS	19	**Ps**	**0.22**	**0.01**	**1.16**
Basic earnings per share of discontinued operations	19	**Ps**	**(0.16)**	**0.09**	**0.01**
DILUTED EARNINGS PER SHARE OF CONTINUING OPERATIONS	19	**Ps**	**0.22**	**0.01**	**1.16**
Diluted earnings per share of discontinued operations	19	**Ps**	**(0.16)**	**0.09**	**0.01**

The accompanying notes are part of these consolidated financial statements.

CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
Consolidated Statements of Cash Flows
(Millions of Mexican pesos)

	Notes		Years ended December 31, 2009	2008
OPERATING ACTIVITIES				
Consolidated net income		**Ps**	**1,649**	**2,323**
Discontinued operations			(4,276)	2,097
Net income from continuing operations			**5,925**	**226**
Non-cash items:				
Depreciation and amortization of assets	**11 and 12**		20,313	19,699
Impairment losses	**3S**		889	21,125
Equity in income of associates	**10A**		(154)	(869)
Other expenses (income), net			9,015	(4,728)
Comprehensive financing result			15,106	28,326
Income taxes	**16**		(10,566)	(22,998)
Changes in working capital, excluding income taxes			(2,599)	1,299
Net cash flow provided by continuing operations before income taxes			37,929	42,080
Income taxes paid in cash			(4,201)	(3,625)
Net cash flow provided by continuing operations			**33,728**	**38,455**
Net cash flow provided by discontinued operations			1,023	2,817
Net cash flows provided by operating activities			**34,751**	**41,272**
INVESTING ACTIVITIES				
Property, machinery and equipment, net	**11**		(6,655)	(20,511)
Disposal of subsidiaries and associates, net	**10 and 12**		21,115	10,845
Intangible assets and other deferred charges	**12**		(8,440)	(1,975)
Long term assets and others, net			186	(1,622)
Net cash flows provided by (used in) investing activities of continuing operations			**6,206**	**(13,263)**
Net cash flows used in investing activities of discontinued operations			(491)	(1,367)
Net cash flows provided by (used in) investing activities			**5,715**	**(14,630)**
FINANCING ACTIVITIES				
Issuance of common stock	**17A**		23,953	—
Financial expense paid in cash including the related with perpetual debentures	**17D**		(14,607)	(11,784)
Derivative instruments			(8,513)	(9,909)
Dividends paid	**17A**		—	(215)
Repayment of debt, net	**13A**		(35,812)	(3,611)
Non-current liabilities, net			(2,795)	1,471
Net cash flows used in financing activities of continuing operations			**(37,774)**	**(24,048)**
Net cash flows provided by financing activities of discontinued operations			628	359
Net cash flows used in financing activities			**(37,146)**	**(23,689)**
Increase in cash and investments of continuing operations			2,160	1,144
Increase in cash and investments of discontinued operations			1,160	1,809
Cash conversion effect, net			(2,116)	1,277
Cash and investments at beginning of year			12,900	8,670
CASH AND INVESTMENTS AT END OF YEAR	**5**	**Ps**	**14,104**	**12,900**
Changes in working capital:				
Trade receivables, net		Ps	3,530	3,897
Other accounts receivable and other assets			510	825
Inventories			3,911	(630)
Trade payables			(2,422)	(2,931)
Other accounts payable and accrued expenses			(8,128)	138
Changes in working capital, excluding income taxes		**Ps**	**(2,599)**	**1,299**

The accompanying notes are part of these consolidated financial statements.

CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
Consolidated Statement of Changes in Financial Position
(Millions of Mexican pesos)

	Notes	Year ended December 31, 2007
OPERATING ACTIVITIES		
Controlling interest net income		**Ps 26,108**
Non cash items:		
Depreciation of property, machinery and equipment	**11**	14,876
Amortization of intangible assets and deferred charges	**12**	2,790
Impairment of assets	**8,11 and 12**	195
Pensions and other postretirement benefits	**15**	995
Deferred income taxes	**16**	(427)
Deferred employees' statutory profit sharing		25
Equity in income of associates	**9A**	(1,487)
Non-controlling interest		837
Net resources provided by operating activities		**43,912**
Changes in working capital, excluding acquisition effects:		
Trade receivables, net		2,837
Other accounts receivable and other assets		422
Inventories		(1,185)
Trade payables		(566)
Other accounts payable and accrued expenses		205
Net change in working capital		1,713
Net resources provided by operating activities		**45,625**
FINANCING ACTIVITIES		
Proceeds from debt, net, excluding debt assumed through business acquisitions		114,065
Decrease of treasury shares owned by subsidiaries		158
Dividends paid		(6,636)
Issuance of common stock under stock dividend elections and stock option programs		6,399
Issuance of perpetual debentures, net of coupons paid	**17D**	16,981
Other financing activities, net		(618)
Net resources provided by financing activities		**130,349**
INVESTING ACTIVITIES		
Property, machinery and equipment, net	**11**	(21,779)
Investment in subsidiaries and associates	**9A and 12**	(146,663)
Non-controlling interest		(1,166)
Goodwill, intangible assets and other deferred charges	**12**	(1,408)
Other investments and monetary foreign currency effect		(14,782)
Net resources used in investing activities		**(185,798)**
Decrease in cash and investments		(9,824)
Cash and investments at beginning of year		18,494
CASH AND INVESTMENTS AT END OF YEAR	**5**	**Ps 8,670**

The accompanying notes are part of these consolidated financial statements.

CEMEX, S.A.B. DE C.V. AND CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
Statement of Changes in Stockholders' Equity

(Millions of Mexican pesos)

	Note	Common stock	Additional paid-in capital	Other equity reserves	Retained earnings	Total controlling interest	Non-controlling interest	Total stockholders' equity
Balance at December 31, 2006		**Ps 4,113**	**56,982**	**(91,244)**	**180,776**	**150,627**	**22,484**	**173,111**
Results from holding non-monetary assets	**17B**	—	—	(13,910)	—	(13,910)	—	(13,910)
Currency translation of foreign subsidiaries	**17B**	—	—	2,927	—	2,927	—	2,927
Hedge derivative financial instruments	**13**	—	—	(117)	—	(117)	—	(117)
Deferred income tax recognized directly in equity	**16**	—	—	(427)	—	(427)	—	(427)
Net income		—	—	—	26,108	26,108	837	26,945
Comprehensive income for the period		—	—	(11,527)	26,108	14,581	837	15,418
Dividends (Ps0.28 pesos per share)	**17A**	—	—	—	(6,636)	(6,636)	—	(6,636)
Issuance of common stock	**17A**	2	6,397	—	—	6,399	—	6,399
Treasury shares owned by subsidiaries	**17**	—	—	44	—	44	—	44
Issuance and effects of perpetual debentures	**17D**	—	—	(1,847)	—	(1,847)	18,828	16,981
Changes in non-controlling interest	**17D**	—	—	—	—	—	(1,164)	(1,164)
Balance at December 31, 2007		**4,115**	**63,379**	**(104,574)**	**200,248**	**163,168**	**40,985**	**204,153**
Currency translation of foreign subsidiaries	**17B**	—	—	30,987	—	30,987	—	30,987
Hedge derivative financial instruments	**13**	—	—	(297)	—	(297)	—	(297)
Deferred income tax recognized directly in equity	**16**	—	—	558	—	558	—	558
Net income		—	—	—	2,278	2,278	45	2,323
Comprehensive income for the period		—	—	31,248	2,278	33,526	45	33,571
Adoption of Mexican Financial Reporting Standards		—	—	104,640	(107,843)	(3,203)	—	(3,203)
Dividends (Ps0.29 pesos per share)	**17A**	—	—	—	(7,009)	(7,009)	—	(7,009)
Issuance of common stock	**17A**	2	6,792	—	—	6,794	—	6,794
Treasury shares owned by subsidiaries	**17**	—	—	12	—	12	—	12
Issuance and effects of perpetual debentures	**17D**	—	—	(2,596)	—	(2,596)	8,025	5,429
Changes in non-controlling interest	**17D**	—	—	—	—	—	(2,480)	(2,480)
Balance at December 31, 2008		**4,117**	**70,171**	**28,730**	**87,674**	**190,692**	**46,575**	**237,267**
Currency translation of foreign subsidiaries	**17B**	—	—	(741)	—	(741)	—	(741)
Hedge derivative financial instruments	**13**	—	—	450	—	450	—	450
Deferred income tax recognized directly in equity	**16**	—	—	941	—	941	—	941
Net income		—	—	—	1,409	1,409	240	1,649
Comprehensive income for the period		—	—	650	1,409	2,059	240	2,299
Adoption of Mexican Financial Reporting Standards	**3N**	—	—	—	(2,245)	(2,245)	—	(2,245)
Dividends	**17A**	—	—	—	(4,373)	(4,373)	—	(4,373)
Issuance of common stock	**17A**	10	18,840	—	—	18,850	—	18,850
Treasury shares owned by subsidiaries	**17**	—	9,623	—	—	9,623	—	9,623
Issuance and effects of convertible securities	**17B**	—	—	1,971	—	1,971	—	1,971
Issuance and effects of perpetual debentures	**17D**	—	—	(2,704)	—	(2,704)	(1,636)	(4,340)
Changes in non-controlling interest	**17D**	—	—	—	—	—	(1,482)	(1,482)
Balance at December 31, 2009		**Ps 4,127**	**98,634**	**28,647**	**82,465**	**213,873**	**43,697**	**257,570**

The accompanying notes are part of these consolidated financial statements.

CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
Notes to Consolidated Financial Statements
As of December 31, 2009, 2008 and 2007
(Millions of Mexican pesos)

1. DESCRIPTION OF BUSINESS

CEMEX, S.A.B. de C.V. is a Mexican corporation, a holding company (parent) of entities whose main activities are oriented to the construction industry, through the production, marketing, distribution and sale of cement, ready-mix concrete, aggregates and other construction materials. CEMEX is a public stock corporation with variable capital (S.A.B. de C.V.) organized under the laws of the United Mexican States, or Mexico.

CEMEX, S.A.B. de C.V. was founded in 1906 and was registered with the Mercantile Section of the Public Register of Property and Commerce in Monterrey, N.L., Mexico in 1920 for a period of 99 years. In 2002, this period was extended to the year 2100. The shares of CEMEX, S.A.B. de C.V. are listed on the Mexican Stock Exchange ("MSE") as Ordinary Participation Certificates ("CPOs"). Each CPO represents two series "A" shares and one series "B" share of common stock of CEMEX, S.A.B. de C.V. In addition, CEMEX, S.A.B. de C.V. shares are listed on the New York Stock Exchange ("NYSE") as American Depositary Shares or "ADSs" under the symbol "CX." Each ADS represents ten CPOs.

The terms "CEMEX, S.A.B. de C.V." or the "Parent Company" used in these accompanying notes to the financial statements refer to CEMEX, S.A.B. de C.V. without its consolidated subsidiaries. The terms the "Company" or "CEMEX" refer to CEMEX, S.A.B. de C.V. together with its consolidated subsidiaries. The issuance of the consolidated financial statements was authorized by the Company's management on January 29, 2010, and they will be submitted for approval in the next stockholders' meeting.

2. OUTSTANDING EVENTS DURING 2009

CEMEX CONCLUDES GLOBAL FINANCING AGREEMENT

As detailed in note 13A, on August 14, 2009, CEMEX entered into a Financing Agreement with its major creditors ("the Financing Agreement"), which extended the maturity of approximately 14,961 million dollars of syndicated and bilateral loans and private placement obligations. The Financing Agreement contains several restrictive covenants and limitations detailed in note 13A, including restrictions on CEMEX's ability to incur additional debt, enter into acquisitions or make investments in joint ventures (in each case, subject to negotiated baskets, exceptions and carve-outs), and a requirement to apply any cash on hand in excess of 650 million dollars, for any period for which it is being calculated, to prepay debt. Likewise, as part of the Financing Agreement, CEMEX is also prohibited from making aggregate capital expenditures in excess of 600 million dollars in 2009 (plus an additional 50 million U.S. dollars contingency to account for currency fluctuations and certain additional costs and expenses), 700 million dollars in 2010 and 800 million dollars beginning in 2011 and each year thereafter until the debt under the Financing Agreement has been repaid in full. This Financing Agreement completed a partial debt renegotiation made on January 27, 2009.

On December 10, 2009, CEMEX completed its offer to exchange promissory notes (*Certificados Bursátiles*) issued in Mexico ("CBs") with maturities between 2010 and 2012, into mandatorily convertible securities for approximately Ps4,126 (315 million dollars). The securities issued are mandatorily convertible into CEMEX's CPOs and are scheduled to mature in ten years. In accordance with Mexican Financial Reporting Standards ("MFRS"), approximately 50% of the new issuance represented an increase in stockholders' equity (notes 13A and 17A).

In addition, in order to prepay a portion of the amounts due in 2011 under the Financing Agreement, on December 14, 2009, CEMEX completed the issuance of US dollar-denominated and Euro-denominated notes for an aggregate amount of approximately 1,750 million dollars, which are scheduled to mature in 7 and 8 years, respectively (note 13A and 23).

EQUITY OFFERING

On September 28, 2009, through a global offering in Mexico and the United States, CEMEX sold CPOs and ADSs for an aggregate amount of approximately 1,782 million dollars (note 17A). Pursuant to the Financing Agreement, the net proceeds obtained from the global equity offering were used to repay debt.

SALE OF AUSTRALIAN ASSETS

As described in note 4B, on October 1, 2009, CEMEX completed the sale of its entire Australian assets for approximately 2,020 million Australian dollars (approximately 1,700 million dollars). CEMEX used the proceeds obtained from the sale primarily for the repayment of debt under the requirements of the Financing Agreement. The consolidated income statements present the results of operations of the Australian assets, net of income tax, for the nine-month period ended September 30, 2009, the twelve-month period ended December 31, 2008 and the six-month period ended December 31, 2007 in a single line item as "Discontinued operations." Accordingly, the consolidated statement of cash flows for the year ended December 31, 2008 was reclassified.

3. SIGNIFICANT ACCOUNTING POLICIES

A) BASIS OF PRESENTATION AND DISCLOSURE

The Parent Company-only financial statements and their accompanying notes (Schedule I), complementary to CEMEX's consolidated financial statements, are presented herein to comply with requirements to which the CEMEX, S.A.B. de C.V. is subject as an independent legal entity.

The financial statements are prepared in accordance with MFRS issued by the Mexican Board for Research and Development of Financial Reporting Standards ("CINIF"), which recognized the effects of inflation on the financial information until December 31, 2007. Changes in inflationary accounting effective beginning on January 1, 2008 are detailed below.

CEMEX, S.A.B. DE C.V. AND SUBSIDIARIES
Notes to Consolidated Financial Statements – (Continued)
As of December 31, 2009, 2008 and 2007
(Millions of Mexican pesos)

Inflationary accounting

Beginning on January 1, 2008, according to MFRS B-10, "Inflation Effects" ("MFRS B-10"), the financial statements subject to restatement are those related to an entity whose functional currency corresponds to a country in which the cumulative inflation rate over the preceding three years equals or exceeds 26% (i.e., a high-inflation environment). Until 2007, inflationary accounting was applied to all CEMEX subsidiaries regardless of the inflation level of their respective countries. Designation of a country as operating in a high-inflation environment takes place at the end of each year, and inflation restatement is applied prospectively. During 2009, CEMEX restated the financial statements of its subsidiaries in Egypt, Nicaragua, Latvia and Costa Rica, and during 2008, the financial statements of the Company's subsidiaries in Costa Rica and Venezuela were restated.

Beginning in 2008, MFRS B-10 eliminated the restatement of the financial statements for the period as well as the comparative financial statements for prior periods into constant amounts as of the most recent balance sheet date. In addition, beginning in 2008, the amounts in the income statements, the statements of cash flows and the statement of changes in stockholders' equity have been presented in nominal pesos. The amounts in the income statement, the statement of changes in financial position and the statement of changes in stockholders' equity for 2007 are presented in constant pesos as of December 31, 2007, the last date in which inflationary accounting was applied to all subsidiaries. The restatement adjustments as of the date that the inflationary accounting was discontinued are part of the carrying amounts. Pursuant to MFRS B-10, beginning in 2008, when moving back from a low-inflation to a high-inflation environment, the initial restatement factor should consider the cumulative inflation since the last time in which inflationary accounting was applied.

Upon adoption of new MFRS B-10 on January 1, 2008, the result for holding non-monetary assets as of December 31, 2007 accrued in "Other equity reserves" (note 17B) was reclassified to "Retained earnings" representing a decrease in this caption of approximately Ps97,722.

Statement of cash flows

Based on MFRS B-2, "Statement of cash flows" ("MFRS B-2"), beginning in 2008, the statement of cash flows was incorporated as part of the basic financial statements. This statement presents cash inflows and outflows in nominal currency, replacing the statement of changes in financial position, which included inflation effects and unrealized foreign exchange effects. Pursuant to MFRS B-2, CEMEX presents statements of cash flows for 2009 and 2008, and the statement of changes in financial position for 2007, as originally reported, in constant pesos as of December 31, 2007. Considering the classification of CEMEX's operations in Australia as discontinued operations, for comparison purposes the statement of cash flows for 2008 was reclassified accordingly. Considering its not comparable information, the originally reported statement of changes in financial position for 2007 was not reclassified.

The statements of cash flows exclude the following transactions that did not represent sources or uses of cash: a) in 2009, the effects of the exchange of CBs into mandatorily convertible securities (note 13A to the consolidated financial statements) which represented a net reduction in debt of Ps2,036 and an increase in stockholders' equity of Ps1,971 (net of issuance expenses); b) in 2009 and 2008, the increase in stockholders' equity associated with the capitalization of retained earnings for Ps4,373 and Ps6,794, respectively (note 17A to the consolidated financial statements); and c) in 2009, the increase in stockholders' equity associated with CPOs issued as part of the executive stock-based compensation for Ps147 (note 17A to the consolidated financial statements). For 2009 and 2008, the statements of cash flows include the financial expenses paid in cash as part of the financing activities.

Definition of terms

When reference is made to pesos or "Ps," it means Mexican pesos. Except when specific references are made to "earnings per share" and "prices per share", the amounts in the financial statements and the accompanying notes are stated in millions of pesos. When reference is made to "US$" or dollars, it means millions of dollars of the United States of America ("United States"). When reference is made to "£" or pounds, it means millions of British pounds sterling. When reference is made to "€" or euros, it means millions of the currency in circulation in a significant number of European Union countries.

When it is deemed relevant, certain amounts presented in the notes to the financial statements include between parentheses a translation into dollars, into pesos, or both, as applicable. These translations are provided as informative data and should not be construed as representations that the amounts in pesos or dollars, as applicable, actually represent those peso or dollar amounts could be converted into pesos or dollars at the rate indicated. The translation procedures used are detailed as follows:

- When the amounts between parentheses are the peso and the dollar, it means the disclosed amounts were originated in other currencies. Such amounts were determined by translating the foreign currency figures into dollars using the respective closing exchange rates at year-end, and then translated into pesos using the closing exchange rates of Ps13.09 pesos per dollar in 2009, Ps13.74 pesos per dollar in 2008 and Ps10.92 pesos per dollar in 2007.
- When the amount between parentheses is in dollars, the amount was originated in pesos or other currencies. In 2009 and 2008, such dollar translations were calculated using the closing exchange rates of Ps13.09 and Ps13.74 pesos per dollar for balance sheet amounts, respectively, and using the average exchange rates of Ps13.60 and Ps11.21 pesos for the income statement amounts for 2009 and 2008, respectively. For 2007, the constant peso amounts as of December 31, 2007, were translated using the closing exchange rate as of the same date for balance sheet and income statement accounts. Likewise, when the amount between parentheses is in pesos, the amount was originated in dollars. For 2009 and 2008, translation to pesos was calculated using the closing exchange rates of Ps13.09 and Ps13.74 pesos per dollar for balance sheet accounts, respectively, and the average exchange rates of Ps13.60 and Ps11.21 pesos per dollar for income statement accounts, respectively. In 2007, translation to pesos was calculated using the exchange rate as of December 31, 2007 for balance sheet and income statement accounts.

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B) PRINCIPLES OF CONSOLIDATION

The consolidated financial statements include those of CEMEX, S.A.B. de C.V. and the entities in which the Parent Company holds, directly or through subsidiaries, more than 50% of their common stock and/or has control. Control exists when CEMEX has the power, directly or indirectly, to govern the administrative, financial and operating policies of an entity in order to obtain benefits from its activities. Balances and operations between related parties are eliminated in consolidation.

Investments in associates are accounted for by the equity method when CEMEX has significant influence, which is generally presumed with an equity interest between 10% and 50% in public companies, and between 25% and 50% in non-public companies, unless it is proven in each specific case that CEMEX has significant influence with a lower percentage. The equity method reflects in the financial statements the investment's original cost and the proportional interest of the holding company in the associate's equity and earnings after acquisition, considering, if applicable, the effects of inflation.

Considering the new MFRS B-8, "Consolidated or Combined Financial Statements," beginning in 2009, the financial statements of joint ventures, which are those entities in which CEMEX and other third-party investors have agreed to exercise joint control, are recorded under the equity method. Until December 31, 2008, financial statements of such joint ventures were consolidated through the proportional integration method, considering CEMEX's interest in the results of operations, assets and liabilities of such entities, based on International Accounting Standard No. 31, "Interest in Joint Ventures." No significant effects resulted from the adoption of MFRS B-8 in 2009, considering that CEMEX sold its joint venture investments in Spain during 2008 (note 12A).

C) USE OF ESTIMATES

The preparation of financial statements in accordance with MFRS requires management to make estimates and assumptions that affect reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the date of the financial statements, as well as the reported amounts of revenues and expenses during the period. These assumptions are reviewed on an ongoing basis using available information. Actual results could differ from these estimates.

The main captions subject to estimates and assumptions include, among others, long-lived assets, allowances for doubtful accounts and inventories, deferred income tax assets, the measurement of financial instruments at fair value, and the assets and liabilities related to employee benefits.

D) FOREIGN CURRENCY TRANSACTIONS AND TRANSLATION OF FOREIGN CURRENCY FINANCIAL STATEMENTS

Transactions denominated in foreign currencies are recorded at the exchange rates prevailing on the dates of their execution. Monetary assets and liabilities denominated in foreign currencies are translated into pesos at the exchange rates prevailing at the balance sheet date, and the resulting foreign exchange fluctuations are recognized in earnings, except for exchange fluctuations arising from: 1) foreign currency indebtedness directly related to the acquisition of foreign entities; and 2) fluctuations associated with related parties' balances denominated in foreign currency that are of a long-term investment nature. These fluctuations are recorded against stockholders' equity, as part of the foreign currency translation adjustment of foreign subsidiaries (note 17B).

Starting in 2008, the financial statements of foreign subsidiaries, which are determined using the functional currency applicable in each country, are translated to pesos at the closing exchange rate for balance sheet accounts and at the average exchange rates of each month for income statement accounts. The corresponding translation adjustment is included within "Other equity reserves" in the balance sheet. Until December 31, 2007, the financial statements of foreign subsidiaries were restated in their functional currency based on the subsidiary country's inflation rate and subsequently translated by using the foreign exchange rate at the end of the reporting period for balance sheet and income statement accounts.

The following table presents the closing exchange rates used to translate the financial statements of the Company's main foreign subsidiaries in 2009 and 2008 for balance sheet accounts, in 2007 for balance sheet and income statement accounts, and in 2009 and 2008 the approximate average exchange rates for income statement accounts:

	2009		2008		2007
Currency	Closing	Average	Closing	Average	Closing
United States Dollar	13.0900	13.6000	13.7400	11.2100	10.9200
Euro	18.7402	18.9186	19.2060	16.4394	15.9323
British Pound Sterling	21.1436	21.2442	20.0496	20.4413	21.6926
Colombian Peso	0.0064	0.0062	0.0061	0.0056	0.0054
Venezuelan Bolivar	N/A	N/A	N/A	4.8738	5.1000
Egyptian Pound	2.3823	2.4483	2.4889	2.0578	1.9802
Philippine Peso	0.2833	0.2845	0.2891	0.2509	0.2645

The financial statements of foreign subsidiaries are initially translated from their functional currencies into dollars and subsequently into pesos. Therefore, the foreign exchange rates presented in the table above between the functional currency and the peso represent the exchange rates resulting from this methodology. The peso to U.S. dollar exchange rate used by CEMEX is an average of free market rates available to settle its foreign currency transactions. No significant differences exist, in any case, between the foreign exchange rates used by CEMEX and those exchange rates published by the Mexican Central Bank.

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E) CASH AND INVESTMENTS (note 5)

The balance in this caption is comprised of available amounts of cash and cash equivalents available for CEMEX's operations, mainly represented by short-term securities of high liquidity, which are easily convertible into cash, are not subject to significant risks for changes in their values, including overnight investments, which yield fixed returns and have maturities of less than three months from the investment date. Those investments in fixed-income securities are recorded at cost plus accrued interest. Investments in marketable securities are easily convertible into cash and are recorded at market value. Gains or losses resulting from changes in market values and accrued interest are included as part of the Comprehensive Financing Result.

F) INVENTORIES (note 8)

Starting in 2008, based on the changes to MFRS B-10, inventories are valued using the lower of their production cost and market value. Until 2007, inventories were valued using the lower of their replacement cost and market value. Production cost may correspond to the latest purchase price, the average price of the last purchases or the last production cost. CEMEX analyzes its inventory balances to determine if, as a result of internal events, such as physical damage, or external events, such as technological changes or market conditions, certain portions of such balances have become obsolete or impaired. When an impairment situation arises, the inventory balance is adjusted to its net realizable value, whereas, if an obsolescence situation occurs, the inventory obsolescence reserve is increased. In both cases, these adjustments are recognized against the results of the period.

G) OTHER INVESTMENTS AND NON-CURRENT RECEIVABLES (note 10B)

Other investments and non-current accounts receivable include CEMEX's collection rights with respect to investments with maturities of more than twelve months as of the balance sheet date. Non-current assets resulting from the valuation of derivative financial instruments, as well as investments in private funds and other investments which are recognized at their estimated fair value as of the balance sheet date, and their changes in valuation are included in the income statement as part of the Comprehensive Financing Result.

H) PROPERTY, MACHINERY AND EQUIPMENT (note 11)

Property, machinery and equipment are recognized at their acquisition or construction cost, as applicable. Starting on January 1, 2008, when inflationary accounting is applied during high-inflation periods, such assets should be restated using the factors derived from the general price index of the countries where the assets are held. Until December 31, 2007, property, machinery and equipment were presented at their restated values, using the inflation index of each country, except for those assets of foreign origin which were restated using the inflation index of the fixed assets' origin country and the variation in the foreign exchange rate between the currency of the country of origin and the functional currency of the country holding the asset.

Depreciation of fixed assets is recognized within "Cost of sales" and "Administrative and selling expenses," depending on the utilization of the respective assets, and is calculated using the straight-line method over the estimated useful lives of the assets, except for mineral reserves, which are depleted using the units-of-production method. The maximum average useful lives by category of assets are as follows:

	Years
Administrative buildings	38
Industrial buildings	33
Machinery and equipment in plant	21
Ready-mix trucks and motor vehicles	8
Office equipment and other assets	9

For the years ended December 31, 2009, 2008 and 2007, CEMEX capitalized, as part of the historical cost of fixed assets, the Comprehensive Financing Result, which includes interest expense, and until December 31, 2007 or when inflationary accounting is applied during periods of high inflation, the monetary position result, arising from existing debt incurred during the construction or installation period of significant fixed assets, considering CEMEX's average interest rate and the average balance of investments in process for the period.

Costs incurred in respect of operating fixed assets that result in future economic benefits, such as an extension in their useful lives, an increase in their production capacity or in safety, as well as those costs incurred to mitigate or prevent environmental damage, are capitalized as part of the carrying amount of the related assets. These capitalized costs are depreciated over the remaining useful lives of the related fixed assets. Other costs, including periodic maintenance on fixed assets, are expensed as incurred.

I) BUSINESS COMBINATIONS, GOODWILL, OTHER INTANGIBLE ASSETS AND DEFERRED CHARGES (note 12)

In accordance with MFRS B-7, "Business Combinations," CEMEX applies the following accounting principles following a business acquisition: a) the purchase method is applied as the sole recognition alternative; b) the purchase price is allocated to all assets acquired and liabilities assumed based on their estimated fair values as of the acquisition date; c) intangible assets acquired are identified and recognized at fair value; d) any unallocated portion of the purchase price is recognized as goodwill; and e) goodwill is not amortized and is subject to periodic impairment tests (note 3J).

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CEMEX capitalizes intangible assets acquired, as well as costs incurred in the development of intangible assets, when future economic benefits associated with the assets are identified and there is evidence of control over such benefits. Intangible assets are presented at their acquisition or development cost, and are restated during high inflation periods to comply with MFRS B-10. Such assets are classified as having a definite or indefinite life; the latter are not amortized since the period cannot be accurately established in which the benefits associated with such intangibles will terminate. Amortization of intangible assets of definite life is calculated under the straight-line method.

Direct costs incurred in debt issuances or borrowings are capitalized and amortized as part of the effective interest rate of each transaction over its maturity. These costs include commissions and professional fees. Direct costs incurred in the development stage of computer software for internal use are capitalized and amortized through the operating results over the useful life of the software, which in average is approximately 5 years.

Pre-operational expenses are recognized in the income statement as they are incurred. Costs associated with research and development activities ("R&D"), performed by CEMEX to create new products and services, as well as to develop processes, equipment and methods to optimize operational efficiency and reduce costs, are recognized in the operating results as incurred. The Technology and Energy departments in CEMEX undertake all significant R&D activities as part of their daily activities. In 2009, 2008 and 2007, total combined expenses of these departments were approximately Ps408 (US$30), Ps348 (US$31) and Ps437 (US$40), respectively.

J) IMPAIRMENT OF LONG LIVED ASSETS (notes 11 and 12)

Property, machinery and equipment, intangible assets of definite life and other investments

According to MFRS C-15, "Impairment and disposal of long-lived assets" ("MFRS C-15"), property, machinery and equipment, intangible assets of definite life and other investments are tested for impairment upon the occurrence of factors such as the occurrence of a significant adverse event, changes in the operating environment in which CEMEX operates, changes in projected use or in technology, as well as expectations of lower operating results for each cash generating unit, in order to determine whether their carrying amounts may not be recovered, in which case an impairment loss is recorded in the income statement for the period when such determination is made within "Other expenses, net." The impairment loss results from the excess of the carrying amount over the net present value of estimated cash flows related to such assets.

Goodwill and intangible assets of indefinite life

Goodwill and other intangible assets of indefinite life are tested for impairment when needed and at least once a year, during the last quarter of the period, by determining the value in use of the reporting units, which consists in the discounted amount of estimated future cash flows to be generated by the reporting units to which those assets relate. CEMEX determines the discounted amount of estimated future cash flows over a period of 5 years, unless a longer period is justified in a specific country considering its economic cycle and the situation of the industry. A reporting unit refers to a group of one or more cash generating units. An impairment loss is recognized if the value in use is lower than the net book value of the reporting unit.

The geographic segments reported by CEMEX (note 4A), each integrated by multiple cash generating units, also represent the reporting units for purposes of testing goodwill for impairment, considering that: a) the operating components that comprise the reported segment have similar economic characteristics; b) the reported segments are the level used by CEMEX to organize and evaluate its activities in its internal information system; c) the homogeneous nature of the items produced and traded in each operative component, which are all used by the construction industry; d) the vertical integration in the value chain of the products comprising each component; e) the type of clients, which are substantially similar in all components; f) the operative integration among components; and g) the compensation system of a specific country is based on the consolidated results of the geographic segment and not on the particular results of the components.

Impairment tests are significantly sensitive, among other factors, to the estimation of future prices of CEMEX's products, the development of operating expenses, local and international economic trends in the construction industry, the long-term growth expectations in the different markets, as well as the discount rates and the growth rates in perpetuity applied. CEMEX uses specific after-tax discount rates for each reporting unit, which are applied to after-tax cash flows. The amounts of estimated undiscounted future cash flows are significantly sensitive to the growth rate in perpetuity applied. Likewise, the amounts of discounted estimated future cash flows are significantly sensitive to the weighted average cost of capital (discount rate) applied. The higher the growth rate in perpetuity applied, the higher the amount obtained of undiscounted future cash flows by reporting unit. Conversely, the higher the discount rate applied, the lower the amount obtained of discounted estimated future cash flows by reporting unit.

K) DERIVATIVE FINANCIAL INSTRUMENTS (notes 13B, C and D)

In compliance with the guidelines established by its Risk Management Committee, CEMEX uses derivative financial instruments ("derivative instruments"), in order to change the risk profile associated with changes in interest rates, the exchange rates of debt, or both; as an alternative source of financing, in connection with CEMEX's stock option programs, and as hedges of: (i) highly probable forecasted transactions and (ii) CEMEX's net investments in foreign subsidiaries.

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CEMEX recognizes derivative financial instruments as assets or liabilities in the balance sheet at their estimated fair values, and the changes in such fair values are recognized in the income statement within "Results from financial instruments" for the period in which they occur, except for hedges of cash flows and the net investment in foreign subsidiaries. Some derivative instruments have been designated as hedges. The accounting rules applied to specific derivative instruments are as follows:

a) Changes in the fair value of interest rate swaps to exchange floating rates for fixed rates, designated and that are effective as hedges of the variability in the cash flows associated with the interest expense of a portion of the debt, are recognized in stockholders' equity. These effects are reclassified to earnings as the interest expense of the related debt is accrued.

b) Changes in the fair value of foreign currency forwards, designated as hedges of a portion of CEMEX's net investment in foreign subsidiaries, whose functional currency is different from the peso, are recognized in stockholders' equity, as part of the foreign currency translation result (notes 3D and 17B). The reversal of the cumulative effect in stockholders' equity to earnings would take place upon disposal of the foreign investment. When the hedging condition for these instruments is suspended, the subsequent valuation effects are recognized prospectively in the income statement.

c) Changes in the fair value of forward contracts in the Company's own shares are recognized in the income statement as incurred, including those contracts designated as hedges of executive stock option programs;

d) Changes in the fair value of foreign currency options and forward contracts, negotiated to hedge an underlying firm commitment, are first recognized in stockholders' equity and are subsequently reclassified to earnings starting when the firm commitment takes place and is recognized in the balance sheet, over the period in which the effects from the hedged item are recognized in the income statement.

e) The valuation effects of interest rate swaps and cross currency swaps ("CCS") are recognized and presented separately from the related short-term and long-term debt in the balance sheet; consequently, debt associated with the CCS is presented in the currencies originally negotiated. Accrued interest generated by interest rate swaps and CCS is recognized as financial expense in the relevant period, adjusting the effective interest rate of the related debt.

In addition, CEMEX reviews its different contracts to identify the existence of embedded derivatives. Identified embedded derivatives are analyzed to determine if they need to be separated from the host contract, and recognized in the balance sheet as assets or liabilities, applying the same valuation rules used with other derivative instruments.

Derivative instruments are negotiated with institutions with significant financial capacity; therefore, CEMEX believes the risk of non-performance of the obligations agreed to by such counterparties to be minimal. The estimated fair value represents the amount at which a financial asset could be bought or sold, or a financial liability could be extinguished, between willing parties in an arm's length transaction. Occasionally, there is a reference market that provides the estimated fair value; in the absence of such market, such value is determined by the net present value of projected cash flows or through mathematical valuation models. The estimated fair values of derivative instruments determined by CEMEX and used for valuation, recognition and disclosure purposes in the financial statements and their notes, are supported as well by the confirmations of these values received from the financial counterparties, which act as valuation agents in these transactions.

L) PROVISIONS

CEMEX recognizes provisions when it has a legal or constructive obligation resulting from past events, whose resolution would imply cash outflows or the delivery of other resources owned by the Company.

Restructuring (note 14)

CEMEX recognizes a provision for restructuring costs only when the restructuring plans have been properly finalized and authorized by CEMEX's management, and have been communicated to the third parties involved and/or affected by the restructuring prior to the balance sheet date. These provisions may include costs not associated with CEMEX's ongoing activities.

Asset retirement obligations (note 14)

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

Asset retirement obligations are related mainly to future costs of demolition, cleaning and reforestation, so that the sites for the extraction of raw materials, the maritime terminals and other production sites are left in acceptable condition at the end of their operation.

Costs related to remediation of the environment (notes 14 and 21)

CEMEX recognizes a provision when it is probable that an environmental remediation liability exists and that it will represent an outflow of resources. The provision represents the estimated future cost of remediation. Provisions for environmental remediation costs are recognized at their nominal value when the time schedule for the disbursement is not clear, or when the economic effect for the passage of time is not significant; otherwise, such provisions are recognized at their discounted values. Reimbursements from insurance companies are recognized as assets only when their recovery is practically certain. In that case, such insurance reimbursement assets are not offset against the provision for remediation costs.

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Contingencies and commitments (notes 20 and 21)

Obligations or losses related to contingencies are recognized as liabilities in the balance sheet when present obligations exist resulting from past events that are expected to result in an outflow of resources and the amount can be measured reliably. Otherwise, a qualitative disclosure is included in the notes to the financial statements. The effects of long-term commitments established with third parties, such as supply contracts with suppliers or customers, are recognized in the financial statements on the incurred or accrued basis, after taking into consideration the substance of the agreements. Relevant commitments are disclosed in the notes to the financial statements. The Company does not recognize contingent revenues, income or assets.

M) EMPLOYEE BENEFITS (note 15)

Employees' statutory profit sharing

Under new MFRS D-3, "Employee Benefits" ("MFRS D-3"), beginning on January 1, 2008, current and deferred employees' statutory profit sharing ("ESPS") is not considered an element of income taxes. Likewise, deferred ESPS shall be calculated applying the ESPS rate to the total temporary differences resulting from comparing the book values and the taxable values for ESPS purposes of assets and liabilities according to applicable legislation. Until December 31, 2007, deferred ESPS was determined considering temporary differences of a non-recurring nature, arising from the reconciliation of net income and the taxable income of the period for ESPS purposes. The cumulative initial effect for the adoption of new MFRS D-3 as of January 1, 2008, represented an expense of approximately Ps2,283, which was included within "Retained earnings". Current and deferred ESPS is presented within "Other expenses, net".

Defined contribution plans

The costs of defined contribution pension plans are recognized in the operating results as they are incurred. Liabilities arising from such plans are settled through cash transfers to the employees' retirement accounts, without generating future obligations.

Defined benefit plans, other postretirement benefits and termination benefits

CEMEX recognizes the costs associated with employees' benefits for: a) defined benefit pension plans; b) other postretirement benefits, basically comprised of health care benefits, life insurance and seniority premiums, granted pursuant to applicable law or by Company grant; and c) termination benefits, not associated with a restructuring event, which mainly represent ordinary severance payments by law. These costs are recognized in the operating results, as services are rendered, based on actuarial estimations of the benefits' present value. The actuarial assumptions upon which the Company's employee benefit liabilities are determined consider the use of real rates (nominal rates discounted by inflation). For certain pension plans, irrevocable trust funds have been created to cover future benefit payments. These assets are valued at their estimated fair value at the balance sheet date.

The actuarial gains and losses ("actuarial results"), which exceed the greater of 10% of the fair value of the plan assets, and 10% of the present value of the plan obligations, the prior service cost and the transition liability, are amortized to the operating results over the employees' estimated active service life. In accordance with the transition rules of new MFRS D-3, beginning January 1, 2008, the actuarial results, prior service costs and the transition liability recognized as of December 31, 2007, should be amortized to the income statement in a maximum period of five years. The net periodic cost for the years ended December 31, 2009 and 2008 includes a portion of this transition amortization.

The net periodic cost recognized in the operating results includes: a) the increase in the obligation resulting from additional benefits earned by employees during the period; b) interest cost, which results from the increase in the liability by the passage of time; c) the amortization of the actuarial gains and losses, prior service cost and transition liability; and d) the expected return on plan assets for the period. Beginning in 2008, the excess of amortization expense in the net periodic pension cost resulting from the transition rule is recognized within "Other expenses, net."

N) INCOME TAXES (note 16)

According to MFRS D-4, "Accounting for Income Taxes" ("MFRS D-4"), the effects reflected in the income statements for income taxes include the amounts incurred during the period as well as the amounts of deferred income taxes, in both cases determined according to the income tax law applicable to each subsidiary. Consolidated deferred income taxes represent the sum of the amounts determined in each subsidiary under the assets and liabilities method, by applying the enacted statutory income tax rate to the total temporary differences resulting from comparing the book and taxable values of assets and liabilities, taking into account and subject to a recoverability analysis, tax loss carryforwards as well as other recoverable taxes and tax credits. According to MFRS, all items charged or credited directly in stockholders' equity are recognized net of their deferred income tax effects. The effect of a change in enacted statutory tax rates is recognized in the income statement for the period in which the change occurs and is officially enacted.

For the recognition of deferred tax assets derived from net operating losses and their corresponding valuation allowance, CEMEX makes an assessment of: a) the aggregate amount of self-determined tax loss carryforwards included in its income tax returns in each country that CEMEX believes the tax authorities would accept based on available evidence; and b) the likelihood of the recoverability of such tax loss carryforwards prior to their expiration through an analysis of estimated future taxable income. If CEMEX believes that it is more-likely-than-not that the tax authorities would reject a self-determined deferred tax asset, it would decrease its deferred tax assets. Likewise, if CEMEX believes that it would not be able to realize a deferred tax asset for tax loss carryforwards before its expiration, CEMEX would increase its valuation allowance. Both situations would result in additional income tax expense in the income statement for the period in which such determination is made.

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CEMEX takes into consideration all available positive and negative evidence, including factors such as market conditions, industry analysis, expansion plans, projected taxable income, carryforward periods, current tax structure, potential changes or adjustments in tax structure, tax planning strategies, future reversals of existing temporary differences, etc., in the determination of whether it is more likely than not that such deferred tax assets will ultimately be realized. Likewise, every reporting period, CEMEX analyzes its actual results versus the Company's estimates, and adjusts, as necessary, its deferred tax asset valuations. If actual results vary from CEMEX's estimates, the deferred tax asset and/or valuations may be affected and necessary adjustments will be made based on relevant information. Any adjustments recorded will affect CEMEX's net income in such period.

On January 1, 2008, CEMEX adopted the new MFRS D-4, which: a) transferred the rules pertaining the accounting for current and deferred ESPS to MFRS D-3; b) ratified that a deferred tax asset can only be recognized when it is probable that such tax asset will be recovered against future income tax; c) required the cumulative effect at December 31, 2007 for the initial recognition of deferred income tax effects from the adoption of the assets and liabilities method to be reclassified from "Other equity reserves" to "Retained earnings" (note 3O); and d) eliminated the exception not to calculate deferred income tax for investments in associates. CEMEX recognized the cumulative initial effect as of January 1, 2008 against the caption of "Retained Earnings" in the consolidated stockholders' equity.

In connection with the new tax law approved in Mexico during November 2009, enacted and published on December 7, 2009 and that is effective beginning January 1, 2010 (note 16A), on December 15, 2009, CINIF issued for its immediate application Interpretation of Financial Reporting Standards 18, "Effects on income taxes arising from the tax reform 2010" ("Interpretation 18"), which establishes the accounting treatment of the tax liability that would be generated by the changes to the tax consolidation regime in Mexico under the new tax law. These changes to the consolidation require entities, among other things, to determine income taxes as if the tax consolidation provisions in Mexico did not exist from 1999 and onward. Interpretation 18 establishes that the portion of the liability related to the tax effects on intercompany dividends, losses on the sale of shares and certain special tax items, should be recognized against retained earnings. Interpretation 18 also establishes that the tax liabilities associated with the tax loss carryforwards used in the tax consolidation of the Mexican subsidiaries should not be offset with deferred tax assets in the balance sheet; therefore, beginning as of December 31, 2009, CEMEX recognizes separately deferred income tax assets and liabilities associated with this concept. The realization of these deferred tax assets is subject to the generation of future taxable income in the controlled subsidiaries that generated the tax loss carryforwards in the past.

O) STOCKHOLDERS' EQUITY

Beginning on January 1, 2008, inflationary accounting was suspended in Mexico during low-inflation periods. Until 2007, stockholders' equity was restated using the restatement factors that considered the weighted averaged inflation and the changes between the exchange rates of the countries in which CEMEX operates and the Mexican peso. In compliance with Mexican regulations, common stock and additional paid-in capital were restated using the Mexican inflation factor. The corresponding inflation adjustment was included until December 31, 2007 within "Other equity reserves" in the balance sheet.

Common stock and additional paid-in capital (note 17A)

These items represent the value of stockholders' contributions.

Other equity reserves (note 17B)

This caption groups the cumulative effects of items and transactions that are, temporarily or permanently, recognized directly to stockholders' equity, and includes the elements of "Comprehensive income for the period," which is presented in the statement of changes in stockholders' equity. Comprehensive income includes, in addition to net income, certain changes in stockholders' equity during a period, not resulting from investments by owners and distributions to owners. The most important items within "Other equity reserves" are as follows:

Items of "Other equity reserves" included within comprehensive financial income:

- Results from holding non-monetary assets until December 31, 2007, which referred to the difference between the revaluation effect of non-monetary assets (inventories, fixed assets, intangible assets) using specific restatement factors, and the effect that would have resulted using inflation-only restatement factors;
- Currency translation effects from the translation of foreign subsidiaries' financial statements, net of changes in the estimated fair value of foreign currency forward contracts related to net investment in foreign subsidiaries (note 3K), and exchange results from foreign currency debt directly related to the acquisition of foreign subsidiaries, as well as from foreign currency related parties balances that are of a long-term investment nature (note 3D);
- The effective portion of the valuation and liquidation effects from derivative instruments under cash flow hedging relationships, which are recorded temporarily in stockholders' equity (note 3K); and
- The deferred income tax arising from items whose effects are directly recognized in stockholders' equity.

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Items of "Other equity reserves" not included in comprehensive income:

- Effects related to controlling stockholders' equity for changes or transactions affecting non-controlling interest stockholders in CEMEX's consolidated subsidiaries;
- Effects attributable to controlling stockholders' equity for financial instruments issued by consolidated subsidiaries that qualify for accounting purposes as equity instruments, such as the interest expense paid on perpetual debentures;
- The component of equity of mandatorily convertible securities into shares of the Parent Company (note 13A). Upon conversion, this amount will be reclassified to common stock and additional paid-in capital.
- The cancellation of the Parent Company's shares held by consolidated subsidiaries; and
- Until December 31, 2007, included the cumulative initial effect of deferred income taxes arising from the adoption of the assets and liabilities method.

Retained earnings (note 17C)

Represents the cumulative net results of prior accounting periods, net of dividends declared to stockholders, and includes in 2009 a portion of the liability resulting from changes in the Mexican tax consolidation rules of approximately Ps2,245 (note 3N), and charges for the adoption of new MFRS in 2008 for: a) the reclassification of the accumulated results from holding non-monetary assets (note 3A); b) the reclassification of the cumulative initial deferred income tax effect (note 3N); c) the cumulative initial deferred income tax recognition in investments in associates; and d) the cumulative initial deferred ESPS recognition based on the assets and liabilities method (note 3M), which decreased retained earnings by Ps97,722, Ps6,918, Ps920 and Ps2,283, respectively.

Non-controlling interest and perpetual debentures (note 17D)

Includes the share of non-controlling stockholders in the results and equity of consolidated subsidiaries. Likewise, this caption includes the notional amount of financial instruments (perpetual notes) issued by consolidated entities that qualify as equity instruments because there is: a) no contractual obligation to deliver cash or another financial asset; b) no predefined maturity date; and c) an unilateral option to defer interest payments or preferred dividends for indeterminate periods.

P) REVENUE RECOGNITION

CEMEX's consolidated net sales represent the value, before tax on sales, of products and services sold by consolidated subsidiaries as a result of ordinary activities, after the elimination of transactions between related parties. Revenues are quantified at the fair value of the consideration received or receivable, decreased by any trade discounts or volume rebates granted to customers.

Revenue from the sale of goods and services is recognized upon shipment of products or through goods delivered or services rendered to customers, when there is no condition or uncertainty implying a reversal thereof, and they have assumed the risk of loss. Income generated from trading activities, in which CEMEX acquires finished goods from a third party and subsequently sells the good to another third-party, are recognized on a gross basis, considering that CEMEX assumes the total risk of property on the goods purchased, not acting as agent or commissioner. Costs and expenses incurred in trading activities are recognized within either cost of sales, administrative, selling and distribution expenses, as appropriate.

Q) COST OF SALES, ADMINISTRATIVE EXPENSES AND SELLING AND DISTRIBUTION EXPENSES

In 2009 and 2008, cost of sales represents the production cost of inventories at the moment of sale. Until 2007, cost of sales represented the lower of the replacement or production cost of inventories. Such cost of sales includes depreciation, amortization and depletion of assets involved in production, expenses related to storage in producing plants and freight of raw material between plants. Cost of sales excludes expenses related to personnel, equipment and services involved in sale activities, storage of product at points of sales as well as freight of finished product between plants and points of sale, which are recognized within administrative and selling expenses. Likewise, cost of sales excludes freight expenses between points of sales and customers' facilities, which are recognized within distribution expenses.

The "Administrative and selling expenses" line item in the income statements includes transfer costs from CEMEX's producing plants to its selling points, as well as costs related to warehousing of products at the selling points. For the years ended December 31, 2009, 2008 and 2007, selling expenses amounted to Ps9,310, Ps11,079 and Ps10,371, respectively. Distribution expenses refer to freight of finished products between points of sale and the customers' facilities.

R) MONETARY POSITION RESULT

The monetary position result, which represents the gain or loss from holding monetary assets and liabilities in high-inflation environments, is determined by applying the inflation rate of the country of each subsidiary in a high-inflation environment to its net monetary position (difference between monetary assets and liabilities). Until December 31, 2007, this effect was determined for all subsidiaries without considering the inflation level.

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S) OTHER EXPENSES, NET

The caption "Other expenses, net" in the income statement consists primarily of revenues and expenses derived from transactions or events not directly related to CEMEX's main activity, or which are of an unusual or non-recurring nature. The most significant items included under this caption for the years ended December 31, 2009, 2008 and 2007, were the following:

	2009	2008	2007
Impairment losses (notes 8, 9, 11 and 12)	Ps (889)	(21,125)	(195)
Restructuring costs (note 14)	(1,100)	(3,141)	(1,058)
Donations	(264)	(174)	(367)
Current and deferred ESPS (note 3M)	(8)	2,283	(246)
Results from the sale of assets and others, net	(3,268)	754	(1,118)
Other expenses, net	Ps (5,529)	(21,403)	(2,984)

T) EXECUTIVE STOCK OPTION PROGRAMS (note 18)

Beginning on January 1, 2009, CEMEX applies MFRS D-8, "Share-based payments" ("MFRS D-8"), to recognize its executive stock-based compensation programs. Until December 31, 2008, CEMEX applied International Financial Reporting Standard 2 "Shared-based payments" ("IFRS 2"). There were no effects upon the adoption of MFRS D-8 in 2009. Awards granted to executives are defined as equity instruments, in which services received from employees are settled through the delivery of shares; or as liability instruments, in which the Company incurs a liability by committing to make cash payments to the executives on the exercise date of the awards based on changes in the Company's own stock (intrinsic value). The cost of equity instruments represents their estimated fair value at the date of grant and is recognized in earnings during the period in which the exercise rights of the employees become vested. In respect of liability instruments, these instruments are valued at their estimated fair value at each reporting date, recognizing the changes in valuation through the income statement. CEMEX determines the estimated fair value of options using the binomial financial option-pricing model.

CEMEX has concluded that the options in its "Fixed program" (note 18A) represent equity instruments considering that services received are settled through the issuance of new shares upon exercise; meanwhile, options granted under its other programs (note 18B, C and D) represent liability instruments.

U) EMISSION RIGHTS: EUROPEAN EMISSION TRADING SYSTEM TO REDUCE GREENHOUSE GAS EMISSIONS

CEMEX, as a cement producer, is involved in the European Emission Trading Scheme ("EU ETS"), which aims to reduce carbon-dioxide emissions ("CO2"). Under this directive, governments of the European Union ("EU") countries grant, currently at nil cost, CO2 emission allowances ("EUAs"). If CO2 emissions were to exceed EUAs received, CEMEX would then be required to purchase the deficit of EUAs in the market, which would represent an additional production cost. The EUAs granted by any member state of the EU can be used to settle emissions in another member state. Consequently, CEMEX manages its portfolio of EUAs held on a consolidated basis for its cement production operations in the EU. In addition, the United Nations environmental agency grants Certified Emission Reductions ("CERs") to qualified CO2 emission reduction projects. These certificates may be used in specified proportions to settle EUAs obligations with the EU ETS. As of December 31, 2009, CEMEX is developing several projects to reduce CO2 emissions that generate CERs.

CEMEX's accounting policy to recognize the effects derived from the EU ETS, in the absence of a MFRS or an IFRS that defines an accounting recognition for these schemes, is the following: a) EUAs received from different EU countries are recognized at cost; this presently means at zero value; b) any revenues received from the sale of any surplus of EUAs are recognized, decreasing cost of sales; c) EUAs and/or CERs acquired to hedge current CO2 emissions for the period are recognized at cost as intangible assets, and are amortized to cost of sales during the remaining compliance period; d) EUAs and/or CERs acquired for trading purposes are recognized at cost as financial assets and are restated at their market value as of the balance sheet date, recognizing changes in valuation within "Results from financial instruments"; e) CEMEX accrues a provision against cost of sales when the estimated annual emissions of CO2 are expected to exceed the number of EUAs, net of any benefit in the form of EUAs and/or CERs obtained through exchange transactions; and f) forward purchase and sale transactions of EUAs and/or CERs to hedge deficits, or to dispose of certain surpluses, are treated as contingencies and are recognized at the amount paid or received upon physical settlement; meanwhile, forward transactions entered into for trading purposes are treated as financial instruments and are recognized as assets or liabilities at their estimated fair value. Changes in valuation are recognized within "Results from financial instruments".

The second phase of the EU ETS began on January 1, 2008, comprising 2008 through 2012. CEMEX expected to receive from the governments an insufficient number of EUAs for the complete phase. Even though there were reductions in some countries of the number of EUAs received as compared to phase one, the combined effect of alternate fuels that help reduce the emission of CO2 and the downturn in production estimates in the European region during the second phase, as a result of the global economic crisis, which deepened beginning in September 2008, has generated an excess of EUAs received over the estimated CO2 emissions during the second phase. From the consolidated surplus, nearly 13.1 million EUAs were sold during 2009 and 2008, with the Company receiving revenues of approximately Ps961 and Ps3,666, respectively, recognized in the cost of sales by decreasing energy costs.

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As of December 31, 2008, CEMEX had contracts for the sale of 220,000 EUAs to be physically settled in December 2012 and a net aggregate amount of approximately €42 (US$59 or Ps807), as well as contracts for the exchange of EUAs for CERs, to be physically settled in December 2012, having a positive effect on CEMEX of approximately 1 million CERs. During 2009, CEMEX early settled in cash these contracts for the exchange of EUAs for CERs, resulting in no significant gains or losses. In addition, as of December 31, 2008, there were contracts for the sale of approximately 2.5 million EUAs settled during the first quarter of 2009 and the number of EUAs is included in the aggregate amount disclosed in the preceding paragraph. As of December 31, 2007, at the end of phase one of the EU ETS, CEMEX maintained a consolidated excess of EUAs over CO2 emissions. During 2007 CEMEX purchase or sale transactions of EUAs were not significant.

V) CONCENTRATION OF CREDIT

CEMEX sells its products primarily to distributors in the construction industry, with no specific geographic concentration within the countries in which CEMEX operates. As of December 31, 2009, 2008 and 2007, no single customer individually accounted for a significant amount of the reported amounts of sales or in the balances of trade receivables. In addition, there is no significant concentration of a specific supplier relating to the purchase of raw materials.

W) NEWLY ISSUED FINANCIAL REPORTING STANDARDS

In 2009, the CINIF issued the following MFRS, effective beginning January 1, 2010 or 2011, as indicated below:

MFRS C-1, "Cash and cash equivalents" ("MFRS C-1")

New MFRS C-1, which supersedes Bulletin C-1, "Cash," becomes effective beginning January 1, 2010. The main change is, in addition to certain changes to the terminology, the presentation within the caption of "Cash and cash equivalents" in the balance sheet of restricted cash and cash equivalents. CEMEX does not anticipate any material impact as a result of the adoption of new MFRS C-1 in 2010.

MFRS B-5, "Financial information by segments" ("MFRS B-5")

New MFRS B-5 supersedes Bulletin B-5, "Financial information by segments." The most significant changes beginning on January 1, 2011 are the following: (i) companies should disclose information by operating segment which is usually used by top management, in addition to the current disclosure of information by products or services and geographical segments; (ii) the requirement that companies disclose information by primary and secondary segments will be eliminated; (iii) a business in pre-operative stage may be considered as an operating segment; (iv) disclosure by segments of financial income and expenses will be required, as well as other components of Comprehensive Financial Result; and (v) disclosure of liabilities by operating segment will be required. CEMEX does not anticipate any material impact as a result of the adoption of new MFRS B-5 in 2011.

MFRS B-9, "Interim Financial Reporting" ("MFRS B-9")

New MFRS B-9 supersedes Bulletin B-9, "Interim Financial Reporting." The most significant changes beginning on January 1, 2011 are the following: (i) MFRS B-9 requires the statement of changes in stockholders' equity and the statement of cash flows in addition to the balance sheet and the income statements; and (ii) requires for all financial statements that information presented for interim periods be compared to the equivalent interim period for the immediate previous year, and in the case of the balance sheet also to be compared to the balance sheet as of the end of the immediate prior year. CEMEX does not anticipate any material impact as a result of the adoption of new MFRS B-9 in 2011.

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4. SELECTED FINANCIAL INFORMATION BY GEOGRAPHIC OPERATING SEGMENT AND DISCONTINUED OPERATIONS

4A) GEOGRAPHIC OPERATING SEGMENTS

Operating segments are defined as the components of an entity oriented to the production and sale of goods and services, which are subject to risks and benefits different from those associated with other business segments. CEMEX operates principally in the construction industry segment through the production, distribution, marketing and sale of cement, ready-mix concrete and aggregates.

CEMEX operates geographically on a regional basis. Each regional manager supervises and is responsible for all the business activities in the countries comprising the region. These activities refer to the production, distribution, marketing and sale of cement, ready-mix concrete and aggregates. The country manager, who is one level below the regional manager in the organizational structure, reports to the regional manager the operating results of the country manager's business unit, including all the operating sectors. CEMEX's management internally evaluates the results and performance of each country and region for decision-making purposes, following a vertical integration approach. According to this approach, in the daily operations, management allocates economic resources on a country basis rather than on an operating component basis.

The main indicator used by CEMEX's management to evaluate the performance of each country is operating EBITDA, which CEMEX defines as operating income plus depreciation and amortization. This indicator, which is presented in the selected financial information by geographic operating segment, is consistent with the information used by CEMEX's management for decision-making purposes. The accounting policies applied to determine the financial information by geographic operating segment are consistent with those described in note 3. CEMEX recognizes sales and other transactions between related parties based on market values.

Selected income statement information by geographic operating segment for the years ended December 31, 2008 and 2007 has been modified as a result of the presentation of discontinued operations. Information for the years ended December 31, 2009, 2008 and 2007 was as follows:

2009	Net sales (including related parties)	Related parties	Consolidated net sales	Operating income (loss)	Operating depreciation and amortization	Operating EBITDA
North America						
Mexico	Ps 42,339	(730)	41,609	13,965	1,878	15,843
United States	38,472		38,472	(6,731)	8,505	1,774
Europe [2]						
Spain	11,308	(127)	11,181	1,836	911	2,747
United Kingdom	16,126	—	16,126	(481)	1,001	520
Rest of Europe	46,532	(1,454)	45,078	2,827	2,388	5,215
Central and South America and the Caribbean [3]						
Colombia	6,766	(2)	6,764	2,662	406	3,068
Rest of Central and South America and the Caribbean	14,031	(1,710)	12,321	3,002	1,129	4,131
Africa and Middle East [4]						
Egypt	8,371	—	8,371	3,335	311	3,646
Rest of Africa and Middle East	6,425	—	6,425	715	322	1,037
Asia [5]						
Philippines	3,867	(287)	3,580	1,180	327	1,507
Rest of Asia	2,566	—	2,566	81	148	229
Others [6]	8,334	(3,026)	5,308	(6,551)	2,987	(3,564)
Total	Ps205,137	(7,336)	197,801	15,840	20,313	36,153

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Selected income statement information by geographic operating segment – continued.

2008	Net sales (including related parties)	Related parties	Consolidated net sales	Operating income (loss)	Operating depreciation and amortization	Operating EBITDA
North America						
Mexico	Ps 42,856	(1,221)	41,635	14,254	1,880	16,134
United States	52,040	—	52,040	(111)	7,950	7,839
Europe [2]						
Spain	17,493	(306)	17,187	3,883	883	4,766
United Kingdom	19,225	—	19,225	(801)	986	185
Rest of Europe	49,819	(1,332)	48,487	3,781	2,833	6,614
Central and South America and the Caribbean [3]						
Venezuela	4,443	(157)	4,286	958	392	1,350
Colombia	6,667	(3)	6,664	2,235	735	2,970
Rest of Central and South America and the Caribbean	13,044	(1,267)	11,777	2,622	401	3,023
Africa and Middle East [4]						
Egypt	5,219	—	5,219	2,104	240	2,344
Rest of Africa and Middle East	6,831	—	6,831	494	271	765
Asia [5]						
Philippines	2,928	(256)	2,672	711	283	994
Rest of Asia	2,626	—	2,626	27	117	144
Others [6]	12,362	(5,346)	7,016	(4,069)	2,728	(1,341)
Total	Ps235,553	(9,888)	225,665	26,088	19,699	45,787

2007	Net sales (including related parties)	Related parties	Consolidated net sales	Operating income (loss)	Operating depreciation and amortization	Operating EBITDA
North America [1]						
Mexico	Ps 41,814	(816)	40,998	12,549	1,869	14,418
United States	54,607	—	54,607	5,966	6,848	12,814
Europe [2]						
Spain	23,781	(205)	23,576	6,028	889	6,917
United Kingdom	22,432	(1)	22,431	(446)	1,130	684
Rest of Europe	47,100	(1,344)	45,756	3,281	2,033	5,314
Central and South America and the Caribbean [3]						
Venezuela	7,317	(494)	6,823	1,971	832	2,803
Colombia	6,029	—	6,029	2,038	413	2,451
Rest of Central and South America and the Caribbean	10,722	(727)	9,995	1,975	839	2,814
Africa and Middle East [4]						
Egypt	3,723	—	3,723	1,533	232	1,765
Rest of Africa and Middle East	4,666	—	4,666	(51)	117	66
Asia [5]						
Philippines	3,173	(405)	2,768	851	304	1,155
Rest of Asia	2,068	—	2,068	33	83	116
Others [6]	17,872	(13,160)	4,712	(4,118)	1,553	(2,565)
Total	Ps 245,304	(17,152)	228,152	31,610	17,142	48,752

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All significant balances and transactions between related parties have been eliminated in the preparation of the selected balance sheet information by operating geographic segments. As of December 31, 2009 and 2008, the information was as follows:

December 31, 2009	Investments in associates	Other segment assets	Total assets	Total liabilities	Net assets by segment	Capital expenditures
North America						
Mexico	Ps 790	63,995	64,785	13,983	50,802	1,157
United States	3,025	246,772	249,797	24,479	225,318	817
Europe [2]						
Spain	212	66,701	66,913	8,751	58,162	1,028
United Kingdom	257	38,074	38,331	17,324	21,007	781
Rest of Europe	944	56,988	57,932	17,721	40,211	2,446
Central and South America and the Caribbean [3]						
Colombia	—	11,203	11,203	4,530	6,673	66
Rest of Central and South America and the Caribbean	25	21,648	21,673	4,618	17,055	1,354
Africa and Middle East [4]						
Egypt	—	8,982	8,982	3,979	5,003	324
Rest of Africa and Middle East	—	10,150	10,150	2,401	7,749	69
Asia [5]						
Philippines	—	8,657	8,657	1,852	6,805	85
Rest of Asia	—	2,202	2,202	567	1,635	15
Corporate [6]	4,925	29,264	34,189	211,426	(177,237)	—
Others [6]	935	6,537	7,472	13,085	(5,613)	512
Total	Ps 11,113	571,173	582,286	324,716	257,570	8,654

December 31, 2008	Investments in associates	Other segment assets	Total assets	Total liabilities	Net assets by segment	Capital expenditures
North America						
Mexico	Ps 731	64,967	65,698	11,805	53,893	5,422
United States	3,573	274,199	277,772	34,038	243,734	4,265
Europe [2]						
Spain	288	61,277	61,565	23,041	38,524	2,037
United Kingdom	443	37,437	37,880	16,929	20,951	1,492
Rest of Europe	911	60,664	61,575	18,154	43,421	5,345
Central and South America and the Caribbean [3]						
Venezuela	—	—	—	—	—	57
Colombia	—	10,538	10,538	4,206	6,332	220
Rest of Central and South America and the Caribbean	26	21,741	21,767	4,773	16,994	1,663
Africa and Middle East [4]						
Egypt	—	9,271	9,271	3,018	6,253	646
Rest of Africa and Middle East	—	11,282	11,282	3,222	8,060	280
Asia [5]						
Philippines	—	8,821	8,821	1,698	7,123	175
Rest of Asia	—	2,575	2,575	648	1,927	73
Corporate [6]	4,443	9,837	14,280	234,042	(219,762)	—
Others [6]	1,478	9,591	11,069	26,782	(15,713)	1,488
Total [7]	Ps 11,893	582,200	594,093	382,356	211,737	23,163

Total consolidated liabilities in 2009 and continuing operations in 2008 include debt of Ps211,144 in 2009 and Ps258,074 in 2008. Of such balances, 27% in 2009 and 30% in 2008 is in the Parent Company, 40% and 45% in Spain, 14% in both years in Dutch finance subsidiaries, 15% in 2009 and 4% in 2008 in a finance company in the United States, and 4% in 2009 and 7% in 2008 in other countries.

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Net sales by sector and geographic segment for the years ended December 31, 2009, 2008 and 2007 were as follows:

2009	Cement	Concrete	Aggregates	Others	Eliminations	Net sales
North America						
Mexico	Ps 27,991	11,344	1,472	9,952	(9,150)	41,609
United States	13,736	13,773	8,354	8,706	(6,097)	38,472
Europe [2]						
Spain	8,448	3,205	985	1,873	(3,330)	11,181
United Kingdom	3,421	5,886	5,576	6,793	(5,550)	16,126
Rest of Europe	12,460	25,783	10,206	5,961	(9,332)	45,078
Central and South America and the Caribbean [3]						
Colombia	5,314	2,032	284	672	(1,538)	6,764
Rest of Central and South America and the Caribbean	11,504	3,188	318	1,518	(4,207)	12,321
Africa and Middle East [4]						
Egypt	7,604	754	49	88	(124)	8,371
Rest of Africa and Middle East	940	4,970	920	707	(1,112)	6,425
Asia [5]						
Philippines	3,850	—	—	17	(287)	3,580
Rest of Asia	739	1,534	168	227	(102)	2,566
Others [6]	—	—	—	8,335	(3,027)	5,308
Total	Ps 96,007	72,469	28,332	44,849	(43,856)	197,801

2008	Cement	Concrete	Aggregates	Others	Eliminations	Net sales
North America						
Mexico	Ps 28,666	13,017	1,355	7,597	(9,000)	41,635
United States	17,429	19,601	11,379	17,258	(13,627)	52,040
Europe [2]						
Spain	11,900	5,267	1,224	3,526	(4,730)	17,187
United Kingdom	3,773	7,427	6,574	8,208	(6,757)	19,225
Rest of Europe	14,222	27,124	9,815	6,483	(9,157)	48,487
Central and South America and the Caribbean [3]						
Venezuela	3,046	1,398	204	106	(468)	4,286
Colombia	4,656	2,340	450	1,159	(1,941)	6,664
Rest of Central and South America and the Caribbean	10,518	3,234	249	810	(3,034)	11,777
Africa and Middle East [4]						
Egypt	4,728	485	39	80	(113)	5,219
Rest of Africa and Middle East	—	5,449	799	1,263	(680)	6,831
Asia [5]						
Philippines	2,919	—	—	9	(256)	2,672
Rest of Asia	791	1,533	166	229	(93)	2,626
Others [6]	—	—	—	12,355	(5,339)	7,016
Total	Ps 102,648	86,875	32,254	59,083	(55,195)	225,665

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Net sales by sector and geographic segment – continued.

2007	Cement	Concrete	Aggregates	Others	Eliminations	Net sales
North America [1]						
Mexico	Ps 29,221	13,618	1,128	6,745	(9,714)	40,998
United States	20,476	22,675	10,674	12,230	(11,448)	54,607
Europe [2]						
Spain	16,007	6,873	1,561	6,379	(7,244)	23,576
United Kingdom	4,366	9,289	7,503	8,695	(7,422)	22,431
Rest of Europe	12,531	25,663	9,499	6,695	(8,632)	45,756
Central and South America and the Caribbean [3]						
Venezuela	5,106	2,179	246	321	(1,029)	6,823
Colombia	4,313	2,223	385	1,209	(2,101)	6,029
Rest of Central and South America and the Caribbean	8,551	2,674	139	506	(1,875)	9,995
Africa and Middle East [4]						
Egypt	3,430	294	—	32	(33)	3,723
Rest of Africa and Middle East		4,142	—	774	(250)	4,666
Asia [5]						
Philippines	3,173	—	—	—	(405)	2,768
Rest of Asia	720	1,026	151	247	(76)	2,068
Others [6]	—	—	—	17,872	(13,160)	4,712
Total	Ps 107,894	90,656	31,286	61,705	(63,389)	228,152

Footnotes to the geographic segment tables presented above:

1 In 2007, "United States" includes Rinker's operations in that country for the period from July 1 to December 31, 2007.

2 For the reported periods, the segment "Rest of Europe" refers primarily to operations in Germany, France, Ireland, the Czech Republic, Austria, Poland, Croatia, Hungary and Latvia.

3 For the reported periods, the segment "Rest of Central and South America and the Caribbean" includes CEMEX's operations in Costa Rica, Panama, Puerto Rico, the Dominican Republic, Nicaragua, other countries in the Caribbean, Guatemala, and small ready-mix concrete operations in Jamaica and Argentina. As mentioned in note 12A, in August 2008 the Government of Venezuela nationalized CEMEX's operations in that country, therefore, Venezuelan operations reported in 2008 refer to the seven-month period ended July 31, 2008.

4 The segment "Rest of Africa and Middle East" includes the operations in the United Arab Emirates and Israel.

5 For the reported periods, the segment "Rest of Asia" includes the operations in Thailand, Bangladesh, China and Malaysia, and, in 2007, Rinker's operations in China for the period from July 1 to December 31, 2007.

6 These segments refer to: 1) cement trade maritime operations, 2) the subsidiary involved in the development of information technology solutions (Neoris, N.V.), 3) the Parent Company and other corporate entities, and 4) other minor subsidiaries with different lines of business.

7 In 2008, the amounts of "Total assets" and "Total liabilities" presented in this table are not directly comparable to the total amounts presented in the corresponding captions of the consolidated balance sheet, due to the presentation of the Australian operations as a discontinued operation.

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4B) DISCONTINUED OPERATIONS

On October 1, 2009, after all the agreed upon conditions precedent were satisfied, CEMEX completed the sale of its Australian operations to a subsidiary of Holcim Ltd. for approximately 2,020 million Australian dollars (approximately US$1,700). The assets divested consisted of 249 ready-mix concrete plants, 83 aggregate quarries and 16 concrete pipe plants. The sale also included CEMEX's 25% interest in Cement Australia, which assets include four cement plants, one grinding mill and several works under construction, with an aggregate cement production capacity of 5.1 million tons. As a result of this significant divestiture, the assets and liabilities associated with the Australian operations are presented in the balance sheet as of December 31, 2008 as "Discontinued operations" in the corresponding captions within current or non-current assets and liabilities, as the case may be. Likewise, Australian operations included in the income statements for the years ended December 31, 2009, 2008 and 2007, were reclassified to the single line item of "Discontinued operations," which includes in 2009, a loss on sale, net of income tax, and the reclassification of foreign currency translation effects accrued in equity for an aggregate amount of approximately Ps5,901 (US$446). The loss on the sale of CEMEX's Australian assets includes an expense of approximately Ps1,310 (US$99) resulting from the reclassification to the income statements of foreign currency translation effects accrued in equity until the moment of sale, as well as an income tax benefit of approximately Ps2,528 (US$191).

Selected condensed balance sheet information of discontinued operations of CEMEX in Australia as of September 30, 2009 and December 31, 2008 was as follows:

	(unaudited) September 30, 2009	December 31, 2008
Current assets	Ps 6,027	4,672
Investment in associates	2,870	2,307
Property, machinery and equipment, net	13,343	11,577
Goodwill	8,657	7,067
Intangible assets, net	3,885	3,082
Other non-current assets	850	824
Total assets from discontinued operations	**35,632**	**29,529**
Short-term debt	1,634	1
Other current liabilities	2,634	2,554
Long-term debt	140	19
Other non-current liabilities	2,324	1,425
Total liabilities from discontinued operations	**6,732**	**3,999**
Net assets from discontinued operations	**Ps 28,900**	**25,530**

The following table presents condensed income statement information of CEMEX Australia for the nine-month period ended September 30, 2009, as well as the twelve-month and six-month periods ended December 31, 2008 and 2007, respectively:

	Nine months ended September 30, 2009	Twelve months ended December 31, 2008	Six months ended December 31, 2007
Sales	Ps 13,015	17,536	8,517
Cost of sales and operating expenses	(11,817)	(15,740)	(7,679)
Operating income	1,198	1,796	838
Other expenses, net	(87)	(92)	(297)
Comprehensive financial result	(179)	(399)	69
Equity in income of associates	208	229	–
Income before income tax	1,140	1,534	610
Income tax benefit (expense)	512	563	(322)
Net income	Ps 1,652	2,097	288
Depreciation	Ps 631	856	330
Amortization	Ps 256	309	159
Capital expenditures	Ps 128	737	336

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5. CASH AND INVESTMENTS

As of December 31, 2009 and 2008, consolidated cash and investments consisted of:

	2009	2008
Cash and bank accounts	Ps 11,295	10,336
Fixed-income securities	2,783	1,962
Investments in marketable securities	26	602
	Ps 14,104	12,900

The balance of cash and investments excludes amounts deposited in margin accounts that guarantee several obligations of CEMEX for approximately Ps3,962 in 2009 and Ps10,484 in 2008, of which approximately Ps2,553 in 2009 and the total amount in 2008, associated with derivative financial instruments, were offset against the liabilities of CEMEX with its counterparties.

6. TRADE ACCOUNTS RECEIVABLE

As of December 31, 2009 and 2008, consolidated trade accounts receivable consisted of:

	2009	2008
Trade accounts receivable	Ps 15,954	18,182
Allowances for doubtful accounts	(2,571)	(2,261)
	Ps 13,383	15,921

As of December 31, 2009 and 2008, trade receivables exclude trade accounts receivable of Ps9,624 (US$735) and Ps14,667 (US$1,068), respectively, that were sold to financial institutions under securitization programs for the sale of trade receivables, established in Mexico, the United States, Spain and France. Under these programs, CEMEX effectively surrenders control associated with the trade receivables sold and there is no guarantee or obligation to reacquire the assets; therefore, the amount of receivables sold is removed from the balance sheet at the moment of sale, except for the amounts owed by the counterparties, which are reclassified to other short-term accounts receivable. Trade receivables qualifying for sale do not include amounts over certain days past due or concentrations over certain limits to any one customer, according to the terms of the programs. The discount granted to the acquirers of the trade receivables is recognized as financial expense and amounted to approximately Ps645 (US$47) in 2009, Ps656 (US$58) in 2008 and Ps673 (US$62) in 2007.

During June and July 2009, CEMEX renewed its expiring prior securitization programs for the sale of trade receivables in Mexico and the United States. The new programs mature in December 2011 in Mexico and June 2010 in the United States. In addition, in June 2009, CEMEX extended its securitization program in France until May 2010.

Allowances for doubtful accounts are established according to the credit history and risk profile of each customer. Changes in the valuation allowance for doubtful accounts in 2009, 2008 and 2007, were as follows:

	2009	2008	2007
Allowances for doubtful accounts at beginning of period	Ps 2,261	1,991	1,526
Charged to selling expenses	777	602	384
Deductions	(454)	(523)	(69)
Business combinations	—	63	173
Foreign currency translation and inflation	(13)	128	(23)
Allowances for doubtful accounts at end of period	Ps 2,571	2,261	1,991

7. OTHER ACCOUNTS RECEIVABLE

As of December 31, 2009 and 2008, consolidated other accounts receivable consisted of:

	2009	2008
Non-trade accounts receivable	Ps 3,650	4,470
Current portion of valuation of derivative instruments	1,259	2,650
Interest and notes receivable	3,700	1,253
Loans to employees and others	375	629
Refundable taxes	356	535
	Ps 9,340	9,537

Non-trade accounts receivable are mainly attributable to the sale of assets. The caption “Interests and notes receivable” include Ps3,083 in 2009 and Ps1,057 in 2008, arising from uncollected trade receivables sold under securitization programs (note 6), and Ps235 in 2009 arising from the settlement of derivative instruments related to perpetual debentures issued by CEMEX (notes 13C and 17D).

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8. INVENTORIES

As of December 31, 2009 and 2008, consolidated balances of inventories are summarized as follows:

	2009	2008
Finished goods	Ps 5,168	6,828
Work-in-process	3,207	3,718
Raw materials	3,005	3,711
Materials and spare parts	5,729	6,391
Advances to suppliers	331	676
Inventory in transit	233	429
Allowance for obsolescence	(482)	(538)
	Ps 17,191	21,215

CEMEX recognized inventory impairment losses of approximately Ps91 in 2009, Ps81 in 2008 and Ps131 in 2007.

9. OTHER CURRENT ASSETS

As of December 31, 2009 and 2008, consolidated other current assets consisted of:

	2009	2008
Advance payments	Ps 1,497	1,416
Assets held for sale	1,255	2,534
	Ps 2,752	3,950

Assets held for sale are stated at their estimated realizable value and include real state properties received in payment of trade receivables. During 2009, CEMEX recognized impairment losses in connection with assets held for sale in the United States for approximately Ps253.

10. INVESTMENTS IN ASSOCIATES AND OTHER INVESTMENTS AND NON-CURRENT ACCOUNTS RECEIVABLE

10A) INVESTMENTS IN ASSOCIATES

As of December 31, 2009 and 2008, consolidated investments in shares of associates are summarized as follows:

	2009	2008
Book value at acquisition date	Ps 5,179	5,764
Changes in stockholders' equity since acquisition	5,934	6,129
	Ps 11,113	11,893

As of December 31, 2009 and 2008, investments in shares of associates were as follows:

	Activity	Country	%	2009	2008
Control Administrativo Mexicano, S.A. de C.V.	Cement	Mexico	49.0	Ps 4,491	4,439
Ready Mix USA, LLC	Concrete	United States	49.9	2,194	2,586
Trinidad Cement Ltd	Cement	Trinidad	20.0	591	660
Cancem, S.A. de C.V.	Cement	Mexico	10.3	478	480
Société Méridionale de Carrières	Aggregates	France	33.3	331	320
Société d'Exploitation de Carrières	Aggregates	France	50.0	227	254
ABC Capital S.A. de C.V.S.F.O.M.	Financing	Mexico	49.0	301	221
Société des Ciments Antillais	Cement	French Antilles	26.1	173	231
Huttig Building Products Inc.	Materials	United States	28.1	98	228
Lehigh White Cement Company	Cement	United States	24.5	214	224
Other companies	—	—	—	2,015	2,250
				Ps 11,113	11,893

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In 2005, CEMEX, Inc., the Company's subsidiary in the United States, and Ready Mix USA, Inc., a ready-mix concrete producer in the Southeastern United States, established two limited liability companies, CEMEX Southeast, LLC and Ready Mix USA, LLC. Pursuant to the relevant agreements, CEMEX contributed to CEMEX Southeast, LLC the cement plants in Demopolis, AL and Clinchfield, GA and 11 cement terminals, representing approximately 98% of the contributed capital, while Ready Mix USA's contributions represented approximately 2% of the contributed capital. To Ready Mix USA, LLC, CEMEX contributed ready-mix concrete, aggregates and concrete block plants in Florida and Georgia, representing approximately 9% of the contributed capital, while Ready Mix USA contributed all of its ready-mix concrete and aggregates operations in Alabama, Georgia, the Panhandle region in Florida and Tennessee, as well as its concrete block plants in Arkansas, Tennessee, Mississippi, Florida and Alabama, representing approximately 91% of the contributed capital. CEMEX owns a 50.01% interest, and Ready Mix USA owns a 49.99% interest, in the profits and losses and voting rights of CEMEX Southeast, LLC; whereas Ready Mix USA owns a 50.01% interest and CEMEX owns a 49.99% interest, in the profits and losses and voting rights of Ready Mix USA, LLC. CEMEX has control and fully consolidates CEMEX Southeast, LLC. CEMEX's interest in Ready Mix USA, LLC is accounted for by the equity method.

In January 2008, in connection with the assets acquired from Rinker and as part of the agreements with Ready Mix USA, CEMEX contributed and sold to Ready Mix USA, LLC certain assets located in the sites of Georgia, Tennessee and Virginia, at a fair value of approximately US$437, receiving an established value of US$380, which included the value of the contribution of US$260 and the value of the sale of US$120 received in cash. As part of the same transaction, Ready Mix USA contributed US$125 in cash to Ready Mix USA, LLC which, in turn, received bank loans of US$135 and made a special distribution to CEMEX in cash of US$135. Ready Mix USA manages all the assets acquired. Following this transaction, Ready Mix USA, LLC continues to be owned 50.01% by Ready Mix USA and 49.99% by CEMEX. The difference between the fair value and the established value of approximately US$57 is included within investment in associates.

In March 2008, CEMEX announced the sale, through a subsidiary, of 119 million of CPOs of AXTEL, S.A.B. de C.V. ("AXTEL"), which represented 9.5% of the equity capital of AXTEL for approximately Ps2,738, recognizing a net gain of approximately Ps1,463 in 2008 within "Other expenses, net." The sale represented approximately 90% of CEMEX's position in AXTEL, which had been part of the Company's investments in associates.

In June 2009, CEMEX sold its 49% interest in an aggregates joint venture in Wyoming to Martin Marietta Materials, Inc., as well as three quarries located in Nebraska, Wyoming and Utah in the United States for approximately US$65 and recognized a loss related to the sale of these assets of approximately US$64.

10B) OTHER INVESTMENTS AND NON-CURRENT ACCOUNTS RECEIVABLE

As of December 31, 2009 and 2008, other investments and non-current accounts receivable are summarized as follows:

	2009	2008
Non-current portion of valuation of derivative financial instruments	Ps 6,512	8,002
Non-current accounts receivable and other assets	13,987	15,314
Investments in private funds	532	493
	Ps 21,031	23,809

In 2009 and 2008, "Non-current accounts receivable and other assets" include approximately Ps6,147 and Ps6,877, respectively, corresponding to CEMEX's net investment in its expropriated assets in Venezuela (note 12A), Ps156 in 2009 and Ps98 in 2008 of the remaining portion of CPOs of AXTEL, as well as Ps916 in 2009 of an investment restricted for acquisitions in cement, concrete and/or aggregates businesses, and Ps1,011 in 2009 resulting from the settlement of derivative instruments associated with the perpetual debentures, which will be used to pay coupons under such instruments (notes 13C and 17D).

In 2009, 2008 and 2007, proceeds were contributed to private funds for US$5 (Ps65), US$1 (Ps14) and US$4 (Ps44), respectively.

11. PROPERTY, MACHINERY AND EQUIPMENT

As of December 31, 2009 and 2008, consolidated property, machinery and equipment consisted of:

	2009	2008
Land and mineral reserves	Ps 83,568	82,299
Buildings	65,285	67,029
Machinery and equipment	253,797	260,538
Construction in progress	18,433	17,663
Accumulated depreciation and depletion	(162,220)	(157,248)
	Ps 258,863	270,281

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Changes in property, machinery and equipment in 2009, 2008 and 2007, excluding the discontinued operations in Australia (note 4B), were as follows:

	2009	2008	2007
Cost of property, machinery and equipment at beginning of period	Ps 427,529	403,967	340,265
Accumulated depreciation and depletion at beginning of period	(157,248)	(153,953)	(138,840)
Net book value at beginning of period	270,281	250,014	201,425
Capital expenditures	8,307	22,554	21,885
Capitalization of comprehensive financing result	347	609	68
Total additions	8,654	23,163	21,953
Disposals [1]	(4,040)	(5,084)	(509)
Reclassifications [2]	3,603	(11,656)	—
Contribution and sale to associates [3]	—	(4,588)	—
Additions through business combinations	733	98	41,821
Depreciation and depletion for the period	(15,963)	(15,611)	(14,522)
Impairment losses	(503)	(1,045)	(64)
Foreign currency translation and inflation effects [4]	(3,902)	34,990	(90)
Cost of property, machinery and equipment at end of period	421,083	427,529	403,967
Accumulated depreciation and depletion at end of period	(162,220)	(157,248)	(153,953)
Net book value at end of period	Ps 258,863	270,281	250,014

[1] In 2008, includes approximately Ps4,200 of the carrying amount of fixed assets sold in Italy and Spain (note 12A).

[2] In 2008, includes the reclassification to "Other non-current assets" for the expropriation of assets in Venezuela for Ps8,053 and the reclassification of fixed assets of Austria and Hungary as assets held for sale to the item of "Other non-current accounts receivable" for Ps3,603 (note 12A).

[3] Refers to the contribution and sale of assets to Ready Mix USA, LLC detailed in note 10A.

[4] The effects presented in this caption refer to fluctuations in exchange rates for the period between the functional currency of the reporting unit and the peso, and, until December 31, 2007, to the restatement adjustment to constant pesos.

During 2009, in connection with impairment tests conducted considering certain triggering events, such as the closing of ready-mix plants resulting from adjusting the supply to current demand conditions and the transferring of installed capacity to more efficient plants, among other factors, impairment losses in machinery and equipment were recognized in Puerto Rico for Ps282, the United States for Ps154 and other countries for Ps67. In 2008, considering the same factors, impairment losses were recognized in the United States for Ps511, Poland for Ps322 and other countries for Ps212. In 2007, impairment losses were mainly attributable to idle assets in the United Kingdom, Mexico and Philippines. The related assets were adjusted to their estimated realizable value.

12. GOODWILL, INTANGIBLE ASSETS AND DEFERRED CHARGES

As of December 31, 2009 and 2008, consolidated goodwill, intangible assets and deferred charges are summarized as follows:

	2009			2008		
	Cost	Accumulated amortization	Carrying amount	Cost	Accumulated amortization	Carrying amount
Intangible assets of indefinite useful life:						
Goodwill	Ps 150,827	—	150,827	Ps 157,541	—	157,541
Intangible assets of definite useful life:						
Extraction rights	28,986	(2,286)	26,700	30,466	(1,644)	28,822
Cost of internally developed software	7,807	(5,075)	2,732	7,997	(3,807)	4,190
Industrial property and trademarks	3,317	(1,908)	1,409	3,619	(1,564)	2,055
Customer relationships	4,936	(1,224)	3,712	5,281	(781)	4,500
Mining projects	2,161	(431)	1,730	1,219	(24)	1,195
Others intangible assets	7,635	(4,665)	2,970	8,007	(3,466)	4,541
Deferred charges and others:						
Deferred income taxes (notes 16A and 16B) [1]	36,751	—	36,751	20,909	—	20,909
Deferred financing costs	9,333	(1,655)	7,678	1,280	(446)	834
	Ps 251,753	(17,244)	234,509	Ps 236,319	(11,732)	224,587

[1] The balance of deferred taxes includes Ps3 and Ps11 of deferred ESPS in 2009 and 2008, respectively.

During 2009, CEMEX sold its assets in Australia. Goodwill and intangible assets in Australia for 2008 were reclassified to "Non current assets from discontinued operations" (note 4B).

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The amortization of intangible assets of definite useful life was approximately Ps4,350 in 2009, Ps4,088 in 2008 and Ps2,654 in 2007, recognized within operation costs and expenses, except for approximately Ps215 in 2007 as a result of intangible assets related to customers, which were recognized within "Other expenses, net." During 2009, impairment losses related to intangible assets of definite life were recognized for approximately Ps42.

During 2009, CEMEX capitalized financing costs associated with its Financing Agreement (note 13A) for approximately Ps8,378 (US$616). Under MFRS, CEMEX's debt Financing Agreement qualified as the issuance of new debt and the extinguishment of the old facilities. Consequently, approximately Ps608 (US$45) of deferred financing costs associated with the extinguished debt were recognized immediately in the income statement.

In April 2008, in connection with the purchase of Rinker Group Limited ("Rinker") (note 12A), considering information and evidence which was unavailable at the end of 2007, CEMEX defined as intangible assets of definite useful life, extraction permits in the cement and aggregates sector in the United States for an amount of Ps10,156, and assigned an average useful life of 30 years. Amortization of these assets was recorded prospectively from the change in definition. In 2007, those assets were identified as having indefinite life.

Goodwill

Goodwill is recognized at the acquisition date based on the preliminary allocation of the purchase price. If applicable, goodwill is subsequently adjusted for any correction to the preliminary assessment given to the assets acquired and/or liabilities assumed, within the twelve-month period after purchase. Goodwill balances by reporting unit as of December 31, 2009 and 2008, are the following:

	2009	2008
North America		
United States	Ps 116,784	123,428
Mexico	6,354	6,412
Europe		
Spain	9,217	9,069
United Kingdom	4,569	4,350
France	3,635	3,638
Rest of Europe [1]	587	697
Central and South America and the Caribbean		
Colombia	5,109	5,063
Dominican Republic	226	231
Rest of Central and South America and the Caribbean [2]	951	985
Africa and Middle East		
United Arab Emirates	1,373	1,557
Egypt	231	231
Asia		
Philippines	1,425	1,505
Others		
Other reporting units [3]	366	375
	Ps 150,827	157,541

[1] This segment includes reporting units in Czech Republic and Latvia.

[2] This segment includes reporting units in Costa Rica, Panama and Puerto Rico.

[3] This segment primarily consists of CEMEX's subsidiary in the information technology and software development business.

Changes in goodwill in 2009, 2008 and 2007, excluding effects from the discontinued Australian assets (note 4B), are as follows:

	2009	2008	2007
Balance at beginning of period	Ps 157,541	142,344	56,546
Increase for business acquisitions	504	1,289	88,440
Disposals	(414)	(187)	—
Impairment losses (note 12B)	—	(18,314)	—
Inflation effects and foreign exchange translation adjustments [1]	(6,804)	32,409	(2,642)
Balance at end of period	Ps 150,827	157,541	142,344

[1] The amounts presented in this line item refer to the effects on goodwill from foreign exchange fluctuations during the period between the reporting units' currencies and the Mexican peso, and the effect of the restatement into constant pesos until December 31, 2007.

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Based on impairment tests made during the last quarter of the year, no goodwill impairment losses were determined in 2009. As mentioned in note 12B, during 2008, based on impairment tests made during the last quarter of such year, goodwill impairment losses were determined in reporting units located in the United States, Ireland and Thailand for approximately Ps17,476 (US$1,272). In addition, considering that the investment in CEMEX Venezuela is expected to be recovered through means different from use (note 12A), in 2008, CEMEX recognized an impairment loss of approximately Ps838 (US$61) associated with the goodwill of this investment. The increase in goodwill in 2007 resulted from the acquisition of Rinker.

Intangible assets of definite life

Changes in balances of intangible assets of definite life in 2009, 2008 and 2007, excluding effects from the discontinued Australian assets (note 4B), were as follows:

	2009	2008	2007
Balance at beginning of period	Ps 45,303	40,577	8,610
Increase for business acquisitions [1]	5	404	30,794
Additions (disposals), net [2]	47	1,445	3,440
Amortization	(4,350)	(4,088)	(2,654)
Impairment losses [3]	(42)	(1,598)	—
Inflation effects and foreign exchange translation adjustments	(1,710)	8,563	387
Balance at end of period	Ps 39,253	45,303	40,577

[1] Through the acquisition of Rinker in 2007, CEMEX identified and valued intangible assets in the United States related to extraction permits in the cement, aggregates and ready-mix concrete sectors for approximately Ps22,426 with an estimated useful life of 30 years; trademarks and commercial names for approximately Ps3,981 with an estimated useful life of five years; and intangibles based on customers relations for approximately Ps4,387 which were assigned a useful life of 10 years.

[2] CEMEX capitalized the costs incurred in the development stage of internal-use software for Ps161 in 2009, Ps1,236 in 2008 and Ps3,034 in 2007, respectively, related to the replacement of the technological platform in which CEMEX executes the most important processes of its business model. The items capitalized refer to direct costs incurred in the development phase of the software and relate mainly to professional fees, direct labor and related travel expenses.

[3] Considering impairment indicators, during the last quarter of 2008, CEMEX tested intangible assets of definite life for impairment in the United States, and determined that the carrying amount of names and commercial trademarks exceeded their value in use, resulting in an impairment loss of approximately Ps1,598.

12A) MAIN ACQUISITIONS AND DIVESTITURES IN 2009, 2008 and 2007

Sale of assets in Australia

During 2009, CEMEX sold its Australian operations (notes 2 and 4B).

Nationalization of CEMEX Venezuela

On June 18, 2008, the Government of Venezuela promulgated a presidential decree (the "Nationalization Decree") which set forth that the cement production industry in Venezuela had been reserved to the State and ordered the conversion of foreign-owned cement companies, including CEMEX Venezuela, S.A.C.A. ("CEMEX Venezuela"), into state controlled companies with Venezuela holding an equity interest of at least 60%. The Nationalization Decree established August 17, 2008 as the deadline for the controlling stockholders of foreign-owned companies to reach an agreement with the Government of Venezuela on the compensation for the nationalization. The Nationalization Decree stipulated that if an agreement was not reached, Venezuela shall assume exclusive operational control of the relevant cement company and the Venezuelan National Executive shall decree the expropriation of the relevant shares according to the Venezuelan expropriation law. CEMEX controlled and operated CEMEX Venezuela until August 17, 2008. Afterwards, the Government of Venezuela ordered the confiscation of all business, assets and shares of CEMEX Venezuela and took control of its facilities on August 18, 2008.

In August 2008, CEMEX received from the Government of Venezuela a compensation proposal for US$650. CEMEX decided not to accept such proposal, believing that it significantly undervalued its business in Venezuela. This proposal was significantly lower than those offered to other foreign companies for their assets in Venezuela, considering price per ton of installed capacity as well as operating cash flow multiples. In October 2008, CEMEX's subsidiaries in Holland, which held CEMEX's shares in CEMEX Venezuela, submitted a complaint seeking international arbitration to the International Centre for Settlement of Investment Disputes following the Venezuelan Government's confiscation of assets, deprivation of rights of CEMEX Venezuela and the initiation of the expropriation of CEMEX's Venezuelan business. At December 31, 2009 and 2008, except for the goodwill impairment loss recognized in 2008 (note 12B), CEMEX has not made any impairment adjustments to its investment in Venezuela, remaining confident that it will eventually reach an agreement and obtain fair compensation. Nevertheless, CEMEX carefully evaluates the evolution of the arbitration process and other negotiations to determine if the carrying amount requires an impairment adjustment.

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CEMEX's consolidated income statements for the years ended December 31, 2008 and 2007 include the results of CEMEX Venezuela for the seven-month period ended July 31, 2008 and for the year ended December 31, 2007, respectively. For balance sheet purposes, as of December 31, 2009 and 2008, the investment of CEMEX in Venezuela was presented within "Other investments and non current accounts receivable" (note 10B). As of December 31, 2009 and 2008, the net book value of CEMEX's investment in Venezuela was approximately Ps6,147 and Ps6,877, respectively, corresponding to CEMEX's equity interest of approximately 75.7%.

Based on MFRS, significant disposals should be treated as discontinued operations in the income statement for all the periods presented. For the years ended December 31, 2008 and 2007, including the recognition of Australia as a discontinued operation, CEMEX measured the materiality of CEMEX Venezuela during each period presented, considering a threshold of 5% of consolidated net sales, operating income, net income and total assets. Considering the results of the quantitative tests, CEMEX concluded that the nationalized Venezuelan operations did not reach the materiality thresholds to be classified as discontinued operations. The results of CEMEX's quantitative tests for the seven-month period ended July 31, 2008 (unaudited) and for the year ended December 31, 2007 were as follows:

	Seven months ended July 31, 2008	Twelve months ended December 31, 2007
Net sales	**3.2%**	**3.0%**
CEMEX consolidated from continuing operations	Ps 134,836	228,152
CEMEX Venezuela	4,286	6,823
Operating income	**4.8%**	**4.3%**
CEMEX consolidated from continuing operations	Ps 16,003	31,610
CEMEX Venezuela [2]	775	1,358
Net income	**0.1%**	**3.2%**
CEMEX consolidated from continuing operations	Ps 10,557	26,657
CEMEX Venezuela	11	852
Total assets	**2.1%**	**2.1%**
CEMEX consolidated	Ps 525,756	542,314
CEMEX Venezuela	11,010	11,515

In addition, as of December 31, 2007, CEMEX Venezuela was the holding entity of several of CEMEX's investments in the region, including the operations in the Dominican Republic and Panama, as well as CEMEX's non-controlling investment in Trinidad. Before the nationalization of assets in Venezuela, in April 2008, CEMEX concluded the transfer of all material non-Venezuelan investments to CEMEX España, S.A. for approximately US$355 plus US$122 of net debt, having distributed all accrued profits from the non-Venezuelan investments to the stockholders of CEMEX Venezuela amounting to approximately US$132.

As of July 31, 2008 (unaudited), the condensed balance sheet of CEMEX's operations in Venezuela was as follows:

	July 31, 2008
Current assets	Ps 2,532
Non-current assets	8,478
Total assets	11,010
Current liabilities	2,753
Non-current liabilities	1,384
Total liabilities	4,137
Total net assets	6,873
Non-controlling interest	(1,507)
CEMEX's interest in total net assets [1]	Ps 5,366

The following table presents condensed selected income statement information for CEMEX's operations in Venezuela for the seven-month period ended July 31, 2008 (unaudited) and for the year ended December 31, 2007:

	Seven months ended July 31, 2008	Twelve months ended December 31, 2007
Sales	Ps 4,286	6,823
Operating income [2]	775	1,358
Net income	Ps 11	852

[1] Changes in the net investment between July 31, 2008 and December 31, 2009 and 2008 are attributable to foreign currency fluctuations.

[2] Operating income in these tables excludes the margin realized in related-party transactions; therefore, it is not directly comparable to selected financial information from the "Venezuela" segment presented in note 4A.

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Sale of operations in Canary Islands

On December 26, 2008, CEMEX sold assets in the cement and concrete sectors in the Canary Islands through its subsidiary in Spain, including its 50% interest in Cementos Especiales de Las Islas, S.A. ("CEISA"), to Cimpor Inversiones S.A. ("Cimpor"), a subsidiary of Cimpor Cimentos de Portugal SGPS SA, for €162 (US$227 or Ps3,113), of which €5 were held in escrow in a special deposit account to cover any price adjustments as guarantee of possible contingencies, and were finally received by CEMEX during 2009 in addition to a payment for the transmitted working capital. Until the sale, CEMEX controlled CEISA together with another stockholder (Grupo Tudela Beguin) and the financial statements were consolidated through the proportional integration method (note 3B) considering its 50% interest. CEMEX's 2008 consolidated income statement includes the results of operations of the assets sold, calculated through the proportional integration method for assets related to CEISA, for the twelve-month period ended on December 31, 2008. Sale of the CEISA interest and other assets generated a net gain of approximately Ps920, including the cancellation of the related goodwill for approximately Ps18, which was recognized within "Other expenses, net." The condensed combined balance sheet of the assets sold and the CEISA interest as of December 31, 2008, is as follows:

	2008
Current assets	Ps 455
Non-current assets	1,992
Total assets	2,447
Current liabilities	303
Non-current liabilities	33
Total liabilities	336
Total net assets	Ps 2,111

Selected condensed combined income statement information of the assets sold and the CEISA interest in 2008 and 2007, is as follows:

	2008	2007
Sales	Ps 2,317	2,962
Operating income	283	529
Net income	Ps 371	494

Agreement to sell operations in Austria and Hungary

On July 31, 2008, CEMEX reached an agreement to sell its operations in Austria and Hungary to the European building materials group Strabag SE ("Strabag"), for approximately €310 (US$433 or Ps5,949). On July 1, 2009, Strabag SE gave notice of purported rescission from the share purchase agreement ("SPA"). In October 2009, CEMEX filed a claim before the International Arbitration Court requesting that it declare invalid the termination of the SPA by Strabag and claiming the payment of damages caused to CEMEX (note 21C).

Sale of operations in Italy

In several transactions during 2008, CEMEX sold its cement mill operations in Italy for approximately €148 (US$210 or Ps2,447), generating a gain on sale of approximately €8 (US$12 or Ps119), which was recognized within "Other expenses, net."

Rinker acquisition

CEMEX acquired 100% of the shares of Rinker, an Australian producer of aggregates, cement, concrete and other construction materials, through a public tender offer, which closed in July 2007. The purchase price paid for the Rinker shares, including direct acquisition costs, was approximately US$14,245 (Ps155,559), excluding approximately US$1,277 (Ps13,943) of assumed debt. For its fiscal year ended March 31, 2007, Rinker reported consolidated revenues of approximately US$5,300 (unaudited) of which approximately US$4,100 (unaudited) of these revenues were generated in the United States, and approximately US$1,200 (unaudited) were generated in Australia and China. As mentioned in note 4B, in October 2009, CEMEX sold the operations in Australia that had been acquired with the Rinker acquisition. CEMEX's consolidated income statement in 2007 includes the results of operations of Rinker for the six-month period ended December 31, 2007; however, the portion corresponding to the Australian operations was reclassified to "Discontinued operations."

The Rinker acquisition was in line with CEMEX's strategy to invest in the construction industry value chain and increased CEMEX's aggregates and ready-mix concrete business investment in the United States. Rinker's operations in the U.S. are a complement for CEMEX, increasing its presence in the states of Florida, California, Arizona and Nevada. Rinker´s was also the second largest building materials company in Australia. Through the Rinker acquisition CEMEX increased its aggregates reserves in the United States, estimated for approximately 30 years of production, where an important number of quarries are strategically located nearby population centers. Authorized aggregate quarries are scarce in many areas of the United States considering the nature of resources, costs and necessary approvals to establish and operate such quarries.

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The preliminary goodwill assigned as of December 31, 2007 was of approximately Ps97,448 (US$8,924). From January 1 to June 30, 2008, CEMEX completed the allocation of the purchase price of Rinker to the fair values of the assets acquired and liabilities assumed, and modified certain amounts determined in the preliminary allocation, resulting in adjustments to the preliminary goodwill. The final amount of goodwill was Ps96,812 (US$8,866). CEMEX believes the Rinker goodwill was mainly generated by: a) the existence of intangible assets that could not be easily separated and quantified, so they were transferred to goodwill, such as those related to human capital, industry potential and synergies, as well as those related to Rinker's business model; and b) a significant portion of the value in perpetuity of the acquired business is transferred to goodwill as a result of the use, for the valuation of the specific assets acquired, of models based on expected cash flows that are determined over an estimated useful life.

As required by the Department of Justice of the United States, pursuant to a divestiture order in connection with the Rinker acquisition, in December 2007, CEMEX sold to Irish producer CRH plc, ready-mix concrete and aggregates plants in Arizona and Florida for approximately US$250, of which approximately US$30 corresponded to the sale of assets from CEMEX's pre-Rinker acquisition operations, which generated a gain in 2007 of approximately Ps142, recognized within "Other expenses, net."

CEMEX presents condensed *pro forma* income statements for the year ended December 31, 2007 giving effect to the Rinker acquisition as if it had occurred at the beginning of the year. The *pro forma* financial information is presented solely for the convenience of the reader and is not indicative of the results that CEMEX would have reported, nor should such information be taken as representative of CEMEX's future results. *Pro forma* adjustments consider the fair values of the net assets acquired, under assumptions that CEMEX believes reasonable.

	(Unaudited)			
Year ended December 31, 2007	CEMEX 1	Rinker 2	Adjustments 3	CEMEX pro forma
Sales	Ps 228,152	19,845	—	247,997
Cost of sales and operating expenses	(196,542)	(16,507)	—	(213,049)
Operating income	31,610	3,338	—	34,948
Other expenses, net	(2,984)	(161)	—	(3,145)
Comprehensive financing result	1,018	(270)	(3,463)	(2,715)
Equity in income of associates	1,487	13	—	1,500
Income before income taxes	31,131	2,920	(3,463)	30,588
Income taxes	(4,474)	(993)	970	(4,497)
Consolidated net income before discontinued operations	26,657	1,927	(2,493)	26,091
Discontinued operations	288	561	—	849
Consolidated net income	26,945	2,488	(2,493)	26,940
Non-controlling interest net income	837	15	—	852
Controlling interest net income	Ps 26,108	2,473	(2,493)	26,088
Basic and diluted EPS for continuing operations	Ps 1.16	—	—	1.25
Basic and diluted EPS for discontinued operations	Ps 0.01	—	—	0.03

1 Includes Rinker's operations for the six-month period from July 1 to December 31, 2007, considering the Australian operations as part of discontinued operations.

2 Refers to the *pro forma* six-month period from January 1 to June 30, 2007, prepared under IFRS by Rinker's management and adjusted to reclassify the Australian operations to discontinued operations, which was translated from U.S. dollars into pesos at the average exchange rate of Ps10.95 per dollar , and then restated into constant pesos at December 31, 2007. The *pro forma* information was adjusted to include the effects of the purchase price allocation and application of MFRS. *Pro forma* adjustments in 2007 are as follows:

Item	2007
Recomputed depreciation expense	Ps (457)
Intangible assets amortization	(911)
Monetary position result	84
Deferred income taxes *	449
Total adjustments from continuing operations	(835)
Discontinued operations	(121)
Total adjustments	Ps (956)

***** The income tax effect for *pro forma* adjustments was determined using the approximate average effective tax rate of 33%.

3 Refers to *pro forma* adjustments for the six-month period in 2007 related to the financing to acquire Rinker and include: (i) financial interest for Ps4,522 on the basis of US$14,159 of debt incurred for the purchase using an interest rate of 5.65%; (ii) monetary gain on the debt of Ps1,059; and (iii) the income tax effect resulting from applying the statutory tax rate of 28% in Mexico. There are no foreign exchange fluctuations from debt considering that the exchange rate at June 30, 2007 and December 31, 2006 of Ps10.80 per dollar was the same.

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12B) ANALYSIS OF GOODWILL IMPAIRMENT

Goodwill amounts are allocated to the multiple cash generating units, which together comprise a geographic operating segment commonly comprising all of the operations in each country as explained in the financial information by geographic segments presented in note 4A. CEMEX's geographic segments also represent its reporting units for purposes of impairment testing. An impairment loss would be recognized for the amount that the carrying amount of the reporting unit exceeds the respective value in use attributable to such reporting unit.

The fair value of each reporting unit is determined through the value in use method (discounted cash flows). Cash flow projection models for valuation of long-lived assets include long-term economic variables. CEMEX believes that its cash flow projections and the discount rates used for discounted cash flows reasonably capture current economic conditions at the time of the calculations, considering that: a) the starting point of the future cash flow models is the operating cash flow for the previous period; b) the cost of capital reflects current risks and volatility in the markets; and c) the cost of debt represents CEMEX's specific interest rates observed in recent transactions.

Impairment tests are significantly sensitive to, among other factors, the estimation of future prices of CEMEX's products, the development of operating expenses, local and international economic trends in the construction industry, long-term growth expectations in the different markets, as well as the discount rates and the rates of growth in perpetuity used. CEMEX uses after-tax discount rates, which are applied to after-tax cash flows for each reporting unit. Undiscounted cash flows are significantly sensitive to the growth rates in perpetuity used. Likewise, discounted cash flows are significantly sensitive to the discount rate used. The higher the growth rate in perpetuity applied, the higher the amount obtained of undiscounted future cash flows by reporting unit. Conversely, the higher the discount rate applied, the lower the amount obtained of discounted estimated future cash flows by reporting unit.

During the last quarter of 2008, the global economic environment was negatively affected by the intensification of the turmoil in several major financial institutions, which caused a liquidity shortage for companies in almost all productive sectors and resulted in a significant decrease in overall economic activity and a worldwide downturn in the main stock markets. These situations generated a reduction of growth expectations in the countries in which CEMEX operates, motivated by the cancellation or deferral of several investment projects, particularly affecting the construction industry. These conditions remained during a significant portion of 2009. During the last quarter of 2009 and 2008, CEMEX executed its annual impairment testing of goodwill. These tests coincided with the negative economic environment previously described.

The discount rate and the cash flows from each country include their respective income tax rates. Discount rates and growth rates in perpetuity used in the reporting units that represent most of the consolidated balance of goodwill in 2009 and 2008 are as follows:

Reporting units	Discount rates		Growth rates	
	2009	2008	2009	2008
United States	8.5%	9.2%	2.9%	2.9%
Spain	9.4%	10.8%	2.5%	2.5%
Mexico	10.0%	12.0%	2.5%	2.5%
Colombia	10.2%	11.8%	2.5%	2.5%
France	9.6%	11.2%	2.5%	2.5%
United Arab Emirates	11.4%	13.0%	2.5%	2.5%
United Kingdom	9.4%	9.8%	2.5%	2.5%
Egypt	10.0%	12.8%	2.5%	2.5%
Range of discount rates in other countries	9.6% – 14.6%	11.3% – 15.0%	2.5%	2.5%

For the year ended December 31, 2009, CEMEX did not recognize impairment losses of goodwill despite the economic conditions prevailing during the year, considering that in such period, the main global stock markets started their stabilization and achieved growth as compared to the closing pricing levels in 2008. Likewise, the reference interest rates at the end of 2009 decreased with respect to their level in 2008 due to an increase in liquidity in the debt and equity markets, which slightly reduced the risk premium in the countries where CEMEX has operations. These elements jointly generated a decrease in the discount rates in 2009 in comparison with the discount rates of the immediate prior year and consequently generated an increase in the value in use of the reporting units.

For the year ended December 31, 2008, CEMEX recognized within "Other expenses, net" goodwill impairment losses for a total amount of Ps18,314 (US$1,333). In compliance with MFRS C-15, CEMEX tested goodwill for impairment at least once a year during the last quarter of 2008 using discounted cash flows to determine the value in use of the reporting units and compared them against their carrying amounts. The results of the impairment tests indicated that the carrying amount of the reporting units in the United States, Ireland and Thailand exceeded their respective value in use for approximately Ps16,790 (US$1,222), Ps233 (US$17) and Ps453 (US$33), respectively. The estimated impairment loss in the United States in 2008 was mainly attributable to the acquisition of Rinker in 2007, and overall such losses were attributable to the negative economic environment prevailing at the end of 2008 and expected in the construction industry worldwide during 2009. Those factors significantly affected the variables included in the projections of estimated cash flows in comparison with valuations made at the end of 2007. In addition, considering that CEMEX's investment in Venezuela is expected to be recovered through different means other than use, CEMEX recognized an impairment loss of approximately Ps838 (US$61) associated with the goodwill of this investment.

For the year ended December 31, 2007, CEMEX did not recognize impairment losses of goodwill, considering that all annual impairment tests presented an excess of the value in use over the net book value of the reporting units. The reporting units acquired from Rinker were not tested for impairment in 2007 considering that the related net assets were recorded at their estimated fair values as of the acquisition date of July 1, 2007 and there were no significant changes in such values as of December 31, 2007.

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13. DEBT AND FINANCIAL INSTRUMENTS

13A) SHORT-TERM AND LONG-TERM DEBT

As of December 31, 2009 and 2008, consolidated debt according to the interest rates and the currencies in which it was negotiated is summarized as follows:

		Carrying amounts		Effective rate [1]	
		2009	2008	2009	2008
Short-term					
Floating rate	Ps	7,373	92,432	5.1%	2.2%
Fixed rate		20	2,837	5.7%	9.1%
		7,393	95,269		
Long-term					
Floating rate		150,273	60,189	5.0%	3.8%
Fixed rate		53,478	102,616	7.8%	3.7%
		203,751	162,805		
	Ps	211,144	258,074		

	2009				2008			
Currency	Short-term	Long-term	Total	Effective rate [1]	Short-term	Long-term	Total	Effective rate [1]
Dollars	Ps 950	125,441	126,391	5.7%	Ps 78,652	94,890	173,542	2.7%
Euros	431	57,261	57,692	5.6%	5,838	42,835	48,673	4.1%
Pesos	4,379	20,877	25,256	6.5%	6,201	23,197	29,398	5.6%
Pounds sterling	287	44	331	2.8%	797	194	991	4.7%
Japanese yen	—	120	120	6.6%	2,924	1,676	4,600	1.6%
Other currencies	1,346	8	1,354	5.8%	857	13	870	1.5%
	Ps 7,393	203,751	211,144		Ps 95,269	162,805	258,074	

[1] Represents the weighted average effective interest rate and includes the effects of interest rate swaps and derivative instruments that exchange interest rates and currencies (note 13C).

As of December 31, 2009 and 2008, consolidated debt according to the type of instrument in which it was negotiated is summarized as follows:

2009	Short-term	Long-term	2008	Short-term	Long-term
Bank loans			**Bank loans**		
Lines of credit in Mexico	Ps —	—	Lines of credit in Mexico	Ps 8,215	—
Lines of credit in foreign countries	2,275	—	Lines of credit in foreign countries	28,054	—
Syndicated loans, 2010 to 2014	—	100,594	Syndicated loans, 2009 to 2012	—	94,189
Other bank loans, 2010 to 2014	—	37,189	Other bank loans, 2009 to 2013	—	66,296
	2,275	137,783		36,269	160,485
Notes payable			**Notes payable**		
Euro medium term notes, 2010 to 2014	—	16,866	Euro medium term notes, 2009 to 2014	—	18,130
Medium-term notes, 2010 to 2017	—	50,396	Medium-term notes, 2009 to 2017	—	38,134
Other notes payable	1,177	2,647	Other notes payable	1,640	3,416
	1,177	69,909		1,640	59,680
Total bank loans and notes payable	3,452	207,692	Total bank loans and notes payable	37,909	220,165
Current maturities	3,941	(3,941)	Current maturities	57,360	(57,360)
	Ps 7,393	203,751		Ps 95,269	162,805

Relevant transactions during 2009 and 2008

As detailed at the end of this note 13A, on August 14, 2009, CEMEX entered into the Financing Agreement with its major creditors. The Financing Agreement extended the maturity of approximately US$14,961 (Ps195,839) in syndicated and bilateral loans, private placement obligations and other obligations. The Financing Agreement included the portion of short-term debt as of December 31, 2008 that was previously extended in January 2009.

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On December 14, 2009, CEMEX issued U.S. dollar-denominated notes for US$1,250, which mature in 7 years and pay an annual coupon of 9.5%, as well as Euro-denominated notes for €350 (US$501), which mature in 8 years and pay an annual coupon of 9.625% (note 23). The proceeds obtained from the offerings were mainly used to prepay principal outstanding maturing in 2011 under the Financing Agreement detailed in this note.

On December 10, 2009, CEMEX completed its offer to exchange CBs issued in Mexico with maturities between 2010 and 2012, into mandatorily convertible securities for approximately Ps4,126 (US$315). At their mandatory scheduled conversion in ten years or earlier if the price of the CPO reaches Ps35.88, the securities will be mandatorily convertible into approximately 172.5 million CPOs, at a conversion price of Ps23.92 per CPO. During their tenure, the securities yield a 10% interest payable quarterly. Holders have an option to voluntarily convert their securities, after the first anniversary of their issuance, on any interest payment date into CPOs. Based on MFRS, the convertible securities represent a compound instrument which has a liability component and an equity component. The liability component, which amounted to Ps2,090 at December 31, 2009, represents the net present value of interest payment on the principal amount, without assuming any early conversion, and was recognized within "Other financial obligations." The equity component, which represents the difference between the principal amount and the liability component, was recognized within "Other equity reserves" net of commissions (note 17B).

In June 2008, CEMEX closed two US$525 facilities with a group of banks. Upon origination, each facility allowed the principal amount to be automatically extended for consecutive six months periods indefinitely after a period of three years, including an option of CEMEX to defer interest at any time (with certain limitations). The facilities were treated as equity instruments, in the same manner as CEMEX's outstanding perpetual debentures described in note 17D. In December 2008, as a result of negotiations with banks intended to obtain certain modifications in the credit contracts related to other debt transactions described in note 13A, CEMEX exercised the option to convert these two US$525 facilities into credit contracts without the option to differ interest and the payment of principal under such facilities, which eliminated the equity treatment of these facilities prospectively. As of December 31, 2009 and 2008, the notional amount of these facilities, which mature in 2014, was included within debt in the balance sheet and was part of the Financing Agreement.

The most representative exchange rates for the financial debt as of December 31, 2009 and 2008 and as of June 25, 2010 are as follows:

	June 25, 2010	2009	2008
Mexican pesos per dollar	12.66	13.09	13.74
Euros per dollar	0.8123	0.6985	0.7154
Pounds sterling per dollar	0.6641	0.6191	0.6853
Japanese yen per dollar	89.31	92.97	90.75

Changes in consolidated debt as of December 31, 2009, 2008 and 2007 are as follows:

	2009	2008	2007
Debt at beginning of year	Ps 258,074	216,895	88,331
Proceeds from new debt instruments	40,223	59,568	206,690
Debt repayments	(76,035)	(63,179)	(84,412)
Exchange of debt into convertible securities	(4,126)	—	—
Increase (decrease) from business combinations	—	(776)	13,927
Foreign currency translation and inflation effects	(6,992)	45,566	(7,641)
Debt at end of year	Ps 211,144	258,074	216,895

The maturities of consolidated long-term debt as of December 31, 2009, which reflect the amortization of debt under the Financing Agreement, are as follows:

	2009
2011	Ps 18,021
2012	19,040
2013	32,133
2014	108,784
2015 and thereafter	25,773
	Ps 203,751

As of December 31, 2009, CEMEX has the following lines of credit, the majority of which are subject to the banks' availability, at annual interest rates ranging between 1.3% and 12.0%, depending on the negotiated currency:

	Lines of credit	Available
Other lines of credit in foreign subsidiaries	Ps 5,331	1,251
Other lines of credit from banks	131	—
	Ps 5,462	1,251

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Financing Agreement

On January 27, 2009, as a starting point for the subsequent global renegotiation of its principal credit facilities, CEMEX and its creditors agreed to: a) extend until February 2011 its short-term bilateral loans for approximately US$2,314, including amortizations of US$607 in 2009 and US$536 in 2010; b) extend until December 2010, US$1,700 principal amount of the syndicated loan facility of US$3,000 negotiated for the Rinker acquisition, which were originally due in December 2009; and c) modify the consolidated leverage ratio, among other conditions, of several syndicated loans. This agreement was concluded on December 19, 2008 and is further described in this note 13A.

On March 9, 2009, CEMEX initiated negotiations with its core bank lenders in order to extend the maturity of approximately US$15,000 in syndicated and bilateral loans, as well as private placement obligations, under the Conditional Waiver and Extension Agreement ("CWEA"). CEMEX entered into the CWEA to have time to negotiate the comprehensive Financing Agreement. While the discussions were ongoing, CEMEX met its interest payment obligations under both its bank and capital markets debt. The lenders party to the CWEA agreed to extend to July 31, 2009, the date by which the Financing Agreement was expected to be completed, scheduled principal payment obligations which were originally due between March 24, 2009 and July 31, 2009. The term of the CWEA was subsequently extended to August 14, 2009 in order to complete the Financing Agreement. Completion of the comprehensive Financing Agreement required consent from all the lenders party to the CWEA. During 2009, certain consolidated entities, including CEMEX, S.A.B. de C.V. and CEMEX España, S.A., operated under the CWEA with their lenders through August 14, 2009.

On August 14, 2009, upon completion of necessary documentation and satisfaction of conditions precedent, CEMEX entered into the Financing Agreement with its major creditors, by means of which the maturities of approximately US$14,961 (Ps195,839) in syndicated and bilateral loans, private placements and other obligations were extended, providing for a semi-annual amortization schedule. As of December 31, 2009, after the application of the net proceeds obtained from the sale of assets in Australia, the equity offering (note 17A), and the issuance of Dollar and Euro-denominated notes described above, there was a remaining debt balance under the Financing Agreement of Ps141,621 (US$10,819), with payments due for approximately US$764 in December 2011, US$794 in 2012, US$2,393 in 2013 and US$6,868 in 2014.

Under the Financing Agreement, in addition to several covenants and restrictions and subject in each case to the permitted negotiated amounts and other exceptions, including but not limited to incurring debt, granting security, engaging in acquisitions and joint ventures, granting guarantees, declaring and paying cash dividends and making other cash distributions to stockholders, CEMEX agreed to comply with several financial ratios and tests described below.

The Financing Agreement requires, in addition to the predefined debt amortization, the application of cash on hand for any period for which it is being calculated in excess of US$650 to prepay debt. Pursuant to the Financing Agreement, CEMEX is prohibited from making aggregate capital expenditures in excess of US$600 in 2009 (plus an additional US$50 contingency to account for currency fluctuations and certain additional costs and expenses), US$700 in 2010 and US$800 for each year after 2011 until debt under the Financing Agreement has been repaid in full.

Covenants

Most debt contracts of CEMEX, S.A.B. de C.V. contain restrictive covenants calculated on a consolidated basis requiring, among others, the compliance with financial ratios, which mainly include: a) the ratio of net debt to operating EBITDA ("leverage ratio"); and b) the ratio of operating EBITDA to financial expense. Financial ratios are calculated according to formulas established in the debt contracts using definitions that differ from terms defined under MFRS. These financial ratios require in most cases, *pro forma* adjustments. Beginning on August 14, 2009, even though the financial ratios under the Financing Agreement use similar terminology, they are calculated differently as compared to the financial ratios effective until December 31, 2008 and before the completion of the Financing Agreement.

Upon completion of the Financing Agreement, CEMEX agreed to comply with several financial ratios and tests, including a consolidated ratio of operating EBITDA to financial expense of not less than: (i) 1.75 times for each semi-annual period beginning on June 30, 2010 through the period ending on June 30, 2011; (ii) 2.0 times for each semi-annual period through the period ending on December 31, 2012; and (iii) 2.25 times for the subsequent semi-annual periods until December 31, 2013. In addition, the Financing Agreement allows CEMEX a maximum consolidated leverage ratio for each semi-annual period beginning on June 30, 2010 of 7.75 times, decreasing gradually in subsequent semi-annual periods until reaching 3.50 times for the period ending December 31, 2013. As of December 31, 2009, such financial ratios under the Financing Agreement were not applicable.

In 2008 and 2007, the consolidated financial ratios remained in effect until negotiation of the CWEA and were replaced upon completion of the Financing Agreement. In 2007, as a result of the modification of certain clauses in the credit contracts entered into between CEMEX and its creditors, the leverage ratio of 3.5 times remained without effect as of December 31, 2007, being reactivated on September 30, 2008, when CEMEX was in compliance. Afterwards, on December 19, 2008, CEMEX and its creditors agreed on new modifications to the credit contracts, including changes to the calculation formula and the increase to the leverage ratio to 4.5 times for December 31, 2008 and March 31, 2009, increasing to 4.75 times on June 30, 2009, decreasing to 4.5 times at the end of September and December 2009, decreasing to 4.25 times for the closing of March and June 2010, decreasing to 4 times on September 30, 2010, decreasing to 3.75 times for the closing of December 2010, March and June 2011 and returning to 3.5 times on September 30, 2011 and thereafter. All ratios after June 30, 2009, however, were superseded by the Financing Agreement ratios. CEMEX and its creditors also agreed to modify the credit contracts of its subsidiary in Spain to increase the leverage ratio, which did not include certain maturities of such subsidiary during the first months of 2009 and whereby CEMEX obtained required waivers from its creditors. As of December 31, 2008 and 2007, considering the amendments to the credit contracts and the waivers obtained, CEMEX, S.A.B. de C.V. and its subsidiaries were in compliance with the restrictive covenants imposed by its debt contracts.

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As of December 31, 2008 and 2007, the main consolidated financial ratios were as follows:

Consolidated financial ratios		2008	2007
Leverage ratio [1], [2]	**Limit**	=< 4.5	=< 3.5
	Calculation	4.04	3.54
Operating EBITDA to financial expenses ratio [3]	**Limit**	> 2.5	> 2.5
	Calculation	4.82	5.79

[1] The leverage ratio was calculated by dividing net debt by *pro forma* operating EBITDA for the last twelve months as of the calculation date. Pursuant to the debt contracts, net debt was calculated using total debt plus the negative fair value or minus the positive fair value of cross currency swap derivative financial instruments associated with debt, minus cash and temporary investments.

[2] For purposes of the leverage ratio, the *pro forma* operating EBITDA represents, calculated in pesos, operating income plus depreciation and amortization, plus financial income, plus the portion of operating EBITDA (operating income plus depreciation and amortization) referring to such twelve-month period of any significant acquisition made in the period before its consolidation in CEMEX's financial statements, minus operating EBITDA (operating income plus depreciation and amortization) referring to such twelve-month period of any significant disposal that had already been liquidated, all calculated in pesos. Beginning with the calculation as of December 31, 2008, the monthly-consolidated amounts in pesos were translated into U.S. dollars using the respective monthly closing exchange rates, and were translated again into pesos at the closing exchange rate as of the balance sheet date. Until September 30, 2008, calculations were determined with constant pesos coming from the financial statements.

[3] The operating EBITDA to financial expense ratio was calculated using the peso amounts arising from the financial statements, by dividing the *pro forma* operating EBITDA by the financial expense for the last twelve months as of the calculation date. For purposes of the coverage ratio, for all periods, *pro forma* operating EBITDA represents operating income plus depreciation and amortization for the last twelve months, plus financial income.

CEMEX will classify all of its outstanding debt as current debt in the Company's balance sheet: 1) as of any relevant measurement date on which CEMEX fails to comply with financial ratios agreed upon under the Financing Agreement; or 2) as of any date prior to a subsequent measurement date on which the Company expects not to be in compliance with its financial ratios agreed upon under the Financing Agreement, in the absence of: a) amendments and/or waivers covering the next succeeding 12 months; b) high probability that the violation will be cured during any agreed upon remediation period and be sustained for the next succeeding 12 months; and/or c) a signed refinancing agreement to refinance the relevant debt on a long-term basis. The aforementioned classification of debt in the short-term could have a material adverse effect on CEMEX's liquidity and financial position.

13B) FAIR VALUE OF ASSETS, FINANCIAL INSTRUMENTS AND DERIVATIVE FINANCIAL INSTRUMENTS

Assets and financial instruments

CEMEX's carrying amounts of cash, trade accounts receivable, other accounts receivable, trade accounts payable, other accounts payable and accrued expenses, as well as short-term debt, approximate their corresponding estimated fair values due to the short-term maturity and revolving nature of these financial assets and liabilities. Temporary investments (cash equivalents) and long-term investments are recognized at fair value, considering quoted market prices for the same or similar instruments.

The estimated fair value of long-term debt is either based on estimated market prices for such or similar instruments, considering interest rates currently available for CEMEX to negotiate debt with the same maturities, or determined by discounting future cash flows using interest rates currently available to CEMEX. As of December 31, 2009 and 2008, the carrying amounts of long-term debt (including current maturities) and their respective fair values were as follows:

		2009		2008	
		Carrying amounts	Fair value	Carrying amounts	Fair value
Bank loans	Ps	137,783	137,783	160,485	160,302
Notes payable		69,909	68,503	59,680	73,652

Derivative financial instruments

CEMEX has negotiated interest rate swaps, cross currency swaps ("CCS"), forward contracts and other foreign exchange derivative instruments, as well as forward contracts and other derivative instruments on CEMEX's own shares and third parties' shares, with the objective, depending in each case on: a) changing the profile of the interest rates and/or the interest rates and currencies originally negotiated in a portion of the debt; b) changing the mix of currencies of the debt; c) hedging certain net investments in foreign subsidiaries; d) changing the risk profile associated with the price of raw materials and other energy projects; and e) other corporate purposes.

The estimated fair value of derivative instruments fluctuates over time and is determined by measuring the effect of future relevant economic variables according to the yield curves shown in the market as of the balance sheet date. These values should be analyzed in relation to the fair values of the underlying transactions and as part of CEMEX's overall exposure attributable to fluctuations in interest rates and foreign exchange rates. The notional amounts of derivative instruments do not necessarily represent amounts exchanged by the parties, and consequently, there is no direct measure of CEMEX's exposure to the use of these derivatives. The amounts exchanged are determined based on the basis of the notional amounts and other terms included in the derivative instruments.

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During October 2008, many companies experienced a period of greater volatility in the global securities and exchange markets, as part of the further worsening financial institutions' crisis. The crisis affected the availability of financing and companies' perceived risks, resulting from expectations of entering into an extended economic recession. Particularly in Mexico, during the period from October 1 to 16, 2008, the peso depreciated against the dollar by approximately 19%, representing two thirds of the total depreciation of the peso vis-à-vis the dollar during the full year 2008, which was approximately 26%. Meanwhile, the price of CEMEX's CPO decreased 58% in that same period. These two factors had a significant negative effect on the valuation of CEMEX's derivative instruments portfolio, particularly the valuation of foreign exchange forward contracts that hedged CEMEX's net investment in foreign subsidiaries and cross currency swaps related to debt, as well as forward contracts in CEMEX's CPOs, among others. In the aforementioned period, changes in the fair value of the derivative instruments portfolio represented losses of approximately US$976 (Ps13,410), which affected the availability of CEMEX's lines of credit and triggered the need to make deposits in margin accounts with the counterparties. These deposits in margin accounts as of October 31, 2008 amounted to approximately US$750 (Ps10,305), negatively affecting CEMEX's liquidity. In light of an uncertain economic outlook and the expectation of further worsening of the economic variables, CEMEX decided to neutralize all of its derivative instruments positions that were sensitive to fluctuations of the exchange rate of the peso vis-à-vis foreign currencies and the price of its shares.

In order to close those positions and considering contractual limitations to settle the contracts before their maturity date, in October 2008, CEMEX entered into new derivative instruments with the same counterparties, which represented the opposite position to the exposure resulting from fluctuations of the economic variables included in the original derivative instruments. As a result, from the date of the negotiation of the new opposite positions, any changes in the fair value of the original instruments is effectively offset by an equivalent inverse amount generated by the new positions. Since December 31, 2008, CEMEX has designated the derivative instruments portfolio in which CEMEX is still exposed to changes in fair value as "Active derivative financial instruments." In addition, CEMEX has designated the portfolio of original and opposite derivative positions as "Inactive derivative financial instruments."

As of December 31, 2009 and 2008, the balance of deposits in margin accounts with financial institutions that guarantee CEMEX's obligations through derivative financial instruments amounted to US$195 (Ps2,553) and US$570 (Ps7,832), respectively. In 2008, US$372 (Ps5,111) were related to active positions and US$198 (Ps2,720) to inactive positions. Pursuant to net balance settlement agreements included in the derivative instrument contracts, the deposits in margin accounts have been offset within CEMEX's liabilities with the counterparties.

During April 2009, in connection with the CWEA, CEMEX completed the settlement of a significant portion of its active and inactive derivative financial instruments held as of December 31, 2008 (notes 13C and D) in order to reduce the risk of further margin calls. By means of this settlement, CEMEX fixed an aggregate loss of approximately US$1,093, which after netting US$624 of cash margin deposits already posted in favor of CEMEX's counterparties and cash payments of approximately US$48, was documented through promissory notes for approximately US$421, which increased CEMEX's outstanding debt. Previously, in February 2009, CEMEX and its counterparties agreed the settlement of a portion of the obligations incurred through derivative instruments. The counterparties permanently withdrew part of the amounts deposited in such margin accounts for an amount of approximately US$392, of which approximately US$102 referred to active positions and approximately US$290 referred to inactive positions.

In connection with the portfolio of derivative instruments as of December 31, 2009, the main exposure of CEMEX is related to the prices of the CPOs and the third party shares. A significant decrease in the market price of CEMEX's CPOs and the third party shares would negatively affect CEMEX's liquidity and financial position. The following table presents CEMEX's derivative instruments outstanding as of December 31, 2009 and 2008.

	2009		2008	
(U.S. dollars millions)	Notional amount	Fair value	Notional amount	Fair value
Active derivative financial instruments [1]	US$ 1,171	3	21,173	185
Inactive derivative financial instruments [1, 2]	—	—	—	(385)
	US$ 1,171	3	21,173	(200)

[1] As of December 31, 2009 and 2008, the fair value of derivative instruments is presented net of cash deposits in margin accounts.

[2] Notional amounts of the original derivative positions and the opposite derivative positions were not aggregated, considering that the effects of one instrument is proportionally inverse to the effect of the other instrument, and therefore, eliminated.

For the years ended December 31, 2009 and 2008, the caption "Results from financial instruments" includes the losses related to the recognition of changes in fair values of the derivative instruments portfolio during the period, for both active and inactive positions.

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13C) ACTIVE DERIVATIVE FINANCIAL INSTRUMENTS

As of December 31, 2009 and 2008, the notional amounts, the fair values and the characteristics of these derivative instruments were as follows:

	(U.S. dollars millions)	2009 Notional amount	2009 Fair value	2008 Notional amount	2008 Fair value
I.	Interest rate swaps	US$ 202	27	15,527	36
II.	Cross currency swaps	—	—	528	(57)
III.	Foreign exchange forward contracts	—	—	940	(2)
IV.	Equity forwards on third party shares	54	54	258	(12)
V.	Forward instruments over indexes	55	1	40	(5)
VI.	Options on CEMEX's own shares	860	(79)	860	(41)
VII.	Derivative instruments related to perpetual debentures	—	—	3,020	266
		US$ 1,171	3	21,173	185

I. Interest rate swap contracts

All outstanding interest rate swaps related to debt as of December 31, 2008 were settled in April 2009 (note 13B). Changes in fair value of interest rate swaps, which were recognized in the results for the period, generated losses of US$2 (Ps27) in 2009, US$170 (Ps1,906) in 2008 and US$21 (Ps229) in 2007. As of December 31, 2009 and 2008, a summary of these instruments was as follows:

	2009					
(U.S. dollars millions)	Notional amount	Fair value	Effective rate	Maturity	CEMEX receives*	CEMEX pays*
Energy projects 1	US$ 202	27	—	September 2022	Dollar 5.4%	LIBOR

	2008					
(U.S. dollars millions)	Notional amount	Fair value	Effective rate	Maturity	CEMEX receives*	CEMEX pays*
Energy projects 1	US$ 208	54	—	September 2022	Dollar 5.4%	LIBOR
Short-term debt in US$	188	(1)	4.8%	February 2009	LIBOR	Dollar 4.8%
Short-term debt in US$	3,000	(18)	3.0%	June 2009	LIBOR	Dollar 3.0%
Long-term debt in US$ 2	8,500	(78)	2.7%	June 2011	Cap dollar 3.5%	Cap dollar 1.9%
Long-term debt in €	1,258	100	4.5%	March 2014	Euro 4.8%	EURIBOR plus 78bps
Long-term debt in US$ 3	500	(25)	5.0%	April 2011	LIBOR plus 133bps	Dollar 5.0%
Long-term debt in € 4	1,174	10	4.3%	December 2011	EURIBOR	Euro 4.3%
Long-term debt in US$ 5	70	(13)	2.8%	March 2011	Pesos 8.7%	LIBOR plus 19bps
Long-term debt in US$ 5	48	(1)	1.6%	May 2009	TIIE minus 30bps	LIBOR
Long-term debt in US$ 5	136	(15)	3.0%	April 2012	Pesos 11.5%	Dollar 3.0%
Long-term debt in US$ 5	295	(51)	1.4%	September 2012	CETES plus 49bps	LIBOR plus 27bps
Long-term debt in US$ 5	150	(11)	2.8%	June 2020	LIBOR	¥ LIBOR
	US$ 15,527	(49)				
Deposits in margin accounts	—	85				
	US$ 15,527	36				

* LIBOR represents the *London Inter-Bank Offered Rate*, an international reference for debt denominated in U.S. dollars. EURIBOR is the equivalent rate for debt denominated in Euros. At December 31, 2009 and 2008, LIBOR was 0.43% and 1.43%, respectively, while EURIBOR was 2.89% at December 31, 2008. The contraction "bps" means basis points. One basis point is 0.01 percent. TIIE represents the *Interbank Offering Rate* in Mexico. UDIs are investment units indexed to inflation in Mexico; the UDI closing quotation at the end of 2008 was 4.18 pesos per UDI. CETES are public debt instruments issued by the Mexican government. At the end of 2008, TIIE was 8.69% and the CETES yield was 7.96%.

1 Derivative instruments associated with agreements entered into by CEMEX for the acquisition of electric energy in Mexico (note 20C).

2 The effective rate represented the average of the cap rate of 3.5% and the floor rate of 1.9%.

3 From these contracts, a notional amount of US$400 was accounted as cash flow hedges recognizing their effects in stockholders' equity, representing a loss of US$22 in 2008. This loss was reclassified to earnings in 2009 upon settlement.

4 The rate that CEMEX paid on this instrument was limited to 4.9%.

5 In connection with these instruments, CEMEX negotiated currency forward contracts with opposite exposure to the original positions, eliminating the exchange of notional amounts and consequently the exposure to foreign exchange rates but maintaining the exchange of interest rates, which was denominated as a basis swap.

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II. Cross currency swaps ("CCS")

All outstanding CCS as of December 31, 2008 were settled in April 2009 (note 13B). The recognition of the fair value associated with the CCS as of December 31, 2008 generated a net liability of US$57 (Ps783). In 2009, 2008 and 2007, changes in the fair value of CCS, recognized in the results of the period, generated losses of US$61 (Ps830), US$216 (Ps2,421) and US$28 (Ps306), respectively. As of December 31, 2008, a summary of these derivative instruments was as follows:

	2008					
(U.S. dollars millions)	Notional amount	Fair value	Effective rate	Maturity	CEMEX receives	CEMEX pays
Short-term						
Exchange Ps1,000 to US$	US$ 96	(24)	0.7%	June 2009	TIIE minus 30bps	LIBOR
Exchange UDIs 425 to US$	148	(16)	3.0%	January 2009	UDIs 6.5%	LIBOR minus 20bps
Exchange Ps647 to US$	50	(3)	3.8%	April 2009	Pesos 9.3%	LIBOR
	294	(43)				
Long-term						
Exchange Ps2,500 to US$ US$	234	(47)	2.1%	March 2011	CETES plus 59bps	LIBOR minus 11bps
	234	(47)				
	528	(90)				
Deposits in margin accounts	—	33				
	US$ 528	(57)				

III. Foreign exchange forward contracts

All outstanding foreign exchange forward contracts as of December 31, 2008 were settled in April 2009 (note 13B). As of December 31, 2008, a summary of these derivative instruments was as follows:

	2008	
(U.S. dollars millions)	Notional amount	Fair value
Exchange from pesos to dollars [1]	US$ 240	(12)
Exchange from pounds sterling to dollars [1]	75	1
Exchange from Japanese yen to dollars [1]	254	82
Other currency instruments [2]	371	(73)
	US$ 940	(2)

[1] Derivative instruments related to changing the mix of currencies originally negotiated over a portion of CEMEX's debt. Changes in the fair value of these contracts were recognized in the income statement.

[2] Changes in the fair value of these contracts were recognized in the income statement since they were not designated as cash flow hedges or hedges of CEMEX's net investment in foreign subsidiaries.

Until October 2008, in order to hedge financial risks associated with fluctuations in foreign exchange rates of certain net investments in foreign countries denominated in euros and dollars to the peso, and consequently, reducing volatility in the value of stockholders' equity in CEMEX's reporting currency, CEMEX negotiated foreign exchange forward contracts with different maturities until 2010. Changes in the estimated fair value of these instruments were recorded in stockholders' equity as part of the foreign currency translation effect. In October 2008, in connection with the closing process of positions exposed to fluctuations in exchange rates to the peso previously described, CEMEX entered into foreign exchange forward contracts with opposite exposure to the original contracts. As a result of these new positions, changes in the fair value of the original instruments were offset by an equivalent inverse amount generated by these new derivative positions. The designation of the original positions as hedges of CEMEX's net exposure on investments in foreign subsidiaries in stockholders' equity terminated with the negotiation of the new opposite derivative positions in October 2008. Therefore, changes in fair value of original positions and new opposite derivative positions were recognized prospectively in the income statement within inactive derivative financial instruments (note 13D). Valuation effects were recognized within comprehensive income until the hedge designation was revoked, adjusting the cumulative effect for translation of foreign subsidiaries.

Between April and August 2007, in connection with the acquisition of Rinker, CEMEX negotiated foreign exchange forward contracts in order to hedge the variability in a portion of the cash flows associated with exchange fluctuations between the Australian dollar and the U.S. dollar, the currency in which CEMEX obtained financing. The notional amount of these contracts reached approximately US$5,663 in June 2007. As a result of changes in the fair value of these contracts, upon settlement, CEMEX realized a gain of approximately US$137 (Ps1,496), which was recognized in the results of the period in 2007.

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IV. Equity forwards in third party shares

In connection with the sale of shares of AXTEL (note 10A) and in order to maintain the exposure to changes in the price of such entity, on March 31, 2008, CEMEX entered into a forward contract to be settled in cash over the price of 119 million CPOs of AXTEL (59.5 million CPOs with each counterparty) which originally was set to mature in April 2011. In 2008, fair value included deposits in margin accounts for US$184 (Ps2,528), which were presented net within liabilities, as a result of net settlement agreements with the counterparties.

During 2009, in order to restate the exercise price included in the contracts, CEMEX instructed the counterparties to definitively dispose of the deposits in margin accounts for approximately Ps207, and the contracts were renewed until October 2009. Each of the counterparties exercised an option to maintain the contracts over 59.5 million CPOs of AXTEL until October 2011. Changes in the fair value of these instruments generated a gain of approximately US$32 (Ps435) in 2009 and a loss of approximately US$196 (Ps2,197) in 2008.

V. Forward instruments over indexes

During 2008, CEMEX negotiated forward derivative instruments over the TRI (Total Return Index) of the Mexican Stock Exchange, maturing in October 2009 through which CEMEX maintained exposure to increases or decreases of such index. TRI expresses the market return on stocks based on market capitalization of the issuers comprising the index. At their maturity in 2009, these derivative instruments were renegotiated until October 2010. Changes in the fair value of these instruments generated a gain of approximately US$18 (Ps245) in 2009 and a loss of approximately US$32 (Ps359) in 2008.

VI. Options in CEMEX's own shares

In June 2008, CEMEX entered into a structured transaction of US$500 (Ps6,870) paying an interest coupon of LIBOR plus 132.5 bps, which includes options based on the price of CEMEX's ADSs for a notional amount of US$500, pursuant to which if the ADS price exceeds US$32, the net interest rate of this debt would be zero. This rate increases as the price of the ADS decreases, with a maximum rate of 12% when the price per ADS is below US$23. CEMEX values the options based on the price of its ADS at fair value, recognizing gains and losses in the income statement. As of December 31, 2009 and 2008, the fair value included deposits in margin accounts of approximately US$54 (Ps707) and US$69 (Ps948), respectively, which were offset within CEMEX's liabilities as a result of a net settlement agreement with the counterparty.

In April 2008, Citibank entered into put option transactions on CEMEX's CPOs with a Mexican trust that CEMEX established on behalf of its Mexican pension fund and certain of CEMEX's directors and current and former employees, as described in note 20C. CEMEX granted a guarantee over this transaction for a notional amount of approximately US$360 in both 2009 and 2008. As of December 31, 2009 and 2008, the fair value of such guarantee, net of deposits in margin accounts, represented a liability of approximately US$2 (Ps26) and an asset of approximately US$3 (Ps41), respectively. Changes in the fair value of the guarantee were recognized in the income statement within "Results from financial instruments", representing a gain of approximately US$51 (Ps694) in 2009 and a loss of approximately US$190 (Ps2,130) in 2008. As of December 31, 2009 and 2008, based on the guarantee, CEMEX was required to deposit in margin accounts approximately US$141 (Ps1,846) and US$193 (Ps2,652), respectively, which according to the agreements with the counterparty were offset with the obligation.

In October 2008, in connection with an early settlement of forward contracts over approximately 81 million CPOs arose as a result of the significant decrease in the prices of the CPOs, CEMEX realized a loss of approximately US$152 (Ps2,102), which was recognized in the results for the period.

VII. Derivative instruments over perpetual debentures

On July 15, 2009, in connection with the derivative financial instruments associated with CEMEX's perpetual debentures (note 17D), by means of which the Company changed the risk profile of the interest rates and the currencies of the debentures from the U.S. Dollar and the Euro to the Yen; and in order to eliminate CEMEX's exposure to the Yen and the Yen interest rate, CEMEX concluded the settlement of its Yen cross currency swap derivatives, as well as the forward contracts for US$196 as of December 2008, negotiated to eliminate the variability of cash flows in Yen to be incurred through the CCS until 2010, in which CEMEX received cash flows in Yen and paid U.S. Dollars. As a result, a total amount of approximately US$94 was invested with trustees for the benefit of the debenture holders. This amount will be used to pay CEMEX's future coupons on the perpetual debentures. As a result of this settlement, during 2009, CEMEX recognized a loss from changes in the fair value of the instruments of approximately US$162 (Ps2,203). As of December 31, 2009, the balance of the investment placed in the trusts amounted to approximately US$95.

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As of December 31, 2008, there were CCS associated with perpetual debentures for approximately US$3,020 (Ps41,495), through which CEMEX changed the risk profile associated with the interest rate and the foreign exchange rate from the U.S. dollar and the euro to the yen, as indicated in the table below:

	2008					
(U.S. dollars millions)	Notional amount	Fair value	Effective rate	Maturity	CEMEX receives	CEMEX pays
C-10 € 730 to ¥119,085	US$ 1,020	101	4.1%	June 2017	Euro 6.3%	¥ LIBOR * 3.1037
C-8 US$750 to ¥90,193	750	38	4.1%	December 2014	Dollar 6.6%	¥ LIBOR * 3.5524
C-5 US$350 to ¥40,905	350	16	4.1%	December 2011	Dollar 6.2%	¥ LIBOR * 4.3531
C-10 US$900 to ¥105,115	900	111	4.1%	December 2016	Dollar 6.7%	¥ LIBOR * 3.3878
	US$ 3,020	266				

* ¥ LIBOR represents the interest rate for transactions denominated in Japanese yen in international markets.

The CCS included an extinguishable swap, which provided that if the relevant perpetual debentures were extinguished for stated conditions but before the maturity of the CCS, such CCS would be automatically extinguished, with no amounts payable by the swap counterparties. Changes in fair value of all the derivative instruments associated with the perpetual debentures were recognized in the income statement for the period.

13D) INACTIVE DERIVATIVE FINANCIAL INSTRUMENTS

As explained in note 13B, in October 2008, CEMEX entered into new derivative instruments representing the opposite position to the exposure resulting from fluctuations of the economic variables included in the original derivative instruments. In April 2009, all inactive positions were settled. As of December 31, 2008, the balance of deposits in margin accounts of US$198 (Ps2,720) related to inactive positions, were offset within CEMEX's liabilities with the counterparties. As of December 31, 2008, inactive derivative financial instruments were as follows:

	2008	
(U.S. dollars millions)	Notional amount*	Fair value
Short-term CCS original derivative position 1	US$ 460	(48)
Short-term CCS opposite derivative position	460	18
Long-term CCS original derivative position 2	1,299	(257)
Long-term CCS opposite derivative position	1,299	58
		(229)
Deposit in margin accounts		126
		(103)
Short-term foreign exchange forward contracts original position 3	2,616	(599)
Short-term foreign exchange forward contracts opposite position	2,616	270
Long-term foreign exchange forward contracts original position 4	110	(30)
Long-term foreign exchange forward contracts opposite position	110	15
		(344)
Deposit in margin accounts		72
		(272)
CCS related to original debt position 5	900	2
Derivative contracts related to opposite debt position	900	(12)
		(10)
	US$	(385)

* Notional amounts of the original derivative positions and the opposite derivative positions were not aggregated, considering that the effect of one instrument was proportionally inverse to the effect of the other instrument, and therefore, eliminated.

1 The original derivative position refers to short-term CCS that exchanged Ps4,938 for US$460, receiving an average rate of 9.0% in Mexican pesos and paying a rate of 2.3% in dollars, whose last maturity was scheduled in May 2009.

2 The original derivative position refers to long-term CCS that exchanged Ps628 UDIs and Ps11,450 for US$1,299, receiving an average rate of 4.0% in UDIs and 8.9% in pesos, and receiving a rate of 1.8% in dollars, whose last maturity was scheduled in November 2017.

[3] The original derivative position refers to forward contracts with a notional amount of US$1,759 of peso/euro and US$857 of peso/dollar contracts, whose last maturity was scheduled in September 2009 and related to hedges of some foreign investments.

[4] The original derivative position refers to forward contracts with a notional amount of US$110 of peso/euro, whose last maturity was scheduled in January 2010 and related to hedges of some foreign investments.

[5] The original derivative position refers to CCS with a scheduled maturity in June 2011, which exchanged dollars for Japanese yen, receiving a rate in dollars of 2.81% and paying a rate in Japanese yen of 1.01%.

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14. OTHER CURRENT AND NON-CURRENT LIABILITIES

As of December 31, 2009 and 2008, consolidated other current accounts payable and accrued expenses were as follows:

	2009	2008
Provisions	Ps 8,581	12,422
Other accounts payable and accrued expenses	2,942	6,377
Taxes payable	7,537	7,306
Advances from customers	2,408	2,177
Interest payable	1,752	1,212
Current liabilities for valuation of derivative instruments	—	1,135
Dividends payable	31	44
	Ps 23,251	30,673

Current provisions primarily consist of employee benefits accrued at the balance sheet date, insurance payments, and accruals related to legal and environmental assessments expected to be settled in the short-term (note 21). These amounts are revolving in nature and are expected to be settled and replaced by similar amounts within the next 12 months.

Other non-current liabilities include the best estimate of cash flows with respect to diverse issues where CEMEX is determined to be responsible and which are expected to be settled over a period greater than 12 months. As of December 31, 2009 and 2008, consolidated other non-current liabilities were as follows:

	2009	2008
Asset retirement obligations [1]	Ps 2,460	1,830
Remediation and environmental liabilities [2]	3,616	4,785
Accruals for legal assessments and other responsibilities [3]	1,169	4,102
Non-current liabilities for valuation of derivative instruments	7,923	8,777
Other non-current liabilities and provisions [4]	14,769	3,216
	Ps 29,937	22,710

[1] Provisions for asset retirement include future estimated costs for demolition, cleaning and reforestation of production sites at the end of their operation, which are initially recognized against the related assets and are depreciated over their estimated useful life.

[2] Provisions for remediation and environmental liabilities include future estimated costs arising from legal or constructive obligations, related to cleaning, reforestation and other remedial actions to remediate damage caused to the environment. The expected average period to settle these obligations is greater than 15 years.

[3] Provisions for legal claims and other responsibilities include items related to tax contingencies.

[4] Includes approximately Ps10,073 of taxes payable recognized during 2009 as a result of changes to the tax consolidation regime in Mexico (note 16A).

As of December 31, 2009 and 2008, some significant proceedings that gave rise to a portion of the carrying amount of CEMEX's other non-current liabilities and provisions are detailed in note 21.

Changes in consolidated other non-current liabilities for the years ended December 31, 2009, 2008 and 2007, excluding changes of liabilities related to the sale of assets in Australia, are the following:

	2009	2008	2007
Balance at beginning of period	Ps 22,710	15,492	14,725
Current period additions due to new obligations or increase in estimates	16,003	9,522	1,775
Current period releases due to payments or decrease in estimates	(9,153)	(2,276)	(1,906)
Additions due to business combinations	48	64	1,504
Reclassification from current to non-current liabilities, net	1,186	(236)	20
Foreign currency translation and inflation effects	(857)	144	(626)
Balance at end of period	Ps 29,937	22,710	15,492

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15. EMPLOYEE BENEFITS

Defined contribution plans

The costs of defined contribution plans are recognized in the operating results of the period, as funds are transferred to the employees' retirement accounts, without generating future obligations. The costs of defined contribution plans for the years ended December 31, 2009, 2008 and 2007 were approximately Ps479, Ps708 and Ps424, respectively.

Defined benefit plans

Costs of defined benefit pension plans and other postretirement benefits, such as health care benefits, life insurance and seniority premiums, as well as termination benefits not associated with a restructuring event, are recognized in the income statement as employees' services are rendered, based on actuarial estimations of the benefits' present value. For the years ended December 31, 2009, 2008 and 2007, the net periodic cost for pension plans, other postretirement benefits and termination benefits are summarized as follows:

	Pensions			Other benefits [1]			Total		
	2009	2008	2007	2009	2008	2007	2009	2008	2007
Net period cost:									
Service cost	Ps 295	399	848	115	124	117	410	523	965
Interest cost	1,834	1,706	1,591	134	117	87	1,968	1,823	1,678
Actuarial return on plan assets	(1,382)	(1,614)	(1,569)	(1)	(2)	(1)	(1,383)	(1,616)	(1,570)
Amortization of prior service cost, transition liability and actuarial results	327	138	40	156	121	51	483	259	91
Loss (gain) for settlements and curtailments	68	33	(169)	(38)	(15)	—	30	18	(169)
	Ps 1,142	662	741	366	345	254	1,508	1,007	995

[1] Includes the net periodic cost of termination benefits.

The reconciliations of the actuarial benefits obligations, pension plan assets, and liabilities recognized in the balance sheet as of December 31, 2009 and 2008 are presented as follows:

	Pensions		Other benefits		Total	
	2009	2008	2009	2008	2009	2008
Change in benefits obligation:						
Projected benefit obligation ("PBO") at beginning of year	Ps 28,709	29,803	1,834	1,868	30,543	31,671
Service cost	295	399	115	124	410	523
Interest cost	1,834	1,706	134	117	1,968	1,823
Actuarial results	3,685	(1,467)	227	(99)	3,912	(1,566)
Employee contributions	73	81	—	—	73	81
PBO for acquisitions (disposals)	250	(86)	(6)	—	244	(86)
Foreign currency translation and inflation effects	520	490	(11)	33	509	523
Settlements and curtailments	(295)	(592)	(65)	(13)	(360)	(605)
Benefits paid	(1,737)	(1,625)	(282)	(196)	(2,019)	(1,821)
PBO at end of year	33,334	28,709	1,946	1,834	35,280	30,543
Change in plan assets:						
Fair value of plan assets at beginning of year	19,760	24,836	19	26	19,779	24,862
Return on plan assets	2,550	(3,843)	3	(4)	2,553	(3,847)
Foreign currency translation and inflation effects	451	100	—	—	451	100
Additions through business combinations	202	—	—	—	202	—
Employer contributions	659	833	306	193	965	1,026
Employee contributions	73	81	—	—	73	81
Settlements and curtailments	(295)	(622)	(25)	—	(320)	(622)
Benefits paid	(1,741)	(1,625)	(281)	(196)	(2,022)	(1,821)
Fair value of plan assets at end of year	21,659	19,760	22	19	21,681	19,779
Amounts recognized in the balance sheets:						
Funded status	11,675	8,949	1,924	1,815	13,599	10,764
Transition liability	(46)	(80)	(149)	(262)	(195)	(342)
Prior service cost and actuarial results	(6,090)	(3,967)	144	336	(5,946)	(3,631)
Net projected liability recognized	Ps 5,539	4,902	1,919	1,889	7,458	6,791

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As of December 31, 2009 and 2008, the PBO is derived from the following types of plans and benefits:

	2009	2008
Plans and benefits totally unfunded	Ps 2,611	2,431
Plans and benefits partially or totally funded	32,669	28,112
PBO at end of the period	Ps 35,280	30,543

Based on MFRS D-3, prior services and actuarial results related to pension plans and other post-retirement benefits are amortized during the estimated remaining years of service of the employees subject to these benefits. As of December 31, 2009, the approximate average years of service for pension plans is 10.9 years and 15.3 years for other postretirement benefits. As mentioned in note 3M, MFRS D-3 requires amortizing the transition liability, prior services and actuarial results accumulated as of December 31, 2007 under the previous MFRS D-3 related to pensions, other postretirement benefits and termination benefits, over a maximum period of five years. MFRS D-3 establishes that termination benefits generated after its adoption are recognized in the results of the period in which they are generated. The net periodic cost in 2009 and 2008 included the transition amortization established by the new MFRS D-3.

As of December 31, 2009 and 2008, plan assets were valued at their estimated fair value and consisted of:

	2009	2008
Fixed-income securities		
Cash	Ps 1,286	786
Investments in corporate bonds	5,632	2,268
Investments in government bonds	6,685	6,338
	13,603	9,392
Variable-income securities		
Investment in marketable securities	5,731	3,589
Other investments and private funds	2,347	6,798
	8,078	10,387
	Ps 21,681	19,779

As of December 31, 2009, estimated future benefit payments for pensions and other postretirement benefits during the next ten years were as follows:

	2009
2010	Ps 2,126
2011	2,168
2012	2,097
2013	2,099
2014	2,131
2015 – 2019	11,246

The most significant assumptions used in the determination of the net periodic cost were as follows:

	2009				2008			
	Mexico	United States	United Kingdom	Other countries [1]	Mexico	United States	United Kingdom	Other countries [1]
Discount rates	9.0%	6.2%	6.0%	4.7% - 9.0%	8.1%	6.2%	5.7%	4.2% - 9.8%
Rate of return on plan assets	9.0%	8.0%	6.7%	3.0% - 9.0%	9.7%	8.0%	6.3%	4.0% - 9.7%
Rate of salary increases	5.5%	3.5%	3.0%	2.3% - 5.5%	5.1%	3.5%	3.1%	2.2% - 5.1%

[1] Range of rates.

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As of December 31, 2009 and 2008, the aggregate PBO for pension plans and other benefits and the plan assets by country were as follows:

	2009			2008		
	PBO	Assets	Deficit	PBO	Assets	Deficit
Mexico	Ps 3,228	904	2,324	Ps 3,148	894	2,254
United States	4,612	3,873	739	4,966	4,051	915
United Kingdom	20,800	14,820	5,980	16,389	12,976	3,413
Other countries	6,640	2,084	4,556	6,040	1,858	4,182
	Ps 35,280	21,681	13,599	Ps 30,543	19,779	10,764

Other information related to employees' benefits at retirement

During 2009, CEMEX reduced its workforce, subject to defined pension benefits in the United States. During 2008, CEMEX reduced its workforce, subject to defined pension benefits in several countries including the United States and United Kingdom, and froze the defined benefit pension plan in Puerto Rico. These actions generated events of settlement and curtailment of obligations in the respective pension plans pursuant to MFRS D-3. As a result, changes in the plan liabilities and proportional parts of prior services and actuarial results pending to be amortized were recognized in the income statement for the periods, which represented a loss of approximately Ps68 and Ps33 in 2009 and 2008, respectively.

The defined benefit plan in the United Kingdom has been closed to new participants since January 2004. Regulation in the United Kingdom requires entities to maintain plan assets in a level similar to that of the obligations. Consequently, it is expected that CEMEX will make significant contributions to the United Kingdom's pension plans in the following years. As of December 31, 2009, the deficit in the funded status amounted to approximately Ps5,980. After reducing the deficit related to other postretirement benefits, which are financed through daily operations, the deficit was approximately Ps5,575.

During 2007, the subsidiary of CEMEX in the United States changed its defined benefit plans, by freezing employees' benefits under such plans as of December 31, 2007, generating a settlement gain of approximately Ps169. In connection with the decision to freeze benefits under the U.S. defined benefit pension plans, the employees' benefits were increased through defined contribution plans. CEMEX believes that the changes in pension benefits will be a more attractive incentive to hire and retain personnel.

Information related to termination benefits

In some countries, CEMEX pays benefits to personnel pursuant to legal requirements upon termination of their working relationships based on the years of service and the last salary received. The PBO of these benefits as of December 31, 2009 and 2008 was approximately Ps568 and Ps589, respectively.

Information related to other postretirement benefits

In some countries, CEMEX has established health care benefits for retired personnel limited to a certain number of years after retirement. As of December 31, 2009 and 2008, the PBO related to these benefits was approximately Ps1,247 and Ps1,116, respectively. The medical inflation rate used in 2009 to determine the PBO of these benefits was 7% in Mexico, 3% in Puerto Rico, 4% in the United States and 7% in the United Kingdom.

Other employee benefits

In addition, in some countries, CEMEX has self-insured health care benefits plans for its active employees, which are managed on cost plus fee arrangements with major insurance companies or provided through health maintenance organizations. As of December 31, 2009 and 2008, in certain plans, CEMEX has established stop-loss limits for continued medical assistance derived from a specific cause (e.g., an automobile accident, illness, etc.) ranging from US$23 thousand to US$400 thousand. In other plans, CEMEX has established stop-loss limits per employee regardless of the number of events ranging from US$350 thousand to US$2. If all employees qualifying for health care benefits required medical services simultaneously, the contingency for CEMEX would be significantly larger. However, this scenario, while possible, is remote. The amount expensed for the years ended December 31, 2009, 2008 and 2007 through self-insured health care benefits was approximately US$106 (Ps1,442), US$100 (Ps1,126) and US$99 (Ps1,081), respectively.

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16. INCOME TAXES

A) INCOME TAXES

As mentioned in note 3N, CEMEX determines current and deferred income taxes. The amounts for income taxes included in the income statement for the years ended December 31, 2009, 2008 and 2007 are summarized as follows:

	2009	2008	2007
Current income taxes			
From Mexican operations	Ps (3,804)	(2,793)	(1,649)
From foreign operations	(4,885)	(5,180)	(3,161)
	(8,689)	(7,973)	(4,810)
Deferred income taxes			
From Mexican operations	2,181	5,990	(357)
From foreign operations	17,074	24,981	693
	19,255	30,971	336
Income tax benefit (expense)	Ps 10,566	22,998	(4,474)

As of December 31, 2009, consolidated tax loss and tax credits carryforwards expired as follows:

	Amount of carryforwards
2010	Ps 18,456
2011	22,105
2012	29,639
2013	53,425
2014 and thereafter	149,164
	Ps 272,789

In connection with changes to the tax consolidation regime in Mexico (note 3N) and based on Interpretation 18, CEMEX recognized a liability for approximately Ps10,461 against "Other non-current assets" for approximately Ps8,216 in connection with the net liability recognized before the new tax law, and approximately Ps2,245 against "Retained earnings," for the portion, according to the new law, related to: a) the difference between the sum of the equity of the controlled entities for tax purposes and the equity for tax purposes of the consolidated entity; b) dividends from the controlled entities for tax purposes to CEMEX, S.A.B. de C.V.; and c) other transactions between the companies included in the tax consolidation that represented the transfer of resources within the group.

B) DEFERRED INCOME TAXES

Deferred income taxes for the period represent the difference between the balances of deferred income at the beginning and the end of the period. Deferred income tax assets and liabilities relating to different tax jurisdictions are not offset. As of December 31, 2009 and 2008, the income tax effects of the main temporary differences that generated the consolidated deferred income tax assets and liabilities are presented below:

	2009	2008
Deferred tax assets:		
Tax loss carryforwards and other tax credits 1	Ps 77,602	55,488
Accounts payable and accrued expenses	8,197	11,708
Deferred charges, net	2,779	6,802
Others	1,202	688
Total deferred tax assets	89,780	74,686
Less – Valuation allowance	(32,079)	(27,194)
Net deferred tax assets	57,701	47,492
Deferred tax liabilities:		
Property, machinery and equipment	(50,582)	(53,067)
Investments and other assets	(1,960)	(8,195)
Deferred credits	—	(2,199)
Others	(1,050)	(1,178)
Total deferred tax liabilities	(53,592)	(64,639)
Net deferred tax asset (liability)	Ps 4,109	(17,147)

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Changes to the consolidated valuation allowance of deferred tax assets in 2009, 2008 and 2007 were as follows:

	2009	2008	2007
Balance at the beginning of the period	Ps (27,194)	(21,093)	(14,690)
Increases	(18,638)	(5,652)	(10,289)
Decreases [2]	13,547	1,571	3,421
Translation effects	206	(2,020)	(681)
Restatement effects	—	—	1,146
Balance at the end of the period	Ps (32,079)	(27,194)	(21,093)

The change in consolidated deferred income taxes during 2009, 2008 and 2007 were as follows:

	2009	2008	2007
Deferred income tax charged to the income statement	Ps 19,255	30,971	336
Deferred income tax in stockholders' equity [3]	941	(362)	(427)
Reclassification to other captions in the balance sheet	1,060	—	—
Change in deferred income tax for the period	Ps 21,256	30,609	(91)

[1] As of December 31, 2008, the liability related to the new income tax law in Mexico is presented net of tax loss and tax credit carryforwards to be utilized.

[2] Includes in 2009 the reclassification of the liability related to the new income tax law in Mexico.

[3] The change in stockholders' equity for 2009 includes Ps585 related to the effect generated for the future tax deduction of the debt component of the convertible securities (note 2). In 2008, this includes a debit of Ps920 related to the initial effect of deferred tax liabilities on investment in associates, recognized within "Retained earnings," and a credit of Ps558 related to the deferred tax asset on items directly recognized in stockholders' equity.

CEMEX believes that sufficient taxable income will be generated to realize the tax benefits associated with the deferred income tax assets and tax loss carryforwards, prior to their expiration. Nevertheless, a valuation allowance is recorded for the deferred tax assets on tax loss carryforwards that are estimated and may not be recoverable in the future. In the event that present conditions change, and it is determined that future operations would not generate sufficient taxable income, the valuation allowance on deferred tax assets would be increased against the results of the period.

CEMEX, S.A.B de C.V. has not provided for any deferred tax liability for the undistributed earnings generated by its subsidiaries, recognized under the equity method, considering that such undistributed earnings are expected to be reinvested and not generating income tax in the foreseeable future. Likewise, CEMEX does not recognize a deferred income tax liability related to its investments in subsidiaries and interests in joint ventures, considering that CEMEX controls the reversal of the temporary differences arising from these investments.

C) EFFECTIVE TAX RATE

Differences between the financial reporting and the corresponding tax basis of assets and liabilities and the different income tax rates and laws applicable to CEMEX, among other factors, give rise to permanent differences between the statutory tax rate applicable in Mexico, and the effective tax rate presented in the consolidated income statements, which in 2009, 2008 and 2007 were as follows:

	2009 %	2008 %	2007 %
Consolidated statutory tax rate	(28.0)	(28.0)	28.0
Non-taxable dividend income	(7.4)	(15.6)	(4.3)
Other non-taxable income [1]	(179.9)	(32.6)	(14.1)
Expenses and other non-deductible items	30.8	25.3	10.1
Non-taxable sale of marketable securities and fixed assets	(86.9)	(7.4)	(2.9)
Difference between book and tax inflation	27.1	8.0	0.1
Other tax non-accounting benefits	(0.5)	(8.6)	—
Foreign exchange fluctuations [2]	12.8	(37.8)	(2.8)
Others	4.3	(4.3)	0.3
Effective consolidated tax rate	(227.7)	(101.0)	14.4

[1] Includes the effects of the different income tax rates in the countries where CEMEX operates.

[2] Includes the effects of foreign exchange fluctuations recognized as translation effects (note 17B).

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17. STOCKHOLDERS' EQUITY

The carrying amounts of consolidated stockholders' equity exclude investments in shares of CEMEX, S.A.B. de C.V. held by subsidiaries, which implied a reduction to controlling interest stockholders' equity of Ps187 (16,107,081 CPOs) in 2009, Ps6,354 (589,238,041 CPOs) in 2008 and Ps6,366 (569,671,633 CPOs) in 2007. This reduction is included within "Other equity reserves."

A) COMMON STOCK AND ADDITIONAL PAID-IN CAPITAL

As of December 31, 2009 and 2008, the breakdown of common stock and additional paid-in capital was as follows:

	2009	2008
Common stock	Ps 4,127	4,117
Additional paid-in capital	98,634	70,171
	Ps 102,761	74,288

As of December 31, 2009 and 2008, the common stock of CEMEX, S.A.B. de C.V. was represented as follows:

	2009		2008	
Shares [1]	Series A [2]	Series B [3]	Series A [2]	Series B [3]
Subscribed and paid shares	19,224,207,531	9,612,103,765	16,726,263,082	8,363,131,541
Treasury shares [4]	92,799	46,400	432,036,438	216,018,219
Unissued shares authorized for stock compensation programs	395,227,442	197,613,721	424,206,326	212,103,163
Shares that guarantee the issuance of convertible securities [5]	344,960,064	172,480,032	—	—
Shares authorized for the issuance of stock or convertible securities [6]	1,055,039,936	527,519,968	—	—
	21,019,527,772	10,509,763,886	17,582,505,846	8,791,252,923

[1] 13,068,000,000 shares in both years correspond to the fixed portion and 18,461,291,658 shares as of December 31, 2009 and 13,305,758,769 shares as of December 31, 2008 to the variable portion.

[2] Series "A" or Mexican shares must represent at least 64% of CEMEX's capital stock.

[3] Series "B" or free subscription shares must represent at most 36% of CEMEX's capital stock.

[4] 2008 includes the shares issued as stock dividends that were not subscribed by stockholders that elected to receive the cash dividend.

[5] Shares that guarantee the conversion of convertible securities with maturity in ten years beginning on December 9, 2009.

[6] Shares authorized for the issuance of stock through a public offer or through the issuance of convertible securities.

On September 28, 2009, through a global offering, CEMEX completed the sale of a total of 1,495 million CPOs (directly or in the form of ADSs), including CPOs sold through the exercise in full of the over-allotment option granted to the underwriters, of which approximately 373.8 million CPOs were sold in Mexico, and approximately 1,121.2 million CPOs were sold in the United States and elsewhere outside Mexico. The CPOs were offered to the public at a price of Ps16.65 per CPO and US$12.50 per ADS. The net aggregate proceeds from the global offering were approximately Ps23,948, increasing stockholders' equity by Ps7 considering a nominal value of Ps0.00833 per CPO, and additional paid-in capital of Ps23,941. Of the 1,495 million CPOs sold, approximately 595 million CPOs were sold by subsidiaries. CEMEX used the net proceeds from the global offering to pay down debt.

On September 4, 2009, stockholders at the extraordinary stockholders' meeting approved resolutions to: (i) increase the variable common stock by up to 4,800 million shares (1,600 million CPOs) through additional subscription, of which said subscription and payment could be done indistinctively through the issuance of stock in a public offer or through the issuance of convertible securities; and (ii) finalize any public offer and/or issuance of convertible securities within the following 24 months.

On April 23, 2009, stockholders at the annual ordinary stockholders' meeting approved resolutions to increase the variable common stock through the capitalization of retained earnings, issuing up to 1,004 million shares (335 million CPOs) based on a price of Ps13.07 per CPO. Stockholders received 3 new shares for each 75 shares held (1 new CPO for each 25 CPOs held) through the capitalization of retained earnings. As a result, shares equivalent to approximately 334 million CPOs were issued, representing an increase in common stock of approximately Ps3, considering a nominal value of Ps0.00833 per CPO, and additional paid-in capital of Ps4,370. In addition, stockholders approved resolutions to cancel the corresponding shares held in CEMEX's treasury. There was no cash distribution and no entitlement to fractional shares.

On April 24, 2008, stockholders at the annual ordinary stockholders' meeting approved resolutions to: (i) create a reserve for share repurchases of up to Ps6,000 and (ii) increase the variable common stock through the capitalization of retained earnings of up to Ps7,500, issuing up to 1,500 million shares (500 million CPOs), based on a price of Ps23.92 pesos per CPO or instead, stockholders could have chosen to receive a cash dividend of US$0.0835 per CPO, or approximately Ps0.8677 pesos for each CPO, considering the exchange rate of *Banco de México* on May 29, 2008 of Ps10.3925 per dollar. As a result, shares equivalent to approximately 284 millions of CPOs were issued, representing an increase in common stock of Ps2, considering a nominal value of Ps0.00833 per CPO, and additional paid-in capital of Ps6,792, while a cash dividend payment was made for approximately Ps214. In addition, stockholders approved the cancellation of the corresponding shares held in CEMEX's treasury.

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The CPOs issued pursuant to the exercise of options under the "Fixed program" (note 18A) generated additional paid-in capital of approximately Ps5 in 2009 and Ps4 in 2008, and increased the number of shares outstanding. Likewise, in connection with the long-term compensation program (note 18) in 2009, CEMEX issued approximately 13.7 million CPOs, generating an additional paid-in capital of approximately Ps147 associated with the fair value of the compensation received by executives.

B) OTHER EQUITY RESERVES

As of December 31, 2009 and 2008, the balance of other equity reserves is summarized as follows:

	2009	2008
Cumulative translation effect and deficit in equity restatement, net [1]	Ps 26,863	35,084
Issuance of convertible securities [2]	1,971	—
Treasury shares held by subsidiaries	(187)	(6,354)
	Ps 28,647	28,730

1 The results from holding non-monetary assets as of December 31, 2007 were reclassified to "Retained earnings" as a result of the adoption of MFRS B-10 in 2008 (note 3A).

2 Represents the equity component associated with the issuance of convertible securities into shares of CEMEX, S.A.B. de C.V. described in note 13A, as determined under MFRS C-12 "Financial instruments with characteristics of liability, equity or both". Upon mandatory conversion of the securities, this balance will be reclassified to common stock and additional paid-in capital.

For the years ended December 31, 2009, 2008 and 2007, the translation effect included in the statement of changes in stockholders' equity were as follows:

	2009	2008	2007
Foreign currency translation adjustment [1]	Ps (17,553)	106,190	3,186
Foreign exchange fluctuations from debt [2]	2,158	(9,407)	(400)
Foreign exchange fluctuations from intercompany balances [3]	14,654	(65,796)	141
	Ps (741)	30,987	2,927

1 These effects refer to the result from the translation of the financial statements of foreign subsidiaries.

2 Generated by foreign exchange fluctuations over a notional amount of debt in CEMEX, S.A.B. de C.V. associated with the acquisition of foreign subsidiaries and designated as hedge of the net investment in foreign subsidiaries. The average amount of such debt was approximately US$3,200 in 2009, US$3,656 in 2008 and US$2,188 in 2007.

3 Refers to foreign exchange fluctuations arising from balances of related parties in foreign currencies that are of a long-term investment nature considering that their liquidation is not anticipated in the foreseeable future, of which a loss of Ps4,857 in 2008 was recognized in CEMEX, S.A.B. de C.V.

C) RETAINED EARNINGS

As a result of the initial effect in 2009 from the adoption of the new income tax law (note 16A), as well as reclassifications and cumulative initial effects from the adoption of new MFRS beginning on January 1, 2008 (note 3O), as of December 31, 2009 and 2008, the balance of retained earnings decreased by aggregate amounts of Ps2,245 and Ps107,843, respectively. Retained earnings include a share repurchase reserve in 2008 in the amount of Ps6,000.

Net income for the year is subject to a 5% allocation toward a legal reserve until such reserve equals one fifth of the common stock. As of December 31, 2009, the legal reserve amounted to Ps1,804.

D) NON-CONTROLLING INTEREST AND PERPETUAL DEBENTURES

Non-controlling interest

Non-controlling interest represents the share of non-controlling stockholders in the results and equity of consolidated subsidiaries. As of December 31, 2009 and 2008, non-controlling interest amounted to approximately Ps3,838 and Ps5,080, respectively.

Perpetual debentures

As of December 31, 2009 and 2008, consolidated balance sheets included approximately US$3,045 (Ps39,859) and US$3,020 (Ps41,495), respectively, representing the notional amount of perpetual debentures. These debentures have no fixed maturity date and do not represent a contractual payment obligation for CEMEX. As a result, these debentures, issued by Special Purpose Vehicles ("SPVs"), qualify as equity instruments and are classified within non-controlling interest, as they were issued by consolidated entities. In addition, CEMEX has the unilateral right to defer indefinitely the payment of interest due on the debentures. The definition of the debentures as equity instruments was made under applicable IFRS, which were applied to these transactions in compliance with the supplementary application of IFRS in Mexico. Issuance costs, as well as interest expense, which is accrued based on the principal amount of the perpetual debentures, were included within "Other equity reserves" and represented expenses of approximately Ps2,704 in 2009, Ps2,596 in 2008 and Ps1,847 in 2007. The different SPVs were established solely for purposes of issuing the perpetual debentures and were included in CEMEX's consolidated financial statements.

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As of December 31, 2009, CEMEX's perpetual debentures were as follows:

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

As mentioned in note 13C, as of December 31, 2008, there were derivative instruments associated with the perpetual debentures, through which CEMEX changed the risk profile associated with interest rates and foreign exchange rates in respect of the debentures from the U.S. dollar and euro to the Japanese yen. These derivative instruments were settled during 2009.

18. EXECUTIVE STOCK-BASED COMPENSATION

CEMEX has a long-term compensation program providing for the grant of the Company's CPOs to a group of executives. Beginning in 2009, under this program, CEMEX granted new shares equivalent to approximately 13.7 million CPOs that were subscribed and pending for payment in CEMEX's treasury, corresponding to the first 25% of the 2009 program. The remaining 75% will be issued during the following 3 years, representing approximately 37.2 million CPOs. The compensation expense related to the grant in 2009 represented the fair value of CPOs as of the grant date. During 2008 and 2007, under this program, the eligible executives received cash bonuses, which were used by the executives to simultaneously acquire CPOs in the market through a trust established for the benefit of the executives (the "executives' trust"). The expense recognized in the income statement in connection with these programs during 2009, 2008 and 2007 amounted to Ps606, Ps725 and Ps645, respectively. In 2008 and 2007, the fair value of CPOs at acquisition date equaled the cash bonuses. Pursuant to an agreement between CEMEX and the executives, any CPOs granted or acquired during the period are placed in the executives' trust to comply with a restriction on sale period of 4 years, which vests up to 25% at the end of each year.

As mentioned in note 3T, in connection with its stock option programs qualifying as equity instruments, in which new shares are issued through the exercise of options, CEMEX determines the fair value of the awards as of the grant date, and recognizes such fair value through earnings over the options' vesting period. Likewise, in connection with its stock options programs qualifying as liability instruments, comprised by those awards in which CEMEX incurs an obligation by committing to pay the executive, through the exercise of the option, an amount in cash or in other financial assets, CEMEX determined the fair value of the awards at each reporting date, recognizing the changes in valuation in the income statement. CEMEX's outstanding options, other than those of its "Fixed program," represent liability instruments.

The information related to options granted in respect of CEMEX, S.A.B. de C.V. shares is as follows:

Options	Fixed program (A)	Variable program (B)	Restricted program (C)	Special program (D)
Options outstanding at the beginning of 2008	898,470	1,376,347	15,022,272	845,424
Changes in 2008:				
Options cancelled and adjustments	(63,352)	—	—	—
Options exercised	(87,873)	(17,427)	—	(99,425)
Options outstanding at the end of 2008	747,245	1,358,920	15,022,272	745,999
Changes in 2009:				
Options exercised	(133,606)	—	—	(23,381)
Options at the end of 2009	613,639	1,358,920	15,022,272	722,618
Underlying CPOs **1**	3,580,993	7,119,529	70,481,496	14,452,360
Exercise prices:				
Options outstanding at the beginning of 2009 **1, 2**	Ps 6.72	US$ 1.43	US$ 2.00	US$ 1.35
Options exercised in the year **1, 2**	Ps 6.42	—	—	US$ 1.00
Options outstanding at the end of 2009 **1, 2**	Ps 6.49	US$ 1.43	US$ 2.00	US$ 1.36
Average life of options:	0.6 years	2.3 years	5.0 years	3.8 years
Number of options per exercise price:	266,385 – Ps4.7	886,170 – US$1.5	15,022,272 – US$2.0	82,326 – US$1.1
	11,543 – Ps6.3	141,679 – US$1.6	—	125,345 – US$1.4
	141,983 – Ps7.7	67,295 – US$1.3	—	143,251 – US$1.0
	193,728 – Ps8.1	205,034 – US$1.2	—	257,291 – US$1.4
		58,742 – US$1.4	—	114,405 – US$1.9
Percent of options fully vested:	100%	100%	100%	95.4%

1 Exercise prices and the number of underlying CPOs are technically adjusted for the dilutive effect of stock dividends and recapitalization of retained earnings.

2 Weighted average exercise prices per CPO.

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A) Fixed program

From June 1995 through June 2001, CEMEX granted stock options with a fixed exercise price in pesos, equivalent to the market price of the CPO at the grant date and with tenure of 10 years. The employees' option rights vested up to 25% annually during the first 4 years after having been granted.

B) Variable program

This program started in November 2001, through an exchange of fixed program options, with exercise prices denominated in dollars increasing annually at a 7% rate.

C) Restricted program

This program started in February 2004 through a voluntary exchange of options mainly from the variable program. These options have an exercise price denominated in dollars which, depending on the program, increase annually at a 5.5% rate or at a 7% rate. Executives' gains under these options are settled in the form of CPOs, which are restricted for sale for an approximate period of 4 years from the exercise date.

D) Special program

From June 2001 through June 2005, CEMEX's subsidiary in the United States granted to a group of its employees a stock option program to purchase CEMEX ADSs. The options granted have a fixed exercise price denominated in dollars and tenure of 10 years. The employees' option rights vested up to 25% annually after having been granted. The option exercises are hedged using ADSs currently owned by subsidiaries, which increases stockholders' equity and the number of shares outstanding. The amounts of these ADS programs are presented in terms of equivalent CPOs (ten CPOs represent one ADS).

Other programs

CEMEX's subsidiary in Ireland has an outstanding stock option program in its own shares. As of December 31, 2009 and 2008, this subsidiary had outstanding options over 395,966 and 554,029 of its shares, respectively, with an average exercise price per share of approximately €0.20 in 2009 and €0.97 in 2008. As of December 31, 2009 and 2008, the market price per share of this subsidiary was €0.18 and €0.20, respectively.

Valuation of options at fair value and accounting recognition

All options of programs that qualify as liability instruments are valued at their estimated fair value as of the date of the financial statements, recognizing changes in valuations in the income statement. Changes in the provision for executive stock option programs for the years ended December 31, 2009, 2008 and 2007 were as follows:

		Restricted program	Variable program	Special program	Total
Provision as of December 31, 2006	Ps	1,726	230	686	2,642
Net revenue in current period results		(643)	(75)	(257)	(975)
Estimated decrease from exercises of options		(40)	(19)	(99)	(158)
Foreign currency translation effect		(116)	(16)	(47)	(179)
Provision as of December 31, 2007		927	120	283	1,330
Net revenue in current period results		(1,055)	(129)	(353)	(1,537)
Estimated decrease from exercises of options		—	1	29	30
Foreign currency translation effect		239	31	73	343
Provision as of December 31, 2008		111	23	32	166
Net expense in current period results		8	2	18	28
Estimated decrease from exercises of options		—	—	5	5
Foreign currency translation effect		(5)	(1)	(1)	(7)
Provision as of December 31, 2009	Ps	114	24	54	192

The options' fair values were determined through the binomial option-pricing model. As of December 31, 2009 and 2008, the most significant assumptions used in the valuations were as follows:

Assumptions	2009	2008
Expected dividend yield	7.9%	10.4%
Volatility	35%	35%
Interest rate	2.6%	1.8%
Weighted average remaining tenure	4.8 years	5.3 years

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19. EARNINGS PER SHARE

The amounts considered for calculations of earnings per share ("EPS") 2009, 2008 and 2007 were as follows:

	2009	2008	2007
Denominator (thousands of shares)			
Weighted average number of shares outstanding – basic	25,642,552	22,984,810	22,297,264
Effect of dilutive instruments – stock-based compensation (note 18)	39,963	10,337	11,698
Effect of dilutive instruments – convertible securities (note 13A)	517,440	—	—
Potentially dilutive shares	557,403	10,337	11,698
Weighted average number of shares outstanding – diluted	26,199,955	22,995,147	22,308,962
Numerators			
Controlling interest income before discontinued operations	Ps 5,925	226	26,657
Less: non-controlling interest net income	240	45	837
Controlling interest income before discontinued operations – basic	**5,685**	**181**	**25,820**
Plus: interest expense on convertible securities	16	—	—
Controlling interest income before discontinued operations – diluted	Ps **5,701**	**181**	**25,820**
Income (loss) from discontinued operations	Ps (4,276)	2,097	288
Basic earnings per share			
Controlling interest basic EPS from continuing operations	Ps 0.22	0.01	1.16
Basic EPS from discontinued operations	(0.16)	0.09	0.01
Diluted earnings per share			
Controlling interest diluted EPS from continuing operations	Ps 0.22	0.01	1.16
Diluted EPS from discontinued operations	(0.16)	0.09	0.01

Diluted earnings per share reflect the effects of any transactions which have a potentially dilutive effect on the weighted average number of common shares outstanding. The dilutive effect of the number of shares resulting from the executives' stock option programs is determined under the inverse treasury method. In connection with the restricted CPO grants under the long-term compensation program initiated in 2009, as well as the convertible securities, the total amount of CPOs committed for issuance in the future is accounted from the beginning of the reporting period.

20. COMMITMENTS

A) GUARANTEES

As of December 31, 2009 and 2008, CEMEX, S.A.B. de C.V. had guaranteed loans of certain subsidiaries for approximately US$12,570 and US$1,407, respectively.

B) PLEDGED ASSETS

As of December 31, 2009 and 2008, CEMEX had liabilities amounting to US$292 and US$76, respectively, secured by property, machinery and equipment.

In addition, as of December 31, 2008, from the investment in shares of CEMEX, S.A.B. de C.V. held by subsidiaries (note 17), 586,147,722 CPOs as well as CEMEX's investment in Control Administrativo Mexicano, S.A. de C.V. and Cancem, S.A. de C.V. (note 10A), were held in an ownership transferring trust for management and payment. Under this trust arrangement, CEMEX maintained its corporate and property rights, with the pledge securing the payment of CEMEX, S.A.B. de C.V. debt in an amount of US$250 (Ps3,435) as of December 31, 2008, which includes quarterly amortizations starting in July 2009 and maturing in October 2010. In the event of default, the assets would be sold and the amount applied to such debt. During 2009, CEMEX released the CPOs and the shares of its associates in exchange for a pledge of the assets of CEMEX's plants in Merida and Ensenada.

In addition, in connection with the Financing Agreement (note 13A), CEMEX transferred to a trust for the benefit of the bank lenders, note holders and other creditors having the benefit of negative pledge clauses, the shares of several of its main subsidiaries, including CEMEX México, S.A. de C.V. and CEMEX España, S.A., in order to secure payment obligations under the Financing Agreement and other financial transactions.

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C) COMMITMENTS

As of December 31, 2009 and 2008, CEMEX had commitments for the purchase of raw materials for an approximate amount of US$172 and US$194, respectively.

In 2006, in order to take advantage of the high wind potential in the "Tehuantepec Isthmus," CEMEX and the Spanish company ACCIONA formed an alliance to develop a wind farm project for the generation of 250 Megawatts (MW) in the Mexican state of Oaxaca. CEMEX acted as promoter of the project, which was named EURUS. ACCIONA provided the required financing, constructed the facility and currently operates the wind farm. The installation of 167 wind turbines in the farm was finished on November 15, 2009. The agreements between CEMEX and ACCIONA established that CEMEX's plants in Mexico should acquire a portion of the energy generated by the wind farm for a period of at least 20 years, beginning on the date in which the 250 MW would be interconnected with the grid of the national utility company in Mexico (*CFE*). As of December 31, 2009, EURUS had not reached the committed limit capacity to declare the beginning of the commercial operation and operated on a testing phase.

In 1999, CEMEX entered into agreements with an international partnership, which built and operated an electrical energy generating plant in Mexico called *Termoeléctrica del Golfo* ("TEG"). In 2007, another international company replaced the original operator. The agreements established that CEMEX would purchase the energy generated for a term of not less than 20 years, which started in April 2004. Likewise, CEMEX committed to supply TEG all fuel necessary for its operations, a commitment that has been hedged through a 20-year agreement entered with *Petróleos Mexicanos*, which terminates in 2024. With the change of the operator, in 2007, CEMEX extended the term of its agreement with TEG until 2027. Consequently, for the last 3 years of the TEG fuel supply contract, CEMEX intends to purchase the required fuel in the market. CEMEX is not required to make any capital expenditure in the project. For the years ended December 31, 2009, 2008 and 2007, TEG supplied (unaudited) 73.7%, 60.4% and 59.7%, respectively, of CEMEX's 15 plants' electricity needs in Mexico during such year.

In 2007, CEMEX Ostzement GmbH ("COZ"), CEMEX's subsidiary in Germany, entered into a long-term energy supply contract with the recently renamed entity, *Vattenfall Europe New Energy Ecopower* ("VENEE"), pursuant to which VENEE has been committed to supply energy to CEMEX's Rüdersdorf plant for a period of 15 years starting on January 1, 2008. Based on the contract, each year COZ has the option to fix in advance the volume of energy that it will acquire from VENEE, with the option to adjust the purchase amount once on a monthly and quarterly basis. According to the contract, COZ acquired 28 MW in 2008 and 2009, and will acquire 27 MW per year between 2010 and 2013, and expects to acquire between 26 and 28 MW per year starting in 2014 and thereafter. The contract, which establishes a price mechanism for the energy acquired, based on the price of energy future contracts quoted on the European Energy Exchange, does not require initial investments and is expected to be performed at a future date. Based on its terms, this contract qualified as a financial instrument under MFRS. However, as the contract is for CEMEX's own use and CEMEX sells any energy surplus as soon as actual energy requirements are known, regardless of changes in prices and thereby avoiding any intention of trading in energy, such contract is not recognized at its fair value.

In April 2008, Citibank entered into put option transactions on CEMEX's CPOs with a Mexican trust that CEMEX established on behalf of its Mexican pension fund and certain of CEMEX's directors and current and former employees ("the participating individuals"). The transaction was structured with two main components. Under the first component, the trust sold, for the benefit of CEMEX's Mexican pension fund, put options to Citibank in exchange for a premium of approximately US$38. The premium was deposited into the trust and was used to purchase, on a prepaid forward basis, securities that track the performance of the Mexican Stock Exchange. Under the second component, the trust sold, on behalf of the participating individuals, additional put options to Citibank in exchange for a premium of approximately US$38, which was used to purchase prepaid forward CPOs. These prepaid forward CPOs, together with additional CPOs representing an equal amount in U.S. dollars, were deposited into the trust by the participating individuals as security for their obligations, and represent the maximum exposure of the participating individuals under this transaction. The put options gave Citibank the right to require the trust to purchase, in April 2013, approximately 112 million CPOs at a price of US$3.2086 per CPO (120% of initial CPO price in dollars). If the value of the assets held in the trust (28.6 million CPOs and the securities that track the performance of the Mexican Stock Exchange) were insufficient to cover the obligations of the trust, a guarantee would be triggered and CEMEX, S.A.B. de C.V. would be required to purchase in April 2013 the total CPOs at a price per CPO equal to the difference between US$3.2086 and the market value of the assets of the trust. The purchase price per CPO in dollars and the corresponding number of CPOs under this transaction are subject to antidilution adjustments. CEMEX recognizes a liability for the fair value of the guarantee and changes in valuation are recorded in the income statement (note 13C).

In connection with CEMEX's alliance with Ready Mix USA (note 10A), after the third year of the alliance starting on June 30, 2008, and each year for an approximate 22-year period, Ready Mix USA will have the right but not the obligation, to sell to CEMEX its interest in both entities at a predetermined price, based on the greater of: a) eight times the operating cash flow of the trailing twelve months, b) eight times the average of the companies' operating cash flow for the previous three years, or c) the net book value. As of December 31, 2009 and 2008, CEMEX has not recognized a liability as the fair value of the assets would exceed the cost of the option if the option were exercised.

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D) CONTRACTUAL OBLIGATIONS

As of December 31, 2009 and 2008, CEMEX had the following contractual obligations:

(U.S. dollars millions) Obligations	2009					2008
	Less than 1 year	1-3 Years	3-5 Years	More than 5 Years	Total	Total
Long-term debt	US$ 292	2,826	10,764	1,969	15,851	15,997
Capital lease obligations	9	5	1	—	15	27
Total debt [1]	301	2,831	10,765	1,969	15,866	16,024
Operating leases [2]	236	349	195	140	920	960
Interest payments on debt [3]	1,004	2,254	1,550	336	5,144	1,272
Interest rate derivatives [4]	—	—	—	—	—	92
Pension plans and other benefits [5]	162	326	323	859	1,670	1,598
Inactive derivative financial instruments [6]	—	—	—	—	—	385
Total contractual obligations	US$ 1,703	5,760	12,833	3,304	23,600	20,331
	Ps 22,292	75,399	167,984	43,249	308,924	279,348

[1] The scheduling of debt payments, which includes current maturities, does not consider the effect of any refinancing of debt that may occur during the following years. CEMEX has replaced in the past its long-term obligations for others of similar nature.

[2] The amounts of operating leases have been determined on the basis of nominal cash flows. CEMEX has operating leases, primarily for operating facilities, cement storage and distribution facilities and certain transportation and other equipment, under which annual rental payments are required plus the payment of certain operating expenses. Rental expense was US$243 (Ps3,305), US$198 (Ps2,239) and US$195 (Ps2,129) in 2009, 2008 and 2007, respectively.

[3] For the determination of the future estimated interest payments on floating rate denominated debt, CEMEX used the interest rates in effect as of December 31, 2009 and 2008.

[4] Refers to net cash flows under CEMEX's interest rate swaps and CCS, determined in accordance with the interest rate applicable under such contracts as of December 31, 2008.

[5] Represents estimated annual payments under these benefits for the next 10 years (note 15). Future payments include the estimate of new retirees during such future years.

[6] Refers in 2008 to estimated contractual obligations within positions of inactive derivative instruments (note 13D).

21. CONTINGENCIES

A) CONTINGENT LIABILITIES RESULTING FROM LEGAL PROCEEDINGS

As of December 31, 2009, CEMEX was involved in various significant legal proceedings, the resolutions of which would imply cash outflows or the delivery of other resources owned by CEMEX. As a result, certain provisions have been recognized in the financial statements. Such provisions represent the best estimate of the contingent amounts payable in respect of these legal proceedings. As a result, CEMEX believes that it will not incur significant expenditure in excess of the amounts previously recorded. The details of the most significant events are as follows:

- On January 2, 2007, the Polish Competition and Consumers Protection Office (the "Protection Office") notified CEMEX Polska, a subsidiary in Poland, about the initiation of an antitrust proceeding against all cement producers in the country, including CEMEX Polska and another of CEMEX's indirect subsidiaries in Poland. The Protection Office alleged that there was an agreement between all cement producers in Poland regarding prices, market quotas and other sales conditions of cement, and that the producers exchanged confidential information, all of which limited competition in the Polish market of cement. In January 2007, CEMEX Polska filed its response to the notification, denying that it had committed the practices listed by the Protection Office. In addition, CEMEX Polska submitted formal comments and objections gathered during the proceeding, as well as facts supporting its position that its activities were in line with Polish competition law. In December 2009, the Protection Office issued a resolution imposing fines on a number of Polish cement producers, including CEMEX Polska. The fine imposed on CEMEX Polska amounted to 115 million Polish zlotys (US$40 or Ps524), which represents 10% of CEMEX Polska's total revenue for the calendar year preceding the imposition of the fine. CEMEX Polska initiated an appeal before the Polish Court of Competition and Consumer Protection. The resolution will not be enforced until two appeals are exhausted. In December 2009, CEMEX recognized a provision of 68 million Polish zlotys (US$24 or Ps314) against the income statement, representing the best estimate of the expected cash outflow in connection with this resolution.
- In 2005, through the acquisition of RMC Group plc ("RMC"), CEMEX assumed environmental remediation liabilities in the United Kingdom, pertaining to closed and current landfill sites for the confinement of waste. As of December 31, 2009, CEMEX had generated a provision for the net present value of such obligation of approximately £129 (US$208 or Ps2,723). Expenditure was assessed and quantified over the period in which the sites have the potential to cause environmental harm, which was accepted by the regulator as being up to 60 years from the date of closure. The assessed expenditure included the costs of monitoring the sites and the installation, repair and renewal of environmental infrastructure.

- In August 2005, Cartel Damages Claims, S.A. ("CDC"), filed a lawsuit in the District Court in Düsseldorf, Germany against CEMEX Deutschland AG, CEMEX's subsidiary in Germany, and other German cement companies. CDC was seeking approximately €102 (US$146 or Ps1,911) in respect of damage claims by 28 entities relating to alleged price and quota fixing by German cement companies between 1993 and 2002. CDC is a Belgian company established in the aftermath of the German cement cartel investigation that took place from July 2002 to April 2003 by Germany's Federal Cartel Office, with the purpose of purchasing potential damage claims from cement consumers and pursuing those claims against the cartel participants. In 2006, another entity assigned alleged claims to CDC, and the amount of damages being sought by CDC increased to €114 (US$163 or Ps2,136) plus interest. In February 2007, the District Court in Düsseldorf allowed this lawsuit to proceed without going into the merits of this case by issuing an interlocutory judgment. All defendants appealed the resolution but the appeal was dismissed in May 2008 and the lawsuit will proceed at the level of court of first instance. In the meantime, CDC acquired new claims by assignment and announced an increase in the claim to €131 (US$188 or Ps2,461). As of December 31, 2009, CEMEX Deutschland AG had accrued liabilities regarding this matter for approximately €20 (US$29 or Ps380).
- As of December 31, 2009, CEMEX's subsidiaries in the United States have accrued liabilities specifically relating to environmental matters in the aggregate amount of approximately US$35 (Ps458). The environmental matters relate to: a) the disposal of various materials, in accordance with past industry practice, which might be currently categorized as hazardous substances or wastes, and b) the cleanup of sites used or operated by CEMEX, including discontinued operations, regarding the disposal of hazardous substances or waste, either individually or jointly with other parties. Most of the proceedings are in the preliminary stages, and a final resolution might take several years. For purposes of recording the provision, CEMEX's subsidiaries believe that it is probable that a liability has been incurred and the amount of the liability is reasonably estimable, whether or not claims have been asserted, and without giving effect to any possible future recoveries. Based on the information developed to date, CEMEX's subsidiaries do not believe that they will be required to spend significant sums on these matters in excess of the amounts previously recorded. The ultimate cost that may be incurred to resolve these environmental issues cannot be assured until all environmental studies, investigations, remediation work and negotiations with or litigation against potential sources of recovery have been completed.

B) OTHER LEGAL PROCEEDINGS

CEMEX is involved in various legal proceedings, which have not required the recognition of accruals as CEMEX believes that the probability of loss is reasonably remote after considering all the elements of such proceedings. As of December 31, 2009, the details of the most significant events with a quantification of the potential loss were as follows:

- CEMEX, S.A.B. de C.V. and certain of its subsidiaries in Mexico have been notified by the Mexican tax authority of several tax assessments related to different tax periods. Tax assessments are based primarily on investments made in entities incorporated in foreign countries with preferential tax regimes. On April 3, 2007, the Mexican tax authority issued a decree providing for a tax amnesty program, which allows for the settlement of previously issued tax assessments. CEMEX decided to take advantage of the benefits of this program, resulting in the settlement of the existing fiscal tax assessments of prior years. As a result of the program, as of December 31, 2009, CEMEX does not have any significant tax assessment pending for resolution.
- In September 2009, officers from the European Commission ("EC"), in conjunction with local officials of the Spanish national competition enforcement authority (*Comisión Nacional de la Competencia* or "CNC"), conducted an unannounced inspection at CEMEX's offices in Spain. The EC alleges that CEMEX may have participated in anti-competitive agreements. The allegations extended to several markets worldwide, including, in particular, the European Community. If those allegations are substantiated, significant penalties may be imposed on CEMEX's subsidiaries operating in such markets. CEMEX fully cooperated and will continue to cooperate with the EC officials in connection with this investigation. In September 2009, the CNC investigative department separately conducted its own inspection in the context of possible anticompetitive practices in the production and distribution of mortar, ready-mix and aggregates within the Autonomous Community of Navarre ("Navarre"). In December 2009, the CNC started a procedure against CEMEX España, S.A. for the possible anticompetitive practices mentioned above. The maximum fine that the CNC could impose to CEMEX would be 10% of the total revenues of CEMEX España's ready-mix production activities within Navarre for the calendar year preceding the imposition of the fine.
- In January and March 2009, one of CEMEX's subsidiaries in Mexico was notified of two findings of presumptive responsibility issued by the Mexican competition authority (*Comisión Federal de Competencia* or "CFC"), alleging certain violations of Mexican antitrust laws. CEMEX believes these findings have several procedural errors and are unfounded on the merits. CEMEX filed two constitutional challenges in connection with the two findings in February and May 2009. In July 2009, CEMEX obtained a ruling in favor of the first resolution in connection with the challenge filed in February 2009. The CFC appealed this resolution. The judge presiding over the two constitutional challenges has ordered the suspension of the administrative proceedings until there is a final resolution of CEMEX's constitutional challenges, which could take several months.
- In November 2008, AMEC/Zachry, the general contractor for the expansion program in Brooksville, Florida, filed a lawsuit against a subsidiary of CEMEX in the United States, alleging delay damages and seeking an equitable adjustment to the contract and payment of change orders. In its claim, AMEC/Zachry sought indemnity for US$60 (Ps785). During 2009, FLSmidth, a supplier for the mining and cement industry, became a co-defendant in the lawsuit. CEMEX has filed counterclaims against both suppliers. At this stage of the proceedings, it is not possible to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX.

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- In August 2007, the Australian Takeovers Panel (the "Panel") published a declaration of unacceptable circumstances, namely, that CEMEX's May 7, 2007 announcement, which stated that CEMEX would allow Rinker stockholders to retain the final dividend of 0.25 Australian dollars per share, constituted a departure from CEMEX's April 10, 2007 announcement, which said that CEMEX's offer of 15.85 U.S. dollars per share was its "best and final offer." The Panel ordered CEMEX to pay compensation of 0.25 Australian dollars per share to Rinker stockholders who sold their shares during the period from April 10 to May 7, 2007, net of any purchases that were made. CEMEX believes that the market was fully informed by its announcement made on April 10, 2007. CEMEX's appeal to the full court of the Federal Court of Australia was dismissed in June 2009 and CEMEX did not seek to appeal to the High Court. Accordingly, the Panel's orders came into effect and CEMEX was required to invite all affected stockholders to make claims for the compensation ordered by the Panel within a limited time. CEMEX has deposited approximately 16 million Australian dollars (US$14 or Ps183) into a bank account against which payments to claimants are being made. As of December 31, 2009, payments for the total deposited amount have been made and CEMEX will deposit additional funds when they are required. Upon conclusion of the process, any remaining funds which are not claimed will be returned to CEMEX.
- In August 2005, a lawsuit was filed against a subsidiary of CEMEX Colombia and other members of the *Asociación Colombiana de Productores de Concreto*, or ASOCRETO, a union formed by all the ready-mix concrete producers in Colombia. The lawsuit claimed that CEMEX Colombia and other ASOCRETO members were liable for the premature distress of the roads built for the mass public transportation system in Bogota using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs alleged that the base material supplied for the road construction failed to meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs sought the repair of the roads and estimated that the cost of such repair would be approximately 100 billion Colombian pesos (US$49 or Ps641). In January 2008, CEMEX Colombia was subject to a court order, sequestering a quarry called "*El Tunjuelo*," as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required to deposit with the court 337.8 billion Colombian pesos (US$165 or Ps2,160) in cash. CEMEX Colombia asked for reconsideration, and the court allowed CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision in order to reduce the amount of the insurance policy and also requested that the guarantee be covered by all defendants in the case. In March 2009, the Superior Court of Bogota reversed this decision, allowing CEMEX to offer a security in the amount of 20 billion Colombian pesos (US$10 or Ps131). CEMEX deposited the aforementioned security and, in July 2009, the Superior Court of Bogota lifted the attachment. One of the plaintiffs appealed this decision. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages that could be borne by CEMEX Colombia upon appeal.

C) OTHER CONTINGENCIES FOR LEGAL PROCEDURES

Finally, there are certain legal proceedings in which a negative resolution for CEMEX may represent, among others, the revocation of operating licenses or the assessment of fines, whereby CEMEX may experience a decrease of future revenues, an increase in operating costs or a loss. Nevertheless, as of the date of these financial statements, in some cases, it is not possible to quantify the impact. As of December 31, 2009, the most significant other contingencies were the following:

- Pursuant to amendments to the Mexican income tax law effective on January 1, 2005, Mexican companies with investments in entities incorporated in foreign countries whose income tax liability is less than 75% of the income tax that would be payable in Mexico, are required to pay taxes in Mexico on indirect revenues, such as dividends, royalties, interest, capital gains and rental fees obtained by such foreign entities, provided, however, that such revenues are not derived from entrepreneurial activities in such countries. CEMEX challenged the constitutionality of the amendments before the Mexican federal courts. In September 2008, the Supreme Court of Justice ruled the amendments were constitutional for tax years 2005 to 2007. Since the Supreme Court's decision does not pertain to the amount of taxes due or other tax obligations, CEMEX will self-assess any taxes due through the submission of amended tax returns. As of December 31, 2009, based on preliminary estimates, CEMEX believed that the amount will not be material, but no assurance can be given that the Mexican tax authorities will agree with CEMEX's self-assessment of the taxes due for past periods.
- In October 2009, CEMEX, Inc., one of CEMEX's subsidiaries in the United States, and other cement and concrete suppliers were named as defendants in several purported class action lawsuits by a group of construction and building materials companies alleging price-fixing in Florida. According to the lawsuit, the defendants are alleged to have conspired to raise the price of cement and hinder competition in Florida. CEMEX believes that the lawsuits are without merit and intends to defend them vigorously.
- In July 2008, CEMEX agreed to sell its operations in Austria and Hungary to Strabag, one of the leading suppliers of building materials in Europe. In February 2009, the Hungarian Competition Council approved the sale on the condition that Strabag sell one specific ready-mix concrete plant within the next year. In April 2009, the Austrian Cartel Court ("ACC") approved the sale subject to the condition that Strabag sell to a third party several ready-mix plants, including the "Nordbahnhof" plant in Vienna. As of the date of approval, the plant had already been dismantled, and therefore the condition could not be met. Contrary to CEMEX's recommendation that a supplementary application should be made to the ACC, Strabag filed several appeals against the resolution of the ACC. On July 1, 2009, Strabag notified CEMEX of its purported rescission of the SPA, arguing that the regulatory approvals were not obtained before June 30, 2009. On the same day, CEMEX notified Strabag that CEMEX considered Strabag's purported rescission invalid. In the face of Strabag's continued refusal to cooperate in making a supplementary application to the ACC, CEMEX rescinded the SPA in September 2009. In October 2009, CEMEX filed a claim against Strabag before the International Arbitration Court of the International Chamber of Commerce, requesting a declaration that Strabag's rescission of the SPA was invalid and claiming the payment of damages caused to CEMEX as a result of such breach of the SPA by Strabag for €150 (US$215 or Ps2,814). In December 2009, Strabag filed its answer requesting the tribunal to dismiss the claim and also filed a counterclaim for the payment of damages and applied for security for costs related to the arbitration proceedings, for an aggregate amount of approximately €2 (US$3 or Ps39). CEMEX believes Strabag's counterclaim and request for security to be unfounded. The arbitration tribunal is in the process of being constituted.

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- Between November 4th and 6th in 2008, officers from the European Commission ("EC"), assisted by local officials, conducted unannounced inspections at CEMEX's offices in the United Kingdom and Germany. The EC conducted inspections at the premises of other companies in the cement and related products industry in several European Community member states. The EC alleges that CEMEX may have participated in anticompetitive agreements and/or abusive conduct, in breach of articles of the EC and/or the European Economic Area ("EEA"). The allegations extend to several markets worldwide, particularly within the EEA. If those allegations are substantiated, CEMEX's subsidiaries which operate in the area of the EC may be subject to significant penalties. CEMEX will continue to cooperate with the EC officials in connection with this investigation.
- The government of Venezuela has claimed that three cement transportation vessels, transferred before the expropriation of CEMEX Venezuelan operations, continue to be the property of the former CEMEX Venezuela. The government of Venezuela successfully petitioned a Panamanian court, the country where the vessels are flagged, to enforce an interim measure issued by a Venezuelan court barring further transfer or disposition of the vessels. However, on December 28, 2009, the Supreme Court of Panama overruled the Panamanian court's ruling. CEMEX believes that the government of Venezuela's position that the vessels continue to be the property of the former CEMEX Venezuela is without merit. CEMEX will continue to resist efforts by the government of Venezuela to assert ownership rights over the vessels.
- In 2002, CEMEX Construction Materials Florida, LLC, one of CEMEX's subsidiaries in the United States, was granted one federal quarry permit that covered the SCL and FEC quarries, and was the beneficiary of another federal quarrying permit for the Lake Belt area in South Florida, which covered the Kendall Krome quarry. The FEC quarry is one CEMEX's largest aggregates quarries in that region. In response to litigation brought by environmental groups concerning the manner in which the federal quarry permits were granted, in January 2009, a judge from the U.S. District Court for the Southern District of Florida ordered the withdrawal of the federal quarry permits of CEMEX's SCL, FEC and Kendall Krome quarries. The judge ruled that there were deficiencies in the procedures and analysis undertaken by the relevant governmental agencies involved with the issuance of the permits. If CEMEX is not able to obtain new permits in the Lake Belt area, it would need to source aggregates from other locations in Florida or import aggregates. This would likely affect profits from CEMEX's operations in that region.
- In April 2006, the cities of Kaštela and Solin in Croatia published their respective development master plans, adversely impacting the mining concession granted to a CEMEX's subsidiary in Croatia by the Croatian government in September 2005. In May 2006, CEMEX filed an appeal before one constitutional court seeking a declaration by the court of its rights and seeking prohibition of the implementation of the master plans. The municipal courts in Kaštela and Solin had previously rejected the appeals presented by CEMEX. These resolutions were appealed. These cases are currently under review by the Constitutional Court in Croatia, and it is expected that these proceedings will continue for several years before resolution. During the proceedings, the Administrative Court in Croatia ruled in favor of CEMEX, validating the legality of the mining concession granted by the government of Croatia. This decision was final. However, CEMEX expects a resolution from the Constitutional Court to determine if the cities of Kaštela and Solin, within the scope of their master plans, can unilaterally change the borders of exploited fields. Currently, it is difficult to determine the impact on CEMEX as a result of the Kaštela and Solin proceedings.

In addition to the above, as of December 31, 2009, there are various legal proceedings of minor impact that have arisen in the ordinary course of business. These proceedings involve: 1) product warranty claims; 2) claims for environmental damages; 3) indemnification claims relating to acquisitions; 4) claims to revoke permits and/or concessions; and 5) other diverse civil actions. CEMEX considers that in those instances in which obligations have been incurred, CEMEX has accrued adequate provisions to cover the related risks. CEMEX believes these matters will be resolved without any significant effect on its business or results of operations.

As of December 31, 2009, the tax returns submitted by some subsidiaries of CEMEX located in several countries are under review by the respective tax authorities in the ordinary course of business. CEMEX cannot anticipate if such reviews will result in new tax assessments, which, should any exist, would be appropriately disclosed and/or recognized in the financial statements.

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22. RELATED PARTIES

All significant balances and transactions between the entities that constitute the CEMEX group have been eliminated in the preparation of the consolidated financial statements. These balances with related parties resulted primarily from: (i) the sale and purchase of goods between group entities; (ii) the sale and/or acquisition of subsidiaries' shares within the CEMEX group; (iii) the invoicing of administrative services, rentals, trademarks and commercial name rights, royalties and other services rendered between group entities; and (iv) loans between related parties. Transactions between group entities were conducted on arm's length terms based on market prices and conditions.

The definition of related parties includes entities or individuals outside the CEMEX group, which, pursuant to their relationship with CEMEX, may take advantage of being in a privileged situation. Likewise, this applies to cases in which CEMEX may take advantage of such relationships and obtain benefits in its financial position or operating results. CEMEX's transactions with related parties are executed under market conditions. CEMEX has identified the following transactions between related parties:

- Mr. Bernardo Quintana Isaac, a member of the board of directors at CEMEX, S.A.B. de C.V., is the current chairman of the board of directors of *Empresas ICA, S.A.B. de C.V.* ("Empresas ICA"), and was its chief executive officer until December 31, 2006. Empresas ICA is one of the most important engineering and construction companies in Mexico. In the ordinary course of business, CEMEX extends financing to Empresas ICA in connection with the purchase of CEMEX's products, on the same credit conditions that CEMEX awards to other customers.
- Mr. José Antonio Fernández Carbajal, member of the board of directors at CEMEX, S.A.B. de C.V., is president and chief executive officer of *Fomento Empresarial Mexicano, S.A.B. de C.V.* ("FEMSA"), a large multinational beverage company. In the ordinary course of business, CEMEX pays and receives various amounts to and from FEMSA for products and services for varying amounts on market terms. Mr. Fernández Carbajal is also vice-chairman of the board of *Consejo de Enseñanza e Investigación Superior, A.C.* (the managing entity of *Instituto de Estudios Superiores de Monterrey* or ITESM), of which Mr. Lorenzo Zambrano, chief executive officer and chairman of CEMEX's board of directors, is chairman of the board. ITESM has received contributions by CEMEX for amounts that were not material in the periods presented.
- Mr. Rafael Rangel Sostman, a member of the board of directors at CEMEX, S.A.B. de C.V., is the dean of ITESM.
- As of December 31, 2009, 2008 and 2007, there were no loans between CEMEX and board members or top management executives.
- For the years ended December 31, 2009, 2008 and 2007, the aggregate amount of compensation paid by CEMEX, S.A.B. de C.V. and subsidiaries to its board of directors, including alternate directors and top management executives, was approximately US$11 (Ps144), US$28 (Ps314) and US$31 (Ps339), respectively. Of these amounts, approximately US$10 (Ps131) in 2009, US$12 (Ps134) in 2008 and US$14 (Ps153) in 2007, were paid as compensation plus performance bonuses, while approximately US$1 (Ps13) in 2009, US$16 (Ps179) in 2008 and US$17 (Ps186) in 2007, corresponded to payments under the long-term incentive program in restricted CPOs.

23. SUBSEQUENT EVENTS

On January 13, 2010, through a reopening of its 9.5% notes due 2016, which were originally issued on December 14, 2009 (note 13A), CEMEX issued notes for an additional amount of US$500. The additional notes were issued at a price of US$105.25 per US$100 principal amount plus accrued interest from December 14, 2009 with a yield to maturity of 8.477%. Of the net proceeds from this additional issuance of notes, approximately US$411 will be used to prepay principal outstanding due in 2011 under CEMEX's Financing Agreement. The remaining proceeds of approximately US$89 will be used for general corporate purposes. This prepayment is expected to result in accumulated prepayments under the Financing Agreement in excess of the first financial milestone of US$4,800, thereby allowing CEMEX to maintain the current applicable margin under the Financing Agreement until at least December 2011.

On January 29, 2010, in connection with the withdrawal of federal quarry permits in Lake Belt, Florida (note 21C), the Army Corps of Engineers concluded a revision related to the court's ruling in 2006 and issued a Record of Decision supporting the emission of new federal quarry permits in the area. As of the date of the financial statements, the new quarry permits granted to the SCL and FEC quarries were in effect. However, several environmental conditions must be resolved before a new federal quarry permit may be issued for mining in the Kendall Krome quarry.

On February 22, 2010, Ready Mix USA LLC completed the sale of 12 active quarries and certain other assets to SPO Partners & Co. for approximately US$420. The active quarries, which consist of two granite quarries in Georgia, nine limestone quarries in Tennessee, and one limestone quarry in Virginia, are operated by Ready Mix USA LLC and were deemed non strategic by CEMEX and Ready Mix USA LLC. The proceeds from the sale were partly used by Ready Mix USA LLC to reduce its debt and to effect a cash distribution of approximately US$100 to each joint venture partner, including CEMEX. As of the date of this annual report, CEMEX has received approximately US$70 of this cash distribution and expects to receive the remaining approximately US$30 in the third quarter of 2010. CEMEX, which does not consolidate the results of Ready Mix USA LLC, expects to use its cash proceeds from this cash distribution to reduce outstanding debt and to enhance its liquidity position. After the assets sale and cash distribution Ready Mix USA LLC continues to be owned 50.01% by Ready Mix USA and 49.99% by CEMEX.

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On March 30, 2010, CEMEX closed the offering of US$715 of 4.875% Optional Convertible Subordinated Notes, including the initial purchasers' exercise in full of their over-allotment option. Interest on the Optional Convertible Subordinated Notes is payable semi-annually commencing on September 15, 2010. The Optional Convertible Subordinated Notes are convertible by holders into a fixed number of CEMEX's ADSs at a conversion price of US$13.60 per ADS (subject to adjustment in certain events) at any time prior to the close of business on the fourth business day immediately preceding the maturity date for the Optional Convertible Subordinated Notes. CEMEX used a portion of the net proceeds from the offering to fund the purchase of a capped call transaction and intends to use the remaining net proceeds for general corporate purposes and to repay indebtedness. The capped call transaction covers, subject to customary anti-dilution adjustments, approximately 52.58 million ADSs. The capped call transaction has a cap price 80% higher than the closing price of CEMEX's ADSs on March 24, 2010 and will be cash-settled. For accounting purposes under MFRS, the Optional Convertible Subordinated Notes represent a compound instrument that has a liability component, determined as the net present value of future interest payments and principal over the life of the transaction using a market interest rate, and an equity component, characterized as the premium for the sale of the conversion option, determined by the difference between the notional amount of the transaction and the liability component.

At our 2009 annual shareholders' meeting, held on April 29, 2010, our shareholders approved a recapitalization of retained earnings. New CPOs issued pursuant to the recapitalization were allocated to shareholders on a pro-rata basis. As a result, shares equivalent to approximately 384 million CPOs were issued and paid. CPO holders received one new CPO for each 25 CPOs held and ADS holders received one new ADS for each 25 ADS held. There was no cash distribution and no entitlement to fractional shares.

On April 8, 2010 (unaudited), CEMEX announced its plans to contribute up to US$100 for a non-controlling interest in a new investment vehicle known as Blue Rock. Blue Rock, which will not be controlled by CEMEX, intends to invest in the cement industry and related assets. As of the date of this annual report, a potential investment in Peru, the construction of a new cement plant with an initial production capacity of approximately 1 million metric tons per year, has been identified. According to the proposed project, it is expected that the plant would be completed in 2013, with a total investment of approximately US$230. Although CEMEX does not anticipate to be in a control position to affect the decisions of Blue Rock's management, given our investment and industry expertise, Blue Rock's management could decide to enter into a contract with CEMEX, providing for CEMEX's assistance in the development, building and operation of the plant. Depending on the amount raised from third party investors and the availability of financing, Blue Rock's management may also decide to invest in other assets in the cement industry.

On May 12, 2010, CEMEX concluded an exchange offer its U.S. Dollar-denominated and Euro-denominated perpetual debentures (note 17D). Pursuant to the exchange offer, CEMEX offered the holders of each series of the perpetual debentures, New Senior Secured Notes in exchange for their perpetual debentures. Pursuant to the exchange offer, CEMEX received approximately US$1,035 of the U.S. Dollar-denominated perpetual debentures in exchange for approximately US$775 of U.S. Dollar-denominated New Senior Secured Notes and approximately €464 of the Euro-denominated perpetual debentures in exchange for approximately €115 of Euro-denominated New Senior Secured Notes and approximately US$293 of the U.S. Dollar-denominated New Senior Secured Notes. The payment of principal, interest and premium, if any, on the New Senior Secured Notes are fully and unconditionally guaranteed by CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V., and New Sunward Holding B.V. After the exchange offer, approximately US$965 and approximately €266 of perpetual debentures remained outstanding. For accounting purposes, as a result of the exchange offer, CEMEX's overall indebtedness was reduced by approximately US$437 (calculated by using an exchange rate of 1.3468 Euros per U.S. Dollar) against stockholders' equity.

On May 19, 2010, CEMEX renewed and extended for one year its securitization program of accounts receivables in the United States operations for up to US$300 in funded amounts. As a result, CEMEX's securitization program in the United States expires on May 18, 2011.

On June 2, 2010, CEMEX concluded the early payment of approximately Ps2,642 (US$202) in *Certificados Bursátiles* or CBs, following a public cash tender offer in Mexico to redeem outstanding CBs for up to approximately Ps6,112 (US$467). The series of CBs included in the offer represent long-term CBs issued by CEMEX with maturities through March 10, 2011. The offer period was from May 6, 2010 to June 2, 2010.

On June 5, 2010, the *Secretaría Distrital de Ambiente de Bogota*, the District of Bogota's environmental secretary (the "environmental secretary"), as a temporary injunction ordered the suspension of the mining activities of CEMEX Colombia at *El Tunjuelo* quarry, located in Bogota, Colombia. As part of the temporary injunction, Holcim Colombia and Fundación San Antonio (local aggregates producers), which also have mining activities located in the same area of *El Tunjuelo* quarry, have also been ordered to suspend mining activities in that area. The environmental secretary alleges that during the past 60 years CEMEX Colombia and the other companies included in the temporary injunction have illegally changed the course of the Tunjuelo River, have used the percolating waters without any permission and have improperly used the edge of the river for mining activities. In connection with the temporary injunction, on June 5, 2010, CEMEX Colombia received a formal notification from the environmental secretary informing about the initiation, based on the mentioned presumed environmental violations, of proceedings to impose fines against CEMEX Colombia. CEMEX Colombia responded to the temporary injunction by requesting that it be revoked based on the fact that the mining activities are supported by the corresponding authorizations required by the applicable environmental laws and that all the environmental impact statements submitted by CEMEX Colombia have been reviewed and permanently authorized by the *Ministerio del Medio Ambiente, Vivienda y Desarrollo Territorial*. On June 11, 2010 the local authorities in Bogota, in compliance with the environmental secretary's decision, sealed off the mine to machinery and prohibited the extraction of our aggregates inventory. Although there is not an official quantification of the possible fine, the environmental secretary has publicly declared that the fine could be as much as CoP$300 billion (approximately US$155 as of June 14, 2010 (based on an exchange rate of CoP$1.925 to US$1.00). The temporary injunction does not currently compromise the production and supply of ready-mix concrete to all of our clients in Colombia. CEMEX Colombia is analyzing its legal strategy to defend itself against these proceedings based on the fact that CEMEX Colombia is in compliance with the applicable environmental laws that cover mining activities at the *El Tunjuelo* quarry. At this stage, we are not able to assess the likelihood of an adverse result or potential damages which could be borne by CEMEX Colombia.

On June 17, 2010, CEMEX announced the exercise of its call option with respect to certain CBs otherwise maturing in March 2011 for approximately Ps

1,400 (US$110). CEMEX used proceeds from the issuance of the Optional Convertible Subordinated Notes in March 2010 to pay for the redeemed CBs on June 25, 2010.

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24. MAIN SUBSIDIARIES

The main subsidiaries as of December 31, 2009 and 2008 were as follows:

Subsidiary	Country	% interest 2009	% interest 2008
CEMEX México, S. A. de C.V. [1]	Mexico	100.0	100.0
CEMEX España, S.A. [2]	Spain	99.8	99.8
CEMEX, Inc. [3]	United States	100.0	100.0
CEMEX (Costa Rica), S.A.	Costa Rica	99.1	99.1
Assiut Cement Company	Egypt	95.8	95.8
CEMEX Colombia S.A.	Colombia	99.7	99.7
Cemento Bayano, S.A.	Panama	99.5	99.5
CEMEX Dominicana, S.A.	Dominican Republic	100.0	99.9
CEMEX de Puerto Rico Inc.	Puerto Rico	100.0	100.0
CEMEX France Gestion (S.A.S.)	France	100.0	100.0
CEMEX Australia Pty. Ltd. [3]	Australia	—	100.0
CEMEX Asia Holdings Ltd. [4]	Singapore	100.0	100.0
Solid Cement Corporation [4]	Philippines	100.0	100.0
APO Cement Corporation [4]	Philippines	100.0	100.0
CEMEX (Thailand) Co., Ltd. [4]	Thailand	100.0	100.0
CEMEX U.K.	United Kingdom	100.0	100.0
CEMEX Investments Limited	United Kingdom	100.0	100.0
CEMEX Deutschland, AG.	Germany	100.0	100.0
CEMEX Austria plc.	Austria	100.0	100.0
CEMEX Hrvatska d.d.	Croatia	100.0	99.2
CEMEX Czech Operations, s.r.o.	Czech Republic	100.0	100.0
CEMEX Polska sp. Z.o.o.	Poland	100.0	100.0
CEMEX Hungária Kft. [5]	Hungary	100.0	100.0
Readymix PLC. [6]	Ireland	61.2	61.7
CEMEX Holdings (Israel) Ltd.	Israel	100.0	100.0
CEMEX SIA	Latvia	100.0	100.0
CEMEX Topmix LLC, Gulf Quarries LLC, CEMEX Supermix LLC and CEMEX Falcon LLC [7]	United Arab Emirates	100.0	100.0

1. *CEMEX México, S.A. de C.V.* is the indirect holding company of *CEMEX España, S.A.* and subsidiaries.
2. *CEMEX España, S.A.* is the indirect holding company of all CEMEX's international operations.
3. CEMEX Inc. is the indirect holding company of 100% of the common stock of Rinker Materials LLC's equity, while CEMEX Australia Pty. Ltd. was the holding company of 100% of the common stock of Rinker Group Pty Ltd. CEMEX's assets in Australia were sold in 2009.
4. Represents CEMEX's indirect interest in the economic benefits of these entities.
5. On March 31, 2008, Danubiusbeton Betonkeszito Kft changed its name to CEMEX Hungária Kft.
6. Readymix PLC is listed on the Irish stock exchange.
7. CEMEX owns 49% of the common stock of these entities and obtains 100% of the economic benefits, through arrangements with other stockholders.

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25. DIFFERENCES BETWEEN MEXICAN AND UNITED STATES ACCOUNTING PRINCIPLES

(a) Basis of Presentation under U.S. GAAP

The consolidated financial statements are prepared in accordance with MFRS, which differ in certain significant respects from generally accepted accounting principles applicable in the United States ("U.S. GAAP"). The term "SFAS" as used herein refers to U.S. Statements of Financial Accounting Standards. Likewise, the term "FASB" refers to the U.S. Financial Accounting Standards Board. On July 1, 2009, the FASB instituted a major change in the way accounting standards are organized by the implementation of the FASB Accounting Standards Codification TM ("ASC") became the single official source of authoritative, nongovernmental U.S. GAAP. After that date, only one level of authoritative U.S. GAAP exists, other than guidance issued by the Securities and Exchange Commission ("SEC"). All other literature will be non-authoritative.

As detailed in note 3A, until December 31, 2007, the MFRS consolidated financial statements included the effects of inflation, whereas financial statements prepared under U.S. GAAP are presented on a historical cost basis. The reconciliation to U.S. GAAP includes: (i) a reconciling item to reflect the difference in the carrying value of machinery and equipment of foreign origin and related depreciation between the methodology set forth by MFRS B-10 until December 31, 2007 and the amounts that would be determined by using the historical cost/constant currency method. As described below, this provision of inflation accounting under MFRS did not meet the requirements of Rule 3-20 of Regulation S-X promulgated by the SEC. The reconciliation does not include the reversal of other MFRS inflation accounting adjustments as of and for the years ended December 31, 2009, 2008 and 2007, as these adjustments represent a comprehensive measure of the effects of price level changes in the applicable countries and, as such, are considered a more meaningful presentation than historical cost-based financial reporting for both Mexican and U.S. accounting purposes.

Reconciliation of net income under MFRS to U.S. GAAP

Considering the presentation of CEMEX's operations in Australia as discontinued operations under MFRS (note 4B), for purposes of the reconciliation of net income to U.S. GAAP, all reconciling items pertaining to CEMEX's operations in Australia for the current and prior periods were reclassified and presented in the single line item "U.S. GAAP adjustments from discontinued operations." For the years ended December 31, 2009, 2008 and 2007, the main differences between MFRS and U.S. GAAP, and their effect on consolidated net income and earnings per share, are presented below:

			2009	2008	2007
	Income under MFRS from continuing operations	Ps	5,925	226	26,657
	U.S. GAAP adjustments having the effect of increasing reported income from continuing operations:				
1.	Financial instruments – Fair value measurements (note 25(h))		—	1,305	—
2.	Employees' statutory profit sharing (note 25(c))		—	195	226
3.	Employee benefits (note 25(e))		104	104	61
4.	Other adjustments – Deferred charges (notes 25(c) and (k))		—	225	122
5.	Other adjustments – Capitalized interest (note 25(k))		—	—	252
6.	Other adjustments – Monetary position result (note 25(k))		—	—	588
7.	Other adjustments – Discontinued operations financial expense (note 25(k))		373	388	272
8.	Other adjustments – Depreciation and investments in associates (notes 25(k))		—	—	17
9.	Impairment of long-lived assets (note 25(j))		920	—	—
10.	Hedge accounting (note 25(h))		1,763	—	—
11.	Income taxes (note 25(c))		3,420	—	—
	U.S. GAAP adjustments having the effect of decreasing reported income from continuing operations:				
1.	Impairment of long-lived assets (note 25(j))		—	(46,077)	—
2.	Income taxes (note 25(c))		—	(7,861)	(1,184)
3.	Hedge accounting (note 25(h))		—	(7,716)	(339)
4.	Financing transactions (note 25(f))		(2,706)	(2,596)	(1,847)
5.	Accounting for uncertainty in income taxes (note 25(d))		(3,473)	(1,584)	(2,188)
6.	Financial instruments – Fair value measurements (note 25(h))		(1,057)	—	—
7.	Financial instruments – Mandatory convertible securities (note 25(h))		(65)	—	—
8.	Inflation adjustment of machinery and equipment (note 25(g))		(224)	(272)	(291)
9.	Other adjustments – Deferred charges (notes 25(c) and (k))		(6,104)	—	—
	Income (loss) under U.S. GAAP from continuing operations	Ps	(1,124)	(63,663)	22,346
	Income (loss) from discontinued operations as reported under MFRS		(4,276)	2,097	288
	U.S. GAAP adjustments from discontinued operations (note 25(l))		(264)	(275)	(191)
	Income (loss) under U.S. GAAP from discontinued operations	Ps	(4,540)	1,822	97
	Non-controlling interest under MFRS		240	45	837
	Non-controlling interest share of U.S. GAAP adjustment		—	—	239
	Non-controlling income under U.S. GAAP	Ps	240	45	1,076
	Controlling net income (loss) under U.S. GAAP	Ps	(5,904)	(61,886)	21,367

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Approximate basic and diluted earnings per share under U.S. GAAP for the years ended December 31, 2009, 2008 and 2007 are as follows:

		2009	2008	2007
Basic EPS under U.S. GAAP from continuing operations	Ps	(0.05)	(2.73)	0.95
Basic EPS under U.S. GAAP from discontinued operations		(0.18)	0.04	0.01
	Ps	(0.23)	(2.69)	0.96
Diluted EPS under U.S. GAAP from continuing operations [1]	Ps	(0.05)	(2.73)	0.95
Diluted EPS under U.S. GAAP from discontinued operations [1]		(0.18)	0.04	0.01
	Ps	(0.23)	(2.69)	0.96

[1] According to ASC 260-10-45-20 *Earnings per Share*, if there is a loss from continuing operations, diluted EPS would be computed as basic EPS not including potential common shares to avoid anti-dilution.

The following table presents summarized consolidated financial information of the statements of operations for the years ended December 31, 2009, 2008 and 2007 under U.S. GAAP, including all reconciling items described in this note 25 as well as certain reclassifications required for purposes of U.S. GAAP:

		2009	2008 [3]	2007 [3]
Net sales	Ps	197,801	224,804	226,742
Operating income (loss) [1]		10,396	(42,233)	28,623
Operating income (loss) after other expenses, net		12,048	(41,427)	28,561
Comprehensive financing result [2]		(23,818)	(36,944)	(1,027)
Income (loss) before discontinued operations		(1,124)	(63,663)	22,346
Discontinued operations		(4,540)	1,822	97
Non-controlling interest net income		240	45	1,076
Controlling interest net income (loss)	Ps	(5,904)	(61,886)	21,367

[1] Impairment losses as well as current and deferred Employee Statutory Profit Sharing under U.S. GAAP are included in the determination of operating income. Under MFRS, these items are part of other expenses, net. In addition, as mentioned in note 3S, under MFRS, for the years ended December 31, 2009, 2008 and 2007, other expenses, net, include several unusual or non-recurring transactions, such as restructuring costs (severance payments), results from sales of assets and impairment losses. In the summarized statements of operations under U.S. GAAP, expenses of Ps4,451 in 2009, Ps70,753 in 2008 and Ps2,083 in 2007, were reclassified from other expenses, net, under MFRS to operating expenses under U.S. GAAP.

[2] Deferred financing costs amortized under MFRS to "Other expenses, net" during 2009 in connection with the early extinguishment of the related debt for approximately Ps940 were reclassified to "Comprehensive financing result" under U.S. GAAP.

[3] Until December 31, 2008, for MFRS purposes, CEMEX accounted for its investments in entities under joint control using the proportional consolidation method (note 3B), incorporating line-by-line all assets, liabilities, revenues and expenses according to CEMEX's equity ownership. CEMEX sold these jointly controlled entities in December 2008 (note 12A). Under U.S. GAAP, joint controlled investments are accounted for by the equity method; therefore, all revenues and expenses for the years ended December 31, 2008 and 2007 related to such joint controlled entities were removed line-by-line against the equity in associates for purposes of the statements of operations.

Reconciliation of stockholders' equity under MFRS to U.S. GAAP

At December 31, 2009 and 2008, the main differences between MFRS and U.S. GAAP, and their effect on consolidated stockholders' equity, with an explanation of the adjustments, are presented below:

			2009	2008
	Total stockholders' equity reported under MFRS	Ps	257,570	237,267
	U.S. GAAP adjustments:			
1.	Goodwill (notes 25(b) and (j))		(27,760)	(31,502)
2.	Other intangible assets (note 25(j))		(179)	(179)
3.	Income taxes (note 25(c))		2,678	309
4.	Accounting for uncertainty in income taxes (note 25(d))		(13,265)	(10,236)
5.	Employee benefits (note 25(e))		(6,144)	(3,998)
6.	Non-controlling interest – Financing transactions (note 25(f))		(39,859)	(41,495)
7.	Inflation adjustment for machinery and equipment (note 25(g))		3,839	4,164
8.	Financial Instruments – Fair value measurements (note 25(h))		247	1,305
9.	Financial instruments – Mandatory convertible securities (note 25(h))		(2,036)	—
10.	Other adjustments – Deferred charges (note 25(k))		(5,769)	440
11.	Other adjustments – Capitalized interest (note 25(k))		82	324
	Approximate U.S. GAAP adjustments		(88,166)	(80,868)
	Total stockholders' equity under U.S. GAAP (note 25(f))	Ps	169,404	156,399

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The following table presents summarized consolidated financial information of balance sheets as of December 31, 2009 and 2008, prepared under U.S. GAAP, including all reconciling items and reclassifications as compared to MFRS described in this note 25:

	At December 31, 2009			At December 31, 2008		
	MFRS	Change	U.S. GAAP	MFRS	Change	U.S. GAAP
Current assets [1]	Ps 56,770	5,615	62,385	68,195	4,731	72,926
Investments in associates, other investments and non-current accounts receivable	32,144	2,600	34,744	35,702	2,461	38,163
Non-current assets of discontinued operations	—	—	—	24,857	(10)	24,847
Property, machinery and equipment [2, 3]	258,863	9,687	268,550	270,281	10,711	280,992
Goodwill, intangible assets and deferred charges	234,509	(41,647)	192,862	224,587	(36,443)	188,144
Total assets	582,286	(23,745)	558,541	623,622	(18,550)	605,072
Current liabilities [1]	49,213	1,549	50,762	152,737	3,600	156,337
Long-term debt	203,751	(149)	203,602	162,805	5	162,810
Other non-current liabilities	71,752	23,162	94,914	69,369	17,228	86,597
Non-current liabilities of discontinued operations	—	—	—	1,444	(10)	1,434
Perpetual debentures	—	39,859	39,859	—	41,495	41,495
Total liabilities	324,716	64,421	389,137	386,355	62,318	448,673
Controlling interest	257,570	(92,031)	165,539	237,267	(85,973)	151,294
Non-controlling interest	—	3,865	3,865	—	5,105	5,105
Consolidated stockholders' equity	257,570	(88,166)	169,404	237,267	(80,868)	156,399
Total liabilities and stockholders' equity	Ps 582,286	(23,745)	558,541	623,622	(18,550)	605,072

Additional reclassifications under U.S. GAAP

The summarized consolidated financial information under U.S. GAAP presented in the table above includes several reclassifications as compared to the summarized consolidated financial information under MFRS. The main reclassifications at December 31, 2009 and 2008 are as follows:

[1] In connection with deferred income taxes, at December 31, 2009 and 2008, current assets under U.S. GAAP include assets of Ps6,499 and Ps5,626, respectively, which are considered non-current items under MFRS. Likewise, current liabilities under U.S. GAAP include liabilities of Ps1,680 in 2009 and Ps3,542 in 2008 classified as non-current items under MFRS. As of December 31, 2008, current assets and current liabilities under both MFRS and U.S. GAAP include approximately Ps4,672 and Ps2,555, respectively, associated with Australia's discontinued operations.

[2] Assets classified as held for sale under MFRS (note 9) for approximately Ps1,255 and Ps1,454, as of December 31, 2009 and 2008, respectively, were reclassified to long-term assets in the condensed financial balance sheet information under U.S. GAAP. These assets are stated at their estimated fair value. Estimated costs to sell these assets are not significant.

[3] At December 31, 2009 and 2008, extraction rights in the aggregates sector of approximately Ps 6,302 (US$481) and Ps6,641 (US$483), respectively (note 12), recognized as intangible assets under MFRS, were reclassified as part of the book value of the quarries in property, machinery and equipment under U.S. GAAP, in accordance with ASC 805-10-65-1, Whether Mineral Rights are Tangible or Intangible Assets.

(b) Goodwill

Goodwill recognized under MFRS (note 12) has been adjusted under U.S. GAAP for: (i) the effect on goodwill from the U.S. GAAP adjustments as of the acquisition dates; (ii) beginning January 1, 2002, goodwill is not amortized under U.S. GAAP, while under MFRS goodwill was amortized until December 31, 2004; and (iii) until December 31, 2003, goodwill under MFRS was carried in the functional currencies of the holding companies for the reporting units, was translated into pesos and was then restated based on the Mexican inflation, while under U.S. GAAP, goodwill is carried in the functional currencies of the reporting units, is restated if applicable under MFRS by the inflation factor of the reporting unit's country, and is translated into Mexican pesos at the exchange rates prevailing at the reporting date. Goodwill generated beginning January 1, 2005 under MFRS is carried consistently with the treatment of goodwill under U.S. GAAP.

The reconciliation of goodwill under MFRS and U.S. GAAP for the years ended December 31, 2009, 2008 and 2007 is as follows:

	2009	2008	2007
Goodwill under MFRS	Ps 150,827	157,541	142,344
Cumulative U.S. GAAP adjustments	(27,760)	(31,502)	11,675
Goodwill under U.S. GAAP	123,067	126,039	154,019
U.S. GAAP adjustments:			
Cumulative U.S. GAAP adjustments at beginning of year	(31,502)	11,675	8,509
Foreign exchange results and inflation effects	2,813	2,721	3,166
Impairment charges (see note 25(j))	929	(45,898)	—
Cumulative U.S. GAAP adjustments at end of year	Ps (27,760)	(31,502)	11,675

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(c) Income Taxes and Employees' Statutory Profit Sharing

Deferred Income Taxes

Under MFRS, CEMEX determines deferred income taxes in a manner similar to U.S. GAAP (note 16B). Nonetheless, there are specific differences as compared to the calculation under ASC 740, *Income Taxes* ("ASC 740"), resulting in adjustments in the reconciliation to U.S. GAAP. These differences mainly arise from: (i) the recognition of the accumulated initial effect of the asset and liability method under MFRS did not consider the deferred tax consequences of business combinations made before January 1, 2000; and (ii) the effects of deferred tax on the reconciling items between MFRS and U.S. GAAP. The tax effects of temporary differences that give rise to significant portions of the deferred tax assets and deferred tax liabilities under U.S. GAAP at December 31, 2009 and 2008 are presented below:

	2009	2008
Deferred tax assets:		
Tax loss and tax credits carryforwards	Ps 77,602	55,488
Accounts payable and accrued expenses	8,197	11,708
Others	3,832	5,696
Total gross deferred tax assets	89,631	72,892
Less valuation allowance	(32,079)	(27,194)
Total deferred tax assets under U.S. GAAP	57,552	45,698
Deferred tax liabilities:		
Property, machinery and equipment	(51,175)	(53,797)
Others	(1,772)	(10,932)
Total deferred tax liability under U.S. GAAP	(52,947)	(64,729)
Net deferred tax asset (liability) under U.S. GAAP	Ps 4,605	(19,031)

Under U.S. GAAP, tax effects of intra-group transactions where the related assets remain in the consolidated balance sheet should be eliminated in consolidation until the time at which the asset is sold outside the group. Under MFRS, the tax effects recognized by each subsidiary as part of such intra-group sale of assets are not reversed. During 2008 (note 25(k)), in connection with an intra-group transfer of intangible assets, a deferred tax for the step-up in the tax basis of the assets recognized by the buyer under MFRS in the amount of Ps2,206 was eliminated for U.S. GAAP purposes. In 2009, CEMEX recorded a tax benefit of Ps220 resulting from the tax amortization of the transferred assets for which no deferred tax is recognized in consolidation under U.S. GAAP. In addition, a deferred charge for an amount of Ps215 was recognized by the seller and is being amortized over 10 years beginning in 2009, which is the period in which the acquiring entity will obtain the related tax benefit. The amortization expense recognized in the statement of operations for the year ended December 31, 2009 was Ps21.

Of the total income tax benefit of approximately Ps3,420 for the year ended December 31, 2009 and expenses of Ps7,861 and Ps1,184 for the years ended December 31, 2008 and 2007, respectively, included in the reconciliation of net income to U.S. GAAP, income tax benefit of approximately Ps2,421 in 2009, and income tax expenses of Ps2,657 in 2008 and Ps1,103 in 2007, are related to deferred income taxes.

Current Income Taxes

In addition to the reconciling items mentioned above related to deferred income taxes, according to MFRS D-4, current income taxes are presented in the income statement. For U.S. GAAP purposes, current income taxes generated by items recognized directly in equity are recognized in equity, considering also intra-period tax allocation. The reconciliation of net income to U.S. GAAP for the years ended December 31, 2009 and 2008, includes a tax benefit of approximately Ps3,353 and an expense of approximately Ps5,091, respectively, for the reclassification of current income taxes from net income under MFRS to equity under U.S. GAAP.

In connection with changes to the tax consolidation regime in Mexico (notes 3N and 16A) under MFRS based on Interpretation 18, CEMEX recognized a charge of approximately Ps2,245 against "Retained earnings," for the liability portion related to: a) the difference between the sum of the equity of the controlled entities for tax purposes and the equity for tax purposes of the consolidated entity; b) dividends from the controlled entities for tax purposes to CEMEX, S.A.B. de C.V.; and c) other transactions between the companies included in the tax consolidation that represented the transfer of resources within the group. Under U.S. GAAP, the tax effects of a new tax law enactment are recognized in the income statement, therefore, the charge to retained earnings mentioned above has been reclassified to income tax expense in the income statement for the year ended December 31, 2009.

Employees' Statutory Profit Sharing ("ESPS")

Until December 31, 2007, for purposes of U.S. GAAP, CEMEX record a deferred tax liability related to ESPS in Mexico using the asset and liability method at the statutory rate of 10%. As mentioned in note 3M, beginning January 1, 2008, deferred ESPS under MFRS is calculated and recognized under the asset and liability method. As a result, the reconciling item was eliminated and the liability under U.S. GAAP as of December 31, 2007 was cancelled during 2008 and is presented as an income adjustment of approximately Ps2,740 in the reconciliation of net income to U.S. GAAP in 2008.

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(d) Accounting for Uncertainty in Income Taxes

Pursuant to ASC 740 under U.S. GAAP, CEMEX defines the confidence level that a tax position taken or expected to be taken must meet in order to be recognized in the financial statements. ASC 740-10-25-6 requires that the tax effects of a position must be recognized only if it is "more-likely-than-not" to be sustained based on its technical merits as of the reporting date. In making this assessment, CEMEX has assumed that the tax authorities will examine each position and have full knowledge of all relevant information. Each position has been considered on its own, regardless of its relation to any other broader tax settlement. The more-likely-than-not threshold represents a positive assertion by management that CEMEX is entitled to the economic benefits of a tax position. If a tax position is not considered more-likely-than-not to be sustained, no benefits of the position are to be recognized. Moreover, the more-likely-than-not threshold must continue to be met in each reporting period to support continued recognition of a benefit.

If during any period after recognition the threshold ceases to be met, the previously recorded benefit must be derecognized. Likewise, the benefit of a tax position that initially fails to meet the more-likely-than-not threshold should be recognized in a subsequent period if changing facts and circumstances enable the position to meet the threshold, the matter is effectively settled through negotiation or litigation with the tax authorities, or the statute of limitations has expired. A summary of the beginning and ending amount of unrecognized tax benefits recorded under U.S. GAAP as of December 31, 2009, 2008 and 2007, excluding interest and penalties, is as follow:

	2009	2008	2007
Balance of tax positions under U.S. GAAP at beginning of year	Ps 13,930	11,198	4,191
Additions for tax positions of prior years	2,368	2,217	3,635
Additions for tax positions of current year	5,110	2,126	3,356
Reductions for tax positions related to prior years and others [1]	(293)	(3,639)	(307)
Settlements	(200)	(123)	(30)
Expiration of the statue of limitations	(236)	(24)	—
Foreign currency translation effects	(346)	2,175	353
Balance of tax positions under U.S. GAAP at end of year	Ps 20,333	13,930	11,198
Balance of tax positions under MFRS at end of year	Ps 9,024	5,474	5,560

[1] During 2007, under MFRS, CEMEX released against current income tax a pre-acquisition income tax contingency, resulting in a tax benefit of approximately Ps307. Under U.S. GAAP, the resolution of a pre-acquisition income tax contingency is recognized reducing the related liability against goodwill. As a result, the reconciliation of net income to U.S. GAAP in 2007, includes the reclassification of the benefit of Ps307 under MFRS, which was recognized as a reduction of goodwill under U.S. GAAP.

CEMEX's policy is to recognize interest and penalties related to unrecognized tax benefits as part of the income tax in the consolidated income statements. Final balance for interest and penalties accrued under MFRS and U.S. GAAP was Ps1,108 and Ps3,064, respectively, as of December 31, 2009, and was Ps1,187 under MFRS and Ps2,967 under U.S. GAAP as of December 31, 2008.

Interest and penalties expense (benefit) related to unrecognized tax benefits recorded in the consolidated income statement for the years ended December 31, 2009, 2008 and 2007 is as follows:

Years	MFRS	U.S. GAAP
2009	Ps (15)	154
2008	695	1,341
2007	415	621

All unrecognized tax benefits included as of December 31, 2009, 2008, and 2007, if recognized, would impact CEMEX's effective tax rate.

Tax examinations can involve complex issues, and the resolution of issues may span multiple years, particularly if subject to negotiation or litigation. Although CEMEX believes its estimates of the total unrecognized tax benefits are reasonable, uncertainties regarding the final determination of income tax audit settlements and any related litigation could affect the amount of total unrecognized tax benefits in future periods. It is difficult to estimate the timing and range of possible changes related to the uncertain tax positions, as finalizing audits with the income tax authorities may involve formal administrative and legal proceedings. Accordingly, it is not possible to reasonably estimate the expected changes to the total unrecognized tax benefits over the next 12 months, although any settlements or statute of limitations expirations may result in a significant increase or decrease in the total unrecognized tax benefits, including those positions related to tax examinations being currently conducted.

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CEMEX files income tax returns in multiple jurisdictions and is subject to examination by income taxing authorities throughout the world. CEMEX's major tax jurisdictions and the years open for examination are as follows:

Country	Years
Mexico	2005 – 2009
United States	2005 – 2009
Spain	2005 – 2009
United Kingdom	2000 – 2009

(e) Employee Benefits

Severance payments

Under U.S. GAAP, post-employment benefits for former or inactive employees, including severance payments, which are not part of a restructuring event, are accrued over the employees' service lives. Beginning January 1, 2005, under MFRS, severance payments that are not part of a restructuring event are accrued over the employees' service lives according to actuarial computations, in a manner similar to U.S. GAAP. For the years ended December 31, 2009, 2008 and 2007, the reconciling item refers to the amortization of the cumulative initial effect from the accounting change under MFRS recognized as of January 1, 2005 as part of the unrecognized net transition obligation.

Pension and other postretirement benefits

In connection with employee pension and other postretirement benefits under MFRS, until December 31, 2007, CEMEX determined the costs of these benefits based on the obligations' net present value, and amortized any prior service cost, transition liability and actuarial results, following the corridor method (note 3M) over the employees' estimated active service lives, as permitted by ASC 715, *Compensation – Retirement Benefits* 30 *Defined Benefit Plans – Pensions*, under U.S. GAAP. For the year ended December 31, 2007, no adjustment was determined in the reconciliation of net income to U.S. GAAP. Beginning January 1, 2008, resulting from the adoption of new MFRS D-3, the prior service cost, transition liability and actuarial results accrued as of December 31, 2007, should be amortized to the income statement over a maximum period of five years, while the new actuarial results generated after the adoption of new MFRS D-3 are amortized normally over the employees' estimated active service lives following the corridor method. The reconciliation of net income to U.S. GAAP in 2009 and 2008 includes the reversal of the additional amortization expense recognized under MFRS of approximately Ps104 and Ps104, respectively.

For the reconciliation of stockholders' equity to U.S. GAAP, based on ASC 715, CEMEX recognizes the funded status (benefits' obligation less fair value of plan assets) of defined benefit pension and other postretirement plans as a net asset or liability and recognizes any changes in that funded status in the year in which the changes occur against other comprehensive income ("OCI") to the extent those changes are not included in the net periodic cost. The reconciliation of the funded status of postretirement benefits at December 31, 2009 and 2008 between MFRS and U.S. GAAP is as follows:

	Assets (non-current)	Liabilities (non-current)	Deferred income tax (non-current)	Total liabilities	Cumulative OCI, net of tax
Funded status under U.S. GAAP at December 31, 2008	Ps 148	10,904	(3,175)	7,729	(2,689)
Reversal of approximate ASC 715 adjustments	(148)	(4,113)	1,276	(2,837)	2,689
Funded status under MFRS at December 31, 2008	Ps —	6,791	(1,899)	4,892	—
Funded status under U.S. GAAP at December 31, 2009	Ps 33	13,632	(3,349)	10,283	(4,338)
Reversal of approximate ASC 715 adjustments	(33)	(6,174)	1,802	(4,372)	4,338
Funded status under MFRS at December 31, 2009	Ps —	7,458	(1,547)	5,911	—

The change during 2009 and 2008 in OCI under U.S. GAAP was a net loss of approximately Ps6,144 (Ps4,338 net of income tax) and a net loss of approximately Ps3,965 (Ps2,689 net of income tax), respectively, which includes: i) a curtailment gain of Ps39 in 2009 and a curtailment loss of Ps18 in 2008; ii) net losses of Ps5,619 in 2009 and Ps3,805 in 2008 from actuarial results and foreign currency translation effects during the year; and iii) expenses of approximately Ps483 in 2009 and Ps142 in 2008 from the amortization of the prior service cost, the transition liability and the actuarial results. For the years ended December 31, 2009, 2008 and 2007, ASC 715 adjustments had no effect on the summarized statements of operations under U.S. GAAP presented in note 25(a).

The expected long-term rate of return on plan assets is determined based on a variety of considerations, including the established asset allocation targets and expectations for those asset classes, historical returns of the plans' assets and other market considerations. The primary objective in the investment management for plan assets is to maximize the inflation-adjusted principal value of the assets in order to meet current and future benefit obligations to plan participants. We have a diversified portfolio composed of equity, alternative investments, fixed income and cash equivalent securities. We have independent investment consultants that provide advice to Investment Committees and Trustees to determine the annual investment strategy. Plan assets are managed on a total return and risk basis, and its performance is monitored on a quarterly basis. The Investment Committee recognizes that a certain level of risk (i.e., the uncertainty of future events), volatility (i.e., the potential for variability of asset values) and the possibility of loss in purchasing power (due to inflation) are present to some degree in all types of investment vehicles. Risk is controlled by maintaining a portfolio of assets that is diversified across a variety of asset classes, economic and industry sectors, investment styles and investment managers. Funds management complies with local legal regulations in terms of asset allocation and statutory funding requirements.

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In connection with the pension plans assets by asset category (note 15), according to requirements of ASC 820, *Fair Value Measurements and Disclosure*, under U.S. GAAP, the breakdown of the assets fair value by hierarchy level (note 25(h)) as of December 31, 2009 is as follows:

	Quoted prices in active markets for identical assets (Level 1)	Significant observable inputs (Level 2)	Significant unobservable inputs (Level 3)	Total fair value
Fixed-income securities				
Cash	Ps 1,286	—	—	1,286
Investments in corporate bonds	3,860	1,772	—	5,632
Investments in government bonds	6,685	—	—	6,685
	11,831	1,772	—	13,603
Variable-income securities				
Investment in marketable securities	5,704	—	27	5,731
Other investments and private funds	1,882	42	423	2,347
	7,586	42	450	8,078
	Ps 19,417	1,814	450	21,681

(f) Non-controlling Interest

Financing Transactions

In connection with CEMEX's perpetual debentures (note 17D) for notional amounts of approximately US$3,045 (Ps39,859) in 2009 and US$3,020 (Ps41,495) in 2008, which are treated as equity instruments and included as part of non-controlling interest under MFRS, for purposes of the reconciliation of stockholders' equity to U.S. GAAP, such perpetual debentures were reclassified to long-term debt under U.S. GAAP, reducing stockholders' equity under U.S. GAAP in the amount of Ps39,859 in 2009 and Ps41,495 in 2008. Interest accrued on the perpetual debentures, including interest incurred in connection with perpetual loan facilities that were originated and settled during the year (note 13A and 17D), for approximately Ps2,704 in 2009, Ps2,596 in 2008 and Ps1,847 in 2007 recognized within "Other equity reserves" under MFRS were reclassified to interest expense in the reconciliation of net income to U.S. GAAP.

Non-controlling Interest under U.S. GAAP

Under MFRS, non-controlling interest in consolidated subsidiaries is presented as a separate component within stockholders' equity. For U.S. GAAP purposes, beginning on January 1, 2009, amendments to ASC 810, *Consolidation* ("ASC 810"), state that a non-controlling interest in a subsidiary is an ownership interest in the consolidated entity that should be reported as equity in the consolidated financial statements, and requires consolidated net income to be reported at amounts that include the amounts attributable to both the parent and the non-controlling interest. It also requires disclosure, on the face of the consolidated statement of income, of the amounts of consolidated net income attributable to the parent and to the non-controlling interest. These requirements must be applied prospectively as of the beginning of the fiscal year in which this statement is initially applied, except for the presentation and disclosure requirements, which must be applied retrospectively for all periods presented. Accordingly, we have made retrospective adjustments to previously reported balance sheet and income statement. As of December 31, 2008, previously reported stockholders' equity under U.S. GAAP was Ps151,294, which included a reconciling item related to the non-controlling interest representing a deduction of Ps5,105. Pursuant to ASC 810, this reconciling item was removed from the stockholders' equity reconciliation as of December 31, 2008 included in this annual report.

In addition, the balance of non-controlling interest under MFRS is adjusted to reflect the share of the non-controlling shareholders in the corresponding reconciling entries to U.S. GAAP.

(g) Inflation Adjustment of Machinery and Equipment

According to Regulation S-X, when inflationary accounting is applicable under MFRS, fixed assets of foreign origin should be restated by applying the inflation rate of the country that holds the assets, regardless of the assets' origin countries, instead of using the methodology of MFRS until December 31, 2007 (note 3A and 3H), under which fixed assets of foreign origin were restated by applying a factor that considered the inflation of the asset's origin country and the fluctuation of the currency of the country that holds the asset against the currency of the asset's origin country. Depreciation expense is based upon the revised amounts. The amount recognized in the reconciliation of net income to U.S. GAAP in 2009 and 2008 refers to depreciation expense of the cumulative effect of the reconciling item as of December 31, 2007, the date on which inflationary accounting was suspended under MFRS. The amount recognized in the reconciliation of stockholders' equity to U.S. GAAP in 2009 and 2008 includes Ps2,553 (US$195) ((Ps1,685 (US$129) net of income tax) and Ps2,680 (US$195) ((Ps1,769 (US$129), net of income tax), respectively, related to the revaluation of fixed assets expropriated in Venezuela, which are presented net in the caption "Non-current accounts receivables and other assets." Beginning in 2008, if inflationary accounting is applicable under MFRS, fixed assets of foreign origin are restated using the factors derived from the general price indexes of the countries holding the assets, in a manner similar to that permitted under Regulation S-X.

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(h) Financial Instruments

Indebtedness (note 13A)

Under MFRS, CEMEX has designated certain debt as hedges of certain investments in foreign subsidiaries and recognizes foreign exchange fluctuations on such debt within "Other equity reserves" in stockholders' equity (notes 3D and 17B). In the reconciliation of net income to U.S. GAAP, a portion of those foreign exchange results recognized in equity under MFRS was reclassified to the statement of operations under U.S. GAAP, resulting in income of Ps1,763 in 2009 and expenses of Ps7,716 in 2008 and Ps339 in 2007.

Derivative Financial Instruments (notes 3K, 13C and D)

Under both MFRS and U.S. GAAP, all derivative instruments, including those embedded in other contracts, are recognized in the balance sheet as assets or liabilities at their fair values, and changes in fair value are recognized in earnings, unless the derivatives qualify as hedges of future cash flows, in which case the effective portion of such changes in fair value is recorded temporarily in equity, and then recognized in earnings along with the related effects of the hedged items. Any ineffective portion of a hedge is reported in earnings as it occurs. However, as mentioned below, ASC 820, *Fair Value Measurements and Disclosure*, changed a definition of fair value beginning in 2008, and that created a difference between MFRS and U.S. GAAP. Except for the different amounts of fair value under MFRS and U.S. GAAP, all derivative instruments were accounted under MFRS consistently with the provisions of U.S. GAAP. For the years ended December 31, 2009, 2008 and 2007, CEMEX has not designated any derivative instrument as a fair value hedge under both MFRS and U.S. GAAP.

All energy supply contracts in which CEMEX has the obligation to acquire produced amounts of megawatts during predefined periods (note 20C), were negotiated for own-use in CEMEX's plants, do not include provisions for net cash settlement and do not have trading purposes. Such energy contracts contain features that may imply that the contracts represent derivative instruments or that they contain embedded derivative instruments. For both MFRS and U.S. GAAP, CEMEX considers these contracts under the "Normal Purchases and Normal Sales Exception" established in ASC 815, *Derivatives and Hedging*; consequently, such contracts are not recognized at fair value through the income statement.

For all hedging relationships, for accounting purposes, CEMEX formally documents the hedging relationship and its risk-management objective and strategy for undertaking the hedge, the hedging instrument, the hedged item, the nature of the risk being hedged, how the hedging instrument's effectiveness in offsetting the hedged risk will be assessed, and a description of the method of measuring ineffectiveness. This process includes linking all derivatives that are designated as cash-flow or foreign-currency hedges to specific assets and liabilities on the balance sheet or to specific firm commitments or forecasted transactions. CEMEX also formally assesses, both at the hedge's origination and on an ongoing basis, whether the derivatives that are used in hedging transactions are highly effective in offsetting changes in cash flows of hedged items. When it is determined that a derivative is not highly effective as a hedge or that it has ceased to be a highly effective hedge, CEMEX discontinues hedge accounting prospectively.

Fair Value Hierarchy

Under U.S. GAAP, CEMEX applies ASC 820, *Fair Value Measurements and Disclosure*, for fair value measurements of financial assets and financial liabilities recognized or disclosed at fair value. Beginning on January 1, 2009, CEMEX also recognizes and discloses the fair value of non-financial assets and non-financial liabilities under ASC 820.

Under MFRS, in addition to certain investments in trading securities which are recorded at their quoted market prices, CEMEX has recognized all its derivative financial instruments at their estimated fair value (notes 13C and D). For purposes of MFRS, fair value is the amount for which an asset could be exchanged, a liability settled, or an equity instrument granted could be exchanged between knowledgeable, willing parties in an arm's length transaction. Beginning in 2008 under U.S. GAAP, the concept of fair value was redefined by ASC 820 as an "Exit Value," which is the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date. Basically, the difference between the fair value under MFRS, which is equivalent to a settlement amount at the balance sheet date, and the Exit Value under U.S. GAAP, is that the later considers the counterparty's credit risk in the valuation.

The concept of Exit Value works under the premise that there is a market and market participants for the specific asset or liability. When there is no market and/or market participants willing to make a market, ASC 820 establishes a fair value hierarchy that prioritizes the inputs to valuation techniques used to measure fair value. The hierarchy gives the highest priority to unadjusted quoted prices in active markets for identical assets or liabilities (Level 1 measurements) and the lowest priority to measurements involving significant unobservable inputs (Level 3 measurements). The three levels of the fair value hierarchy are as follows:

- Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities that CEMEX has the ability to access at the measurement date.
- Level 2 inputs are inputs other than quoted prices that are observable for the asset or liability, either directly or indirectly.
- Level 3 inputs are unobservable inputs for the asset or liability.

The fair values determined by CEMEX for its derivative financial instruments are Level 2. There is no direct measure for the risk of CEMEX or its counterparties in connection with the derivative instruments. Therefore, the risk factors applied for CEMEX's assets and liabilities originated by the valuation of such derivatives were extrapolated from publicly available risk discounts for other public debt instruments of CEMEX and its counterparties.

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The following table presents a comparison of fair values between MFRS and U.S. GAAP at December 31, 2009 and 2008, which led to the reconciling adjustments for the years ended December 31, 2009 and 2008, representing a loss of approximately US$88 (Ps1,207 or Ps890 after deferred income tax) and a gain of approximately US$95 (Ps1,305 or Ps960 after deferred income tax), respectively.

		2009			2008		
(U.S. dollars millions)		MFRS	U.S. GAAP	Adjustment	MFRS	U.S. GAAP	Adjustment
Active derivative instruments (note 13C)							
Derivative instruments related to debt	US$	—	—	—	(4)	5	9
Other derivative instruments		82	81	(1)	(36)	(14)	22
Derivative instruments related to equity instruments		(79)	(71)	8	225	243	18
		3	10	7	185	234	49
Inactive derivative instruments (note 13D)							
Cross currency swaps		—	—	—	(101)	(64)	37
Foreign exchange forward contracts		—	—	—	(284)	(275)	9
		—	—	—	(385)	(339)	46
Total	US$	—	—	—	(200)	(105)	95

The fair values under both MFRS and U.S. GAAP presented in the table above at December 31, 2009 and 2008 include approximately US$195 (Ps2,553) and US$763 (Ps10,484), respectively, of deposits in margin accounts with financial institutions, of which in 2008, US$565 (Ps7,763) were related to active positions and US$198 (Ps2,721) to inactive positions (note 13B).

Fair Value of Perpetual Debentures

As of December 31, 2009 and 2008, the fair value of CEMEX's perpetual debentures (note 17D) was approximately Ps27,594 (US$2,108) and Ps17,464 (US$1,271), respectively. Based on ASC 820, *Fair Value Measurements and Disclosure*, such reported fair values represent Level 1 measurements which were determined considering quoted market prices of the perpetual debentures as they are available.

Effects of CEMEX's Financing Agreement under U.S. GAAP

As detailed in note 13A, on August 14, 2009, CEMEX entered into the Financing Agreement with its major creditors, which extended the maturity of approximately US$14,961 (Ps195,839) of syndicated and bilateral loans and private placement obligations. Under MFRS, the Financing Agreement qualified as the issuance of new debt and the extinguishment of the old facilities, as it did under U.S. GAAP according to ASC 470-50, *Debt—Modifications and Extinguishments* ("ASC 470-50"). However, as opposed to MFRS in which the nominal amount of the new debt is used for the determination of gain and losses at inception, under U.S. GAAP, the new long-term debt should be measured at fair value at inception of the new debt in order to determine gains or losses on extinguishment. CEMEX segregated the extinguished instruments into long term facilities and revolving credit lines and determined the accounting treatment for each of these components as follows:

a) The fair value at measurement date of the long term facilities with a nominal amount of approximately US$11,368 (Ps148,807) was determined to be approximately US$11,357 (Ps148,663), which represents a Level 2 measurement under ASC 820 as there was no direct measure of the instrument or CEMEX's default risk. The fair value adjustment required under U.S. GAAP was a decrease in the liability and a corresponding gain in the reconciliation of net income to U.S. GAAP for approximately US$11 (Ps150). Issuance costs and commissions paid, which under MFRS were capitalized as deferred financing costs and are subject to amortization throughout the life of the instrument, have been expensed in the reconciliation of net income to U.S. GAAP for approximately Ps6,016 (US$442). A deferred income tax asset under U.S. GAAP for approximately Ps1,786 was recognized in connection with the commissions and issuance costs mentioned above.

b) The revolving credit lines retained their original carrying amount of approximately US$3,593 (Ps47,032) in accordance with ASC 470-50. The provisions of the Financing Agreement increased the borrowing capacity relative to these revolving credit lines and therefore, previously capitalized borrowing costs, which are not significant, will be amortized throughout the term of the Financing Agreement. New borrowing costs for approximately Ps811 (US$62) were capitalized as deferred financing costs during 2009 and will be amortized throughout the term of the Financing Agreement under both MFRS and U.S. GAAP.

Mandatorily Convertible Securities

Under MFRS, the mandatorily convertible securities issued in Mexico on December 10, 2009 (the "convertible securities") for approximately Ps4,126 (US$315) in exchange for CBs (note 13A), represent a compound instrument which has a liability component and an equity component. The liability component, which amounted to Ps2,090 at December 31, 2009, represents the net present value of interest payment on the principal amount, without assuming any early conversion, and was recognized within "Other financial obligations" (note 13A). The equity component, for approximately Ps2,036 at December 31, 2009, which represents the difference between the principal amount and the liability component was recognized within "Other equity reserves" net of commissions of Ps65 (note 17B).

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According to ASC 470-20, *Debt with Conversion and other Options*, under U.S. GAAP, the equity component was reclassified to debt in the reconciliation of stockholders' equity to U.S. GAAP and is presented within "Other non-current liabilities" together with the liability component in the condensed financial information of balance sheet under U.S. GAAP. Likewise, deferred income tax asset for approximately Ps585 recognized against stockholders' equity under MFRS in connection with the mentioned transaction were eliminated (note 16B). The exchange of CBs for the convertible securities also qualified as the issuance of new debt and the extinguishment of the old facilities under ASC 470-50, which required CEMEX to measure the new financial obligation at fair value at inception and to recognize as interest expense in the reconciliation of net income to U.S. GAAP: a) the issuance costs related to the liability component, which were capitalized as deferred financing costs under MFRS for approximately Ps67(US$5), and b) the issuance costs related to the equity component recognized within "Other equity reserves" under MFRS for approximately Ps65 (US$5). Under U.S. GAAP, a deferred income tax asset for Ps37 at December 31, 2009 was recognized in connection with the commissions and issuance costs mentioned above.

The fair value at measurement date approximates to the carrying value of approximately Ps4,126 (US$315) at December 31, 2009 determined by CEMEX for the convertible securities and it is considered a Level 2 fair value measurement given that the market price of these securities was available but the contract included a one-year trading restriction.

Fair Value Option

Beginning in January 1, 2008, ASC 825, *Financial Instruments* ("ASC 825"), provides entities with an option to measure many financial instruments and certain other items at fair value. Under ASC 825, unrealized gains and losses on items for which the fair value option has been elected are reported in earnings at each reporting period. As of and for the years ended December 31, 2009 and 2008, CEMEX has not elected to measure any financial instruments or other items at fair value.

Fair value of non-financial assets and non-financial liabilities

On January 1, 2009, CEMEX adopted ASC Topic 820, *Fair Value Measurements and Disclosures*, for fair value measurements of non-financial assets and non-financial liabilities that are recognized or disclosed at fair value in the financial statements on a non-recurring basis.

Description		Balance at December 31, 2009	Fair Value Hierarchy			Total impairment charge
			Level 1	Level 2	Level 3	
Long-lived assets held and used	Ps	174	—	—	174	(504)
Goodwill		76,938	—	—	76,938	929
Long-lived assets held for sale		288	—	—	288	(253)
Asset retirement obligations	Ps	2,460	—	—	2,460	—

In accordance with the provisions of the ASC 360-10-35, *Property, Plant and Equipment—Impairment or Disposal of Long-Lived Assets*, long-lived assets held and used with a carrying amount of Ps677 (US$51) were written down to their fair value of Ps174 (US$13), resulting in an impairment charge of Ps504 (US$38), which was included in the consolidated statement of operations under U.S. GAAP.

Pursuant to ASC 350-20-35, *Intangibles—Goodwill and Other—Recognition and Measurement of an Impairment Loss* ("ASC 350-20-35"), goodwill with a carrying amount in 2008 of Ps76,388 (US$5,836) was adjusted in 2009 as a result of the finalization of the step 2 exercise in connection with the 2008 impairment test, to its estimated fair value of Ps76,938 (US$5,878), resulting in an impairment reversal of Ps929 (US$71), which was included as a benefit in the consolidated statement of operations under U.S. GAAP.

As indicated in ASC 360-10-35, long-lived assets held for sale with a carrying amount in 2008 of Ps541 (US$41) were written down in 2009 to their estimated fair value of Ps288 (US$22), resulting in an impairment charge of Ps253 (US$19), which was included in the consolidated statement of operations under U.S. GAAP.

Based on the requirements of ASC 40-20-35, *Asset Retirement and Environmental Obligations—Asset Retirement Obligations—Subsequent Measurement*, asset retirement obligations in the table above are calculated based on the present value of estimated removal and other closure costs using our internal risk-free rate of return or appropriate equivalent.

(i) Stock Option Programs

The balance of options outstanding at December 31, 2009 and 2008 and other general information regarding CEMEX's stock option programs is presented in note 18.

As mentioned in note 3T, CEMEX accounted for its stock option programs in 2008 and 2007 according to IFRS 2 and beginning on January 1, 2009 under new MFRS D-8, which provide basically the same accounting treatment. Effective January 1, 2006, under U.S. GAAP, CEMEX applies ASC 718, *Compensation—Stock Compensation* ("ASC 718"), which requires that all stock-based compensation be recognized as an expense in the financial statements and that such cost be measured at the fair value of the award. Similar to MFRS D-8 under MFRS, ASC 718 requires liabilities incurred under stock awards to be measured at fair value at each balance sheet date, with changes in fair value recorded in the income statement. Likewise, MFRS D-8 and ASC 718 require compensation cost related to awards qualifying as equity instruments to be determined considering the grant-date fair value of the awards, and be recorded during the awards' vesting period. As of and for the years ended December 31, 2009, 2008 and 2007, the compensation expense and the

liabilities accrued in connection with CEMEX's stock option programs under MFRS are the same amounts that would be determined using ASC 718 under U.S. GAAP.

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(j) Impairment of Long-Lived Assets

Under U.S. GAAP, CEMEX assesses goodwill and indefinite-lived intangibles for impairment annually unless events occur that require more frequent reviews. Other long-lived assets, including amortizable intangibles, are tested for impairment if impairment triggers occur. Discounted cash flow analyses considering the required use of market considerations are applied to assess the possible impairment of goodwill and indefinite life intangible assets; whereas if impairment indicators exist, undiscounted cash flow analyses are used to assess the impairment for other long-lived assets, including definite life intangible assets. If an assessment indicates impairment, the impaired asset is written down to its fair value based on the best information available. The useful lives of amortizable intangibles are evaluated periodically, and subsequent to impairment reviews, to determine whether revision is warranted. If cash flows related to an indefinite life intangible are not expected to continue for the foreseeable future, a useful life is assigned. Considerable management judgment is necessary to estimate undiscounted and discounted future cash flows. Assumptions used for these cash flows are consistent with internal forecasts and industry practices.

As mentioned in note 3J, under MFRS, in order to test the balances of its long-lived assets for impairment, including goodwill, definite and indefinite life intangible assets and property, machinery and equipment, CEMEX determines the value in use, which consists of the discounted amount of estimated future cash flows to be generated by the related asset. The impairment loss results from the excess of the carrying amount over the value in use related to the asset. Differences in the carrying values of certain long-lived assets under U.S. GAAP as well as other factors explained below led to different impairment losses or impairment testing results between MFRS and U.S. GAAP. As of December 31, 2009 and 2008, CEMEX has no indefinite-lived intangible assets other than goodwill under both MFRS and U.S. GAAP.

Based on impairment tests made during the last quarter of 2009, as mentioned in note 12B under MFRS, CEMEX did not recognize impairment losses of goodwill. In 2008, under MFRS, goodwill impairment losses were determined for the United States, Ireland and Thailand reporting units for approximately Ps18,314 (US$1,333), including an impairment loss related to CEMEX's Venezuelan investment in connection with its nationalization. Likewise, considering triggering events in the United States during the fourth quarter of 2008, CEMEX tested its intangible assets of definite life in that country and determined that the net book value of certain trademarks exceeded their related value in use and recorded impairment losses of approximately Ps1,598 (US$116) (note 12). In addition, as mentioned in note 11, for the years ended December 31, 2009, 2008 and 2007, CEMEX recognized impairment losses during the fourth quarter in connection with the permanent closing of operating assets for an aggregate amount of approximately Ps503 (US$38), Ps1,045 (US$76) and Ps64 (US$6), respectively.

Goodwill

Under U.S. GAAP, if the carrying amount of the reporting unit exceeds its related fair value, CEMEX should apply a "second step" process by means of which the fair value of such reporting unit should be allocated to the fair value of its net assets in order to determine the reporting unit's "implied" goodwill. The resulting impairment loss under U.S. GAAP is the difference between the carrying amount of the related goodwill as of the valuation date and the implied goodwill amount. This situation, in addition to differences in the determination of the risk-adjusted discount rates under MFRS as compared to U.S. GAAP, as well as differences in the reporting units' carrying amounts between MFRS and U.S. GAAP, originate, when applicable, different amounts of impairment losses.

To establish the fair value of its reporting units under U.S. GAAP, CEMEX initially calculated their fair value by discounting the projected future cash flows using country specific estimated weighted average cost of capital as the discount rates, and by including and blending the allocated fair value estimates based on CEMEX historical multiples, on a basis of 60% discounted cash flows and 40% Operating EBITDA (Operating income plus depreciation and amortization) multiples. As additional reference to the fair value as determined, CEMEX compared other market value indicators, including fair value estimates based on the Guided Transactions Approach and Industry Multiples. In addition, CEMEX's market capitalization, including a reasonable control premium, was taken into consideration as a reference to reconcile the aggregate fair value determined for the reporting units.

The results of the impairment test performed as of December 31, 2009 indicated that the estimated fair values of all reporting units under U.S. GAAP exceeded in each case their corresponding carrying amount and that the second step of the test was not required. Based on the results of goodwill impairment testing as of December 31, 2008 under U.S. GAAP, CEMEX recorded an estimated impairment loss in connection with its reporting unit in the United States of approximately Ps62,354 (US$4,538). The goodwill was written down to its implied fair value derived in the second step, which requires companies to determine the fair value of all the assets and liabilities of the reporting units at the measurement date. Due to the complexity of this process, CEMEX did not complete the measurement of the implied fair value of goodwill in 2008; accordingly, the goodwill impairment charge in the reconciliation of net income to U.S. GAAP in 2008 represented an estimate. After finalizing our 2008 impairment exercise under U.S. GAAP during 2009, our impairment losses in the United States were reduced by approximately US$71 (Ps929). This amount was recognized as income in the reconciliation of net income to U.S. GAAP in 2009. The reconciliation of net income under U.S. GAAP also includes a loss of Ps9 related to other impairment charges.

Complementarily, for 2008 and in connection with the goodwill associated to CEMEX's reporting units in Ireland and Thailand, as well as the goodwill associated with its Venezuelan investment, which was fully impaired under MFRS (note 12B), CEMEX did not perform the second step considering that the related goodwill was fully impaired in the first step test, the materiality of these reporting units and the goodwill balances. The reconciliation of net income to U.S. GAAP in 2008 includes an additional impairment loss of approximately Ps331 associated to the cancellation of cumulative differences in the goodwill carrying amounts of these reporting units between MFRS and U.S. GAAP. At December 31, 2008, goodwill under U.S. GAAP associated with CEMEX's reporting units in Thailand and Ireland, as well as its Venezuelan assets, was completely removed.

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For purposes of the summarized statement of operations under U.S. GAAP for the years ended December 31, 2009 and 2008 (note 25(a)), the non-cash goodwill impairment losses, excluding the loss associated to CEMEX's Venezuelan investment, are included in the determination of operating income. The impairment loss recognized in 2008 and the adjustment in 2009 after finalizing the second step measurement under U.S. GAAP is explained as follows:

Item		2009	2008
Effect attributable to the different discount rates and required market considerations, net	Ps	—	51,711
Effect originated by the "second step" process		(929)	11,966
Effect resulting from different carrying amounts of goodwill between MFRS and U.S. GAAP		—	535
Total goodwill impairment losses under U.S. GAAP		(929)	64,212
Goodwill impairment losses under MFRS		—	18,314
Additional goodwill impairment losses under U.S. GAAP	Ps	(929)	45,898

Discount rates under MFRS differ from those determined under U.S. GAAP. In determining an appropriate discount rate, MFRS requires company specific data such as the rate at which CEMEX can obtain financing. In contrast, under U.S. GAAP, the discount rate should reflect a market participant's perspective on the risk of the determined cash flow streams; therefore, CEMEX applied industry specific data.

The use of various rates could have an adverse change in the fair value of CEMEX's goodwill and cause it to be impaired. Undiscounted cash flows are significantly sensitive to the growth rates in perpetuity used. Likewise, discounted cash flows are significantly sensitive to the discount rate used. The higher the growth rate in perpetuity applied, the higher the amount obtained of undiscounted future cash flows by reporting unit. Conversely, the higher the discount rate applied, the lower the amount obtained of discounted estimated future cash flows by reporting unit.

CEMEX used the same growth rates in determining its projected future cash flows for both MFRS and U.S. GAAP (note 12B). The following table presents the discount rates by country at December 31, 2009 and 2008, used for the determination of CEMEX's discounted projected future cash flows under MFRS and U.S. GAAP:

	2009		2008	
Reporting units	MFRS	U.S. GAAP	MFRS	U.S. GAAP
United States	8.5%	8.9%	9.2%	10.4%
Spain	9.4%	9.9%	10.8%	12.0%
Mexico	10.0%	10.5%	12.0%	12.9%
Colombia	10.2%	10.7%	11.8%	12.6%
France	9.6%	10.1%	11.2%	12.1%
United Arab Emirates	11.4%	12.1%	13.0%	14.7%
United Kingdom	9.4%	9.9%	9.8%	11.2%
Egypt	10.0%	10.6%	12.8%	12.1%
Range of discount rates in other countries	9.6% –14.6%	10.0% –15.1%	11.3% –15.0%	12.0% –18.0%

The main assumptions used in the impairment testing under U.S. GAAP of the reporting unit which, according to CEMEX's sensitivity analysis, presented a relative impairment risk in 2009, were as follows:

		At December 31, 2009			
Reporting unit		Recognized impairment charges	Discount rate	Perpetual growth rate	Operating EBITDA multiple
Spain	Ps	—	9.9%	2.5%	8.2

In connection with CEMEX's assumptions included in the table above, the impairment charges resulting from the sensitivity analysis under U.S. GAAP that would have resulted from an independent change of each one of the variables, regarding the reporting unit that presented a relative impairment risk in 2009, excluding effects that would arise from the second step process under U.S. GAAP, would have been as follows:

	Sensitivity analysis impact of described change in assumptions at December 31, 2009				
Reporting unit	Recognized impairment charges	Discount rate +1 Pt	Perpetual growth rate –1 Pt	EBITDA –10%	EBITDA Multiple – 1 Pt
Spain	Ps —	2,980	1,374	1,484	1,818

During 2007, the fair value of the reporting units under U.S. GAAP exceeded in each case the corresponding carrying amounts. Therefore, no impairment charges resulted from the mandatory annual impairment testing of goodwill under U.S. GAAP.

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Other Intangible Assets

A significant portion of CEMEX's definite-lived intangible assets under both MFRS and U.S. GAAP as of December 31, 2009 and 2008 are comprised by extraction permits, trademarks and customer relationships (note 12). When impairment indicators exist, for each intangible asset, CEMEX would determine its projected revenue streams over the estimated useful life of the asset. In order to obtain undiscounted and discounted cash flows attributable to each intangible asset, such revenues are adjusted for operating expenses, changes in working capital and other expenditures, as applicable, and discounted to net present value using the risk adjusted discount rates of return. Significant management judgment is necessary to determine the appropriate valuation method and estimates under the key assumptions, among which are: a) the useful life of the asset; b) the risk adjusted discount rate of return; c) royalty rates; and d) growth rates. Assumptions used for these cash flows are consistent with internal forecasts and industry practices.

The fair values of intangible assets are very sensitive to changes in the significant assumptions used in their calculation. Certain key assumptions are more subjective than others. In respect of trademarks, CEMEX considers the royalty rate, key in the determination of revenue streams, as the most subjective assumption. In respect of permits and customer relationships, the most subjective assumptions are revenue growth rates and estimated useful lives. CEMEX validates its assumptions through benchmarking with industry practices and the corroboration of third party valuation advisors.

During the fourth quarter of 2008, considering the existence of triggering events, CEMEX tested its U.S. intangible assets under both MFRS and U.S. GAAP. In connection with the trademarks that were adjusted to its value in use under MFRS, the impairment test under U.S. GAAP also presented an excess of the carrying amount over the undiscounted estimated future cash flows. Consequently, CEMEX discounted such estimated future cash flows using the discount rate determined under U.S. GAAP as described above, and arrived at an additional impairment loss of approximately Ps179.

In 2009 and 2007, there were no impairment indicators leading to impairment testing of CEMEX's definite-lived intangible assets under U.S. GAAP. In connection with the intangible assets arising from the acquisition of Rinker that were deemed to have an indefinite useful life as of December 31, 2007, CEMEX did not test these assets for impairment during 2007 considering the proximity between the fair value's valuation date and year-end. During 2008 (note 12), CEMEX assigned specific useful lives to these assets under both MFRS and U.S. GAAP.

Property, Plant and Equipment

For the years ended December 31, 2009, 2008 and 2007, there were no impairment charges under U.S. GAAP in addition to those described in note 11 related to property, plant and equipment, which were recorded under MFRS. In the case of the assets subject to impairment in the related periods, the differences in carrying amounts between MFRS and U.S. GAAP were not significant as to require additional adjustments.

(k) Other U.S. GAAP Adjustments

Deferred charges

In prior years, under MFRS, CEMEX capitalized certain costs not qualifying for deferral under U.S. GAAP. Therefore, such costs were reversed through earnings under U.S. GAAP in the period incurred, resulting in income of Ps10 in 2008 and income of Ps122 in 2007. During 2009, 2008 and 2007, all amounts capitalized under MFRS also met the requirements for capitalization under U.S. GAAP. Accordingly, the adjustments in the reconciliation of net income to U.S. GAAP for the years ended December 31, 2008 and 2007 refer exclusively to amounts amortized under MFRS during the respective years and which were expensed in prior years under U.S. GAAP. During 2008, the accounting difference was fully amortized.

As mentioned in note 25(h), in connection with the extinguished long-term facilities under the Financing Agreement (note 13A) with an original carrying amount of approximately US$11,368 (Ps148,807), the issuance costs and commissions paid under MFRS, which were capitalized as deferred financing costs, have been expensed in the reconciliation of net income to U.S. GAAP in 2009 as interest expense for approximately Ps6,016 (US$442).

Additionally and in connection with the exchange of CBs issued in Mexico for the convertible securities for approximately Ps4,126 (US$315) (see notes 13A, 17B and 25(h)), which, based on MFRS, these convertible securities represent a compound instrument which has a liability component and an equity component. Under U.S. GAAP, the exchange qualified as the issuance of new debt and the extinguishment of the old facilities according to ASC 470-50 . Consequently, CEMEX reclassified to interest expense under U.S. GAAP the issuance costs classified as deferred financing costs under MFRS for approximately Ps67 (US$5).

During 2009 and 2008, in connection with its perpetual debentures, CEMEX recognized issuance costs directly in equity under MFRS for approximately Ps120 and Ps276, respectively. As mentioned in note 25(f), CEMEX's perpetual debentures are treated as debt under U.S. GAAP. Consequently, issuance costs were reclassified from equity under MFRS to deferred financing costs under U.S. GAAP and are amortized over 3, 6 and 8 years, depending on each facility, which are the periods remaining before CEMEX has the option to repurchase the instrument. For the years ended December 31, 2009 and 2008, the reconciliation of net income to U.S. GAAP includes expenses of approximately Ps21 and Ps51, respectively, related to the amortization of these deferred financing costs.

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In addition, during 2008, CEMEX recognized a current income tax expense of approximately Ps215 related to an intercompany transfer of intangible assets under MFRS. Under U.S. GAAP, income tax effects associated with intercompany transfers of assets should be eliminated from the income statement. Consequently, CEMEX reclassified the current income tax expense for the period under MFRS against a deferred charge under U.S. GAAP. The capitalized amount will be amortized beginning in 2009 over 10 years, which is the period in which the acquiring entity will obtain the related tax benefit. At December 31, 2009 and 2008, the reconciliation of stockholders' equity to U.S. GAAP includes a benefit of approximately Ps194 and Ps214, respectively, related to this item.

Capitalized Interest

Under both MFRS (note 11) and U.S. GAAP, CEMEX capitalizes interest related to debt incurred during significant construction projects. Capitalized interest is depreciated over the useful lives of the related assets. Under U.S. GAAP, only interest expense is considered an additional cost of constructed assets. Under MFRS, until December 31, 2007, pursuant to inflationary accounting, capitalized interest was comprehensively measured in order to include: (i) interest expense, plus (ii) any foreign exchange fluctuations, and less (iii) the related monetary position result. CEMEX does not capitalize foreign exchange fluctuations related to debt incurred during significant construction projects, considering the mix of currencies in its outstanding debt and that it is not possible to link a specific debt transaction with a corresponding construction project. In 2009 and 2008, the amount of interest capitalized by CEMEX incurred during significant construction projects under MFRS was the same as the amount that would be determined under U.S. GAAP (note 11). In the reconciliation of net income to U.S. GAAP, until December 31, 2007, the monetary position results related to debt incurred during significant construction projects and which were capitalized under MFRS were reversed to earnings under U.S. GAAP. Beginning in 2008 and thereafter, the reconciling adjustment to U.S. GAAP refers to the depreciation expense related to the cumulative adjustment as of December 31, 2007.

Monetary position result

Until December 31, 2007, monetary position result resulting from the U.S. GAAP adjustments during the periods presented was determined by (i) applying the annual inflation factor to the net monetary position of the U.S. GAAP adjustments at the beginning of the period, plus (ii) the monetary position effect of the adjustments during the period, determined in accordance with the average inflation factor for the period. Beginning in 2008, the determination of monetary position result on the U.S. GAAP adjustments was suspended.

Depreciation

Until December 31, 2006, a CEMEX's subsidiary in Colombia recorded depreciation expense for certain fixed assets using the sinking fund method. Under U.S. GAAP, depreciation is calculated on a straight-line basis over the estimated useful lives of the assets. Depreciation expense under MFRS was reduced in the reconciliation of net income to U.S. GAAP and in 2007, considering that these assets were almost fully depreciated and the small significance of the adjustment, CEMEX discontinued its quantification, resulting in the cancellation of the cumulative effect in the reconciliation of stockholders' equity to U.S. GAAP at December 31, 2006, which was released in the reconciliation of net income to U.S. GAAP in 2007, representing a benefit of Ps10.

Discontinued operations financial expense

According to ASC 205-20-45-6, *Reporting Discontinued Operations – Allocation of Interest to Discontinued Operations* , and in connection with the sale of the Australian operations (note 4B), interest on debt that is to be assumed by the buyer and interest on debt that is required to be repaid as a result of a disposal transaction shall be allocated to discontinued operations. The amounts of interest expense reclassified to discontinued operations related to the repaid debt with the funds received from the sale of our subsidiary in Australia for the years ended at December 31, 2009, 2008 and 2007 were Ps373, Ps388, and Ps272, respectively. This interest expense was reclassified net of its tax effect for approximately Ps109, Ps113 and Ps81 for 2009, 2008 and 2007, respectively, and is shown within income from discontinued operations.

CEMEX elected not to reclassify other interest expenses which are not directly attributable to discontinued operations as permitted under ASC 205-20.

(l) U.S. GAAP adjustments to discontinued operations

The reconciling items in the reconciliation of net income to U.S. GAAP related to CEMEX's operations in Australia for the years ended December 31, 2009, 2008 and 2007 were as follows:

		2009	2008	2007
Interest expense [1]	Ps	(373)	(388)	(272)
Income tax [2]		109	113	81
U.S. GAAP adjustments from discontinued operations	Ps	(264)	(275)	(191)

[1] Represents the interest related to the repaid debt with the proceeds of the sale of our Australian operations, required to be allocated to discontinued operations by IASC 205-20-45-6 "Reporting Discontinued Operations".

[2] Income tax effects related to the interest mentioned in footnote 1 above.

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(m) Supplemental Cash Flow Information under U.S. GAAP

Beginning in 2008 under MFRS (note 3A), as part of its primary financial statements, CEMEX includes statements of cash flows, which present the sources and uses of cash flows in following significantly the same requirements as those established by ASC 230, *Statement of cash flows*, under U.S. GAAP, instead of the statement of changes in financial position presented until December 31, 2007. In the years of transition, MFRS requires as a transitory rule (until 2010), the presentation of the former statement of changes in financial position for the prior periods presented.

For 2007, under MFRS, CEMEX presents the statement of changes in financial position, which identified the sources and uses of resources based on the differences between beginning and ending balance sheets in constant pesos. Monetary position results and unrealized foreign exchange results were treated as cash items in the calculation of resources provided by operations. Under ASC 230, statements of cash flows present only cash items and exclude non-cash items. ASC 230 does not provide guidance with respect to inflation-adjusted financial statements. The differences between MFRS and U.S. GAAP in the amounts reported are primarily due to: (i) the elimination of inflationary effects of monetary assets and liabilities from financing and investing activities against the corresponding monetary position result in operating activities; (ii) the elimination of foreign exchange results from financing and investing activities against the corresponding unrealized foreign exchange result included in operating activities; and (iii) the recognition in operating, financing and investing activities of the U.S. GAAP adjustments.

The following table reconciles the items from the statements of changes in financial position under MFRS for 2007 to the approximate cash flows under U.S. GAAP, considering the U.S. GAAP adjustments and excluding the effects of inflation required under MFRS. The following information is presented in millions of pesos on a historical peso basis and is not presented in pesos of constant purchasing power:

		2007
Net resources provided by operating activities under MFRS 1	Ps	**45,625**
Net income adjustments from MFRS to U.S. GAAP		(4,741)
Reversal of proportional consolidation		(218)
Depreciation and amortization		172
Non-controlling interest		2,095
Deferred income tax and tax uncertainties under ASC 740		3,061
Removal of estimated monetary position result and constant peso adjustments		(9,472)
Removal of unrealized foreign exchange fluctuations		(3,027)
Other adjustments		(64)
Total U.S. GAAP adjustments to operating activities		(12,194)
Net cash provided by operating activities under U.S. GAAP 1	Ps	33,431
Net resources provided by financing activities under MFRS	Ps	130,349
Removal of unrealized foreign exchange fluctuations		(3,311)
Removal of estimated constant peso adjustments		8,809
Other adjustments		44
Total U.S. GAAP adjustments to financing activities		5,542
Net cash provided by financing activities under U.S. GAAP	Ps	135,891
Net resources used in investing activities under MFRS	Ps	(185,798)
Reversal of proportional consolidation		172
Removal of estimated revaluation and constant peso adjustments		1,250
Removal of foreign currency translation and other equity effects		6,382
Other adjustments		287
Total U.S. GAAP adjustments to investing activities		8,091
Net cash used in investing activities under U.S. GAAP	Ps	(177,707)
Decrease in cash and investments under MFRS	Ps	(9,824)
Reversal of proportional consolidation		(2)
Removal of constant peso adjustments		1,441
Net U.S. GAAP adjustments to changes in cash and investments		1,439
Decrease in cash and investments under U.S. GAAP	Ps	(8,385)

1 Includes cash flows provided by our discontinued operations (note 4B) for the six months period ended December 31, 2007, for Ps1,234 (US$113).

Net cash flows from operating activities for the year ended December 31, 2007 reflect cash payments for interest and income taxes as follows:

		2007
Interest paid	Ps	8,268
Income taxes paid		4,594

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MFRS requires interest expense to be classified as a financing activity within the statement of cash flows, unlike ASC 230 under U.S. GAAP, which requires it to be classified as an operating activity. The following table presents cash flows from operating, financing and investing activities under MFRS and U.S. GAAP pursuant to the reclassification of interest expense for the years ended December 31, 2009 and 2008:

		2009		2008	
		MFRS	U.S. GAAP	MFRS	U.S. GAAP
Cash flows from operating activities	Ps	34,751	20,144	41,272	29,488
Cash flows from financing activities		(37,146)	(22,539)	(23,689)	(11,905)
Cash flows from investing activities		5,715	5,715	(14,630)	(14,630)

Non-cash activities are comprised of the following:

Long-term debt assumed through the acquisition of businesses was Ps13,943 in 2007.

(n) Other Disclosures under U.S. GAAP

Sale of accounts receivable

CEMEX accounts for transfers of receivables under MFRS consistently with the rules set forth by ASC 860, *Transfers and Servicing* ("ASC 860"). Under ASC 860, transactions that meet the criteria for surrender of control are recorded as sales of receivables and their amounts are removed from the consolidated balance sheet at the time they are sold (note 6). ASC 860-50-30, *Transfers and Servicing – Servicing Assets and Liabilities – Initial Measurement*, requires that all separately recognized servicing assets and servicing liabilities be initially measured at fair value, if practicable. ASC 860-50-35, *Transfers and Servicing – Servicing Assets and Liabilities – Subsequent Measurement,* permits, but does not require, the subsequent measurement of servicing assets and servicing liabilities at fair value. An entity should apply the requirements for recognition and initial measurement of servicing assets and servicing liabilities prospectively to all similar transactions.

As of and for the years ended December 31, 2009 and 2008, CEMEX did not determine any reconciling item resulting from the application of ASC 860 under U.S. GAAP and concluded that the effects of such adoption were immaterial. In arriving at this conclusion CEMEX considered that the receivables are short-term financial assets with an average collection period of approximately 42 days, and assumed a 1% servicing fee over its approximately US$735 and US$1,068 of receivables sold at December 31, 2009 and 2008, respectively. The result is a servicing asset of approximately US$7 in 2009 and US$11 in 2008 at the end of both periods that would be amortized every 42 days.

Asset retirement obligations and other environmental costs

ASC 410, Asset Retirement and Environmental Obligations ("ASC 410"), requires entities to record the fair value of an asset retirement obligation as a liability in the period in which a legal or a constructive obligation is incurred associated with the retirement of tangible long-lived assets that result from the acquisition, construction, development, and/or normal use of the assets. Such liability would be recorded against an asset that is depreciated over the life of the long-lived asset. Subsequent to the initial measurement, the obligation will be adjusted at the end of each period to reflect the passage of time and changes in the estimated future cash flows underlying the obligation. MFRS C-9, *Liabilities, Provisions, Contingent Assets and Liabilities and Commitments* ("MFRS C-9"), establishes generally the same requirements as ASC 410 in connection with asset retirement obligations. For the years ended December 31, 2009, 2008 and 2007, CEMEX did not identify any differences between MFRS and U.S. GAAP in connection with this topic.

In addition, environmental expenditures related to current operations are expensed or capitalized, as appropriate. Other than those contingencies disclosed in notes 14 and 21, CEMEX is not currently facing other material contingencies, which might result in the recognition of an environmental remediation liability.

Accounting for Costs Associated with Exit or Disposal Activities

CEMEX accrues the costs related to an exit or disposal activity, including severance payments, according to ASC 420, *Exit or Disposal Cost Obligations* ("ASC 420"), which basically requires, as a condition to accrue for such costs, that the entity communicate the plan to all affected employees and that the plan be terminated in the short-term; otherwise, associated costs should be expensed when incurred.

Guarantor's Accounting and Disclosure Requirements for Guarantees

Under U.S. GAAP, a guarantor is required to recognize, at origination of a guarantee, a liability for the fair value of the obligation undertaken. As of December 31, 2009 and 2008, CEMEX has not guaranteed any third parties' obligations. Nonetheless, with respect to the electricity supply long-term contract in Mexico discussed in note 20C, CEMEX may also be required to purchase the power plant upon the occurrence of specified material defaults or events, such as failure to purchase the energy and pay when due, bankruptcy or insolvency, and revocation of permits necessary to operate the facility. For the years ended December 31, 2009, 2008 and 2007, for accounting purposes under MFRS and U.S. GAAP, CEMEX has considered this agreement as a long-term energy supply agreement for own use and no liability has been created, based on the contingent characteristics of CEMEX's obligation and given that, absent a default under the agreement, CEMEX's obligations are limited to the purchase of energy from, and the supply of fuel to, the plant.

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Variable Interest Entities

Under U.S. GAAP, CEMEX applies ASC 810, *Consolidation* ("ASC 810"). This topic addresses the consolidation of variable interest entities ("VIEs"), which are defined as those that have one or more of the following characteristics: (i) entities in which the equity investment at risk is not sufficient to finance their operations without requiring additional subordinated financing support provided by any parties, including the equity holders; and (ii) the equity investors lack one or more of the following attributes: a) the ability to make decisions about the entity's activities through voting or similar rights, b) the obligation to absorb the expected losses of the entity, and c) the right to receive the expected residual returns of the entity. Among others, entities that are deemed to be a business according to ASC 810-10-15, *Consolidation – Overall – Scope and Scope Exceptions,* including operating joint ventures, need not be evaluated to determine if they are VIEs under ASC 810.

Variable interests, among other factors, may be represented by operating losses, debt, contingent obligations or residual risks and may be assumed by means of loans, guarantees, management contracts, leasing, put options, derivatives, etc. A primary beneficiary is the entity that assumes the variable interests of a VIE, or the majority of them in the case of partnerships, directly or jointly with related parties, and is the entity that should consolidate the VIE. For the years ended December 31, 2009, 2008 and 2007, CEMEX has not identified any VIE that would require consolidation under U.S. GAAP other than those consolidated under MFRS.

Accounting for Planned Major Maintenance Activities

Under both MFRS and U.S. GAAP, CEMEX does not use the accrue-in-advance method of accounting for planned major maintenance activities considering that an obligation has not been incurred and therefore a liability should not be recognized.

(o) Newly Issued Accounting Pronouncements under U.S. GAAP not Effective in 2009

The FASB issued ASU 2009 16, Transfers and Servicing (Topic 860): Accounting for Transfers of Financial Assets (FASB Statement No. 166, Accounting for Transfers of Financial Assets – an amendment of FASB Statement No. 140) in December 2009. ASU 2009 16 removes the concept of a qualifying special purpose entity (QSPE) from ASC Topic 860, Transfers and Servicing, and the exception from applying ASC 810 10 to QSPEs, thereby requiring transferors of financial assets to evaluate whether to consolidate transferees that previously were considered QSPEs. Transferor imposed constraints on transferees whose sole purpose is to engage in securitization or asset backed financing activities are evaluated in the same manner under the provisions of the ASU as transferor imposed constraints on QSPEs were evaluated under the provisions of Topic 860 prior to the effective date of the ASU when determining whether a transfer of financial assets qualifies for sale accounting. The ASU also clarifies the Topic 860 sale accounting criteria pertaining to legal isolation and effective control and creates more stringent conditions for reporting a transfer of a portion of a financial asset as a sale. The ASU is effective for CEMEX beginning January 1, 2010, and may not be early adopted. CEMEX is evaluating the potential effect of this standard.

The FASB issued ASU 2009 17, Consolidations (Topic 810): Improvements to Financial Reporting by Enterprises Involved with Variable Interest Entities (FASB Statement No. 167, Amendments to FASB Interpretation No. 46(R)) in December 2009. ASU 2009 17, which amends the Variable Interest Entity (VIE) Subsections of ASC Subtopic 810 10, Consolidation – Overall, revises the test for determining the primary beneficiary of a VIE from a primarily quantitative risks and rewards calculation based on the VIE's expected losses and expected residual returns to a primarily qualitative analysis based on identifying the party or related party group (if any) with (a) the power to direct the activities that most significantly impact the VIE's economic performance and (b) the obligation to absorb losses of, or the right to receive benefits from, the VIE that could potentially be significant to the VIE. The ASU requires kick out rights and participating rights to be ignored in evaluating whether a variable interest holder meets the power criterion unless those rights are unilaterally exercisable by a single party or related party group. The ASU also revises the criteria for determining whether fees paid by an entity to a decision maker or another service provider are a variable interest in the entity and revises the Topic 810 scope characteristic that identifies an entity as a VIE if the equity at risk investors as a group do not have the right to control the entity through their equity interests to address the impact of kick out rights and participating rights on the analysis. Finally, the ASU adds a new requirement to reconsider whether an entity is a VIE if the holders of the equity investment at risk as a group lose the power, through the rights of those interests, to direct the activities that most significantly impact the VIE's economic performance, and requires a company to reassess on an ongoing basis whether it is deemed to be the primary beneficiary of a VIE. ASU 2009 17 is effective for CEMEX beginning January 1, 2010 and may not be early adopted. CEMEX expects that the adoption of ASU 2009 17 will not have a material impact on its consolidated financial statements.

In October 2009, the FASB issued ASU 2009 13, Revenue Recognition (Topic 605): Multiple Deliverable Revenue Arrangements (EITF Issue No. 08 1, Revenue Arrangements with Multiple Deliverables). ASU 2009 13 amends ASC 650 25 to eliminate the requirement that all undelivered elements have vendor specific objective evidence of selling price (VSOE) or third party evidence of selling price (TPE) before an entity can recognize the portion of an overall arrangement fee that is attributable to items that already have been delivered. In the absence of VSOE and TPE for one or more delivered or undelivered elements in a multiple element arrangement, entities will be required to estimate the selling prices of those elements. The overall arrangement fee will be allocated to each element (both delivered and undelivered items) based on their relative selling prices, regardless of whether those selling prices are evidenced by VSOE or TPE or are based on the entity's estimated selling price. Application of the "residual method" of allocating an overall arrangement fee between delivered and undelivered elements will no longer be permitted upon adoption of ASU 2009 13. Additionally, the new guidance will require entities to disclose more information about their multiple element revenue arrangements. ASU 2009 13 is effective for CEMEX prospectively for revenue arrangements entered into or materially modified beginning January 1, 2011. Early adoption is permitted. CEMEX expects that the adoption of ASU 2009 13 will not have a material impact on its consolidated financial statements.

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EXHIBIT INDEX

Exhibit No.	Description
1.1	Amended and Restated By-laws of CEMEX, S.A.B. de C.V. (a)
2.1	Form of Trust Agreement between CEMEX, S.A.B. de C.V., as founder of the trust, and Banco Nacional de México, S.A. regarding the CPOs. (b)
2.2	Amendment Agreement to the Trust Agreement dated November 21, 2002, between CEMEX, S.A.B. de C.V., as founder of the trust, and Banco Nacional de México, S.A. regarding the CPOs. (c)
2.3	Form of CPO Certificate. (b)
2.4	Form of Second Amended and Restated Deposit Agreement (A and B share CPOs), dated August 10, 1999, among CEMEX, S.A.B. de C.V., Citibank, N.A. and holders and beneficial owners of American Depositary Shares. (b)
2.4.1	Amendment No. 1 to the Second Amended and Restated Deposit Agreement, dated as of July 1, 2005, by and among CEMEX, S.A.B. de C.V., Citibank, N.A., as Depositary, and all holders and beneficial owners from time to time of American Depositary Shares evidenced by American Depositary Receipts issued thereunder, including the form of ADR attached thereto. (j)
2.4.2	Letter Agreement, dated October 12, 2007, by and between CEMEX, S.A.B. de C.V. and Citibank, N.A., as Depositary supplementing the Second Amended and Restated Deposit Agreement, as amended, to enable the Depositary to establish a direct registration system for the ADSs. (j)
2.4.3	Letter Agreement, dated March 30, 2010 by and between CEMEX, S.A.B. de C.V. and Citibank, N.A., as Depositary supplementing the Second Amended and Restated Deposit Agreement, as amended, to set forth the terms upon which CEMEX, S.A.B. de C.V. is to deposit CPOs upon conversion of the 4.875% Subordinated Convertible Notes due 2015 and the Depositary is to issue ADSs upon deposit of such CPOs. (j)
2.5	Form of American Depositary Receipt (included in Exhibit 2.3) evidencing American Depositary Shares. (b)
2.6	Form of Certificate for shares of Series A Common Stock of CEMEX, S.A.B. de C.V. (b)
2.7	Form of Certificate for shares of Series B Common Stock of CEMEX, S.A.B. de C.V. (b)
4.1	€250,000,000 and ¥19,308,000,000 Amended and Restated Term and Revolving Facilities Agreement, originally dated March 30, 2004, amended on October 10, 2006 and April 7, 2009, among CEMEX España, as borrower, Banco Bilbao Vizcaya Argentaria, S.A. and Société Générale, as mandated lead arrangers, and the several banks and other financial institutions named therein, as lenders. (i)
4.2	U.S.$700,000,000 Amended and Restated Credit Agreement, dated June 6, 2005, among CEMEX, S.A.B. de C.V., as borrower and CEMEX México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., as guarantors, Barclays Bank PLC, as issuing bank and documentation agent, ING Bank N.V., as issuing bank, Barclays Capital, as joint bookrunner, and ING Capital LLC, as joint bookrunner and administrative agent. (g)
4.2.1	Amendment No. 1 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated June 21, 2006. (g)
4.2.2	Amendment and Waiver Agreement to U.S.$700,000,000 Amended and Restated Credit Agreement, dated December 1, 2006. (g)
4.2.3	Amendment No. 3 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated May 9, 2007. (g)
4.2.4	Amendment No. 4 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated December 19, 2008. (i)
4.2.5	Amendment No. 5 to U.S.$700,000,000 Amended and Restated Credit Agreement, dated January 22, 2009. (i)
4.3	U.S.$2,300,000,000 Amended and Restated Term and Revolving Facilities Agreement, originally dated September 24, 2004, amended on November 8, 2004, February 25, 2005, July 7, 2005, June 30, 2006, December 18, 2008, for CEMEX España, S.A., as borrower, arranged by Citigroup Global Markets Limited and Goldman Sachs International with Citibank International PLC, as agent. (i)
4.7	U.S.$1,200,000,000 Term Credit Agreement, dated May 31, 2005, among CEMEX, S.A.B. de C.V., as borrower, CEMEX México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., as guarantor, Barclays Bank PLC, as administrative agent, Barclays Capital, as joint lead arranger and joint bookrunner, and Citigroup Global Markets Inc., as documentation agent, joint lead arranger and joint bookrunner. (f)
4.7.1	Amendment No. 1 to U.S.$1,200,000,000 Term Credit Agreement, dated June 19, 2006. (g)

4.7.2	Amendment and Waiver Agreement to U.S.$1,200,000,000 Term Credit Agreement, dated November 30, 2006. (g)
4.7.3	Amendment No. 3 to U.S.$1,200,000,000 Term Credit Agreement, dated May 9, 2007. (g)
4.7.4	Amendment No. 4 to U.S.$1,200,000,000 Term Credit Agreement, dated December 19, 2008. (i)
4.7.5	Amendment No. 5 to U.S.$1,200,000,000 Term Credit Agreement, dated January 22, 2009. (i)
4.8	U.S.$700,000,000 Amended and Restated Term and Revolving Facilities Agreement, originally dated June 27, 2005, amended on June 22, 2006, November 30, 2006, December 19, 2008 and January 23, 2009, for New Sunward Holding B.V., as borrower, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and Empresas Tolteca De México, S.A. de C.V., as guarantors, arranged by Banco Bilbao Vizcaya Argentaria, S.A., BNP Paribas and Citigroup Global Markets Limited, as mandated lead arrangers and joint bookrunners, the several financial institutions named therein, as Lenders, and Citibank, N.A., as agent. (i)
4.9	Amended and Restated Limited Liability Company Agreement of CEMEX Southeast LLC, dated July 1, 2005, among CEMEX Southeast LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.9.1	Amendment No. 1 to Amended and Restated Limited Liability Company Agreement of CEMEX Southeast LLC, dated September 1, 2005, among CEMEX Southeast LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.10	Limited Liability Company Agreement of Ready Mix USA, LLC, dated July 1, 2005, among Ready Mix USA, LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.10.1	Amendment No. 1 to Limited Liability Company Agreement of Ready Mix USA, LLC, dated September 1, 2005, among Ready Mix USA, LLC, CEMEX Southeast Holdings, LLC, Ready Mix USA, Inc. and CEMEX, Inc. (f)
4.11	Asset and Capital Contribution Agreement, dated July 1, 2005, among Ready Mix USA, Inc., CEMEX Southeast Holdings, LLC, and CEMEX Southeast LLC. (f)
4.12	Asset and Capital Contribution Agreement, dated July 1, 2005, among Ready Mix USA, Inc., CEMEX Southeast Holdings, LLC, and Ready Mix USA, LLC. (f)
4.13	Asset Purchase Agreement, dated September 1, 2005, between Ready Mix USA, LLC and RMC Mid-Atlantic, LLC. (f)
4.14	U.S.$1,200,000,000 Acquisition Facility Agreement, dated October 24, 2006, between CEMEX S.A.B. de C.V., as borrower, CEMEX México, S.A. de C.V. and Empresas Tolteca de México, S.A. de C.V., as guarantors, and BBVA Bancomer, S.A. Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as agent. (g)
4.15	U.S.$6,000,000,000 Amended and Restated Acquisition Facilities Agreement, originally dated December 6, 2006, amended on January 27, 2007, December 19, 2008 and January 27, 2009, between CEMEX España, S.A., as borrower, Citigroup Global Markets Limited, The Royal Bank of Scotland PLC, and Banco Bilbao Vizcaya Argentaria, S.A. as mandated lead arrangers and joint bookrunners, as amended on December 21, 2006. (i)
4.16	Debenture Purchase Agreement, dated December 11, 2006, among C5 Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and J.P. Morgan Securities Inc, as representative of the several initial institutional purchasers named therein, in connection with the issuance by C5 Capital (SPV) Limited of U.S.$350,000,000 aggregate principal amount of 6.196% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)
4.17	Debenture Purchase Agreement, dated December 11, 2006, among C10 Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and J.P. Morgan Securities Inc, as representative of the several initial institutional purchasers named therein, in connection with the issuance by C10 Capital (SPV) Limited (CEMEX, S.A.B. de C.V.) of U.S.$900,000,000 aggregate principal amount of 6.722% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)
4.18	Note Indenture, Dated as of December 18, 2006, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $350,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.18.1	First Supplemental Note Indenture, dated as of August 10, 2009, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, supplementing the Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $350,000,000 Callable Perpetual Dual-Currency Notes. (j)

4.18.2	Second Supplemental Note Indenture, dated as of May 12, 2010, by and among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, The Bank of New York Mellon, as trustee, Swap 5 Capital (SPV) Limited and C5 Capital (SPV) Limited., supplementing the Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $350,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.19	Note Indenture, dated as of December 18, 2006, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $900,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.19.1	First Supplemental Note Indenture, dated as of August 10, 2009, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, supplementing the Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $900,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.19.2	Second Supplemental Note Indenture, dated as of May 12, 2010, by and among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, The Bank of New York Mellon, as trustee, Swap 10 Capital (SPV) Limited and C10 Capital (SPV) Limited., supplementing the Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $900,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.20	Debenture Purchase Agreement, dated February 6, 2007, among C8 Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and J.P. Morgan Securities Inc, as representative of the several initial institutional purchasers named therein, in connection with the issuance by C8 Capital (SPV) Limited of U.S.$750,000,000 aggregate principal amount of 6.640% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)
4.21	Note Indenture, dated as of February 12, 2007, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $750,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.21.1	First Supplemental Note Indenture, dated as of August 10, 2009, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, supplementing the Note Indenture, dated as of February 12, 2007, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $750,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.21.2	Second Supplemental Note Indenture, dated as of May 12, 2010, by and among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, The Bank of New York Mellon, as trustee, Swap 8 Capital (SPV) Limited and 8 Capital (SPV) Limited., supplementing the Note Indenture, dated as of February 12, 2007, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. $750,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.22	Trust Deed, dated February 28, 2007, among CEMEX Finance Europe B.V., as issuer, and several institutional purchasers, relating to the issuance by CEMEX Finance Europe B.V. of €900,000,000 aggregate principal amount of 4.75% Notes due 2014. (g)
4.23	Bid Agreement, dated April 9, 2007, among CEMEX, S.A.B. de C.V., CEMEX Australia Pty Ltd and Rinker Group Limited. (g)
4.24	Debenture Purchase Agreement, dated May 3, 2007, among C10-EUR Capital (SPV) Limited, as issuer, CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures B.V., and the institutional purchasers named therein, in connection with the issuance by C10-EUR Capital (SPV) Limited of €730,000,000 aggregate principal amount of 6.277% Fixed-to-Floating Rate Callable Perpetual Debentures. (g)

4.25	Note Indenture, dated as of May 9, 2007, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. €730,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.25.1	First Supplemental Note Indenture, dated as of August 10, 2009, by and among New Sunward Holding Financial Ventures B.V., as issuer, and CEMEX, S.A.B. de C.V., CEMEX Mexico, S.A. de C.V., and New Sunward Holding B.V., as guarantors and the Bank of New York, as trustee, supplementing the Note Indenture, dated as of May 9, 2007, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. €730,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.25.2	Second Supplemental Note Indenture, dated as of May 12, 2010, by and among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, The Bank of New York Mellon, as trustee, Swap C10-EUR Capital (SPV) Limited and C10-EUR Capital (SPV) Limited., supplementing the Note Indenture, dated as of February 12, 2007, among New Sunward Holding Financial Ventures B.V., as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, relating to New Sunward Holding Financial Ventures B.V.'s U.S. €730,000,000 Callable Perpetual Dual-Currency Notes. (j)
4.26	U.S.$525,000,000 Senior Unsecured Maturity Loan "A" Agreement, dated December 31, 2008, among New Sunward Holding B.V. as borrower, CEMEX S.A.B. de C.V. and CEMEX México, S.A. de C.V., as guarantors, and a group of banks as lenders, HSBC Securities (USA) Inc., Banco Santander S.A. and The Royal Bank of Scotland Plc, as joint lead arrangers and Joint Bookrunners, and ING Capital LLC, as administrative agent. (i)
4.27.1	Amendment No. 1 to U.S.$525,000,000 Senior Unsecured Maturity Loan "A" Agreement, dated January 22, 2009. (i)
4.27.2	U.S.$525,000,000 Senior Unsecured Maturity Loan "B" Agreement, dated December 31, 2008, among New Sunward Holding B.V. as borrower, CEMEX S.A.B. de C.V. and CEMEX México, S.A. de C.V., as guarantors, and a group of banks as lenders, HSBC Securities (USA) Inc., Banco Santander S.A. and The Royal Bank of Scotland Plc, as joint lead arrangers and Joint Bookrunners, and ING Capital LLC, as administrative agent. (i)
4.27.3	Amendment No. 1 to U.S.$525,000,000 Senior Unsecured Maturity Loan "B" Agreement, dated January 22, 2009. (i)
4.28	Forward Transaction (CEMEX Shares) Confirmation, Forward Transaction (NAFTRAC Shares) and Put Option Transaction Confirmation, with Credit Support Annex, each dated April 23, 2008, between Citibank, N.A. and a Mexican trust established by CEMEX on behalf of CEMEX's Mexican pension fund and certain of CEMEX's directors and current and former employees. (h)
4.29	Structured Transaction, dated June 2008, comprised of: (i) U.S.$500 million Credit Agreement, dated June 25, 2008, among CEMEX, S.A.B. de C.V., as borrower, CEMEX México S.A. de C.V, as guarantor, and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch, as lender; (ii) U.S.$500 million aggregate notional amount of Put Spread Option Confirmations, dated June 3, 2008 and June 5, 2008, between Centro Distribuidor de Cemento, S.A. de C.V. and Banco Santander, S.A., Institución de Banca Múltiple, Grupo Financiero Santander; and (iii) Framework Agreement, dated June 25, 2008, by and among CEMEX, S.A.B. de C.V., CEMEX México S.A. de C.V, Banco Santander (Mexico), S.A., Institución de Banca Múltiple, Grupo Financiero Santander and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch. (h)
4.30.1	Amendment No. 1 to U.S.$500 million Credit Agreement, dated December 18, 2008. (i)
4.30.2	Amendment No. 2 to U.S.$500 million Credit Agreement, dated January 22, 2009. (i)
4.31	U.S.$437,500,000.00 and Ps$ 4,773,282,950.00 Credit Agreement, dated January 27, 2009 among CEMEX, S.A.B. de C.V., as borrower, CEMEX México, S.A. de C.V. and CEMEX Concretos, S.A. de C.V., as guarantors, and a group of banks, as lenders, BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as administrative agent, and BBVA Bancomer, S.A., Institución De Banca Múltiple, Grupo Financiero BBVA Bancomer, Citigroup Global Markets Inc., HSBC Securities (USA) Inc., Santander Investment Securities Inc., and The Royal Bank of Scotland PLC, each a joint arranger and joint bookrunner. (i)
4.32	U.S$617,500,000 and €587,500,000 Facilities Agreement dated January 27, 2009, and among CEMEX España, S.A., as the obligors and original guarantors; Banco Santander, S.A. and The Royal Bank of Scotland PLC, as coordinators, financial institutions, as lenders; and The Royal Bank of Scotland PLC, as agent. (i)
4.33	Financing Agreement for CEMEX, S.A.B. de C.V., dated August 14, 2009, with the financial institutions and noteholders named therein as Participating Creditors and Citibank International plc acting as Administrative Agent and Wilmington Trust (London) Limited acting as Security Agent. (j)

4.33.1	Amendment Agreement, dated December 1, 2009, between CEMEX, S.A.B. de C.V. acting for itself and as agent on behalf of each Obligor and Citibank International plc acting for itself and as Administrative Agent on behalf of the Financing Parties, related to the Financing Agreement, dated August 14, 2009. (j)
4.33.2	Amendment Agreement, dated March 18, 2010, between CEMEX, S.A.B. de C.V. acting for itself and as agent on behalf of each Obligor and Citibank International plc acting for itself and as Administrative Agent on behalf of the Financing Parties, related to the Financing Agreement, dated August 14, 2009. (j)
4.34	Omnibus Amendment and Waiver Agreement, dated August 14, 2009, by and among CEMEX, S.A.B. de C.V., New Sunward Holding B.V. CEMEX Materials, LLC, as borrowers, CEMEX México, S.A. de C.V., Empresas Tolteca de México, S.A. de C.V., CEMEX Concretos, S.A. de C.V., CEMEX España, S.A. as guarantors, the financial institutions listed therein in their capacities as lenders under certain Existing Agreements (as defined therein) and the financial institutions listed in therein in their capacity as administrative agents under certain Existing Agreements. (j)
4.35	Intercreditor Agreement, dated August 14, 2009, by and among Citibank International plc as Administrative Agent, The Participating Creditors (as named therein), CEMEX, S.A.B. de C.V. and certain of its subsidiaries as Original Borrowers, Original Guarantors and Original Security Providers, and Wilmington Trust (London) Limited acting as Security Agent and others. (j)
4.35.1	Amendment Agreement, dated December 1, 2009, between CEMEX, S.A.B. de C.V. acting for itself and as agent on behalf of each Obligor and Citibank International plc acting for itself and as Administrative Agent on behalf of the Financing Parties and Wilmington Trust (London) Limited acting as Security Agent, relating to the Intercreditor Agreement, dated August 14, 2009. (j)
4.36	Consolidated Amended and Restated Note Purchase Agreement, dated August 14, 2009, relating to CEMEX España Finance LLC's U.S.$882,407,495.57 8.91% Senior Notes, Series A, due 2014 and ¥1,185,389,696.06 6.625% Senior Notes, Series B, due 2014. (j)
4.37	Amended and Restated Consolidated Note Guarantee, dated August 14, 2009, relating to CEMEX España Finance LLC's U.S.$882,407,495.57 8.91% Senior Notes, Series A, due 2014 and ¥1,185,389,696.06 6.625% Senior Notes, Series B, due 2014. (j)
4.38	Deed of Pledge of Registered Shares, dated August 14, 2009, by and among CEMEX Dutch Holdings B.V., Sunward Holdings B.V., Sunward Acquisitions N.V., CEMEX International Finance Company, Corporación Gouda S.A. de C.V, Mexcement Holdings S.A. de C.V, New Sunward Holding B.V, and Wilmington Trust (London) Limited as Security Agent concerning the she shares of New Sunward Holding B.V. (j)
4.38.1	Deed of Supplemental Pledge of Registered Shares, dated October 23, 2009, by and among CEMEX Dutch Holdings B.V., Sunward Holdings B.V., Sunward Acquisitions N.V., CEMEX International Finance Company, Corporación Gouda S.A. de C.V,, Mexcement Holdings S.A. de C.V, New Sunward Holding B.V, and Wilmington Trust (London) Limited as Security Agent concerning the she shares of New Sunward Holding B.V. (j)
4.39	Share Pledge Agreement, dated August 14, 2009, by and among CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V., Interamerican Investments Inc., Empresas Tolteca de México, S.A. de C.V. as Pledgors and Wilmington Trust (London) Limited as Security Agent concerning 99.57% of the shares of CEMEX Trademarks Holding Ltd. (j)
4.40	Deed of Pledge of Registered Shares, dated September 4, 2009, by and among CEMEX S.A.B. de C.V., CEMEX México, S.A. de C.V. , Interamerican Investments Inc., Empresas Tolteca de México, S.A. de C.V. as Pledgors and Wilmington Trust (London) Limited as Security Agent concerning 99.57% of the shares of CEMEX Trademarks Holding Ltd. (j)
4.41	Irrevocable Mexican Security Trust Agreement, dated September 3, 2009, CEMEX, S.A.B. de C.V., Empresas Tolteca de México, S.A. de C.V., Impra Café, S.A. de C.V., Interamerican Investments, Inc., CEMEX México, S.A. de C.V., and Centro Distribuidor de Cemento, S.A. de C.V., as settlors; CEMEX México, S.A. de C.V., Centro Distribuidor de Cemento, S.A. de C.V., Mexcement Holdings, S.A. de C.V. and Corporación Gouda, S.A. de C.V., as issuers; Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, in its capacity as trustee; and Wilmington Trust (London) Limited, on its own behalf and in its capacity as Security Agent. (j)
4.41.1	Accession Letter, dated December 14, 2009, among CEMEX, S.A.B. de C.V., Empresas Tolteca de México, S.A. de C.V., Impra Café, S.A. de C.V., Interamerican Investments, Inc., CEMEX México, S.A. de C.V., and Centro Distribuidor de Cemento, S.A. de C.V, Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, and Wilmington Trust (London) Limited, relating to CEMEX Finance LLC's U.S.$1,250,000,000 of 9.50% senior secured notes due December 14, 2016, and €350,000,000 of 9.625% senior secured notes due December 14, 2017, guaranteed by CEMEX SAB, CEMEX México, Tolteca, CEMEX Concretos, S.A. de C.V., CEMEX España, S.A., CEMEX Corp. and New Sunward Holding B.V. (j)

4.41.2	Accession Letter, dated January 19, 2010, among CEMEX, S.A.B. de C.V., Empresas Tolteca de México, S.A. de C.V., Impra Café, S.A. de C.V., Interamerican Investments, Inc., CEMEX México, S.A. de C.V., and Centro Distribuidor de Cemento, S.A. de C.V, Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, and Wilmington Trust (London) Limited, relating to CEMEX Finance LLC's US$500,000,000.00 of 9.50% senior secured notes due December 14, 2016, guaranteed by CEMEX SAB, CEMEX México, Tolteca, CEMEX Concretos, S.A. de C.V., CEMEX España, S.A., CEMEX Corp. and New Sunward Holding B.V. (j)
4.41.3	Accession Letter, dated May 12, 2010, among CEMEX, S.A.B. de C.V., Empresas Tolteca de México, S.A. de C.V., Impra Café, S.A. de C.V., Interamerican Investments, Inc., CEMEX México, S.A. de C.V., and Centro Distribuidor de Cemento, S.A. de C.V, Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, and Wilmington Trust (London) Limited, relating to CEMEX España, S.A., acting through its Luxembourg Branch's, US$1,067,665,000 of 9.25% senior secured notes due 2020, and €115,346,000 of 8.875% senior secured notes due 2017. (j)
4.42	Underwriting Agreement, dated September 22, 2009, by and among CEMEX, S.A.B. de C.V. and J.P Morgan Securities Inc, Citigroup Global Markets Inc., and Santander Investment Securities, as Representatives of the several Underwriters listed in Schedule 1 thereto, relating to CEMEX, S.A.B. de C.V.'s 975,000,000 CPOs. (j)
4.43	Underwriting Agreement, dated September 22, 2009, by and among Acciones y Valores Banamex, S.A. de C.V., Casa de Bolsa, a company of Grupo Financiero Banamex,, J.P. Morgan Casa de Bolsa, S.A. de C.V., J.P. Morgan Grupo Financiero , Casa de Bolsa Santander, S.A. de C.V., Grupo Financiero Santander, Casa de Bolsa BBVA Bancomer, S.A. de C.V., Grupo Financiero BBVA Bancomer, and HSBC Casa de Bolsa, S.A. de C.V., Grupo Financiero HSBC , CEMEX, S.A.B. de C.V., Centro Distribuidor de Cemento, S.A. de C.V., Empresas Tolteca de Mexico, S.A. de C.V. and Petrocemex, S.A. de C.V, relating to CEMEX, S.A.B. de C.V.'s 1,495,000,000 CPOs. (j)
4.44	Share Pledge Agreement, dated September 29, 2009, by and among New Sunward Holding B.V., CEMEX, S.A.B. de C.V., Sunward Acquisitions N.V. as Pledgors, Wilmington Trust (London) Limited, as Security Agent and the Secured Parties concerning the shares of CEMEX España, S.A. (j)
4.44.1	Accession Deed, dated December 2, 2009, issued by The Bank of New York Mellon, as Trustee, and CEMEX España, S.A., concerning the shares of CEMEX España, S.A. relating to the issuance by CEMEX Finance LLC of U.S.$1,250,000,000 9.5% Senior Secured Notes due 2016. (j)
4.44.2	Accession Deed, dated December 14, 2009, issued by The Bank of New York Mellon, as Trustee, and CEMEX España, S.A., concerning the shares of CEMEX España, S.A. relating to the issuance by CEMEX Finance LLC of €350,000,000 9.625% Senior Secured Notes due 2017. (j)
4.44.3	Accession Deed, dated January 19, 2010, issued by The Bank of New York Mellon, as Trustee, and CEMEX España, S.A., concerning the shares of CEMEX España, S.A. relating to the issuance by CEMEX Finance LLC of U.S.$500,000,000 9.50% Senior Secured Notes due 2016. (j)
4.44.4	Accession Deed, dated May 12, 2010, concerning the shares of CEMEX España, S.A., issued by The Bank of New York Mellon, as Trustee, and CEMEX España, S.A., relating to the issuance of U.S.$1,067,665,000 aggregate principal amount of 9.25% U.S. Dollar-Denominated Senior Secured Notes Due 2020 and €115,346,000 aggregate principal amount of the 8.875% Euro-Denominated Senior Secured Notes due 2017. (j)
4.45	Underwriting Agreement (*Contrato de Colocación*), dated as of December 3, 2009, by and among CEMEX, S.A.B. de C.V. as issuer, Casa de Bolsa Santander, S.A. de C.V., Grupo Financiero Santander, HSBC Casa de Bolsa, S.A. de C.V., Grupo Financiero HSBC, Acciones y Valores Banamex, S.A. de C.V., Casa de Bolsa, Integrante del Grupo Financiero Banamex, Casa de Bolsa BBVA Bancomer, S.A. de C.V., Grupo Financiero BBVA, as underwriters in connection with the issuance by CEMEX, S.A.B. de C.V. of Mandatory Convertible Bonds. (j)
4.46	Purchase Agreement, dated December 9, 2009, between CEMEX Finance LLC, as issuer, the Note Guarantors party thereto and several institutional purchasers named therein, in connection with the issuance by CEMEX Finance LLC of U.S.$1,250,000,000 9.5% Senior Secured Notes due 2016. (j)
4.47	Purchase Agreement, dated December 9, 2009, between CEMEX Finance LLC, as issuer, the Note Guarantors party thereto and several institutional purchasers named therein, in connection with the issuance by CEMEX Finance LLC of €350,000,000 9.625% Senior Secured Notes Due 2017. (j)
4.48	Indenture dated December 10, 2009, by and among CEMEX, S.A.B. de C.V., as issuer, Banco Mercantil de Norte Sociedad Anonima, Institución de Banca Múltiple, Grupo Financiero Banorte, as common representative and calculation agent in connection with the issuance by CEMEX, S.A.B. de C.V., of Mandatory Convertible Bonds. (j)
4.49	Indenture, dated December 14, 2009, among CEMEX Finance LLC, the Note Guarantors party thereto and the Bank of New York Melon, as Trustee relating to the issuance by CEMEX Finance LLC of € 350,000,000 9.625% Senior Secured Notes Due 2017. (j)

4.50	Indenture, dated December 14, 2009, among CEMEX Finance LLC, the Note Guarantors party thereto and the Bank of New York Melon, as Trustee relating to the issuance by CEMEX Finance LLC of U.S.$1,250,000,000 9.5% Senior Secured Notes due 2016. (j)
4.50.1	Supplemental Indenture No. 1, dated January 19, 2010, among CEMEX Finance LLC, the Note Guarantors party thereto, and The Bank of New York Mellon, as trustee relating to the issuance by CEMEX Finance LLC of U.S.$500,000,000 9.5% Senior Secured Notes due 2016. (j)
4.51	Purchase Agreement, dated January 13, 2010, among CEMEX Finance LLC, as issuer, and several institutional purchasers named therein, in connection with the issuance by CEMEX Finance LLC of U.S.$500,000,000 9.50% Senior Secured Notes due 2016. (j)
4.52	Purchase Agreement, dated March 24, 2010, among CEMEX, S.A.B. de C.V. as issuer, and several institutional purchasers named therein, in connection with the issuance by CEMEX, S.A.B. de C.V. of U.S.$715,000,000 4.875% Convertible Subordinated Notes due 2015. (j)
4.53	Master Terms and Conditions Agreement, dated March 24, 2010, by and between Citibank, N.A. and CEMEX, S.A.B. de C.V., relating to the capped call transaction entered into in connection with issuance by CEMEX, S.A.B. de C.V. of U.S.$715,000,000 aggregate principal amount of 4.875% Convertible Subordinated Notes due 2015. (j)
4.54	Indenture, dated March 30, 2010, among CEMEX, S.A.B. de C.V., The Bank of New York Mellon, as trustee, and The Bank of New York Mellon, S.A., Institución De Banca Múltiple, as Mexican Trustee with respect to the issuance by CEMEX, S.A.B. de C.V.of $715,000,000 aggregate principal amount of 4.875% Convertible Subordinated Notes due 2015. (j)
4.55	Security Agreement, dated March 30, 2010, by and between Citibank, N.A. and CEMEX, S.A.B. de C.V. relating to the capped call transaction entered into in connection with issuance by CEMEX, S.A.B. de C.V. of U.S.$715,000,000 aggregate principal amount of 4.875% Convertible Subordinated Notes due 2015. (j)
4.56	Collateral Agreement, dated March 30, 2010, among Citibank, N.A., CEMEX, S.A.B. de C.V. and Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria relating to the capped call transaction entered into in connection with issuance by CEMEX, S.A.B. de C.V. of U.S.$715,000,000 aggregate principal amount of 4.875% Convertible Subordinated Notes due 2015.(j)
4.57	Amended and Restated Dealer Manager Agreement, dated May 6, 2010, among CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V., New Sunward Holding B.V., New Sunward Holding Financial Ventures, B.V., CEMEX España acting through its Luxembourg branch, J.P Morgan Securities Inc., J.P. Morgan Securities Ltd., Citigroup Global Markets Inc, Citigroup Global Markets Ltd., C5 Capital (SPV) Ltd., C8 Capital (SPV) Ltd., C10 Capital (SPV) Ltd., and C-10 Capital (SPV) Ltd. (collectively, the Capital SPVs) in connection with the offers to exchange any and all of the outstanding fixed-to-floating rate callable perpetual debentures, issued by the Capital SPVs, for 9.25% U.S. Dollar-denominated senior secured notes due 2020, in the case of the USD Exchange Offers and 8.875% Euro-denominated senior secured notes due 2017, issued by CEMEX España, S.A., acting through its Luxembourg branch. (j)
4.58	Indenture, dated May 12, 2010, among CEMEX España acting through its Luxembourg branch, as issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors, and The Bank of New York Mellon, as trustee, with respect to the issuance of U.S.$1,067,665,000 aggregate principal amount of 9.25% U.S. Dollar-Denominated Senior Secured Notes Due 2020 and €115,346,000 aggregate principal amount of the 8.875% Euro-Denominated Senior Secured Notes Due 2017. (j)
8.1	List of subsidiaries of CEMEX, S.A.B. de C.V. (j)
12.1	Certification of the Principal Executive Officer of CEMEX, S.A.B. de C.V. pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. (j)
12.2	Certification of the Principal Financial Officer of CEMEX, S.A.B. de C.V. pursuant to Section 302 of the Sarbanes-Oxley Act of 2002. (j)
13.1	Certification of the Principal Executive and Financial Officers of CEMEX, S.A.B. de C.V. pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. (j)
14.1	Consent of KPMG Cárdenas Dosal, S.C. to the incorporation by reference into the effective registration statements of CEMEX, S.A.B. de C.V. under the Securities Act of 1933 of their report with respect to the consolidated financial statements of CEMEX, S.A.B. de C.V., which appears in this Annual Report on Form 20-F. (j)

(a) Incorporated by reference to Post-Effective Amendment No. 4 to the Registration Statement on Form F-3 of CEMEX, S.A.B. de C.V. (Registration No. 333-11382), filed with the Securities and Exchange Commission on August 27, 2003.

(b) Incorporated by reference to the Registration Statement on Form F-4 of CEMEX, S.A.B. de C.V. (Registration No. 333-10682), filed with the Securities and Exchange Commission on August 10, 1999.

(c) Incorporated by reference to the 2002 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on April 8, 2003.

(d) Incorporated by reference to the 2003 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on May 11, 2004.

(e) Incorporated by reference to the 2004 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on May 27, 2005.

(f) Incorporated by reference to the 2005 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on June 8, 2006.

(g) Incorporated by reference to the 2006 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on June 27, 2007.

(h) Incorporated by reference to the 2007 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on June 30, 2008.

(i) Incorporated by reference to the 2008 annual report on Form 20-F of CEMEX, S.A.B. de C.V. filed with the Securities and Exchange Commission on June 30, 2009.

(j) Filed herewith.

Exhibit 2.4.1

CEMEX, S.A. de C.V.

AND

CITIBANK, N.A.,
As Depositary

AND

HOLDERS AND BENEFICIAL OWNERS OF AMERICAN DEPOSITARY SHARES EVIDENCED BY AMERICAN DEPOSITARY RECEIPTS

Amendment No. 1

to

Second Amended and Restated Deposit Agreement

Dated as of July 1, 2005

AMENDMENT NO. 1 TO DEPOSIT AGREEMENT

AMENDMENT NO. 1 TO SECOND AMENDED AND RESTATED DEPOSIT AGREEMENT, is made as of July 1, 2005 (the "Amendment"), by and among CEMEX, S.A. de C.V., a company incorporated and existing under the laws of the United Mexican States (the "Company"), CITIBANK, N.A., a national banking association organized under the laws of the United States of America and acting solely as depositary (the "Depositary") for an American Depositary Receipt facility (the "ADR Facility") and all Holders and Beneficial Owners from time to time of American Depositary Shares evidenced by American Depositary Receipts issued under the Deposit Agreement (as defined below).

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

WHEREAS, the parties hereto entered into that certain Second Amended and Restated Deposit Agreement, dated as of August 10, 1999 (the "Deposit Agreement"), for the creation of American Depositary Receipts ("ADRs") evidencing American Depositary Shares ("ADSs") representing the Shares (as defined in the Deposit Agreement) so deposited and for the execution and delivery of such ADRs evidencing such ADSs;

WHEREAS, the Company has changed the ratio of Shares to ADSs (as set forth in Section 1.3 of the Deposit Agreement) from (i) five (5) Shares to one (1) ADS to (ii) ten (10) Shares to one (1) ADS, and desires to amend the Deposit Agreement to reflect such changes; and

WHEREAS, pursuant to Section 6.1 of the Deposit Agreement, the Company and the Depositary deem it necessary and desirable to amend the Deposit Agreement, the form of ADR annexed thereto as Exhibit A for the purposes set forth herein.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Depositary hereby agree to amend the Deposit Agreement as follows:

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions. Unless otherwise defined in this Amendment, all capitalized terms used, but not otherwise defined, herein shall have the meaning given to such terms in the Deposit Agreement.

ARTICLE II

AMENDMENTS TO DEPOSIT AGREEMENT

SECTION 2.01. Deposit Agreement. All references in the Deposit Agreement to the term "Deposit Agreement" shall, as of the Effective Date (as herein defined), refer to the Deposit Agreement, dated as of August 10, 1999**,** as amended by this Amendment No. 1, together with all exhibits there to, as the same may be amended and supplemented in accordance with the terms of the Deposit Agreement.

SECTION 2.02. Change of Ratio. All references made in the Deposit Agreement to one (1) American Depositary Share representing five (5) Shares shall, as of the Effective Date, refer to one (1) American Depositary Share representing ten (10) Shares.

ARTICLE III

AMENDMENTS TO THE FORM OF ADR

SECTION 3.01. Change of Ratio. All references made in the ADRs issued and outstanding to one (1) American Depositary Share representing five (5) Shares shall, as of the Effective Date, refer to one (1) American Depositary Share representing ten (10) Shares.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES

SECTION 4.01. Representations and Warranties. The Company represents and warrants to, and agrees with, the Depositary and the Holders, that:

(a) This Amendment, when executed and delivered by the Company, and the Deposit Agreement and all other documentation executed and delivered by the Company in connection therewith, will be and have been, respectively, duly and validly authorized, executed and delivered by the Company, and constitute the legal, valid and binding

obligations of the Company, enforceable against the Company in accordance with their respective terms, subject to bankruptcy, insolvency, fraudulent transfer, moratorium and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles;

(b) In order to ensure the legality, validity, enforceability or admissibility into evidence of this Amendment or the Deposit Agreement as amended hereby, and any other document furnished hereunder or thereunder in the United Mexican States, neither of such agreements need to be filed or recorded with any court or other authority in the United Mexican States, nor does any stamp or similar tax need to be paid in the United Mexican States on or in respect of such agreements; and

(c) All of the information provided to the Depositary by the Company in connection with this Amendment is true, accurate and correct.

ARTICLE V

MISCELLANEOUS

SECTION 5.01. Effective Date. This Amendment is dated as of the date set forth above and shall be effective as of such date (the "Effective Date").

SECTION 5.02. New ADRs. From and after the Effective Date, the Depositary shall arrange to have new ADRs printed or amended that reflect the changes to the form of ADRs effected by this Amendment. All ADRs issued hereunder after the Effective Date, once such new ADRs are available, whether upon the deposit of Shares or other Deposited Securities or upon the transfer, combination or split-up of existing ADRs, shall be substantially in the form of the specimen ADRs attached as Exhibit A hereto. However, ADRs issued prior or subsequent to the date hereof, which do not reflect the changes to the form of ADRs effected hereby, do not need to be called in for exchange and may remain outstanding until such time as the Holders thereof choose to surrender them for any reason under the Deposit Agreement. The Depositary is authorized and directed to take any and all actions deemed necessary to effect the foregoing.

SECTION 5.03. Notice of Amendment to Holders. The Depositary is hereby directed to send notices informing the Holders of (i) the terms of this Amendment, (ii) the Effective Date of this Amendment and (iii) that the Holders shall be given the opportunity, but that it is unnecessary, to surrender outstanding ADRs.

SECTION 5.04. Indemnification. The Company agrees to indemnify and hold harmless the Depositary (and any and all of its directors, employees and officers) for any and all liability it or they may incur as a result of the terms of this Amendment and the transactions contemplated herein.

SECTION 5.05. **Ratification**. Except as expressly amended hereby, the terms, covenants and conditions of the Deposit Agreement as originally executed shall remain in full force and effect.

IN WITNESS WHEREOF, the Company and the Depositary have caused this Amendment to be executed by representatives thereunto duly authorized as of the date set forth above.

CEMEX, S.A. de C.V.

By: /s/ Ramiro Villarreal
Name: Ramiro Villarreal
Title: General Counsel

CITIBANK, N.A., as Depositary

By: /s/ Ana María Carassó
Name: Ana María Carassó
Title: Vice President

Exhibit 2.4.2

388 Greenwich Street
14th Floor
New York, NY 10013

[Citi logo]

October 12, 2007

Cemex S.A.B. de C.V. — Direct Registration System for ADSs

Ladies and Gentlemen:

Reference is made to Amendment No. 1 to the Second Amended and Restated Deposit Agreement, dated as of July 1, 2005 (the "Deposit Agreement"), by and among Cemex S.A.B. de C.V. (the "Company"), Citibank, N.A., as Depositary (the "Depositary"), and all Holders and Beneficial Owners from time to time of American Depositary Receipts ("ADRs") evidencing American Depositary Shares ("ADSs") issued thereunder, each ADS representing ten (10) Shares (the "Shares") of the Company. Capitalized terms used herein without definition shall have the meaning assigned thereto in the Deposit Agreement.

The purpose of this letter agreement is to supplement the Deposit Agreement to enable the establishment by the Depositary of a "direct registration system" (the "DR System") for ADSs and the issuance by the Depositary of "uncertificated ADSs" as part of the DR System. Therefore, the Company and the Depositary agree as follows:

1. Notwithstanding any provision of the Deposit Agreement, the Depositary may, at any time and from time to time, issue ADSs that are not evidenced by ADRs (such ADSs, the "Uncertificated ADSs", and the ADSs evidenced by ADRs, the "Certificated ADSs").

2. Uncertificated ADSs shall not be represented by any instrument(s) but shall be evidenced only by the registration of "uncertificated securities" on the books and records of the Depositary maintained for such purpose. Any reference to Holders of ADR(s) or ADS(s) in the Deposit Agreement shall, in the context of the Uncertificated ADSs, refer to the person(s) in whose name the Uncertificated ADSs are registered on the books of the Depositary maintained for such purpose.

3. Holders of Uncertificated ADSs that are not subject to any registered pledges, liens, restrictions or adverse claims, of which the Depositary has written notice at such time, shall at all times have the right to exchange the Uncertificated ADSs (or any portion thereof) for Certificated ADSs of the same type and class, subject in each case to applicable laws and any rules the Depositary may establish from time to time in respect of the Uncertificated ADSs.

4. Holders of Certificated ADSs shall, so long as the Depositary maintains the DR System for the ADSs, have the right to exchange the Certificated ADSs (or any portion thereof) for Uncertificated ADSs upon (i) the due surrender of the Certificated ADSs to the Depositary for such purpose, and (ii) the presentation of a written request to such effect to the Depositary,

subject in each case to (a) all liens and restrictions noted on the ADR evidencing the Certificated ADS(s) and all adverse claims of which the Depositary then has written notice, (b) the terms of the Deposit Agreement (as supplemented by this letter agreement) and the rules that the Depositary may establish from time to time for such purposes thereunder, and (c) applicable law.

5. Uncertificated ADSs shall in all material respects be identical to Certificated ADSs of the same type and class, except that (i) no ADR(s) shall be, nor shall need to be, issued to evidence Uncertificated ADSs, (ii) Uncertificated ADSs shall, subject to the terms of the Deposit Agreement (as supplemented by this letter agreement), be transferable upon the same terms and conditions as uncertificated securities under New York law, (iii) each Holder's ownership of Uncertificated ADSs shall be recorded on the books and records of the Depositary maintained for such purpose and evidence of such Holder's ownership shall be reflected in periodic statements provided by the Depositary to each such Holder in accordance with applicable law, (iv) the Depositary may from time to time, upon notice to the Holders of Uncertificated ADSs affected thereby, establish rules and amend or supplement existing rules, as may be deemed reasonably necessary to maintain the DR System and for the issuance of Uncertificated ADSs on behalf of Holders, provided that such rules do not conflict with the terms of the Deposit Agreement (as supplemented by this letter agreement) and applicable law, (v) the Holder of Uncertificated ADSs shall not be entitled to any benefits under the Deposit Agreement (as supplemented by this letter agreement) and such Holder's Uncertificated ADSs shall not be valid or enforceable for any purpose against the Depositary or the Company unless such Holder is registered on the books and records of the Depositary maintained for such purpose, (vi) the Depositary may, in connection with any deposit of Shares resulting in the issuance of Uncertificated ADSs and with any transfer, pledge, release and cancellation of Uncertificated ADSs, require the prior receipt of such documentation as the Depositary may reasonably request, and (vii) upon termination of the Deposit Agreement (as supplemented by this letter agreement), the Depositary shall not require Holders of Uncertificated ADSs to affirmatively instruct the Depositary or to take other action before remitting proceeds from the sale of the Deposited Securities represented by such Holders' Uncertificated ADSs under the terms of Section 6.2 of the Deposit Agreement.

6. When issuing ADSs under the terms of the Deposit Agreement, including, without limitation, issuances pursuant to Sections 4.3, 4.4 and 4.5 thereof, the Depositary may in its discretion determine to issue Uncertificated ADSs rather than Certificated ADSs, unless otherwise specifically instructed in writing by the applicable Holder to issue Certificated ADSs.

7. Holders of Uncertificated ADSs may request the sale of ADSs through the Depositary, subject to the terms and conditions generally applicable to the sale of ADSs through the Depositary from time to time (which may be changed by the Depositary).

8. All provisions and conditions of the Deposit Agreement shall apply to Uncertificated ADSs to the same extent as to Certificated ADSs, except as contemplated herein. The Depositary is authorized and directed to take any and all actions, and establish any and all procedures, deemed reasonably necessary to give effect to the terms hereof. Any references in the Deposit Agreement or any ADR(s) to the terms "American Depositary Share(s)" or "ADS(s)" shall, unless the context otherwise requires, include Certificated ADS(s) and Uncertificated ADS(s), individually or collectively, as the context may require.

9. Except as set forth herein and except as required by applicable law, the Uncertificated ADSs shall be treated as ADSs issued and outstanding under the terms of the Deposit Agreement (as supplemented by this letter agreement). In the event that, in determining the rights and obligations of parties to the Deposit Agreement (as supplemented by this letter agreement) with respect to any Uncertificated ADSs, any conflict arises between (a) the terms of the Deposit Agreement and (b) the terms hereof, the terms and conditions set forth herein shall be controlling and shall govern the rights and obligations of the parties to the Deposit Agreement pertaining to the Uncertificated ADSs.

10. This letter agreement shall be interpreted under, and all the rights and obligations hereunder shall be governed by, the laws of the State of New York without regard to the principles of choice of law thereof.

11. The terms of this letter agreement supplement the Deposit Agreement, and are not intended to material prejudice any substantial existing rights of Holders of ADSs and, as a result, notice may, but is not required, to be given of the terms hereof to Holders of ADSs under the Deposit Agreement.

12. The Company and the Depositary shall make reference to the terms of this letter agreement, or attach an executed copy hereof to, the next Registration Statement on Form F-6 filing made with the Securities and Exchange Commission in respect of the ADSs.

CITIBANK, N.A.,
as Depositary

By: /s/ Ana Maria Carasso
Name: Ana Maria Carasso
Title: Vice President
Date: Oct. 12, 2007

Acknowledged and Agreed:

Cemex S.A.B. de C.V.

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Chief Financial Officer
Date:

Exhibit 2.4.3
Execution Version

CEMEX, S.A.B. de C.V.
Ave. Ricardo Margain Zozaya 325
Colonia Valle del Campestre
San Pedro Garza García, N.L. 66265
Mexico

As of March 30, 2010

Citibank, N.A. - ADR Department
388 Greenwich Street
New York, New York 10013

Restricted Cemex ADSs

Ladies and Gentlemen:

Reference is made to the Second Amended and Restated Deposit Agreement, dated as of August 10, 1999, by and among CEMEX, S.A.B. de C.V., a company organized under the laws of the United Mexican States (the "Company"), Citibank, N.A., as Depositary (the "Depositary"), and the Holders and Beneficial Owners of American Depositary Shares ("ADSs") issued thereunder, as amended by Amendment No. 1 to Second Amended and Restated Deposit Agreement, dated as of July 1, 2005, and supplemented by Letter Agreement, dated October 12, 2007 (as so amended and supplemented, the " Deposit Agreement"). All capitalized terms used, but not otherwise defined, herein shall have the meaning assigned thereto in the Deposit Agreement.

The Company has, upon the terms set forth in the Purchase Agreement, dated March 24, 2010, between the Company and the Initial Purchasers named therein (the "Purchase Agreement"), offered and sold 4.875% Subordinated Convertible Notes due 2015 (the " Notes") in reliance on Section 4(2) of, and Rule 144A under, the Securities Act (the "Offer"). The terms of the Offer and the Notes are more fully described in the Offering Memorandum, dated March 24, 2010.

In connection with the Offer, the Company and the Depositary have entered in a Letter Agreement, dated as of March 30, 2010 (the " Conversion Letter Agreement"), which sets forth the terms upon which the Company is to deposit CPOs upon conversion of Notes and the Depositary is to issue ADSs upon deposit of such CPOs. As contemplated in the Conversion Letter Agreement, upon conversion of Notes the Company may need to deposit CPOs that are not freely transferable ("Restricted CPOs") and wishes for the Depositary to issue Restricted ADSs in respect of such Restricted CPOs under the terms of Section 2.12 of the Deposit Agreement (as supplemented by the terms hereof). The purpose and intent of this letter agreement is to supplement the Deposit Agreement and the Conversion Letter Agreement for the sole purpose of accommodating the issuance and delivery of the Restricted ADSs, the transfer of the Restricted ADSs, and the withdrawal of Restricted CPOs, in each case in connection with the deposit by the Company of Restricted CPOs upon the conversion of Notes.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Company and the Depositary hereby agree, notwithstanding the terms of the Deposit Agreement, as follows:

1. Depositary Procedures. The Company instructs the Depositary, and the Depositary agrees upon the terms and subject to the terms set forth in this letter agreement, to (i) establish procedures to enable (x) the deposit of Restricted CPOs with the Custodian by the Company in connection with the conversion of Notes in order to enable the issuance by the Depositary of ownership interests in Restricted CPOs in the form of Restricted ADSs (in un-certificated form) issued under the terms of Section 2.12 of the Deposit Agreement, as

supplemented by the terms of this letter agreement, and (y) the transfer of the Restricted ADSs and the withdrawal of the Restricted CPOs, in each case upon the terms and conditions set forth in the Deposit Agreement as supplemented by the terms of this letter agreement. The Company and the Depositary agree that, notwithstanding the terms of Section 2.12 of the Deposit Agreement, the Depositary is authorized and directed to issue the Restricted ADSs as Uncertificated ADSs (as defined in the Direct Registration System Letter Agreement, dated October 12, 2007, between the Company and the Depositary), subject to the restrictions specified in this letter agreement.

2 **.**

deposit of the Restricted CPOs, the issuance of such Restricted ADSs (in un-certificated form), the delivery of such Restricted ADSs, the transfer of the Restricted ADSs and the withdrawal of the Restricted CPOs, and (ii) take all commercially reasonable steps necessary and satisfactory to the Depositary to insure that the acceptance of the deposit of the Restricted CPOs, the issuance of such Restricted ADSs (in un-certificated form), the transfer of Restricted ADSs and the withdrawal of Restricted CPOs, in each case upon the terms and conditions set forth herein, do not materially prejudice the rights of Holders and Beneficial Owners of ADSs and do not violate the provisions of the Securities Act or any other applicable laws. In furtherance of the foregoing, the Company shall cause its U.S. counsel to deliver an opinion to the Depositary stating, *inter alia*, that (x) the deposit of the Restricted CPOs, and the issuance and delivery of Restricted ADSs, in each case upon the terms contemplated herein, does not require registration under the Securities Act, and (y) this letter agreement has been duly executed and delivered by the Company and constitutes its enforceable agreement.

3. Limitations on Issuance of ADSs. The Company hereby instructs the Depositary, and the Depositary agrees upon the terms and subject to the conditions set forth in this letter agreement, to issue and deliver to the persons converting Notes designated from time to time by the Company in an instruction letter substantially in the form of **Exhibit A** hereto the applicable number of Restricted ADSs (in un-certificated form) upon receipt of (i) confirmation from the Custodian of the deposit of the requisite number of Restricted CPOs, and (ii) the opinion of counsel identified in Section 2 hereof. The Restricted ADSs issued upon the deposit of Restricted CPOs shall be separately identified on the books of the Depositary and the Restricted CPOs shall be held separate and distinct from the other Deposited Securities held by the Custodian in respect of the ADSs issued under the Deposit Agreement that are not Restricted ADSs. The Restricted Deposited Securities and the Restricted ADSs shall not be eligible for the "*Pre-Release Transactions*" described in Section 5.10 of the Deposit Agreement. The Restricted ADSs shall not be eligible for inclusion in any book-entry settlement system, including, without limitation, The Depository Trust Company, and shall not in any way be fungible with the other ADSs issued under the terms hereof that are not Restricted ADSs (except upon the terms and conditions set forth in Sections 7 and 8 below). Nothing contained in this letter agreement shall in any way be deemed to obligate the Depositary, or to give authority to the Depositary, to accept any Eligible Securities (other than the Restricted CPOs described herein) for deposit under the terms hereof.

4. Stop Transfer Notation and Legend. The books of the Depositary shall identify the Restricted ADSs as "restricted" and shall contain a "stop transfer" notation to that effect. The statement that the Depositary issued to the holders of Restricted ADSs shall contain the following legend:

> "THE RESTRICTED AMERICAN DEPOSITARY SHARES ("RESTRICTED ADSs") CREDITED TO YOUR ACCOUNT AND THE UNDERLYING *CERTIFICADOS DE PARTICIPACION ORDINARIOS* ("CPOs"), EACH CPO REPRESENTING FINANCIAL INTERESTS IN TWO (2) SERIES A SHARES, WITH NO PAR VALUE ("A SHARES"), AND ONE (1) SERIES B SHARE, WITH NO PAR VALUE ("B SHARES"), AND TOGETHER WITH THE A SHARES, "SHARES"), OF CEMEX, S.A.B. de C.V. ("CEMEX"), ARE SUBJECT TO THE TERMS OF THE LETTER AGREEMENT, DATED AS OF MARCH 30, 2010 (THE "SUPPLEMENTAL LETTER AGREEMENT"), AND THE SECOND AMENDED AND RESTATED DEPOSIT AGREEMENT, DATED AS OF AUGUST 10, 1999, AS AMENDED AND SUPPLEMENTED (AS SO AMENDED AND SUPPLEMENTED, THE "DEPOSIT AGREEMENT"). ALL TERMS USED BUT NOT OTHERWISE DEFINED HEREIN SHALL, UNLESS OTHERWISE SPECIFICALLY DESIGNATED HEREIN, HAVE THE MEANING GIVEN TO SUCH TERMS IN THE SUPPLEMENTAL LETTER AGREEMENT, OR IF NOT DEFINED THEREIN, IN THE DEPOSIT AGREEMENT.

THE RESTRICTED ADSs REGISTERED IN YOUR NAME AND THE UNDERLYING CPOs HAVE NOT BEEN AND WILL NOT BE REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"). THESE SECURITIES MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A)(1) TO CEMEX OR ANY SUBSIDIARY THEREOF, (2) IN A TRANSACTION EXEMPT FROM REGISTRATION OR QUALIFICATION UNDER THE SECURITIES ACT OR (3) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT, AND (B) IN EACH CASE IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE FOREGOING, NEITHER THE CPOs NOR THE SHARES MAY BE DEPOSITED INTO ANY DEPOSITARY RECEIPT FACILITY ESTABLISHED OR MAINTAINED BY A DEPOSITARY BANK OTHER THAN A RESTRICTED FACILITY, UNLESS AND UNTIL SUCH TIME AS SUCH CPOs OR SHARES, AS THE CASE MAY BE, ARE NO LONGER RESTRICTED SECURITIES UNDER THE SECURITIES ACT. NO REPRESENTATION CAN BE MADE AS TO THE AVAILABILITY OF THE EXEMPTION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT FOR RESALE OF THE SHARES, THE CPOs OR THE RESTRICTED ADSs.

PRIOR TO THE TRANSFER OF THE RESTRICTED ADSs, A HOLDER OF RESTRICTED ADSs WILL BE REQUIRED TO PROVIDE TO THE DEPOSITARY AND TO THE COMPANY AN OPINION OF COUNSEL TO THE EFFECT THAT THE TRANSFER OF THE RESTRICTED ADSs IS EXEMPT FROM REGISTRATION OR QUALIFICATION UNDER THE SECURITIES ACT, OR COVERED BY AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT. PRIOR TO THE WITHDRAWAL OF THE RESTRICTED SHARES, A HOLDER OF

RESTRICTED ADSs WILL BE REQUIRED TO PROVIDE TO THE DEPOSITARY AND TO THE COMPANY A WITHDRAWAL CERTIFICATION IN THE FORM ATTACHED TO THE SUPPLEMENTAL LETTER AGREEMENT. THE TRANSFER AND OTHER RESTRICTIONS SET FORTH HEREIN AND IN THE SUPPLEMENTAL LETTER AGREEMENT SHALL REMAIN APPLICABLE WITH RESPECT TO THE RESTRICTED ADSs AND THE CPOs UNTIL SUCH TIME AS THE PROCEDURES SET FORTH IN THE SUPPLEMENTAL LETTER AGREEMENT FOR REMOVAL OF RESTRICTIONS ARE SATISFIED. A COPY OF THE DEPOSIT AGREEMENT AND OF THE SUPPLEMENTAL LETTER AGREEMENT MAY BE OBTAINED FROM THE DEPOSITARY OR THE COMPANY UPON REQUEST."

5. Limitations on Transfer of Restricted ADSs. The Restricted ADSs shall be transferable only by the Holder thereof upon delivery to the Depositary of (i) all documentation otherwise contemplated by the Deposit Agreement, and (ii) such other documents as may reasonably be requested by the Depositary under the terms hereof (including, without limitation, the terms of the legend set forth in Section 4 above).

6. Limitations On Cancellation of Restricted ADSs . The Company instructs the Depositary, and the Depositary agrees not to release any Restricted CPOs nor cancel any Restricted ADSs upon presentation for the purpose of withdrawing the underlying Restricted CPOs unless (x) all of the conditions applicable to the withdrawal of Restricted CPOs from the depositary receipts facility created pursuant to the terms of the Deposit Agreement have been satisfied and (y) the Depositary shall have received from the person requesting the withdrawal of the Restricted CPOs a duly completed and signed Withdrawal Certification substantially in the form of the draft thereof attached hereto as **Exhibit B** (such certification, the "Withdrawal Certification").

7. Fungibility. Except as contemplated herein and except as required by applicable law, the Restricted ADSs shall, to the maximum extent permitted by law and to the maximum extent practicable, be treated as ADSs issued and outstanding under the terms of the

Deposit Agreement that are not "Restricted ADSs," respectively. Nothing contained herein shall obligate the Depositary to treat Holders of Restricted ADSs on terms more favorable than those accorded to Holders of ADSs under the Deposit Agreement.

8. Removal of Restrictions. The Company may instruct the Depositary from time to time in writing that some or all of the Restricted ADSs no longer constitute "restricted securities" (within the meaning given to such term under the Securities Act and the regulations issued thereunder by the Commission). The Depositary shall remove all stop transfer notations from its records in respect of the Restricted ADSs and shall treat Restricted ADSs on the same terms as the other ADSs outstanding under the terms of the Deposit Agreement (that are not Restricted ADSs) upon receipt of (x) written instructions from the Company to do so, and (y) an opinion of U.S. counsel to the Company stating, *inter alia*, that, the removal of distinctions between the Restricted ADSs and the ADSs would not be inappropriate under the Securities Act. Upon (i) receipt of such instructions and opinion of counsel or (ii) receipt of evidence reasonably satisfactory to the Depositary that the transfer of certain designated Restricted ADSs is covered by an effective Registration Statement under the Securities Act, the Depositary shall take all actions necessary to remove any distinctions previously existing between the applicable Restricted ADSs and the ADSs that are not Restricted ADSs, including, without limitation, by (a) causing the Custodian to transfer the applicable number of Restricted CPOs into the account for the Deposited Securities in respect of the ADSs that are not Restricted ADSs, and (b) removing the stop transfer notations on its records in respect of the applicable ADSs previously identified as Restricted ADSs.

9. Representations and Warranties. The Company hereby represents and warrants that (a) the Restricted CPOs to be deposited by the Company for the purpose of the

issuance of the Restricted ADSs (and the Shares represented thereby) will be validly issued, and will upon deposit be fully paid and non-assessable, and free of any preemptive rights of the holders of outstanding Shares or CPOs, (b) the Company will be duly authorized to make such deposit, and (c) the Restricted CPOs deposited by the Company for the issuance of the Restricted ADSs will rank *pari passu* with respect to the other Deposited Securities under the Deposit Agreement that are not Restricted Deposited Securities. Such representations and warranties shall survive the deposit of the Restricted CPOs, and the issuance and delivery of Restricted ADSs.

10. **Indemnity**. The Company acknowledges and agrees that the indemnification by the Company in favor of the Depositary, the Custodian and their respective officers, directors, employees, agents and Affiliates under Section 5.8 of the Deposit Agreement shall apply to the acceptance of Restricted CPOs for deposit, the issuance and delivery of Restricted ADSs, the transfer of Restricted ADSs, and the withdrawal of Restricted CPOs, in each case upon the terms set forth herein, as well as to any other acts performed or omitted by the Depositary as contemplated by this letter agreement.

11. **F-6 Registration Statement**. The Company and the Depositary shall make reference to the terms of this letter agreement in, or attach an executed copy hereof to, the next Registration Statement on Form F-6 filing made with the Commission.

12. **Supplement to Deposit Agreement**. The terms of this letter agreement supplement the Deposit Agreement, and are not intended to materially prejudice any substantial rights of Holders of ADSs and, as a result, notice hereof need not be given to the Holders of ADSs under the Deposit Agreement.

13. **Governing Law**. This letter agreement shall be interpreted and all rights hereunder shall be governed by the laws of the State of New York without regards to the principles of conflicts of law thereof.

The Company and the Depositary have caused this letter agreement to be executed and delivered on their behalf by their respective officers thereunto duly authorized as of the date set forth above.

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

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Chief Financial Officer / Attorney-in-Fact
Date: March 30, 2010

CITIBANK, N.A. – ADR DEPOSITARY

By: /s/ Thomas Crane
Name: Thomas Crane
Title: Vice President
Date:

EXHIBITS

A Issuance Instructions
B Withdrawal Certification

EXHIBIT A

to

Letter Agreement, dated as of March 30, 2010
(the "Letter Agreement"), by and between
CEMEX, S.A.B. de C.V.
and CITIBANK, N.A.

Restricted ADS Issuance Instructions

All capitalized terms used but not otherwise defined herein shall have the meaning given to such terms in the Letter Agreement.

Citibank, N.A.,
as Depositary
ADR Department
111 Wall Street
New York, New York 10043

Cemex, S.A.B. de C.V. – Restricted ADSs

Dear Sirs:

Reference is hereby made to (i) the Second Amended and Restated Deposit Agreement, dated as of August 10, 1999, by and among Cemex, S.A.B. de C.V. (the "Company"), Citibank, N.A., as Depositary (the "Depositary"), and the Holders and Beneficial Owners of American Depositary Shares (the "ADSs") issued thereunder, as amended by Amendment No. 1 to Second Amended and Restated Deposit Agreement, dated as of July 1, 2005, and supplemented by Letter Agreement, dated October 12, 2007 (as so amended an supplemented, the " Deposit Agreement"), and (ii) the Letter Agreement, dated as of March 30, 2010 (the "Letter Agreement"), by and between the Company and the Depositary, on the subject of Restricted ADSs. Capitalized terms used but not defined herein shall have the meanings given to them in the Deposit Agreement, or, in the event so noted herein, in the Letter Agreement.

The Company has deposited the number of Restricted CPOs identified below and hereby instructs the Depositary to issue the Restricted ADSs in the name of the person(s) identified below upon the terms described in the Letter Agreement as follows:

Number of Restricted CPOs deposited: _____ Restricted CPOs

Number of Restricted ADSs to be issued: _____ Restricted ADSs

Name of person to whom the Restricted ADSs are to be issued:

Street Address:

City, State, and Country:

Nationality:

Social Security or Tax Identification Number:

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

By: _____

Name:
Title:
Date:

EXHIBIT B

to

Letter Agreement, dated as of March 30, 2010
(the "Letter Agreement"), by and between
CEMEX, S.A.B. de C.V.
and
CITIBANK, N.A.

WITHDRAWAL CERTIFICATION

_____, __

Citibank, N.A.,
as Depositary
ADR Department
111 Wall Street
New York, New York 10043

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

Dear Sirs:

Reference is hereby made to (i) the Second Amended and Restated Deposit Agreement, dated as of August 10, 1999, by and among Cemex, S.A.B. de C.V. (the "Company"), Citibank, N.A., as Depositary (the "Depositary"), and the Holders and Beneficial Owners of American Depositary Shares (the "ADSs") issued thereunder, as amended by Amendment No. 1 to Second Amended and Restated Deposit Agreement, dated as of July 1, 2005, and supplemented by Letter Agreement, dated October 12, 2007 (as so amended an supplemented, the " Deposit Agreement"), and (ii) the Letter Agreement, dated as of March 30, 2010 (the "Letter Agreement"), by and between the Company and the Depositary, on the subject of Restricted ADSs. Capitalized terms used but not defined herein shall have the meanings given to them in the Deposit Agreement, or, in the event so noted herein, in the Letter Agreement.

This Withdrawal Certification is being furnished in connection with the withdrawal of Restricted CPOs upon surrender of Restricted ADSs to the Depositary.

A. We acknowledge or if we are acting for the account of another person, such person has confirmed to us that it acknowledges that the Restricted ADSs and the Restricted CPOs represented thereby have not been and will not be registered under the Securities Act.

B. We certify that either:

(a) We are a "qualified institutional buyer" as defined in Rule 144A under the Securities Act ("QIB"), we are not an "affiliate" (as defined in Rule 144 under the Securities Act) of the Company and are acting for our own account or for the account of one or more QIBs (that is not an affiliate of the Company), and either:

(i) We have (or it has) sold or otherwise transferred, or agreed to sell or otherwise transfer and at or prior to the time of withdrawal will have sold or otherwise transferred, the Restricted ADSs or the Restricted CPOs in accordance with Regulation S under the Securities Act and we are (or it is), or prior to such sale we were (or it was), the beneficial owner of the Restricted ADSs; or

(ii) We have (or it has) sold or otherwise transferred, or agreed to sell or otherwise transfer and at or prior to the time of withdrawal will have sold or otherwise transferred, the Restricted ADSs or the Restricted CPOs to another QIB in accordance with an exemption under the Securities Act, we are (or it is), or prior to such sale we were (or it was), the beneficial owner of the Restricted ADSs and such QIB has indicated to us (or it) that (x) it will not offer, sell, pledge or otherwise transfer the Restricted CPOs except (A) to a person whom it reasonably believes (or anyone acting on its behalf reasonably believes) is a QIB in a transaction exempt from registration requirements of the Securities Act, (B) in accordance with Regulation S under the Securities Act, or (C) in accordance with Rule 144 under the Securities Act (if available), in each case in accordance with any applicable securities laws of any state of the United States, and (y) it will not deposit or cause to be deposited such Restricted CPOs into any depositary receipt facility established or maintained by a depositary bank (including any such facility maintained by the Depositary) so long as such Restricted CPOs are "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act; or

(iii) We (or it) will be the beneficial owner of the Restricted CPOs upon withdrawal, and, accordingly, we agree (or if we are acting for the account of one or more QIBs, each such QIB has confirmed to us that it agrees) that (x) we (or it) will not offer, sell, pledge or otherwise transfer the Restricted CPOs except (A) to a person

whom we reasonably believe (or it and anyone acting on its behalf reasonably believes) is a QIB in a transaction exempt from the registration requirements of the Securities Act, (B) in accordance with Regulation S under the Securities Act, or (C) in accordance with Rule 144 under the Securities Act (if available), in each case in accordance with any applicable securities laws of any state of the United States, and (x) we (or it) will not deposit or cause to be deposited such Restricted CPOs into any depositary receipt facility established or maintained by a depositary bank (including any such facility maintained by the Depositary) so long as such Restricted CPOs are "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act; or

(b) We (i) are a non-U.S. person located outside the United States (within the meaning of Regulation S under the Securities Act), (ii) are not an "affiliate" (as defined in Rule 144 under the Securities Act) of the Company, (iii) acquired, prior to the time of the withdrawal, the Restricted ADSs and the CPOs represented thereby outside the United States (within the meaning of Regulation S under the Securities Act), (iv) are the beneficial owner of the Restricted ADSs and the CPOs represented thereby, (v) will, for a period of forty (40) days after the delivery of the CPOs to us, sell the CPOs only to persons other than U.S. persons (within the meaning of Regulation S under the Securities Act), (vi) will not, for a period of forty (40) days after the date of delivery of the CPOs to us, deposit the CPOs into any depositary receipts facility established or maintained by a depositary bank (including any such facility maintained by the Depositary), and (vii) will sell the CPOs only in a transaction meeting the requirements of Regulation S; or

(c) We are an "affiliate" (as defined in Rule 144 under the Securities Act) of the Company, we are not a "U.S. person" (within the meaning of Regulation S) and are located outside the United States, we will be the beneficial owner of the CPOs represented by the Restricted ADSs, we will sell the CPOs represented by the Restricted ADSs in compliance with the requirements of the U.S. securities laws (including, without limitation, the applicable laws of the states of the United States), and we will not deposit, or cause to be deposited, such CPOs into any depositary receipts facility established or maintained by a depositary bank other than a restricted facility established and maintained for such purpose.

The undersigned hereby instructs the Depositary to cancel the Restricted ADSs specified below, to deliver the CPOs represented thereby as specified below and, if applicable, to issue to the

undersigned a statement identifying the number of Restricted ADSs held by the undersigned and not cancelled pursuant to these instructions. The undersigned appoints the Depositary and any of its authorized representatives as its attorney to take the actions contemplated above on behalf of the undersigned.

Name of Owner: _____

Social Security Number of Owner: _____

Account Number of Owner: _____

Number of Restricted ADSs to be cancelled: _____

Delivery Information for delivery
of CPOs Represented by
Restricted to be cancelled: _____

Signature of Owner: _____
(Identify Title if Acting in Representative Capacity)

SIGNATURE GUARANTEE

Name of Firm Issuing Guarantee: _____

Authorized Signature of Officer: _____

Title of Officer Signing This Guarantee: _____

Address: _____

_____

Area Code and Telephone Number: _____

Dated: _____

Exhibit 4.18

Execution Copy

New Sunward Holding Financial Ventures B.V.,

As Issuer

and

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

CEMEX MEXICO, S.A. de C.V.,
and
NEW SUNWARD HOLDING B.V.,

As Guarantors

TO

The Bank of New York,

As Trustee

Note Indenture

Dated as of December 18, 2006

U.S. $350,000,000

Callable Perpetual Dual-Currency Notes

TABLE OF CONTENTS

Note: This table of contents shall not, for any purpose, be deemed to be a part of the Indenture.

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NOTE INDENTURE, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V., a private company with limited liability formed under the laws of the Netherlands (herein called the "Company"), having its principal office at Amsteldijk 166, 1079 LH Amsterdam, each of the Guarantors (as hereinafter defined) and The Bank of New York, a bank duly organized and existing under the laws of the State of New York, as Trustee (herein called the "Trustee").

RECITALS OF THE COMPANY AND THE GUARANTORS

The Company has duly authorized the creation of an issue of its Callable Perpetual Dual-Currency Notes (herein called the "Securities") of substantially the tenor and amount hereinafter set forth, and to provide therefor the Company has duly authorized the execution and delivery of this Note Indenture.

The Guarantors, jointly and severally, desire to irrevocably and unconditionally guarantee the payment of the principal of and interest on, and any other amount due under, this Note Indenture and the Securities, as the same shall become due in accordance with the terms of this Note Indenture and the Securities pursuant to the Guarantee provided in this Note Indenture and endorsed on the Securities, and to provide therefor have duly authorized the execution and delivery of this Note Indenture.

All things necessary to make the Securities, when executed by the Company and authenticated and delivered hereunder and duly issued by the Company, the valid obligations of the Company, and to make this Note Indenture a valid agreement of the Company, in accordance with their and its terms, have been done.

All things necessary to make the Guarantee, when executed by the Guarantors, the valid obligation of the Guarantors, and to constitute these presents a valid indenture and agreement of the Guarantors, according to its terms, have been done.

NOW, THEREFORE, THIS NOTE INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Securities by the Holders thereof, it is mutually agreed, for the equal and proportionate benefit of all Holders of the Securities, as follows:

ARTICLE ONE

Definitions and Other Provisions
of General Application

SECTION 101 Definitions.

For all purposes of this Note Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(1) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;

(2) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles in Mexico, the Netherlands or any other applicable jurisdiction, and, except as otherwise herein expressly provided, the term "generally accepted accounting principles" with respect to any computation required or permitted hereunder shall mean such accounting principles as are generally accepted in Mexico, the Netherlands or any applicable jurisdiction at the date of such computation;

(3) unless the context otherwise requires, any reference to an "Article" or a "Section", or to an "Annex", refers to an Article or Section of, or to an Annex attached to, this Note Indenture, as the case may be;

(4) unless the context otherwise requires, any reference to a statute, rule or regulation refers to the same (including any successor statute, rule or regulation thereto) as it may be amended from time to time; and

(5) the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Note Indenture as a whole and not to any particular Article, Section or other subdivision.

"Acquired Subsidiary" means any Subsidiary acquired by CEMEX or any other Subsidiary after the date of this Note Indenture in an Acquisition, and any Subsidiaries of such Acquired Subsidiary on the date of such Acquisition.

"Acquiring Subsidiary" means any Subsidiary formed by CEMEX or one of its Subsidiaries solely for the purpose of participating as the acquiring party in any Acquisition, and any Subsidiaries of such Acquiring Subsidiary acquired in such Acquisition.

"Acquisition" means any merger, consolidation, acquisition or lease of assets, acquisition of securities or business combination or acquisition, or any two or more of such transactions, if, upon the completion of such transaction or transactions, CEMEX or any Subsidiary thereof has acquired an interest in any Person who would be deemed to be a Subsidiary under this Note Indenture and was not a Subsidiary prior thereto.

"Act" when used with respect to any Holder, has the meaning specified in Section 104.

"Additional Amounts" has the meaning specified in Section 1007.

"Adjusted Consolidated Net Tangible Assets" means the total assets of CEMEX and its Subsidiaries (less applicable depreciation, amortization and other valuation reserves), including any write-ups or restatements (other than with respect to items referred to in clause (ii) below), after deducting therefrom (i) all current liabilities (excluding the current portion of long-term debt) and (ii) all goodwill, trade names, trademarks, licenses, concessions, patents and other intangibles, all as determined on a consolidated basis in accordance with Mexican GAAP.

"Affiliate" of any specified Person means any other Person who directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with such specified Person. For the purposes of this definition, "control" when used with

respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Applicable Taxes" has the meaning specified in Section 1007.

"Authenticating Agent" means any Person authorized by the Trustee pursuant to Section 612 to act on behalf of the Trustee to authenticate Securities.

"Benchmark Swap" has the meaning specified in Annex A.

"Board of Directors" means either the board of directors of the Company or any committee of that board duly authorized to act for it in respect hereof.

"Board Resolution" means a copy of a resolution certified by the Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"Business Day" means, with respect to any particular place, each day that is not a Saturday, a Sunday, a day on which banks in New York City or London are authorized or obligated by law or executive order to remain closed, or a day on which the Corporate Trust Office of the Debenture Trustee is closed for business, provided that, when the Dollar Fixed Rate and Yen Rate is applicable, "Business Day" shall not include a day on which banks in Tokyo, Japan, are authorized or obligated by law or executive order to remain closed. If any day on which any delivery, request, surrender or other action is required or permitted hereunder to be taken by or on behalf of a Holder is not a business day in any place where such action is permitted hereunder to be taken, then such actions may be taken at such or any other permitted place on the next succeeding business day at such place with the same force and effect as if taken at the same time on such day that is not a business day at such place.

"C5 Capital (SPV) Limited" means a restricted purpose company incorporated with limited liability domiciled in the British Virgin Islands.

"Calculation Agent" has the meaning specified in the Master Collateral Agreement.

"Capital Lease" means a lease that would be capitalized on a balance sheet of the lessee prepared in accordance with Mexican GAAP.

"CEMEX" means CEMEX, S.A.B. de C.V., a publicly traded stock corporation with variable capital (sociedad anónima búrsatil de capital variable) organized under the laws of Mexico.

"CEMEX México" means CEMEX México, S.A. de C.V., a stock corporation with variable capital (sociedad anónima de capital variable) organized under the laws of Mexico.

"Change of Control" means the occurrence of either of the following: (a) any Person or Persons acting in concert or on behalf of any Person(s) is or becomes the beneficial owner, directly or indirectly, of more than 50% of the capital stock of CEMEX, then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election

of directors (whether or not any necessary approvals therefor have been obtained); or (b) the direct or indirect sale, lease, transfer, conveyance or other disposition, in one or a series of related transactions, of all or substantially all of the assets of CEMEX, and its Subsidiaries, taken as a whole, to any Person or group of Persons acting in concert (other than to CEMEX or any of its Subsidiaries).

"Change of Control Event" means the earliest date on which both of the following events have occurred: (i) a Change of Control; and (ii) either prior to a Change of Control or within 90 days after public notice of the occurrence of a Change of Control (which period will be extended so long as any rating is under publicly-announced consideration of possible downgrade by any of the Rating Agencies), any Rating Agency publicly announces that the corporate credit rating of CEMEX by such Rating Agency is withdrawn or downgraded to a rating below BBB- by S&P or BBB- by Fitch (or their respective equivalents at such time).

"Commission" means the U.S. Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, or, if at any time after the execution of this instrument such Commission is not existing and performing the duties now assigned to it under applicable law, then the body performing such duties at such time.

"Company" means the Person named as the "Company" in the first paragraph of this instrument until a successor Person shall have become such pursuant to the applicable provisions of this Note Indenture, and thereafter "Company" shall mean such successor Person.

"Company Request" or "Company Order" means a written request or order signed in the name of the Company by any one of the individuals who may sign an Officers' Certificate on its behalf and delivered to the Trustee.

"Conditions to Anticipated Swap Termination" has the meaning specified in Annex B.

"Conversion Credits" has the meaning specified in Annex A.

"Conversion Date" has the meaning specified in Section 313, 314 or 315, as applicable.

"Conversion Payment" has the meaning specified in Annex A.

"Conversion Payment Undertaking" means the Conversion Payment Undertaking, dated as of December 18, 2006, of the Company and the Guarantors.

"Corporate Trust Office" means the principal office of the Trustee in the Borough of Manhattan, the City of New York, New York at which at any particular time its corporate trust business shall be administered.

"Debentures" has the meaning specified in the Debenture Indenture, dated as of December 18, 2006, between the Debenture Trustee and the Holders.

"Debentures Indenture" means the Debenture Indenture, dated as of December 18, 2006, between the C5 Capital (SPV) Limited and the Debenture Trustee.

"Debenture Trustee" means The Bank of New York in its capacity as trustee for the Debentures.

"Debt" of any Person means, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee under Capital Leases, (v) all Debt of others secured by a Lien on any asset of such Person, up to the value of such asset, as recorded in such Person's most recent balance sheet, (vi) all obligations of such Person with respect to product invoices incurred in connection with export financing, (vii) all obligations of such Person under repurchase agreements for the stock issued by such Person or another Person and (viii) all Debt of others guaranteed by such Person. For the avoidance of doubt, Debt does not include Derivatives.

"Defaulted Interest" has the meaning specified in Section 307.

"Derivatives" means any type of derivative obligations, including but not limited to equity forwards, capital hedges, cross-currency swaps, currency forwards, credit default swaps, interest rate swaps and swaptions.

"Dollar" and $ means a U.S. Dollar or other equivalent unit in such coin or currency of the United States of America as at the time shall be legal tender for the payment of public and private debts.

"Dollar Fixed Rate" has the meaning specified in Section 203.

"Dollar Floating Rate" has the meaning specified in Section 203.

"Event of Default" has the meaning specified in Section 501.

"Exchange Act" means the U.S. Securities Exchange Act of 1934, as amended, and (unless the context otherwise requires) includes the rules and regulations of the Commission promulgated thereunder.

"Expiration Date" has the meaning specified in Section 104(g).

"Extinguishable Coupon Swap" has the meaning specified in the Master Collateral Agreement.

"Fitch" means Fitch Ratings Ltd. or any successor to the rating agency business thereof.

"Global Security" has the meaning specified in Section 201.

"Guarantee" means the joint and several irrevocable and unconditional guarantee of the Securities by the Guarantors, as contained in Article Twelve of this Note Indenture.

"Guarantor" means each of CEMEX, Cemex Mexico, and New Sunward Holding, and each of their respective Successors, if any, who becomes a Successor pursuant to Section 801.

"Holder" means, with respect to any issuance of Securities, C5 Capital (SPV) Limited or any other Person in whose name such issuance of Security is registered in the Security Register.

"Initial Purchasers" has the meaning specified in the Purchase Agreement.

"Interest Payment Date" means the Stated Maturity of an installment of interest on the Securities.

"Judgment Currency" has the meaning specified in Section 1010.

"LIBO Calculation Agent" has the meaning specified in Section 203.

"LIBOR Business Date" has the meaning specified in Section 203.

"LIBOR Interest Determination Date" has the meaning specified in Section 203.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. CEMEX or any Subsidiary of CEMEX shall be deemed to own, subject to a Lien, any asset that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capital Lease or other title retention lease relating to such asset, or any account receivable transferred by it with recourse (including any such transfer subject to a holdback or similar arrangement that effectively imposes the risk of collectability on the transferor).

"Master Collateral Agreement" means the Master Collateral Agreement dated as of December 18, 2006, among CEMEX, CEMEX México, New Sunward Holding, the Company, C5 Capital (SPV) Limited, Swap 5 Capital (SPV) Limited, The Bank of New York and JPMorgan Chase Bank, N.A.

"Maturity", when used with respect to any Security, means the date on which the principal of such Security becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption, exercise of the repurchase right or otherwise.

"Mexican GAAP" means, at any time of determination, generally accepted accounting principles in Mexico as in effect at such time.

"Mexico" means the United Mexican States.

"New Sunward Holding" means New Sunward Holding B.V., a private company with limited liability formed under the laws of the Netherlands.

"Note Indenture" means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, including, for all purposes of this instrument and any such supplemental indenture, the Annexes attached to this instrument.

"Note Taxing Jurisdiction" has the meaning specified in Section 203.

"Notice of Default" means a written notice of the kind specified in Section 501(4).

"Officers' Certificate" of the Company means a certificate signed by any one of its chief executive officer, corporate planning or finance director, chief financial officer, comptroller, chief accounting officer or chief legal officer or any other Person authorized to act on behalf of the Company, and delivered to the Trustee. "Officers' Certificate" of a Guarantor means a certificate signed by any one of the chief executive officer, corporate planning or finance director, chief financial officer, comptroller, chief accounting officer or chief legal officer or any other Person authorized to act on behalf of such Guarantor, and delivered to the Trustee. One of the officers signing an Officers' Certificate given pursuant to Section 1004 shall be the corporate planning or finance director, chief financial officer, comptroller or finance director of CEMEX. Unless the context otherwise requires, each reference herein to an "Officers' Certificate" shall mean an Officers' Certificate of the Company.

"Opinion of Counsel" means an opinion in writing signed by legal counsel who, unless otherwise provided herein, may be an employee of or counsel to CEMEX or the Trustee or who may be other counsel reasonably satisfactory to the Trustee.

"Outstanding" when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Note Indenture, except:

(i) Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(ii) Securities for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company or any Guarantor) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Securities; provided that, if such Securities are to be redeemed, notice of such redemption shall have been duly given pursuant to this Note Indenture or provision therefor satisfactory to the Trustee shall have been made; and

(iii) Securities that have been paid pursuant to Section 306 or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Note Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a bona fide purchaser in whose hands such Securities are valid obligations of the Company;

provided, however, that in determining whether the Holders of the requisite principal amount of the Outstanding Securities have given, made or taken any request, demand, authorization, direction, notice, consent, waiver or other action hereunder as of any date, Securities owned by the Company, any Guarantor or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, waiver or other action, only Securities that a Responsible Officer of the Trustee knows to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction

of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor.

"Paying Agent" means any Person authorized by the Company to pay the principal of or interest on any Securities on behalf of the Company.

"Permitted Lien" has the meaning specified in Section 1008.

"Person" means any individual, company, corporation, firm, partnership, joint venture, association, organization, state or agency or other entity, whether or not having a separate legal personality.

"Predecessor Security" of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 306 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

"Purchase Agreement" means the Purchase Agreement, dated as of December 11, 2006, among C5 Capital (SPV) Limited, CEMEX, CEMEX México, New Sunward Holding, the Company and the Initial Purchasers of the securities named therein, relating to the Debentures.

"Qualified Receivables Transaction" means a sale, transfer, or securitization of receivables and related assets by CEMEX or its Subsidiaries, including a sale at a discount, provided that (i) such receivables have been sold, transferred or otherwise conveyed, directly or indirectly, by the originator thereof in a manner that satisfies the requirements for a sale, transfer or other conveyance under the laws and regulations of the jurisdiction in which such originator is organized; (ii) at the time of the sale, transfer or securitization of receivables is put in place, the receivables are derecognized from the balance sheet of CEMEX or its Subsidiary in accordance with the generally accepted accounting principles applicable to such Person in effect as at the date of such sale, transfer or securitization; and (iii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or securitization is carried out on a non-recourse basis or on a basis where recovery is limited to the collection of receivables.

"Qualifying Equity Security" means any security that (a) is issued or guaranteed by CEMEX and (b) is accounted for as "equity" of CEMEX in the consolidated financial statements of CEMEX.

"Rating Agencies" means S&P and Fitch.

"Redemption Date" when used with respect to any Security to be redeemed, means the date fixed for such redemption by or pursuant to this Note Indenture.

"Redemption Price" when used with respect to any Security to be redeemed, means the price at which it is to be redeemed as set forth in the Securities.

"Regular Record Date" for the interest payable on any Interest Payment Date means the March 15, June 15, September 15 or December 15 (regardless of whether a Business Day), as the case may be, immediately preceding such Interest Payment Date; provided that the record date for the first Interest Payment Date will be December 19, 2006.

"Responsible Officer" with respect to the Trustee, any officer, within the Corporate Trust Office (or any successor group of the Trustee), including any senior vice president, vice president, assistant vice president, secretary, assistant secretary, or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also, with respect to a particular matter, any other officer to whom such matter is referred because of such officer's knowledge of and familiarity with the particular subject.

"Restricted Securities" has the meaning specified in Section 201.

"Securities" means the securities designated as such in the first paragraph of the RECITALS OF THE COMPANY AND THE GUARANTORS.

"Securities Act" means the U.S. Securities Act of 1933, as amended, and (unless the context otherwise requires) includes the rules and regulations of the Commission promulgated thereunder.

"Security Register" and "Security Registrar" have the respective meanings specified in Section 305.

"Special Record Date" for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 307.

"S&P" means Standard & Poor's, a division of McGraw-Hill Companies, Inc., or any successor to the rating agency business thereof.

"Stated Maturity" when used with respect to any Security or any installment of interest thereon, means any date specified in such Security as the fixed date on which such installment of interest is due and payable.

"Subsidiary" means, with respect to any Person, any corporation, partnership, joint venture, limited liability company, trust, estate or other entity of which (or in which) more than 50% of (a) in the case of a corporation, the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency not in the control of such Person), (b) in the case of a limited liability company, partnership or joint venture, the interest in the capital or profits of such limited liability company, partnership or joint venture or (c) in the case of a trust or estate, the beneficial interest in such trust or estate, is at the time directly or indirectly owned or controlled by (X) such Person, (Y) such Person and one or more of its other Subsidiaries or (Z) one or more of such Person's other Subsidiaries. Unless the context otherwise requires, all references herein to a "Subsidiary" shall refer to a Subsidiary of CEMEX.

"Successor" has the meaning specified in Section 801.

"Swap Counterparty" means Swap 5 Capital (SPV) Limited, a restricted purpose company incorporated with limited liability domiciled in the British Virgin Islands.

"Telerate Page 3750" has the meaning specified in Section 203.

"Transfer" of any Security encompasses any sale, pledge, transfer, hypothecation or other disposition of such Security or any interest therein.

"Trust Indenture Act" means the U.S. Trust Indenture Act of 1939, as amended, and (unless the context otherwise requires) includes the rules and regulations of the Commission thereunder.

"Trustee" means the Person named as the "Trustee" in the first paragraph of this instrument until a successor Trustee shall have become such pursuant to the applicable provisions of this Note Indenture, and thereafter "Trustee" shall mean such successor Trustee.

"United States" means the United States of America (including the States thereof and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction.

"Yen" and "¥" means a Japanese Yen or other equivalent unit in such coin or currency of Japan as at the time shall be legal tender for the payment of public and private debts.

"Yen Equivalent Principal Amount" has the meaning specified in Section 203.

"Yen Rate" has the meaning specified in Section 203.

"3-month Dollar LIBO Rate" has the meaning specified in Section 203.

"6-month Yen LIBO Rate" has the meaning specified in Section 203.

SECTION 102 Compliance Certificates and Opinions.

Upon any application or request by the Company to the Trustee to take any action under any provision of this Note Indenture, the Company shall furnish to the Trustee such certificates and opinions as may be required hereunder. Each such certificate or opinion shall be given in the form of an Officers' Certificate, if to be given by an officer of the Company, or an Opinion of Counsel if to be given by counsel.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Note Indenture (except for certificates provided for in Section 1004) shall include,

(1) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether such covenant or condition has been complied with; and

(4) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

SECTION 103 Form of Documents Delivered to Trustee.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Company or any Guarantor may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or opinion of counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company or of the relevant Guarantor, as the case may be, stating that the information with respect to such factual matters is in the possession of the Company or such Guarantor, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Note Indenture, they may, but need not, be consolidated and form one instrument.

SECTION 104 Acts of Holders; Record Dates.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Note Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to a Responsible Officer of the Trustee and, where it is hereby expressly required, to the Company or the Guarantors. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Note Indenture and (subject to Section 601) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The ownership of Securities shall be proved by the Security Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, regardless of whether notation of such action is made upon such Security.

(e) The Company may set any day as a record date for the purpose of determining the Holders of Outstanding Securities entitled to give, make or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Note Indenture to be given, made or taken by Holders of Securities, provided that the Company may not set a record date for, and the provisions of this paragraph shall not apply with respect to, the giving or making of any notice, declaration, request or direction referred to in the next paragraph. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities on such record date, and no other Holders, shall be entitled to take the relevant action, regardless of whether such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities on such record date. Nothing in this paragraph shall be construed to prevent the Company from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be cancelled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Company, at its own expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Trustee in writing and to each Holder of Securities in the manner set forth in Section 106.

(f) The Trustee may set any day as a record date for the purpose of determining the Holders of Outstanding Securities entitled to join in the giving or making of (i) any Notice of Default, (ii) any declaration of acceleration referred to in Section 502, (iii) any request to institute proceedings referred to in Section 507(2) or (iv) any direction referred to in Section 512. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities on such record date, and no other Holders, shall be entitled to join in such notice, declaration, request or direction, regardless whether such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities on such record date. Nothing in this paragraph shall be construed to prevent the Trustee from setting a new record date for any action (whereupon the record date previously set shall automatically and without any action by any Person be cancelled and of no effect), nor shall anything in this paragraph be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Trustee, at the Company's expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Company in writing and to each Holder of Securities in the manner set forth in Section 106.

(g) With respect to any record date set pursuant to this Section, the party hereto that sets such record date may designate any day as the "Expiration Date" and from time to time may change the Expiration Date to any earlier or later day, provided that no such change shall be effective unless notice of the proposed new Expiration Date is given to the other party hereto in writing, and to each Holder of Securities in the manner set forth in Section 106, on or prior to the existing Expiration Date. If an Expiration Date is not designated with respect to any record date set pursuant to this Section, the party hereto that set such record date shall be deemed to have initially designated the 180th day after such record date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date as provided in this paragraph. Notwithstanding the foregoing, no Expiration Date shall be later than the 180th day after the applicable record date.

Without limiting the foregoing, a Holder entitled hereunder to take any action hereunder with regard to any particular Security may do so with regard to all or any part of the principal amount of such Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such principal amount.

SECTION 105 Notices, Etc., to Trustee, Company and Guarantors.

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Note Indenture to be made upon, given or furnished to, or filed with,

(1) the Trustee by any Holder or by the Company or any Guarantor shall be in the English language and shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Trustee at its Corporate Trust Office, or

(2) the Company or any Guarantor by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, to it addressed to it at the address of the Company's principal office specified in the first paragraph of this instrument, Attention: Finance Director, with a copy to CEMEX at Av. Ricardo Margáin Zozaya #325, Colonia Valle del Campestre, Garza García, Nuevo León, México 66265, Attention: General Counsel, or at any other address previously furnished in writing to the Trustee by the Company.

SECTION 106 Notice to Holders; Waiver.

Where this Note Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, to each Holder affected by such event, at his address as it appears in the Security Register. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Note Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

SECTION 107 Effect of Headings and Table of Contents.

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

SECTION 108 Successors and Assigns.

All covenants and agreements in this Note Indenture by the Company or any Guarantor shall bind its successors and assigns, regardless of whether so expressed.

SECTION 109 Separability Clause.

In case any provision in this Note Indenture or in the Securities or the Guarantee shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 110 Benefits of Note Indenture.

Nothing in this Note Indenture or in the Securities or the Guarantee, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder and the Holders of Securities, any benefit or any legal or equitable right, remedy or claim under this Note Indenture.

SECTION 111 Governing Law.

THIS NOTE INDENTURE, THE GUARANTEE AND THE SECURITIES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

SECTION 112 Legal Holidays.

In any case where any Interest Payment Date, Redemption Date, Conversion Date or Stated Maturity of any Security shall not be a Business Day, then (notwithstanding any other provision of this Note Indenture or of the Securities) payment of interest or principal (and premium, if any) need not be made on such date, but may be made on the preceding Business Day with the same force and effect as if made on the Interest Payment Date, Redemption Date, Conversion Date or at the Stated Maturity, as the case may be.

SECTION 113 Consent to Service; Jurisdiction.

The Company, each Guarantor and the Trustee agree that any legal suit, action or proceeding arising out of or relating to this Note Indenture, the Securities or the Guarantee, may be instituted in any federal or state court in the Borough of Manhattan, The City of New York, waives any objection which it may now or hereafter have to the laying of the venue of any such legal suit, action or proceeding, waives any immunity from jurisdiction or to service of process in respect of

any such suit, action or proceeding, and irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding. Each of the Company, each Guarantor and the Trustee further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to this Note Indenture, and each of the Company and the Guarantors further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to the Securities or the Guarantee. Each of the Company and the Guarantors hereby designates and appoints CEMEX NY Corporation, 590 Madison Ave., 41 st Floor, New York, New York 10022, Attention: General Counsel, as its authorized agent upon which process may be served in any legal suit, action or proceeding arising out of or relating to this Note Indenture, the Securities or the Guarantee which may be instituted in any federal or state court in the Borough of Manhattan, The City of New York, New York, and agrees that service of process upon such agent, and written notice of said service to the Company or a Guarantor by the Person serving the same, shall be deemed in every respect effective service of process upon the Company (if such notice is given to the Company) or upon such Guarantor (if such notice is given to a Guarantor) in any such suit, action or proceeding and further designates its domicile, the domicile of CEMEX NY Corporation specified above and any domicile CEMEX NY Corporation may have in the future as its domicile to receive any notice hereunder (including service of process). If for any reason CEMEX NY Corporation (or any successor agent for this purpose) shall cease to have a domicile in New York or to act as agent for service of process as provided above, each of the Company and the Guarantors will promptly appoint a successor agent domiciled in New York for this purpose reasonably acceptable to Trustee and shall grant thereto notarial powers-of-attorney for lawsuits and collections. Each of the Company and the Guarantors agrees to take any and all actions as may be necessary to maintain such designation and appointment of such agent in full force and effect. Notwithstanding the foregoing, if CEMEX NY Corporation ceases to be a New York Corporation the parties shall immediately appoint CT Corporation System, Inc. as a replacement thereof.

SECTION 114 Language of Notices, Etc.

Any request, demand, authorization, direction, notice, consent or waiver required or permitted under this Note Indenture shall be in the English language, except that any published notice may be in an official language of the country of publication.

ARTICLE TWO

Security Forms

SECTION 201 Forms Generally.

The Securities and the Trustee's certificates of authentication shall be in substantially the forms set forth in this Article, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Note Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or depositary thereof or as may, consistently herewith, be determined by the officers executing such Securities, as evidenced by their execution of the Securities.

The definitive Securities shall be printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the officers executing such Securities, as evidenced by their execution of such Securities.

In certain cases described elsewhere herein, the legends set forth in the first four paragraphs of Section 202 may be omitted from Securities issued hereunder.

Original Securities offered and sold in their initial distribution shall be initially issued in the form of one or more Global Securities in definitive, fully registered form without interest coupons, substantially in the form of Security set forth in Sections 202 and 203, with such applicable legends as are provided for in Section 202, except as otherwise permitted herein. Such Global Securities shall be registered in the name of the Holders or their nominees and deposited with the Trustee, at its Corporate Trust Office, as custodian for the Holders, duly executed by the Company and authenticated by the Trustee as hereinafter provided, for credit to the respective accounts of the Holders. The aggregate principal amount of the Global Security may from time to time be increased or decreased by adjustments made on the records of the Trustee, as custodian for the Holders, in connection with a corresponding decrease or increase in the aggregate principal amount of the Global Security, as hereinafter provided.

Securities issued in exchange for a Global Security or any portion thereof shall be issued in definitive, fully registered form, without interest coupons, shall have an aggregate principal amount equal to that of such Global Security or portion thereof to be so exchanged, shall be registered in such names and be in such authorized denominations as the Trustee shall designate and shall bear any legend required hereunder. Any Global Security to be exchanged in whole shall be surrendered. With regard to any Global Security to be exchanged in part, either such Global Security shall be surrendered for exchange or the principal amount thereof shall be reduced, by an amount equal to the portion thereof to be so exchanged, by means of an appropriate adjustment made on the records of the Trustee. Upon such surrender or adjustment, the Trustee shall authenticate and deliver the Security issuable on such exchange.

SECTION 202 Form of Face of Security.

THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE TRANSFERRED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ALL APPLICABLE STATE SECURITIES LAWS.

New Sunward Holding Financial Ventures B.V.

Callable Perpetual Dual-Currency Notes

No. _____ $_____

New Sunward Holding Financial Ventures B.V., a private company with limited liability formed under the laws of the Netherlands (herein called the "Company", which term includes any successor Person under the Note Indenture hereinafter referred to), for value received, hereby promises to pay to [name of Holder] or registered assigns, the principal sum of _____ Dollars, or such other principal amount as may be set forth in the records of the Trustee hereinafter referred to in accordance with the Note Indenture and to pay interest thereon from December 18, 2006 or from the most recent Interest Payment Date to which interest has been paid or duly provided for in the amount and currency provided in the Note Indenture. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Note Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be the March 15, June 15, September 15 or December 15 (regardless of whether a Business Day), as the case may be, immediately preceding such Interest Payment Date; provided that the record date for the first Interest Payment Date will be December 19, 2006. Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities not less than 10 days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Note Indenture.

Payment of the principal of this Security will be made in immediately available funds and in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. Payment of interest on this Security will be made in immediately available funds and in such coin or currency of the United States of America or Japan, as applicable, as at the time of payment is legal tender payment of public and private debt. Each such payment of principal and interest will be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York or, at the option of the Holder and subject to any fiscal or other laws and regulations, at any other office or agency maintained by the Company for such purpose; provided, however, that upon application by the Holder to the Security Registrar not later than the 10th day immediately preceding the relevant Regular Record Date, such Holder may receive payment by wire transfer to a U.S. Dollar account (such transfers to be made only to Holders of an aggregate principal amount in excess of $5,000,000) maintained by the payee with a bank in The City of New York; and provided, further, that, subject to the preceding proviso, payment of interest may, at the option of the Company, be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register. Unless such designation is revoked, any such designation made by the Holder with respect to this Security will remain in effect with respect to future payments with respect to this Security payable to the Holder. The Company will pay any administrative costs imposed by banks in connection with making any such payments upon application of such Holder for reimbursement.

The Company shall, to the fullest extent permitted by law, indemnify the Holder of this Security against any loss incurred by such Holder as a result of any judgment or order being given or made for any amount due under this Security and being expressed and paid in a currency other than Dollars, and as a result of any variation between relevant rates of exchange, as provided in the Note Indenture.

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Note Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated:

New Sunward Holding Financial
Ventures B.V.

By _____
Name:
Title:

SECTION 203 Form of Reverse of Security.

This Security is one of a duly authorized issue of Securities of the Company designated as its Callable Perpetual Dual-Currency Notes (herein called the "Securities"), issued and to be issued under a Note Indenture, dated as of December 18, 2006 (herein called the "Note Indenture", which term shall have the meaning assigned to it in such instrument), among the Company, the Guarantors named therein and The Bank of New York, as Trustee (herein called the "Trustee", which term includes any successor trustee under the Note Indenture), to which Note Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Guarantors, the Trustee and the Holders and of the terms upon which the Securities are, and are to be, authenticated and delivered.

As provided in Article Twelve of the Note Indenture, the Guarantors have, for the benefit of the Holders, jointly and severally irrevocably and unconditionally guaranteed the due and punctual payment of all amounts payable by the Company under the Note Indenture and the Securities as and when the same shall become due and payable. Reference is hereby made to Article Twelve of the Note Indenture for a statement of the respective rights, limitations of rights, duties and amounts thereunder of the Guarantors and the Trustee.

All payments of principal and interest in respect of the Securities, the Note Indenture and the Guarantee by or for the account of the Company or any Guarantor shall be made without withholding or deduction for any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of Mexico, the Netherlands, the British Virgin Islands or in the event the Company or any Guarantor appoints additional paying agents, by the jurisdictions of such additional paying agents (each a "Note Taxing Jurisdiction"), or any political subdivision thereof or any authority therein or thereof ("Applicable Taxes"), except to the extent that such Applicable Taxes are required by a Note Taxing Jurisdiction or any such political subdivision or authority to be withheld or deducted. In the event of any withholding or deduction for any Applicable Taxes, the Company and the Guarantors shall pay such additional amounts ("Additional Amounts") as will result in receipt by the Holders of Securities on the respective due dates of such amounts as would have been received by them had no such withholding or deduction (including for any Applicable Taxes payable in respect of Additional Amounts) been required, except that no such Additional Amounts shall be payable with respect to any payment on a Security:

(i) to the extent that such taxes or duties are imposed or levied by reason of such Holder (or the beneficial owner) having some connection with the Note Taxing Jurisdiction other than the mere holding (or beneficial ownership) of such Securities;

(ii) to the extent that such taxes or duties are imposed on, or measured by, net income of the Holder (or beneficial owner);

(iii) in respect of which the Holder (or beneficial owner) fails to comply with any certification, identification or other reporting requirement concerning its nationality, residence, identity or connection with the Note Taxing Jurisdiction if (1) compliance is required by applicable law, regulation, administrative practice or treaty as a precondition to exemption from all or a part of the taxes, (2) the Holder (or beneficial

owner) is able to comply with those requirements without undue hardship and (3) the Company has given all Holders at least 30 days' prior notice that they will be required to comply with such requirements;

(iv) in respect of which the Holder (or beneficial owner) fails to surrender (where surrender is required) its Securities for payment within 30 days after the Company has made available a payment of principal or interest, provided that the Company will pay Additional Amounts to which a Holder would have been entitled had the Securities been surrendered on any day (including the last day) within such 30-day period;

(v) to the extent that such taxes or duties are imposed by reason of an estate, inheritance, gift, value added, use or sales tax or any similar taxes, assessments or other governmental charges;

(vi) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive; or

(vii) by or on behalf of a Holder who would have been able to avoid such withholding or deduction by presenting the relevant Securities to another paying agent in a member state of the European Union.

The Company shall provide the Trustee, as soon as practicable, with documentation (which may consist of certified copies of such documentation) satisfactory to the Trustee evidencing the payment of Applicable Taxes in respect of which the Company has paid any Additional Amounts. Copies of such documentation shall be made available to the Holders of the Securities or the Paying Agent, as applicable, upon request therefor.

The Company shall pay all stamp and other duties, if any, which may be imposed by Mexico, the United States of America, the Netherlands or any other applicable jurisdiction or any authority therein or thereof, with respect to the Note Indenture, the Guarantee, the Conversion Payment Undertaking or the issuance of this Security.

At all times when CEMEX is required to file any financial statements or reports with the Commission, CEMEX shall use its best efforts to file all required statements or reports in a timely manner in accordance with the rules and regulations of the Commission. In addition, at any time when CEMEX is not subject to or is not current in its reporting obligations under Section 13 or Section 15(d) of the Exchange Act or is not included on the Commission's list of foreign private issuers that claim exemption from the registration requirements of Section 12(g) of the Exchange Act pursuant to Rule 12g3-2(b) thereunder and any Debentures remain outstanding (or if otherwise required with respect to the Company, any Guarantor or C5 Capital (SPV) Limited), CEMEX will make available, upon request, to any holder and any prospective purchaser of Debentures that are "restricted securities" under the Securities Act, the information referred to in Rule 144A(d)(4) under the Securities Act in order to permit resales of the Debentures in compliance with Rule 144A.

If an Event of Default shall occur and be continuing, the principal of this Security or of all the Securities may be declared due and payable to the extent, in the manner and with the effect provided in the Note Indenture.

The Note Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the Guarantors and the rights of the Holders of the Securities under the Note Indenture at any time by the Company, the Guarantors and the Trustee with the consent of the Trustee, Swap Counterparty, the holders of not less than the majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and the Holders of not less than a majority in principal amount of the Outstanding Securities. The Note Indenture also contains provisions permitting the Holders of a majority in aggregate principal amount of the Securities at the time Outstanding, on behalf of the Holders of all the Securities, to waive compliance by the Company with certain provisions of the Note Indenture and certain past defaults under the Note Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, regardless of whether notation of such consent or waiver is made upon this Security.

As provided in and subject to the Note Indenture, at any time when there is more than one Holder of Securities, the Holder of this Security shall not have any right to institute any proceeding with respect to the Note Indenture, or for the appointment of a receiver or trustee, or for any other remedy thereunder, unless such Holder has previously given written notice to the Trustee of a continuing Event of Default, the Holders of not less than 25% in principal amount of the Outstanding Securities have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered the Trustee reasonable indemnity, and the Trustee has not received from the Holders of a majority in principal amount of the Outstanding Securities a direction inconsistent with such request, and has failed to institute any such proceeding, for 60 days after its receipt of such notice, request and indemnity. The foregoing does not apply to any suit instituted by the Holder of this Security for the enforcement of any payment of the principal hereof or interest hereon on or after the respective due dates expressed herein.

No reference herein to the Note Indenture and no provision of this Security or of the Note Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and interest on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Note Indenture and subject to certain limitations and satisfaction of certain requirements therein set forth, the transfer of this Security is registrable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities are issuable only in registered form without coupons in denominations of $100,000 and integral multiples of $1,000 in excess thereof. As provided in the Note Indenture and subject to certain limitations and satisfaction of certain requirements therein set forth, Securities are exchangeable for a like aggregate principal amount of Securities of the same or a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Guarantors, the Trustee and any agent of the Company, any Guarantor or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, regardless of whether this Security be overdue, and neither the Company, the Guarantors, the Trustee nor any such agent shall be affected by notice to the contrary.

Interest on this Security shall be computed as follows:

Yen Floating Rate Interest— Unless the interest rate has been previously converted to the Dollar Fixed Rate, the Securities will accrue interest in Japanese Yen beginning on the issue date to but not including December 31, 2011, at an annual percentage rate equal to the 6-month Yen LIBO Rate multiplied by 4.3531(the "Yen Rate"), reset semi-annually, as applied to a Yen principal amount of Japanese Yen 40,905,000,000 (the "Yen Equivalent Principal Amount"). Interest will be payable semi-annually in arrears on June 30 and December 31 of each year (or, if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on December 31, 2006.

The amount of interest payable for any semi-annual interest period will be computed by multiplying the Yen Rate for that semi-annual interest period by a fraction, the numerator of which will be the actual number of days elapsed during that semi-annual interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the Yen Equivalent Principal Amount corresponding to the aggregate outstanding Dollar principal amount of the Securities. The Yen Equivalent Principal Amount will not change over time as a result of fluctuations in the Yen Rate or the Dollar Floating Rate. For the initial interest period ending on December 31, 2006, the Yen Rate will be 1.79021%.

Dollar Fixed Rate Interest— If the interest rate on the Securities has been converted to the Dollar Fixed Rate, the Securities will accrue interest in Dollars, from the semi-annual Interest Payment Date on or immediately prior to the Conversion Date (or the issue date if there is no semi-annual Interest Payment Date prior to the Conversion Date) to but not including December 31, 2011, at the annual rate of 6.196% (the "Dollar Fixed Rate"), as applied to the aggregate outstanding Dollar principal amount of the Securities. Interest will be payable semi-annually in arrears on June 30 and December 31 of each year (or, if not a Business Day, on the preceding Business Day). The interest due at the Dollar Fixed Rate on an Interest Payment Date may be reduced by the application of Conversion Credits, if applicable, on such Interest Payment Date.

The amount of interest payable for any semi-annual interest accrual period at the Dollar Fixed Rate will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Dollar Floating Rate Interest— The Securities will accrue interest in U.S. Dollars, beginning on December 31, 2011, to the date the principal amount of the Securities is repaid in full, at an annual percentage rate equal to the 3-month U.S. Dollar LIBO Rate plus 4.277% (the "Dollar Floating Rate"), as applied to the aggregate outstanding Dollar principal amount of the Securities. Interest will be reset quarterly, as applied to the aggregate outstanding Dollar principal amount of the Securities and payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year (or if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on March 31, 2012.

The amount of interest payable at the Dollar Floating Rate for any quarterly interest period will be computed by multiplying the Dollar Floating Rate for that quarterly interest period by a fraction, the numerator of which will be the actual number of days elapsed during that quarterly interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the aggregate principal amount of the Securities then Outstanding.

Determining the Floating Rates

The "6-month Yen LIBO Rate" means the rate determined in accordance with the following provisions:

(1) On the LIBOR Interest Determination Date, the Calculation Agent or its affiliate will determine the 6-month Yen LIBO Rate, which will be the rate for deposits in Japanese Yen having a six-month maturity which appears on the Telerate Page 3750 as of 11:00 a.m., London time, on the LIBOR Interest Determination Date.

(2) If no rate appears on Telerate Page 3750 on the LIBOR Interest Determination Date, the rate will be determined on the basis of the rates at which deposits in Japanese Yen are offered by the reference banks at approximately 11:00 a.m., London time, on that LIBOR Interest Determination Date to prime banks in the London Inter-Bank Market for the period of six months commencing on the applicable LIBO Rate Reset Date and in a principal amount that is representative for a single transaction in Yen in that market at that time. The Calculation Agent will request the principal London office of each of the reference banks to provide a quotation for its rate. If at least two such quotations are provided, then the 6-month Yen LIBO Rate for that LIBOR Interest Determination Date will be the arithmetic mean of the quotations (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent). If fewer than two quotations are provided as requested, the rate for that LIBOR Interest Determination Date will be the arithmetic mean (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent) of the rates quoted by major banks in Tokyo, selected by the Calculation Agent, at approximately 11:00 a.m., Tokyo time on that LIBOR Interest Determination Date for loans in Japanese Yen to leading European banks having a six-month maturity commencing on the applicable LIBO Rate Reset Date and in a principal amount that is representative for a single transaction in Yen in that market at that time.

The "3-month Dollar LIBO Rate" means the rate determined in accordance with the following provisions:

(1) On the LIBOR Interest Determination Date, the LIBO Calculation Agent or its affiliate will determine the 3-month Dollar LIBO Rate, which will be the rate for deposits in U.S. Dollars having a three-month maturity which appears on the Telerate Page 3750 as of 11:00 a.m., London time, on the LIBOR Interest Determination Date.

(2) If no rate appears on Telerate Page 3750 on the LIBOR Interest Determination Date, the rate will be determined on the basis of the rates at which deposits in U.S. Dollars are offered by the reference banks at approximately 11:00 a.m., London time, on that LIBOR Interest Determination Date to prime banks in the London Inter-Bank Market for the period of three months commencing on the applicable LIBO Rate Reset Date and in a principal amount that is representative for a single transaction in U.S. Dollars in that market at that time. The LIBO Calculation Agent will request the principal London office of each of the reference banks to provide a quotation for its rate. If at least two such quotations are provided, then the 3-month Dollar LIBO Rate for that LIBOR Interest Determination Date will be the arithmetic mean of the quotations (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent). If fewer than two quotations are provided as requested, the rate for that LIBOR Interest Determination Date will be the arithmetic mean (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent) of the rates quoted by major banks in New York City, selected by the LIBO Calculation Agent, at approximately 11:00 a.m., New York time on the applicable LIBO Rate Reset Date for loans in U.S. Dollars to leading European banks having a three-month maturity commencing on that LIBOR Interest Determination Date and in a principal amount that is representative for a single transaction in U.S. Dollars in that market at that time.

"Telerate Page 3750" means the display designated as "Telerate Page 3750" on Moneyline Telerate, Inc. (or such other page as may replace "Telerate Page 3750" on such service) or such other service displaying the London Inter-Bank offered rates of major banks, as may replace Moneyline Telerate, Inc.

"LIBOR Interest Determination Date" means the second LIBOR Business Day preceding each LIBO Rate Reset Date.

"LIBOR Business Day" means (a) for the 6-month Yen LIBO Rate any business day on which dealings in deposits in Japanese Yen are transacted in the London Inter-Bank market and (b) for the 3-month Dollar LIBO Rate any business day on which dealings in deposits in U.S. Dollars are transacted in the London Inter-Bank market.

"LIBO Calculation Agent" means The Bank of New York, or its successor, acting as calculation agent.

Interest upon Change of Control

Upon a Change of Control Event, from the date on which the Change of Control Event occurs, the Securities will bear, in addition to the interest otherwise applicable to the Securities, additional interest in Dollars at a rate of 5.00% per year, as applied to the aggregate outstanding Dollar principal amount of the Securities. The amount of additional interest payable for any semi-annual interest accrual period will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Optional Deferral of Interest

The Company may defer, at its sole discretion, on one or more occasions, payment for all (but not part) of the scheduled interest payment otherwise due and payable on any Interest Payment Date that falls on or after the earlier of (a) the Conversion Date and (b) March 31, 2012. The Company will give the Holder and the Debenture Trustee notice of any interest deferral not more than 30 nor less than 10 Business Days prior to the applicable Interest Payment Date. If the Interest Payment Date for which interest deferral is proposed is also the Conversion Date, no election to defer interest due on that date shall be effective unless the Company shall have converted the interest rate on the Securities and paid in full any Conversion Payment due in connection with the conversion.

Any deferred amounts on the Securities not paid on an Interest Payment Date will accumulate but will bear no interest.

The Company may at any time pay in whole or in part any deferred interest by providing at least five Business Days written notice to the Holder and the Debenture Trustee.

The Company may not defer application of any available Conversion Credits, which shall be applied on each Interest Payment Date to reduce the amount of interest paid or deferred, as applicable, on the Securities.

The Company may not elect to defer any scheduled interest on the Securities due on any Interest Payment Date at any time when CEMEX or any of its Subsidiaries has:

(i) declared or paid any dividend, or made any distributions on common stock of CEMEX at or since the most recent annual general meeting of the shareholders of CEMEX;

(ii) paid any interest or other distributions on any Qualifying Equity Security after the interest payment date of the Debentures immediately preceding the Interest Payment Date for which interest deferral is proposed; or

(iii) repurchased, redeemed or otherwise reacquired any Qualifying Equity Security after the interest payment date for the Debentures immediately preceding the Interest Payment Date for which interest deferral is proposed, other than repurchases, redemptions or reacquisitions (a) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (b) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

At any time the Company elects to defer payment of any interest amount on the Securities and for so long as any amount of deferred interest remains unpaid none of CEMEX and its Subsidiaries will:

(i) declare or pay any dividends, make any distributions or pay any interest on any Qualifying Equity Security; or

(ii) repurchase, redeem or otherwise reacquire any Qualifying Equity Security, other than repurchases, redemptions or reacquisitions (a) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (b) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

At any time on or prior to December 31, 2011, upon the first Interest Payment Date for which the Company has elected to defer interest, the Company must, as a condition to interest deferral, convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate as of that Interest Payment Date (which, in the case of such conversion, shall be the "Conversion Date") by written notice to the Holder, the Debenture Trustee, the Trustee and the Swap Counterparty not less than 10 Business Days prior to the Interest Payment Date. No conversion shall be effective on any Interest Payment Date (and such Interest Payment Date shall not constitute the Conversion Date) unless C5 Capital (SPV) Limited shall have received from the Company the applicable Conversion Payments with respect to such conversion.

The interest rate on the Securities will automatically convert from the Yen Rate to the Dollar Fixed Rate, if on any date (which, in the case of such conversion, shall be the "Conversion Date") on or prior to December 31, 2011:

(i) the Conditions to Anticipated Swap Termination, have been deemed satisfied as of such date;

(ii) C5 Capital (SPV) Limited delivers to the Company written notice that an Event of Default with respect to the payment of any installment of interest or any specified event of bankruptcy, liquidation, insolvency or similar proceeding with respect to the Company or any of the Guarantors has occurred;

(iii) the Securities are declared or become immediately due and payable as a result of an Event of Default; or

(iv) any amendment or modification on any term or condition under the Securities, which requires the consent of the holders of the Debentures pursuant to the Debenture Indenture, is made without the written consent of the Swap Counterparty.

Upon conversion, the Company may owe a Conversion Payment under the Conversion Payment Undertaking or may be entitled to Conversion Credits with respect to future interest payments on the Securities, provided that no Conversion Payment shall be due and no Conversion Credits shall apply if the Conditions to Anticipated Swap Termination have been satisfied as of the Conversion Date.

All terms used in this Security which are defined in the Note Indenture shall have the meanings assigned to them in the Note Indenture.

THE NOTE INDENTURE, THE GUARANTEE AND THIS SECURITY SHALL BE GOVERNED BY AND BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

SECTION 204 Form of Trustee's Certificate of Authentication.

This is one of the Securities referred to in the within mentioned Note Indenture.

The Bank of New York

By: _____
Authorized Officer

SECTION 205 Form of Guarantee.

GUARANTEE

For value received, each of the undersigned (collectively, the "Guarantors") hereby jointly and severally unconditionally guarantees, on an unsecured basis, to the Holder of the Security upon which this Guarantee is endorsed, and to the Trustee on behalf of such Holder, the due and punctual payment of the principal of (and premium, if any) and interest (including Additional Amounts) on such Security when and as the same shall become due and payable, whether by acceleration, call for redemption, purchase or otherwise, according to the terms thereof and of the Note Indenture referred to therein. In case of the failure of the Company punctually to make any such payment, the Guarantors hereby agree to cause such payment to be made punctually when and as the same shall become due and payable, whether by acceleration, call for redemption, purchase or otherwise, and as if such payment were made by the Company.

The Guarantors hereby agree that their respective obligations hereunder shall be absolute and unconditional, irrespective of the validity, regularity or enforceability of such Security or the Note Indenture, any failure, omission, delay by or inability of the Trustee or the Holder to enforce the same, any amendment or modification of or deletion from or addition or supplement to or other change in this Guarantee, the Note Indenture, such Security or any other applicable instrument, any waiver of the payment, performance or observance of any of the obligations or agreements contained in this Guarantee, the Note Indenture or such Security, any release or discharge, by operation of law, of any Guarantor from the performance or observance of any obligation or agreement contained in this Guarantee, the Note Indenture or such Security or any other circumstances which might otherwise constitute a legal or equitable discharge or defense of a guarantor. The Guarantors hereby waive the benefits of promptness, demand for payment, diligence, presentment, notice of acceptance, any requirement that the Trustee or any of the Holders exhaust any right or take any action against the Company or any other Person, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest or notice with respect to such Security or the Indebtedness evidenced thereby and all demands whatsoever, and covenant that this Guarantee will remain in full force and effect until the satisfaction of the Guaranteed Obligations. The Guarantors hereby agree that, in the event of a default in payment of principal (or premium, if any) or interest (including Additional Amounts) on such Security, whether at their maturity, by acceleration, call for redemption, purchase or otherwise, legal proceedings may be instituted by the Trustee on behalf of, or by, the Holder of such Security, subject to the terms and conditions set forth in the Note Indenture, directly against the Guarantors to enforce this Guarantee without first proceeding against the Company. The Guarantors agree that if, after the occurrence and during the continuance of an

Event of Default, the Trustee or any of the Holders are prevented by applicable law from exercising their respective rights to accelerate the maturity of the Securities, to collect interest on the Securities, or to enforce or exercise any other right or remedy with respect to the Securities, the Guarantors agree to pay to the Trustee for the account of the Holders, upon demand therefor, the amount that would otherwise have been due and payable had such rights and remedies been permitted to be exercised by the Trustee or any of the Holders.

No reference herein to the Note Indenture and no provision of this Guarantee or of the Note Indenture shall alter or impair this Guarantee of the Guarantors, which is absolute and unconditional, of the due and punctual payment of the principal (and premium, if any) and interest (including Additional Amounts) on the Security upon which this Guarantee is endorsed.

The Guarantors shall be subrogated to all rights of the Holder of such Security against the Company in respect of any amounts paid by the Guarantors on account of such Security pursuant to the provisions of this Guarantee or the Note Indenture; provided, however, that the Guarantors shall not be entitled to enforce or to receive any payments arising out of, or based upon, such right of subrogation until the principal of (and premium, if any) and interest on such Security and all other Securities issued under the Note Indenture shall have been paid in full.

This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time any payment or performance with respect to any of the Guaranteed Obligations is rescinded or must otherwise be returned by the Trustee, any Holder or any other Person upon the insolvency, bankruptcy or reorganization of the Company or otherwise, all as though such payment or performance had not been made or occurred. In the event that any payment, or any part thereof, is rescinded or must otherwise be returned, the Guaranteed Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded or returned. The obligations of the Guarantors under the Guarantee shall not be subject to reduction, termination or other impairment by any set-off, recoupment, counterclaim or defense or for any other reason.

All terms used in this Guarantee that are defined in the Note Indenture referred to in the Security upon which this Guarantee is endorsed shall have the meanings assigned to them in such Note Indenture.

This Guarantee shall not be valid or obligatory for any purpose until the certificate of authentication on the Security upon which this Guarantee is endorsed shall have been executed by the Trustee under the Note Indenture by manual signature.

Reference is made to Article Twelve of the Note Indenture for further provisions with respect to this Guarantee.

This Guarantee shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, each of the Guarantors has caused this Guarantee to be signed by a duly authorized officer.

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

By: _____
Name:
Title:

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

By: _____
Name:
Title:

NEW SUNWARD HOLDING B.V.

By: _____
Name:
Title:

ARTICLE THREE

The Securities

SECTION 301 Title and Terms.

The Securities shall be known and designated as the "Callable Perpetual Dual-Currency Notes" of the Company. The Dual-Currency Notes will be perpetual securities with no maturity date, and they shall bear interest at the Yen Floating Rate, Dollar Fixed Rate or Dollar Floating Rate, as applicable, from the issue date or from the most recent Interest Payment Date to which interest has been paid or duly provided for, as the case may be, payable semi annually on or prior to June 30 and December 31 of each year, beginning on December 31, 2006 during the Yen Floating Rate, as applicable, on or prior to June 30 and December 31 on each year during the Dollar Fixed Rate, as applicable, and quarterly on or prior to March 31, June 30, September 30 and December 31 of each year during the Dollar Floating Rate, as applicable, beginning on March 31, 2012, until the principal thereof is paid or made available for payment (to the extent that payment of such interest shall be legally enforceable), from the date such amount is due until it is paid or made available for payment, and such interest on any overdue amount shall be payable on demand. Notwithstanding the foregoing, the Company shall make all payments to the Trustee within the dates and time periods set forth in the Master Collateral Agreement.

The principal on the Securities shall be payable in immediately available funds and in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. Payment of interest on the Security will be made in immediately available funds and in such coin or currency of the United States of America or Japan, as applicable, as at the time of payment is legal tender payment of public and private debt. Subject to any written agreement between the Company and the applicable Holder, each such payment of principal and interest will be made at the office or agency of the Company in the Borough of Manhattan, The City of New York maintained for such purpose or, at the option of the Holder and subject to any fiscal or other laws and regulations, at any other office or agency maintained by the Company outside of Mexico for such purpose; provided, however, that upon application by the Holder to the Trustee not later than the 10th day immediately preceding the relevant Regular Record Date, such Holder may receive payment by wire transfer to a U.S. Dollar account (such transfers to be made only to Holders of an aggregate principal amount in excess of $5,000,000) maintained by the payee with a bank in The City of New York, New York; and provided, further, that, subject to the preceding proviso, payment of interest may, at the option of the Company, be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register. Unless such designation is revoked, any such designation made by such Holder with respect to such Security will remain in effect with respect to any future payments with respect to such Security payable to such Holder. The Company will pay any administrative costs imposed by banks in connection with making such payments.

The Securities shall be redeemable as provided in Article Eleven.

The Securities shall be irrevocably and unconditionally guaranteed as provided in Article Twelve.

SECTION 302 Denominations.

The Securities shall be issuable only in registered form without coupons and only in denominations of $100,000 and integral multiples of $1,000 in excess thereof.

SECTION 303 Execution, Authentication, Delivery and Dating .

The Securities shall be executed on behalf of the Company by any one of the individuals who may sign an Officers' Certificate on its behalf. The signature of any such Person on the Securities may be manual or facsimile.

Securities bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities.

At any time and from time to time after the execution and delivery of this Note Indenture, the Company may deliver Securities executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities; and the Trustee in accordance with such Company Order shall authenticate and deliver such Securities as in this Note Indenture provided and not otherwise.

Each Security shall be dated the date of its authentication.

No Security shall be entitled to any benefit under this Note Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein executed by the Trustee by manual signature, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder.

SECTION 304 Temporary Securities.

Pending the preparation of definitive Securities, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as evidenced by their execution of such Securities.

If temporary Securities are issued, the Company will cause definitive Securities to be prepared without unreasonable delay. After the preparation of definitive Securities, the temporary Securities shall be exchangeable for definitive Securities upon surrender of the temporary Securities at any office or agency of the Company designated pursuant to Section 1002, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Securities of authorized denominations. Until so exchanged the temporary Securities shall in all respects be entitled to the same benefits under this Note Indenture as definitive Securities.

SECTION 305 Registration, Registration of Transfer and Exchange.

(a) The Company shall cause to be kept at the Corporate Trust Office of the Trustee a register (the register maintained in such office and in any other office or agency designated pursuant to Section 1002 being herein sometimes collectively referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Securities and of transfers of Securities. The Trustee is hereby appointed "Security Registrar" for the purpose of registering Securities and transfers of Securities as herein provided. Upon surrender for registration of transfer of any Security at an office or agency of the Company designated pursuant to Section 1002 for such purpose, and subject to the other provisions of this Section 305, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of any authorized denominations and of a like aggregate principal amount.

At the option of the Holder, and subject to the other provisions of this Section 305, Securities may be exchanged for other Securities of any authorized denominations and of a like aggregate principal amount, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, and subject to the other provisions of this Section 305, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

All Securities issued upon any registration of transfer or exchange of Securities shall be the valid obligations of the Company, evidencing the same debt, and subject to the other provisions of this Section 305, entitled to the same benefits under this Note Indenture, as the Securities surrendered upon such registration of transfer or exchange.

Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed, by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any registration of transfer or exchange of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 304 or 905 not involving any transfer.

(b) Notwithstanding any other provisions of this Note Indenture or the Securities, a Global Security may not be transferred, in whole or in part, to any Person other than the Holders or a nominee thereof, and no such transfer to any such other Person may be registered.

(c) Each Global Security issued hereunder shall, upon issuance, bear the legends required by Section 202 to be applied to such a Security and such required legends shall not be removed from such Security.

SECTION 306 Mutilated, Destroyed, Lost and Stolen Securities.

If any mutilated Security is surrendered to the Trustee, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security of like tenor and principal amount and bearing a number not contemporaneously outstanding.

If there shall be delivered to the Company and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security and (ii) such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a bona fide purchaser, the Company shall execute and the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security, a new Security of like tenor and principal amount and bearing a number not contemporaneously outstanding at the office or agency maintained by the Company for such purpose in the Borough of Manhattan, The City of New York, which will initially be the office of the Trustee.

In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay such Security.

Upon the issuance of any new Security under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Security issued pursuant to this Section in lieu of any destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company,

regardless of whether the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Note Indenture equally and proportionately with any and all other Securities duly issued hereunder.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

SECTION 307 Payment of Interest; Interest Rights Preserved .

Interest on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, subject to any contrary written agreement between the Company and any Holder.

Any interest on any Security which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in Clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities (or their respective Predecessor Securities) are registered at the close of business on a special record date (herein called a "Special Record Date) for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Security and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this Clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Holder at his address as it appears in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Securities (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following Clause (2).

(2) The Company may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this Clause, such manner of payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section, each Security delivered under this Note Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

SECTION 308 Persons Deemed Owners.

Prior to due presentment of a Security for registration of transfer, the Company, the Guarantors, the Trustee and any agent of the Company, any Guarantor or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of (and premium, if any) and (subject to Section 307) interest on such Security and for all other purposes whatsoever, regardless of whether such Security be overdue, and neither the Company, the Guarantors, the Trustee nor any agent of the Company, any Guarantor or the Trustee shall be affected by notice to the contrary.

SECTION 309 Cancellation.

All Securities surrendered for payment, redemption, registration of transfer or exchange shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly cancelled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly cancelled by the Trustee. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section, except as expressly permitted by this Note Indenture. All cancelled Securities held by the Trustee shall be disposed of as directed by a Company Order or otherwise in accordance with the customary procedures of the Trustee.

SECTION 310 Computation of Interest.

Interest on the Securities shall be computed as follows:

Yen Floating Rate Interest— Unless the interest rate has been previously converted to the Dollar Fixed Rate, the Securities will accrue interest in Japanese Yen beginning on the issue date to but not including December 31, 2011, at an annual percentage rate equal to the 6-month Yen LIBO Rate multiplied by 4.3531 (the "Yen Rate"), reset semi-annually, as applied to a Yen principal amount of Japanese Yen 40,905,000,000 (the "Yen Equivalent Principal Amount"). Interest will be payable semi-annually in arrears on June 30 and December 31 of each year (or, if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on December 31, 2006.

The amount of interest payable for any semi-annual interest period will be computed by multiplying the Yen Rate for that semi-annual interest period by a fraction, the numerator of which will be the actual number of days elapsed during that semi-annual interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the Yen Equivalent Principal Amount corresponding to the aggregate outstanding Dollar principal amount of the

Securities. The Yen Equivalent Principal Amount will not change over time as a result of fluctuations in the Yen Rate or the Dollar Floating Rate. For the initial interest period ending on December 31, 2006, the Yen Rate will be 1.79021%.

Dollar Fixed Rate Interest— If the interest rate on the Securities has been converted to the Dollar Fixed Rate, the Securities will accrue interest in Dollars, from the semi-annual Interest Payment Date on or immediately prior to the Conversion Date (or the issue date if there is no semi-annual Interest Payment Date prior to the Conversion Date) to but not including December 31, 2011, at the annual rate of 6.196% (the "Dollar Fixed Rate"), as applied to the aggregate outstanding Dollar principal amount of the Securities. Interest will be payable semi-annually in arrears on June 30 and December 31 of each year (or, if not a Business Day, on the preceding Business Day). The interest due at the Dollar Fixed Rate on an Interest Payment Date may be reduced by the application of Conversion Credits, if applicable, on such Interest Payment Date.

The amount of interest payable for any semi-annual interest accrual period at the Dollar Fixed Rate will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Dollar Floating Rate Interest— The Securities will accrue interest in Dollars, beginning on December 31, 2011, to the date the principal amount of the Securities is repaid in full, at an annual percentage rate equal to the 3-month U.S. Dollar LIBO Rate plus 4.277% (the "Dollar Floating Rate"), as applied to the aggregate outstanding Dollar principal amount of the Securities. Interest will be reset quarterly, as applied to the aggregate outstanding Dollar principal amount of the Securities and payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year (or if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on March 31, 2012.

The amount of interest payable at the Dollar Floating Rate for any quarterly interest period will be computed by multiplying the Dollar Floating Rate for that quarterly interest period by a fraction, the numerator of which will be the actual number of days elapsed during that quarterly interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the aggregate principal amount of the Securities then Outstanding.

Determining the Floating Rates

The "6-month Yen LIBO Rate" means the rate determined in accordance with the provisions defined in Section 203.

The "3-month Dollar LIBO Rate" means the rate determined in accordance with the provisions defined in Section 203.

Interest upon Change of Control

Upon a Change of Control Event, from the date on which the Change of Control Event occurs, the Securities will bear, in addition to the interest otherwise applicable to the Securities, additional interest in Dollars at a rate of 5.00% per year, as applied to the aggregate outstanding Dollar principal amount of the Securities. The amount of additional interest payable for any semi-annual interest accrual period will be computed on the basis of a 360-day year consisting of twelve 30-day months.

SECTION 311 Interest Deferral.

The Company may defer, at its sole discretion, on one or more occasions, payment for all (but not part) of the scheduled interest payment otherwise due and payable on any Interest Payment Date that falls on or after the earlier of (a) the Conversion Date and (b) March 31, 2012. The Company will give the Holder and the Debenture Trustee notice of any interest deferral not more than 30 nor less than 10 business days prior to the applicable Interest Payment Date. If the Interest Payment Date for which interest deferral is proposed is also the Conversion Date, no election to defer interest due on that date shall be effective unless the Company shall have converted the interest rate on the Securities and paid in full any Conversion Payment due in connection with the conversion.

Any deferred amounts on the Securities not paid on an Interest Payment Date will accumulate but will bear no interest.

The Company may at any time pay in whole or in part any deferred interest by providing at least five Business Days written notice to the Holder and the Debenture Trustee.

The Company may not defer application of any available Conversion Credits, which shall be applied on each Interest Payment Date to reduce the amount of interest paid or deferred, as applicable, on the Securities.

SECTION 312 Limitation on Interest Deferral.

The Company may not elect to defer any scheduled interest on the Securities due on any Interest Payment Date at any time when CEMEX or any of its Subsidiaries has:

(i) declared or paid any dividend, or made any distributions on common stock of CEMEX at or since the most recent annual general meeting of the shareholders of CEMEX;

(ii) paid any interest or other distributions on any Qualifying Equity Security after the interest payment date of the Debentures immediately preceding the Interest Payment Date for which interest deferral is proposed; or

(iii) repurchased, redeemed or otherwise reacquired any Qualifying Equity Security after the interest payment date for the Debentures immediately preceding the Interest Payment Date for which interest deferral is proposed, other than repurchases, redemptions or reacquisitions (a) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (b) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

At any time the Company elects to defer payment of any interest amount on the Securities and for so long as any amount of deferred interest remains unpaid none of CEMEX and its Subsidiaries will:

(i) declare or pay any dividends, make any distributions or pay any interest on any Qualifying Equity Security; or

(ii) repurchase, redeem or otherwise reacquire any Qualifying Equity Security, other than repurchases, redemptions or reacquisitions (i) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (ii) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

SECTION 313 Conversion Upon Deferral.

At any time on or prior to December 31, 2011, upon the first Interest Payment Date for which the Company has elected to defer interest, the Company must, as a condition to interest deferral, convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate as of that Interest Payment Date (which shall be the "Conversion Date" for purposes of any conversion pursuant to this Section 313) by written notice to the Holder, the Debenture Trustee, the Trustee and the Swap Counterparty not less than 10 Business Days prior to the payment date. No conversion shall be effective on any Interest Payment Date (and such Interest Payment Date shall not constitute the Conversion Date) unless C5 Capital (SPV) Limited shall have received from the Company on or prior to such Interest Payment Date any applicable Conversion Payments with respect to such conversion.

SECTION 314 Conversion Upon Redemption.

If the company elects to redeem the Securities in accordance with Article Eleven on or prior to December 31, 2011, the Company must, as a condition to redemption, convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate as of that Redemption Date (which shall be the "Conversion Date" for purposes of any conversion pursuant to this Section 314) by written notice to the Holder, the Debenture Trustee, the Trustee and the Swap Counterparty not less than 10 Business Days prior to the Interest Payment Date. Neither C5 Capital (SPV) Limited nor the Debenture Trustee shall apply any proceeds of redemption of the Securities to pay any redemption price due with respect to the Debentures unless C5 Capital (SPV) Limited shall have received from the Company on or prior to such Interest Payment Date any applicable Conversion Payment with respect to such conversion.

SECTION 315 Mandatory Conversion.

The interest rate on the Securities will automatically convert from the Yen Rate to the Dollar Fixed Rate, if on any date (which shall be the "Conversion Date" for purposes of any conversion pursuant to this Section 315) on or prior to December 31, 2011:

(i) the Conditions to Anticipated Swap Termination, have been deemed satisfied as of such date;

(ii) C5 Capital (SPV) Limited delivers to the Company written notice that an Event of Default with respect to the payment of any installment of interest or any Event of Default under clause (5) or (6) of Section 501 has occurred;

(iii) the Securities are declared or become immediately due and payable as a result of an Event of Default; or

(iv) any amendment or modification on any term or condition under the Securities, which requires the consent of the holders of the Debentures pursuant to the Debenture Indenture, is made without the written consent of the Swap Counterparty.

Upon conversion, the Company may owe a Conversion Payment under the Conversion Payment Undertaking or may be entitled to Conversion Credits with respect to future interest payments on the Securities, provided that no Conversion Payment shall be due and no Conversion Credits shall apply if the Conditions to Anticipated Swap Termination have been satisfied as of the Conversion Date.

SECTION 316 No Sinking Fund.

The Securities will not be entitled to the benefit of a sinking fund.

ARTICLE FOUR

Satisfaction and Discharge

SECTION 401 Satisfaction and Discharge of Note Indenture.

This Note Indenture shall cease to be of further effect (except as to any surviving rights of registration of transfer or exchange of Securities herein expressly provided for), and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Note Indenture, when

(1) either

(A) all Securities theretofore authenticated and delivered (other than (i) Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 305 and (ii) Securities for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 1003) have been delivered to the Trustee for cancellation; or

(B) all such Securities not theretofore delivered to the Trustee for cancellation

(i) have become due and payable, or

(ii) will become due and payable at their Stated Maturity within one year, or

(iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company,

and the Company or a Guarantor, in the case of (i), (ii) or (iii) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose an amount sufficient to pay and discharge the entire indebtedness on such Securities not theretofore delivered to the Trustee for cancellation, for principal and interest to the date of such deposit (in the case of Securities which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

(2) the Company or a Guarantor has paid or caused to be paid all other sums payable hereunder by the Company and the Guarantors; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Note Indenture have been complied with.

Notwithstanding the satisfaction and discharge of this Note Indenture, the obligations of the Company to the Trustee under Section 607, the obligations of the Trustee to any Authenticating Agent under Section 612 and, if money shall have been deposited with the Trustee pursuant to subclause (B) of Clause (1) of this Section, the obligations of the Trustee under Section 402 and the last paragraph of Section 1003 shall survive.

SECTION 402 Application of Trust Money.

Subject to the provisions of the last paragraph of Section 1003, all money deposited with the Trustee pursuant to Section 401 shall be held in trust and applied by it, in accordance with the provisions of the Securities and this Note Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal and interest for whose payment such money has been deposited with the Trustee.

ARTICLE FIVE

Remedies

SECTION 501 Events of Default.

"Event of Default", wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) a failure to pay principal when due upon redemption or failure to pay interest, other than deferred interest, or other amounts due upon any Securities or under the Note Indenture within five Business Days after receipt of notice for any interest payment or such other amount due on or prior to the Conversion Date, and within 30 days of the date due for any interest payment due after the earlier of the Conversion Date and December 31, 2011;

(2) a failure to pay any amount due under the Conversion Payment Undertaking within 30 days of the due date;

(3) the Company or any of the Guarantors defaults in the performance or observance of any of its obligations with respect Sections 801 and 1005;

(4) the Company or any of the Guarantors defaults in the performance or observance of any of its covenants or other obligations (other than the obligation of CEMEX under Section 1006) and continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Company by the Trustee or by the Holders of at least 25% in principal amount of the Outstanding Securities a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder;

(5) the entry by a competent court of (A) a decree or order for relief in respect of the Company or any Guarantor in an involuntary case or proceeding under any applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law, or (B) a decree or order adjudging the Company or any such Guarantor bankrupt, insolvent or in *concurso mercantil*, or approving as properly filed a petition seeking reorganization, arrangement, adjustment, *concurso mercantil*, or composition of or in respect of, the Company or any such Guarantor under any applicable law of Mexico, or the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable law, or appointing a custodian, receiver, *síndico*, liquidator, conciliator, assignee, trustee, sequestrator or other similar official of the Company or any such Guarantor or of any substantial part of the property of the Company or any such Guarantor, or ordering the winding up or liquidation of the affairs of the Company or any such Guarantor and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days, other than, in any such case, any decree or order issued pursuant to proceedings that have been commenced prior to the date of this Note Indenture;

(6) the commencement by the Company or any Guarantor of a voluntary case or proceeding under any applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law or of any other case or proceeding to be adjudicated bankrupt, insolvent or in *concurso mercantil*, or the consent by the Company or any such Guarantor to the entry of a decree or order for relief in respect of the Company or any Guarantor in an involuntary case or proceeding under any applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law

or to the commencement of any bankruptcy or insolvency case or proceeding against the Company or any Guarantor, or the filing by the Company or any such Guarantor of a petition or answer or consent seeking reorganization, *concurso mercantil*, or relief under any applicable law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable law, or the consent by the Company or any such Guarantor to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, *síndico*, liquidator, conciliator, assignee, trustee, sequestrator or similar official of the Company or any Guarantor or of any substantial part of the property of the Company or any Guarantor, or the making by the Company or any Guarantor of an assignment for the benefit of creditors, or the admission by the Company or any such Guarantor in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company or any such Guarantor in furtherance of any such action; or

(7) any of the Securities, the Note Indenture, the Conversion Payment Undertaking or any Guarantee ceases to be, or is claimed by the Company or any Guarantor not to be, in full force and effect.

SECTION 502 Acceleration of Maturity; Rescission and Annulment .

If an Event of Default (other than an Event of Default specified in Section 501(5) or 501 (6)) occurs and is continuing, then and in every such case the Trustee shall, at the written request of the Holders of not less than 25% in principal amount of the Outstanding Securities, by notice in writing to the Company, declare the principal of all the Securities to be due and payable immediately, and upon any such declaration such principal and any accrued interest and any unpaid Additional Amounts thereon shall become immediately due and payable. Regardless of whether any action is taken by Holders pursuant to the preceding sentence if an Event of Default specified in Section 501(5) or (6) occurs and is continuing, the principal and any accrued interest, together with any Additional Amounts thereon, on all of the Securities then Outstanding shall *ipso facto* become due and payable immediately without any declaration or other Act on the part of the Trustee or any Holder.

At any time after such a declaration of acceleration has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article, provided the Holders of at least 25% in principal amount of the Outstanding Securities, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if:

(1) the Company or any Guarantor has paid or deposited with the Trustee a sum sufficient to pay

(A) all overdue interest and any Additional Amounts thereon on all of the Securities,

(B) the principal of any Securities which have become due otherwise than by such declaration of acceleration and interest and any Additional Amounts thereon at the rate borne by the Securities,

(C) to the extent that payment of such interest is lawful, interest upon overdue interest at the rate borne by the Securities, and

(D) all sums paid or advanced by the Trustee hereunder and all amounts owing the Trustee under Section 607;

and

(2) all Events of Default, other than the non payment of the principal of Securities which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 513.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

SECTION 503 Collection of Indebtedness and Suits for Enforcement by Trustee .

The Company covenants that if default is made in the payment of the principal of any Security at the Maturity thereof or any interest on any Security when such interest becomes due and payable and such default continues for a period of five Business Days after receipt of notice for any interest payment or such other amount due on or prior to the Conversion Date, and within 30 days of the date due for any interest payment or such other amount due after the earlier of the Conversion Date and December 31, 2011, the Company will, upon demand of the Trustee, pay to it, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal and interest, and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal and on any overdue interest, at the rate borne by the Securities, together with any Additional Amounts thereon, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and all amounts due the Trustee under Section 607.

If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company, any Guarantor or any other obligor upon the Securities and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company, any Guarantor or any other obligor upon the Securities, wherever situated.

If an Event of Default occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Note Indenture or the Guarantee or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

SECTION 504 Trustee May File Proofs of Claim.

In case of any judicial proceeding relating to the Company, any Guarantor or any other obligor upon the Securities, its property or its creditors, the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise, to take any and all actions authorized under the Trust Indenture Act (were such Act to apply with respect to this Note Indenture) in order to have claims of the Holders and the Trustee allowed in any such proceeding. In particular, the Trustee shall be authorized to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 607.

No provision of this Note Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding; provided, however, that the Trustee may, on behalf of the Holders, vote for the election of a trustee in bankruptcy or similar official and be a member of a creditors' or other similar committee.

SECTION 505 Trustee May Enforce Claims Without Possession of Securities.

All rights of action and claims under this Note Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

SECTION 506 Application of Money Collected.

Any money collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal or interest, upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee under Section 607; and

SECOND: To the payment of the amounts then due and unpaid for principal of and interest on the Securities in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal and interest, respectively.

SECTION 507 Limitation on Suits.

At any time when there is more than one Holder of Securities, no Holder of any Security shall have any right to institute any proceeding, judicial or otherwise, with respect to this Note Indenture or the Guarantee, or for the appointment of a receiver or trustee, or for any other remedy hereunder or under the Guarantee, unless

(1) such Holder has previously given written notice to the Trustee of a continuing Event of Default;

(2) the Holders of not less than 25% in principal amount of the Outstanding Securities shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(3) such Holder or Holders have offered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request;

(4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(5) no direction inconsistent with such written request has been given to the Trustee during such 60 day period by the Holders of a majority in principal amount of the Outstanding Securities;

it being understood and intended that no one or more Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Note Indenture to affect, disturb or prejudice the rights of any other Holders, or to obtain or to seek to obtain priority or preference over any other Holders or to enforce any right under this Note Indenture, except in the manner herein provided and for the equal and ratable benefit of all the Holders.

SECTION 508 Unconditional Right of Holders to Receive Principal and Interest .

Notwithstanding any other provision in this Note Indenture, the Holder of any Security (subject to Section 311) shall have the right, which is absolute and unconditional, to receive payment of the principal of and (subject to Section 307) interest on such Security, as applicable, on any relevant Stated Maturity expressed in such Security (or, in the case of redemption, on the Redemption Date), and to institute suit for the enforcement of any such payment, including under the Guarantee, and such rights shall not be impaired without the consent of such Holder.

SECTION 509 Restoration of Rights and Remedies.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Note Indenture or the Guarantee and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Guarantors, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

SECTION 510 Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 306, no right or remedy herein or in the Guarantee conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 511 Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder of any Security to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article 5 or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

SECTION 512 Control by Holders.

The Holders of a majority in principal amount of the Outstanding Securities shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee, provided that

(1) such direction shall not be in conflict with any rule of law or with this Note Indenture,

(2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction, and

(3) the Trustee need not follow any such direction if doing so would in its reasonable discretion either involve it in personal liability or be unduly prejudicial to Holders not joining in such direction;

provided further, that the Trustee shall have no obligation to make any determination with respect to any such conflict, personal liability or undue prejudice.

SECTION 513 Waiver of Past Defaults.

The Holders of not less than a majority in principal amount of the Outstanding Securities (or such lesser percentage of the aggregate principal amount of the Outstanding Securities as may act at a meeting of the Holders pursuant to Section 1304) may on behalf of the Holders of all the Securities waive any past default hereunder and its consequences, except a default

(1) in the payment of the principal of or interest on any Security, or

(2) in respect of a covenant or provision hereof which under Article Nine cannot be modified or amended without the consent of the Holder of each Outstanding Security affected.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Note Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 514 Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Note Indenture or the Guarantee, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, a court may require any party litigant in such suit to file an undertaking to pay the costs of such suit, and may assess costs against any such party litigant; provided, that this Section 514 shall not be deemed to authorize any court to require such an undertaking or to make such an assessment in any suit instituted by the Company or any Guarantor, to any suit instituted by the Trustee, to any suit instituted by any Holder or group of Holders holding in the aggregate more than 10% in principal amount of the Outstanding Securities, or to any suit instituted by any Holder of any Security for the enforcement of the payment of the principal of or interest on any Security on or after the Stated Maturity expressed in such Security (or, in the case of redemption, on or after the Redemption Date).

SECTION 515 Waiver of Usury, Stay or Extension Laws.

Each of the Company and the Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any usury, stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Note Indenture; and each of the Company and the Guarantors (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE SIX

The Trustee

SECTION 601 Certain Duties and Responsibilities.

(a) Except during the continuance of an Event of Default,

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Note Indenture, and no implied covenants or obligations shall be read into this Note Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this

Note Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether they conform to the requirements of this Note Indenture.

(b) In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Note Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(c) No provision of this Note Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1) this paragraph (c) shall not be construed to limit the effect of paragraph (a) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in principal amount of the Outstanding Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Note Indenture; and

(4) no provision of this Note Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Regardless of whether therein expressly so provided, every provision of this Note Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

SECTION 602 Notice of Defaults.

Within 90 days after the occurrence of any default hereunder of which the Trustee has adequate actual notice, the Trustee shall give to all Holders, in the manner provided for in Section 106, notice of such default hereunder known to the Trustee, unless such default shall have been cured or waived; provided, however, that in the case of any default of the character specified in Section 501(2) and 501(4), no such notice to Holders shall be given until at least 30 days after the occurrence thereof. For the purpose of this Section, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default.

SECTION 603 Certain Rights of Trustee.

Subject to the provisions of Section 601:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

(c) whenever in the administration of this Note Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officers' Certificate;

(d) the Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(e) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Note Indenture at the request or direction of any of the Holders pursuant to this Note Indenture, unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney; and

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

SECTION 604 Not Responsible for Recitals or Issuance of Securities.

The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company or the Guarantors, as the case may be, and the Trustee or any Authenticating Agent assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Note Indenture, the Guarantee or of the Securities. The Trustee or any Authenticating Agent shall not be accountable for the use or application by the Company of Securities or the proceeds thereof.

SECTION 605 May Hold Securities.

The Trustee, any Authenticating Agent, any Paying Agent, any Security Registrar or any other agent of the Company or any Guarantor, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Section 601, may otherwise deal with the Company or any Guarantor with the same rights it would have if it were not Trustee, Authenticating Agent, Paying Agent, Security Registrar or such other agent.

SECTION 606 Money Held in Trust.

Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company or any Guarantor, as the case may be.

SECTION 607 Compensation and Reimbursement.

The Company and each Guarantor agrees

(1) to pay to the Trustee from time to time reasonable compensation for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Note Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except to the extent any such expense, disbursement or advance may be attributable to its negligence or bad faith; and

(3) to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense arising out of or in connection with the acceptance or administration of this trust or the performance of its duties hereunder, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its negligence or bad faith.

The obligations of the Company under this Section 607 shall constitute additional indebtedness hereunder as to which the Trustee shall have a claim senior to the Securities (which are hereby subordinated thereto) to all property and funds collected by the Trustee as such (except funds held in trust for the benefit of particular Securities) and shall survive satisfaction and discharge of this Note Indenture. “Trustee” for purposes of this Section 607 shall include each Trustee, predecessor trustee, Authenticating Agent, Paying Agent, Security Registrar or other agent of the Trustee, Company or Guarantor appointed hereunder, but the negligence or bad faith of any such Person shall not affect the rights of any other such Person under this Section 607. The Guarantors agree that upon the occurrence of the conditions to the effectiveness of the Guarantee described therein, the Guarantors shall be jointly and severally liable for the obligations of the Company pursuant to this Section 607.

SECTION 608 Corporate Trustee Required; Eligibility.

There shall at all times be one (and only one) Trustee hereunder, which shall be a corporation organized, in good standing and doing business under the laws of the United States of America, any State thereof or the District of Columbia, shall be authorized under such laws to exercise corporate trust powers, shall have a combined capital and surplus of at least $50,000,000, shall be subject to supervision or examination by federal or state authority, and shall have a place of business in the Borough of Manhattan, The City of New York. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section 608, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article. Neither the Company, nor any Guarantor nor any other obligor upon the Securities nor any Affiliate of any of the foregoing shall serve as Trustee.

SECTION 609 Resignation and Removal; Appointment of Successor.

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 610.

(b) The Trustee may resign at any time by giving written notice thereof to the Company and the Guarantors. If an instrument of acceptance by a successor Trustee required by Section 610 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed at any time by Act of the Holders of a majority in principal amount of the Outstanding Securities, delivered to the Trustee and to the Company.

(d) If at any time:

(1) the Trustee shall cease to be eligible under Section 608 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(2) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Company by a Board Resolution may remove the Trustee, or (ii) subject to Section 514, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the Company, by a Board Resolution,

shall promptly appoint a successor Trustee. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Securities delivered to the Company, the Guarantors and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment in the manner hereinafter provided, become the successor Trustee and supersede the successor Trustee appointed by the Company. If no successor Trustee shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(f) The Company shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee to all Holders in the manner provided in Section 106. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office.

SECTION 610 Acceptance of Appointment by Successor.

Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Company, the Guarantors and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder. Upon request of any such successor Trustee, the Company and the Guarantors shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts.

No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article.

SECTION 611 Merger, Conversion, Consolidation or Succession to Business.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities.

SECTION 612 Appointment of Authenticating Agent .

The Trustee may appoint an Authenticating Agent or Agents which shall be authorized to act on behalf of the Trustee to authenticate Securities issued upon original issue and upon exchange, registration of transfer or pursuant to Section 305, and Securities so authenticated shall be entitled to the benefits of this Note Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Wherever reference is made in this Note Indenture to the authentication and delivery of Securities by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than $50,000,000 and subject to supervision or examination by federal or State authority. If such Authenticating Agent publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such Authenticating Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, provided such corporation shall be otherwise eligible under this Section, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, the Trustee may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall mail written notice of such appointment by first class mail, postage prepaid, to all Holders as their names and addresses appear in the Security Register. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

The Trustee agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section, and the Trustee shall be entitled to be reimbursed for such payments, subject to the provisions of Section 607.

If an appointment is made pursuant to this Section, the Securities may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

This is one of the Securities described in the within mentioned Note Indenture.

The Bank of New York,
As Trustee

By _____
As Authenticating Agent

By _____
Authorized Officer

SECTION 613 Withholding Tax Information.

The Trustee will provide copies to the Company, upon the written request of the Company, of any Department of the Treasury Form W-8 (Certificate of Foreign Status) or W-9 (Request for Taxpayer Identification Number and Certification), any substitute form therefor and any other similar documentation, if any, that is received by the Trustee from the Holders or beneficial owners of the Securities, unless, in the case of any such form or documentation provided to the Trustee by a particular Holder or beneficial owner of Securities, such Holder or beneficial owner provides a legal opinion reasonably satisfactory to the Trustee to the effect that so providing such form or similar documentation to the Company is prohibited by applicable law.

ARTICLE SEVEN

Holders' Lists and Reports by Trustee and Company

SECTION 701 Company to Furnish Trustee Names and Addresses of Holders .

The Company will furnish or cause to be furnished to the Trustee

(a) semi-annually, not more than 15 days after each Regular Record Date, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders as of such Regular Record Date, and

(b) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished;

excluding from any such list names and addresses received by the Trustee in its capacity as Security Registrar.

SECTION 702 Preservation of Information; Communications to Holders .

The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 701 and the names and addresses of Holders received by the Trustee in its capacity as Security Registrar. The Trustee may destroy any list furnished to it as provided in Section 701 upon receipt of a new list so furnished.

ARTICLE EIGHT

Consolidation, Merger, Conveyance, Transfer or Lease

SECTION 801 Company May Consolidate, Etc. Only on Certain Terms.

So long as any of the Securities remain outstanding, neither the Company nor any Guarantor will, in one or more related transactions, (x) consolidate with or merge into any other Person or permit any other Person to merge into it or (y), directly or indirectly, transfer, convey, sell, lease or otherwise dispose of all or substantially all of its properties and assets to any Person, unless, with respect to any transaction described in clause (x) or (y), immediately after giving effect to such transaction:

(1) the Person formed by any such consolidation or merger, if it is not the Company or any Guarantor, or the Person that acquires by transfer, conveyance, sale, lease or other disposition all or substantially all of the properties and assets of the Company or any Guarantor, as the case may be, (any such Person, a "Successor") shall be a corporation organized and validly existing under the laws of its place of incorporation, which (A) in the case of a Successor to CEMEX shall be Mexico, the United States of America, Canada, France, Belgium, Germany, Italy, Luxembourg, the Netherlands, Portugal, Spain, Switzerland or the United Kingdom, or any political subdivision thereof, (B) in the case of a Successor to the Company, shall expressly assume by an indenture supplemental hereto executed and delivered to the Trustee, in form satisfactory to the Trustee, the due and punctual payment of the principal of and interest on all the Securities and the performance of every covenant of the Note Indenture on the part of the Company to be performed or observed and (C) in the case of a Successor to any Guarantor, shall expressly assume (by an indenture supplemental hereto and an instrument supplemental to the Guarantee executed and delivered to the Trustee, in forms satisfactory to the Trustee) the performance of every covenant of the Note Indenture and the Guarantee on the part of such Guarantor to be performed or observed;

(2) in the case of any such transaction involving the Company or any Guarantor, the Company or such Guarantor, or the Successor thereof, as the case may be, shall expressly agree to indemnify each Holder (and each holder of a beneficial interest in a Security) against any tax, levy, assessment or governmental charge payable by withholding or deduction thereafter imposed on such Holder (or holder of a beneficial interest in the Securities) solely as a consequence of such transaction with respect to payments in respect of the Securities or any purchase thereof by the Company or any Guarantor, or the Successor of any thereof;

(3) immediately after giving effect to such transaction, including for purposes of this clause (3) the substitution of any Successor to the Company for the Company or the substitution of any Successor to a Guarantor for such Guarantor and treating any Debt or Lien incurred by the Company or any Successor to the Company, or by any Successor to the Company as a result of such transactions as having been incurred at the time of such transaction, no Event of Default, or an event or condition which, after the giving of notice or lapse of time, or both, would become an Event of Default, shall have occurred and be continuing; and

(4) CEMEX has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with.

SECTION 802 Successor Substituted.

Upon any consolidation of the Company or any Guarantor with, or merger of the Company or any Guarantor into, any other Person or any conveyance, transfer, sale, lease or other disposition of the properties and assets of the Company or any Guarantor in accordance with Section 801, the Successor shall succeed to, and be substituted for, and may exercise every right and power of, the Company or such Guarantor, as the case may be, under this Note Indenture and the Guarantee with the same effect as if such Successor had been named as the Company or such Guarantor, as the case may be, herein and therein, and thereafter, except in the case of a lease, the predecessor Person shall be relieved of all obligations and covenants under this Note Indenture, the Guarantee and the Securities.

ARTICLE NINE

Supplemental Indentures

SECTION 901 Supplemental Indentures Without Consent of Holders.

Without the consent of any Holders, the Company and the Guarantors, when authorized by an Officers' Certificate, and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form reasonably satisfactory to the Trustee, for any of the following purposes:

(1) to add a guarantor; or

(2) to add to the covenants of the Company for the benefit of the Holders, or to surrender any right or power herein conferred upon the Company; or

(3) to cure any ambiguity or correct any manifest error; or

(4) to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Note Indenture which shall not be inconsistent with the provisions of this Note Indenture, provided that such action pursuant to this Clause (4) shall not adversely affect the interests of the Holders or the holder of any beneficial interest in a Debenture in any material respect; or

(5) to evidence the succession of another Person to the Company or any Guarantor and the assumption by any such successor of the covenants of the Company or such Guarantor, as the case may be, herein and in the Securities; or

(6) to secure the Securities.

SECTION 902 Supplemental Indentures With Consent of Holders.

With the consent of the Trustee, Swap Counterparty, the holders of not less than the majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and the Holders of not less than a majority in principal amount of the Outstanding Securities (or such lesser percentage of the aggregate principal amount of the Outstanding Securities as may act at a meeting of the Holders pursuant to Section 1304), by Act of said Holders delivered to the Company and the Trustee, the Company and the Guarantors, when authorized by an Officers' Certificate, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Note Indenture or of modifying in any manner the rights of the Holders or any beneficial interests in the Securities under this Note Indenture; provided, however, that no such supplemental indenture shall, without the consent of the Holders of each Outstanding Security and the holders of each Debenture affected thereby,

(1) change any Stated Maturity of the principal of, or any installment of interest on, any Security, or reduce the principal amount thereof or the rate of interest thereon, or change the obligation of the Company to pay Additional Amounts pursuant to Section 1007 or change the place of payment where, or the coin or currency in which, any Security or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date, or

(2) reduce the percentage in principal amount of the Outstanding Securities, the consent of whose Holders is required for any such supplemental indenture or any amendment or modification to the Guarantee, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Note Indenture or certain defaults hereunder and their consequences or of compliance with the Guarantee) provided for in this Note Indenture, or

(3) modify any of the provisions of this Section 902 or Section 513 except to increase any such percentage or to provide that certain other provisions of this Note Indenture and the Guarantee cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby, or

(4) modify any of the provisions of Section 113, 1006 or 1010 in a manner adverse to any Holder of a Security, or

(5) release any Guarantor (other than as provided in Article Eight hereof).

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

SECTION 903 Execution of Supplemental Indentures.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Note Indenture, the Trustee shall be entitled to receive, and (subject to Section 601) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Note Indenture. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Note Indenture or otherwise.

SECTION 904 Effect of Supplemental Indentures.

Upon the execution of any supplemental indenture under this Article, this Note Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Note Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

SECTION 905 Reference in Securities to Supplemental Indentures.

Securities authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities so modified as to conform, in the opinion of the Trustee and the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Securities.

ARTICLE TEN

Covenants

SECTION 1001 Payment of Principal and Interest.

The Company will duly and punctually pay the principal of and interest (together with any Additional Amounts payable thereon) on the Securities in accordance with the terms of the Securities and this Note Indenture. The Guarantors jointly and severally covenant that they will, as and when any amounts are due hereunder or under any Security, duly and punctually pay such amounts as provided in the Guarantee.

SECTION 1002 Maintenance of Office or Agency.

The Company will maintain in the Borough of Manhattan, The City of New York, an office or agency where Securities may be presented or surrendered for payment, where Securities may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company or any Guarantor in respect of the Securities, this Note Indenture or the Guarantee may be served. The Company will give prompt written notice to the Trustee of the

location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and each of the Company and the Guarantors hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

SECTION 1003 Money for Security Payments to Be Held in Trust.

If the Company shall at any time act as its own Paying Agent, it will, on or before each due date of the principal of or interest (together with any Additional Amounts payable thereon) on any of the Securities, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal or interest (together with any Additional Amounts payable thereon) so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents, it will, prior to each due date of the principal of or interest (together with any Additional Amounts payable thereon) on any Securities, deposit with a Paying Agent a sum sufficient to pay such amount, such sum to be held in trust for the benefit of Persons entitled to such principal or interest (together with any Additional Amounts payable thereon), and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of its action or failure so to act.

The Company will cause each Paying Agent other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section 1003, that such Paying Agent will

(1) hold all sums held by it for the payment of the principal of or interest on Securities in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;

(2) give the Trustee notice of any default by the Company (or any other obligor upon the Securities including, without limitation, any Guarantor) in the making of any payment in respect of the Securities; and

(3) at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Note Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of or interest (together with any Additional Amounts payable thereon) on any Security and remaining unclaimed for two years after such principal or interest (together with any Additional Amounts payable thereon) has become due and

payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Security shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in newspapers published in the English language, customarily published on each Business Day and of general circulation in the Borough of Manhattan, The City of New York, that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 1004 Statement by Officers as to Default.

In the event that any officer of the Company or CEMEX becomes aware of or obtains knowledge of the occurrence of any Event of Default or Default, if any such Event of Default or Default is then continuing, CEMEX will deliver to a Responsible Officer of the Trustee an Officers' Certificate of CEMEX, one of the signatories of which shall be the Corporate Planning and Finance Director, Finance Director, Chief Financial Officer or Comptroller of CEMEX, setting forth the details thereof and the action that the Company or CEMEX is taking or proposes to take with respect thereto and shall make such Officers' Certificate available for inspection by Holders and holders of beneficial interests in the Securities.

SECTION 1005 Corporate Existence.

The Company and each Guarantor will at all times preserve and keep in full force and effect its corporate existence and rights and franchises deemed material to its business, except as otherwise specifically permitted by Section 801 and except that the corporate existence of any Subsidiary of CEMEX may be terminated, and any right or franchise may be disposed of, if such termination or disposition is, in the good faith judgment of CEMEX, in the best interests of CEMEX and is not disadvantageous to the Holders or the holders of beneficial interests in Securities.

SECTION 1006 Available Information.

(a) At all times when CEMEX is required to file any financial statements or reports with the Commission, CEMEX shall use its best efforts to file all required statements or reports in a timely manner in accordance with the rules and regulations of the Commission. In addition, at any time when CEMEX is not subject to or is not current in its reporting obligations under Section 13 or Section 15(d) of the Exchange Act or is not included on the Commission's list of foreign private issuers that claim exemption from the registration requirements of Section 12(g) of the Exchange Act pursuant to Rule 12g3-2(b) thereunder and any Debentures remain outstanding (or if otherwise required with respect to the Company, any Guarantor or Holder), CEMEX will make available, upon request, to any holder and any prospective purchaser of Debentures that are "restricted securities" under the Securities Act, the information referred to in Rule 144A(d)(4) under the Securities Act in order to permit resales of the Debentures in compliance with Rule 144A.

(b) In addition to the information required to be provided under Section 1006(a), CEMEX will deliver to the Trustee, promptly upon the mailing thereof to the shareholders of CEMEX, copies of all financial statements, reports and proxy statements so mailed.

SECTION 1007 Payment of Additional Amounts .

(a) All payments of principal and interest in respect of the Securities, the Note Indenture and the Guarantee by or for the account of the Company or any Guarantor shall be made without withholding or deduction for any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of Mexico, the Netherlands, the British Virgin Islands or in the event the Company or any Guarantor appoints additional paying agents, by the jurisdictions of such additional paying agents (each a "Note Taxing Jurisdiction"), or any political subdivision thereof or any authority therein or thereof ("Applicable Taxes"), except to the extent that such Applicable Taxes are required by a Note Taxing Jurisdiction or any such political subdivision or authority to be withheld or deducted. In the event of any withholding or deduction for any Applicable Taxes, the Company and the Guarantors shall pay such additional amounts ("Additional Amounts") as will result in receipt by the Holders of Securities on the respective due dates of such amounts as would have been received by them had no such withholding or deduction (including for any Applicable Taxes payable in respect of Additional Amounts) been required, except that no such Additional Amounts shall be payable with respect to any payment on a Security:

(i) to the extent that such taxes or duties are imposed or levied by reason of such holder (or the beneficial owner) having some connection with the Note Taxing Jurisdiction other than the mere holding (or beneficial ownership) of such Securities;

(ii) to the extent that such taxes or duties are imposed on, or measured by, net income of the holder (or beneficial owner);

(iii) in respect of which the holder (or beneficial owner) fails to comply with any certification, identification or other reporting requirement concerning its nationality, residence, identity or connection with the Note Taxing Jurisdiction if (1) compliance is required by applicable law, regulation, administrative practice or treaty as a precondition to exemption from all or a part of the taxes, (2) the holder (or beneficial owner) is able to comply with those requirements without undue hardship and (3) the Company has given all holders at least 30 days' prior notice that they will be required to comply with such requirements;

(iv) in respect of which the holder (or beneficial owner) fails to surrender (where surrender is required) its Securities for payment within 30 days after the Company has made available a payment of principal or interest, provided that the Company will pay Additional Amounts to which a holder would have been entitled had the Securities been surrendered on any day (including the last day) within such 30-day period;

(v) to the extent that such taxes or duties are imposed by reason of an estate, inheritance, gift, value added, use or sales tax or any similar taxes, assessments or other governmental charges;

(vi) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive; or

(vii) by or on behalf of a holder who would have been able to avoid such withholding or deduction by presenting the relevant Securities to another paying agent in a member state of the European Union.

The Company shall provide the Trustee, as soon as practicable, with documentation (which may consist of certified copies of such documentation) satisfactory to the Trustee evidencing the payment of Applicable Taxes in respect of which the Company has paid any Additional Amounts. Copies of such documentation shall be made available to the Holders of the Securities or the Paying Agent, as applicable, upon request therefor.

In respect of the Securities issued hereunder, at least five Business Days prior to the first date of payment of interest on the Securities and at least five Business Days prior to each date, if any, of payment of principal or interest thereafter if there has been any change with respect to the matters set forth in the below mentioned Officers' Certificate, the Company shall furnish the Trustee and each Paying Agent with an Officers' Certificate instructing the Trustee and such Paying Agent as to whether such payment of principal of or any interest on such Securities shall be made without deduction or withholding for or on account of any tax, duty, assessment or other governmental charge. If any such deduction or withholding shall be required by Mexico or under the federal laws of the United States, then such certificate shall specify, by country, the amount, if any, required to be deducted or withheld on such payment to Holders of such Securities, and the Company shall pay or cause to be paid to the Trustee or such Paying Agent Additional Amounts, if any, required by this Section 1007. The Company agrees to indemnify the Trustee and each Paying Agent for, and to hold them harmless against, any loss, liability or expense reasonably incurred without negligence or bad faith on their part arising out of or in connection with actions taken or omitted by them in reliance on any Officers' Certificate furnished pursuant to this Section 1007.

(b) The Company and the Guarantors shall pay all stamp and other duties, if any, which may be imposed by Mexico, the United States of America, the Netherlands or any other applicable jurisdiction or any other governmental entity or political subdivision therein or thereof, or any taxing authority of or in any of the foregoing, with respect to the Note Indenture, the Guarantee or the issuance of the Securities.

(c) The Company shall provide each Paying Agent and any withholding agent under relevant tax regulations with copies of each certificate received by the Company from a Holder of a Security pursuant to the text of such Security. Each such Paying Agent and withholding agent shall retain each such certificate received by it for as long as any Security is Outstanding and in no event for less than four years after its receipt, and for such additional period thereafter, as set forth in an Officers' Certificate, as such certificate may become material in the administration of applicable tax laws.

(d) All references in this Note Indenture, the Securities and the Guarantee to principal or interest in respect of any Security shall be deemed to mean and include all Additional Amounts, if any, payable in respect of such principal or interest, unless the context otherwise requires, and express mention of the payment of Additional Amounts in any provision hereof or thereof shall not be construed as excluding reference to Additional Amounts in those provisions hereof and thereof where such express mention is not made. All references in this Note Indenture, the Securities and the Guarantee to principal in respect of any Security shall be deemed to mean and include any Redemption Price payable in respect of such Security pursuant to any redemption hereunder (and all such references to the Stated Maturity of the principal in respect of any Security shall be deemed to mean and include the Redemption Date with respect to any such Redemption Price), and all such references to principal, interest or Additional Amounts shall be deemed to mean and include any amount payable in respect thereof pursuant to Section 1010, and express mention of the payment of any Redemption Price, or any such other amount, in those provisions hereof and thereof shall not be construed as excluding reference to the Redemption Price or any such other amount in those provisions hereof and thereof where such express reference is not made.

SECTION 1008 Limitation on Liens.

So long as any Securities remain Outstanding, CEMEX shall not, and shall not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of CEMEX or any Subsidiary, whether now owned or held or hereafter acquired, other than the following Liens ("Permitted Liens"):

(i) Liens for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Mexican GAAP shall have been made;

(ii) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Mexican GAAP shall have been made;

(iii) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security;

(iv) any attachment or judgment Lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(v) Liens existing on the date of original issuance of the Securities;

(vi) any Lien on property acquired by CEMEX after the date of original issuance of the Securities that was existing on the date of acquisition of such property; provided that such Lien was not incurred in anticipation of such acquisition, and any Lien created to secure all or any part of the purchase price, or to secure Debt incurred or assumed

to pay all or any part of the purchase price, of property acquired by CEMEX or any of its Subsidiaries after the date of original issuance of the Securities; provided, further, that (A) any such Lien permitted pursuant to this clause (vi) shall be confined solely to the item or items of property so acquired (including, in the case of any Acquisition of a corporation through the acquisition of 51% or more of the voting stock of such corporation, the stock and assets of any Acquired Subsidiary or Acquiring Subsidiary) and, if required by the terms of the instrument originally creating such Lien, other property which is an improvement to, or is acquired for specific use with, such acquired property; and (B) if applicable, any such Lien shall be created within nine months after, in the case of property, its acquisition, or, in the case of improvements, their completion;

(vii) any Liens renewing, extending or refunding any Lien permitted by paragraph (vi) above, provided that the principal amount of Debt secured by such Lien immediately prior thereto is not increased or the maturity thereof reduced and such Lien is not extended to the other property;

(viii) any Liens created on shares of capital stock of CEMEX or any of its Subsidiaries solely as a result of the deposit or transfer of such shares into a trust or a special purpose corporation (including any entity with legal personality) of which such shares constitute the sole assets; provided that any shares of Subsidiary stock held in such trust, corporation or entity could be sold by CEMEX under this Note Indenture; and provided, further, that such Liens may not secure Debt of CEMEX or any Subsidiary (unless permitted under another clause of this Section 1008);

(ix) any Liens on securities securing repurchase obligations in respect of such securities;

(x) any Liens in respect of any Qualified Receivables Transaction; or

(xi) in addition to the Liens permitted by the foregoing clauses (i) through (x), Liens securing Debt of CEMEX and its Subsidiaries that in the aggregate secure obligations in an amount not in excess of 5% of Adjusted Consolidated Net Tangible Assets;

unless, in each case, CEMEX has made or caused to be made effective provision whereby the Securities and the Conversion Payment Undertaking are secured equally and ratably with, or prior to, the Debt secured by such Liens (other than Permitted Liens) for so long as such Debt is so secured.

SECTION 1009 Listing.

CEMEX will use its best efforts to cause the Debentures to be duly authorized for listing on the Irish Stock Exchange or another recognized securities exchange and shall from time to time take such other actions as shall be necessary or advisable to maintain the listing of the Debentures thereon.

SECTION 1010 Indemnification of Judgment Currency.

The Company and each Guarantor shall, to the fullest extent permitted by law, indemnify the Trustee and any Holder of a Security against any loss incurred by the Trustee or such Holder, as the case may be, as a result of any judgment or order being given or made for any amount due under this Note Indenture or such Security and being expressed and paid in a currency (the "Judgment Currency") other than Dollars, and as a result of any variation between (i) the rate of exchange at which the Dollar amount is converted into the Judgment Currency for the purpose of such judgment or order and (ii) the spot rate of exchange in The City of New York at which the Trustee or such Holder, as the case may be, on the date of payment of such judgment or order is able to purchase Dollars with the amount of the Judgment Currency actually received by the Trustee or such Holder. If the amount of Dollars so purchased exceeds the amount originally to be paid to such Holder, such Holder agrees to pay to or for the account of the Company (with respect to payments made by the Company) and the Guarantors (with respect to payments made by the Guarantors) such excess; provided, that such Holder shall not have any obligation to pay any such excess as long as a default by the Company or the Guarantors, as applicable in its obligations hereunder has occurred and is continuing, in which case such excess may be applied by such Holder to such obligations. The foregoing indemnity shall constitute a separate and independent obligation of the Company and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid. The term "spot rate of exchange" shall include any premiums and costs of exchange payable in connection with the purchase of, or conversion into, United States dollars.

SECTION 1011 Payment of Certain Issuer Expenses.

The Company and the Guarantors have agreed under this Note Indenture that they will pay to C5 Capital (SPV) Limited from time to time, at least two Business Days in advance of any required payment, such amounts as may be necessary for C5 Capital (SPV) Limited to pay the commissions, fees and expenses of the Initial Purchasers of the Debentures, the fees and expenses of the Debenture Trustee, and any other fees, expenses, indemnification, reimbursement, contribution and other similar obligations, and all other amounts (other than payments under the Debentures and settlement and termination payments under the Extinguishable Coupon Swap) owed by C5 Capital (SPV) Limited to the Initial Purchasers, the Debenture Trustee, the officers and directors of C5 Capital (SPV) Limited, the Swap Counterparty, JPMCB or any other person.

SECTION 1012 Ownership.

Except as otherwise specified or contemplated in this Note Indenture, CEMEX shall take any and all actions necessary to insure that the Company at all times remains, directly or indirectly, a wholly-owned subsidiary of CEMEX.

SECTION 1013 Restrictive Activities.

The Company has agreed, so long as any Securities (or any amount thereunder) is outstanding, not to do any of the following:

(i) engage at any time in any business activity unrelated to the issuance of the Securities, the entering into the Conversion Payment Undertaking, entering into similar capital raising activities and entering into financial arrangements with CEMEX and its Subsidiaries, or

(ii) file for, or consent to the filing of, any bankruptcy, liquidation insolvency or similar proceeding.

SECTION 1014 Waiver of Immunities.

To the extent that the Company or any of the Guarantors may in any jurisdiction claim for itself or its assets immunity from a suit, execution, attachment, whether in aid or execution, before judgment or otherwise, or other legal process in connection with this Note Indenture and the Securities and to the extent that in any jurisdiction there may be immunity attributed to the Company, the Company's assets, the Guarantors or the Guarantors' assets whether or not claimed, the Company and the Guarantors have irrevocably agreed for the benefit of the Holder not to claim, and irrevocably waive, the immunity to the full extent permitted by law.

ARTICLE ELEVEN

Redemption of Securities

SECTION 1101 Right of Redemption.

(a) The Securities may not be redeemed at the election of the Company except in accordance with the provisions of this Article.

(b) The Securities will be redeemable, at the option of the Company, on December 31, 2011, and on each interest payment date thereafter (or, if not a Business Day, on the preceding Business Day), in whole or in part, at par together with all accrued and unpaid interest, including deferred interest, provided that the Company as a condition to redemption, convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate as of the Interest Payment Date by written notice to the Holders, the Debenture Trustee, the Trustee and the Swap Counterparty no less than 10 Business Days prior to the Interest Payment Date; in the case of partial redemption the outstanding principal amount of the Securities immediately after such redemption shall not be less than U.S$150,000,000 million; provided further that no redemption shall be effective on any payment date (and such payment date shall not constitute the Conversion Date) unless C5 Capital (SPV) Limited shall have received from the Company on or prior to such payment date any applicable Conversion Payments with respect to such conversion.

(c) The Securities will be redeemable, at the option of the Company, within 90 days of the occurrence of a Change of Control Event, in whole but not in part, at a Redemption Price equal to the greater of (i) par and (ii) the sum of the present values of the remaining scheduled payments on the Securities calculated (1) assuming a final maturity of December 31, 2011, (2) without giving effect to any increase in interest rates as a result of the Change of Control Event, and (3) discounted to the Redemption Date at a rate equal to the then-current yield to maturity of treasuries with a comparable maturity plus a margin equal to 1.70% per annum, plus in each of cases (i) and (ii) above accrued and unpaid interest to the Redemption Date.

The Securities will not otherwise be redeemed by the Company. As a condition to any redemption prior to December 31, 2011, the Company must first convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate and pay any applicable Conversion Payment with respect to such conversion in accordance with Section 315.

SECTION 1102 Notice of Redemption.

Notice of redemption shall be given by first class mail, postage prepaid, mailed by the Company to the Trustee not less than 45 days nor more than 60 days prior to the proposed Redemption Date (unless a shorter period of time is agreed upon) and to each Holder and the Trustee will give a corresponding notice to the holders of the Debentures, at his address appearing in the Security Register. Any such notice of redemption is irrevocable and will be given as described below. If the redemption price in respect of any Security is improperly withheld or refused and is not paid by the Company or any Guarantor, interest on the Securities will continue to be payable until the Redemption Price is paid in full.

All notices of redemption shall state:

(1) the Redemption Date,

(2) the Redemption Price and amount of accrued interest, if any,

(3) that on the Redemption Date the Redemption Price and any accrued interest will become due and payable upon each Security to be redeemed and that interest thereon will cease to accrue on and after said date, and

(4) the place or places where such Securities are to be surrendered for payment of the Redemption Price and any accrued interest.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company, and such notice, when given to the Holders, shall be irrevocable.

SECTION 1103 Deposit of Redemption Price.

Prior to any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 1003) an amount of money sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on, all the Securities which are to be redeemed on that date.

SECTION 1104 Securities Payable on Redemption Date.

Notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price herein specified, and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest) such Securities shall cease to bear interest. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Company at the Redemption Price, together with accrued interest to the Redemption Date; provided, however, that installments of interest whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 306.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal shall, until paid, bear interest from the Redemption Date at the rate borne by the Security.

ARTICLE TWELVE

Guarantee of the Securities

SECTION 1201 Guarantee.

Subject to the provisions of this Article Twelve, Article Eight and Article Nine, each Guarantor hereby jointly and severally irrevocably and unconditionally guarantees, on an unsecured basis, to each Holder of a Security authenticated and delivered by the Trustee and to the Trustee and its Successors, irrespective of the validity and enforceability of this Note Indenture, the Securities or the obligations of the Company or any other Guarantors to the Holders or the Trustee hereunder or thereunder, that: (a) the principal of and interest on the Securities (including any Additional Amounts) will be duly and punctually paid in full when due, whether at Maturity, by acceleration, call for redemption, purchase or otherwise, and all obligations of the Company or the Guarantors to the Holders or the Trustee hereunder or thereunder (including amounts due the Trustee under Section 607 hereof) or under the Securities (including fees, expenses or other disbursements) will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Securities or any of such other obligations, the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at maturity, by acceleration, call for redemption, purchase or otherwise (all such obligations guaranteed by the Guarantors, the "Guaranteed Obligations"). The guarantees of the Guarantors under this Article Twelve are herein referred to as the "Guarantee". Failing payment when due of any amount so guaranteed, or failing performance of any other obligation of the Company to the Holders, for whatever reason, each Guarantor will be obligated to pay, or to perform or cause the performance of, the same immediately. An Event of Default under this Note Indenture or the Securities shall constitute an event of default under this Guarantee, and shall entitle the Holders of Securities or the Trustee to accelerate the obligations of the Guarantors hereunder in the same manner and to the same extent as the obligations of the Company.

The Guarantors agree to pay any and all fees and expenses (including reasonable attorney's fees and expenses) incurred by the Trustee or the Holders in enforcing any rights under this Article Twelve with respect to the Guarantors.

Without limiting the generality of the foregoing, this Guarantee guarantees, to the extent provided herein, the payment of all amounts that constitute part of the Guaranteed Obligations and would be owed by the Company under this Note Indenture or the Securities but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving the Company.

No stockholder, officer, director, employee or incorporator, past, present or future, of any Guarantor, as such, shall have any personal liability under this Guarantee by reason of his, her or its status as such stockholder, officer, director, employee or incorporator.

The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under this Guarantee.

SECTION 1202 Execution and Delivery of Guarantee.

The Guarantee to be endorsed on the Securities shall include the terms of the Guarantees set forth in this Article Twelve and any other terms that may be set forth in the form established pursuant to Section 205. The Guarantors hereby agree to execute the Guarantee in the form established pursuant to Section 205, to be endorsed on each Security authenticated and delivered by the Trustee.

The Guarantee shall be executed on behalf of each Guarantor by any one of the individuals who may sign an Officers' Certificate on its behalf. The signature of any such Person on the Guarantee may be manual or facsimile.

A Guarantee bearing the manual or facsimile signature of an individual who was at any time the proper officer of a Guarantor shall bind such Guarantor, notwithstanding that such individual has ceased to hold such office prior to the authentication and delivery of the Security on which such Guarantee is endorsed or did not hold such office at the date of such Guarantee.

The delivery of any Security by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantee endorsed thereon on behalf of the respective Guarantor. The Guarantors hereby agree that their respective Guarantee set forth in Section 1201 shall remain in full force and effect notwithstanding any failure to endorse a Guarantee on any Security.

SECTION 1203 Obligations of the Guarantors Unconditional.

Nothing contained in this Article Twelve or elsewhere in this Note Indenture or in any Security is intended to or shall impair, as between the Guarantors and the Holders and the Trustee, the obligation of each Guarantor, which is absolute and unconditional, to pay to the Holders and the Trustee the principal of and interest (including Additional Amounts) on the Securities (and to the Trustee amounts due under Section 607) as and when the same shall become due and payable in accordance with the provisions of this Guarantee, nor shall anything herein or therein prevent the Trustee or any Holder from exercising all remedies otherwise permitted by applicable law upon Default under this Note Indenture. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not affect the liability of any Guarantor hereunder:

(a) the lack of validity, regularity or enforceability of this Note Indenture or the Securities with respect to the Company or any agreement or instrument relating thereto;

(b) any change in the time, manner or place of payment of, or in any other term of any of the Guaranteed Obligations, or any other amendment or waiver of or any consent to departure from this Note Indenture;

(c) any amendment or modification of or deletion from or addition or supplement to or other change in the Guarantee, the Note Indenture or the Securities or any other instrument or agreement applicable to any of the parties to the Guarantee, the Note Indenture or the Securities;

(d) any furnishing or acceptance of any security or any guarantee or other liability of any Subsidiary or any other party, or any release of any security or any guarantee or other liability of any Subsidiary or any other party, for the Guaranteed Obligations, or the failure of any security or any guarantee or other liability of any Subsidiary or any other party or the failure of any Person to perfect any interest in any collateral;

(e) any failure, omission or delay on the part of the Company, to conform or comply with any term of the Note Indenture or the Securities or any other instrument or agreement referred to in paragraph (a) above, including, without limitation, failure to give notice to the Guarantors or the Trustee of the occurrence of an Event of Default;

(f) any waiver of the payment, performance or observance of any of the obligations, conditions, covenants or agreements contained in the Guarantee, the Note Indenture or the Securities, or any other waiver, consent, extension, indulgence, compromise, settlement, release or other action or inaction under or in respect of the Guarantee, the Note Indenture or the Securities or any other instrument or agreement referred to in paragraph (a) above or any obligation or liability of the Company, or any exercise or non-exercise of any right, remedy, power or privilege under or in respect of any such instrument or agreement or any such obligation or liability;

(g) any failure, omission or delay on the part of the Trustee or any Holder of Securities to enforce, assert, exercise or continue exercising any right, power or remedy conferred on it in the Guarantee or the Note Indenture, or any such failure, omission or delay on the part of the Trustee or any Holder of Securities in connection with the Guarantee, the Note Indenture or the Securities, or any other action on the part of the Trustee or any Holder of Securities;

(h) the assignment of any right, title or interest of the Trustee or any Holder in this Note Indenture or the Securities to any other Person;

(i) any voluntary or involuntary bankruptcy, insolvency, *concurso mercantil*, reorganization, arrangement, readjustment, assignment for the benefit of creditors, receivership, liquidation or similar proceedings with respect to the Company, any Guarantor or any other Person or any of their respective properties or creditors, or any action taken by any trustee, receiver or similar officer or by any court in any such proceeding;

(j) any limitation on the liability or obligations of the Company or any other Person under the Guarantee, the Note Indenture or the Securities, or any partial discharge, cancellation or unenforceability of the Guarantee, the Note Indenture or the Securities or any other agreement or instrument referred to in paragraph (c) above or any term hereof, to the extent not mutually agreed upon by the parties hereto;

(k) any merger or consolidation of the Company or any Guarantor into or with any other corporation or any sale, lease or transfer of any of the assets of the Company or any Guarantor to any other Person;

(l) any change in the ownership of any shares of capital stock of the Guarantors, or any change in the corporate relationship between the Company and the Guarantors, or any termination of such relationship, or any change in the corporate existence, structure, or ownership of the Company;

(m) any release or discharge, by operation of law, of any Guarantor from the performance or observance of any obligation, covenant or agreement contained in the Guarantee, the Note Indenture or the Securities;

(n) any action, failure, omission or delay on the part of the Trustee or any Holder of Securities that may impede any Guarantor from acquiring or subrogating such Holder's or Trustee's rights or benefits; or

(o) any other occurrence, circumstance, happening or event whatsoever, whether similar or dissimilar to the foregoing, whether foreseen or unforeseen, and any other circumstance that might otherwise constitute a legal defense or discharge of the liabilities of a Guarantor or that might otherwise limit recourse against the Guarantors; it being the intent of each Guarantor that its obligations hereunder shall not be discharged except by payment of all amounts owing pursuant to this Note Indenture or the Securities.

The Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time any payment or performance with respect to any of the Guaranteed Obligations is rescinded or must otherwise be returned by the Trustee, any Holder or any other Person upon the insolvency, bankruptcy or reorganization of the Company or otherwise, all as though such payment or performance had not been made or occurred. In the event that any payment, or any part thereof, is rescinded or must otherwise be returned, the Guaranteed Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded or returned. The obligations of the Guarantors under the Guarantee shall not be subject to reduction, termination or other impairment by any set-off, recoupment, counterclaim or defense or for any other reason.

SECTION 1204 Waivers.

Each Guarantor hereby irrevocably waives, to the extent permitted by applicable law:

(a) promptness, demand for payment, diligence, presentment, notice of acceptance and any other notice with respect to any of the Guaranteed Obligations and the Guarantee;

(b) any requirement that the Trustee, any Holder or any other Person protect, secure, perfect or insure any Lien or any property subject thereto or exhaust any right, sue or take any action against the Company or any other Person, or obtain any relief pursuant to this Note Indenture or pursue any other available remedy prior to making a claim against any Guarantor hereunder;

(c) all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Note Indenture or the Securities;

(d) filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest or notice with respect to such Security or the Indebtedness evidenced thereby and all demands whatsoever;

(e) any defense arising by reason of any claim or defense based upon an election of remedies by the Trustee or any Holder that in any manner impairs, reduces, releases or otherwise adversely affects its subrogation, contribution or reimbursement rights or other rights to proceed against the Company or any other Person;

(f) any right to which it may be entitled to have the assets of the Company first be used as payment of the Company's or the Guarantor's obligations hereunder prior to any amounts being claimed from or paid by such Guarantor hereunder; or

(g) any duty on the part of the Trustee or any Holder to disclose to such Guarantor any matter, fact or thing relating to the business, operation or condition of the Company and its assets now known or hereafter known by the Trustee or such Holder.

SECTION 1205 Waiver of Subrogation and Contribution.

Each Guarantor hereby irrevocably waives any claim or other right that it may now or hereafter acquire against the Company that arises from the existence, payment, performance or enforcement of such Guarantor's obligations under this Guarantee and this Note Indenture, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution, indemnification, and any right to participate in any claim or remedy of the Trustee or any Holder of Securities against the Company, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law, including, without limitation, the right to take or receive from the Company, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or Security on account of such claim or other rights. If any amount shall be paid to any Guarantor in violation of the preceding sentence and the Securities shall not have been paid in full, such amount shall have been deemed to have been paid to such Guarantor for the benefit of, and held in trust for the benefit of, the Holders of the Securities, and shall forthwith be paid to the Trustee for the benefit of such Holders to be credited and applied upon the Securities, whether matured or unmatured, in accordance with the terms of this Note Indenture. Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Note Indenture and that the waiver set forth in this Section 1205 is knowingly made in contemplation of such benefits.

Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any Guaranteed Obligations until payment in full of all Guaranteed Obligations. Each Guarantor further agrees that, as between itself, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the Guaranteed Obligations may be accelerated as provided in Article Five hereof for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guaranteed Obligations, and (y) in the event of any declaration of acceleration of the Guaranteed Obligations as provided in Article Five hereof, the Guaranteed Obligations (whether or not due and payable) shall forthwith become due and payable by such Guarantor for the purpose of this Guarantee.

SECTION 1206 No Waiver; Cumulative Remedies.

No failure on the part of the Trustee or any Holder to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law. The Trustee and the Holders shall have all of the rights and remedies granted in this Note Indenture and available at law or in equity, and these same rights and remedies may be pursued separately, successively or concurrently against the Company or the Guarantors.

SECTION 1207 Continuing Guarantee.

The Guarantee is a continuing guarantee and, except as otherwise provided herein, shall (a) remain in full force and effect until the satisfaction of the Guaranteed Obligations, (b) be binding upon each Guarantor and (c) inure to the benefit of and be enforceable by the Trustee, the Holders and their successors, transferees and assigns.

ARTICLE THIRTEEN

Meetings of Holders of Securities

SECTION 1301 Purposes for Which Meetings May Be Called.

A meeting of Holders of Securities may be called at any time and from time to time pursuant to this Article to make, give or take any request, demand, authorization, direction, notice, consent, election, waiver or other action provided by this Note Indenture to be made, given or taken by Holders of Securities.

SECTION 1302 Call, Notice and Place of Meetings.

(a) The Company and the Trustee may at any time call a meeting of Holders of Securities for any purpose specified in Section 1301, to be held at such time and at such place in the Borough of Manhattan, the City of New York, New York as the Company or the Trustee, as the case may be, shall determine. Notice of every meeting of Holders of Securities, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be given, in the manner provided in Section 106, not less than 30 nor more than 180 days prior to the date fixed for the meeting.

(b) In case at any time the Company, pursuant to an Officers' Certificate, or the Holders of at least 10% in principal amount of the Outstanding Securities shall have requested the Trustee to call a meeting of the Holders of Securities for any purpose specified in Section 1301, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have made the first publication of the notice of such meeting within 30 days after receipt of such request or shall not thereafter proceed to cause the meeting to be held as provided herein, then the Company or the Holders of Securities in the amount above specified, as the case may be, may determine the time and the place in the Borough of Manhattan, the City of New York, New York for such meeting and may call such meeting for such purposes by giving notice thereof as provided in subsection (a) of this Section 1302.

SECTION 1303 Persons Entitled to Vote at Meetings.

To be entitled to vote at any meeting of Holders of Securities, a Person shall be (1) a Holder of one or more Outstanding Securities, or (2) a Person appointed by an instrument in writing as proxy for a Holder or Holders of one or more Outstanding Securities by such Holder or Holders. The only Persons who shall be entitled to be present or to speak at any meeting of Holders shall be the Persons entitled to vote at such meeting and their counsel, and representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

SECTION 1304 Quorum; Action.

The Persons entitled to vote a majority in principal amount of the Outstanding Securities shall constitute a quorum. In the absence of a quorum within 30 minutes of the time appointed for any such meeting, the meeting may be adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such meeting. In the absence of a quorum at any such adjourned meeting, such adjourned meeting may be further adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such adjourned meeting (subject to repeated applications of this sentence). Notice of the reconvening of any adjourned meeting shall be given as provided in Section 1302(a), except that such notice need be given only once not less than five days prior to the date on which the meeting is scheduled to be reconvened. Notice of the reconvening of an adjourned meeting shall state expressly the percentage of the principal amount of the Outstanding Securities which shall constitute a quorum. Any Holder who has executed an instrument in writing appointing a person as proxy shall be deemed to be present for the purposes of determining a quorum and be deemed to have voted; provided that such Holder shall be considered as present or voting only with respect to the matters covered by such instrument in writing (which may include authorization to vote on any other matters as may come before the meeting).

Subject to the foregoing, at the reconvening of any meeting further adjourned for a lack of a quorum the Persons entitled to vote 33 1/3% in principal amount of the Outstanding Securities at the time shall constitute a quorum for the taking of any action set forth in the notice of the original meeting.

Except as limited by Clauses (1) and (2) of Section 513 and by the proviso to Section 902, any modifications, amendments or waivers to this Note Indenture or the terms and conditions of the Securities shall require the lesser of (i) the written consent of the Holders of a majority in principal amount of the Outstanding Securities or (ii) at any time when there is more than one Holder of Securities, the approval of persons entitled to vote 66 2/3% of the principal amount of such Securities represented and voting at a meeting of the Holders duly called in accordance with the provisions hereof and at which a quorum is present; provided, however, that such modifications, amendments or waivers shall be approved by the Holders of Securities representing not less than 25% of the aggregate principal of Outstanding Securities and no such waiver shall be permitted unless provided for pursuant to Section 513.

Any modification, amendment or waiver approved or resolution passed or decision taken at any meeting of Holders of Securities held in accordance with this Article shall be binding on all the Holders of Securities, regardless of whether present or represented at the meeting.

SECTION 1305 Determination of Voting Rights; Conduct and Adjournment of Meetings.

(a) Notwithstanding any other provisions of this Note Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Holders of Securities in regard to proof of the holding of Securities and of the appointment of proxies and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem appropriate. Except as otherwise permitted or required by any such regulations, the holding of Securities shall be proved in the manner specified in Section 104 and the appointment of any proxy shall be proved in the manner specified in Section 104 or by having the signature of the person executing the proxy witnessed or guaranteed by any trust company, bank or banker authorized by Section 104 to certify to the holding of Securities. Such regulations may provide that written instruments appointing proxies, regular on their face, may be presumed valid and genuine without the proof specified in Section 104 or other proof.

(b) The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders of Securities as provided in Section 1302(b), in which case the Company or the Holders of Securities calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the Persons entitled to vote a majority in principal amount of the Outstanding Securities represented at the meeting.

(c) At any meeting each Holder of a Security or proxy shall be entitled to one vote for each $1,000 principal amount of Securities held or represented by him; provided, however, that no vote shall be cast or counted at any meeting in respect of any Security challenged as not Outstanding and ruled by the chairman of the meeting to be not Outstanding. The chairman of the meeting shall have no right to vote, except as a Holder of a Security or proxy.

(d) Any meeting of Holders of Securities duly called pursuant to Section 1302 at which a quorum is present may be adjourned from time to time by Persons entitled to vote a majority in principal amount of the Outstanding Securities represented at the meeting; and the meeting may be held as so adjourned without further notice.

SECTION 1306 Counting Votes and Recording Action of Meetings.

The vote upon any resolution submitted to any meeting of Holders of Securities shall be by written ballots on which shall be subscribed the signatures of the Holders of Securities or of their representatives by proxy and the principal amounts and serial numbers of the Outstanding Securities held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record, at least in duplicate, of the proceedings of each meeting of Holders of Securities shall be prepared by the secretary of the

meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was given as provided in Section 1302 and, if applicable, Section 1304. Each copy shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one such copy shall be delivered to the Company and another to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this Note Indenture to be duly executed, as of the day and year first above written.

The Bank of New York,
as Trustee

By /s/ James Fevola
Name: James Fevola
Title: Vice President

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.

By /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

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

By /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Chief Financial Officer

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

By /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Chief Financial Officer

NEW SUNWARD HOLDING B.V.

By /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

ANNEX A

Calculation of Conversion Payments and Conversion Credits

With respect to the Conversion Date (whether it has occurred or is expected to occur at the time of calculation), the Calculation Agent will determine whether a Conversion Payment or a Conversion Credit Reference Amount applies. If a Conversion Credit Reference Amount applies and the principal amount of the Dual-Currency Notes has not become, as of the Conversion Date, due and payable, the Calculation Agent will determine whether there are any Conversion Credit Application Dates and the amount of the Conversion Credit to be applied on each such Conversion Credit Application Date.

For the purposes of this Annex A:

"*Benchmark Swap*" means a derivative transaction between the Calculation Agent and a hypothetical counterparty with the following terms:

(i) no exchange of principal;

(ii) a term commencing on the date of issuance of the Dual-Currency Notes and ending on December 31, 2011;

(iii) the Calculation Agent obligated to pay an amount in U.S. Dollars equal to the semi-annual coupon on the Debentures, applied to the Dollar principal amount of the Debentures, on each payment date for the Debentures;

(iv) the counterparty obligated to pay an amount in Japanese Yen equal to the semi-annual coupon on the Dual-Currency Notes, applied to the Yen Equivalent Principal Amount of the Dual-Currency Notes, on each payment date for the Dual-Currency Notes;

(v) the parties' payment obligations under the Benchmark Swap ceasing as of the payment date for the Debentures immediately prior to the date on which the Conditions to Anticipated Swap Termination are deemed satisfied; and

(vi) upon early termination for any reason other than the satisfaction of the Conditions to Anticipated Swap Termination, the termination payment due to the Calculation Agent or the counterparty, as applicable, calculated based on the total gains and losses and costs incurred upon termination, including any loss of bargain, costs of funding, or, without duplication, any loss or cost or gain incurred as a result of obtaining or reestablishing any hedge or related trading position.

"*Conversion Credit*" means the amount the Calculation Agent determines to be the amount of investment proceeds in U.S. Dollars that would be available on each Conversion Credit Application Date were the Conversion Credit Reference Amount invested at the direction of the Calculation Agent (and on a date determined by the Calculation Agent but not more than 15 business days after the Conversion Date) in Permitted Investments, which Permitted Investments were designed to yield (without provision for credit losses) an equal amount of investment proceeds in U.S. Dollars on each such Conversion Credit Application Date.

"*Conversion Credit Application Date*" means (a) each interest payment date for the Debentures occurring prior to December 31, 2011, and more than 15 business days after the Conversion Date, and (b) December 31, 2011, so long as the Conversion Date occurs at least 15 business days prior to that date. If the Conversion Date occurs after the 15th business day prior to December 31, 2011, no Conversion Credits shall apply.

"*Conversion Credit Reference Amount*" means the amount, if any, determined by the Calculation Agent to be equal to the total amount that would be payable by the party obligated to pay U.S. Dollars under the Benchmark Swap (as defined below) upon its early termination on the applicable Note Conversion Date.

"*Conversion Payment*" means the amount, if any, determined by the Calculation Agent to be equal to the total amount that would be payable by the party obligated to pay Japanese Yen under the Benchmark Swap (as defined below) upon its early termination on the applicable Note Conversion Date.

"*Permitted Investments*" means Dollar-denominated, unsubordinated obligations that (a) do not bear interest or bear interest at a fixed rate and (b) are issued, accepted or guaranteed by one or more commercial banks in the United States the long-term unsubordinated, unsecured indebtedness of which has a rating of at least "A2" from Fitch Ratings, Ltd. and "A" from Standard and Poor's Rating Service.

Capitalized terms used in this Annex A and not herein defined shall have the meaning ascribed to them in the Note Indenture.

ANNEX B

Conditions to Anticipated Swap Termination

The "Conditions to Anticipated Swap Termination" shall be deemed to have been satisfied on the Note Conversion Date when the Calculation Agent delivers written notice to the Note Issuer and the Debenture Trustee, on the Note Conversion Date or at a time prior to the 15 th Local Business Day after the Note Conversion Date, that:

(i) a CEMEX Credit Event had occurred on or prior to the Note Conversion Date; and

(ii) Morgan or the Note Issuer has delivered a Credit Event Notice that is effective during the Notice Period; and

(iii) such party delivering the Credit Event Notice also has delivered a Notice of Publicly Available Information that is effective during the Notice Period.

As used in this Annex B, the following terms shall have the following meanings:

"Affiliate" means, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

"Bankruptcy" means a Reference Entity (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (b) becomes insolvent or is unable to pay its debts or fails or admits in writing in a judicial, regulatory or administrative proceeding or filing its inability generally to pay its debts as they become due; (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (d) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding up or liquidation or (ii) is not dismissed, discharged, stayed or restrained in each case within thirty calendar days of the institution or presentation thereof; (e) has a resolution passed for its winding up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (f) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (g) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty calendar days thereafter; or (h) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (a) to (g) (inclusive).

"Bond" means any obligation for Borrowed Money that is in the form of, or represented by, a bond, note (other than notes delivered pursuant to Loans), certificated debt security or other debt security and shall not include any other type of Borrowed Money.

"Borrowed Money" means any obligation (excluding an obligation under a revolving credit arrangement for which there are no outstanding, unpaid drawings in respect of principal) for the payment or repayment of borrowed money (which term shall include, without limitation, deposits and reimbursement obligations arising from drawings pursuant to letters of credit).

"C5 Capital" means C5 Capital (SPV) Limited.

"Calculation Agent" has the meaning set forth in the Master Collateral Agreement.

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

"CEMEX Credit Event" means one or more of Bankruptcy, Failure to Pay, Obligation Acceleration, Repudiation/Moratorium or Restructuring, in each case as determined by the Calculation Agent taking into account then-current interpretations of the text of the applicable definition in the swap markets. If an occurrence would otherwise constitute a CEMEX Credit Event, such occurrence will constitute a CEMEX Credit Event whether or not such occurrence arises directly or indirectly from, or is subject to a defense based upon: (a) any lack or alleged lack of authority or capacity of a Reference Entity to enter into any Obligation or, as applicable, an Underlying Obligor to enter into any Underlying Obligation, (b) any actual or alleged unenforceability, illegality, impossibility or invalidity with respect to any Obligation or, as applicable, any Underlying Obligation, however described, (c) any applicable law, order, regulation, decree or notice, however described, or the promulgation of, or any change in, the interpretation by any court, tribunal, regulatory authority or similar administrative or judicial body with competent or apparent jurisdiction of any applicable law, order, regulation, decree or notice, however described, or (d) the imposition of, or any change in, any exchange controls, capital restrictions or any other similar restrictions imposed by any monetary or other authority, however described.

"Counterparty" means the Swap 5 Capital (SPV) Limited.

"Credit Event Notice" means an irrevocable notice (which may be by telephone) from one party to the other party and to the Calculation Agent that describes a CEMEX Credit Event that occurred at or after 12:01 a.m., Greenwich Mean Time, on the Effective Date and at or prior to 11:59 p.m., Greenwich Mean Time, on the Note Conversion Date. A Credit Event Notice must contain a description in reasonable detail of the facts relevant to the determination that a CEMEX Credit Event has occurred. The CEMEX Credit Event that is the subject of the Credit Event Notice need not be continuing on the date that the Credit Event Notice is effective.

"Debenture Indenture" means the Debenture Indenture entered into on December 18, 2006, between C5 Capital and The Bank of New York, with respect to the issuance of the Debentures by C5 Capital.

"Debenture Trustee" means the Trustee under the Debenture Indenture.

"Default Requirement" means USD 10,000,000 or its equivalent in the relevant Obligation Currency as of the occurrence of the relevant CEMEX Credit Event.

"Deliver" means to deliver, novate, transfer (including, in the case of a Qualifying Guarantee, transfer of the benefit of the Qualifying Guarantee), assign or sell, as appropriate, in the manner customary for the settlement of the applicable Underlying Obligations (which shall

include executing all necessary documentation and taking any other necessary actions), in order to convey all right, title and interest in the Underlying Obligations free and clear of any and all liens, charges, claims or encumbrances (including, without limitation, any counterclaim, defense (other than a counterclaim or defense based on customary factors as determined by the Calculation Agent taking into account then-current interpretations of the text of the applicable definition in the swap markets) or right of set off by or of the Reference Entity or, as applicable, an Underlying Obligor); provided that to the extent that the Deliverable Obligations consist of Qualifying Guarantees, "Deliver" means to Deliver both the Qualifying Guarantee and the Underlying Obligation. "Delivery" and "Delivered" will be construed accordingly.

"Domestic Currency" means the lawful currency and any successor currency of the Reference Entity. Notwithstanding the foregoing, in no event shall Domestic Currency include any successor currency if such successor currency is the lawful currency of any of Canada, Japan, Switzerland, the United Kingdom or the United States of America or the euro (or any successor currency to any such currency).

"Domestic Law" means the laws of the jurisdiction of organization of the Reference Entity.

"Downstream Affiliate" means an entity, at the date of the event giving rise to the CEMEX Credit Event which is the subject of the Credit Event Notice or the time of identification of a Substitute Reference Obligation (as applicable), whose outstanding Voting Shares are more than 50 percent owned, directly or indirectly, by the Reference Entity.

"Dual-Currency Notes" means the Callable Perpetual Dual-Currency Notes issued by the Note Issuer on December 18, 2006 and guaranteed by the Guarantors.

"Failure to Pay" means, after the expiration of any applicable Grace Period (after the satisfaction of any conditions precedent to the commencement of such Grace Period), the failure by a Reference Entity to make, when and where due, any payments in an aggregate amount of not less than the Payment Requirement under one or more Obligations, in accordance with the terms of such Obligations at the time of such failure.

"Governmental Authority" means any de facto or de jure government (or any agency, instrumentality, ministry or department thereof), court, tribunal, administrative or other governmental authority or any other entity (private or public) charged with the regulation of the financial markets (including the central bank) of a Reference Entity.

"Grace Period" means the applicable grace period with respect to payments under the relevant Obligation under the terms of such Obligation in effect as of the later of the Effective Date or the date as of which such Obligation is issued or incurred; provided, that, if, at the later of the Effective Date and the date as of which an Obligation is issued or incurred, no grace period with respect to payments or a grace period with respect to payments of less than three Local Business Days is applicable under the terms of such Obligation, a Grace Period of three Local Business Days shall be deemed to apply to such Obligation.

"Guarantor" has the meaning set forth in the Note Indenture.

"Loan" means any obligation for Borrowed Money that is documented by a term loan agreement, revolving loan agreement or other similar credit agreement and shall not include any other type of Borrowed Money.

"Local Business Day" means, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in New York City, London and Tokyo, Japan.

"Master Collateral Agreement" has the meaning set forth in the Note Indenture.

"Morgan" means JP Morgan Chase Bank, N.A.

"Multiple Holder Obligation" means an Obligation that (a) at the time of the event which constitutes a Restructuring Credit Event is held by more than three holders that are not Affiliates of each other and (b) with respect to which a percentage of holders (determined pursuant to the terms of the Obligation as in effect on the date of such event) at least equal to sixty-six-and-two-thirds is required to consent to the event which constitutes a Restructuring Credit Event.

"Note Conversion Date" has the meaning set forth in the Note Indenture for "Conversion Date".

"Note Indenture" means the Note Indenture dated as of December 18, 2006, among the Note Issuer, the Guarantors and the Note Trustee.

"Note Issuer" means New Sunward Holding Financial Ventures B.V.

"Note Trustee" means the Trustee under the Note Indenture.

"Notice of Publicly Available Information" means an irrevocable notice (which may be by telephone) from one party to the other party and to the Calculation Agent that cites Publicly Available Information confirming the occurrence of the CEMEX Credit Event or Potential Repudiation/Moratorium, as applicable, described in the Credit Event Notice. In relation to a Repudiation/Moratorium CEMEX Credit Event, the Notice of Publicly Available Information must cite Publicly Available Information confirming the occurrence of both clauses (i) and (ii) of the definition of Repudiation/Moratorium. The notice given must contain a copy, or a description in reasonable detail, of the relevant Publicly Available Information. Any notice given orally, including by telephone, will be effective when actually received by the intended recipient.

"Notice Period" means the period from and including the Effective Date to and including the tenth Local Business Day following the Note Conversion Date.

"Obligation" means, with respect to a Reference Entity, any obligation of the Reference Entity (either directly or as provider of a Qualifying Guarantee) that is a Qualifying Bond or Loan or a Qualifying Guarantee as of the date of the event which constitutes the CEMEX Credit Event that is the subject of the Credit Event Notice.

"Obligation Acceleration" means one or more Obligations in an aggregate amount of not less that the Default Requirement have become due and payable before they would otherwise have been due and payable as a result of, or on the basis of, the occurrence of a default, event of default or other similar condition or event (however described), other than a failure to make any required payment, in respect of a Reference Entity under one or more Obligations.

"Obligation Currency" means the currency or currencies in which an Obligation is denominated.

"Payment Requirement" means USD 1,000,000 or its equivalent in the relevant Obligation Currency as of the occurrence of the relevant Failure to Pay.

"Permitted Currency" means (1) the legal tender of any Group of 7 country (or any country that becomes a member of the Group of 7 if such Group of 7 expands its membership) or (2) the legal tender of any country which, as of the date of such change, is a member of the Organization for Economic Cooperation and Development and has a local currency long-term debt rating of either AAA or higher assigned to it by Standard & Poor's, a division of The McGraw-Hill Companies, Inc. or any successor to the rating business thereof, AAA or higher assigned to it by Moody's Investors Service, Inc. or any successor to the rating business thereof or AAA or higher assigned to it by Fitch Ratings or any successor to the rating business thereof.

"Potential Repudiation/Moratorium" means the occurrence of an event described in clause (i) of the definition of Repudiation/Moratorium.

"Publicly Available Information" means information that reasonably confirms any of the facts relevant to the determination that the CEMEX Credit Event or Potential Repudiation/Moratorium, as applicable, described in a Credit Event Notice has occurred and which (a) has been published in or on not less than two Public Sources, regardless of whether the reader or user thereof pays a fee to obtain such information; provided, that (subject to (b)(i), below), if Morgan or any of its Affiliates is cited as the sole source of such information, then such information shall not be deemed to be Publicly Available Information unless Morgan or its Affiliate, as applicable, is acting in its capacity as trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation; (b) is information received from or published by (i) the Reference Entity (or Sovereign Agency in respect of the Reference Entity), or (ii) a trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation; or (c) is information contained in any order, decree, notice or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body.

In the event that Morgan is (i) the sole source of information in its capacity as trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation and (ii) a holder of the Obligation with respect to which a CEMEX Credit Event has occurred, Morgan shall be required to deliver to the Counterparty and the Calculation Agent a certificate signed by a Managing Director (or other substantively equivalent title) of Morgan, which shall certify the occurrence of a CEMEX Credit Event with respect to a Reference Entity.

In relation to any information of the type described in (b) and (c), in the first paragraph above, the party receiving such information may assume that such information has been disclosed to it without violation of any law, agreement or understanding regarding the confidentiality of such information and that the party delivering such information has not taken any action or entered into any agreement or understanding with the Reference Entity or any Affiliate of the Reference Entity that would be breached by, or would prevent, the disclosure of such information to third parties.

Publicly Available Information need not state (a) in relation to the definition of Downstream Affiliate, the percentage of Voting Shares owned directly or indirectly by the Reference Entity or (b) that such occurrence (i) has met the Payment Requirement or Default Requirement, (ii) is the result of exceeding any applicable Grace Period, or (iii) has met the subjective criteria specified in certain CEMEX Credit Events.

"Public Sources" means each of Bloomberg Service, Dow Jones Telerate Service, Reuter Monitor Money Rates Services, Dow Jones News Wire, Wall Street Journal, New York Times, Nihon Keizai Shinbun, Asahi Shinbun, Yomiuri Shinbun, Financial Times, La

Tribune, Les Echos and The Australian Financial Review (and successor publications), the main source(s) of business news in the Reference Entity and any other internationally recognized published or electronically displayed news sources.

"Qualifying Affiliate Guarantee" means a Qualifying Guarantee provided by a Reference Entity in respect of an Underlying Obligation of a Downstream Affiliate of that Reference Entity.

"Qualifying Bond or Loan" means the Reference Obligation or any Bond or Loan that:

(a) is not Subordinated to the Reference Obligation or, if no Reference Obligation is outstanding, any unsubordinated Borrowed Money obligation of the Reference Entity. For purposes hereof, the ranking with respect to the Reference Obligation shall be determined as of the later of the Effective Date and the date on which such Reference Obligation was issued or incurred and not reflecting any change to such ranking in priority of payment after such later date; and

(b) is not primarily owed to a Sovereign or Supranational Organization, including, without limitation, obligations generally referred to as "Paris Club debt"; and

(c) is payable in any currency other than the Domestic Currency; and

(d) is not governed by Domestic Law; and

(e) at the time that it was issued (or reissued, as the case may be) or incurred, was not intended to be offered for sale primarily in the domestic market of the Reference Entity. Any obligation that is registered or qualified for sale outside the domestic market of the Reference Entity (regardless of whether such obligation is also registered or qualified for sale within the domestic market of the Reference Entity) shall be deemed not to be intended for sale primarily in the domestic market of the Reference Entity.

"Qualifying Guarantee" means an arrangement evidenced by a written instrument pursuant to which a Reference Entity irrevocably agrees (by guarantee of payment or equivalent legal arrangement) to pay all amounts due under an obligation (the " Underlying Obligation") for which another party is the obligor (the "Underlying Obligor") and that is not at the time of the CEMEX Credit Event Subordinated to any unsubordinated Borrowed Money obligation of the Underlying Obligor (with references in the definition of Subordination to the Reference Entity deemed to refer to the Underlying Obligor). Qualifying Guarantees shall exclude any arrangement (i) structured as a surety bond, financial guarantee insurance policy, letter of credit or equivalent legal arrangement or (ii) pursuant to the terms of which the payment obligations of the Reference Entity can be discharged, reduced, assigned or otherwise altered as a result of the occurrence or non-occurrence of an event or circumstance (other than payment). The benefit of a Qualifying Guarantee must be capable of being Delivered together with the Delivery of the Underlying Obligation.

In the event that an Obligation is a Qualifying Guarantee, the following will apply:

(i) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, the Qualifying Guarantee shall be deemed to be a Bond or Loan if the Underlying Obligation is a Bond or Loan.

(ii) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, both the Qualifying Guarantee and the Underlying Obligation must satisfy on the relevant date the requirements of each of clauses (b), (c) and (d) of the definition of Qualifying Bond or Loan. For these purposes, (A) the lawful currency of any of Canada, Japan,

Switzerland, the United Kingdom or the United States of America or the euro shall not be a Domestic Currency and (B) the laws of England and the laws of the State of New York shall not be a Domestic Law.

(iii) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, only the Qualifying Guarantee must satisfy on the relevant date the requirements of clause (a) of the definition of Qualifying Bond or Loan.

(iv) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, only the Underlying Obligation must satisfy on the relevant date the requirements of clause (e) of the definition of Qualifying Bond or Loan.

(v) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, references to the Reference Entity shall be deemed to refer to the Underlying Obligor.

(vi) The term "outstanding principal balance" (as used in this Transaction), when used in connection with Qualifying Guarantees is to be interpreted to be the then "outstanding principal balance" of the Underlying Obligation which is supported by a Qualifying Guarantee.

"Reference Entity" means CEMEX (the "Original Reference Entity") and any successor(s) to CEMEX. The Calculation Agent shall determine the changes, if any, to the terms of this Transaction required to reflect the treatment of a single name credit default swap related to the Original Reference Entity entered into as at the Effective Date specified herein on market standard terms at that time. For the avoidance of doubt in respect of the above, such changes may include: (i) this Transaction being split into two or more Transactions; (ii) the total number of Reference Entities being increased; and (iii) the Original Reference Entity being included as a successor.

"Reference Obligation" means the 9.625% Notes due 2009 (CUSIP 151290AQ6) issued by CEMEX, S.A.B. de C.V. and any Substitute Reference Obligation.

"Repudiation/Moratorium" means the occurrence of both of the following events (i) an authorized officer of a Reference Entity or a Governmental Authority (x) disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, one or more Obligations in an aggregate amount of not less than the Default Requirement, or (y) declares or imposes a moratorium, standstill, roll-over or deferral, whether de facto or de jure, with respect to one or more Obligations in an aggregate amount of not less than the Default Requirement and (ii) a Failure to Pay, determined without regard to the Payment Requirement, or a Restructuring, determined without regard to the Default Requirement, with respect to any such Obligation occurs on or prior to the Repudiation/Moratorium Evaluation Date.

"Repudiation/Moratorium Evaluation Date" means, if a Potential Repudiation/Moratorium occurs, (a) if the Obligations to which such Potential Repudiation/Moratorium relates include Bonds, the date that is the later of (i) the date that is 60 days after the date of such Potential Repudiation/Moratorium and (ii) the first payment date under any such Bond after the date of such Potential Repudiation/ Moratorium (or, if later, the expiration date of any applicable Grace Period in respect of such payment date) and (b) if the Obligations to which such Potential Repudiation/ Moratorium relates do not include Bonds, the date that is 60 days after the date of such Potential Repudiation/Moratorium.

"Restructuring" means, (a) with respect to one or more Obligations that are Multiple Holder Obligations and in relation to an aggregate amount of not less than the Default Requirement,

any one or more of the following events occurs in a form that binds all holders of such Obligation, is agreed between the Reference Entity or a Governmental Authority and a sufficient number of holders of such Obligation to bind all holders of the Obligation or is announced (or otherwise decreed) by a Reference Entity or a Governmental Authority in a form that binds all holders of such Obligation, and such event is not expressly provided for under the terms of such Obligation in effect as of the later of the Effective Date or date as of which such Obligation is issued or incurred:

(i) a reduction in the rate or amount of interest payable or the amount of scheduled interest accruals;

(ii) a reduction in the amount of principal or premium payable at maturity or at scheduled redemption dates;

(iii) a postponement or other deferral of a date or dates for either (A) the payment or accrual of interest or (B) the payment of principal or premium;

(iv) a change in the ranking in priority of payment of any Obligation, causing the Subordination of such Obligation to any other Obligation; or

(v) any change in the currency or composition of any payment of interest or principal to any currency that is not a Permitted Currency.

(b) Notwithstanding the provisions of (a) above, none of the following shall constitute a Restructuring:

(i) the payment in euros of interest or principal in relation to an Obligation denominated in a currency of a Member State of the European Union that adopts or has adopted the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union;

(ii) the occurrence of, agreement to or announcement of any of the events described in (a)(i) to (v) above due to an administrative adjustment, accounting adjustment or tax adjustment or other technical adjustment occurring in the ordinary course of business; and

(iii) the occurrence of, agreement to or announcement of any of the events described in (a)(i) to (v) above in circumstances where such event does not directly or indirectly result from a deterioration in the creditworthiness or financial condition of the Reference Entity.

For purposes of (a) and (b) above, the term Obligation shall be deemed to include Underlying Obligations for which the Reference Entity is acting as provider of any Qualifying Guarantee. In the case of a Qualifying Guarantee and an Underlying Obligation, references to the Reference Entity in (a) above shall be deemed to refer to the Underlying Obligor and the reference to the Reference Entity in (b) above shall continue to refer to the Reference Entity.

"Sovereign" means any state, political subdivision or government, or any agency, instrumentality, ministry, department or other authority (including, without limiting the foregoing, the central bank) thereof.

"Sovereign Agency" means any agency, instrumentality, ministry, department or other authority (including, without limiting the foregoing, the central bank) of the Reference Entity.

"Subordination" means, with respect to an obligation (the "Subordinated Obligation") and another obligation of the Reference Entity to which such obligation is being compared (the "Senior Obligation"), a contractual, trust or similar arrangement providing that (a) upon the liquidation, dissolution, reorganization or winding up of the Reference Entity, claims of the

holders of the Senior Obligation will be satisfied prior to the claims of the holders of the Subordinated Obligation or (b) the holders of the Subordinated Obligation will not be entitled to receive or retain payments in respect of their claims against the Reference Entity at any time that the Reference Entity is in payment arrears or is otherwise in default under the Senior Obligation. " Subordinated" will be construed accordingly. For purposes of determining whether Subordination exists or whether an obligation is Subordinated with respect to another obligation to which it is being compared, the existence of preferred creditors arising by operation of law or of collateral, credit support or other credit enhancement arrangements shall not be taken into account, except that, notwithstanding the foregoing, priorities arising by operation of law shall be taken into account.

"Substitute Reference Obligation" means one or more obligations of a Reference Entity (either directly or as provider of a Qualifying Guarantee) that will replace the Reference Obligation of such Reference Entity, identified by the Calculation Agent in accordance with the following procedures:

(a) In the event that (i) a Reference Obligation is redeemed in whole or (ii) in the opinion of the Calculation Agent (A) the aggregate amounts due under any Reference Obligation have been materially reduced by redemption or otherwise (other than due to any scheduled redemption, amortization or prepayments), (B) any Reference Obligation is an Underlying Obligation with a Qualifying Guarantee of a Reference Entity and, other than due to the existence or occurrence of a CEMEX Credit Event, the Qualifying Guarantee is no longer a valid and binding obligation of such Reference Entity enforceable in accordance with its terms, or (C) for any other reason, other than due to the existence or occurrence of a CEMEX Credit Event, any Reference Obligation is no longer an obligation of a Reference Entity, the Calculation Agent shall (after consultation with the parties) identify one or more Obligations to replace such Reference Obligation.

(b) Any Substitute Reference Obligation shall be an Obligation that (1) ranks pari passu (or, if no such Obligation exists, then, at the Calculation Agent's option, an Obligation that ranks senior) in priority of payment with such Reference Obligation (with the ranking in priority of payment of such Reference Obligation being determined as of the later of (A) the Effective Date and (B) the date on which such Reference Obligation was issued or incurred and not reflecting any change to such ranking in priority of payment after such later date), (2) preserves the economic equivalent, as closely as practicable as determined by the Calculation Agent in consultation with the parties, of the delivery and payment obligations of the parties pursuant to this Transaction and (3) is an obligation of a Reference Entity (either directly or as provider of a Qualifying Guarantee). The Substitute Reference Obligation identified by the Calculation Agent shall, without further action, replace such Reference Obligation.

(c) For purposes of identification of a Reference Obligation, any change in the Reference Obligation's CUSIP or ISIN number or other similar identifier will not, in and of itself, convert such Reference Obligation into a different Obligation.

"Supranational Organization" means any entity or organization established by treaty or other arrangement between two or more Sovereigns or the Sovereign Agencies of two or more Sovereigns and includes, without limiting the foregoing, the International Monetary Fund, European Central Bank, International Bank for Reconstruction and Development and European Bank for Reconstruction and Development.

"Voting Shares" means those shares or other interests that have the power to elect the board of directors or similar governing body of an entity.

Exhibit 4.18.1
EXECUTION COPY

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.,
as Issuer,

and

CEMEX, S.A.B. de C.V.,
CEMEX MEXICO, S.A. de C.V.,
and
NEW SUNWARD HOLDING B.V.
as Guarantors,

TO

THE BANK OF NEW YORK MELLON,
as Trustee

FIRST SUPPLEMENTAL INDENTURE

Dated as of August 10, 2009

Supplementing the Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V., as Issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as Guarantors, and The Bank of New York Mellon, as Trustee.

$350,000,000

(C5)

Callable Perpetual Dual-Currency Notes

THIS FIRST SUPPLEMENTAL INDENTURE (the "**Supplemental Indenture**") is made as of the 10th day of August, 2009, among New Sunward Holding Financial Ventures B.V., as issuer (the "**Company**"), CEMEX, S.A.B. de C.V. ("**CEMEX**"), CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors (the "**Guarantors**"), and The Bank of New York Mellon, as trustee (the "**Trustee**").

WHEREAS, the Company, the Guarantors and the Trustee heretofore executed and delivered an indenture, dated as of December 18, 2006 (the "**Indenture**"); and

WHEREAS, pursuant to the Indenture, the Company issued and the Trustee authenticated and delivered $350 million aggregate principal amount of the Company's Callable Perpetual Dual-Currency Notes (the "**Securities**"), which Securities were guaranteed by each of the Guarantors; and

WHEREAS, Section 1008 of the Indenture provides that so long as any Securities remain Outstanding, CEMEX shall not, and shall not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of CEMEX or any Subsidiary, whether now owned or held or hereafter acquired, other than Permitted Liens, unless, in each case, CEMEX has made or caused to be made effective provision whereby the Securities and the Conversion Payment Undertaking are secured equally and ratably with, or prior to, the Debt secured by such Liens (other than Permitted Liens) for so long as such Debt is so secured; and

WHEREAS, the Conversion Date has occurred and no amounts were due under the Conversion Payment Undertaking, and thus the Conversion Payment Undertaking is now discharged; and

WHEREAS, CEMEX and certain of its Subsidiaries intend to create certain Liens (the " **New Liens**") on or with respect to certain of their assets, which New Liens are not Permitted Liens; and

WHEREAS, in accordance with Section 1008 of the Indenture, CEMEX desires to make effective provision whereby the Securities will be secured equally and ratably with the Debt secured by the New Liens for so long as such Debt is so secured; and

WHEREAS, Section 901 of the Indenture provides that the Company, the Guarantors, and the Trustee, when authorized by an Officers' Certificate, without the consent of any Holders of the Securities, may enter into one or more indentures supplemental to the Indenture, in order to secure the Securities; and

WHEREAS, the Company and the Guarantors have heretofore delivered or are delivering contemporaneously herewith to the Trustee (i) copies of Officers' Certificates and (ii) an Opinion of Counsel, in compliance with and to the effect set forth in Sections 102, 901 and 903 of the Indenture; and

WHEREAS, the Company and the Guarantors have requested and directed the Trustee to enter into this Supplemental Indenture, and this Supplemental Indenture has been duly authorized by all the necessary corporate action on the part of the Company and the Guarantors; and

WHEREAS, all conditions necessary to authorize the execution and delivery of this Supplemental Indenture and to make this Supplemental Indenture valid and binding have been complied with or have been done or performed; and

NOW, THEREFORE, in consideration of the foregoing and notwithstanding any provision of the Indenture which, absent this Supplemental Indenture, might operate to limit such action, the Company, the Guarantors and the Trustee agree as follows for the benefit of the Holders of the Securities:

ARTICLE I
DEFINITIONS

SECTION 1.1 General. For all purposes of the Indenture and this Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) the words "herein", "hereof" and "hereunder" and other words of similar import refer to the Indenture and this Supplemental Indenture as a whole and not to any particular Article, Section or subdivision; and

(b) capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture.

ARTICLE II
AMENDMENTS

Section 2.1 Security Documents. The Trustee is hereby authorized and directed (i) to enter into (or cause an agent to enter into), on its own behalf and on behalf of the Holders, such documents (the "**Security Documents**") as are necessary or desirable (which shall be evidenced by a Company Request or other written instruction satisfactory to the Trustee) in order to create and maintain the security interest of the Trustee and the Holders in such collateral as may from time to time be provided to equally and ratably secure the Securities, including, without limitation, the documents listed on Annex A hereto, (ii) to grant such powers of attorney and to do or cause to be done all such acts and things, on its own behalf and in the name and on behalf of the Holders, as are necessary or desirable (which shall be evidenced by a Company Request or other written instruction satisfactory to the Trustee) to create and maintain the security interest of the Trustee and the Holders in such collateral, and (iii) to appoint one or more agents to serve as representative of the Trustee and the Holders in connection with the creation and maintenance of the security interest of the Trustee and the Holders in such collateral. It is understood and acknowledged that in certain circumstances the Security Documents may be amended, modified or waived without the consent of the Trustee or the Holders. It is understood and acknowledged that any such agents, in addition to being appointed by and acting on behalf of the Trustee and the Holders, may also be appointed by and acting on behalf of other creditors of CEMEX and its subsidiaries.

ARTICLE III
MISCELLANEOUS

Section 3.1 Effectiveness. This Supplemental Indenture shall become effective upon its execution and delivery by the Company, the Guarantors and the Trustee.

Section 3.2 Indenture Remains in Full Force and Effect. Except as modified hereby, all provisions in the Indenture shall remain in full force and effect.

Section 3.3 Indenture and Supplemental Indenture Construed Together. This Supplemental Indenture is an indenture supplemental to and in implementation of the Indenture, and the Indenture and this Supplemental Indenture shall henceforth be read and construed together. From and after the effectiveness of this Supplemental Indenture, all references to the Indenture in the Indenture and the Securities shall refer to the Indenture as supplemented hereby.

Section 3.4 Confirmation and Preservation of Indenture. The Indenture as supplemented by this Supplemental Indenture is in all respects confirmed and preserved.

Section 3.5 Severability. In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.6 Headings. The Article and Section headings of this Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part of this Supplemental Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 3.7 Benefits of Supplemental Indenture, etc. Nothing in this Supplemental Indenture or the Securities, express or implied, shall give to any Person, other than the parties hereto and thereto and their successors hereunder and thereunder and the Holders of the Securities, any benefit of any legal or equitable right, remedy or claim under the Indenture, this Supplemental Indenture or the Securities.

Section 3.8 Successors. All agreements in this Supplemental Indenture by the Company and the Guarantors shall bind their respective successors. All agreements of the Trustee in this Supplemental Indenture shall bind its successors.

Section 3.9 Trustee Not Responsible for Recitals. The recitals contained herein shall be taken as the statements of the Company and the Guarantors, and the Trustee assumes no responsibility for their correctness. The Trustee shall not be liable or responsible for the validity or sufficiency of this Supplemental Indenture.

Section 3.10 Certain Duties and Responsibilities of the Trustee. In entering into this Supplemental Indenture, the Trustee shall be entitled to the benefit of every provision of the Indenture relating to the conduct or affecting the liability or affording protection to the Trustee, whether or not elsewhere herein so provided. The Company and each Guarantor expressly reaffirms and confirms its obligation to indemnify the Trustee in connection with the Indenture, this Supplemental Indenture and the actions contemplated hereby, all in accordance with Section 607 of the Indenture.

Section 3.11 Governing Law. **THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

Section 3.12 Counterpart Originals. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

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

NEW SUNWARD HOLDING
FINANCIAL VENTURES B.V., as Issuer

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

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

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

CEMEX MEXICO, S.A. de C.V., as
Guarantor: Humberto Lozano

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

NEW SUNWARD HOLDING B.V., as Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

THE BANK OF NEW YORK MELLON,
as Trustee

By: /s/ Karon Greene
Name: Karon Greene
Title: Vice President

Annex A

Initial Security Documents

1. Spanish Power of Attorney relating to the pledge of the shares of CEMEX España, S.A.

Exhibit 4.18.2
EXECUTION COPY

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.,
as Issuer,

and

CEMEX, S.A.B. de C.V.,
CEMEX MEXICO, S.A. de C.V.,
and
NEW SUNWARD HOLDING B.V.
as Guarantors,

TO

THE BANK OF NEW YORK MELLON,
as Trustee

SECOND SUPPLEMENTAL INDENTURE

Dated as of May 12, 2010

Supplementing the Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V., as Issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as Guarantors, and The Bank of New York Mellon, as Trustee.

U.S.$350,000,000

(C5)

Callable Perpetual Dual-Currency Notes

THIS SECOND SUPPLEMENTAL INDENTURE (the "**Supplemental Indenture**") is made as of the 12th day of May, 2010, among New Sunward Holding Financial Ventures B.V., as issuer (the "**Company**"), CEMEX, S.A.B. de C.V. ("**CEMEX**"), CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors (the "**Guarantors**"), The Bank of New York Mellon, as trustee (the "**Trustee**"), Swap 5 Capital (SPV) Limited (the "**Swap Counterparty**") and C5 Capital (SPV) Limited.

WHEREAS, the Company, the Guarantors and the Trustee heretofore executed and delivered an indenture, dated as of December 18, 2006, as supplemented by a first supplemental indenture dated as of August 10, 2009, (as so supplemented, the " **Indenture**"); and

WHEREAS, pursuant to the Indenture, the Company issued and the Trustee authenticated and delivered U.S.$350 million aggregate principal amount of the Company's Callable Perpetual Dual-Currency Notes (the " **Securities**"), which Securities were guaranteed by each of the Guarantors; and

WHEREAS, Section 1101 of the Debenture Indenture provides that the 6.196% Fixed-to-Floating Rate Callable Perpetual Debentures (the "**Debentures**") may be redeemed only in limited circumstances if the Company redeems the Securities in accordance with the terms of the Indenture; and

WHEREAS, Section 1101 of the Indenture provides that, except under certain circumstances, the Securities may not be redeemed at the election of the Company until December 31, 2011; and

WHEREAS, the Company, acting pursuant to instructions, intends to deliver to the Trustee for cancellation pursuant to Section 309 of the Indenture an aggregate principal amount of Securities delivered to the Company by C5 Capital (SPV) Limited following the cancellation of a corresponding amount of Debentures validly tendered to C5 Capital (SPV) Limited and accepted in any exchange offer, tender offer or market transactions conducted by an Affiliate of CEMEX; and

WHEREAS, Section 902 of the Indenture provides that the Company, the Guarantors, the Swap Counterparty and the Trustee, when authorized by an Officers' Certificate, with the consent of the holders of not less than the majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and the Holders of not less than a majority in principal amount of the Outstanding Securities, may enter into one or more indentures supplemental to the Indenture, in order to modify certain provisions of the Indenture; and

WHEREAS, holders of at least a majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and Holders of at least a majority in principal amount of the Outstanding Securities have consented to the execution of this Supplemental Indenture; and

WHEREAS, the Company and the Guarantors have heretofore delivered or are delivering contemporaneously herewith to the Trustee (i) copies of Officers' Certificates and (ii) an Opinion of Counsel, in compliance with and to the effect set forth in Sections 102, 902 and 903 of the Indenture; and

WHEREAS, the Company, acting pursuant to instructions, and the Guarantors have requested and directed the Trustee to enter into this Supplemental Indenture, and this Supplemental Indenture has been duly authorized by all the necessary corporate action on the part of the Company and the Guarantors; and

WHEREAS, all conditions necessary to authorize the execution and delivery of this Supplemental Indenture and to make this Supplemental Indenture valid and binding have been complied with or have been done or performed; and

NOW, THEREFORE, in consideration of the foregoing and notwithstanding any provision of the Indenture which, absent this Supplemental Indenture, might operate to limit such action, the Company, the Guarantors and the Trustee agree as follows for the benefit of the Holders of the Securities, and the Swap Counterparty and C5 Capital (SPV) Limited, as the holder of all outstanding Securities, by their respective execution hereof, hereby consent to the execution of this Second Supplemental Indenture and the amendments effected hereby:

ARTICLE I
DEFINITIONS

Section 1.1 General. For all purposes of the Indenture and this Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) the words "herein", "hereof" and "hereunder" and other words of similar import refer to the Indenture and this Supplemental Indenture as a whole and not to any particular Article, Section or subdivision; and

(b) capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture.

ARTICLE II
AMENDMENTS

Section 2.1 Right of Redemption.

Section 1101 of the Indenture is amended by adding a new clause (d) immediately following clause (c) reading as follows:

"Notwithstanding anything contained in this Indenture to the contrary, at any time and from time to time, the Company shall deliver to the Trustee for cancellation in accordance with Section 309 the aggregate principal amount of Securities delivered to the Company by C5 Capital (SPV) Limited in accordance with Section 1101(c) of the Debenture Indenture."

ARTICLE III
MISCELLANEOUS

Section 3.1 Effectiveness. This Supplemental Indenture shall become effective upon its execution and delivery by the Company, the Guarantors and the Trustee.

Section 3.2 Indenture Remains in Full Force and Effect. Except as modified hereby, all provisions in the Indenture shall remain in full force and effect and the Guarantors hereby ratify and confirm the Guarantees provided in accordance with Section 1201 of the Indenture.

Section 3.3 Indenture and Supplemental Indenture Construed Together. This Supplemental Indenture is an indenture supplemental to and in implementation of the Indenture, and the Indenture and this Supplemental Indenture shall henceforth be read and construed together. From and after the effectiveness of this Supplemental Indenture, all references to the Indenture in the Indenture and the Securities shall refer to the Indenture as supplemented hereby.

Section 3.4 Confirmation and Preservation of Indenture. The Indenture as supplemented by this Supplemental Indenture is in all respects confirmed and preserved.

Section 3.5 Severability. In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.6 Headings. The Article and Section headings of this Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part of this Supplemental Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 3.7 Benefits of Supplemental Indenture, etc. Nothing in this Supplemental Indenture or the Securities, express or implied, shall give to any Person, other than the parties hereto and thereto and their successors hereunder and thereunder and the Holders of the Securities, any benefit of any legal or equitable right, remedy or claim under the Indenture, this Supplemental Indenture or the Securities.

Section 3.8 Successors. All agreements in this Supplemental Indenture by the Company and the Guarantors shall bind their respective successors. All agreements of the Trustee in this Supplemental Indenture shall bind its successors.

Section 3.9 Trustee Not Responsible for Recitals. The recitals contained herein shall be taken as the statements of the Company and the Guarantors, and the Trustee assumes no responsibility for their correctness. The Trustee shall not be liable or responsible for the validity or sufficiency of this Supplemental Indenture.

Section 3.10 Certain Duties and Responsibilities of the Trustee. In entering into this Supplemental Indenture, the Trustee shall be entitled to the benefit of every provision of the Indenture relating to the conduct or affecting the liability or affording protection to the Trustee,

whether or not elsewhere herein so provided. The Company and each Guarantor expressly reaffirms and confirms its obligation to indemnify the Trustee in connection with the Indenture, this Supplemental Indenture and the actions contemplated hereby, all in accordance with Section 607 of the Indenture.

Section 3.11 Governing Law. **THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

Section 3.12 Consent to Service; Jurisdiction. The Company, each Guarantor and the Trustee agree that any legal suit, action or proceeding arising out of or relating to this Supplemental Indenture, the Securities or the Guarantee, may be instituted in any federal or state court in the Borough of Manhattan, The City of New York, waives any objection which it may now or hereafter have to the laying of the venue of any such legal suit, action or proceeding, waives any immunity from jurisdiction or to service of process in respect of any such suit, action or proceeding, and irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding. Each of the Company, each Guarantor and the Trustee further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to this Supplemental Indenture, and each of the Company and the Guarantors further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to the Securities or the Guarantee. Each of the parties hereto also irrevocably waives any right it may have to the jurisdiction of any court other than the courts mentioned above pursuant to applicable law. Each of the Company and the Guarantors hereby designates and appoints CEMEX NY Corporation, 590 Madison Ave., 41st Floor, New York, New York 10022, Attention: General Counsel, as its authorized agent upon which process may be served in any legal suit, action or proceeding arising out of or relating to this Supplemental Indenture, the Securities or the Guarantee which may be instituted in any federal or state court in the Borough of Manhattan, The City of New York, New York, and agrees that service of process upon such agent, and written notice of said service to the Company or a Guarantor by the Person serving the same, shall be deemed in every respect effective service of process upon the Company (if such notice is given to the Company) or upon such Guarantor (if such notice is given to a Guarantor) in any such suit, action or proceeding and further designates its domicile, the domicile of CEMEX NY Corporation specified above and any domicile CEMEX NY Corporation may have in the future as its domicile to receive any notice hereunder (including service of process). If for any reason CEMEX NY Corporation (or any successor agent for this purpose) shall cease to have a domicile in New York or to act as agent for service of process as provided above, each of the Company and the Guarantors will promptly appoint a successor agent domiciled in New York for this purpose reasonably acceptable to Trustee and shall grant thereto notarial powers-of-attorney for lawsuits and collections. Each of the Company and the Guarantors agrees to take any and all actions as may be necessary to maintain such designation and appointment of such agent in full force and effect. Notwithstanding the foregoing, if CEMEX NY Corporation ceases to be a New York Corporation the parties shall immediately appoint CT Corporation System, Inc. as a replacement thereof.

Section 3.13 Counterpart Originals. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

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

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.,
as Issuer

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

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

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-fact

CEMEX MEXICO, S.A. de C.V.,
as Guarantor

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-fact

NEW SUNWARD HOLDING B.V.,
as Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

THE BANK OF NEW YORK MELLON,
as Trustee

By: /s/ Christopher Curtie
Name: Christopher Curtie
Title: Vice President

SWAP 5 CAPITAL (SPV) LIMITED,
as Swap Counterparty

By: /s/ Illegible
Name:
Title: Authorized Signatories for Ogier Managers (BVI) Limited Director

C5 CAPITAL (SPV) LIMITED

By: /s/ Illegible
Name:
Title: Authorized Signatories for Ogier Managers (BVI) Limited Director

Exhibit 4.19

Execution Copy

New Sunward Holding Financial Ventures B.V.,

As Issuer

and

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

CEMEX MEXICO, S.A. de C.V.,
and
NEW SUNWARD HOLDING B.V.,

As Guarantors

TO

The Bank of New York,

As Trustee

Note Indenture

Dated as of December 18, 2006

U.S. $900,000,000

Callable Perpetual Dual-Currency Notes

TABLE OF CONTENTS

Note: This table of contents shall not, for any purpose, be deemed to be a part of the Indenture.

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ARTICLE SIX

THE TRUSTEE

ARTICLE SEVEN

HOLDERS' LISTS AND REPORTS BY TRUSTEE AND COMPANY

ARTICLE EIGHT

CONSOLIDATION, MERGER, CONVEYANCE, TRANSFER OR LEASE

ARTICLE NINE

SUPPLEMENTAL INDENTURES

Note: This table of contents shall not, for any purpose, be deemed to be a part of the Indenture.

Note: This table of contents shall not, for any purpose, be deemed to be a part of the Indenture.

NOTE INDENTURE, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V., a private company with limited liability formed under the laws of the Netherlands (herein called the "Company"), having its principal office at Amsteldijk 166, 1079 LH Amsterdam, each of the Guarantors (as hereinafter defined) and The Bank of New York, a bank duly organized and existing under the laws of the State of New York, as Trustee (herein called the "Trustee").

RECITALS OF THE COMPANY AND THE GUARANTORS

The Company has duly authorized the creation of an issue of its Callable Perpetual Dual-Currency Notes (herein called the "Securities") of substantially the tenor and amount hereinafter set forth, and to provide therefor the Company has duly authorized the execution and delivery of this Note Indenture.

The Guarantors, jointly and severally, desire to irrevocably and unconditionally guarantee the payment of the principal of and interest on, and any other amount due under, this Note Indenture and the Securities, as the same shall become due in accordance with the terms of this Note Indenture and the Securities pursuant to the Guarantee provided in this Note Indenture and endorsed on the Securities, and to provide therefor have duly authorized the execution and delivery of this Note Indenture.

All things necessary to make the Securities, when executed by the Company and authenticated and delivered hereunder and duly issued by the Company, the valid obligations of the Company, and to make this Note Indenture a valid agreement of the Company, in accordance with their and its terms, have been done.

All things necessary to make the Guarantee, when executed by the Guarantors, the valid obligation of the Guarantors, and to constitute these presents a valid indenture and agreement of the Guarantors, according to its terms, have been done.

NOW, THEREFORE, THIS NOTE INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Securities by the Holders thereof, it is mutually agreed, for the equal and proportionate benefit of all Holders of the Securities, as follows:

ARTICLE ONE

Definitions and Other Provisions
of General Application

SECTION 101 Definitions.

For all purposes of this Note Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(1) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;

(2) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles in Mexico, the Netherlands or any other applicable jurisdiction, and, except as otherwise herein expressly provided, the term "generally accepted accounting principles" with respect to any computation required or permitted hereunder shall mean such accounting principles as are generally accepted in Mexico, the Netherlands or any applicable jurisdiction at the date of such computation;

(3) unless the context otherwise requires, any reference to an "Article" or a "Section", or to an "Annex", refers to an Article or Section of, or to an Annex attached to, this Note Indenture, as the case may be;

(4) unless the context otherwise requires, any reference to a statute, rule or regulation refers to the same (including any successor statute, rule or regulation thereto) as it may be amended from time to time; and

(5) the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Note Indenture as a whole and not to any particular Article, Section or other subdivision.

"Acquired Subsidiary" means any Subsidiary acquired by CEMEX or any other Subsidiary after the date of this Note Indenture in an Acquisition, and any Subsidiaries of such Acquired Subsidiary on the date of such Acquisition.

"Acquiring Subsidiary" means any Subsidiary formed by CEMEX or one of its Subsidiaries solely for the purpose of participating as the acquiring party in any Acquisition, and any Subsidiaries of such Acquiring Subsidiary acquired in such Acquisition.

"Acquisition" means any merger, consolidation, acquisition or lease of assets, acquisition of securities or business combination or acquisition, or any two or more of such transactions, if, upon the completion of such transaction or transactions, CEMEX or any Subsidiary thereof has acquired an interest in any Person who would be deemed to be a Subsidiary under this Note Indenture and was not a Subsidiary prior thereto.

"Act" when used with respect to any Holder, has the meaning specified in Section 104.

"Additional Amounts" has the meaning specified in Section 1007.

"Adjusted Consolidated Net Tangible Assets" means the total assets of CEMEX and its Subsidiaries (less applicable depreciation, amortization and other valuation reserves), including any write-ups or restatements (other than with respect to items referred to in clause (ii) below), after deducting therefrom (i) all current liabilities (excluding the current portion of long-term debt) and (ii) all goodwill, trade names, trademarks, licenses, concessions, patents and other intangibles, all as determined on a consolidated basis in accordance with Mexican GAAP.

"Affiliate" of any specified Person means any other Person who directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with such specified Person. For the purposes of this definition, "control" when used with

respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Applicable Taxes" has the meaning specified in Section 1007.

"Authenticating Agent" means any Person authorized by the Trustee pursuant to Section 612 to act on behalf of the Trustee to authenticate Securities.

"Benchmark Swap" has the meaning specified in Annex A.

"Board of Directors" means either the board of directors of the Company or any committee of that board duly authorized to act for it in respect hereof.

"Board Resolution" means a copy of a resolution certified by the Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"Business Day" means, with respect to any particular place, each day that is not a Saturday, a Sunday, a day on which banks in New York City or London are authorized or obligated by law or executive order to remain closed, or a day on which the Corporate Trust Office of the Debenture Trustee is closed for business, provided that, when the Dollar Fixed Rate and Yen Rate is applicable, "Business Day" shall not include a day on which banks in Tokyo, Japan, are authorized or obligated by law or executive order to remain closed. If any day on which any delivery, request, surrender or other action is required or permitted hereunder to be taken by or on behalf of a Holder is not a business day in any place where such action is permitted hereunder to be taken, then such actions may be taken at such or any other permitted place on the next succeeding business day at such place with the same force and effect as if taken at the same time on such day that is not a business day at such place.

"C10 Capital (SPV) Limited" means a restricted purpose company incorporated with limited liability domiciled in the British Virgin Islands.

"Calculation Agent" has the meaning specified in the Master Collateral Agreement.

"Capital Lease" means a lease that would be capitalized on a balance sheet of the lessee prepared in accordance with Mexican GAAP.

"CEMEX" means CEMEX, S.A.B. de C.V., a publicly traded stock corporation with variable capital (sociedad anónima búrsatil de capital variable) organized under the laws of Mexico.

"CEMEX México" means CEMEX México, S.A. de C.V., a stock corporation with variable capital (sociedad anónima de capital variable) organized under the laws of Mexico.

"Change of Control" means the occurrence of either of the following: (a) any Person or Persons acting in concert or on behalf of any Person(s) is or becomes the beneficial owner, directly or indirectly, of more than 50% of the capital stock of CEMEX, then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election

of directors (whether or not any necessary approvals therefor have been obtained); or (b) the direct or indirect sale, lease, transfer, conveyance or other disposition, in one or a series of related transactions, of all or substantially all of the assets of CEMEX, and its Subsidiaries, taken as a whole, to any Person or group of Persons acting in concert (other than to CEMEX or any of its Subsidiaries).

"Change of Control Event" means the earliest date on which both of the following events have occurred: (i) a Change of Control; and (ii) either prior to a Change of Control or within 90 days after public notice of the occurrence of a Change of Control (which period will be extended so long as any rating is under publicly-announced consideration of possible downgrade by any of the Rating Agencies), any Rating Agency publicly announces that the corporate credit rating of CEMEX by such Rating Agency is withdrawn or downgraded to a rating below BBB- by S&P or BBB- by Fitch (or their respective equivalents at such time).

"Commission" means the U.S. Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, or, if at any time after the execution of this instrument such Commission is not existing and performing the duties now assigned to it under applicable law, then the body performing such duties at such time.

"Company" means the Person named as the "Company" in the first paragraph of this instrument until a successor Person shall have become such pursuant to the applicable provisions of this Note Indenture, and thereafter "Company" shall mean such successor Person.

"Company Request" or "Company Order" means a written request or order signed in the name of the Company by any one of the individuals who may sign an Officers' Certificate on its behalf and delivered to the Trustee.

"Conditions to Anticipated Swap Termination" has the meaning specified in Annex B.

"Conversion Credits" has the meaning specified in Annex A.

"Conversion Date" has the meaning specified in Section 313, 314 or 315, as applicable.

"Conversion Payment" has the meaning specified in Annex A.

"Conversion Payment Undertaking" means the Conversion Payment Undertaking, dated as of December 18, 2006, of the Company and the Guarantors.

"Corporate Trust Office" means the principal office of the Trustee in the Borough of Manhattan, the City of New York, New York at which at any particular time its corporate trust business shall be administered.

"Debentures" has the meaning specified in the Debenture Indenture, dated as of December 18, 2006, between the Debenture Trustee and the Holders.

"Debentures Indenture" means the Debenture Indenture, dated as of December 18, 2006, between the C10 Capital (SPV) Limited and the Debenture Trustee.

"Debenture Trustee" means The Bank of New York in its capacity as trustee for the Debentures.

"Debt" of any Person means, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee under Capital Leases, (v) all Debt of others secured by a Lien on any asset of such Person, up to the value of such asset, as recorded in such Person's most recent balance sheet, (vi) all obligations of such Person with respect to product invoices incurred in connection with export financing, (vii) all obligations of such Person under repurchase agreements for the stock issued by such Person or another Person and (viii) all Debt of others guaranteed by such Person. For the avoidance of doubt, Debt does not include Derivatives.

"Defaulted Interest" has the meaning specified in Section 307.

"Derivatives" means any type of derivative obligations, including but not limited to equity forwards, capital hedges, cross-currency swaps, currency forwards, credit default swaps, interest rate swaps and swaptions.

"Dollar" and $ means a U.S. Dollar or other equivalent unit in such coin or currency of the United States of America as at the time shall be legal tender for the payment of public and private debts.

"Dollar Fixed Rate" has the meaning specified in Section 203.

"Dollar Floating Rate" has the meaning specified in Section 203.

"Event of Default" has the meaning specified in Section 501.

"Exchange Act" means the U.S. Securities Exchange Act of 1934, as amended, and (unless the context otherwise requires) includes the rules and regulations of the Commission promulgated thereunder.

"Expiration Date" has the meaning specified in Section 104(g).

"Extinguishable Coupon Swap" has the meaning specified in the Master Collateral Agreement.

"Fitch" means Fitch Ratings Ltd. or any successor to the rating agency business thereof.

"Global Security" has the meaning specified in Section 201.

"Guarantee" means the joint and several irrevocable and unconditional guarantee of the Securities by the Guarantors, as contained in Article Twelve of this Note Indenture.

"Guarantor" means each of CEMEX, Cemex Mexico, and New Sunward Holding, and each of their respective Successors, if any, who becomes a Successor pursuant to Section 801.

"Holder" means, with respect to any issuance of Securities, C10 Capital (SPV) Limited or any other Person in whose name such issuance of Security is registered in the Security Register.

"Initial Purchasers" has the meaning specified in the Purchase Agreement.

"Interest Payment Date" means the Stated Maturity of an installment of interest on the Securities.

"Judgment Currency" has the meaning specified in Section 1010.

"LIBO Calculation Agent" has the meaning specified in Section 203.

"LIBOR Business Date" has the meaning specified in Section 203.

"LIBOR Interest Determination Date" has the meaning specified in Section 203.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. CEMEX or any Subsidiary of CEMEX shall be deemed to own, subject to a Lien, any asset that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capital Lease or other title retention lease relating to such asset, or any account receivable transferred by it with recourse (including any such transfer subject to a holdback or similar arrangement that effectively imposes the risk of collectability on the transferor).

"Master Collateral Agreement" means the Master Collateral Agreement dated as of December 18, 2006, among CEMEX, CEMEX México, New Sunward Holding, the Company, C10 Capital (SPV) Limited, Swap 10 Capital (SPV) Limited, The Bank of New York and JPMorgan Chase Bank, N.A.

"Maturity", when used with respect to any Security, means the date on which the principal of such Security becomes due and payable as therein or herein provided, whether at the Stated Maturity or by declaration of acceleration, call for redemption, exercise of the repurchase right or otherwise.

"Mexican GAAP" means, at any time of determination, generally accepted accounting principles in Mexico as in effect at such time.

"Mexico" means the United Mexican States.

"New Sunward Holding" means New Sunward Holding B.V., a private company with limited liability formed under the laws of the Netherlands.

"Note Indenture" means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, including, for all purposes of this instrument and any such supplemental indenture, the Annexes attached to this instrument.

"Note Taxing Jurisdiction" has the meaning specified in Section 203.

"Notice of Default" means a written notice of the kind specified in Section 501(4).

"Officers' Certificate" of the Company means a certificate signed by any one of its chief executive officer, corporate planning or finance director, chief financial officer, comptroller, chief accounting officer or chief legal officer or any other Person authorized to act on behalf of the Company, and delivered to the Trustee. "Officers' Certificate" of a Guarantor means a certificate signed by any one of the chief executive officer, corporate planning or finance director, chief financial officer, comptroller, chief accounting officer or chief legal officer or any other Person authorized to act on behalf of such Guarantor, and delivered to the Trustee. One of the officers signing an Officers' Certificate given pursuant to Section 1004 shall be the corporate planning or finance director, chief financial officer, comptroller or finance director of CEMEX. Unless the context otherwise requires, each reference herein to an "Officers' Certificate" shall mean an Officers' Certificate of the Company.

"Opinion of Counsel" means an opinion in writing signed by legal counsel who, unless otherwise provided herein, may be an employee of or counsel to CEMEX or the Trustee or who may be other counsel reasonably satisfactory to the Trustee.

"Outstanding" when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Note Indenture, except:

(i) Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(ii) Securities for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company or any Guarantor) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Securities; provided that, if such Securities are to be redeemed, notice of such redemption shall have been duly given pursuant to this Note Indenture or provision therefor satisfactory to the Trustee shall have been made; and

(iii) Securities that have been paid pursuant to Section 306 or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Note Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a bona fide purchaser in whose hands such Securities are valid obligations of the Company;

provided, however, that in determining whether the Holders of the requisite principal amount of the Outstanding Securities have given, made or taken any request, demand, authorization, direction, notice, consent, waiver or other action hereunder as of any date, Securities owned by the Company, any Guarantor or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, waiver or other action, only Securities that a Responsible Officer of the Trustee knows to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction

of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor.

"Paying Agent" means any Person authorized by the Company to pay the principal of or interest on any Securities on behalf of the Company.

"Permitted Lien" has the meaning specified in Section 1008.

"Person" means any individual, company, corporation, firm, partnership, joint venture, association, organization, state or agency or other entity, whether or not having a separate legal personality.

"Predecessor Security" of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 306 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

"Purchase Agreement" means the Purchase Agreement, dated as of December 11, 2006, among C10 Capital (SPV) Limited, CEMEX, CEMEX México, New Sunward Holding, the Company and the Initial Purchasers of the securities named therein, relating to the Debentures.

"Qualified Receivables Transaction" means a sale, transfer, or securitization of receivables and related assets by CEMEX or its Subsidiaries, including a sale at a discount, provided that (i) such receivables have been sold, transferred or otherwise conveyed, directly or indirectly, by the originator thereof in a manner that satisfies the requirements for a sale, transfer or other conveyance under the laws and regulations of the jurisdiction in which such originator is organized; (ii) at the time of the sale, transfer or securitization of receivables is put in place, the receivables are derecognized from the balance sheet of CEMEX or its Subsidiary in accordance with the generally accepted accounting principles applicable to such Person in effect as at the date of such sale, transfer or securitization; and (iii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or securitization is carried out on a non-recourse basis or on a basis where recovery is limited to the collection of receivables.

"Qualifying Equity Security" means any security that (a) is issued or guaranteed by CEMEX and (b) is accounted for as "equity" of CEMEX in the consolidated financial statements of CEMEX.

"Rating Agencies" means S&P and Fitch.

"Redemption Date" when used with respect to any Security to be redeemed, means the date fixed for such redemption by or pursuant to this Note Indenture.

"Redemption Price" when used with respect to any Security to be redeemed, means the price at which it is to be redeemed as set forth in the Securities.

"Regular Record Date" for the interest payable on any Interest Payment Date means the March 15, June 15, September 15 or December 15 (regardless of whether a Business Day), as the case may be, immediately preceding such Interest Payment Date; provided that the record date for the first Interest Payment Date will be December 19, 2006.

"Responsible Officer" with respect to the Trustee, any officer, within the Corporate Trust Office (or any successor group of the Trustee), including any senior vice president, vice president, assistant vice president, secretary, assistant secretary, or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also, with respect to a particular matter, any other officer to whom such matter is referred because of such officer's knowledge of and familiarity with the particular subject.

"Restricted Securities" has the meaning specified in Section 201.

"Securities" means the securities designated as such in the first paragraph of the RECITALS OF THE COMPANY AND THE GUARANTORS.

"Securities Act" means the U.S. Securities Act of 1933, as amended, and (unless the context otherwise requires) includes the rules and regulations of the Commission promulgated thereunder.

"Security Register" and "Security Registrar" have the respective meanings specified in Section 305.

"Special Record Date" for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 307.

"S&P" means Standard & Poor's, a division of McGraw-Hill Companies, Inc., or any successor to the rating agency business thereof.

"Stated Maturity" when used with respect to any Security or any installment of interest thereon, means any date specified in such Security as the fixed date on which such installment of interest is due and payable.

"Subsidiary" means, with respect to any Person, any corporation, partnership, joint venture, limited liability company, trust, estate or other entity of which (or in which) more than 50% of (a) in the case of a corporation, the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency not in the control of such Person), (b) in the case of a limited liability company, partnership or joint venture, the interest in the capital or profits of such limited liability company, partnership or joint venture or (c) in the case of a trust or estate, the beneficial interest in such trust or estate, is at the time directly or indirectly owned or controlled by (X) such Person, (Y) such Person and one or more of its other Subsidiaries or (Z) one or more of such Person's other Subsidiaries. Unless the context otherwise requires, all references herein to a "Subsidiary" shall refer to a Subsidiary of CEMEX.

"Successor" has the meaning specified in Section 801.

"Swap Counterparty" means Swap 10 Capital (SPV) Limited, a restricted purpose company incorporated with limited liability domiciled in the British Virgin Islands.

"Telerate Page 3750" has the meaning specified in Section 203.

"Transfer" of any Security encompasses any sale, pledge, transfer, hypothecation or other disposition of such Security or any interest therein.

"Trust Indenture Act" means the U.S. Trust Indenture Act of 1939, as amended, and (unless the context otherwise requires) includes the rules and regulations of the Commission thereunder.

"Trustee" means the Person named as the "Trustee" in the first paragraph of this instrument until a successor Trustee shall have become such pursuant to the applicable provisions of this Note Indenture, and thereafter "Trustee" shall mean such successor Trustee.

"United States" means the United States of America (including the States thereof and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction.

"Yen" and "¥" means a Japanese Yen or other equivalent unit in such coin or currency of Japan as at the time shall be legal tender for the payment of public and private debts.

"Yen Equivalent Principal Amount" has the meaning specified in Section 203.

"Yen Rate" has the meaning specified in Section 203.

"3-month Dollar LIBO Rate" has the meaning specified in Section 203.

"6-month Yen LIBO Rate" has the meaning specified in Section 203.

SECTION 102 Compliance Certificates and Opinions.

Upon any application or request by the Company to the Trustee to take any action under any provision of this Note Indenture, the Company shall furnish to the Trustee such certificates and opinions as may be required hereunder. Each such certificate or opinion shall be given in the form of an Officers' Certificate, if to be given by an officer of the Company, or an Opinion of Counsel if to be given by counsel.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Note Indenture (except for certificates provided for in Section 1004) shall include,

(1) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether such covenant or condition has been complied with; and

(4) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

SECTION 103 Form of Documents Delivered to Trustee.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Company or any Guarantor may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or opinion of counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company or of the relevant Guarantor, as the case may be, stating that the information with respect to such factual matters is in the possession of the Company or such Guarantor, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Note Indenture, they may, but need not, be consolidated and form one instrument.

SECTION 104 Acts of Holders; Record Dates.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Note Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to a Responsible Officer of the Trustee and, where it is hereby expressly required, to the Company or the Guarantors. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Note Indenture and (subject to Section 601) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The ownership of Securities shall be proved by the Security Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, regardless of whether notation of such action is made upon such Security.

(e) The Company may set any day as a record date for the purpose of determining the Holders of Outstanding Securities entitled to give, make or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Note Indenture to be given, made or taken by Holders of Securities, provided that the Company may not set a record date for, and the provisions of this paragraph shall not apply with respect to, the giving or making of any notice, declaration, request or direction referred to in the next paragraph. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities on such record date, and no other Holders, shall be entitled to take the relevant action, regardless of whether such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities on such record date. Nothing in this paragraph shall be construed to prevent the Company from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be cancelled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Company, at its own expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Trustee in writing and to each Holder of Securities in the manner set forth in Section 106.

(f) The Trustee may set any day as a record date for the purpose of determining the Holders of Outstanding Securities entitled to join in the giving or making of (i) any Notice of Default, (ii) any declaration of acceleration referred to in Section 502, (iii) any request to institute proceedings referred to in Section 507(2) or (iv) any direction referred to in Section 512. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities on such record date, and no other Holders, shall be entitled to join in such notice, declaration, request or direction, regardless whether such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities on such record date. Nothing in this paragraph shall be construed to prevent the Trustee from setting a new record date for any action (whereupon the record date previously set shall automatically and without any action by any Person be cancelled and of no effect), nor shall anything in this paragraph be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Trustee, at the Company's expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Company in writing and to each Holder of Securities in the manner set forth in Section 106.

(g) With respect to any record date set pursuant to this Section, the party hereto that sets such record date may designate any day as the "Expiration Date" and from time to time may change the Expiration Date to any earlier or later day, provided that no such change shall be effective unless notice of the proposed new Expiration Date is given to the other party hereto in writing, and to each Holder of Securities in the manner set forth in Section 106, on or prior to the existing Expiration Date. If an Expiration Date is not designated with respect to any record date set pursuant to this Section, the party hereto that set such record date shall be deemed to have initially designated the 180th day after such record date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date as provided in this paragraph. Notwithstanding the foregoing, no Expiration Date shall be later than the 180th day after the applicable record date.

Without limiting the foregoing, a Holder entitled hereunder to take any action hereunder with regard to any particular Security may do so with regard to all or any part of the principal amount of such Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such principal amount.

SECTION 105 Notices, Etc., to Trustee, Company and Guarantors.

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Note Indenture to be made upon, given or furnished to, or filed with,

(1) the Trustee by any Holder or by the Company or any Guarantor shall be in the English language and shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Trustee at its Corporate Trust Office, or

(2) the Company or any Guarantor by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, to it addressed to it at the address of the Company's principal office specified in the first paragraph of this instrument, Attention: Finance Director, with a copy to CEMEX at Av. Ricardo Margáin Zozaya #325, Colonia Valle del Campestre, Garza García, Nuevo León, México 66265, Attention: General Counsel, or at any other address previously furnished in writing to the Trustee by the Company.

SECTION 106 Notice to Holders; Waiver.

Where this Note Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, to each Holder affected by such event, at his address as it appears in the Security Register. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Note Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

SECTION 107 Effect of Headings and Table of Contents.

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

SECTION 108 Successors and Assigns.

All covenants and agreements in this Note Indenture by the Company or any Guarantor shall bind its successors and assigns, regardless of whether so expressed.

SECTION 109 Separability Clause.

In case any provision in this Note Indenture or in the Securities or the Guarantee shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 110 Benefits of Note Indenture.

Nothing in this Note Indenture or in the Securities or the Guarantee, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder and the Holders of Securities, any benefit or any legal or equitable right, remedy or claim under this Note Indenture.

SECTION 111 Governing Law.

THIS NOTE INDENTURE, THE GUARANTEE AND THE SECURITIES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

SECTION 112 Legal Holidays.

In any case where any Interest Payment Date, Redemption Date, Conversion Date or Stated Maturity of any Security shall not be a Business Day, then (notwithstanding any other provision of this Note Indenture or of the Securities) payment of interest or principal (and premium, if any) need not be made on such date, but may be made on the preceding Business Day with the same force and effect as if made on the Interest Payment Date, Redemption Date, Conversion Date or at the Stated Maturity, as the case may be.

SECTION 113 Consent to Service; Jurisdiction.

The Company, each Guarantor and the Trustee agree that any legal suit, action or proceeding arising out of or relating to this Note Indenture, the Securities or the Guarantee, may be instituted in any federal or state court in the Borough of Manhattan, The City of New York, waives any objection which it may now or hereafter have to the laying of the venue of any such legal suit, action or proceeding, waives any immunity from jurisdiction or to service of process in respect of

any such suit, action or proceeding, and irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding. Each of the Company, each Guarantor and the Trustee further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to this Note Indenture, and each of the Company and the Guarantors further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to the Securities or the Guarantee. Each of the Company and the Guarantors hereby designates and appoints CEMEX NY Corporation, 590 Madison Ave., 41 st Floor, New York, New York 10022, Attention: General Counsel, as its authorized agent upon which process may be served in any legal suit, action or proceeding arising out of or relating to this Note Indenture, the Securities or the Guarantee which may be instituted in any federal or state court in the Borough of Manhattan, The City of New York, New York, and agrees that service of process upon such agent, and written notice of said service to the Company or a Guarantor by the Person serving the same, shall be deemed in every respect effective service of process upon the Company (if such notice is given to the Company) or upon such Guarantor (if such notice is given to a Guarantor) in any such suit, action or proceeding and further designates its domicile, the domicile of CEMEX NY Corporation specified above and any domicile CEMEX NY Corporation may have in the future as its domicile to receive any notice hereunder (including service of process). If for any reason CEMEX NY Corporation (or any successor agent for this purpose) shall cease to have a domicile in New York or to act as agent for service of process as provided above, each of the Company and the Guarantors will promptly appoint a successor agent domiciled in New York for this purpose reasonably acceptable to Trustee and shall grant thereto notarial powers-of-attorney for lawsuits and collections. Each of the Company and the Guarantors agrees to take any and all actions as may be necessary to maintain such designation and appointment of such agent in full force and effect. Notwithstanding the foregoing, if CEMEX NY Corporation ceases to be a New York Corporation the parties shall immediately appoint CT Corporation System, Inc. as a replacement thereof.

SECTION 114 Language of Notices, Etc.

Any request, demand, authorization, direction, notice, consent or waiver required or permitted under this Note Indenture shall be in the English language, except that any published notice may be in an official language of the country of publication.

ARTICLE TWO

Security Forms

SECTION 201 Forms Generally.

The Securities and the Trustee's certificates of authentication shall be in substantially the forms set forth in this Article, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Note Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or depositary thereof or as may, consistently herewith, be determined by the officers executing such Securities, as evidenced by their execution of the Securities.

The definitive Securities shall be printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the officers executing such Securities, as evidenced by their execution of such Securities.

In certain cases described elsewhere herein, the legends set forth in the first four paragraphs of Section 202 may be omitted from Securities issued hereunder.

Original Securities offered and sold in their initial distribution shall be initially issued in the form of one or more Global Securities in definitive, fully registered form without interest coupons, substantially in the form of Security set forth in Sections 202 and 203, with such applicable legends as are provided for in Section 202, except as otherwise permitted herein. Such Global Securities shall be registered in the name of the Holders or their nominees and deposited with the Trustee, at its Corporate Trust Office, as custodian for the Holders, duly executed by the Company and authenticated by the Trustee as hereinafter provided, for credit to the respective accounts of the Holders. The aggregate principal amount of the Global Security may from time to time be increased or decreased by adjustments made on the records of the Trustee, as custodian for the Holders, in connection with a corresponding decrease or increase in the aggregate principal amount of the Global Security, as hereinafter provided.

Securities issued in exchange for a Global Security or any portion thereof shall be issued in definitive, fully registered form, without interest coupons, shall have an aggregate principal amount equal to that of such Global Security or portion thereof to be so exchanged, shall be registered in such names and be in such authorized denominations as the Trustee shall designate and shall bear any legend required hereunder. Any Global Security to be exchanged in whole shall be surrendered. With regard to any Global Security to be exchanged in part, either such Global Security shall be surrendered for exchange or the principal amount thereof shall be reduced, by an amount equal to the portion thereof to be so exchanged, by means of an appropriate adjustment made on the records of the Trustee. Upon such surrender or adjustment, the Trustee shall authenticate and deliver the Security issuable on such exchange.

SECTION 202 Form of Face of Security.

THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE TRANSFERRED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY U.S. PERSON EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ALL APPLICABLE STATE SECURITIES LAWS.

New Sunward Holding Financial Ventures B.V.

Callable Perpetual Dual-Currency Notes

No. _____ $_____

New Sunward Holding Financial Ventures B.V., a private company with limited liability formed under the laws of the Netherlands (herein called the "Company", which term includes any successor Person under the Note Indenture hereinafter referred to), for value received, hereby promises to pay to [name of Holder] or registered assigns, the principal sum of _____ Dollars, or such other principal amount as may be set forth in the records of the Trustee hereinafter referred to, in accordance with the Note Indenture and to pay interest thereon from December 18, 2006 or from the most recent Interest Payment Date to which interest has been paid or duly provided for in the amount and currency provided in the Note Indenture. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Note Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be the March 15, June 15, September 15 or December 15 (regardless of whether a Business Day), as the case may be, immediately preceding such Interest Payment Date; provided that the record date for the first Interest Payment Date will be December 19, 2006. Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities not less than 10 days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Note Indenture.

Payment of the principal of this Security will be made in immediately available funds and in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. Payment of interest on this Security will be made in immediately available funds and in such coin or currency of the United States of America or Japan, as applicable, as at the time of payment is legal tender payment of public and private debt. Each such payment of principal and interest will be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York or, at the option of the Holder and subject to any fiscal or other laws and regulations, at any other office or agency maintained by the Company for such purpose; provided, however, that upon application by the Holder to the Security Registrar not later than the 10th day immediately preceding the relevant Regular Record Date, such Holder may receive payment by wire transfer to a U.S. Dollar account (such transfers to be made only to Holders of an aggregate principal amount in excess of $5,000,000) maintained by the payee with a bank in The City of New York; and provided, further, that, subject to the preceding proviso, payment of interest may, at the option of the Company, be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register. Unless such designation is revoked, any such designation made by the Holder with respect to this Security will remain in effect with respect to future payments with respect to this Security payable to the Holder. The Company will pay any administrative costs imposed by banks in connection with making any such payments upon application of such Holder for reimbursement.

The Company shall, to the fullest extent permitted by law, indemnify the Holder of this Security against any loss incurred by such Holder as a result of any judgment or order being given or made for any amount due under this Security and being expressed and paid in a currency other than Dollars, and as a result of any variation between relevant rates of exchange, as provided in the Note Indenture.

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Note Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated:

New Sunward Holding Financial Ventures B.V.

By _____

Name:
Title:

SECTION 203 Form of Reverse of Security.

This Security is one of a duly authorized issue of Securities of the Company designated as its Callable Perpetual Dual-Currency Notes (herein called the "Securities"), issued and to be issued under a Note Indenture, dated as of December 18, 2006 (herein called the "Note Indenture", which term shall have the meaning assigned to it in such instrument), among the Company, the Guarantors named therein and The Bank of New York, as Trustee (herein called the "Trustee", which term includes any successor trustee under the Note Indenture), to which Note Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Guarantors, the Trustee and the Holders and of the terms upon which the Securities are, and are to be, authenticated and delivered.

As provided in Article Twelve of the Note Indenture, the Guarantors have, for the benefit of the Holders, jointly and severally irrevocably and unconditionally guaranteed the due and punctual payment of all amounts payable by the Company under the Note Indenture and the Securities as and when the same shall become due and payable. Reference is hereby made to Article Twelve of the Note Indenture for a statement of the respective rights, limitations of rights, duties and amounts thereunder of the Guarantors and the Trustee.

All payments of principal and interest in respect of the Securities, the Note Indenture and the Guarantee by or for the account of the Company or any Guarantor shall be made without withholding or deduction for any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of Mexico, the Netherlands, the British Virgin Islands or in the event the Company or any Guarantor appoints additional paying agents, by the jurisdictions of such additional paying agents (each a "Note Taxing Jurisdiction"), or any political subdivision thereof or any authority therein or thereof ("Applicable Taxes"), except to the extent that such Applicable Taxes are required by a Note Taxing Jurisdiction or any such political subdivision or authority to be withheld or deducted. In the event of any withholding or deduction for any Applicable Taxes, the Company and the Guarantors shall pay such additional amounts ("Additional Amounts") as will result in receipt by the Holders of Securities on the respective due dates of such amounts as would have been received by them had no such withholding or deduction (including for any Applicable Taxes payable in respect of Additional Amounts) been required, except that no such Additional Amounts shall be payable with respect to any payment on a Security:

(i) to the extent that such taxes or duties are imposed or levied by reason of such Holder (or the beneficial owner) having some connection with the Note Taxing Jurisdiction other than the mere holding (or beneficial ownership) of such Securities;

(ii) to the extent that such taxes or duties are imposed on, or measured by, net income of the Holder (or beneficial owner);

(iii) in respect of which the Holder (or beneficial owner) fails to comply with any certification, identification or other reporting requirement concerning its nationality, residence, identity or connection with the Note Taxing Jurisdiction if (1) compliance is required by applicable law, regulation, administrative practice or treaty as a precondition to exemption from all or a part of the taxes, (2) the Holder (or beneficial

owner) is able to comply with those requirements without undue hardship and (3) the Company has given all Holders at least 30 days' prior notice that they will be required to comply with such requirements;

(iv) in respect of which the Holder (or beneficial owner) fails to surrender (where surrender is required) its Securities for payment within 30 days after the Company has made available a payment of principal or interest, provided that the Company will pay Additional Amounts to which a Holder would have been entitled had the Securities been surrendered on any day (including the last day) within such 30-day period;

(v) to the extent that such taxes or duties are imposed by reason of an estate, inheritance, gift, value added, use or sales tax or any similar taxes, assessments or other governmental charges;

(vi) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive; or

(vii) by or on behalf of a Holder who would have been able to avoid such withholding or deduction by presenting the relevant Securities to another paying agent in a member state of the European Union.

The Company shall provide the Trustee, as soon as practicable, with documentation (which may consist of certified copies of such documentation) satisfactory to the Trustee evidencing the payment of Applicable Taxes in respect of which the Company has paid any Additional Amounts. Copies of such documentation shall be made available to the Holders of the Securities or the Paying Agent, as applicable, upon request therefor.

The Company shall pay all stamp and other duties, if any, which may be imposed by Mexico, the United States of America, the Netherlands or any other applicable jurisdiction or any authority therein or thereof, with respect to the Note Indenture, the Guarantee, the Conversion Payment Undertaking or the issuance of this Security.

At all times when CEMEX is required to file any financial statements or reports with the Commission, CEMEX shall use its best efforts to file all required statements or reports in a timely manner in accordance with the rules and regulations of the Commission. In addition, at any time when CEMEX is not subject to or is not current in its reporting obligations under Section 13 or Section 15(d) of the Exchange Act or is not included on the Commission's list of foreign private issuers that claim exemption from the registration requirements of Section 12(g) of the Exchange Act pursuant to Rule 12g3-2(b) thereunder and any Debentures remain outstanding (or if otherwise required with respect to the Company, any Guarantor or C10 Capital (SPV) Limited), CEMEX will make available, upon request, to any holder and any prospective purchaser of Debentures that are "restricted securities" under the Securities Act, the information referred to in Rule 144A(d)(4) under the Securities Act in order to permit resales of the Debentures in compliance with Rule 144A.

If an Event of Default shall occur and be continuing, the principal of this Security or of all the Securities may be declared due and payable to the extent, in the manner and with the effect provided in the Note Indenture.

The Note Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the Guarantors and the rights of the Holders of the Securities under the Note Indenture at any time by the Company, the Guarantors and the Trustee with the consent of the Trustee, Swap Counterparty, the holders of not less than the majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and the Holders of not less than a majority in principal amount of the Outstanding Securities. The Note Indenture also contains provisions permitting the Holders of a majority in aggregate principal amount of the Securities at the time Outstanding, on behalf of the Holders of all the Securities, to waive compliance by the Company with certain provisions of the Note Indenture and certain past defaults under the Note Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, regardless of whether notation of such consent or waiver is made upon this Security.

As provided in and subject to the Note Indenture, at any time when there is more than one Holder of Securities, the Holder of this Security shall not have any right to institute any proceeding with respect to the Note Indenture, or for the appointment of a receiver or trustee, or for any other remedy thereunder, unless such Holder has previously given written notice to the Trustee of a continuing Event of Default, the Holders of not less than 25% in principal amount of the Outstanding Securities have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered the Trustee reasonable indemnity, and the Trustee has not received from the Holders of a majority in principal amount of the Outstanding Securities a direction inconsistent with such request, and has failed to institute any such proceeding, for 60 days after its receipt of such notice, request and indemnity. The foregoing does not apply to any suit instituted by the Holder of this Security for the enforcement of any payment of the principal hereof or interest hereon on or after the respective due dates expressed herein.

No reference herein to the Note Indenture and no provision of this Security or of the Note Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and interest on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Note Indenture and subject to certain limitations and satisfaction of certain requirements therein set forth, the transfer of this Security is registrable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities are issuable only in registered form without coupons in denominations of $100,000 and integral multiples of $1,000 in excess thereof. As provided in the Note Indenture and subject to certain limitations and satisfaction of certain requirements therein set forth, Securities are exchangeable for a like aggregate principal amount of Securities of the same or a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Guarantors, the Trustee and any agent of the Company, any Guarantor or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, regardless of whether this Security be overdue, and neither the Company, the Guarantors, the Trustee nor any such agent shall be affected by notice to the contrary.

Interest on this Security shall be computed as follows:

Yen Floating Rate Interest— Unless the interest rate has been previously converted to the Dollar Fixed Rate, the Securities will accrue interest in Japanese Yen beginning on the issue date to but not including December 31, 2016, at an annual percentage rate equal to the 6-month Yen LIBO Rate multiplied by 3.38788 (the "Yen Rate"), reset semi-annually, as applied to a Yen principal amount of Japanese Yen 105,115,000,000 (the "Yen Equivalent Principal Amount"). Interest will be payable semi-annually in arrears on June 30 and December 31 of each year (or, if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on December 31, 2006.

The amount of interest payable for any semi-annual interest period will be computed by multiplying the Yen Rate for that semi-annual interest period by a fraction, the numerator of which will be the actual number of days elapsed during that semi-annual interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the Yen Equivalent Principal Amount corresponding to the aggregate outstanding Dollar principal amount of the Securities. The Yen Equivalent Principal Amount will not change over time as a result of fluctuations in the Yen Rate or the Dollar Floating Rate. For the initial interest period ending on December 31, 2006, the Yen Rate will be 1.39327%.

Dollar Fixed Rate Interest— If the interest rate on the Securities has been converted to the Dollar Fixed Rate, the Securities will accrue interest in Dollars, from the semi-annual Interest Payment Date on or immediately prior to the Conversion Date (or the issue date if there is no semi-annual Interest Payment Date prior to the Conversion Date) to but not including December 31, 2016, at the annual rate of 6.722% (the "Dollar Fixed Rate"), as applied to the aggregate outstanding Dollar principal amount of the Securities. Interest will be payable semi-annually in arrears on June 30 and December 31 of each year (or, if not a Business Day, on the preceding Business Day). The interest due at the Dollar Fixed Rate on an Interest Payment Date may be reduced by the application of Conversion Credits, if applicable, on such Interest Payment Date.

The amount of interest payable for any semi-annual interest accrual period at the Dollar Fixed Rate will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Dollar Floating Rate Interest— The Securities will accrue interest in U.S. Dollars, beginning on December 31, 2016, to the date the principal amount of the Securities is repaid in full, at an annual percentage rate equal to the 3-month U.S. Dollar LIBO Rate plus 4.710% (the "Dollar Floating Rate"), as applied to the aggregate outstanding Dollar principal amount of the Securities. Interest will be reset quarterly, as applied to the aggregate outstanding Dollar principal amount of the Securities and payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year (or if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on March 31, 2017.

The amount of interest payable at the Dollar Floating Rate for any quarterly interest period will be computed by multiplying the Dollar Floating Rate for that quarterly interest period by a fraction, the numerator of which will be the actual number of days elapsed during that quarterly interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the aggregate principal amount of the Securities then Outstanding.

Determining the Floating Rates

The "6-month Yen LIBO Rate" means the rate determined in accordance with the following provisions:

(1) On the LIBOR Interest Determination Date, the Calculation Agent or its affiliate will determine the 6-month Yen LIBO Rate, which will be the rate for deposits in Japanese Yen having a six-month maturity which appears on the Telerate Page 3750 as of 11:00 a.m., London time, on the LIBOR Interest Determination Date.

(2) If no rate appears on Telerate Page 3750 on the LIBOR Interest Determination Date, the rate will be determined on the basis of the rates at which deposits in Japanese Yen are offered by the reference banks at approximately 11:00 a.m., London time, on that LIBOR Interest Determination Date to prime banks in the London Inter-Bank Market for the period of six months commencing on the applicable LIBO Rate Reset Date and in a principal amount that is representative for a single transaction in Yen in that market at that time. The Calculation Agent will request the principal London office of each of the reference banks to provide a quotation for its rate. If at least two such quotations are provided, then the 6-month Yen LIBO Rate for that LIBOR Interest Determination Date will be the arithmetic mean of the quotations (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent). If fewer than two quotations are provided as requested, the rate for that LIBOR Interest Determination Date will be the arithmetic mean (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent) of the rates quoted by major banks in Tokyo, selected by the Calculation Agent, at approximately 11:00 a.m., Tokyo time on that LIBOR Interest Determination Date for loans in Japanese Yen to leading European banks having a six-month maturity commencing on the applicable LIBO Rate Reset Date and in a principal amount that is representative for a single transaction in Yen in that market at that time.

The "3-month Dollar LIBO Rate" means the rate determined in accordance with the following provisions:

(1) On the LIBOR Interest Determination Date, the LIBO Calculation Agent or its affiliate will determine the 3-month Dollar LIBO Rate, which will be the rate for deposits in U.S. Dollars having a three-month maturity which appears on the Telerate Page 3750 as of 11:00 a.m., London time, on the LIBOR Interest Determination Date.

(2) If no rate appears on Telerate Page 3750 on the LIBOR Interest Determination Date, the rate will be determined on the basis of the rates at which deposits in U.S. Dollars are offered by the reference banks at approximately 11:00 a.m., London time, on that LIBOR Interest Determination Date to prime banks in the London Inter-Bank Market for the period of three months commencing on the applicable LIBO Rate Reset Date and in a principal amount that is representative for a single transaction in U.S. Dollars in that market at that time. The LIBO Calculation Agent will request the principal London office of each of the reference banks to provide a quotation for its rate. If at least two such quotations are provided, then the 3-month Dollar LIBO Rate for that LIBOR Interest Determination Date will be the arithmetic mean of the quotations (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent). If fewer than two quotations are provided as requested, the rate for that LIBOR Interest Determination Date will be the arithmetic mean (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent) of the rates quoted by major banks in New York City, selected by the LIBO Calculation Agent, at approximately 11:00 a.m., New York time on the applicable LIBO Rate Reset Date for loans in U.S. Dollars to leading European banks having a three-month maturity commencing on that LIBOR Interest Determination Date and in a principal amount that is representative for a single transaction in U.S. Dollars in that market at that time.

"Telerate Page 3750" means the display designated as "Telerate Page 3750" on Moneyline Telerate, Inc. (or such other page as may replace "Telerate Page 3750" on such service) or such other service displaying the London Inter-Bank offered rates of major banks, as may replace Moneyline Telerate, Inc.

"LIBOR Interest Determination Date" means the second LIBOR Business Day preceding each LIBO Rate Reset Date.

"LIBOR Business Day" means (a) for the 6-month Yen LIBO Rate any business day on which dealings in deposits in Japanese Yen are transacted in the London Inter-Bank market and (b) for the 3-month Dollar LIBO Rate any business day on which dealings in deposits in U.S. Dollars are transacted in the London Inter-Bank market.

"LIBO Calculation Agent" means The Bank of New York, or its successor, acting as calculation agent.

Interest upon Change of Control

Upon a Change of Control Event, from the date on which the Change of Control Event occurs, the Securities will bear, in addition to the interest otherwise applicable to the Securities, additional interest in Dollars at a rate of 5.00% per year, as applied to the aggregate outstanding Dollar principal amount of the Securities. The amount of additional interest payable for any semi-annual interest accrual period will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Optional Deferral of Interest

The Company may defer, at its sole discretion, on one or more occasions, payment for all (but not part) of the scheduled interest payment otherwise due and payable on any Interest Payment Date that falls on or after the earlier of (a) the Conversion Date and (b) March 31, 2017. The Company will give the Holder and the Debenture Trustee notice of any interest deferral not more than 30 nor less than 10 Business Days prior to the applicable Interest Payment Date. If the Interest Payment Date for which interest deferral is proposed is also the Conversion Date, no election to defer interest due on that date shall be effective unless the Company shall have converted the interest rate on the Securities and paid in full any Conversion Payment due in connection with the conversion.

Any deferred amounts on the Securities not paid on an Interest Payment Date will accumulate but will bear no interest.

The Company may at any time pay in whole or in part any deferred interest by providing at least five Business Days written notice to the Holder and the Debenture Trustee.

The Company may not defer application of any available Conversion Credits, which shall be applied on each Interest Payment Date to reduce the amount of interest paid or deferred, as applicable, on the Securities.

The Company may not elect to defer any scheduled interest on the Securities due on any Interest Payment Date at any time when CEMEX or any of its Subsidiaries has:

(i) declared or paid any dividend, or made any distributions on common stock of CEMEX at or since the most recent annual general meeting of the shareholders of CEMEX;

(ii) paid any interest or other distributions on any Qualifying Equity Security after the interest payment date of the Debentures immediately preceding the Interest Payment Date for which interest deferral is proposed; or

(iii) repurchased, redeemed or otherwise reacquired any Qualifying Equity Security after the interest payment date for the Debentures immediately preceding the Interest Payment Date for which interest deferral is proposed, other than repurchases, redemptions or reacquisitions (a) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (b) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

At any time the Company elects to defer payment of any interest amount on the Securities and for so long as any amount of deferred interest remains unpaid none of CEMEX and its Subsidiaries will:

(i) declare or pay any dividends, make any distributions or pay any interest on any Qualifying Equity Security; or

(ii) repurchase, redeem or otherwise reacquire any Qualifying Equity Security, other than repurchases, redemptions or reacquisitions (a) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (b) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

At any time on or prior to December 31, 2016, upon the first Interest Payment Date for which the Company has elected to defer interest, the Company must, as a condition to interest deferral, convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate as of that Interest Payment Date (which, in the case of such conversion, shall be the "Conversion Date") by written notice to the Holder, the Debenture Trustee, the Trustee and the Swap Counterparty not less than 10 Business Days prior to the Interest Payment Date. No conversion shall be effective on any Interest Payment Date (and such Interest Payment Date shall not constitute the Conversion Date) unless C10 Capital (SPV) Limited shall have received from the Company the applicable Conversion Payments with respect to such conversion.

The interest rate on the Securities will automatically convert from the Yen Rate to the Dollar Fixed Rate, if on any date (which, in the case of such conversion, shall be the "Conversion Date") on or prior to December 31, 2016:

(i) the Conditions to Anticipated Swap Termination, have been deemed satisfied as of such date;

(ii) C10 Capital (SPV) Limited delivers to the Company written notice that an Event of Default with respect to the payment of any installment of interest or any specified event of bankruptcy, liquidation, insolvency or similar proceeding with respect to the Company or any of the Guarantors has occurred;

(iii) the Securities are declared or become immediately due and payable as a result of an Event of Default; or

(iv) any amendment or modification on any term or condition under the Securities, which requires the consent of the holders of the Debentures pursuant to the Debenture Indenture, is made without the written consent of the Swap Counterparty.

Upon conversion, the Company may owe a Conversion Payment under the Conversion Payment Undertaking or may be entitled to Conversion Credits with respect to future interest payments on the Securities, provided that no Conversion Payment shall be due and no Conversion Credits shall apply if the Conditions to Anticipated Swap Termination have been satisfied as of the Conversion Date.

All terms used in this Security which are defined in the Note Indenture shall have the meanings assigned to them in the Note Indenture.

THE NOTE INDENTURE, THE GUARANTEE AND THIS SECURITY SHALL BE GOVERNED BY AND BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

SECTION 204 Form of Trustee's Certificate of Authentication.

This is one of the Securities referred to in the within mentioned Note Indenture.

The Bank of New York

By: _____
Authorized Officer

SECTION 205 Form of Guarantee.

GUARANTEE

For value received, each of the undersigned (collectively, the "Guarantors") hereby jointly and severally unconditionally guarantees, on an unsecured basis, to the Holder of the Security upon which this Guarantee is endorsed, and to the Trustee on behalf of such Holder, the due and punctual payment of the principal of (and premium, if any) and interest (including Additional Amounts) on such Security when and as the same shall become due and payable, whether by acceleration, call for redemption, purchase or otherwise, according to the terms thereof and of the Note Indenture referred to therein. In case of the failure of the Company punctually to make any such payment, the Guarantors hereby agree to cause such payment to be made punctually when and as the same shall become due and payable, whether by acceleration, call for redemption, purchase or otherwise, and as if such payment were made by the Company.

The Guarantors hereby agree that their respective obligations hereunder shall be absolute and unconditional, irrespective of the validity, regularity or enforceability of such Security or the Note Indenture, any failure, omission, delay by or inability of the Trustee or the Holder to enforce the same, any amendment or modification of or deletion from or addition or supplement to or other change in this Guarantee, the Note Indenture, such Security or any other applicable instrument, any waiver of the payment, performance or observance of any of the obligations or agreements contained in this Guarantee, the Note Indenture or such Security, any release or discharge, by operation of law, of any Guarantor from the performance or observance of any obligation or agreement contained in this Guarantee, the Note Indenture or such Security or any other circumstances which might otherwise constitute a legal or equitable discharge or defense of a guarantor. The Guarantors hereby waive the benefits of promptness, demand for payment, diligence, presentment, notice of acceptance, any requirement that the Trustee or any of the Holders exhaust any right or take any action against the Company or any other Person, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest or notice with respect to such Security or the Indebtedness evidenced thereby and all demands whatsoever, and covenant that this Guarantee will remain in full force and effect until the satisfaction of the Guaranteed Obligations. The Guarantors hereby agree that, in the event of a default in payment of principal (or premium, if any) or interest (including Additional Amounts) on such Security, whether at their maturity, by acceleration, call for redemption, purchase or otherwise, legal proceedings may be instituted by the Trustee on behalf of, or by, the Holder of such Security, subject to the terms and conditions set forth in the Note Indenture, directly against the Guarantors to enforce this Guarantee without first proceeding against the Company. The Guarantors agree that if, after the occurrence and during the continuance of an

Event of Default, the Trustee or any of the Holders are prevented by applicable law from exercising their respective rights to accelerate the maturity of the Securities, to collect interest on the Securities, or to enforce or exercise any other right or remedy with respect to the Securities, the Guarantors agree to pay to the Trustee for the account of the Holders, upon demand therefor, the amount that would otherwise have been due and payable had such rights and remedies been permitted to be exercised by the Trustee or any of the Holders.

No reference herein to the Note Indenture and no provision of this Guarantee or of the Note Indenture shall alter or impair this Guarantee of the Guarantors, which is absolute and unconditional, of the due and punctual payment of the principal (and premium, if any) and interest (including Additional Amounts) on the Security upon which this Guarantee is endorsed.

The Guarantors shall be subrogated to all rights of the Holder of such Security against the Company in respect of any amounts paid by the Guarantors on account of such Security pursuant to the provisions of this Guarantee or the Note Indenture; provided, however, that the Guarantors shall not be entitled to enforce or to receive any payments arising out of, or based upon, such right of subrogation until the principal of (and premium, if any) and interest on such Security and all other Securities issued under the Note Indenture shall have been paid in full.

This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time any payment or performance with respect to any of the Guaranteed Obligations is rescinded or must otherwise be returned by the Trustee, any Holder or any other Person upon the insolvency, bankruptcy or reorganization of the Company or otherwise, all as though such payment or performance had not been made or occurred. In the event that any payment, or any part thereof, is rescinded or must otherwise be returned, the Guaranteed Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded or returned. The obligations of the Guarantors under the Guarantee shall not be subject to reduction, termination or other impairment by any set-off, recoupment, counterclaim or defense or for any other reason.

All terms used in this Guarantee that are defined in the Note Indenture referred to in the Security upon which this Guarantee is endorsed shall have the meanings assigned to them in such Note Indenture.

This Guarantee shall not be valid or obligatory for any purpose until the certificate of authentication on the Security upon which this Guarantee is endorsed shall have been executed by the Trustee under the Note Indenture by manual signature.

Reference is made to Article Twelve of the Note Indenture for further provisions with respect to this Guarantee.

This Guarantee shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, each of the Guarantors has caused this Guarantee to be signed by a duly authorized officer.

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

By: _____
Name:
Title:

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

By: _____
Name:
Title:

NEW SUNWARD HOLDING B.V.

By: _____
Name:
Title:

ARTICLE THREE

The Securities

SECTION 301 Title and Terms.

The Securities shall be known and designated as the "Callable Perpetual Dual-Currency Notes" of the Company. The Dual-Currency Notes will be perpetual securities with no maturity date, and they shall bear interest at the Yen Floating Rate, Dollar Fixed Rate or Dollar Floating Rate, as applicable, from the issue date or from the most recent Interest Payment Date to which interest has been paid or duly provided for, as the case may be, payable semi annually on or prior to June 30 and December 31 of each year, beginning on December 31, 2006 during the Yen Floating Rate, as applicable, on or prior to June 30 and December 31 on each year during the Dollar Fixed Rate, as applicable, and quarterly on or prior to March 31, June 30, September 30 and December 31 of each year during the Dollar Floating Rate, as applicable, beginning on March 31, 2017, until the principal thereof is paid or made available for payment (to the extent that payment of such interest shall be legally enforceable), from the date such amount is due until it is paid or made available for payment, and such interest on any overdue amount shall be payable on demand. Notwithstanding the foregoing, the Company shall make all payments to the Trustee within the dates and time periods set forth in the Master Collateral Agreement.

The principal on the Securities shall be payable in immediately available funds and in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. Payment of interest on the Security will be made in immediately available funds and in such coin or currency of the United States of America or Japan, as applicable, as at the time of payment is legal tender payment of public and private debt. Subject to any written agreement between the Company and the applicable Holder, each such payment of principal and interest will be made at the office or agency of the Company in the Borough of Manhattan, The City of New York maintained for such purpose or, at the option of the Holder and subject to any fiscal or other laws and regulations, at any other office or agency maintained by the Company outside of Mexico for such purpose; provided, however, that upon application by the Holder to the Trustee not later than the 10th day immediately preceding the relevant Regular Record Date, such Holder may receive payment by wire transfer to a U.S. Dollar account (such transfers to be made only to Holders of an aggregate principal amount in excess of $5,000,000) maintained by the payee with a bank in The City of New York, New York; and provided, further, that, subject to the preceding proviso, payment of interest may, at the option of the Company, be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register. Unless such designation is revoked, any such designation made by such Holder with respect to such Security will remain in effect with respect to any future payments with respect to such Security payable to such Holder. The Company will pay any administrative costs imposed by banks in connection with making such payments.

The Securities shall be redeemable as provided in Article Eleven.

The Securities shall be irrevocably and unconditionally guaranteed as provided in Article Twelve.

SECTION 302 Denominations.

The Securities shall be issuable only in registered form without coupons and only in denominations of $100,000 and integral multiples of $1,000 in excess thereof.

SECTION 303 Execution, Authentication, Delivery and Dating .

The Securities shall be executed on behalf of the Company by any one of the individuals who may sign an Officers' Certificate on its behalf. The signature of any such Person on the Securities may be manual or facsimile.

Securities bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities.

At any time and from time to time after the execution and delivery of this Note Indenture, the Company may deliver Securities executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities; and the Trustee in accordance with such Company Order shall authenticate and deliver such Securities as in this Note Indenture provided and not otherwise.

Each Security shall be dated the date of its authentication.

No Security shall be entitled to any benefit under this Note Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein executed by the Trustee by manual signature, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder.

SECTION 304 Temporary Securities.

Pending the preparation of definitive Securities, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as evidenced by their execution of such Securities.

If temporary Securities are issued, the Company will cause definitive Securities to be prepared without unreasonable delay. After the preparation of definitive Securities, the temporary Securities shall be exchangeable for definitive Securities upon surrender of the temporary Securities at any office or agency of the Company designated pursuant to Section 1002, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Securities of authorized denominations. Until so exchanged the temporary Securities shall in all respects be entitled to the same benefits under this Note Indenture as definitive Securities.

SECTION 305 Registration, Registration of Transfer and Exchange.

(a) The Company shall cause to be kept at the Corporate Trust Office of the Trustee a register (the register maintained in such office and in any other office or agency designated pursuant to Section 1002 being herein sometimes collectively referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Securities and of transfers of Securities. The Trustee is hereby appointed "Security Registrar" for the purpose of registering Securities and transfers of Securities as herein provided. Upon surrender for registration of transfer of any Security at an office or agency of the Company designated pursuant to Section 1002 for such purpose, and subject to the other provisions of this Section 305, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of any authorized denominations and of a like aggregate principal amount.

At the option of the Holder, and subject to the other provisions of this Section 305, Securities may be exchanged for other Securities of any authorized denominations and of a like aggregate principal amount, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, and subject to the other provisions of this Section 305, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

All Securities issued upon any registration of transfer or exchange of Securities shall be the valid obligations of the Company, evidencing the same debt, and subject to the other provisions of this Section 305, entitled to the same benefits under this Note Indenture, as the Securities surrendered upon such registration of transfer or exchange.

Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed, by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any registration of transfer or exchange of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 304 or 905 not involving any transfer.

(b) Notwithstanding any other provisions of this Note Indenture or the Securities, a Global Security may not be transferred, in whole or in part, to any Person other than the Holders or a nominee thereof, and no such transfer to any such other Person may be registered.

(c) Each Global Security issued hereunder shall, upon issuance, bear the legends required by Section 202 to be applied to such a Security and such required legends shall not be removed from such Security.

SECTION 306 Mutilated, Destroyed, Lost and Stolen Securities.

If any mutilated Security is surrendered to the Trustee, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security of like tenor and principal amount and bearing a number not contemporaneously outstanding.

If there shall be delivered to the Company and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security and (ii) such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a bona fide purchaser, the Company shall execute and the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security, a new Security of like tenor and principal amount and bearing a number not contemporaneously outstanding at the office or agency maintained by the Company for such purpose in the Borough of Manhattan, The City of New York, which will initially be the office of the Trustee.

In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay such Security.

Upon the issuance of any new Security under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Security issued pursuant to this Section in lieu of any destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company,

regardless of whether the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Note Indenture equally and proportionately with any and all other Securities duly issued hereunder.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

SECTION 307 Payment of Interest; Interest Rights Preserved .

Interest on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, subject to any contrary written agreement between the Company and any Holder.

Any interest on any Security which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in Clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities (or their respective Predecessor Securities) are registered at the close of business on a special record date (herein called a "Special Record Date) for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Security and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this Clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Holder at his address as it appears in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Securities (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following Clause (2).

(2) The Company may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this Clause, such manner of payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section, each Security delivered under this Note Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

SECTION 308 Persons Deemed Owners.

Prior to due presentment of a Security for registration of transfer, the Company, the Guarantors, the Trustee and any agent of the Company, any Guarantor or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of (and premium, if any) and (subject to Section 307) interest on such Security and for all other purposes whatsoever, regardless of whether such Security be overdue, and neither the Company, the Guarantors, the Trustee nor any agent of the Company, any Guarantor or the Trustee shall be affected by notice to the contrary.

SECTION 309 Cancellation.

All Securities surrendered for payment, redemption, registration of transfer or exchange shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly cancelled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly cancelled by the Trustee. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section, except as expressly permitted by this Note Indenture. All cancelled Securities held by the Trustee shall be disposed of as directed by a Company Order or otherwise in accordance with the customary procedures of the Trustee.

SECTION 310 Computation of Interest.

Interest on the Securities shall be computed as follows:

Yen Floating Rate Interest— Unless the interest rate has been previously converted to the Dollar Fixed Rate, the Securities will accrue interest in Japanese Yen beginning on the issue date to but not including December 31, 2016, at an annual percentage rate equal to the 6-month Yen LIBO Rate multiplied by 3.38788 (the "Yen Rate"), reset semi-annually, as applied to a Yen principal amount of Japanese Yen 105,115,000,000 (the "Yen Equivalent Principal Amount"). Interest will be payable semi-annually in arrears on June 30 and December 31 of each year (or, if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on December 31, 2006.

The amount of interest payable for any semi-annual interest period will be computed by multiplying the Yen Rate for that semi-annual interest period by a fraction, the numerator of which will be the actual number of days elapsed during that semi-annual interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the Yen Equivalent Principal Amount corresponding to the aggregate outstanding Dollar principal amount of the

Securities. The Yen Equivalent Principal Amount will not change over time as a result of fluctuations in the Yen Rate or the Dollar Floating Rate. For the initial interest period ending on December 31, 2006, the Yen Rate will be 1.39327%.

Dollar Fixed Rate Interest— If the interest rate on the Securities has been converted to the Dollar Fixed Rate, the Securities will accrue interest in Dollars, from the semi-annual Interest Payment Date on or immediately prior to the Conversion Date (or the issue date if there is no semi-annual Interest Payment Date prior to the Conversion Date) to but not including December 31, 2016, at the annual rate of 6.722% (the "Dollar Fixed Rate"), as applied to the aggregate outstanding Dollar principal amount of the Securities. Interest will be payable semi-annually in arrears on June 30 and December 31 of each year (or, if not a Business Day, on the preceding Business Day). The interest due at the Dollar Fixed Rate on an Interest Payment Date may be reduced by the application of Conversion Credits, if applicable, on such Interest Payment Date.

The amount of interest payable for any semi-annual interest accrual period at the Dollar Fixed Rate will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Dollar Floating Rate Interest— The Securities will accrue interest in Dollars, beginning on December 31, 2016, to the date the principal amount of the Securities is repaid in full, at an annual percentage rate equal to the 3-month U.S. Dollar LIBO Rate plus 4.710% (the "Dollar Floating Rate"), as applied to the aggregate outstanding Dollar principal amount of the Securities. Interest will be reset quarterly, as applied to the aggregate outstanding Dollar principal amount of the Securities and payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year (or if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on March 31, 2017.

The amount of interest payable at the Dollar Floating Rate for any quarterly interest period will be computed by multiplying the Dollar Floating Rate for that quarterly interest period by a fraction, the numerator of which will be the actual number of days elapsed during that quarterly interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the aggregate principal amount of the Securities then Outstanding.

Determining the Floating Rates

The "6-month Yen LIBO Rate" means the rate determined in accordance with the provisions defined in Section 203.

The "3-month Dollar LIBO Rate" means the rate determined in accordance with the provisions defined in Section 203.

Interest upon Change of Control

Upon a Change of Control Event, from the date on which the Change of Control Event occurs, the Securities will bear, in addition to the interest otherwise applicable to the Securities, additional interest in Dollars at a rate of 5.00% per year, as applied to the aggregate outstanding Dollar principal amount of the Securities. The amount of additional interest payable for any semi-annual interest accrual period will be computed on the basis of a 360-day year consisting of twelve 30-day months.

SECTION 311 Interest Deferral.

The Company may defer, at its sole discretion, on one or more occasions, payment for all (but not part) of the scheduled interest payment otherwise due and payable on any Interest Payment Date that falls on or after the earlier of (a) the Conversion Date and (b) March 31, 2017. The Company will give the Holder and the Debenture Trustee notice of any interest deferral not more than 30 nor less than 10 business days prior to the applicable Interest Payment Date. If the Interest Payment Date for which interest deferral is proposed is also the Conversion Date, no election to defer interest due on that date shall be effective unless the Company shall have converted the interest rate on the Securities and paid in full any Conversion Payment due in connection with the conversion.

Any deferred amounts on the Securities not paid on an Interest Payment Date will accumulate but will bear no interest.

The Company may at any time pay in whole or in part any deferred interest by providing at least five Business Days written notice to the Holder and the Debenture Trustee.

The Company may not defer application of any available Conversion Credits, which shall be applied on each Interest Payment Date to reduce the amount of interest paid or deferred, as applicable, on the Securities.

SECTION 312 Limitation on Interest Deferral.

The Company may not elect to defer any scheduled interest on the Securities due on any Interest Payment Date at any time when CEMEX or any of its Subsidiaries has:

(i) declared or paid any dividend, or made any distributions on common stock of CEMEX at or since the most recent annual general meeting of the shareholders of CEMEX;

(ii) paid any interest or other distributions on any Qualifying Equity Security after the interest payment date of the Debentures immediately preceding the Interest Payment Date for which interest deferral is proposed; or

(iii) repurchased, redeemed or otherwise reacquired any Qualifying Equity Security after the interest payment date for the Debentures immediately preceding the Interest Payment Date for which interest deferral is proposed, other than repurchases, redemptions or reacquisitions (a) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (b) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

At any time the Company elects to defer payment of any interest amount on the Securities and for so long as any amount of deferred interest remains unpaid none of CEMEX and its Subsidiaries will:

(i) declare or pay any dividends, make any distributions or pay any interest on any Qualifying Equity Security; or

(ii) repurchase, redeem or otherwise reacquire any Qualifying Equity Security, other than repurchases, redemptions or reacquisitions (i) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (ii) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

SECTION 313 Conversion Upon Deferral.

At any time on or prior to December 31, 2016, upon the first Interest Payment Date for which the Company has elected to defer interest, the Company must, as a condition to interest deferral, convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate as of that Interest Payment Date (which shall be the "Conversion Date" for purposes of any conversion pursuant to this Section 313) by written notice to the Holder, the Debenture Trustee, the Trustee and the Swap Counterparty not less than 10 Business Days prior to the payment date. No conversion shall be effective on any Interest Payment Date (and such Interest Payment Date shall not constitute the Conversion Date) unless C10 Capital (SPV) Limited shall have received from the Company on or prior to such Interest Payment Date any applicable Conversion Payments with respect to such conversion.

SECTION 314 Conversion Upon Redemption.

If the company elects to redeem the Securities in accordance with Article Eleven on or prior to December 31, 2016, the Company must, as a condition to redemption, convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate as of that Redemption Date (which shall be the "Conversion Date" for purposes of any conversion pursuant to this Section 314) by written notice to the Holder, the Debenture Trustee, the Trustee and the Swap Counterparty not less than 10 Business Days prior to the Interest Payment Date. Neither C10 Capital (SPV) Limited nor the Debenture Trustee shall apply any proceeds of redemption of the Securities to pay any redemption price due with respect to the Debentures unless C10 Capital (SPV) Limited shall have received from the Company on or prior to such Interest Payment Date any applicable Conversion Payment with respect to such conversion.

SECTION 315 Mandatory Conversion.

The interest rate on the Securities will automatically convert from the Yen Rate to the Dollar Fixed Rate, if on any date (which shall be the "Conversion Date" for purposes of any conversion pursuant to this Section 315) on or prior to December 31, 2016:

(i) the Conditions to Anticipated Swap Termination, have been deemed satisfied as of such date;

(ii) C10 Capital (SPV) Limited delivers to the Company written notice that an Event of Default with respect to the payment of any installment of interest or any Event of Default under clause (5) or (6) of Section 501 has occurred;

(iii) the Securities are declared or become immediately due and payable as a result of an Event of Default; or

(iv) any amendment or modification on any term or condition under the Securities, which requires the consent of the holders of the Debentures pursuant to the Debenture Indenture, is made without the written consent of the Swap Counterparty.

Upon conversion, the Company may owe a Conversion Payment under the Conversion Payment Undertaking or may be entitled to Conversion Credits with respect to future interest payments on the Securities, provided that no Conversion Payment shall be due and no Conversion Credits shall apply if the Conditions to Anticipated Swap Termination have been satisfied as of the Conversion Date.

SECTION 316 No Sinking Fund.

The Securities will not be entitled to the benefit of a sinking fund.

ARTICLE FOUR

Satisfaction and Discharge

SECTION 401 Satisfaction and Discharge of Note Indenture.

This Note Indenture shall cease to be of further effect (except as to any surviving rights of registration of transfer or exchange of Securities herein expressly provided for), and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Note Indenture, when

(1) either

(A) all Securities theretofore authenticated and delivered (other than (i) Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 305 and (ii) Securities for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 1003) have been delivered to the Trustee for cancellation; or

(B) all such Securities not theretofore delivered to the Trustee for cancellation

(i) have become due and payable, or

(ii) will become due and payable at their Stated Maturity within one year, or

(iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company,

and the Company or a Guarantor, in the case of (i), (ii) or (iii) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose an amount sufficient to pay and discharge the entire indebtedness on such Securities not theretofore delivered to the Trustee for cancellation, for principal and interest to the date of such deposit (in the case of Securities which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

(2) the Company or a Guarantor has paid or caused to be paid all other sums payable hereunder by the Company and the Guarantors; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Note Indenture have been complied with.

Notwithstanding the satisfaction and discharge of this Note Indenture, the obligations of the Company to the Trustee under Section 607, the obligations of the Trustee to any Authenticating Agent under Section 612 and, if money shall have been deposited with the Trustee pursuant to subclause (B) of Clause (1) of this Section, the obligations of the Trustee under Section 402 and the last paragraph of Section 1003 shall survive.

SECTION 402 Application of Trust Money.

Subject to the provisions of the last paragraph of Section 1003, all money deposited with the Trustee pursuant to Section 401 shall be held in trust and applied by it, in accordance with the provisions of the Securities and this Note Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal and interest for whose payment such money has been deposited with the Trustee.

ARTICLE FIVE

Remedies

SECTION 501 Events of Default.

"Event of Default", wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) a failure to pay principal when due upon redemption or failure to pay interest, other than deferred interest, or other amounts due upon any Securities or under the Note Indenture within five Business Days after receipt of notice for any interest payment or such other amount due on or prior to the Conversion Date, and within 30 days of the date due for any interest payment due after the earlier of the Conversion Date and December 31, 2016;

(2) a failure to pay any amount due under the Conversion Payment Undertaking within 30 days of the due date;

(3) the Company or any of the Guarantors defaults in the performance or observance of any of its obligations with respect Sections 801 and 1005;

(4) the Company or any of the Guarantors defaults in the performance or observance of any of its covenants or other obligations (other than the obligation of CEMEX under Section 1006) and continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Company by the Trustee or by the Holders of at least 25% in principal amount of the Outstanding Securities a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder;

(5) the entry by a competent court of (A) a decree or order for relief in respect of the Company or any Guarantor in an involuntary case or proceeding under any applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law, or (B) a decree or order adjudging the Company or any such Guarantor bankrupt, insolvent or in *concurso mercantil*, or approving as properly filed a petition seeking reorganization, arrangement, adjustment, *concurso mercantil*, or composition of or in respect of, the Company or any such Guarantor under any applicable law of Mexico, or the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable law, or appointing a custodian, receiver, *síndico*, liquidator, conciliator, assignee, trustee, sequestrator or other similar official of the Company or any such Guarantor or of any substantial part of the property of the Company or any such Guarantor, or ordering the winding up or liquidation of the affairs of the Company or any such Guarantor and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days, other than, in any such case, any decree or order issued pursuant to proceedings that have been commenced prior to the date of this Note Indenture;

(6) the commencement by the Company or any Guarantor of a voluntary case or proceeding under any applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law or of any other case or proceeding to be adjudicated bankrupt, insolvent or in *concurso mercantil*, or the consent by the Company or any such Guarantor to the entry of a decree or order for relief in respect of the Company or any Guarantor in an involuntary case or proceeding under any applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law

or to the commencement of any bankruptcy or insolvency case or proceeding against the Company or any Guarantor, or the filing by the Company or any such Guarantor of a petition or answer or consent seeking reorganization, *concurso mercantil*, or relief under any applicable law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable law, or the consent by the Company or any such Guarantor to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, *síndico*, liquidator, conciliator, assignee, trustee, sequestrator or similar official of the Company or any Guarantor or of any substantial part of the property of the Company or any Guarantor, or the making by the Company or any Guarantor of an assignment for the benefit of creditors, or the admission by the Company or any such Guarantor in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company or any such Guarantor in furtherance of any such action; or

(7) any of the Securities, the Note Indenture, the Conversion Payment Undertaking or any Guarantee ceases to be, or is claimed by the Company or any Guarantor not to be, in full force and effect.

SECTION 502 Acceleration of Maturity; Rescission and Annulment .

If an Event of Default (other than an Event of Default specified in Section 501(5) or 501 (6)) occurs and is continuing, then and in every such case the Trustee shall, at the written request of the Holders of not less than 25% in principal amount of the Outstanding Securities, by notice in writing to the Company, declare the principal of all the Securities to be due and payable immediately, and upon any such declaration such principal and any accrued interest and any unpaid Additional Amounts thereon shall become immediately due and payable. Regardless of whether any action is taken by Holders pursuant to the preceding sentence if an Event of Default specified in Section 501(5) or (6) occurs and is continuing, the principal and any accrued interest, together with any Additional Amounts thereon, on all of the Securities then Outstanding shall *ipso facto* become due and payable immediately without any declaration or other Act on the part of the Trustee or any Holder.

At any time after such a declaration of acceleration has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article, provided the Holders of at least 25% in principal amount of the Outstanding Securities, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if:

(1) the Company or any Guarantor has paid or deposited with the Trustee a sum sufficient to pay

(A) all overdue interest and any Additional Amounts thereon on all of the Securities,

(B) the principal of any Securities which have become due otherwise than by such declaration of acceleration and interest and any Additional Amounts thereon at the rate borne by the Securities,

(C) to the extent that payment of such interest is lawful, interest upon overdue interest at the rate borne by the Securities, and

(D) all sums paid or advanced by the Trustee hereunder and all amounts owing the Trustee under Section 607;

and

(2) all Events of Default, other than the non payment of the principal of Securities which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 513.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

SECTION 503 Collection of Indebtedness and Suits for Enforcement by Trustee .

The Company covenants that if default is made in the payment of the principal of any Security at the Maturity thereof or any interest on any Security when such interest becomes due and payable and such default continues for a period of five Business Days after receipt of notice for any interest payment or such other amount due on or prior to the Conversion Date, and within 30 days of the date due for any interest payment or such other amount due after the earlier of the Conversion Date and December 31, 2016, the Company will, upon demand of the Trustee, pay to it, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal and interest, and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal and on any overdue interest, at the rate borne by the Securities, together with any Additional Amounts thereon, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and all amounts due the Trustee under Section 607.

If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company, any Guarantor or any other obligor upon the Securities and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company, any Guarantor or any other obligor upon the Securities, wherever situated.

If an Event of Default occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Note Indenture or the Guarantee or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

SECTION 504 Trustee May File Proofs of Claim.

In case of any judicial proceeding relating to the Company, any Guarantor or any other obligor upon the Securities, its property or its creditors, the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise, to take any and all actions authorized under the Trust Indenture Act (were such Act to apply with respect to this Note Indenture) in order to have claims of the Holders and the Trustee allowed in any such proceeding. In particular, the Trustee shall be authorized to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 607.

No provision of this Note Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding; provided, however, that the Trustee may, on behalf of the Holders, vote for the election of a trustee in bankruptcy or similar official and be a member of a creditors' or other similar committee.

SECTION 505 Trustee May Enforce Claims Without Possession of Securities.

All rights of action and claims under this Note Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

SECTION 506 Application of Money Collected.

Any money collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal or interest, upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee under Section 607; and

SECOND: To the payment of the amounts then due and unpaid for principal of and interest on the Securities in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal and interest, respectively.

SECTION 507 Limitation on Suits.

At any time when there is more than one Holder of Securities, no Holder of any Security shall have any right to institute any proceeding, judicial or otherwise, with respect to this Note Indenture or the Guarantee, or for the appointment of a receiver or trustee, or for any other remedy hereunder or under the Guarantee, unless

(1) such Holder has previously given written notice to the Trustee of a continuing Event of Default;

(2) the Holders of not less than 25% in principal amount of the Outstanding Securities shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(3) such Holder or Holders have offered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request;

(4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(5) no direction inconsistent with such written request has been given to the Trustee during such 60 day period by the Holders of a majority in principal amount of the Outstanding Securities;

it being understood and intended that no one or more Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Note Indenture to affect, disturb or prejudice the rights of any other Holders, or to obtain or to seek to obtain priority or preference over any other Holders or to enforce any right under this Note Indenture, except in the manner herein provided and for the equal and ratable benefit of all the Holders.

SECTION 508 Unconditional Right of Holders to Receive Principal and Interest .

Notwithstanding any other provision in this Note Indenture, the Holder of any Security (subject to Section 311) shall have the right, which is absolute and unconditional, to receive payment of the principal of and (subject to Section 307) interest on such Security, as applicable, on any relevant Stated Maturity expressed in such Security (or, in the case of redemption, on the Redemption Date), and to institute suit for the enforcement of any such payment, including under the Guarantee, and such rights shall not be impaired without the consent of such Holder.

SECTION 509 Restoration of Rights and Remedies.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Note Indenture or the Guarantee and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Guarantors, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

SECTION 510 Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 306, no right or remedy herein or in the Guarantee conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 511 Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder of any Security to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article 5 or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

SECTION 512 Control by Holders.

The Holders of a majority in principal amount of the Outstanding Securities shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee, provided that

(1) such direction shall not be in conflict with any rule of law or with this Note Indenture,

(2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction, and

(3) the Trustee need not follow any such direction if doing so would in its reasonable discretion either involve it in personal liability or be unduly prejudicial to Holders not joining in such direction;

provided further, that the Trustee shall have no obligation to make any determination with respect to any such conflict, personal liability or undue prejudice.

SECTION 513 Waiver of Past Defaults.

The Holders of not less than a majority in principal amount of the Outstanding Securities (or such lesser percentage of the aggregate principal amount of the Outstanding Securities as may act at a meeting of the Holders pursuant to Section 1304) may on behalf of the Holders of all the Securities waive any past default hereunder and its consequences, except a default

(1) in the payment of the principal of or interest on any Security, or

(2) in respect of a covenant or provision hereof which under Article Nine cannot be modified or amended without the consent of the Holder of each Outstanding Security affected.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Note Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 514 Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Note Indenture or the Guarantee, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, a court may require any party litigant in such suit to file an undertaking to pay the costs of such suit, and may assess costs against any such party litigant; provided, that this Section 514 shall not be deemed to authorize any court to require such an undertaking or to make such an assessment in any suit instituted by the Company or any Guarantor, to any suit instituted by the Trustee, to any suit instituted by any Holder or group of Holders holding in the aggregate more than 10% in principal amount of the Outstanding Securities, or to any suit instituted by any Holder of any Security for the enforcement of the payment of the principal of or interest on any Security on or after the Stated Maturity expressed in such Security (or, in the case of redemption, on or after the Redemption Date).

SECTION 515 Waiver of Usury, Stay or Extension Laws.

Each of the Company and the Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any usury, stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Note Indenture; and each of the Company and the Guarantors (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE SIX

The Trustee

SECTION 601 Certain Duties and Responsibilities.

(a) Except during the continuance of an Event of Default,

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Note Indenture, and no implied covenants or obligations shall be read into this Note Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this

Note Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether they conform to the requirements of this Note Indenture.

(b) In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Note Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(c) No provision of this Note Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1) this paragraph (c) shall not be construed to limit the effect of paragraph (a) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in principal amount of the Outstanding Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Note Indenture; and

(4) no provision of this Note Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Regardless of whether therein expressly so provided, every provision of this Note Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

SECTION 602 Notice of Defaults.

Within 90 days after the occurrence of any default hereunder of which the Trustee has adequate actual notice, the Trustee shall give to all Holders, in the manner provided for in Section 106, notice of such default hereunder known to the Trustee, unless such default shall have been cured or waived; provided, however, that in the case of any default of the character specified in Section 501(2) and 501(4), no such notice to Holders shall be given until at least 30 days after the occurrence thereof. For the purpose of this Section, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default.

SECTION 603 Certain Rights of Trustee.

Subject to the provisions of Section 601:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

(c) whenever in the administration of this Note Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officers' Certificate;

(d) the Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(e) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Note Indenture at the request or direction of any of the Holders pursuant to this Note Indenture, unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney; and

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

SECTION 604 Not Responsible for Recitals or Issuance of Securities.

The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company or the Guarantors, as the case may be, and the Trustee or any Authenticating Agent assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Note Indenture, the Guarantee or of the Securities. The Trustee or any Authenticating Agent shall not be accountable for the use or application by the Company of Securities or the proceeds thereof.

SECTION 605 May Hold Securities.

The Trustee, any Authenticating Agent, any Paying Agent, any Security Registrar or any other agent of the Company or any Guarantor, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Section 601, may otherwise deal with the Company or any Guarantor with the same rights it would have if it were not Trustee, Authenticating Agent, Paying Agent, Security Registrar or such other agent.

SECTION 606 Money Held in Trust.

Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company or any Guarantor, as the case may be.

SECTION 607 Compensation and Reimbursement.

The Company and each Guarantor agrees

(1) to pay to the Trustee from time to time reasonable compensation for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Note Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except to the extent any such expense, disbursement or advance may be attributable to its negligence or bad faith; and

(3) to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense arising out of or in connection with the acceptance or administration of this trust or the performance of its duties hereunder, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its negligence or bad faith.

The obligations of the Company under this Section 607 shall constitute additional indebtedness hereunder as to which the Trustee shall have a claim senior to the Securities (which are hereby subordinated thereto) to all property and funds collected by the Trustee as such (except funds held in trust for the benefit of particular Securities) and shall survive satisfaction and discharge of this Note Indenture. “Trustee” for purposes of this Section 607 shall include each Trustee, predecessor trustee, Authenticating Agent, Paying Agent, Security Registrar or other agent of the Trustee, Company or Guarantor appointed hereunder, but the negligence or bad faith of any such Person shall not affect the rights of any other such Person under this Section 607. The Guarantors agree that upon the occurrence of the conditions to the effectiveness of the Guarantee described therein, the Guarantors shall be jointly and severally liable for the obligations of the Company pursuant to this Section 607.

SECTION 608 Corporate Trustee Required; Eligibility.

There shall at all times be one (and only one) Trustee hereunder, which shall be a corporation organized, in good standing and doing business under the laws of the United States of America, any State thereof or the District of Columbia, shall be authorized under such laws to exercise corporate trust powers, shall have a combined capital and surplus of at least $50,000,000, shall be subject to supervision or examination by federal or state authority, and shall have a place of business in the Borough of Manhattan, The City of New York. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section 608, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article. Neither the Company, nor any Guarantor nor any other obligor upon the Securities nor any Affiliate of any of the foregoing shall serve as Trustee.

SECTION 609 Resignation and Removal; Appointment of Successor .

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 610.

(b) The Trustee may resign at any time by giving written notice thereof to the Company and the Guarantors. If an instrument of acceptance by a successor Trustee required by Section 610 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed at any time by Act of the Holders of a majority in principal amount of the Outstanding Securities, delivered to the Trustee and to the Company.

(d) If at any time:

(1) the Trustee shall cease to be eligible under Section 608 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(2) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Company by a Board Resolution may remove the Trustee, or (ii) subject to Section 514, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the Company, by a Board Resolution,

shall promptly appoint a successor Trustee. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Securities delivered to the Company, the Guarantors and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment in the manner hereinafter provided, become the successor Trustee and supersede the successor Trustee appointed by the Company. If no successor Trustee shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(f) The Company shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee to all Holders in the manner provided in Section 106. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office.

SECTION 610 Acceptance of Appointment by Successor.

Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Company, the Guarantors and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder. Upon request of any such successor Trustee, the Company and the Guarantors shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts.

No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article.

SECTION 611 Merger, Conversion, Consolidation or Succession to Business.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities.

SECTION 612 Appointment of Authenticating Agent .

The Trustee may appoint an Authenticating Agent or Agents which shall be authorized to act on behalf of the Trustee to authenticate Securities issued upon original issue and upon exchange, registration of transfer or pursuant to Section 305, and Securities so authenticated shall be entitled to the benefits of this Note Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Wherever reference is made in this Note Indenture to the authentication and delivery of Securities by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than $50,000,000 and subject to supervision or examination by federal or State authority. If such Authenticating Agent publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such Authenticating Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, provided such corporation shall be otherwise eligible under this Section, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, the Trustee may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall mail written notice of such appointment by first class mail, postage prepaid, to all Holders as their names and addresses appear in the Security Register. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

The Trustee agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section, and the Trustee shall be entitled to be reimbursed for such payments, subject to the provisions of Section 607.

If an appointment is made pursuant to this Section, the Securities may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

This is one of the Securities described in the within mentioned Note Indenture.

The Bank of New York,
As Trustee

By _____
As Authenticating Agent

By _____
Authorized Officer

SECTION 613 Withholding Tax Information.

The Trustee will provide copies to the Company, upon the written request of the Company, of any Department of the Treasury Form W-8 (Certificate of Foreign Status) or W-9 (Request for Taxpayer Identification Number and Certification), any substitute form therefor and any other similar documentation, if any, that is received by the Trustee from the Holders or beneficial owners of the Securities, unless, in the case of any such form or documentation provided to the Trustee by a particular Holder or beneficial owner of Securities, such Holder or beneficial owner provides a legal opinion reasonably satisfactory to the Trustee to the effect that so providing such form or similar documentation to the Company is prohibited by applicable law.

ARTICLE SEVEN

Holders' Lists and Reports by Trustee and Company

SECTION 701 Company to Furnish Trustee Names and Addresses of Holders .

The Company will furnish or cause to be furnished to the Trustee

(a) semi-annually, not more than 15 days after each Regular Record Date, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders as of such Regular Record Date, and

(b) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished;

excluding from any such list names and addresses received by the Trustee in its capacity as Security Registrar.

SECTION 702 Preservation of Information; Communications to Holders .

The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 701 and the names and addresses of Holders received by the Trustee in its capacity as Security Registrar. The Trustee may destroy any list furnished to it as provided in Section 701 upon receipt of a new list so furnished.

ARTICLE EIGHT

Consolidation, Merger, Conveyance, Transfer or Lease

SECTION 801 Company May Consolidate, Etc. Only on Certain Terms .

So long as any of the Securities remain outstanding, neither the Company nor any Guarantor will, in one or more related transactions, (x) consolidate with or merge into any other Person or permit any other Person to merge into it or (y), directly or indirectly, transfer, convey, sell, lease or otherwise dispose of all or substantially all of its properties and assets to any Person, unless, with respect to any transaction described in clause (x) or (y), immediately after giving effect to such transaction:

(1) the Person formed by any such consolidation or merger, if it is not the Company or any Guarantor, or the Person that acquires by transfer, conveyance, sale, lease or other disposition all or substantially all of the properties and assets of the Company or any Guarantor, as the case may be, (any such Person, a "Successor") shall be a corporation organized and validly existing under the laws of its place of incorporation, which (A) in the case of a Successor to CEMEX shall be Mexico, the United States of America, Canada, France, Belgium, Germany, Italy, Luxembourg, the Netherlands, Portugal, Spain, Switzerland or the United Kingdom, or any political subdivision thereof, (B) in the case of a Successor to the Company, shall expressly assume by an indenture supplemental hereto executed and delivered to the Trustee, in form satisfactory to the Trustee, the due and punctual payment of the principal of and interest on all the Securities and the performance of every covenant of the Note Indenture on the part of the Company to be performed or observed and (C) in the case of a Successor to any Guarantor, shall expressly assume (by an indenture supplemental hereto and an instrument supplemental to the Guarantee executed and delivered to the Trustee, in forms satisfactory to the Trustee) the performance of every covenant of the Note Indenture and the Guarantee on the part of such Guarantor to be performed or observed;

(2) in the case of any such transaction involving the Company or any Guarantor, the Company or such Guarantor, or the Successor thereof, as the case may be, shall expressly agree to indemnify each Holder (and each holder of a beneficial interest in a Security) against any tax, levy, assessment or governmental charge payable by withholding or deduction thereafter imposed on such Holder (or holder of a beneficial interest in the Securities) solely as a consequence of such transaction with respect to payments in respect of the Securities or any purchase thereof by the Company or any Guarantor, or the Successor of any thereof;

(3) immediately after giving effect to such transaction, including for purposes of this clause (3) the substitution of any Successor to the Company for the Company or the substitution of any Successor to a Guarantor for such Guarantor and treating any Debt or Lien incurred by the Company or any Successor to the Company, or by any Successor to the Company as a result of such transactions as having been incurred at the time of such transaction, no Event of Default, or an event or condition which, after the giving of notice or lapse of time, or both, would become an Event of Default, shall have occurred and be continuing; and

(4) CEMEX has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with.

SECTION 802 Successor Substituted.

Upon any consolidation of the Company or any Guarantor with, or merger of the Company or any Guarantor into, any other Person or any conveyance, transfer, sale, lease or other disposition of the properties and assets of the Company or any Guarantor in accordance with Section 801, the Successor shall succeed to, and be substituted for, and may exercise every right and power of, the Company or such Guarantor, as the case may be, under this Note Indenture and the Guarantee with the same effect as if such Successor had been named as the Company or such Guarantor, as the case may be, herein and therein, and thereafter, except in the case of a lease, the predecessor Person shall be relieved of all obligations and covenants under this Note Indenture, the Guarantee and the Securities.

ARTICLE NINE

Supplemental Indentures

SECTION 901 Supplemental Indentures Without Consent of Holders.

Without the consent of any Holders, the Company and the Guarantors, when authorized by an Officers' Certificate, and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form reasonably satisfactory to the Trustee, for any of the following purposes:

(1) to add a guarantor; or

(2) to add to the covenants of the Company for the benefit of the Holders, or to surrender any right or power herein conferred upon the Company; or

(3) to cure any ambiguity or correct any manifest error; or

(4) to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Note Indenture which shall not be inconsistent with the provisions of this Note Indenture, provided that such action pursuant to this Clause (4) shall not adversely affect the interests of the Holders or the holder of any beneficial interest in a Debenture in any material respect; or

(5) to evidence the succession of another Person to the Company or any Guarantor and the assumption by any such successor of the covenants of the Company or such Guarantor, as the case may be, herein and in the Securities; or

(6) to secure the Securities.

SECTION 902 Supplemental Indentures With Consent of Holders.

With the consent of the Trustee, Swap Counterparty, the holders of not less than the majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and the Holders of not less than a majority in principal amount of the Outstanding Securities (or such lesser percentage of the aggregate principal amount of the Outstanding Securities as may act at a meeting of the Holders pursuant to Section 1304), by Act of said Holders delivered to the Company and the Trustee, the Company and the Guarantors, when authorized by an Officers' Certificate, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Note Indenture or of modifying in any manner the rights of the Holders or any beneficial interests in the Securities under this Note Indenture; provided, however, that no such supplemental indenture shall, without the consent of the Holders of each Outstanding Security and the holders of each Debenture affected thereby,

(1) change any Stated Maturity of the principal of, or any installment of interest on, any Security, or reduce the principal amount thereof or the rate of interest thereon, or change the obligation of the Company to pay Additional Amounts pursuant to Section 1007 or change the place of payment where, or the coin or currency in which, any Security or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date, or

(2) reduce the percentage in principal amount of the Outstanding Securities, the consent of whose Holders is required for any such supplemental indenture or any amendment or modification to the Guarantee, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Note Indenture or certain defaults hereunder and their consequences or of compliance with the Guarantee) provided for in this Note Indenture, or

(3) modify any of the provisions of this Section 902 or Section 513 except to increase any such percentage or to provide that certain other provisions of this Note Indenture and the Guarantee cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby, or

(4) modify any of the provisions of Section 113, 1006 or 1010 in a manner adverse to any Holder of a Security, or

(5) release any Guarantor (other than as provided in Article Eight hereof).

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

SECTION 903 Execution of Supplemental Indentures.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Note Indenture, the Trustee shall be entitled to receive, and (subject to Section 601) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Note Indenture. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Note Indenture or otherwise.

SECTION 904 Effect of Supplemental Indentures.

Upon the execution of any supplemental indenture under this Article, this Note Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Note Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

SECTION 905 Reference in Securities to Supplemental Indentures.

Securities authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities so modified as to conform, in the opinion of the Trustee and the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Securities.

ARTICLE TEN

Covenants

SECTION 1001 Payment of Principal and Interest.

The Company will duly and punctually pay the principal of and interest (together with any Additional Amounts payable thereon) on the Securities in accordance with the terms of the Securities and this Note Indenture. The Guarantors jointly and severally covenant that they will, as and when any amounts are due hereunder or under any Security, duly and punctually pay such amounts as provided in the Guarantee.

SECTION 1002 Maintenance of Office or Agency.

The Company will maintain in the Borough of Manhattan, The City of New York, an office or agency where Securities may be presented or surrendered for payment, where Securities may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company or any Guarantor in respect of the Securities, this Note Indenture or the Guarantee may be served. The Company will give prompt written notice to the Trustee of the

location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and each of the Company and the Guarantors hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

SECTION 1003 Money for Security Payments to Be Held in Trust.

If the Company shall at any time act as its own Paying Agent, it will, on or before each due date of the principal of or interest (together with any Additional Amounts payable thereon) on any of the Securities, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal or interest (together with any Additional Amounts payable thereon) so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents, it will, prior to each due date of the principal of or interest (together with any Additional Amounts payable thereon) on any Securities, deposit with a Paying Agent a sum sufficient to pay such amount, such sum to be held in trust for the benefit of Persons entitled to such principal or interest (together with any Additional Amounts payable thereon), and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of its action or failure so to act.

The Company will cause each Paying Agent other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section 1003, that such Paying Agent will

(1) hold all sums held by it for the payment of the principal of or interest on Securities in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;

(2) give the Trustee notice of any default by the Company (or any other obligor upon the Securities including, without limitation, any Guarantor) in the making of any payment in respect of the Securities; and

(3) at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Note Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of or interest (together with any Additional Amounts payable thereon) on any Security and remaining unclaimed for two years after such principal or interest (together with any Additional Amounts payable thereon) has become due and

payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Security shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in newspapers published in the English language, customarily published on each Business Day and of general circulation in the Borough of Manhattan, The City of New York, that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 1004 Statement by Officers as to Default.

In the event that any officer of the Company or CEMEX becomes aware of or obtains knowledge of the occurrence of any Event of Default or Default, if any such Event of Default or Default is then continuing, CEMEX will deliver to a Responsible Officer of the Trustee an Officers' Certificate of CEMEX, one of the signatories of which shall be the Corporate Planning and Finance Director, Finance Director, Chief Financial Officer or Comptroller of CEMEX, setting forth the details thereof and the action that the Company or CEMEX is taking or proposes to take with respect thereto and shall make such Officers' Certificate available for inspection by Holders and holders of beneficial interests in the Securities.

SECTION 1005 Corporate Existence.

The Company and each Guarantor will at all times preserve and keep in full force and effect its corporate existence and rights and franchises deemed material to its business, except as otherwise specifically permitted by Section 801 and except that the corporate existence of any Subsidiary of CEMEX may be terminated, and any right or franchise may be disposed of, if such termination or disposition is, in the good faith judgment of CEMEX, in the best interests of CEMEX and is not disadvantageous to the Holders or the holders of beneficial interests in Securities.

SECTION 1006 Available Information.

(a) At all times when CEMEX is required to file any financial statements or reports with the Commission, CEMEX shall use its best efforts to file all required statements or reports in a timely manner in accordance with the rules and regulations of the Commission. In addition, at any time when CEMEX is not subject to or is not current in its reporting obligations under Section 13 or Section 15(d) of the Exchange Act or is not included on the Commission's list of foreign private issuers that claim exemption from the registration requirements of Section 12(g) of the Exchange Act pursuant to Rule 12g3-2(b) thereunder and any Debentures remain outstanding (or if otherwise required with respect to the Company, any Guarantor or Holder), CEMEX will make available, upon request, to any holder and any prospective purchaser of Debentures that are "restricted securities" under the Securities Act, the information referred to in Rule 144A(d)(4) under the Securities Act in order to permit resales of the Debentures in compliance with Rule 144A.

(b) In addition to the information required to be provided under Section 1006(a), CEMEX will deliver to the Trustee, promptly upon the mailing thereof to the shareholders of CEMEX, copies of all financial statements, reports and proxy statements so mailed.

SECTION 1007 Payment of Additional Amounts .

(a) All payments of principal and interest in respect of the Securities, the Note Indenture and the Guarantee by or for the account of the Company or any Guarantor shall be made without withholding or deduction for any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of Mexico, the Netherlands, the British Virgin Islands or in the event the Company or any Guarantor appoints additional paying agents, by the jurisdictions of such additional paying agents (each a "Note Taxing Jurisdiction"), or any political subdivision thereof or any authority therein or thereof ("Applicable Taxes"), except to the extent that such Applicable Taxes are required by a Note Taxing Jurisdiction or any such political subdivision or authority to be withheld or deducted. In the event of any withholding or deduction for any Applicable Taxes, the Company and the Guarantors shall pay such additional amounts ("Additional Amounts") as will result in receipt by the Holders of Securities on the respective due dates of such amounts as would have been received by them had no such withholding or deduction (including for any Applicable Taxes payable in respect of Additional Amounts) been required, except that no such Additional Amounts shall be payable with respect to any payment on a Security:

(i) to the extent that such taxes or duties are imposed or levied by reason of such holder (or the beneficial owner) having some connection with the Note Taxing Jurisdiction other than the mere holding (or beneficial ownership) of such Securities;

(ii) to the extent that such taxes or duties are imposed on, or measured by, net income of the holder (or beneficial owner);

(iii) in respect of which the holder (or beneficial owner) fails to comply with any certification, identification or other reporting requirement concerning its nationality, residence, identity or connection with the Note Taxing Jurisdiction if (1) compliance is required by applicable law, regulation, administrative practice or treaty as a precondition to exemption from all or a part of the taxes, (2) the holder (or beneficial owner) is able to comply with those requirements without undue hardship and (3) the Company has given all holders at least 30 days' prior notice that they will be required to comply with such requirements;

(iv) in respect of which the holder (or beneficial owner) fails to surrender (where surrender is required) its Securities for payment within 30 days after the Company has made available a payment of principal or interest, provided that the Company will pay Additional Amounts to which a holder would have been entitled had the Securities been surrendered on any day (including the last day) within such 30-day period;

(v) to the extent that such taxes or duties are imposed by reason of an estate, inheritance, gift, value added, use or sales tax or any similar taxes, assessments or other governmental charges;

(vi) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive; or

(vii) by or on behalf of a holder who would have been able to avoid such withholding or deduction by presenting the relevant Securities to another paying agent in a member state of the European Union.

The Company shall provide the Trustee, as soon as practicable, with documentation (which may consist of certified copies of such documentation) satisfactory to the Trustee evidencing the payment of Applicable Taxes in respect of which the Company has paid any Additional Amounts. Copies of such documentation shall be made available to the Holders of the Securities or the Paying Agent, as applicable, upon request therefor.

In respect of the Securities issued hereunder, at least five Business Days prior to the first date of payment of interest on the Securities and at least five Business Days prior to each date, if any, of payment of principal or interest thereafter if there has been any change with respect to the matters set forth in the below mentioned Officers' Certificate, the Company shall furnish the Trustee and each Paying Agent with an Officers' Certificate instructing the Trustee and such Paying Agent as to whether such payment of principal of or any interest on such Securities shall be made without deduction or withholding for or on account of any tax, duty, assessment or other governmental charge. If any such deduction or withholding shall be required by Mexico or under the federal laws of the United States, then such certificate shall specify, by country, the amount, if any, required to be deducted or withheld on such payment to Holders of such Securities, and the Company shall pay or cause to be paid to the Trustee or such Paying Agent Additional Amounts, if any, required by this Section 1007. The Company agrees to indemnify the Trustee and each Paying Agent for, and to hold them harmless against, any loss, liability or expense reasonably incurred without negligence or bad faith on their part arising out of or in connection with actions taken or omitted by them in reliance on any Officers' Certificate furnished pursuant to this Section 1007.

(b) The Company and the Guarantors shall pay all stamp and other duties, if any, which may be imposed by Mexico, the United States of America, the Netherlands or any other applicable jurisdiction or any other governmental entity or political subdivision therein or thereof, or any taxing authority of or in any of the foregoing, with respect to the Note Indenture, the Guarantee or the issuance of the Securities.

(c) The Company shall provide each Paying Agent and any withholding agent under relevant tax regulations with copies of each certificate received by the Company from a Holder of a Security pursuant to the text of such Security. Each such Paying Agent and withholding agent shall retain each such certificate received by it for as long as any Security is Outstanding and in no event for less than four years after its receipt, and for such additional period thereafter, as set forth in an Officers' Certificate, as such certificate may become material in the administration of applicable tax laws.

(d) All references in this Note Indenture, the Securities and the Guarantee to principal or interest in respect of any Security shall be deemed to mean and include all Additional Amounts, if any, payable in respect of such principal or interest, unless the context otherwise requires, and express mention of the payment of Additional Amounts in any provision hereof or thereof shall not be construed as excluding reference to Additional Amounts in those provisions hereof and thereof where such express mention is not made. All references in this Note Indenture, the Securities and the Guarantee to principal in respect of any Security shall be deemed to mean and include any Redemption Price payable in respect of such Security pursuant to any redemption hereunder (and all such references to the Stated Maturity of the principal in respect of any Security shall be deemed to mean and include the Redemption Date with respect to any such Redemption Price), and all such references to principal, interest or Additional Amounts shall be deemed to mean and include any amount payable in respect thereof pursuant to Section 1010, and express mention of the payment of any Redemption Price, or any such other amount, in those provisions hereof and thereof shall not be construed as excluding reference to the Redemption Price or any such other amount in those provisions hereof and thereof where such express reference is not made.

SECTION 1008 Limitation on Liens.

So long as any Securities remain Outstanding, CEMEX shall not, and shall not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of CEMEX or any Subsidiary, whether now owned or held or hereafter acquired, other than the following Liens ("Permitted Liens"):

(i) Liens for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Mexican GAAP shall have been made;

(ii) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Mexican GAAP shall have been made;

(iii) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security;

(iv) any attachment or judgment Lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(v) Liens existing on the date of original issuance of the Securities;

(vi) any Lien on property acquired by CEMEX after the date of original issuance of the Securities that was existing on the date of acquisition of such property; provided that such Lien was not incurred in anticipation of such acquisition, and any Lien created to secure all or any part of the purchase price, or to secure Debt incurred or assumed

to pay all or any part of the purchase price, of property acquired by CEMEX or any of its Subsidiaries after the date of original issuance of the Securities; provided, further, that (A) any such Lien permitted pursuant to this clause (vi) shall be confined solely to the item or items of property so acquired (including, in the case of any Acquisition of a corporation through the acquisition of 51% or more of the voting stock of such corporation, the stock and assets of any Acquired Subsidiary or Acquiring Subsidiary) and, if required by the terms of the instrument originally creating such Lien, other property which is an improvement to, or is acquired for specific use with, such acquired property; and (B) if applicable, any such Lien shall be created within nine months after, in the case of property, its acquisition, or, in the case of improvements, their completion;

(vii) any Liens renewing, extending or refunding any Lien permitted by paragraph (vi) above, provided that the principal amount of Debt secured by such Lien immediately prior thereto is not increased or the maturity thereof reduced and such Lien is not extended to the other property;

(viii) any Liens created on shares of capital stock of CEMEX or any of its Subsidiaries solely as a result of the deposit or transfer of such shares into a trust or a special purpose corporation (including any entity with legal personality) of which such shares constitute the sole assets; provided that any shares of Subsidiary stock held in such trust, corporation or entity could be sold by CEMEX under this Note Indenture; and provided, further, that such Liens may not secure Debt of CEMEX or any Subsidiary (unless permitted under another clause of this Section 1008);

(ix) any Liens on securities securing repurchase obligations in respect of such securities;

(x) any Liens in respect of any Qualified Receivables Transaction; or

(xi) in addition to the Liens permitted by the foregoing clauses (i) through (x), Liens securing Debt of CEMEX and its Subsidiaries that in the aggregate secure obligations in an amount not in excess of 5% of Adjusted Consolidated Net Tangible Assets;

unless, in each case, CEMEX has made or caused to be made effective provision whereby the Securities and the Conversion Payment Undertaking are secured equally and ratably with, or prior to, the Debt secured by such Liens (other than Permitted Liens) for so long as such Debt is so secured.

SECTION 1009 Listing.

CEMEX will use its best efforts to cause the Debentures to be duly authorized for listing on the Irish Stock Exchange or another recognized securities exchange and shall from time to time take such other actions as shall be necessary or advisable to maintain the listing of the Debentures thereon.

SECTION 1010 Indemnification of Judgment Currency.

The Company and each Guarantor shall, to the fullest extent permitted by law, indemnify the Trustee and any Holder of a Security against any loss incurred by the Trustee or such Holder, as the case may be, as a result of any judgment or order being given or made for any amount due under this Note Indenture or such Security and being expressed and paid in a currency (the "Judgment Currency") other than Dollars, and as a result of any variation between (i) the rate of exchange at which the Dollar amount is converted into the Judgment Currency for the purpose of such judgment or order and (ii) the spot rate of exchange in The City of New York at which the Trustee or such Holder, as the case may be, on the date of payment of such judgment or order is able to purchase Dollars with the amount of the Judgment Currency actually received by the Trustee or such Holder. If the amount of Dollars so purchased exceeds the amount originally to be paid to such Holder, such Holder agrees to pay to or for the account of the Company (with respect to payments made by the Company) and the Guarantors (with respect to payments made by the Guarantors) such excess; provided, that such Holder shall not have any obligation to pay any such excess as long as a default by the Company or the Guarantors, as applicable in its obligations hereunder has occurred and is continuing, in which case such excess may be applied by such Holder to such obligations. The foregoing indemnity shall constitute a separate and independent obligation of the Company and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid. The term "spot rate of exchange" shall include any premiums and costs of exchange payable in connection with the purchase of, or conversion into, United States dollars.

SECTION 1011 Payment of Certain Issuer Expenses.

The Company and the Guarantors have agreed under this Note Indenture that they will pay to C10 Capital (SPV) Limited from time to time, at least two Business Days in advance of any required payment, such amounts as may be necessary for C10 Capital (SPV) Limited to pay the commissions, fees and expenses of the Initial Purchasers of the Debentures, the fees and expenses of the Debenture Trustee, and any other fees, expenses, indemnification, reimbursement, contribution and other similar obligations, and all other amounts (other than payments under the Debentures and settlement and termination payments under the Extinguishable Coupon Swap) owed by C10 Capital (SPV) Limited to the Initial Purchasers, the Debenture Trustee, the officers and directors of C10 Capital (SPV) Limited, the Swap Counterparty, JPMCB or any other person.

SECTION 1012 Ownership.

Except as otherwise specified or contemplated in this Note Indenture, CEMEX shall take any and all actions necessary to insure that the Company at all times remains, directly or indirectly, a wholly-owned subsidiary of CEMEX.

SECTION 1013 Restrictive Activities.

The Company has agreed, so long as any Securities (or any amount thereunder) is outstanding, not to do any of the following:

(i) engage at any time in any business activity unrelated to the issuance of the Securities, the entering into the Conversion Payment Undertaking, entering into similar capital raising activities and entering into financial arrangements with CEMEX and its Subsidiaries, or

(ii) file for, or consent to the filing of, any bankruptcy, liquidation insolvency or similar proceeding.

SECTION 1014 Waiver of Immunities.

To the extent that the Company or any of the Guarantors may in any jurisdiction claim for itself or its assets immunity from a suit, execution, attachment, whether in aid or execution, before judgment or otherwise, or other legal process in connection with this Note Indenture and the Securities and to the extent that in any jurisdiction there may be immunity attributed to the Company, the Company's assets, the Guarantors or the Guarantors' assets whether or not claimed, the Company and the Guarantors have irrevocably agreed for the benefit of the Holder not to claim, and irrevocably waive, the immunity to the full extent permitted by law.

ARTICLE ELEVEN

Redemption of Securities

SECTION 1101 Right of Redemption.

(a) The Securities may not be redeemed at the election of the Company except in accordance with the provisions of this Article.

(b) The Securities will be redeemable, at the option of the Company, on December 31, 2016, and on each interest payment date thereafter (or, if not a Business Day, on the preceding Business Day), in whole or in part, at par together with all accrued and unpaid interest, including deferred interest, provided that the Company as a condition to redemption, convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate as of the Interest Payment Date by written notice to the Holders, the Debenture Trustee, the Trustee and the Swap Counterparty no less than 10 Business Days prior to the Interest Payment Date; in the case of partial redemption the outstanding principal amount of the Securities immediately after such redemption shall not be less than $250,000,000 million; provided further that no redemption shall be effective on any payment date (and such payment date shall not constitute the Conversion Date) unless C10 Capital (SPV) Limited shall have received from the Company on or prior to such payment date any applicable Conversion Payments with respect to such conversion.

(c) The Securities will be redeemable, at the option of the Company, within 90 days of the occurrence of a Change of Control Event, in whole but not in part, at a Redemption Price equal to the greater of (i) par and (ii) the sum of the present values of the remaining scheduled payments on the Securities calculated (1) assuming a final maturity of December 31, 2016, (2) without giving effect to any increase in interest rates as a result of the Change of Control Event, and (3) discounted to the Redemption Date at a rate equal to the then-current yield to maturity of treasuries with a comparable maturity plus a margin equal to 2.20% per annum, plus in each of cases (i) and (ii) above accrued and unpaid interest to the Redemption Date.

The Securities will not otherwise be redeemed by the Company. As a condition to any redemption prior to December 31, 2016, the Company must first convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate and pay any applicable Conversion Payment with respect to such conversion in accordance with Section 315.

SECTION 1102 Notice of Redemption.

Notice of redemption shall be given by first class mail, postage prepaid, mailed by the Company to the Trustee not less than 45 days nor more than 60 days prior to the proposed Redemption Date (unless a shorter period of time is agreed upon) and to each Holder and the Trustee will give a corresponding notice to the holders of the Debentures, at his address appearing in the Security Register. Any such notice of redemption is irrevocable and will be given as described below. If the redemption price in respect of any Security is improperly withheld or refused and is not paid by the Company or any Guarantor, interest on the Securities will continue to be payable until the Redemption Price is paid in full.

All notices of redemption shall state:

(1) the Redemption Date,

(2) the Redemption Price and amount of accrued interest, if any,

(3) that on the Redemption Date the Redemption Price and any accrued interest will become due and payable upon each Security to be redeemed and that interest thereon will cease to accrue on and after said date, and

(4) the place or places where such Securities are to be surrendered for payment of the Redemption Price and any accrued interest.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company, and such notice, when given to the Holders, shall be irrevocable.

SECTION 1103 Deposit of Redemption Price.

Prior to any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 1003) an amount of money sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on, all the Securities which are to be redeemed on that date.

SECTION 1104 Securities Payable on Redemption Date.

Notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price herein specified, and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest) such Securities shall cease to bear interest. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Company at the Redemption Price, together with accrued interest to the Redemption Date; provided, however, that installments of interest whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 306.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal shall, until paid, bear interest from the Redemption Date at the rate borne by the Security.

ARTICLE TWELVE

Guarantee of the Securities

SECTION 1201 Guarantee.

Subject to the provisions of this Article Twelve, Article Eight and Article Nine, each Guarantor hereby jointly and severally irrevocably and unconditionally guarantees, on an unsecured basis, to each Holder of a Security authenticated and delivered by the Trustee and to the Trustee and its Successors, irrespective of the validity and enforceability of this Note Indenture, the Securities or the obligations of the Company or any other Guarantors to the Holders or the Trustee hereunder or thereunder, that: (a) the principal of and interest on the Securities (including any Additional Amounts) will be duly and punctually paid in full when due, whether at Maturity, by acceleration, call for redemption, purchase or otherwise, and all obligations of the Company or the Guarantors to the Holders or the Trustee hereunder or thereunder (including amounts due the Trustee under Section 607 hereof) or under the Securities (including fees, expenses or other disbursements) will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Securities or any of such other obligations, the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at maturity, by acceleration, call for redemption, purchase or otherwise (all such obligations guaranteed by the Guarantors, the "Guaranteed Obligations"). The guarantees of the Guarantors under this Article Twelve are herein referred to as the "Guarantee". Failing payment when due of any amount so guaranteed, or failing performance of any other obligation of the Company to the Holders, for whatever reason, each Guarantor will be obligated to pay, or to perform or cause the performance of, the same immediately. An Event of Default under this Note Indenture or the Securities shall constitute an event of default under this Guarantee, and shall entitle the Holders of Securities or the Trustee to accelerate the obligations of the Guarantors hereunder in the same manner and to the same extent as the obligations of the Company.

The Guarantors agree to pay any and all fees and expenses (including reasonable attorney's fees and expenses) incurred by the Trustee or the Holders in enforcing any rights under this Article Twelve with respect to the Guarantors.

Without limiting the generality of the foregoing, this Guarantee guarantees, to the extent provided herein, the payment of all amounts that constitute part of the Guaranteed Obligations and would be owed by the Company under this Note Indenture or the Securities but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving the Company.

No stockholder, officer, director, employee or incorporator, past, present or future, of any Guarantor, as such, shall have any personal liability under this Guarantee by reason of his, her or its status as such stockholder, officer, director, employee or incorporator.

The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under this Guarantee.

SECTION 1202 Execution and Delivery of Guarantee.

The Guarantee to be endorsed on the Securities shall include the terms of the Guarantees set forth in this Article Twelve and any other terms that may be set forth in the form established pursuant to Section 205. The Guarantors hereby agree to execute the Guarantee in the form established pursuant to Section 205, to be endorsed on each Security authenticated and delivered by the Trustee.

The Guarantee shall be executed on behalf of each Guarantor by any one of the individuals who may sign an Officers' Certificate on its behalf. The signature of any such Person on the Guarantee may be manual or facsimile.

A Guarantee bearing the manual or facsimile signature of an individual who was at any time the proper officer of a Guarantor shall bind such Guarantor, notwithstanding that such individual has ceased to hold such office prior to the authentication and delivery of the Security on which such Guarantee is endorsed or did not hold such office at the date of such Guarantee.

The delivery of any Security by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantee endorsed thereon on behalf of the respective Guarantor. The Guarantors hereby agree that their respective Guarantee set forth in Section 1201 shall remain in full force and effect notwithstanding any failure to endorse a Guarantee on any Security.

SECTION 1203 Obligations of the Guarantors Unconditional.

Nothing contained in this Article Twelve or elsewhere in this Note Indenture or in any Security is intended to or shall impair, as between the Guarantors and the Holders and the Trustee, the obligation of each Guarantor, which is absolute and unconditional, to pay to the Holders and the Trustee the principal of and interest (including Additional Amounts) on the Securities (and to the Trustee amounts due under Section 607) as and when the same shall become due and payable in accordance with the provisions of this Guarantee, nor shall anything herein or therein prevent the Trustee or any Holder from exercising all remedies otherwise permitted by applicable law upon Default under this Note Indenture. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not affect the liability of any Guarantor hereunder:

(a) the lack of validity, regularity or enforceability of this Note Indenture or the Securities with respect to the Company or any agreement or instrument relating thereto;

(b) any change in the time, manner or place of payment of, or in any other term of any of the Guaranteed Obligations, or any other amendment or waiver of or any consent to departure from this Note Indenture;

(c) any amendment or modification of or deletion from or addition or supplement to or other change in the Guarantee, the Note Indenture or the Securities or any other instrument or agreement applicable to any of the parties to the Guarantee, the Note Indenture or the Securities;

(d) any furnishing or acceptance of any security or any guarantee or other liability of any Subsidiary or any other party, or any release of any security or any guarantee or other liability of any Subsidiary or any other party, for the Guaranteed Obligations, or the failure of any security or any guarantee or other liability of any Subsidiary or any other party or the failure of any Person to perfect any interest in any collateral;

(e) any failure, omission or delay on the part of the Company, to conform or comply with any term of the Note Indenture or the Securities or any other instrument or agreement referred to in paragraph (a) above, including, without limitation, failure to give notice to the Guarantors or the Trustee of the occurrence of an Event of Default;

(f) any waiver of the payment, performance or observance of any of the obligations, conditions, covenants or agreements contained in the Guarantee, the Note Indenture or the Securities, or any other waiver, consent, extension, indulgence, compromise, settlement, release or other action or inaction under or in respect of the Guarantee, the Note Indenture or the Securities or any other instrument or agreement referred to in paragraph (a) above or any obligation or liability of the Company, or any exercise or non-exercise of any right, remedy, power or privilege under or in respect of any such instrument or agreement or any such obligation or liability;

(g) any failure, omission or delay on the part of the Trustee or any Holder of Securities to enforce, assert, exercise or continue exercising any right, power or remedy conferred on it in the Guarantee or the Note Indenture, or any such failure, omission or delay on the part of the Trustee or any Holder of Securities in connection with the Guarantee, the Note Indenture or the Securities, or any other action on the part of the Trustee or any Holder of Securities;

(h) the assignment of any right, title or interest of the Trustee or any Holder in this Note Indenture or the Securities to any other Person;

(i) any voluntary or involuntary bankruptcy, insolvency, *concurso mercantil*, reorganization, arrangement, readjustment, assignment for the benefit of creditors, receivership, liquidation or similar proceedings with respect to the Company, any Guarantor or any other Person or any of their respective properties or creditors, or any action taken by any trustee, receiver or similar officer or by any court in any such proceeding;

(j) any limitation on the liability or obligations of the Company or any other Person under the Guarantee, the Note Indenture or the Securities, or any partial discharge, cancellation or unenforceability of the Guarantee, the Note Indenture or the Securities or any other agreement or instrument referred to in paragraph (c) above or any term hereof, to the extent not mutually agreed upon by the parties hereto;

(k) any merger or consolidation of the Company or any Guarantor into or with any other corporation or any sale, lease or transfer of any of the assets of the Company or any Guarantor to any other Person;

(l) any change in the ownership of any shares of capital stock of the Guarantors, or any change in the corporate relationship between the Company and the Guarantors, or any termination of such relationship, or any change in the corporate existence, structure, or ownership of the Company;

(m) any release or discharge, by operation of law, of any Guarantor from the performance or observance of any obligation, covenant or agreement contained in the Guarantee, the Note Indenture or the Securities;

(n) any action, failure, omission or delay on the part of the Trustee or any Holder of Securities that may impede any Guarantor from acquiring or subrogating such Holder's or Trustee's rights or benefits; or

(o) any other occurrence, circumstance, happening or event whatsoever, whether similar or dissimilar to the foregoing, whether foreseen or unforeseen, and any other circumstance that might otherwise constitute a legal defense or discharge of the liabilities of a Guarantor or that might otherwise limit recourse against the Guarantors; it being the intent of each Guarantor that its obligations hereunder shall not be discharged except by payment of all amounts owing pursuant to this Note Indenture or the Securities.

The Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time any payment or performance with respect to any of the Guaranteed Obligations is rescinded or must otherwise be returned by the Trustee, any Holder or any other Person upon the insolvency, bankruptcy or reorganization of the Company or otherwise, all as though such payment or performance had not been made or occurred. In the event that any payment, or any part thereof, is rescinded or must otherwise be returned, the Guaranteed Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded or returned. The obligations of the Guarantors under the Guarantee shall not be subject to reduction, termination or other impairment by any set-off, recoupment, counterclaim or defense or for any other reason.

SECTION 1204 Waivers.

Each Guarantor hereby irrevocably waives, to the extent permitted by applicable law:

(a) promptness, demand for payment, diligence, presentment, notice of acceptance and any other notice with respect to any of the Guaranteed Obligations and the Guarantee;

(b) any requirement that the Trustee, any Holder or any other Person protect, secure, perfect or insure any Lien or any property subject thereto or exhaust any right, sue or take any action against the Company or any other Person, or obtain any relief pursuant to this Note Indenture or pursue any other available remedy prior to making a claim against any Guarantor hereunder;

(c) all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Note Indenture or the Securities;

(d) filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest or notice with respect to such Security or the Indebtedness evidenced thereby and all demands whatsoever;

(e) any defense arising by reason of any claim or defense based upon an election of remedies by the Trustee or any Holder that in any manner impairs, reduces, releases or otherwise adversely affects its subrogation, contribution or reimbursement rights or other rights to proceed against the Company or any other Person;

(f) any right to which it may be entitled to have the assets of the Company first be used as payment of the Company's or the Guarantor's obligations hereunder prior to any amounts being claimed from or paid by such Guarantor hereunder; or

(g) any duty on the part of the Trustee or any Holder to disclose to such Guarantor any matter, fact or thing relating to the business, operation or condition of the Company and its assets now known or hereafter known by the Trustee or such Holder.

SECTION 1205 Waiver of Subrogation and Contribution.

Each Guarantor hereby irrevocably waives any claim or other right that it may now or hereafter acquire against the Company that arises from the existence, payment, performance or enforcement of such Guarantor's obligations under this Guarantee and this Note Indenture, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution, indemnification, and any right to participate in any claim or remedy of the Trustee or any Holder of Securities against the Company, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law, including, without limitation, the right to take or receive from the Company, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or Security on account of such claim or other rights. If any amount shall be paid to any Guarantor in violation of the preceding sentence and the Securities shall not have been paid in full, such amount shall have been deemed to have been paid to such Guarantor for the benefit of, and held in trust for the benefit of, the Holders of the Securities, and shall forthwith be paid to the Trustee for the benefit of such Holders to be credited and applied upon the Securities, whether matured or unmatured, in accordance with the terms of this Note Indenture. Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Note Indenture and that the waiver set forth in this Section 1205 is knowingly made in contemplation of such benefits.

Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any Guaranteed Obligations until payment in full of all Guaranteed Obligations. Each Guarantor further agrees that, as between itself, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the Guaranteed Obligations may be accelerated as provided in Article Five hereof for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guaranteed Obligations, and (y) in the event of any declaration of acceleration of the Guaranteed Obligations as provided in Article Five hereof, the Guaranteed Obligations (whether or not due and payable) shall forthwith become due and payable by such Guarantor for the purpose of this Guarantee.

SECTION 1206 No Waiver; Cumulative Remedies.

No failure on the part of the Trustee or any Holder to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law. The Trustee and the Holders shall have all of the rights and remedies granted in this Note Indenture and available at law or in equity, and these same rights and remedies may be pursued separately, successively or concurrently against the Company or the Guarantors.

SECTION 1207 Continuing Guarantee.

The Guarantee is a continuing guarantee and, except as otherwise provided herein, shall (a) remain in full force and effect until the satisfaction of the Guaranteed Obligations, (b) be binding upon each Guarantor and (c) inure to the benefit of and be enforceable by the Trustee, the Holders and their successors, transferees and assigns.

ARTICLE THIRTEEN

Meetings of Holders of Securities

SECTION 1301 Purposes for Which Meetings May Be Called.

A meeting of Holders of Securities may be called at any time and from time to time pursuant to this Article to make, give or take any request, demand, authorization, direction, notice, consent, election, waiver or other action provided by this Note Indenture to be made, given or taken by Holders of Securities.

SECTION 1302 Call, Notice and Place of Meetings.

(a) The Company and the Trustee may at any time call a meeting of Holders of Securities for any purpose specified in Section 1301, to be held at such time and at such place in the Borough of Manhattan, the City of New York, New York as the Company or the Trustee, as the case may be, shall determine. Notice of every meeting of Holders of Securities, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be given, in the manner provided in Section 106, not less than 30 nor more than 180 days prior to the date fixed for the meeting.

(b) In case at any time the Company, pursuant to an Officers' Certificate, or the Holders of at least 10% in principal amount of the Outstanding Securities shall have requested the Trustee to call a meeting of the Holders of Securities for any purpose specified in Section 1301, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have made the first publication of the notice of such meeting within 30 days after receipt of such request or shall not thereafter proceed to cause the meeting to be held as provided herein, then the Company or the Holders of Securities in the amount above specified, as the case may be, may determine the time and the place in the Borough of Manhattan, the City of New York, New York for such meeting and may call such meeting for such purposes by giving notice thereof as provided in subsection (a) of this Section 1302.

SECTION 1303 Persons Entitled to Vote at Meetings.

To be entitled to vote at any meeting of Holders of Securities, a Person shall be (1) a Holder of one or more Outstanding Securities, or (2) a Person appointed by an instrument in writing as proxy for a Holder or Holders of one or more Outstanding Securities by such Holder or Holders. The only Persons who shall be entitled to be present or to speak at any meeting of Holders shall be the Persons entitled to vote at such meeting and their counsel, and representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

SECTION 1304 Quorum; Action.

The Persons entitled to vote a majority in principal amount of the Outstanding Securities shall constitute a quorum. In the absence of a quorum within 30 minutes of the time appointed for any such meeting, the meeting may be adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such meeting. In the absence of a quorum at any such adjourned meeting, such adjourned meeting may be further adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such adjourned meeting (subject to repeated applications of this sentence). Notice of the reconvening of any adjourned meeting shall be given as provided in Section 1302(a), except that such notice need be given only once not less than five days prior to the date on which the meeting is scheduled to be reconvened. Notice of the reconvening of an adjourned meeting shall state expressly the percentage of the principal amount of the Outstanding Securities which shall constitute a quorum. Any Holder who has executed an instrument in writing appointing a person as proxy shall be deemed to be present for the purposes of determining a quorum and be deemed to have voted; provided that such Holder shall be considered as present or voting only with respect to the matters covered by such instrument in writing (which may include authorization to vote on any other matters as may come before the meeting).

Subject to the foregoing, at the reconvening of any meeting further adjourned for a lack of a quorum the Persons entitled to vote 33 1/3% in principal amount of the Outstanding Securities at the time shall constitute a quorum for the taking of any action set forth in the notice of the original meeting.

Except as limited by Clauses (1) and (2) of Section 513 and by the proviso to Section 902, any modifications, amendments or waivers to this Note Indenture or the terms and conditions of the Securities shall require the lesser of (i) the written consent of the Holders of a majority in principal amount of the Outstanding Securities or (ii) at any time when there is more than one Holder of Securities, the approval of persons entitled to vote 66 2/3% of the principal amount of such Securities represented and voting at a meeting of the Holders duly called in accordance with the provisions hereof and at which a quorum is present; provided, however, that such modifications, amendments or waivers shall be approved by the Holders of Securities representing not less than 25% of the aggregate principal of Outstanding Securities and no such waiver shall be permitted unless provided for pursuant to Section 513.

Any modification, amendment or waiver approved or resolution passed or decision taken at any meeting of Holders of Securities held in accordance with this Article shall be binding on all the Holders of Securities, regardless of whether present or represented at the meeting.

SECTION 1305 Determination of Voting Rights; Conduct and Adjournment of Meetings.

(a) Notwithstanding any other provisions of this Note Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Holders of Securities in regard to proof of the holding of Securities and of the appointment of proxies and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem appropriate. Except as otherwise permitted or required by any such regulations, the holding of Securities shall be proved in the manner specified in Section 104 and the appointment of any proxy shall be proved in the manner specified in Section 104 or by having the signature of the person executing the proxy witnessed or guaranteed by any trust company, bank or banker authorized by Section 104 to certify to the holding of Securities. Such regulations may provide that written instruments appointing proxies, regular on their face, may be presumed valid and genuine without the proof specified in Section 104 or other proof.

(b) The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders of Securities as provided in Section 1302(b), in which case the Company or the Holders of Securities calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the Persons entitled to vote a majority in principal amount of the Outstanding Securities represented at the meeting.

(c) At any meeting each Holder of a Security or proxy shall be entitled to one vote for each $1,000 principal amount of Securities held or represented by him; provided, however, that no vote shall be cast or counted at any meeting in respect of any Security challenged as not Outstanding and ruled by the chairman of the meeting to be not Outstanding. The chairman of the meeting shall have no right to vote, except as a Holder of a Security or proxy.

(d) Any meeting of Holders of Securities duly called pursuant to Section 1302 at which a quorum is present may be adjourned from time to time by Persons entitled to vote a majority in principal amount of the Outstanding Securities represented at the meeting; and the meeting may be held as so adjourned without further notice.

SECTION 1306 Counting Votes and Recording Action of Meetings.

The vote upon any resolution submitted to any meeting of Holders of Securities shall be by written ballots on which shall be subscribed the signatures of the Holders of Securities or of their representatives by proxy and the principal amounts and serial numbers of the Outstanding Securities held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record, at least in duplicate, of the proceedings of each meeting of Holders of Securities shall be prepared by the secretary of the

meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was given as provided in Section 1302 and, if applicable, Section 1304. Each copy shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one such copy shall be delivered to the Company and another to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this Note Indenture to be duly executed, as of the day and year first above written.

The Bank of New York, as Trustee

By: /s/ James Fevola
Name: James Fevola
Title: Vice President

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

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

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Chief Financial Officer

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

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Chief Financial Officer

NEW SUNWARD HOLDING B.V.

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

ANNEX A

Calculation of Conversion Payments and Conversion Credits

With respect to the Conversion Date (whether it has occurred or is expected to occur at the time of calculation), the Calculation Agent will determine whether a Conversion Payment or a Conversion Credit Reference Amount applies. If a Conversion Credit Reference Amount applies and the principal amount of the Dual-Currency Notes has not become, as of the Conversion Date, due and payable, the Calculation Agent will determine whether there are any Conversion Credit Application Dates and the amount of the Conversion Credit to be applied on each such Conversion Credit Application Date.

For the purposes of this Annex A:

"*Benchmark Swap*" means a derivative transaction between the Calculation Agent and a hypothetical counterparty with the following terms:

(i) no exchange of principal;

(ii) a term commencing on the date of issuance of the Dual-Currency Notes and ending on December 31, 2016;

(iii) the Calculation Agent obligated to pay an amount in U.S. Dollars equal to the semi-annual coupon on the Debentures, applied to the Dollar principal amount of the Debentures, on each payment date for the Debentures;

(iv) the counterparty obligated to pay an amount in Japanese Yen equal to the semi-annual coupon on the Dual-Currency Notes, applied to the Yen Equivalent Principal Amount of the Dual-Currency Notes, on each payment date for the Dual-Currency Notes;

(v) the parties' payment obligations under the Benchmark Swap ceasing as of the payment date for the Debentures immediately prior to the date on which the Conditions to Anticipated Swap Termination are deemed satisfied; and

(vi) upon early termination for any reason other than the satisfaction of the Conditions to Anticipated Swap Termination, the termination payment due to the Calculation Agent or the counterparty, as applicable, calculated based on the total gains and losses and costs incurred upon termination, including any loss of bargain, costs of funding, or, without duplication, any loss or cost or gain incurred as a result of obtaining or reestablishing any hedge or related trading position.

"*Conversion Credit*" means the amount the Calculation Agent determines to be the amount of investment proceeds in U.S. Dollars that would be available on each Conversion Credit Application Date were the Conversion Credit Reference Amount invested at the direction of the Calculation Agent (and on a date determined by the Calculation Agent but not more than 15 business days after the Conversion Date) in Permitted Investments, which Permitted Investments were designed to yield (without provision for credit losses) an equal amount of investment proceeds in U.S. Dollars on each such Conversion Credit Application Date.

"*Conversion Credit Application Date*" means (a) each interest payment date for the Debentures occurring prior to December 31, 2016, and more than 15 business days after the Conversion Date, and (b) December 31, 2016, so long as the Conversion Date occurs at least 15 business days prior to that date. If the Conversion Date occurs after the 15th business day prior to December 31, 2016, no Conversion Credits shall apply.

"*Conversion Credit Reference Amount*" means the amount, if any, determined by the Calculation Agent to be equal to the total amount that would be payable by the party obligated to pay U.S. Dollars under the Benchmark Swap (as defined below) upon its early termination on the applicable Note Conversion Date.

"*Conversion Payment*" means the amount, if any, determined by the Calculation Agent to be equal to the total amount that would be payable by the party obligated to pay Japanese Yen under the Benchmark Swap (as defined below) upon its early termination on the applicable Note Conversion Date.

"*Permitted Investments*" means Dollar-denominated, unsubordinated obligations that (a) do not bear interest or bear interest at a fixed rate and (b) are issued, accepted or guaranteed by one or more commercial banks in the United States the long-term unsubordinated, unsecured indebtedness of which has a rating of at least "A2" from Fitch Ratings, Ltd. and "A" from Standard and Poor's Rating Service.

Capitalized terms used in this Annex A and not herein defined shall have the meaning ascribed to them in the Note Indenture.

ANNEX B

Conditions to Anticipated Swap Termination

The "Conditions to Anticipated Swap Termination" shall be deemed to have been satisfied on the Note Conversion Date when the Calculation Agent delivers written notice to the Note Issuer and the Debenture Trustee, on the Note Conversion Date or at a time prior to the 15 th Local Business Day after the Note Conversion Date, that:

(i) a CEMEX Credit Event had occurred on or prior to the Note Conversion Date; and

(ii) Morgan or the Note Issuer has delivered a Credit Event Notice that is effective during the Notice Period; and

(iii) such party delivering the Credit Event Notice also has delivered a Notice of Publicly Available Information that is effective during the Notice Period.

As used in this Annex B, the following terms shall have the following meanings:

"Affiliate" means, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

"Bankruptcy" means a Reference Entity (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (b) becomes insolvent or is unable to pay its debts or fails or admits in writing in a judicial, regulatory or administrative proceeding or filing its inability generally to pay its debts as they become due; (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (d) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding up or liquidation or (ii) is not dismissed, discharged, stayed or restrained in each case within thirty calendar days of the institution or presentation thereof; (e) has a resolution passed for its winding up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (f) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (g) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty calendar days thereafter; or (h) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (a) to (g) (inclusive).

"Bond" means any obligation for Borrowed Money that is in the form of, or represented by, a bond, note (other than notes delivered pursuant to Loans), certificated debt security or other debt security and shall not include any other type of Borrowed Money.

"Borrowed Money" means any obligation (excluding an obligation under a revolving credit arrangement for which there are no outstanding, unpaid drawings in respect of principal) for the payment or repayment of borrowed money (which term shall include, without limitation, deposits and reimbursement obligations arising from drawings pursuant to letters of credit).

"C10 Capital" means C10 Capital (SPV) Limited.

"Calculation Agent" has the meaning set forth in the Master Collateral Agreement.

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

"CEMEX Credit Event" means one or more of Bankruptcy, Failure to Pay, Obligation Acceleration, Repudiation/Moratorium or Restructuring, in each case as determined by the Calculation Agent taking into account then-current interpretations of the text of the applicable definition in the swap markets. If an occurrence would otherwise constitute a CEMEX Credit Event, such occurrence will constitute a CEMEX Credit Event whether or not such occurrence arises directly or indirectly from, or is subject to a defense based upon: (a) any lack or alleged lack of authority or capacity of a Reference Entity to enter into any Obligation or, as applicable, an Underlying Obligor to enter into any Underlying Obligation, (b) any actual or alleged unenforceability, illegality, impossibility or invalidity with respect to any Obligation or, as applicable, any Underlying Obligation, however described, (c) any applicable law, order, regulation, decree or notice, however described, or the promulgation of, or any change in, the interpretation by any court, tribunal, regulatory authority or similar administrative or judicial body with competent or apparent jurisdiction of any applicable law, order, regulation, decree or notice, however described, or (d) the imposition of, or any change in, any exchange controls, capital restrictions or any other similar restrictions imposed by any monetary or other authority, however described.

"Counterparty" means the Swap 10 Capital (SPV) Limited.

"Credit Event Notice" means an irrevocable notice (which may be by telephone) from one party to the other party and to the Calculation Agent that describes a CEMEX Credit Event that occurred at or after 12:01 a.m., Greenwich Mean Time, on the Effective Date and at or prior to 11:59 p.m., Greenwich Mean Time, on the Note Conversion Date. A Credit Event Notice must contain a description in reasonable detail of the facts relevant to the determination that a CEMEX Credit Event has occurred. The CEMEX Credit Event that is the subject of the Credit Event Notice need not be continuing on the date that the Credit Event Notice is effective.

"Debenture Indenture" means the Debenture Indenture entered into on December 18, 2006, between C10 Capital and The Bank of New York, with respect to the issuance of the Debentures by C10 Capital.

"Debenture Trustee" means the Trustee under the Debenture Indenture.

"Default Requirement" means USD 10,000,000 or its equivalent in the relevant Obligation Currency as of the occurrence of the relevant CEMEX Credit Event.

"Deliver" means to deliver, novate, transfer (including, in the case of a Qualifying Guarantee, transfer of the benefit of the Qualifying Guarantee), assign or sell, as appropriate, in the

manner customary for the settlement of the applicable Underlying Obligations (which shall include executing all necessary documentation and taking any other necessary actions), in order to convey all right, title and interest in the Underlying Obligations free and clear of any and all liens, charges, claims or encumbrances (including, without limitation, any counterclaim, defense (other than a counterclaim or defense based on customary factors as determined by the Calculation Agent taking into account then-current interpretations of the text of the applicable definition in the swap markets) or right of set off by or of the Reference Entity or, as applicable, an Underlying Obligor); provided that to the extent that the Deliverable Obligations consist of Qualifying Guarantees, "Deliver" means to Deliver both the Qualifying Guarantee and the Underlying Obligation. "Delivery" and "Delivered" will be construed accordingly.

"Domestic Currency" means the lawful currency and any successor currency of the Reference Entity. Notwithstanding the foregoing, in no event shall Domestic Currency include any successor currency if such successor currency is the lawful currency of any of Canada, Japan, Switzerland, the United Kingdom or the United States of America or the euro (or any successor currency to any such currency).

"Domestic Law" means the laws of the jurisdiction of organization of the Reference Entity.

"Downstream Affiliate" means an entity, at the date of the event giving rise to the CEMEX Credit Event which is the subject of the Credit Event Notice or the time of identification of a Substitute Reference Obligation (as applicable), whose outstanding Voting Shares are more than 50 percent owned, directly or indirectly, by the Reference Entity.

"Dual-Currency Notes" means the Callable Perpetual Dual-Currency Notes issued by the Note Issuer on December 18, 2006 and guaranteed by the Guarantors.

"Failure to Pay" means, after the expiration of any applicable Grace Period (after the satisfaction of any conditions precedent to the commencement of such Grace Period), the failure by a Reference Entity to make, when and where due, any payments in an aggregate amount of not less than the Payment Requirement under one or more Obligations, in accordance with the terms of such Obligations at the time of such failure.

"Governmental Authority" means any de facto or de jure government (or any agency, instrumentality, ministry or department thereof), court, tribunal, administrative or other governmental authority or any other entity (private or public) charged with the regulation of the financial markets (including the central bank) of a Reference Entity.

"Grace Period" means the applicable grace period with respect to payments under the relevant Obligation under the terms of such Obligation in effect as of the later of the Effective Date or the date as of which such Obligation is issued or incurred; provided, that, if, at the later of the Effective Date and the date as of which an Obligation is issued or incurred, no grace period with respect to payments or a grace period with respect to payments of less than three Local Business Days is applicable under the terms of such Obligation, a Grace Period of three Local Business Days shall be deemed to apply to such Obligation.

"Guarantor" has the meaning set forth in the Note Indenture.

"Loan" means any obligation for Borrowed Money that is documented by a term loan agreement, revolving loan agreement or other similar credit agreement and shall not include any other type of Borrowed Money.

"Local Business Day" means, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in New York City, London and Tokyo, Japan.

"Master Collateral Agreement" has the meaning set forth in the Note Indenture.

"Morgan" means JP Morgan Chase Bank, N.A.

"Multiple Holder Obligation" means an Obligation that (a) at the time of the event which constitutes a Restructuring Credit Event is held by more than three holders that are not Affiliates of each other and (b) with respect to which a percentage of holders (determined pursuant to the terms of the Obligation as in effect on the date of such event) at least equal to sixty-six-and-two-thirds is required to consent to the event which constitutes a Restructuring Credit Event.

"Note Conversion Date" has the meaning set forth in the Note Indenture for "Conversion Date".

"Note Indenture" means the Note Indenture dated as of December 18, 2006, among the Note Issuer, the Guarantors and the Note Trustee.

"Note Issuer" means New Sunward Holding Financial Ventures B.V.

"Note Trustee" means the Trustee under the Note Indenture.

"Notice of Publicly Available Information" means an irrevocable notice (which may be by telephone) from one party to the other party and to the Calculation Agent that cites Publicly Available Information confirming the occurrence of the CEMEX Credit Event or Potential Repudiation/Moratorium, as applicable, described in the Credit Event Notice. In relation to a Repudiation/Moratorium CEMEX Credit Event, the Notice of Publicly Available Information must cite Publicly Available Information confirming the occurrence of both clauses (i) and (ii) of the definition of Repudiation/Moratorium. The notice given must contain a copy, or a description in reasonable detail, of the relevant Publicly Available Information. Any notice given orally, including by telephone, will be effective when actually received by the intended recipient.

"Notice Period" means the period from and including the Effective Date to and including the tenth Local Business Day following the Note Conversion Date.

"Obligation" means, with respect to a Reference Entity, any obligation of the Reference Entity (either directly or as provider of a Qualifying Guarantee) that is a Qualifying Bond or Loan or a Qualifying Guarantee as of the date of the event which constitutes the CEMEX Credit Event that is the subject of the Credit Event Notice.

"Obligation Acceleration" means one or more Obligations in an aggregate amount of not less that the Default Requirement have become due and payable before they would otherwise have been due and payable as a result of, or on the basis of, the occurrence of a default, event of default or other similar condition or event (however described), other than a failure to make any required payment, in respect of a Reference Entity under one or more Obligations.

"Obligation Currency" means the currency or currencies in which an Obligation is denominated.

"Payment Requirement" means USD 1,000,000 or its equivalent in the relevant Obligation Currency as of the occurrence of the relevant Failure to Pay.

"Permitted Currency" means (1) the legal tender of any Group of 7 country (or any country that becomes a member of the Group of 7 if such Group of 7 expands its membership) or (2) the legal tender of any country which, as of the date of such change, is a member of the Organization for Economic Cooperation and Development and has a local currency long-term debt rating of either AAA or higher assigned to it by Standard & Poor's, a division of The McGraw-Hill Companies, Inc. or any successor to the rating business thereof, AAA or higher assigned to it by Moody's Investors Service, Inc. or any successor to the rating business thereof or AAA or higher assigned to it by Fitch Ratings or any successor to the rating business thereof.

"Potential Repudiation/Moratorium" means the occurrence of an event described in clause (i) of the definition of Repudiation/Moratorium.

"Publicly Available Information" means information that reasonably confirms any of the facts relevant to the determination that the CEMEX Credit Event or Potential Repudiation/Moratorium, as applicable, described in a Credit Event Notice has occurred and which (a) has been published in or on not less than two Public Sources, regardless of whether the reader or user thereof pays a fee to obtain such information; provided, that (subject to (b)(i), below), if Morgan or any of its Affiliates is cited as the sole source of such information, then such information shall not be deemed to be Publicly Available Information unless Morgan or its Affiliate, as applicable, is acting in its capacity as trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation; (b) is information received from or published by (i) the Reference Entity (or Sovereign Agency in respect of the Reference Entity), or (ii) a trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation; or (c) is information contained in any order, decree, notice or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body.

In the event that Morgan is (i) the sole source of information in its capacity as trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation and (ii) a holder of the Obligation with respect to which a CEMEX Credit Event has occurred, Morgan shall be required to deliver to the Counterparty and the Calculation Agent a certificate signed by a Managing Director (or other substantively equivalent title) of Morgan, which shall certify the occurrence of a CEMEX Credit Event with respect to a Reference Entity.

In relation to any information of the type described in (b) and (c), in the first paragraph above, the party receiving such information may assume that such information has been disclosed to it without violation of any law, agreement or understanding regarding the confidentiality of such information and that the party delivering such information has not taken any action or entered into any agreement or understanding with the Reference Entity or any Affiliate of the Reference Entity that would be breached by, or would prevent, the disclosure of such information to third parties.

Publicly Available Information need not state (a) in relation to the definition of Downstream Affiliate, the percentage of Voting Shares owned directly or indirectly by the Reference Entity or (b) that such occurrence (i) has met the Payment Requirement or Default Requirement, (ii) is the result of exceeding any applicable Grace Period, or (iii) has met the subjective criteria specified in certain CEMEX Credit Events.

"Public Sources" means each of Bloomberg Service, Dow Jones Telerate Service, Reuter Monitor Money Rates Services, Dow Jones News Wire, Wall Street Journal, New York

Times, Nihon Keizai Shinbun, Asahi Shinbun, Yomiuri Shinbun, Financial Times, La Tribune, Les Echos and The Australian Financial Review (and successor publications), the main source(s) of business news in the Reference Entity and any other internationally recognized published or electronically displayed news sources.

"Qualifying Affiliate Guarantee" means a Qualifying Guarantee provided by a Reference Entity in respect of an Underlying Obligation of a Downstream Affiliate of that Reference Entity.

"Qualifying Bond or Loan" means the Reference Obligation or any Bond or Loan that:

(a) is not Subordinated to the Reference Obligation or, if no Reference Obligation is outstanding, any unsubordinated Borrowed Money obligation of the Reference Entity. For purposes hereof, the ranking with respect to the Reference Obligation shall be determined as of the later of the Effective Date and the date on which such Reference Obligation was issued or incurred and not reflecting any change to such ranking in priority of payment after such later date; and

(b) is not primarily owed to a Sovereign or Supranational Organization, including, without limitation, obligations generally referred to as "Paris Club debt"; and

(c) is payable in any currency other than the Domestic Currency; and

(d) is not governed by Domestic Law; and

(e) at the time that it was issued (or reissued, as the case may be) or incurred, was not intended to be offered for sale primarily in the domestic market of the Reference Entity. Any obligation that is registered or qualified for sale outside the domestic market of the Reference Entity (regardless of whether such obligation is also registered or qualified for sale within the domestic market of the Reference Entity) shall be deemed not to be intended for sale primarily in the domestic market of the Reference Entity.

"Qualifying Guarantee" means an arrangement evidenced by a written instrument pursuant to which a Reference Entity irrevocably agrees (by guarantee of payment or equivalent legal arrangement) to pay all amounts due under an obligation (the " Underlying Obligation") for which another party is the obligor (the "Underlying Obligor") and that is not at the time of the CEMEX Credit Event Subordinated to any unsubordinated Borrowed Money obligation of the Underlying Obligor (with references in the definition of Subordination to the Reference Entity deemed to refer to the Underlying Obligor). Qualifying Guarantees shall exclude any arrangement (i) structured as a surety bond, financial guarantee insurance policy, letter of credit or equivalent legal arrangement or (ii) pursuant to the terms of which the payment obligations of the Reference Entity can be discharged, reduced, assigned or otherwise altered as a result of the occurrence or non-occurrence of an event or circumstance (other than payment). The benefit of a Qualifying Guarantee must be capable of being Delivered together with the Delivery of the Underlying Obligation.

In the event that an Obligation is a Qualifying Guarantee, the following will apply:

(i) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, the Qualifying Guarantee shall be deemed to be a Bond or Loan if the Underlying Obligation is a Bond or Loan.

(ii) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, both the Qualifying Guarantee and the Underlying Obligation must

satisfy on the relevant date the requirements of each of clauses (b), (c) and (d) of the definition of Qualifying Bond or Loan. For these purposes, (A) the lawful currency of any of Canada, Japan, Switzerland, the United Kingdom or the United States of America or the euro shall not be a Domestic Currency and (B) the laws of England and the laws of the State of New York shall not be a Domestic Law.

(iii) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, only the Qualifying Guarantee must satisfy on the relevant date the requirements of clause (a) of the definition of Qualifying Bond or Loan.

(iv) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, only the Underlying Obligation must satisfy on the relevant date the requirements of clause (e) of the definition of Qualifying Bond or Loan.

(v) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, references to the Reference Entity shall be deemed to refer to the Underlying Obligor.

(vi) The term "outstanding principal balance" (as used in this Transaction), when used in connection with Qualifying Guarantees is to be interpreted to be the then "outstanding principal balance" of the Underlying Obligation which is supported by a Qualifying Guarantee.

"Reference Entity" means CEMEX (the "Original Reference Entity") and any successor(s) to CEMEX. The Calculation Agent shall determine the changes, if any, to the terms of this Transaction required to reflect the treatment of a single name credit default swap related to the Original Reference Entity entered into as at the Effective Date specified herein on market standard terms at that time. For the avoidance of doubt in respect of the above, such changes may include: (i) this Transaction being split into two or more Transactions; (ii) the total number of Reference Entities being increased; and (iii) the Original Reference Entity being included as a successor.

"Reference Obligation" means the 9.625% Notes due 2009 (CUSIP 151290AQ6) issued by CEMEX, S.A.B. de C.V. and any Substitute Reference Obligation.

"Repudiation/Moratorium" means the occurrence of both of the following events (i) an authorized officer of a Reference Entity or a Governmental Authority (x) disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, one or more Obligations in an aggregate amount of not less than the Default Requirement, or (y) declares or imposes a moratorium, standstill, roll-over or deferral, whether de facto or de jure, with respect to one or more Obligations in an aggregate amount of not less than the Default Requirement and (ii) a Failure to Pay, determined without regard to the Payment Requirement, or a Restructuring, determined without regard to the Default Requirement, with respect to any such Obligation occurs on or prior to the Repudiation/Moratorium Evaluation Date.

"Repudiation/Moratorium Evaluation Date" means, if a Potential Repudiation/Moratorium occurs, (a) if the Obligations to which such Potential Repudiation/Moratorium relates include Bonds, the date that is the later of (i) the date that is 60 days after the date of such Potential Repudiation/Moratorium and (ii) the first payment date under any such Bond after the date of such Potential Repudiation/ Moratorium (or, if later, the expiration date of any applicable Grace Period in respect of such payment date) and (b) if the Obligations to which such Potential Repudiation/ Moratorium relates do not include Bonds, the date that is 60 days after the date of such Potential Repudiation/Moratorium.

"Restructuring" means, (a) with respect to one or more Obligations that are Multiple Holder Obligations and in relation to an aggregate amount of not less than the Default Requirement, any one or more of the following events occurs in a form that binds all holders of such Obligation, is agreed between the Reference Entity or a Governmental Authority and a sufficient number of holders of such Obligation to bind all holders of the Obligation or is announced (or otherwise decreed) by a Reference Entity or a Governmental Authority in a form that binds all holders of such Obligation, and such event is not expressly provided for under the terms of such Obligation in effect as of the later of the Effective Date or date as of which such Obligation is issued or incurred:

(i) a reduction in the rate or amount of interest payable or the amount of scheduled interest accruals;

(ii) a reduction in the amount of principal or premium payable at maturity or at scheduled redemption dates;

(iii) a postponement or other deferral of a date or dates for either (A) the payment or accrual of interest or (B) the payment of principal or premium;

(iv) a change in the ranking in priority of payment of any Obligation, causing the Subordination of such Obligation to any other Obligation; or

(v) any change in the currency or composition of any payment of interest or principal to any currency that is not a Permitted Currency.

(b) Notwithstanding the provisions of (a) above, none of the following shall constitute a Restructuring:

(i) the payment in euros of interest or principal in relation to an Obligation denominated in a currency of a Member State of the European Union that adopts or has adopted the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union;

(ii) the occurrence of, agreement to or announcement of any of the events described in (a)(i) to (v) above due to an administrative adjustment, accounting adjustment or tax adjustment or other technical adjustment occurring in the ordinary course of business; and

(iii) the occurrence of, agreement to or announcement of any of the events described in (a)(i) to (v) above in circumstances where such event does not directly or indirectly result from a deterioration in the creditworthiness or financial condition of the Reference Entity.

For purposes of (a) and (b) above, the term Obligation shall be deemed to include Underlying Obligations for which the Reference Entity is acting as provider of any Qualifying Guarantee. In the case of a Qualifying Guarantee and an Underlying Obligation, references to the Reference Entity in (a) above shall be deemed to refer to the Underlying Obligor and the reference to the Reference Entity in (b) above shall continue to refer to the Reference Entity.

"Sovereign" means any state, political subdivision or government, or any agency, instrumentality, ministry, department or other authority (including, without limiting the foregoing, the central bank) thereof.

"Sovereign Agency" means any agency, instrumentality, ministry, department or other authority (including, without limiting the foregoing, the central bank) of the Reference Entity.

"Subordination" means, with respect to an obligation (the "Subordinated Obligation") and another obligation of the Reference Entity to which such obligation is being compared (the "Senior Obligation"), a contractual, trust or similar arrangement providing that (a) upon the liquidation, dissolution, reorganization or winding up of the Reference Entity, claims of the holders of the Senior Obligation will be satisfied prior to the claims of the holders of the Subordinated Obligation or (b) the holders of the Subordinated Obligation will not be entitled to receive or retain payments in respect of their claims against the Reference Entity at any time that the Reference Entity is in payment arrears or is otherwise in default under the Senior Obligation. "Subordinated" will be construed accordingly. For purposes of determining whether Subordination exists or whether an obligation is Subordinated with respect to another obligation to which it is being compared, the existence of preferred creditors arising by operation of law or of collateral, credit support or other credit enhancement arrangements shall not be taken into account, except that, notwithstanding the foregoing, priorities arising by operation of law shall be taken into account.

"Substitute Reference Obligation" means one or more obligations of a Reference Entity (either directly or as provider of a Qualifying Guarantee) that will replace the Reference Obligation of such Reference Entity, identified by the Calculation Agent in accordance with the following procedures:

(a) In the event that (i) a Reference Obligation is redeemed in whole or (ii) in the opinion of the Calculation Agent (A) the aggregate amounts due under any Reference Obligation have been materially reduced by redemption or otherwise (other than due to any scheduled redemption, amortization or prepayments), (B) any Reference Obligation is an Underlying Obligation with a Qualifying Guarantee of a Reference Entity and, other than due to the existence or occurrence of a CEMEX Credit Event, the Qualifying Guarantee is no longer a valid and binding obligation of such Reference Entity enforceable in accordance with its terms, or (C) for any other reason, other than due to the existence or occurrence of a CEMEX Credit Event, any Reference Obligation is no longer an obligation of a Reference Entity, the Calculation Agent shall (after consultation with the parties) identify one or more Obligations to replace such Reference Obligation.

(b) Any Substitute Reference Obligation shall be an Obligation that (1) ranks pari passu (or, if no such Obligation exists, then, at the Calculation Agent's option, an Obligation that ranks senior) in priority of payment with such Reference Obligation (with the ranking in priority of payment of such Reference Obligation being determined as of the later of (A) the Effective Date and (B) the date on which such Reference Obligation was issued or incurred and not reflecting any change to such ranking in priority of payment after such later date), (2) preserves the economic equivalent, as closely as practicable as determined by the Calculation Agent in consultation with the parties, of the delivery and payment obligations of the parties pursuant to this Transaction and (3) is an obligation of a Reference Entity (either directly or as provider of a Qualifying Guarantee). The Substitute Reference Obligation identified by the Calculation Agent shall, without further action, replace such Reference Obligation.

(c) For purposes of identification of a Reference Obligation, any change in the Reference Obligation's CUSIP or ISIN number or other similar identifier will not, in and of itself, convert such Reference Obligation into a different Obligation.

"Supranational Organization" means any entity or organization established by treaty or other arrangement between two or more Sovereigns or the Sovereign Agencies of two or more Sovereigns and includes, without limiting the foregoing, the International Monetary Fund, European Central Bank, International Bank for Reconstruction and Development and European Bank for Reconstruction and Development.

"Voting Shares" means those shares or other interests that have the power to elect the board of directors or similar governing body of an entity.

Exhibit 4.19.1

EXECUTION COPY

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.,
as Issuer,

and

CEMEX, S.A.B. de C.V.,
CEMEX MEXICO, S.A. de C.V.,
and
NEW SUNWARD HOLDING B.V.
as Guarantors,

TO

THE BANK OF NEW YORK MELLON,
as Trustee

FIRST SUPPLEMENTAL INDENTURE

Dated as of August 10, 2009

Supplementing the Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V., as Issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as Guarantors, and The Bank of New York Mellon, as Trustee.

$900,000,000

(C10)

Callable Perpetual Dual-Currency Notes

THIS FIRST SUPPLEMENTAL INDENTURE (the "**Supplemental Indenture**") is made as of the 10th day of August, 2009, among New Sunward Holding Financial Ventures B.V., as issuer (the "**Company**"), CEMEX, S.A.B. de C.V. ("**CEMEX**"), CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors (the "**Guarantors**"), and The Bank of New York Mellon, as trustee (the "**Trustee**").

WHEREAS, the Company, the Guarantors and the Trustee heretofore executed and delivered an indenture, dated as of December 18, 2006 (the "**Indenture**"); and

WHEREAS, pursuant to the Indenture, the Company issued and the Trustee authenticated and delivered $900 million aggregate principal amount of the Company's Callable Perpetual Dual-Currency Notes (the "**Securities**"), which Securities were guaranteed by each of the Guarantors; and

WHEREAS, Section 1008 of the Indenture provides that so long as any Securities remain Outstanding, CEMEX shall not, and shall not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of CEMEX or any Subsidiary, whether now owned or held or hereafter acquired, other than Permitted Liens, unless, in each case, CEMEX has made or caused to be made effective provision whereby the Securities and the Conversion Payment Undertaking are secured equally and ratably with, or prior to, the Debt secured by such Liens (other than Permitted Liens) for so long as such Debt is so secured; and

WHEREAS, the Conversion Date has occurred and no amounts were due under the Conversion Payment Undertaking, and thus the Conversion Payment Undertaking is now discharged; and

WHEREAS, CEMEX and certain of its Subsidiaries intend to create certain Liens (the " **New Liens**") on or with respect to certain of their assets, which New Liens are not Permitted Liens; and

WHEREAS, in accordance with Section 1008 of the Indenture, CEMEX desires to make effective provision whereby the Securities will be secured equally and ratably with the Debt secured by the New Liens for so long as such Debt is so secured; and

WHEREAS, Section 901 of the Indenture provides that the Company, the Guarantors, and the Trustee, when authorized by an Officers' Certificate, without the consent of any Holders of the Securities, may enter into one or more indentures supplemental to the Indenture, in order to secure the Securities; and

WHEREAS, the Company and the Guarantors have heretofore delivered or are delivering contemporaneously herewith to the Trustee (i) copies of Officers' Certificates and (ii) an Opinion of Counsel, in compliance with and to the effect set forth in Sections 102, 901 and 903 of the Indenture; and

WHEREAS, the Company and the Guarantors have requested and directed the Trustee to enter into this Supplemental Indenture, and this Supplemental Indenture has been duly authorized by all the necessary corporate action on the part of the Company and the Guarantors; and

WHEREAS, all conditions necessary to authorize the execution and delivery of this Supplemental Indenture and to make this Supplemental Indenture valid and binding have been complied with or have been done or performed; and

NOW, THEREFORE, in consideration of the foregoing and notwithstanding any provision of the Indenture which, absent this Supplemental Indenture, might operate to limit such action, the Company, the Guarantors and the Trustee agree as follows for the benefit of the Holders of the Securities:

ARTICLE I
DEFINITIONS

Section 1.1 General. For all purposes of the Indenture and this Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) the words "herein", "hereof" and "hereunder" and other words of similar import refer to the Indenture and this Supplemental Indenture as a whole and not to any particular Article, Section or subdivision; and

(b) capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture.

ARTICLE II
AMENDMENTS

Section 2.1 Security Documents. The Trustee is hereby authorized and directed (i) to enter into (or cause an agent to enter into), on its own behalf and on behalf of the Holders, such documents (the "**Security Documents**") as are necessary or desirable (which shall be evidenced by a Company Request or other written instruction satisfactory to the Trustee) in order to create and maintain the security interest of the Trustee and the Holders in such collateral as may from time to time be provided to equally and ratably secure the Securities, including, without limitation, the documents listed on Annex A hereto, (ii) to grant such powers of attorney and to do or cause to be done all such acts and things, on its own behalf and in the name and on behalf of the Holders, as are necessary or desirable (which shall be evidenced by a Company Request or other written instruction satisfactory to the Trustee) to create and maintain the security interest of the Trustee and the Holders in such collateral, and (iii) to appoint one or more agents to serve as representative of the Trustee and the Holders in connection with the creation and maintenance of the security interest of the Trustee and the Holders in such collateral. It is understood and acknowledged that in certain circumstances the Security Documents may be amended, modified or waived without the consent of the Trustee or the Holders. It is understood and acknowledged that any such agents, in addition to being appointed by and acting on behalf of the Trustee and the Holders, may also be appointed by and acting on behalf of other creditors of CEMEX and its subsidiaries.

ARTICLE III
MISCELLANEOUS

Section 3.1 Effectiveness. This Supplemental Indenture shall become effective upon its execution and delivery by the Company, the Guarantors and the Trustee.

Section 3.2 Indenture Remains in Full Force and Effect. Except as modified hereby, all provisions in the Indenture shall remain in full force and effect.

Section 3.3 Indenture and Supplemental Indenture Construed Together. This Supplemental Indenture is an indenture supplemental to and in implementation of the Indenture, and the Indenture and this Supplemental Indenture shall henceforth be read and construed together. From and after the effectiveness of this Supplemental Indenture, all references to the Indenture in the Indenture and the Securities shall refer to the Indenture as supplemented hereby.

Section 3.4 Confirmation and Preservation of Indenture. The Indenture as supplemented by this Supplemental Indenture is in all respects confirmed and preserved.

Section 3.5 Severability. In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.6 Headings. The Article and Section headings of this Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part of this Supplemental Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 3.7 Benefits of Supplemental Indenture, etc. Nothing in this Supplemental Indenture or the Securities, express or implied, shall give to any Person, other than the parties hereto and thereto and their successors hereunder and thereunder and the Holders of the Securities, any benefit of any legal or equitable right, remedy or claim under the Indenture, this Supplemental Indenture or the Securities.

Section 3.8 Successors. All agreements in this Supplemental Indenture by the Company and the Guarantors shall bind their respective successors. All agreements of the Trustee in this Supplemental Indenture shall bind its successors.

Section 3.9 Trustee Not Responsible for Recitals. The recitals contained herein shall be taken as the statements of the Company and the Guarantors, and the Trustee assumes no responsibility for their correctness. The Trustee shall not be liable or responsible for the validity or sufficiency of this Supplemental Indenture.

Section 3.10 Certain Duties and Responsibilities of the Trustee. In entering into this Supplemental Indenture, the Trustee shall be entitled to the benefit of every provision of the Indenture relating to the conduct or affecting the liability or affording protection to the Trustee, whether or not elsewhere herein so provided. The Company and each Guarantor expressly reaffirms and confirms its obligation to indemnify the Trustee in connection with the Indenture, this Supplemental Indenture and the actions contemplated hereby, all in accordance with Section 607 of the Indenture.

Section 3.11 Governing Law. **THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

Section 3.12 Counterpart Originals. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

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

NEW SUNWARD HOLDING
FINANCIAL VENTURES B.V., as Issuer

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney in-fact

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

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

CEMEX MEXICO, S.A. de C.V., as Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

NEW SUNWARD HOLDING B.V., as Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

THE BANK OF NEW YORK MELLON, as Trustee

By: /s/ Karon Greene
Name: Karon Greene
Title: Vice President

Annex A

Initial Security Documents

1. Spanish Power of Attorney relating to the pledge of the shares of CEMEX España, S.A.

Exhibit 4.19.2

EXECUTION COPY

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.,
as Issuer,

and

CEMEX, S.A.B. de C.V.,
CEMEX MEXICO, S.A. de C.V.,
and
NEW SUNWARD HOLDING B.V.
as Guarantors,

TO

THE BANK OF NEW YORK MELLON,
as Trustee

SECOND SUPPLEMENTAL INDENTURE

Dated as of May 12, 2010

Supplementing the Note Indenture, dated as of December 18, 2006, among New Sunward Holding Financial Ventures B.V., as Issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as Guarantors, and The Bank of New York Mellon, as Trustee.

U.S.$900,000,000

(C10)

Callable Perpetual Dual-Currency Notes

THIS SECOND SUPPLEMENTAL INDENTURE (the "**Supplemental Indenture**") is made as of the 12th day of May, 2010, among New Sunward Holding Financial Ventures B.V., as issuer (the "**Company**"), CEMEX, S.A.B. de C.V. ("**CEMEX**"), CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors (the "**Guarantors**"), The Bank of New York Mellon, as trustee (the "**Trustee**"), Swap 10 Capital (SPV) Limited (the "**Swap Counterparty**") and C10 Capital (SPV) Limited.

WHEREAS, the Company, the Guarantors and the Trustee heretofore executed and delivered an indenture, dated as of December 18, 2006, as supplemented by a first supplemental indenture dated as of August 10, 2009, (as so supplemented, the " **Indenture**"); and

WHEREAS, pursuant to the Indenture, the Company issued and the Trustee authenticated and delivered U.S.$900 million aggregate principal amount of the Company's Callable Perpetual Dual-Currency Notes (the " **Securities**"), which Securities were guaranteed by each of the Guarantors; and

WHEREAS, Section 1101 of the Debenture Indenture provides that the 6.722% Fixed-to-Floating Rate Callable Perpetual Debentures (the "**Debentures**") may be redeemed only in limited circumstances if the Company redeems the Securities in accordance with the terms of the Indenture; and

WHEREAS, Section 1101 of the Indenture provides that, except under certain circumstances, the Securities may not be redeemed at the election of the Company until December 31, 2016; and

WHEREAS, the Company, acting pursuant to instructions, intends to deliver to the Trustee for cancellation pursuant to Section 309 of the Indenture an aggregate principal amount of Securities delivered to the Company by C10 Capital (SPV) Limited following the cancellation of a corresponding amount of Debentures validly tendered to C10 Capital (SPV) Limited and accepted in any exchange offer, tender offer or market transactions conducted by an Affiliate of CEMEX; and

WHEREAS, Section 902 of the Indenture provides that the Company, the Guarantors, the Swap Counterparty and the Trustee, when authorized by an Officers' Certificate, with the consent of the holders of not less than the majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and the Holders of not less than a majority in principal amount of the Outstanding Securities, may enter into one or more indentures supplemental to the Indenture, in order to modify certain provisions of the Indenture; and

WHEREAS, holders of at least a majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and Holders of at least a majority in principal amount of the Outstanding Securities have consented to the execution of this Supplemental Indenture; and

WHEREAS, the Company and the Guarantors have heretofore delivered or are delivering contemporaneously herewith to the Trustee (i) copies of Officers' Certificates and (ii) an Opinion of Counsel, in compliance with and to the effect set forth in Sections 102, 902 and 903 of the Indenture; and

WHEREAS, the Company, acting pursuant to instructions, and the Guarantors have requested and directed the Trustee to enter into this Supplemental Indenture, and this Supplemental Indenture has been duly authorized by all the necessary corporate action on the part of the Company and the Guarantors; and

WHEREAS, all conditions necessary to authorize the execution and delivery of this Supplemental Indenture and to make this Supplemental Indenture valid and binding have been complied with or have been done or performed; and

NOW, THEREFORE, in consideration of the foregoing and notwithstanding any provision of the Indenture which, absent this Supplemental Indenture, might operate to limit such action, the Company, the Guarantors and the Trustee agree as follows for the benefit of the Holders of the Securities, and the Swap Counterparty and C10 Capital (SPV) Limited, as the holder of all outstanding Securities, by their respective execution hereof, hereby consent to the execution of this Second Supplemental Indenture and the amendments effected hereby:

ARTICLE I
DEFINITIONS

Section 1.1 General. For all purposes of the Indenture and this Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) the words “herein”, “hereof” and “hereunder” and other words of similar import refer to the Indenture and this Supplemental Indenture as a whole and not to any particular Article, Section or subdivision; and

(b) capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture.

ARTICLE II
AMENDMENTS

Section 2.1 Right of Redemption.

Section 1101 of the Indenture is amended by adding a new clause (d) immediately following clause (c) reading as follows:

“Notwithstanding anything contained in this Indenture to the contrary, at any time and from time to time, the Company shall deliver to the Trustee for cancellation in accordance with Section 309 the aggregate principal amount of Securities delivered to the Company by C10 Capital (SPV) Limited in accordance with Section 1101(c) of the Debenture Indenture.”

ARTICLE III
MISCELLANEOUS

Section 3.1 Effectiveness. This Supplemental Indenture shall become effective upon its execution and delivery by the Company, the Guarantors and the Trustee.

Section 3.2 Indenture Remains in Full Force and Effect. Except as modified hereby, all provisions in the Indenture shall remain in full force and effect and the Guarantors hereby ratify and confirm the Guarantees provided in accordance with Section 1201 of the Indenture.

Section 3.3 Indenture and Supplemental Indenture Construed Together. This Supplemental Indenture is an indenture supplemental to and in implementation of the Indenture, and the Indenture and this Supplemental Indenture shall henceforth be read and construed together. From and after the effectiveness of this Supplemental Indenture, all references to the Indenture in the Indenture and the Securities shall refer to the Indenture as supplemented hereby.

Section 3.4 Confirmation and Preservation of Indenture. The Indenture as supplemented by this Supplemental Indenture is in all respects confirmed and preserved.

Section 3.5 Severability. In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.6 Headings. The Article and Section headings of this Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part of this Supplemental Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 3.7 Benefits of Supplemental Indenture, etc. Nothing in this Supplemental Indenture or the Securities, express or implied, shall give to any Person, other than the parties hereto and thereto and their successors hereunder and thereunder and the Holders of the Securities, any benefit of any legal or equitable right, remedy or claim under the Indenture, this Supplemental Indenture or the Securities.

Section 3.8 Successors. All agreements in this Supplemental Indenture by the Company and the Guarantors shall bind their respective successors. All agreements of the Trustee in this Supplemental Indenture shall bind its successors.

Section 3.9 Trustee Not Responsible for Recitals. The recitals contained herein shall be taken as the statements of the Company and the Guarantors, and the Trustee assumes no responsibility for their correctness. The Trustee shall not be liable or responsible for the validity or sufficiency of this Supplemental Indenture.

Section 3.10 Certain Duties and Responsibilities of the Trustee. In entering into this Supplemental Indenture, the Trustee shall be entitled to the benefit of every provision of the Indenture relating to the conduct or affecting the liability or affording protection to the Trustee,

whether or not elsewhere herein so provided. The Company and each Guarantor expressly reaffirms and confirms its obligation to indemnify the Trustee in connection with the Indenture, this Supplemental Indenture and the actions contemplated hereby, all in accordance with Section 607 of the Indenture.

Section 3.11 Governing Law. **THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

Section 3.12 Consent to Service; Jurisdiction. The Company, each Guarantor and the Trustee agree that any legal suit, action or proceeding arising out of or relating to this Supplemental Indenture, the Securities or the Guarantee, may be instituted in any federal or state court in the Borough of Manhattan, The City of New York, waives any objection which it may now or hereafter have to the laying of the venue of any such legal suit, action or proceeding, waives any immunity from jurisdiction or to service of process in respect of any such suit, action or proceeding, and irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding. Each of the Company, each Guarantor and the Trustee further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to this Supplemental Indenture, and each of the Company and the Guarantors further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to the Securities or the Guarantee. Each of the parties hereto also irrevocably waives any right it may have to the jurisdiction of any court other than the courts mentioned above pursuant to applicable law. Each of the Company and the Guarantors hereby designates and appoints CEMEX NY Corporation, 590 Madison Ave., 41st Floor, New York, New York 10022, Attention: General Counsel, as its authorized agent upon which process may be served in any legal suit, action or proceeding arising out of or relating to this Supplemental Indenture, the Securities or the Guarantee which may be instituted in any federal or state court in the Borough of Manhattan, The City of New York, New York, and agrees that service of process upon such agent, and written notice of said service to the Company or a Guarantor by the Person serving the same, shall be deemed in every respect effective service of process upon the Company (if such notice is given to the Company) or upon such Guarantor (if such notice is given to a Guarantor) in any such suit, action or proceeding and further designates its domicile, the domicile of CEMEX NY Corporation specified above and any domicile CEMEX NY Corporation may have in the future as its domicile to receive any notice hereunder (including service of process). If for any reason CEMEX NY Corporation (or any successor agent for this purpose) shall cease to have a domicile in New York or to act as agent for service of process as provided above, each of the Company and the Guarantors will promptly appoint a successor agent domiciled in New York for this purpose reasonably acceptable to Trustee and shall grant thereto notarial powers-of-attorney for lawsuits and collections. Each of the Company and the Guarantors agrees to take any and all actions as may be necessary to maintain such designation and appointment of such agent in full force and effect. Notwithstanding the foregoing, if CEMEX NY Corporation ceases to be a New York Corporation the parties shall immediately appoint CT Corporation System, Inc. as a replacement thereof.

Section 3.13 Counterpart Originals. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

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

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.,
as Issuer

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

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

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-fact

CEMEX MEXICO, S.A. de C.V.,
as Guarantor

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-fact

NEW SUNWARD HOLDING B.V.,
as Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

THE BANK OF NEW YORK MELLON,
as Trustee

By: /s/ Christopher Curtie
Name: Christopher Curtie
Title: Vice President

SWAP 10 CAPITAL (SPV) LIMITED,
as Swap Counterparty

By: /s/ Illegible
Name:
Title: Authorised Signatories for
Ogier Mangers (BVI) Limited Director

C10 CAPITAL (SPV) LIMITED

By: /s/ Illegible
Name:
Title: Authorised Signatories for
Ogier Mangers (BVI) Limited Director

Exhibit 4.21

EXECUTION COPY

New Sunward Holding Financial Ventures B.V.,

As Issuer

and

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

CEMEX MEXICO, S.A. de C.V.,
and
NEW SUNWARD HOLDING B.V.,

As Guarantors

TO

The Bank of New York,

As Trustee

Note Indenture

Dated as of February 12, 2007

U.S. $750,000,000

Callable Perpetual Dual-Currency Notes

TABLE OF CONTENTS

Note: This table of contents shall not, for any purpose, be deemed to be a part of the Indenture.

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NOTE INDENTURE, dated as of February 12, 2007, among New Sunward Holding Financial Ventures B.V., a private company with limited liability formed under the laws of the Netherlands (herein called the "Company"), having its principal office at Amsteldijk 166, 1079 LH Amsterdam, each of the Guarantors (as hereinafter defined) and The Bank of New York, a bank duly organized and existing under the laws of the State of New York, as Trustee (herein called the "Trustee").

RECITALS OF THE COMPANY AND THE GUARANTORS

The Company has duly authorized the creation of an issue of its Callable Perpetual Dual-Currency Notes (herein called the "Securities") of substantially the tenor and amount hereinafter set forth, and to provide therefor the Company has duly authorized the execution and delivery of this Note Indenture.

The Guarantors, jointly and severally, desire to irrevocably and unconditionally guarantee the payment of the principal of and interest on, and any other amount due under, this Note Indenture and the Securities, as the same shall become due in accordance with the terms of this Note Indenture and the Securities pursuant to the Guarantee provided in this Note Indenture and endorsed on the Securities, and to provide therefor have duly authorized the execution and delivery of this Note Indenture.

All things necessary to make the Securities, when executed by the Company and authenticated and delivered hereunder and duly issued by the Company, the valid obligations of the Company, and to make this Note Indenture a valid agreement of the Company, in accordance with their and its terms, have been done.

All things necessary to make the Guarantee, when executed by the Guarantors, the valid obligation of the Guarantors, and to constitute these presents a valid indenture and agreement of the Guarantors, according to its terms, have been done.

NOW, THEREFORE, THIS NOTE INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Securities by the Holders thereof, it is mutually agreed, for the equal and proportionate benefit of all Holders of the Securities, as follows:

ARTICLE ONE

Definitions and Other Provisions
of General Application

SECTION 101 Definitions.

For all purposes of this Note Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(1) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;

(2) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles in Mexico, the Netherlands or any other applicable jurisdiction, and, except as otherwise herein expressly provided, the term "generally accepted accounting principles" with respect to any computation required or permitted hereunder shall mean such accounting principles as are generally accepted in Mexico, the Netherlands or any applicable jurisdiction at the date of such computation;

(3) unless the context otherwise requires, any reference to an "Article" or a "Section", or to an "Annex", refers to an Article or Section of, or to an Annex attached to, this Note Indenture, as the case may be;

(4) unless the context otherwise requires, any reference to a statute, rule or regulation refers to the same (including any successor statute, rule or regulation thereto) as it may be amended from time to time; and

(5) the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Note Indenture as a whole and not to any particular Article, Section or other subdivision.

"Acquired Subsidiary" means any Subsidiary acquired by CEMEX or any other Subsidiary after the date of this Note Indenture in an Acquisition, and any Subsidiaries of such Acquired Subsidiary on the date of such Acquisition.

"Acquiring Subsidiary" means any Subsidiary formed by CEMEX or one of its Subsidiaries solely for the purpose of participating as the acquiring party in any Acquisition, and any Subsidiaries of such Acquiring Subsidiary acquired in such Acquisition.

"Acquisition" means any merger, consolidation, acquisition or lease of assets, acquisition of securities or business combination or acquisition, or any two or more of such transactions, if, upon the completion of such transaction or transactions, CEMEX or any Subsidiary thereof has acquired an interest in any Person who would be deemed to be a Subsidiary under this Note Indenture and was not a Subsidiary prior thereto.

"Act" when used with respect to any Holder, has the meaning specified in Section 104.

"Additional Amounts" has the meaning specified in Section 1007.

"Adjusted Consolidated Net Tangible Assets" means the total assets of CEMEX and its Subsidiaries (less applicable depreciation, amortization and other valuation reserves), including any write-ups or restatements (other than with respect to items referred to in clause (ii) below), after deducting therefrom (i) all current liabilities (excluding the current portion of long-term debt) and (ii) all goodwill, trade names, trademarks, licenses, concessions, patents and other intangibles, all as determined on a consolidated basis in accordance with Mexican GAAP.

"Affiliate" of any specified Person means any other Person who directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with such specified Person. For the purposes of this definition, "control" when used with

respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Applicable Taxes" has the meaning specified in Section 1007.

"Authenticating Agent" means any Person authorized by the Trustee pursuant to Section 612 to act on behalf of the Trustee to authenticate Securities.

"Benchmark Swap" has the meaning specified in Annex A.

"Board of Directors" means either the board of directors of the Company or any committee of that board duly authorized to act for it in respect hereof.

"Board Resolution" means a copy of a resolution certified by the Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"Business Day" means, with respect to any particular place, each day that is not a Saturday, a Sunday, a day on which banks in New York City or London are authorized or obligated by law or executive order to remain closed, or a day on which the Corporate Trust Office of the Debenture Trustee is closed for business, provided that, when the Dollar Fixed Rate and Yen Rate is applicable, "Business Day" shall not include a day on which banks in Tokyo, Japan, are authorized or obligated by law or executive order to remain closed. If any day on which any delivery, request, surrender or other action is required or permitted hereunder to be taken by or on behalf of a Holder is not a business day in any place where such action is permitted hereunder to be taken, then such actions may be taken at such or any other permitted place on the next succeeding business day at such place with the same force and effect as if taken at the same time on such day that is not a business day at such place.

"C8 Capital (SPV) Limited" means a restricted purpose company incorporated with limited liability domiciled in the British Virgin Islands.

"Calculation Agent" has the meaning specified in the Master Collateral Agreement.

"Capital Lease" means a lease that would be capitalized on a balance sheet of the lessee prepared in accordance with Mexican GAAP.

"CEMEX" means CEMEX, S.A.B. de C.V., a publicly traded stock corporation with variable capital (sociedad anónima búrsatil de capital variable) organized under the laws of Mexico.

"CEMEX Change of Control" means the occurrence of either of the following: (a) any Person or Persons acting in concert or on behalf of any Person(s) is or becomes the beneficial owner, directly or indirectly, of more than 50% of the capital stock of CEMEX, then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election of directors (whether or not any necessary approvals therefor have been obtained); or (b) the direct or indirect sale, lease, transfer, conveyance or other disposition, in one or a series of related transactions, of all or substantially all of the assets of CEMEX, and its Subsidiaries, taken as a whole, to any Person or group of Persons acting in concert (other than to CEMEX or any of its Subsidiaries).

"CEMEX Change of Control Event" means the earliest date on which both of the following events have occurred: (i) a CEMEX Change of Control; and (ii) either prior to a CEMEX Change of Control or within 90 days after public notice of the occurrence of a CEMEX Change of Control (which period will be extended so long as any rating is under publicly-announced consideration of possible downgrade by any of the Rating Agencies), any Rating Agency publicly announces that the corporate credit rating of CEMEX by such Rating Agency is withdrawn or downgraded to a rating below BBB- by S&P or BBB- by Fitch (or their respective equivalents at such time).

"CEMEX México" means CEMEX México, S.A. de C.V., a stock corporation with variable capital (sociedad anónima de capital variable) organized under the laws of Mexico.

"Commission" means the U.S. Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, or, if at any time after the execution of this instrument such Commission is not existing and performing the duties now assigned to it under applicable law, then the body performing such duties at such time.

"Company" means the Person named as the "Company" in the first paragraph of this instrument until a successor Person shall have become such pursuant to the applicable provisions of this Note Indenture, and thereafter "Company" shall mean such successor Person.

"Company Request" or "Company Order" means a written request or order signed in the name of the Company by any one of the individuals who may sign an Officers' Certificate on its behalf and delivered to the Trustee.

"Conditions to Anticipated Swap Termination" has the meaning specified in Annex B.

"Conversion Credits" has the meaning specified in Annex A.

"Conversion Date" has the meaning specified in Section 313, 314 or 315, as applicable.

"Conversion Payment" has the meaning specified in Annex A.

"Conversion Payment Undertaking" means the Conversion Payment Undertaking, dated as of February 12, 2007, of the Company and the Guarantors.

"Corporate Trust Office" means the principal office of the Trustee in the Borough of Manhattan, the City of New York, New York at which at any particular time its corporate trust business shall be administered.

"Debentures" has the meaning specified in the Debenture Indenture, dated as of February 12, 2007, between the Debenture Trustee and the Holders.

"Debentures Indenture" means the Debenture Indenture, dated as of February 12, 2007, between the C8 Capital (SPV) Limited and the Debenture Trustee.

"Debenture Trustee" means The Bank of New York in its capacity as trustee for the Debentures.

"Debt" of any Person means, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee under Capital Leases, (v) all Debt of others secured by a Lien on any asset of such Person, up to the value of such asset, as recorded in such Person's most recent balance sheet, (vi) all obligations of such Person with respect to product invoices incurred in connection with export financing, (vii) all obligations of such Person under repurchase agreements for the stock issued by such Person or another Person and (viii) all Debt of others guaranteed by such Person. For the avoidance of doubt, Debt does not include Derivatives.

"Defaulted Interest" has the meaning specified in Section 307.

"Derivatives" means any type of derivative obligations, including but not limited to equity forwards, capital hedges, cross-currency swaps, currency forwards, credit default swaps, interest rate swaps and swaptions.

"Dollar" and $ means a U.S. Dollar or other equivalent unit in such coin or currency of the United States of America as at the time shall be legal tender for the payment of public and private debts.

"Dollar Fixed Rate" has the meaning specified in Section 203.

"Dollar Floating Rate" has the meaning specified in Section 203.

"Event of Default" has the meaning specified in Section 501.

"Exchange Act" means the U.S. Securities Exchange Act of 1934, as amended, and (unless the context otherwise requires) includes the rules and regulations of the Commission promulgated thereunder.

"Expiration Date" has the meaning specified in Section 104(g).

"Extinguishable Coupon Swap" has the meaning specified in the Master Collateral Agreement.

"Fitch" means Fitch Ratings Ltd. or any successor to the rating agency business thereof.

"Global Security" has the meaning specified in Section 201.

"Guarantee" means the joint and several irrevocable and unconditional guarantee of the Securities by the Guarantors, as contained in Article Twelve of this Note Indenture.

"Guarantor" means each of CEMEX, CEMEX México, and New Sunward Holding, and each of their respective Successors, if any, who becomes a Successor pursuant to Section 801.

"Holder" means, with respect to any issuance of Securities, C8 Capital (SPV) Limited or any other Person in whose name such issuance of Security is registered in the Security Register.

"Initial Purchasers" has the meaning specified in the Purchase Agreement.

"Interest Payment Date" means the Stated Maturity of an installment of interest on the Securities.

"Judgment Currency" has the meaning specified in Section 1010.

"LIBO Calculation Agent" has the meaning specified in Section 203.

"LIBOR Business Date" has the meaning specified in Section 203.

"LIBOR Interest Determination Date" has the meaning specified in Section 203.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. CEMEX or any Subsidiary of CEMEX shall be deemed to own, subject to a Lien, any asset that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capital Lease or other title retention lease relating to such asset, or any account receivable transferred by it with recourse (including any such transfer subject to a holdback or similar arrangement that effectively imposes the risk of collectability on the transferor).

"Master Collateral Agreement" means the Master Collateral Agreement dated as of February 12, 2007, among CEMEX, CEMEX México, New Sunward Holding, the Company, C8 Capital (SPV) Limited, Swap 8 Capital (SPV) Limited, The Bank of New York and Barclays Bank PLC.

"Maturity", when used with respect to any Security, means the date on which the principal of such Security becomes due and payable as therein or herein provided, whether at the Stated Maturity, by declaration of acceleration, call for redemption, exercise of the repurchase right or otherwise.

"Mexican GAAP" means, at any time of determination, generally accepted accounting principles in Mexico as in effect at such time.

"Mexico" means the United Mexican States.

"New Sunward Holding" means New Sunward Holding B.V., a private company with limited liability formed under the laws of the Netherlands.

"Note Indenture" means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, including, for all purposes of this instrument and any such supplemental indenture, the Annexes attached to this instrument.

"Note Taxing Jurisdiction" has the meaning specified in Section 203.

"Notice of Default" means a written notice of the kind specified in Section 501(4).

"Officers' Certificate" of the Company means a certificate signed by any one of its chief executive officer, corporate planning or finance director, chief financial officer, comptroller, chief accounting officer or chief legal officer or any other Person authorized to act on behalf of the Company, and delivered to the Trustee. "Officers' Certificate" of a Guarantor means a certificate signed by any one of the chief executive officer, corporate planning or finance director, chief financial officer, comptroller, chief accounting officer or chief legal officer or any other Person authorized to act on behalf of such Guarantor, and delivered to the Trustee. One of the officers signing an Officers' Certificate given pursuant to Section 1004 shall be the corporate planning or finance director, chief financial officer, comptroller or finance director of CEMEX. Unless the context otherwise requires, each reference herein to an "Officers' Certificate" shall mean an Officers' Certificate of the Company.

"Opinion of Counsel" means an opinion in writing signed by legal counsel who, unless otherwise provided herein, may be an employee of or counsel to CEMEX or the Trustee or who may be other counsel reasonably satisfactory to the Trustee.

"Outstanding" when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Note Indenture, except:

(i) Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(ii) Securities for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company or any Guarantor) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Securities; provided that, if such Securities are to be redeemed, notice of such redemption shall have been duly given pursuant to this Note Indenture or provision therefor satisfactory to the Trustee shall have been made; and

(iii) Securities that have been paid pursuant to Section 306 or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Note Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a bona fide purchaser in whose hands such Securities are valid obligations of the Company;

provided, however, that in determining whether the Holders of the requisite principal amount of the Outstanding Securities have given, made or taken any request, demand, authorization, direction, notice, consent, waiver or other action hereunder as of any date, Securities owned by the Company, any Guarantor or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, waiver or other action, only Securities that a Responsible Officer of the Trustee knows to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction

of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor.

"Paying Agent" means any Person authorized by the Company to pay the principal of or interest on any Securities on behalf of the Company.

"Permitted Lien" has the meaning specified in Section 1008.

"Person" means any individual, company, corporation, firm, partnership, joint venture, association, organization, state or agency or other entity, whether or not having a separate legal personality.

"Predecessor Security" of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 306 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

"Purchase Agreement" means the Purchase Agreement, dated as of February 6, 2007, among C8 Capital (SPV) Limited, CEMEX, CEMEX México, New Sunward Holding, the Company and the Initial Purchasers of the securities named therein, relating to the Debentures.

"Qualified Receivables Transaction" means a sale, transfer, or securitization of receivables and related assets by CEMEX or its Subsidiaries, including a sale at a discount, provided that (i) such receivables have been sold, transferred or otherwise conveyed, directly or indirectly, by the originator thereof in a manner that satisfies the requirements for a sale, transfer or other conveyance under the laws and regulations of the jurisdiction in which such originator is organized; (ii) at the time of the sale, transfer or securitization of receivables is put in place, the receivables are derecognized from the balance sheet of CEMEX or its Subsidiary in accordance with the generally accepted accounting principles applicable to such Person in effect as at the date of such sale, transfer or securitization; and (iii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or securitization is carried out on a non-recourse basis or on a basis where recovery is limited to the collection of receivables.

"Qualifying Equity Security" means any security that (a) is issued or guaranteed by CEMEX and (b) is accounted for as "equity" of CEMEX in the consolidated financial statements of CEMEX.

"Rating Agencies" means S&P and Fitch.

"Redemption Date" when used with respect to any Security to be redeemed, means the date fixed for such redemption by or pursuant to this Note Indenture.

"Redemption Price" when used with respect to any Security to be redeemed, means the price at which it is to be redeemed as set forth in the Securities.

"Regular Record Date" for the interest payable on any Interest Payment Date means March 15, June 15, September 15 or December 15 (regardless of whether a Business Day), as the case may be, immediately preceding such Interest Payment Date.

"Responsible Officer" with respect to the Trustee, any officer, within the Corporate Trust Office (or any successor group of the Trustee), including any senior vice president, vice president, assistant vice president, secretary, assistant secretary, or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also, with respect to a particular matter, any other officer to whom such matter is referred because of such officer's knowledge of and familiarity with the particular subject.

"Restricted Securities" has the meaning specified in Section 201.

"Securities" means the securities designated as such in the first paragraph of the RECITALS OF THE COMPANY AND THE GUARANTORS.

"Securities Act" means the U.S. Securities Act of 1933, as amended, and (unless the context otherwise requires) includes the rules and regulations of the Commission promulgated thereunder.

"Security Register" and "Security Registrar" have the respective meanings specified in Section 305.

"Special Record Date" for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 307.

"S&P" means Standard & Poor's, a division of McGraw-Hill Companies, Inc., or any successor to the rating agency business thereof.

"Stated Maturity" when used with respect to any Security or any installment of interest thereon, means any date specified in such Security as the fixed date on which such installment of interest is due and payable.

"Subsidiary" means, with respect to any Person, any corporation, partnership, joint venture, limited liability company, trust, estate or other entity of which (or in which) more than 50% of (a) in the case of a corporation, the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency not in the control of such Person), (b) in the case of a limited liability company, partnership or joint venture, the interest in the capital or profits of such limited liability company, partnership or joint venture or (c) in the case of a trust or estate, the beneficial interest in such trust or estate, is at the time directly or indirectly owned or controlled by (X) such Person, (Y) such Person and one or more of its other Subsidiaries or (Z) one or more of such Person's other Subsidiaries. Unless the context otherwise requires, all references herein to a "Subsidiary" shall refer to a Subsidiary of CEMEX.

"Successor" has the meaning specified in Section 801.

"Swap Counterparty" means Swap 8 Capital (SPV) Limited, a restricted purpose company incorporated with limited liability domiciled in the British Virgin Islands.

"Telerate Page 3750" has the meaning specified in Section 203.

"Transfer" of any Security encompasses any sale, pledge, transfer, hypothecation or other disposition of such Security or any interest therein.

"Trust Indenture Act" means the U.S. Trust Indenture Act of 1939, as amended, and (unless the context otherwise requires) includes the rules and regulations of the Commission thereunder.

"Trustee" means the Person named as the "Trustee" in the first paragraph of this instrument until a successor Trustee shall have become such pursuant to the applicable provisions of this Note Indenture, and thereafter "Trustee" shall mean such successor Trustee.

"United States" means the United States of America (including the States thereof and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction.

"Yen" and "¥" means a Japanese Yen or other equivalent unit in such coin or currency of Japan as at the time shall be legal tender for the payment of public and private debts.

"Yen Equivalent Principal Amount" has the meaning specified in Section 203.

"Yen Rate" has the meaning specified in Section 203.

"3-month Dollar LIBO Rate" has the meaning specified in Section 203.

"6-month Yen LIBO Rate" has the meaning specified in Section 203.

SECTION 102 Compliance Certificates and Opinions.

Upon any application or request by the Company to the Trustee to take any action under any provision of this Note Indenture, the Company shall furnish to the Trustee such certificates and opinions as may be required hereunder. Each such certificate or opinion shall be given in the form of an Officers' Certificate, if to be given by an officer of the Company, or an Opinion of Counsel if to be given by counsel.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Note Indenture (except for certificates provided for in Section 1004) shall include,

(1) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether such covenant or condition has been complied with; and

(4) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

SECTION 103 Form of Documents Delivered to Trustee.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Company or any Guarantor may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or opinion of counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company or of the relevant Guarantor, as the case may be, stating that the information with respect to such factual matters is in the possession of the Company or such Guarantor, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Note Indenture, they may, but need not, be consolidated and form one instrument.

SECTION 104 Acts of Holders; Record Dates.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Note Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to a Responsible Officer of the Trustee and, where it is hereby expressly required, to the Company or the Guarantors. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Note Indenture and (subject to Section 601) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where

such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The ownership of Securities shall be proved by the Security Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, regardless of whether notation of such action is made upon such Security.

(e) The Company may set any day as a record date for the purpose of determining the Holders of Outstanding Securities entitled to give, make or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Note Indenture to be given, made or taken by Holders of Securities, provided that the Company may not set a record date for, and the provisions of this paragraph shall not apply with respect to, the giving or making of any notice, declaration, request or direction referred to in the next paragraph. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities on such record date, and no other Holders, shall be entitled to take the relevant action, regardless of whether such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities on such record date. Nothing in this paragraph shall be construed to prevent the Company from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be cancelled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Company, at its own expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Trustee in writing and to each Holder of Securities in the manner set forth in Section 106.

(f) The Trustee may set any day as a record date for the purpose of determining the Holders of Outstanding Securities entitled to join in the giving or making of (i) any Notice of Default, (ii) any declaration of acceleration referred to in Section 502, (iii) any request to institute proceedings referred to in Section 507(2) or (iv) any direction referred to in Section 512. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities on such record date, and no other Holders, shall be entitled to join in such notice, declaration, request or direction, regardless whether such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities on such record date. Nothing in this paragraph shall be construed to prevent the Trustee from setting a new record date for any action (whereupon the record date previously set shall automatically and without any action by any Person be cancelled and of no effect), nor shall anything in this paragraph be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities on the date such action is taken. Promptly after any record date is set pursuant to this

paragraph, the Trustee, at the Company's expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Company in writing and to each Holder of Securities in the manner set forth in Section 106.

(g) With respect to any record date set pursuant to this Section, the party hereto that sets such record date may designate any day as the "Expiration Date" and from time to time may change the Expiration Date to any earlier or later day, provided that no such change shall be effective unless notice of the proposed new Expiration Date is given to the other party hereto in writing, and to each Holder of Securities in the manner set forth in Section 106, on or prior to the existing Expiration Date. If an Expiration Date is not designated with respect to any record date set pursuant to this Section, the party hereto that set such record date shall be deemed to have initially designated the 180th day after such record date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date as provided in this paragraph. Notwithstanding the foregoing, no Expiration Date shall be later than the 180th day after the applicable record date.

Without limiting the foregoing, a Holder entitled hereunder to take any action hereunder with regard to any particular Security may do so with regard to all or any part of the principal amount of such Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such principal amount.

SECTION 105 Notices, Etc., to Trustee, Company and Guarantors.

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Note Indenture to be made upon, given or furnished to, or filed with,

(1) the Trustee by any Holder or by the Company or any Guarantor shall be in the English language and shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Trustee at its Corporate Trust Office, or

(2) the Company or any Guarantor by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, to it addressed to it at the address of the Company's principal office specified in the first paragraph of this instrument, Attention: Finance Director, with a copy to CEMEX at Av. Ricardo Margáin Zozaya #325, Colonia Valle del Campestre, Garza García, Nuevo León, México 66265, Attention: General Counsel, or at any other address previously furnished in writing to the Trustee by the Company.

SECTION 106 Notice to Holders; Waiver.

Where this Note Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, to each Holder affected by such event, at his address as it appears in the Security Register. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Note Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

SECTION 107 Effect of Headings and Table of Contents.

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

SECTION 108 Successors and Assigns.

All covenants and agreements in this Note Indenture by the Company or any Guarantor shall bind its successors and assigns, regardless of whether so expressed.

SECTION 109 Separability Clause.

In case any provision in this Note Indenture or in the Securities or the Guarantee shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 110 Benefits of Note Indenture.

Nothing in this Note Indenture or in the Securities or the Guarantee, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder and the Holders of Securities, any benefit or any legal or equitable right, remedy or claim under this Note Indenture.

SECTION 111 Governing Law.

THIS NOTE INDENTURE, THE GUARANTEE AND THE SECURITIES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

SECTION 112 Legal Holidays.

In any case where any Interest Payment Date, Redemption Date, Conversion Date or Stated Maturity of any Security shall not be a Business Day, then (notwithstanding any other provision of this Note Indenture or of the Securities) payment of interest or principal (and premium, if any) need not be made on such date, but may be made on the preceding Business Day with the same force and effect as if made on the Interest Payment Date, Redemption Date, Conversion Date or at the Stated Maturity, as the case may be.

SECTION 113 Consent to Service; Jurisdiction.

The Company, each Guarantor and the Trustee agree that any legal suit, action or proceeding arising out of or relating to this Note Indenture, the Securities or the Guarantee, may be

instituted in any federal or state court in the Borough of Manhattan, The City of New York, waives any objection which it may now or hereafter have to the laying of the venue of any such legal suit, action or proceeding, waives any immunity from jurisdiction or to service of process in respect of any such suit, action or proceeding, and irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding. Each of the Company, each Guarantor and the Trustee further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to this Note Indenture, and each of the Company and the Guarantors further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to the Securities or the Guarantee. Each of the parties hereto also irrevocably waives any right it may have to the jurisdiction of any court other than the courts mentioned above pursuant to applicable law. Each of the Company and the Guarantors hereby designates and appoints CEMEX NY Corporation, 590 Madison Ave., 41st Floor, New York, New York 10022, Attention: General Counsel, as its authorized agent upon which process may be served in any legal suit, action or proceeding arising out of or relating to this Note Indenture, the Securities or the Guarantee which may be instituted in any federal or state court in the Borough of Manhattan, The City of New York, New York, and agrees that service of process upon such agent, and written notice of said service to the Company or a Guarantor by the Person serving the same, shall be deemed in every respect effective service of process upon the Company (if such notice is given to the Company) or upon such Guarantor (if such notice is given to a Guarantor) in any such suit, action or proceeding and further designates its domicile, the domicile of CEMEX NY Corporation specified above and any domicile CEMEX NY Corporation may have in the future as its domicile to receive any notice hereunder (including service of process). If for any reason CEMEX NY Corporation (or any successor agent for this purpose) shall cease to have a domicile in New York or to act as agent for service of process as provided above, each of the Company and the Guarantors will promptly appoint a successor agent domiciled in New York for this purpose reasonably acceptable to Trustee and shall grant thereto notarial powers-of-attorney for lawsuits and collections. Each of the Company and the Guarantors agrees to take any and all actions as may be necessary to maintain such designation and appointment of such agent in full force and effect. Notwithstanding the foregoing, if CEMEX NY Corporation ceases to be a New York Corporation the parties shall immediately appoint CT Corporation System, Inc. as a replacement thereof.

SECTION 114 Language of Notices, Etc.

Any request, demand, authorization, direction, notice, consent or waiver required or permitted under this Note Indenture shall be in the English language, except that any published notice may be in an official language of the country of publication.

ARTICLE TWO

Security Forms

SECTION 201 Forms Generally.

The Securities and the Trustee's certificates of authentication shall be in substantially the forms set forth in this Article, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Note Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed

thereon as may be required to comply with the rules of any securities exchange or depositary thereof or as may, consistently herewith, be determined by the officers executing such Securities, as evidenced by their execution of the Securities.

The definitive Securities shall be printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the officers executing such Securities, as evidenced by their execution of such Securities.

The legends set forth in Section 202 may not be omitted from Securities issued hereunder at any time.

Original Securities offered and sold in their initial distribution shall be initially issued in the form of one or more Global Securities in definitive, fully registered form without interest coupons, substantially in the form of Security set forth in Sections 202 and 203, with such applicable legends as are provided for in Section 202. Such Global Securities shall be registered in the name of the Holders or their nominees and deposited with the Trustee, at its Corporate Trust Office, as custodian for the Holders, duly executed by the Company and authenticated by the Trustee as hereinafter provided, for credit to the respective accounts of the Holders. The aggregate principal amount of the Global Security may from time to time be increased or decreased by adjustments made on the records of the Trustee, as custodian for the Holders, in connection with a corresponding decrease or increase in the aggregate principal amount of the Global Security, as hereinafter provided.

Securities issued in exchange for a Global Security or any portion thereof shall be issued in definitive, fully registered form, without interest coupons, shall have an aggregate principal amount equal to that of such Global Security or portion thereof to be so exchanged, shall be registered in such names and be in such authorized denominations as the Trustee shall designate and shall bear any legend required hereunder. Any Global Security to be exchanged in whole shall be surrendered. With regard to any Global Security to be exchanged in part, either such Global Security shall be surrendered for exchange or the principal amount thereof shall be reduced, by an amount equal to the portion thereof to be so exchanged, by means of an appropriate adjustment made on the records of the Trustee. Upon such surrender or adjustment, the Trustee shall authenticate and deliver the Security issuable on such exchange.

SECTION 202 Form of Face of Security.

THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION ORIGINALLY EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE TRANSFERRED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY “U.S. PERSON” WITHIN THE MEANING OF REGULATION S UNDER THE SECURITIES ACT, EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ALL APPLICABLE STATE SECURITIES LAWS.

New Sunward Holding Financial Ventures B.V.

Callable Perpetual Dual-Currency Notes

No. _____ $_____

New Sunward Holding Financial Ventures B.V., a private company with limited liability formed under the laws of the Netherlands (herein called the "Company", which term includes any successor Person under the Note Indenture hereinafter referred to), for value received, hereby promises to pay to [name of Holder] or registered assigns, the principal sum of _____ Dollars, or such other principal amount as may be set forth in the records of the Trustee hereinafter referred to, in accordance with the Note Indenture and to pay interest thereon from February 12, 2007, or from the most recent Interest Payment Date to which interest has been paid or duly provided for in the amount and currency provided in the Note Indenture. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Note Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be March 15, June 15, September 15 or December 15 (regardless of whether a Business Day), as the case may be, immediately preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities not less than 10 days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Note Indenture.

Payment of the principal of this Security will be made in immediately available funds and in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. Payment of interest on this Security will be made in immediately available funds and in such coin or currency of the United States of America or Japan, as applicable, as at the time of payment is legal tender payment of public and private debt. Each such payment of principal and interest will be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York or, at the option of the Holder and subject to any fiscal or other laws and regulations, at any other office or agency maintained by the Company for such purpose; provided, however, that upon application by the Holder to the Security Registrar not later than the 10th day immediately preceding the relevant Regular Record Date, such Holder may receive payment by wire transfer to a U.S. Dollar account (such transfers to be made only to Holders of an aggregate principal amount in excess of $5,000,000) maintained by the payee with a bank in The City of New York; and provided, further, that, subject to the preceding proviso, payment of interest may, at the option of the Company, be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register. Unless such designation is revoked, any such designation made by the Holder with respect to this Security will remain in effect with respect to future payments with respect to this Security payable to the Holder. The Company will pay any administrative costs imposed by banks in connection with making any such payments upon application of such Holder for reimbursement.

The Company shall, to the fullest extent permitted by law, indemnify the Holder of this Security against any loss incurred by such Holder as a result of any judgment or order being given or made for any amount due under this Security and being expressed and paid in a currency other than Dollars, and as a result of any variation between relevant rates of exchange, as provided in the Note Indenture.

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Note Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated:

New Sunward Holding Financial Ventures B.V.

By _____

Name:
Title:

SECTION 203 Form of Reverse of Security.

This Security is one of a duly authorized issue of Securities of the Company designated as its Callable Perpetual Dual-Currency Notes (herein called the "Securities"), issued and to be issued under a Note Indenture, dated as of February 12, 2007 (herein called the "Note Indenture", which term shall have the meaning assigned to it in such instrument), among the Company, the Guarantors named therein and The Bank of New York, as Trustee (herein called the "Trustee", which term includes any successor trustee under the Note Indenture), to which Note Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Guarantors, the Trustee and the Holders and of the terms upon which the Securities are, and are to be, authenticated and delivered.

As provided in Article Twelve of the Note Indenture, the Guarantors have, for the benefit of the Holders, jointly and severally irrevocably and unconditionally guaranteed the due and punctual payment of all amounts payable by the Company under the Note Indenture and the Securities as and when the same shall become due and payable. Reference is hereby made to Article Twelve of the Note Indenture for a statement of the respective rights, limitations of rights, duties and amounts thereunder of the Guarantors and the Trustee.

All payments of principal and interest in respect of the Securities, the Note Indenture and the Guarantee by or for the account of the Company or any Guarantor shall be made without withholding or deduction for any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of Mexico, the Netherlands, the British Virgin Islands or in the event the Company or any Guarantor appoints additional paying agents, by the jurisdictions of such additional paying agents (each a "Note Taxing Jurisdiction"), or any political subdivision thereof or any authority therein or thereof ("Applicable Taxes"), except to the extent that such Applicable Taxes are required by a Note Taxing Jurisdiction or any such political subdivision or authority to be withheld or deducted. In the event of any withholding or deduction for any Applicable Taxes, the Company and the Guarantors shall pay such additional amounts ("Additional Amounts") as will result in receipt by the Holders of Securities on the respective due dates of such amounts as would have been received by them had no such withholding or deduction (including for any Applicable Taxes payable in respect of Additional Amounts) been required, except that no such Additional Amounts shall be payable with respect to any payment on a Security:

(i) to the extent that such taxes or duties are imposed or levied by reason of such Holder (or the beneficial owner) having some connection with the Note Taxing Jurisdiction other than the mere holding (or beneficial ownership) of such Securities;

(ii) to the extent that such taxes or duties are imposed on, or measured by, net income of the Holder (or beneficial owner);

(iii) in respect of which the Holder (or beneficial owner) fails to comply with any certification, identification or other reporting requirement concerning its nationality, residence, identity or connection with the Note Taxing Jurisdiction if (1) compliance is required by applicable law, regulation, administrative practice or treaty as a precondition to exemption from all or a part of the taxes, (2) the Holder (or beneficial

owner) is able to comply with those requirements without undue hardship and (3) the Company has given all Holders at least 30 days' prior notice that they will be required to comply with such requirements;

(iv) in respect of which the Holder (or beneficial owner) fails to surrender (where surrender is required) its Securities for payment within 30 days after the Company has made available a payment of principal or interest, provided that the Company will pay Additional Amounts to which a Holder would have been entitled had the Securities been surrendered on any day (including the last day) within such 30-day period;

(v) to the extent that such taxes or duties are imposed by reason of an estate, inheritance, gift, value added, use or sales tax or any similar taxes, assessments or other governmental charges;

(vi) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive; or

(vii) by or on behalf of a Holder who would have been able to avoid such withholding or deduction by presenting the relevant Securities to another paying agent in a member state of the European Union.

The Company shall provide the Trustee, as soon as practicable, with documentation (which may consist of certified copies of such documentation) satisfactory to the Trustee evidencing the payment of Applicable Taxes in respect of which the Company has paid any Additional Amounts. Copies of such documentation shall be made available to the Holders of the Securities or the Paying Agent, as applicable, upon request therefor.

The Company shall pay all stamp and other duties, if any, which may be imposed by Mexico, the United States of America, the Netherlands or any other applicable jurisdiction or any authority therein or thereof, with respect to the Note Indenture, the Guarantee, the Conversion Payment Undertaking or the issuance of this Security.

At all times when CEMEX is required to file any financial statements or reports with the Commission, CEMEX shall use its best efforts to file all required statements or reports in a timely manner in accordance with the rules and regulations of the Commission. In addition, at any time when CEMEX is not subject to or is not current in its reporting obligations under Section 13 or Section 15(d) of the Exchange Act or is not included on the Commission's list of foreign private issuers that claim exemption from the registration requirements of Section 12(g) of the Exchange Act pursuant to Rule 12g3-2(b) thereunder and any Debentures remain outstanding (or if otherwise required with respect to the Company, any Guarantor or C8 Capital (SPV) Limited), CEMEX will make available, upon request, to any holder and any prospective purchaser of Debentures that are "restricted securities" under the Securities Act, the information referred to in Rule 144A(d)(4) under the Securities Act in order to permit resales of the Debentures in compliance with Rule 144A.

If an Event of Default shall occur and be continuing, the principal of this Security or of all the Securities may be declared due and payable to the extent, in the manner and with the effect provided in the Note Indenture.

The Note Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the Guarantors and the rights of the Holders of the Securities under the Note Indenture at any time by the Company, the Guarantors and the Trustee with the consent of the Trustee, Swap Counterparty, the holders of not less than the majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and the Holders of not less than a majority in principal amount of the Outstanding Securities. The Note Indenture also contains provisions permitting the Holders of a majority in aggregate principal amount of the Securities at the time Outstanding, on behalf of the Holders of all the Securities, to waive compliance by the Company with certain provisions of the Note Indenture and certain past defaults under the Note Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, regardless of whether notation of such consent or waiver is made upon this Security.

As provided in and subject to the Note Indenture, at any time when there is more than one Holder of Securities, the Holder of this Security shall not have any right to institute any proceeding with respect to the Note Indenture, or for the appointment of a receiver or trustee, or for any other remedy thereunder, unless such Holder has previously given written notice to the Trustee of a continuing Event of Default, the Holders of not less than 25% in principal amount of the Outstanding Securities have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered the Trustee reasonable indemnity, and the Trustee has not received from the Holders of a majority in principal amount of the Outstanding Securities a direction inconsistent with such request, and has failed to institute any such proceeding, for 60 days after its receipt of such notice, request and indemnity. The foregoing does not apply to any suit instituted by the Holder of this Security for the enforcement of any payment of the principal hereof or interest hereon on or after the respective due dates expressed herein.

No reference herein to the Note Indenture and no provision of this Security or of the Note Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and interest on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Note Indenture and subject to certain limitations and satisfaction of certain requirements therein set forth, the transfer of this Security is registrable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities are issuable only in registered form without coupons in denominations of $100,000 and integral multiples of $1,000 in excess thereof. As provided in the Note Indenture and subject to certain limitations and satisfaction of certain requirements therein set forth, Securities are exchangeable for a like aggregate principal amount of Securities of the same or a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Guarantors, the Trustee and any agent of the Company, any Guarantor or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, regardless of whether this Security be overdue, and neither the Company, the Guarantors, the Trustee nor any such agent shall be affected by notice to the contrary.

Interest on this Security shall be computed as follows:

Yen Floating Rate Interest— Unless the interest rate has been previously converted to the Dollar Fixed Rate, the Securities will accrue interest in Japanese Yen beginning on the issue date to but not including December 31, 2014, at an annual percentage rate equal to the 6-month Yen LIBO Rate multiplied by 3.55248 (the "Yen Rate"), reset semi-annually, as applied to a Yen principal amount of Japanese Yen 90,193,000,000 (the "Yen Equivalent Principal Amount"). Interest will be payable semi-annually in arrears on June 30 and December 31 of each year (or, if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on June 30, 2007.

The amount of interest payable for any semi-annual interest period will be computed by multiplying the Yen Rate for that semi-annual interest period by a fraction, the numerator of which will be the actual number of days elapsed during that semi-annual interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the Yen Equivalent Principal Amount corresponding to the aggregate outstanding Dollar principal amount of the Securities. The Yen Equivalent Principal Amount will not change over time as a result of fluctuations in the Yen Rate or the Dollar Floating Rate. For the initial interest period ending on June 30, 2007, the Yen Rate will be 2.05348%.

Dollar Fixed Rate Interest— If the interest rate on the Securities has been converted to the Dollar Fixed Rate, the Securities will accrue interest in Dollars, from the semi-annual Interest Payment Date on or immediately prior to the Conversion Date (or the issue date if there is no semi-annual Interest Payment Date prior to the Conversion Date) to but not including December 31, 2014, at the annual rate of 6.640% (the "Dollar Fixed Rate"), as applied to the aggregate outstanding Dollar principal amount of the Securities. Interest will be payable semi-annually in arrears on June 30 and December 31 of each year (or, if not a Business Day, on the preceding Business Day). The interest due at the Dollar Fixed Rate on an Interest Payment Date may be reduced by the application of Conversion Credits, if applicable, on such Interest Payment Date.

The amount of interest payable for any semi-annual interest accrual period at the Dollar Fixed Rate will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Dollar Floating Rate Interest— The Securities will accrue interest in U.S. Dollars, beginning on December 31, 2014, to the date the principal amount of the Securities is repaid in full, at an annual percentage rate equal to the 3-month U.S. Dollar LIBO Rate plus 4.400% (the "Dollar Floating Rate"), as applied to the aggregate outstanding Dollar principal amount of the Securities. Interest will be reset quarterly, as applied to the aggregate outstanding Dollar principal amount of the Securities and payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year (or if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on March 31, 2015.

The amount of interest payable at the Dollar Floating Rate for any quarterly interest period will be computed by multiplying the Dollar Floating Rate for that quarterly interest period by a fraction, the numerator of which will be the actual number of days elapsed during that quarterly interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the aggregate principal amount of the Securities then Outstanding.

Determining the Floating Rates

The "6-month Yen LIBO Rate" means the rate determined in accordance with the following provisions:

(1) On the LIBOR Interest Determination Date, the Calculation Agent or its affiliate will determine the 6-month Yen LIBO Rate, which will be the rate for deposits in Japanese Yen having a six-month maturity which appears on the Telerate Page 3750 as of 11:00 a.m., London time, on the LIBOR Interest Determination Date.

(2) If no rate appears on Telerate Page 3750 on the LIBOR Interest Determination Date, the rate will be determined on the basis of the rates at which deposits in Japanese Yen are offered by the reference banks at approximately 11:00 a.m., London time, on that LIBOR Interest Determination Date to prime banks in the London Inter-Bank Market for the period of six months commencing on the applicable LIBO Rate Reset Date and in a principal amount that is representative for a single transaction in Yen in that market at that time. The Calculation Agent will request the principal London office of each of the reference banks to provide a quotation for its rate. If at least two such quotations are provided, then the 6-month Yen LIBO Rate for that LIBOR Interest Determination Date will be the arithmetic mean of the quotations (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent). If fewer than two quotations are provided as requested, the rate for that LIBOR Interest Determination Date will be the arithmetic mean (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent) of the rates quoted by major banks in Tokyo, selected by the Calculation Agent, at approximately 11:00 a.m., Tokyo time on that LIBOR Interest Determination Date for loans in Japanese Yen to leading European banks having a six-month maturity commencing on the applicable LIBO Rate Reset Date and in a principal amount that is representative for a single transaction in Yen in that market at that time.

The "3-month Dollar LIBO Rate" means the rate determined in accordance with the following provisions:

(1) On the LIBOR Interest Determination Date, the LIBO Calculation Agent or its affiliate will determine the 3-month Dollar LIBO Rate, which will be the rate for deposits in U.S. Dollars having a three-month maturity which appears on the Telerate Page 3750 as of 11:00 a.m., London time, on the LIBOR Interest Determination Date.

(2) If no rate appears on Telerate Page 3750 on the LIBOR Interest Determination Date, the rate will be determined on the basis of the rates at which deposits in U.S. Dollars are offered by the reference banks at approximately 11:00 a.m., London time, on that LIBOR Interest Determination Date to prime banks in the London Inter-Bank Market for the period of three months commencing on the applicable LIBO Rate Reset Date and in a principal amount that is representative for a single transaction in U.S. Dollars in that market at that time. The LIBO Calculation Agent will request the principal London office of each of the reference banks to provide a quotation for its rate. If at least two such quotations are provided, then the 3-month Dollar LIBO Rate for that LIBOR Interest Determination Date will be the arithmetic mean of the quotations (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent). If fewer than two quotations are provided as requested, the rate for that LIBOR Interest Determination Date will be the arithmetic mean (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent) of the rates quoted by major banks in New York City, selected by the LIBO Calculation Agent, at approximately 11:00 a.m., New York time on the applicable LIBO Rate Reset Date for loans in U.S. Dollars to leading European banks having a three-month maturity commencing on that LIBOR Interest Determination Date and in a principal amount that is representative for a single transaction in U.S. Dollars in that market at that time.

"Telerate Page 3750" means the display designated as "Telerate Page 3750" on Moneyline Telerate, Inc. (or such other page as may replace "Telerate Page 3750" on such service) or such other service displaying the London Inter-Bank offered rates of major banks, as may replace Moneyline Telerate, Inc.

"LIBOR Interest Determination Date" means the second LIBOR Business Day preceding each LIBO Rate Reset Date.

"LIBOR Business Day" means (a) for the 6-month Yen LIBO Rate any business day on which dealings in deposits in Japanese Yen are transacted in the London Inter-Bank market and (b) for the 3-month Dollar LIBO Rate any business day on which dealings in deposits in U.S. Dollars are transacted in the London Inter-Bank market.

"LIBO Calculation Agent" means The Bank of New York, or its successor, acting as calculation agent.

Interest upon CEMEX Change of Control

Upon a CEMEX Change of Control Event, from the date on which the CEMEX Change of Control Event occurs, the Securities will bear, in addition to the interest otherwise applicable to the Securities, additional interest in Dollars at a rate of 5.00% per year, as applied to the aggregate outstanding Dollar principal amount of the Securities. The amount of additional interest payable for any semi-annual interest accrual period will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Optional Deferral of Interest

The Company may defer, at its sole discretion, on one or more occasions, payment for all (but not part) of the scheduled interest payment otherwise due and payable on any Interest Payment Date that falls on or after the earlier of (a) the Conversion Date and (b) March 31, 2015. The Company will give the Holder and the Debenture Trustee notice of any interest deferral not more than 30 nor less than 10 Business Days prior to the applicable Interest Payment Date. If the Interest Payment Date for which interest deferral is proposed is also the Conversion Date, no election to defer interest due on that date shall be effective unless the Company shall have converted the interest rate on the Securities and paid in full any Conversion Payment due in connection with the conversion.

Any deferred amounts on the Securities not paid on an Interest Payment Date will accumulate but will bear no interest.

The Company may at any time pay in whole or in part any deferred interest by providing at least five Business Days written notice to the Holder and the Debenture Trustee.

The Company may not defer application of any available Conversion Credits, which shall be applied on each Interest Payment Date to reduce the amount of interest paid or deferred, as applicable, on the Securities.

The Company may not elect to defer any scheduled interest on the Securities due on any Interest Payment Date at any time when CEMEX or any of its Subsidiaries has:

(i) declared or paid any dividend, or made any distributions on common stock of CEMEX at or since the most recent annual general meeting of the shareholders of CEMEX;

(ii) paid any interest or other distributions on any Qualifying Equity Security after the interest payment date of the Debentures immediately preceding the Interest Payment Date for which interest deferral is proposed; or

(iii) repurchased, redeemed or otherwise reacquired any Qualifying Equity Security after the interest payment date for the Debentures immediately preceding the Interest Payment Date for which interest deferral is proposed, other than repurchases, redemptions or reacquisitions (a) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (b) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

At any time the Company elects to defer payment of any interest amount on the Securities and for so long as any amount of deferred interest remains unpaid none of CEMEX and its Subsidiaries will:

(i) declare or pay any dividends, make any distributions or pay any interest on any Qualifying Equity Security; or

(ii) repurchase, redeem or otherwise reacquire any Qualifying Equity Security, other than repurchases, redemptions or reacquisitions (a) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (b) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

At any time on or prior to December 31, 2014, upon the first Interest Payment Date for which the Company has elected to defer interest, the Company must, as a condition to interest deferral, convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate as of that Interest Payment Date (which, in the case of such conversion, shall be the "Conversion Date") by written notice to the Holder, the Debenture Trustee, the Trustee and the Swap Counterparty not less than 10 Business Days prior to the Interest Payment Date. No conversion shall be effective on any Interest Payment Date (and such Interest Payment Date shall not constitute the Conversion Date) unless C8 Capital (SPV) Limited shall have received from the Company the applicable Conversion Payments with respect to such conversion.

The interest rate on the Securities will automatically convert from the Yen Rate to the Dollar Fixed Rate, if on any date (which, in the case of such conversion, shall be the "Conversion Date") on or prior to December 31, 2014:

(i) the Conditions to Anticipated Swap Termination have been deemed satisfied as of such date;

(ii) C8 Capital (SPV) Limited delivers to the Company written notice that an Event of Default with respect to the payment of any installment of interest or any specified event of bankruptcy, liquidation, insolvency or similar proceeding with respect to the Company or any of the Guarantors has occurred;

(iii) the Securities are declared or become immediately due and payable as a result of an Event of Default; or

(iv) any amendment or modification on any term or condition under the Securities, which requires the consent of the holders of the Debentures pursuant to the Debenture Indenture, is made without the written consent of the Swap Counterparty.

Upon conversion, the Company may owe a Conversion Payment under the Conversion Payment Undertaking or may be entitled to Conversion Credits with respect to future interest payments on the Securities, provided that no Conversion Payment shall be due and no Conversion Credits shall apply if the Conditions to Anticipated Swap Termination have been satisfied as of the Conversion Date.

All terms used in this Security which are defined in the Note Indenture shall have the meanings assigned to them in the Note Indenture.

THE NOTE INDENTURE, THE GUARANTEE AND THIS SECURITY SHALL BE GOVERNED BY AND BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

SECTION 204 Form of Trustee's Certificate of Authentication.

This is one of the Securities referred to in the within mentioned Note Indenture.

The Bank of New York

By: _____
Authorized Officer

SECTION 205 Form of Guarantee.

GUARANTEE

For value received, each of the undersigned (collectively, the "Guarantors") hereby jointly and severally unconditionally guarantees, on an unsecured basis, to the Holder of the Security upon which this Guarantee is endorsed, and to the Trustee on behalf of such Holder, the due and punctual payment of the principal of (and premium, if any) and interest (including Additional Amounts) on such Security when and as the same shall become due and payable, whether by acceleration, call for redemption, purchase or otherwise, according to the terms thereof and of the Note Indenture referred to therein. In case of the failure of the Company punctually to make any such payment, the Guarantors hereby agree to cause such payment to be made punctually when and as the same shall become due and payable, whether by acceleration, call for redemption, purchase or otherwise, and as if such payment were made by the Company.

The Guarantors hereby agree that their respective obligations hereunder shall be absolute and unconditional, irrespective of the validity, regularity or enforceability of such Security or the Note Indenture, any failure, omission, delay by or inability of the Trustee or the Holder to enforce the same, any amendment or modification of or deletion from or addition or supplement to or other change in this Guarantee, the Note Indenture, such Security or any other applicable instrument, any waiver of the payment, performance or observance of any of the obligations or agreements contained in this Guarantee, the Note Indenture or such Security, any release or discharge, by operation of law, of any Guarantor from the performance or observance of any obligation or agreement contained in this Guarantee, the Note Indenture or such Security or any other circumstances which might otherwise constitute a legal or equitable discharge or defense of a guarantor. The Guarantors hereby waive the benefits of promptness, demand for payment, diligence, presentment, notice of acceptance, any requirement that the Trustee or any of the Holders exhaust any right or take any action against the Company or any other Person, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest or notice with respect to such Security or the Indebtedness evidenced thereby and all demands whatsoever, and covenant that this Guarantee will remain in full force and effect until the satisfaction of the Guaranteed Obligations. The Guarantors hereby agree that, in the event of a default in payment of principal (or premium, if any) or interest (including Additional Amounts) on such Security, whether at their maturity, by acceleration, call for redemption, purchase or otherwise, legal proceedings may be instituted by the Trustee on behalf of, or by, the Holder of such Security, subject to the terms and conditions set forth in the Note Indenture, directly against the Guarantors to enforce this Guarantee without first proceeding against the Company. The Guarantors agree that if, after the occurrence and during the continuance of an

Event of Default, the Trustee or any of the Holders are prevented by applicable law from exercising their respective rights to accelerate the maturity of the Securities, to collect interest on the Securities, or to enforce or exercise any other right or remedy with respect to the Securities, the Guarantors agree to pay to the Trustee for the account of the Holders, upon demand therefor, the amount that would otherwise have been due and payable had such rights and remedies been permitted to be exercised by the Trustee or any of the Holders.

No reference herein to the Note Indenture and no provision of this Guarantee or of the Note Indenture shall alter or impair this Guarantee of the Guarantors, which is absolute and unconditional, of the due and punctual payment of the principal (and premium, if any) and interest (including Additional Amounts) on the Security upon which this Guarantee is endorsed.

The Guarantors shall be subrogated to all rights of the Holder of such Security against the Company in respect of any amounts paid by the Guarantors on account of such Security pursuant to the provisions of this Guarantee or the Note Indenture; provided, however, that the Guarantors shall not be entitled to enforce or to receive any payments arising out of, or based upon, such right of subrogation until the principal of (and premium, if any) and interest on such Security and all other Securities issued under the Note Indenture shall have been paid in full.

This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time any payment or performance with respect to any of the Guaranteed Obligations is rescinded or must otherwise be returned by the Trustee, any Holder or any other Person upon the insolvency, bankruptcy or reorganization of the Company or otherwise, all as though such payment or performance had not been made or occurred. In the event that any payment, or any part thereof, is rescinded or must otherwise be returned, the Guaranteed Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded or returned. The obligations of the Guarantors under the Guarantee shall not be subject to reduction, termination or other impairment by any set-off, recoupment, counterclaim or defense or for any other reason.

All terms used in this Guarantee that are defined in the Note Indenture referred to in the Security upon which this Guarantee is endorsed shall have the meanings assigned to them in such Note Indenture.

This Guarantee shall not be valid or obligatory for any purpose until the certificate of authentication on the Security upon which this Guarantee is endorsed shall have been executed by the Trustee under the Note Indenture by manual signature.

Reference is made to Article Twelve of the Note Indenture for further provisions with respect to this Guarantee.

This Guarantee shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, each of the Guarantors has caused this Guarantee to be signed by a duly authorized officer.

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

By: _____
Name:
Title:

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

By: _____
Name:
Title:

NEW SUNWARD HOLDING B.V.

By: _____
Name:
Title:

ARTICLE THREE

The Securities

SECTION 301 Title and Terms.

The Securities shall be known and designated as the "Callable Perpetual Dual-Currency Notes" of the Company. The Dual-Currency Notes will be perpetual securities with no maturity date, and they shall bear interest at the Yen Floating Rate, Dollar Fixed Rate or Dollar Floating Rate, as applicable, from the issue date or from the most recent Interest Payment Date to which interest has been paid or duly provided for, as the case may be, payable semi annually on or prior to June 30 and December 31 of each year, beginning on June 30, 2007 during the Yen Floating Rate, as applicable, on or prior to June 30 and December 31 on each year during the Dollar Fixed Rate, as applicable, and quarterly on or prior to March 31, June 30, September 30 and December 31 of each year during the Dollar Floating Rate, as applicable, beginning on March 31, 2015, until the principal thereof is paid or made available for payment (to the extent that payment of such interest shall be legally enforceable), from the date such amount is due until it is paid or made available for payment, and such interest on any overdue amount shall be payable on demand. Notwithstanding the foregoing, the Company shall make all payments to the Trustee within the dates and time periods set forth in the Master Collateral Agreement.

The principal on the Securities shall be payable in immediately available funds and in such coin or currency of the United States of America as at the time of payment is legal tender for payment of public and private debts. Payment of interest on the Security will be made in immediately available funds and in such coin or currency of the United States of America or Japan, as applicable, as at the time of payment is legal tender payment of public and private debt. Subject to any written agreement between the Company and the applicable Holder, each such payment of principal and interest will be made at the office or agency of the Company in the Borough of Manhattan, The City of New York maintained for such purpose or, at the option of the Holder and subject to any fiscal or other laws and regulations, at any other office or agency maintained by the Company outside of Mexico for such purpose; provided, however, that upon application by the Holder to the Trustee not later than the 10th day immediately preceding the relevant Regular Record Date, such Holder may receive payment by wire transfer to a U.S. Dollar account (such transfers to be made only to Holders of an aggregate principal amount in excess of $5,000,000) maintained by the payee with a bank in The City of New York, New York; and provided, further, that, subject to the preceding proviso, payment of interest may, at the option of the Company, be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register. Unless such designation is revoked, any such designation made by such Holder with respect to such Security will remain in effect with respect to any future payments with respect to such Security payable to such Holder. The Company will pay any administrative costs imposed by banks in connection with making such payments.

The Securities shall be redeemable as provided in Article Eleven.

The Securities shall be irrevocably and unconditionally guaranteed as provided in Article Twelve.

SECTION 302 Denominations.

The Securities shall be issuable only in registered form without coupons and only in denominations of $100,000 and integral multiples of $1,000 in excess thereof.

SECTION 303 Execution, Authentication, Delivery and Dating .

The Securities shall be executed on behalf of the Company by any one of the individuals who may sign an Officers' Certificate on its behalf. The signature of any such Person on the Securities may be manual or facsimile.

Securities bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities.

At any time and from time to time after the execution and delivery of this Note Indenture, the Company may deliver Securities executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities; and the Trustee in accordance with such Company Order shall authenticate and deliver such Securities as in this Note Indenture provided and not otherwise.

Each Security shall be dated the date of its authentication.

No Security shall be entitled to any benefit under this Note Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein executed by the Trustee by manual signature, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder.

SECTION 304 Temporary Securities.

Pending the preparation of definitive Securities, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as evidenced by their execution of such Securities.

If temporary Securities are issued, the Company will cause definitive Securities to be prepared without unreasonable delay. After the preparation of definitive Securities, the temporary Securities shall be exchangeable for definitive Securities upon surrender of the temporary Securities at any office or agency of the Company designated pursuant to Section 1002, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Securities of authorized denominations. Until so exchanged the temporary Securities shall in all respects be entitled to the same benefits under this Note Indenture as definitive Securities.

SECTION 305 Registration, Registration of Transfer and Exchange.

(a) The Company shall cause to be kept at the Corporate Trust Office of the Trustee a register (the register maintained in such office and in any other office or agency designated pursuant to Section 1002 being herein sometimes collectively referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Securities and of transfers of Securities. The Trustee is hereby appointed "Security Registrar" for the purpose of registering Securities and transfers of Securities as herein provided. Upon surrender for registration of transfer of any Security at an office or agency of the Company designated pursuant to Section 1002 for such purpose, and subject to the other provisions of this Section 305, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of any authorized denominations and of a like aggregate principal amount.

At the option of the Holder, and subject to the other provisions of this Section 305, Securities may be exchanged for other Securities of any authorized denominations and of a like aggregate principal amount, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, and subject to the other provisions of this Section 305, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

All Securities issued upon any registration of transfer or exchange of Securities shall be the valid obligations of the Company, evidencing the same debt, and subject to the other provisions of this Section 305, entitled to the same benefits under this Note Indenture, as the Securities surrendered upon such registration of transfer or exchange.

Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed, by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any registration of transfer or exchange of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 304 or 905 not involving any transfer.

(b) Notwithstanding any other provisions of this Note Indenture or the Securities, a Global Security may not be transferred, in whole or in part, to any Person other than the Holders or a nominee thereof, and no such transfer to any such other Person may be registered.

(c) Each Global Security issued hereunder shall, upon issuance, bear the legends required by Section 202 to be applied to such a Security and such required legends shall not be removed from such Security.

SECTION 306 Mutilated, Destroyed, Lost and Stolen Securities.

If any mutilated Security is surrendered to the Trustee, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security of like tenor and principal amount and bearing a number not contemporaneously outstanding.

If there shall be delivered to the Company and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security and (ii) such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a bona fide purchaser, the Company shall execute and the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security, a new Security of like tenor and principal amount and bearing a number not contemporaneously outstanding at the office or agency maintained by the Company for such purpose in the Borough of Manhattan, The City of New York, which will initially be the office of the Trustee.

In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay such Security.

Upon the issuance of any new Security under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Security issued pursuant to this Section in lieu of any destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company,

regardless of whether the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Note Indenture equally and proportionately with any and all other Securities duly issued hereunder.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

SECTION 307 Payment of Interest; Interest Rights Preserved .

Interest on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest.

Any interest on any Security which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in Clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities (or their respective Predecessor Securities) are registered at the close of business on a special record date (herein called a "Special Record Date) for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Security and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this Clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Holder at his address as it appears in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Securities (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following Clause (2).

(2) The Company may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this Clause, such manner of payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section, each Security delivered under this Note Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

SECTION 308 Persons Deemed Owners.

Prior to due presentment of a Security for registration of transfer, the Company, the Guarantors, the Trustee and any agent of the Company, any Guarantor or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of (and premium, if any) and (subject to Section 307) interest on such Security and for all other purposes whatsoever, regardless of whether such Security be overdue, and neither the Company, the Guarantors, the Trustee nor any agent of the Company, any Guarantor or the Trustee shall be affected by notice to the contrary.

SECTION 309 Cancellation.

All Securities surrendered for payment, redemption, registration of transfer or exchange shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly cancelled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly cancelled by the Trustee. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section, except as expressly permitted by this Note Indenture. All cancelled Securities held by the Trustee shall be disposed of as directed by a Company Order or otherwise in accordance with the customary procedures of the Trustee.

SECTION 310 Computation of Interest.

Interest on the Securities shall be computed as follows:

Yen Floating Rate Interest— Unless the interest rate has been previously converted to the Dollar Fixed Rate, the Securities will accrue interest in Japanese Yen beginning on the issue date to but not including December 31, 2014, at an annual percentage rate equal to the 6-month Yen LIBO Rate multiplied by 3.55248 (the "Yen Rate"), reset semi-annually, as applied to a Yen principal amount of Japanese Yen 90,193,000,000 (the "Yen Equivalent Principal Amount"). Interest will be payable semi-annually in arrears on June 30 and December 31 of each year (or, if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on June 30, 2007.

The amount of interest payable for any semi-annual interest period will be computed by multiplying the Yen Rate for that semi-annual interest period by a fraction, the numerator of which will be the actual number of days elapsed during that semi-annual interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the Yen Equivalent Principal Amount corresponding to the aggregate outstanding Dollar principal amount of the

Securities. The Yen Equivalent Principal Amount will not change over time as a result of fluctuations in the Yen Rate or the Dollar Floating Rate. For the initial interest period ending on June 30, 2007, the Yen Rate will be 2.05348%.

Dollar Fixed Rate Interest— If the interest rate on the Securities has been converted to the Dollar Fixed Rate, the Securities will accrue interest in Dollars, from the semi-annual Interest Payment Date on or immediately prior to the Conversion Date (or the issue date if there is no semi-annual Interest Payment Date prior to the Conversion Date) to but not including December 31, 2014, at the annual rate of 6.640% (the "Dollar Fixed Rate"), as applied to the aggregate outstanding Dollar principal amount of the Securities. Interest will be payable semi-annually in arrears on June 30 and December 31 of each year (or, if not a Business Day, on the preceding Business Day). The interest due at the Dollar Fixed Rate on an Interest Payment Date may be reduced by the application of Conversion Credits, if applicable, on such Interest Payment Date.

The amount of interest payable for any semi-annual interest accrual period at the Dollar Fixed Rate will be computed on the basis of a 360-day year consisting of twelve 30-day months.

Dollar Floating Rate Interest— The Securities will accrue interest in Dollars, beginning on December 31, 2014, to the date the principal amount of the Securities is repaid in full, at an annual percentage rate equal to the 3-month U.S. Dollar LIBO Rate plus 4.400% (the "Dollar Floating Rate"), as applied to the aggregate outstanding Dollar principal amount of the Securities. Interest will be reset quarterly, as applied to the aggregate outstanding Dollar principal amount of the Securities and payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year (or if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on March 31, 2015.

The amount of interest payable at the Dollar Floating Rate for any quarterly interest period will be computed by multiplying the Dollar Floating Rate for that quarterly interest period by a fraction, the numerator of which will be the actual number of days elapsed during that quarterly interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the aggregate principal amount of the Securities then Outstanding.

Determining the Floating Rates

The "6-month Yen LIBO Rate" means the rate determined in accordance with the provisions defined in Section 203.

The "3-month Dollar LIBO Rate" means the rate determined in accordance with the provisions defined in Section 203.

Interest upon CEMEX Change of Control

Upon a CEMEX Change of Control Event, from the date on which the CEMEX Change of Control Event occurs, the Securities will bear, in addition to the interest otherwise applicable to the Securities, additional interest in Dollars at a rate of 5.00% per year, as applied to the aggregate outstanding Dollar principal amount of the Securities. The amount of additional interest payable for any semi-annual interest accrual period will be computed on the basis of a 360-day year consisting of twelve 30-day months.

SECTION 311 Interest Deferral.

The Company may defer, at its sole discretion, on one or more occasions, payment for all (but not part) of the scheduled interest payment otherwise due and payable on any Interest Payment Date that falls on or after the earlier of (a) the Conversion Date and (b) March 31, 2015. The Company will give the Holder and the Debenture Trustee notice of any interest deferral not more than 30 nor less than 10 Business Days prior to the applicable Interest Payment Date. If the Interest Payment Date for which interest deferral is proposed is also the Conversion Date, no election to defer interest due on that date shall be effective unless the Company shall have converted the interest rate on the Securities and paid in full any Conversion Payment due in connection with the conversion.

Any deferred amounts on the Securities not paid on an Interest Payment Date will accumulate but will bear no interest.

The Company may at any time pay in whole or in part any deferred interest by providing at least five Business Days prior written notice to the Holder and the Debenture Trustee.

The Company may not defer application of any available Conversion Credits, which shall be applied on each Interest Payment Date to reduce the amount of interest paid or deferred, as applicable, on the Securities.

SECTION 312 Limitation on Interest Deferral.

The Company may not elect to defer any scheduled interest on the Securities due on any Interest Payment Date at any time when CEMEX or any of its Subsidiaries has:

(i) declared or paid any dividend, or made any distributions on common stock of CEMEX at or since the most recent annual general meeting of the shareholders of CEMEX;

(ii) paid any interest or other distributions on any Qualifying Equity Security after the interest payment date of the Debentures immediately preceding the Interest Payment Date for which interest deferral is proposed; or

(iii) repurchased, redeemed or otherwise reacquired any Qualifying Equity Security after the interest payment date for the Debentures immediately preceding the Interest Payment Date for which interest deferral is proposed, other than repurchases, redemptions or reacquisitions (a) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (b) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

At any time the Company elects to defer payment of any interest amount on the Securities and for so long as any amount of deferred interest remains unpaid none of CEMEX and its Subsidiaries will:

(i) declare or pay any dividends, make any distributions or pay any interest on any Qualifying Equity Security; or

(ii) repurchase, redeem or otherwise reacquire any Qualifying Equity Security, other than repurchases, redemptions or reacquisitions (i) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (ii) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

SECTION 313 Conversion Upon Deferral.

At any time on or prior to December 31, 2014, upon the first Interest Payment Date for which the Company has elected to defer interest, the Company must, as a condition to interest deferral, convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate as of that Interest Payment Date (which shall be the "Conversion Date" for purposes of any conversion pursuant to this Section 313) by written notice to the Holder, the Debenture Trustee, the Trustee and the Swap Counterparty not less than 10 Business Days prior to the payment date. No conversion shall be effective on any Interest Payment Date (and such Interest Payment Date shall not constitute the Conversion Date) unless C8 Capital (SPV) Limited shall have received from the Company on or prior to such Interest Payment Date any applicable Conversion Payments with respect to such conversion.

SECTION 314 Conversion Upon Redemption.

If the company elects to redeem the Securities in accordance with Article Eleven on or prior to December 31, 2014, the Company must, as a condition to redemption, convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate as of that Redemption Date (which shall be the "Conversion Date" for purposes of any conversion pursuant to this Section 314) by written notice to the Holder, the Debenture Trustee, the Trustee and the Swap Counterparty not less than 10 Business Days prior to the Interest Payment Date. Neither C8 Capital (SPV) Limited nor the Debenture Trustee shall apply any proceeds of redemption of the Securities to pay any redemption price due with respect to the Debentures unless C8 Capital (SPV) Limited shall have received from the Company on or prior to such Interest Payment Date any applicable Conversion Payment with respect to such conversion.

SECTION 315 Mandatory Conversion.

The interest rate on the Securities will automatically convert from the Yen Rate to the Dollar Fixed Rate, if on any date (which shall be the "Conversion Date" for purposes of any conversion pursuant to this Section 315) on or prior to December 31, 2014:

(i) the Conditions to Anticipated Swap Termination have been deemed satisfied as of such date;

(ii) C8 Capital (SPV) Limited delivers to the Company written notice that an Event of Default with respect to the payment of any installment of interest or any Event of Default under clause (5) or (6) of Section 501 has occurred;

(iii) the Securities are declared or become immediately due and payable as a result of an Event of Default; or

(iv) any amendment or modification on any term or condition under the Securities, which requires the consent of the holders of the Debentures pursuant to the Debenture Indenture, is made without the written consent of the Swap Counterparty.

Upon conversion, the Company may owe a Conversion Payment under the Conversion Payment Undertaking or may be entitled to Conversion Credits with respect to future interest payments on the Securities, provided that no Conversion Payment shall be due and no Conversion Credits shall apply if the Conditions to Anticipated Swap Termination have been satisfied as of the Conversion Date.

SECTION 316 No Sinking Fund.

The Securities will not be entitled to the benefit of a sinking fund.

ARTICLE FOUR

Satisfaction and Discharge

SECTION 401 Satisfaction and Discharge of Note Indenture.

This Note Indenture shall cease to be of further effect (except as to any surviving rights of registration of transfer or exchange of Securities herein expressly provided for), and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Note Indenture, when

(1) either

(A) all Securities theretofore authenticated and delivered (other than (i) Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 305 and (ii) Securities for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 1003) have been delivered to the Trustee for cancellation; or

(B) all such Securities not theretofore delivered to the Trustee for cancellation

(i) have become due and payable, or

(ii) will become due and payable at their Stated Maturity within one year, or

(iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company,

and the Company or a Guarantor, in the case of (i), (ii) or (iii) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose an amount sufficient to pay and discharge the entire indebtedness on such Securities not theretofore delivered to the Trustee for cancellation, for principal and interest to the date of such deposit (in the case of Securities which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

(2) the Company or a Guarantor has paid or caused to be paid all other sums payable hereunder by the Company and the Guarantors; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Note Indenture have been complied with.

Notwithstanding the satisfaction and discharge of this Note Indenture, the obligations of the Company to the Trustee under Section 607, the obligations of the Trustee to any Authenticating Agent under Section 612 and, if money shall have been deposited with the Trustee pursuant to subclause (B) of Clause (1) of this Section, the obligations of the Trustee under Section 402 and the last paragraph of Section 1003 shall survive.

SECTION 402 Application of Trust Money.

Subject to the provisions of the last paragraph of Section 1003, all money deposited with the Trustee pursuant to Section 401 shall be held in trust and applied by it, in accordance with the provisions of the Securities and this Note Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal and interest for whose payment such money has been deposited with the Trustee.

ARTICLE FIVE

Remedies

SECTION 501 Events of Default.

"Event of Default", wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) a failure to pay principal when due upon redemption or failure to pay interest, other than deferred interest, or other amounts due upon any Securities or under the Note Indenture within five Business Days after receipt of notice for any interest payment or such other amount due on or prior to the Conversion Date, and within 30 days of the date due for any interest payment due after the earlier of the Conversion Date and December 31, 2014;

(2) a failure to pay any amount due under the Conversion Payment Undertaking within 30 days of the due date;

(3) the Company or any of the Guarantors defaults in the performance or observance of any of its obligations with respect Sections 801 and 1005;

(4) the Company or any of the Guarantors defaults in the performance or observance of any of its covenants or other obligations (other than the obligation of CEMEX under Section 1006) and continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Company by the Trustee or by the Holders of at least 25% in principal amount of the Outstanding Securities a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder;

(5) the entry by a competent court of (A) a decree or order for relief in respect of the Company or any Guarantor in an involuntary case or proceeding under any applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law, or (B) a decree or order adjudging the Company or any such Guarantor bankrupt, insolvent or in *concurso mercantil*, or approving as properly filed a petition seeking reorganization, arrangement, adjustment, *concurso mercantil*, or composition of or in respect of, the Company or any such Guarantor under any applicable law of Mexico, or the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable law, or appointing a custodian, receiver, *síndico*, liquidator, conciliator, assignee, trustee, sequestrator or other similar official of the Company or any such Guarantor or of any substantial part of the property of the Company or any such Guarantor, or ordering the winding up or liquidation of the affairs of the Company or any such Guarantor and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days, other than, in any such case, any decree or order issued pursuant to proceedings that have been commenced prior to the date of this Note Indenture;

(6) the commencement by the Company or any Guarantor of a voluntary case or proceeding under any applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law or of any other case or proceeding to be adjudicated bankrupt, insolvent or in *concurso mercantil*, or the consent by the Company or any such Guarantor to the entry of a decree or order for relief in respect of the Company or any Guarantor in an involuntary case or proceeding under any applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law

or to the commencement of any bankruptcy or insolvency case or proceeding against the Company or any Guarantor, or the filing by the Company or any such Guarantor of a petition or answer or consent seeking reorganization, *concurso mercantil*, or relief under any applicable law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable law, or the consent by the Company or any such Guarantor to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, *síndico*, liquidator, conciliator, assignee, trustee, sequestrator or similar official of the Company or any Guarantor or of any substantial part of the property of the Company or any Guarantor, or the making by the Company or any Guarantor of an assignment for the benefit of creditors, or the admission by the Company or any such Guarantor in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company or any such Guarantor in furtherance of any such action; or

(7) any of the Securities, the Note Indenture, the Conversion Payment Undertaking or any Guarantee ceases to be, or is claimed by the Company or any Guarantor not to be, in full force and effect.

SECTION 502 Acceleration of Maturity; Rescission and Annulment .

If an Event of Default (other than an Event of Default specified in Section 501(5) or 501 (6)) occurs and is continuing, then and in every such case the Trustee shall, at the written request of the Holders of not less than 25% in principal amount of the Outstanding Securities, by notice in writing to the Company, declare the principal of all the Securities to be due and payable immediately, and upon any such declaration such principal and any accrued interest and any unpaid Additional Amounts thereon shall become immediately due and payable. Regardless of whether any action is taken by Holders pursuant to the preceding sentence if an Event of Default specified in Section 501(5) or (6) occurs and is continuing, the principal and any accrued interest, together with any Additional Amounts thereon, on all of the Securities then Outstanding shall *ipso facto* become due and payable immediately without any declaration or other Act on the part of the Trustee or any Holder.

At any time after such a declaration of acceleration has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article, provided the Holders of at least 25% in principal amount of the Outstanding Securities, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if:

(1) the Company or any Guarantor has paid or deposited with the Trustee a sum sufficient to pay

(A) all overdue interest and any Additional Amounts thereon on all of the Securities,

(B) the principal of any Securities which have become due otherwise than by such declaration of acceleration and interest and any Additional Amounts thereon at the rate borne by the Securities,

(C) to the extent that payment of such interest is lawful, interest upon overdue interest at the rate borne by the Securities, and

(D) all sums paid or advanced by the Trustee hereunder and all amounts owing the Trustee under Section 607;

and

(2) all Events of Default, other than the non payment of the principal of Securities which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 513.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

SECTION 503 Collection of Indebtedness and Suits for Enforcement by Trustee .

The Company covenants that if default is made in the payment of the principal of any Security at the Maturity thereof or any interest on any Security when such interest becomes due and payable and such default continues for a period of five Business Days after receipt of notice for any interest payment or such other amount due on or prior to the Conversion Date, and within 30 days of the date due for any interest payment or such other amount due after the earlier of the Conversion Date and December 31, 2014, the Company will, upon demand of the Trustee, pay to it, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal and interest, and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal and on any overdue interest, at the rate borne by the Securities, together with any Additional Amounts thereon, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and all amounts due the Trustee under Section 607.

If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company, any Guarantor or any other obligor upon the Securities and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company, any Guarantor or any other obligor upon the Securities, wherever situated.

If an Event of Default occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Note Indenture or the Guarantee or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

SECTION 504 Trustee May File Proofs of Claim.

In case of any judicial proceeding relating to the Company, any Guarantor or any other obligor upon the Securities, its property or its creditors, the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise, to take any and all actions authorized under the Trust Indenture Act (were such Act to apply with respect to this Note Indenture) in order to have claims of the Holders and the Trustee allowed in any such proceeding. In particular, the Trustee shall be authorized to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 607.

No provision of this Note Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding; provided, however, that the Trustee may, on behalf of the Holders, vote for the election of a trustee in bankruptcy or similar official and be a member of a creditors' or other similar committee.

SECTION 505 Trustee May Enforce Claims Without Possession of Securities.

All rights of action and claims under this Note Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

SECTION 506 Application of Money Collected.

Any money collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal or interest, upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee under Section 607; and

SECOND: To the payment of the amounts then due and unpaid for principal of and interest on the Securities in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal and interest, respectively.

SECTION 507 Limitation on Suits.

At any time when there is more than one Holder of Securities, no Holder of any Security shall have any right to institute any proceeding, judicial or otherwise, with respect to this Note Indenture or the Guarantee, or for the appointment of a receiver or trustee, or for any other remedy hereunder or under the Guarantee, unless

(1) such Holder has previously given written notice to the Trustee of a continuing Event of Default;

(2) the Holders of not less than 25% in principal amount of the Outstanding Securities shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(3) such Holder or Holders have offered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request;

(4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(5) no direction inconsistent with such written request has been given to the Trustee during such 60 day period by the Holders of a majority in principal amount of the Outstanding Securities;

it being understood and intended that no one or more Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Note Indenture to affect, disturb or prejudice the rights of any other Holders, or to obtain or to seek to obtain priority or preference over any other Holders or to enforce any right under this Note Indenture, except in the manner herein provided and for the equal and ratable benefit of all the Holders.

SECTION 508 Unconditional Right of Holders to Receive Principal and Interest .

Notwithstanding any other provision in this Note Indenture, the Holder of any Security (subject to Section 311) shall have the right, which is absolute and unconditional, to receive payment of the principal of and (subject to Section 307) interest on such Security, as applicable, on any relevant Stated Maturity expressed in such Security (or, in the case of redemption, on the Redemption Date), and to institute suit for the enforcement of any such payment, including under the Guarantee, and such rights shall not be impaired without the consent of such Holder.

SECTION 509 Restoration of Rights and Remedies.

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Note Indenture or the Guarantee and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Guarantors, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

SECTION 510 Rights and Remedies Cumulative.

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 306, no right or remedy herein or in the Guarantee conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 511 Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder of any Security to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article 5 or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

SECTION 512 Control by Holders.

The Holders of a majority in principal amount of the Outstanding Securities shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee, provided that

(1) such direction shall not be in conflict with any rule of law or with this Note Indenture,

(2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction, and

(3) the Trustee need not follow any such direction if doing so would in its reasonable discretion either involve it in personal liability or be unduly prejudicial to Holders not joining in such direction;

provided further, that the Trustee shall have no obligation to make any determination with respect to any such conflict, personal liability or undue prejudice.

SECTION 513 Waiver of Past Defaults.

The Holders of not less than a majority in principal amount of the Outstanding Securities (or such lesser percentage of the aggregate principal amount of the Outstanding Securities as may act at a meeting of the Holders pursuant to Section 1304) may on behalf of the Holders of all the Securities waive any past default hereunder and its consequences, except a default

(1) in the payment of the principal of or interest on any Security, or

(2) in respect of a covenant or provision hereof which under Article Nine cannot be modified or amended without the consent of the Holder of each Outstanding Security affected.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Note Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 514 Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Note Indenture or the Guarantee, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, a court may require any party litigant in such suit to file an undertaking to pay the costs of such suit, and may assess costs against any such party litigant; provided, that this Section 514 shall not be deemed to authorize any court to require such an undertaking or to make such an assessment in any suit instituted by the Company or any Guarantor, to any suit instituted by the Trustee, to any suit instituted by any Holder or group of Holders holding in the aggregate more than 10% in principal amount of the Outstanding Securities, or to any suit instituted by any Holder of any Security for the enforcement of the payment of the principal of or interest on any Security on or after the Stated Maturity expressed in such Security (or, in the case of redemption, on or after the Redemption Date).

SECTION 515 Waiver of Usury, Stay or Extension Laws.

Each of the Company and the Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any usury, stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Note Indenture; and each of the Company and the Guarantors (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE SIX

The Trustee

SECTION 601 Certain Duties and Responsibilities.

(a) Except during the continuance of an Event of Default,

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Note Indenture, and no implied covenants or obligations shall be read into this Note Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this

Note Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether they conform to the requirements of this Note Indenture.

(b) In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Note Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(c) No provision of this Note Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1) this paragraph (c) shall not be construed to limit the effect of paragraph (a) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in principal amount of the Outstanding Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Note Indenture; and

(4) no provision of this Note Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Regardless of whether therein expressly so provided, every provision of this Note Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

SECTION 602 Notice of Defaults.

Within 90 days after the occurrence of any default hereunder of which the Tustee has adequate actual notice, the Trustee shall give to all Holders, in the manner provided for in Section 106, notice of such default hereunder known to the Trustee, unless such default shall have been cured or waived; provided, however, that in the case of any default of the character specified in Section 501(2) and 501(4), no such notice to Holders shall be given until at least 30 days after the occurrence thereof. For the purpose of this Section, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default.

SECTION 603 Certain Rights of Trustee.

Subject to the provisions of Section 601:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

(c) whenever in the administration of this Note Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officers' Certificate;

(d) the Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(e) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Note Indenture at the request or direction of any of the Holders pursuant to this Note Indenture, unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney; and

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

SECTION 604 Not Responsible for Recitals or Issuance of Securities.

The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company or the Guarantors, as the case may be, and the Trustee or any Authenticating Agent assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Note Indenture, the Guarantee or of the Securities. The Trustee or any Authenticating Agent shall not be accountable for the use or application by the Company of Securities or the proceeds thereof.

SECTION 605 May Hold Securities.

The Trustee, any Authenticating Agent, any Paying Agent, any Security Registrar or any other agent of the Company or any Guarantor, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Section 601, may otherwise deal with the Company or any Guarantor with the same rights it would have if it were not Trustee, Authenticating Agent, Paying Agent, Security Registrar or such other agent.

SECTION 606 Money Held in Trust.

Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company or any Guarantor, as the case may be.

SECTION 607 Compensation and Reimbursement.

The Company and each Guarantor agrees

(1) to pay to the Trustee from time to time reasonable compensation for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Note Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except to the extent any such expense, disbursement or advance may be attributable to its negligence or bad faith; and

(3) to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense arising out of or in connection with the acceptance or administration of this trust or the performance of its duties hereunder, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its negligence or bad faith.

The obligations of the Company under this Section 607 shall constitute additional indebtedness hereunder as to which the Trustee shall have a claim senior to the Securities (which are hereby subordinated thereto) to all property and funds collected by the Trustee as such (except funds held in trust for the benefit of particular Securities) and shall survive satisfaction and discharge of this Note Indenture. “Trustee” for purposes of this Section 607 shall include each Trustee, predecessor trustee, Authenticating Agent, Paying Agent, Security Registrar or other agent of the Trustee, Company or Guarantor appointed hereunder, but the negligence or bad faith of any such Person shall not affect the rights of any other such Person under this Section 607. The Guarantors agree that upon the occurrence of the conditions to the effectiveness of the Guarantee described therein, the Guarantors shall be jointly and severally liable for the obligations of the Company pursuant to this Section 607.

SECTION 608 Corporate Trustee Required; Eligibility.

There shall at all times be one (and only one) Trustee hereunder, which shall be a corporation organized, in good standing and doing business under the laws of the United States of America, any State thereof or the District of Columbia, shall be authorized under such laws to exercise corporate trust powers, shall have a combined capital and surplus of at least $50,000,000, shall be subject to supervision or examination by federal or state authority, and shall have a place of business in the Borough of Manhattan, The City of New York. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section 608, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article. Neither the Company, nor any Guarantor nor any other obligor upon the Securities nor any Affiliate of any of the foregoing shall serve as Trustee.

SECTION 609 Resignation and Removal; Appointment of Successor .

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 610.

(b) The Trustee may resign at any time by giving written notice thereof to the Company and the Guarantors. If an instrument of acceptance by a successor Trustee required by Section 610 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed at any time by Act of the Holders of a majority in principal amount of the Outstanding Securities, delivered to the Trustee and to the Company.

(d) If at any time:

(1) the Trustee shall cease to be eligible under Section 608 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(2) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Company by a Board Resolution may remove the Trustee, or (ii) subject to Section 514, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the Company, by a Board Resolution,

shall promptly appoint a successor Trustee. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Securities delivered to the Company, the Guarantors and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment in the manner hereinafter provided, become the successor Trustee and supersede the successor Trustee appointed by the Company. If no successor Trustee shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(f) The Company shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee to all Holders in the manner provided in Section 106. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office.

SECTION 610 Acceptance of Appointment by Successor.

Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Company, the Guarantors and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder. Upon request of any such successor Trustee, the Company and the Guarantors shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts.

No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article.

SECTION 611 Merger, Conversion, Consolidation or Succession to Business.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities.

SECTION 612 Appointment of Authenticating Agent .

The Trustee may appoint an Authenticating Agent or Agents which shall be authorized to act on behalf of the Trustee to authenticate Securities issued upon original issue and upon exchange, registration of transfer or pursuant to Section 305, and Securities so authenticated shall be entitled to the benefits of this Note Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Wherever reference is made in this Note Indenture to the authentication and delivery of Securities by the Trustee or the Trustee's certificate of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than $50,000,000 and subject to supervision or examination by federal or State authority. If such Authenticating Agent publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such Authenticating Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, provided such corporation shall be otherwise eligible under this Section, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, the Trustee may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall mail written notice of such appointment by first class mail, postage prepaid, to all Holders as their names and addresses appear in the Security Register. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

The Trustee agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section, and the Trustee shall be entitled to be reimbursed for such payments, subject to the provisions of Section 607.

If an appointment is made pursuant to this Section, the Securities may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

This is one of the Securities described in the within mentioned Note Indenture.

The Bank of New York,
As Trustee

By _____
As Authenticating Agent

By _____
Authorized Officer

SECTION 613 Withholding Tax Information.

The Trustee will provide copies to the Company, upon the written request of the Company, of any Department of the Treasury Form W-8 (Certificate of Foreign Status) or W-9 (Request for Taxpayer Identification Number and Certification), any substitute form therefor and any other similar documentation, if any, that is received by the Trustee from the Holders or beneficial owners of the Securities, unless, in the case of any such form or documentation provided to the Trustee by a particular Holder or beneficial owner of Securities, such Holder or beneficial owner provides a legal opinion reasonably satisfactory to the Trustee to the effect that so providing such form or similar documentation to the Company is prohibited by applicable law.

ARTICLE SEVEN

Holders' Lists and Reports by Trustee and Company

SECTION 701 Company to Furnish Trustee Names and Addresses of Holders .

The Company will furnish or cause to be furnished to the Trustee

(a) semi-annually, not more than 15 days after each Regular Record Date, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders as of such Regular Record Date, and

(b) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished;

excluding from any such list names and addresses received by the Trustee in its capacity as Security Registrar.

SECTION 702 Preservation of Information; Communications to Holders .

The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 701 and the names and addresses of Holders received by the Trustee in its capacity as Security Registrar. The Trustee may destroy any list furnished to it as provided in Section 701 upon receipt of a new list so furnished.

ARTICLE EIGHT

Consolidation, Merger, Conveyance, Transfer or Lease

SECTION 801 Company May Consolidate, Etc. Only on Certain Terms .

So long as any of the Securities remain outstanding, neither the Company nor any Guarantor will, in one or more related transactions, (x) consolidate with or merge into any other Person or permit any other Person to merge into it or (y), directly or indirectly, transfer, convey, sell, lease or otherwise dispose of all or substantially all of its properties and assets to any Person, unless, with respect to any transaction described in clause (x) or (y), immediately after giving effect to such transaction:

(1) the Person formed by any such consolidation or merger, if it is not the Company or any Guarantor, or the Person that acquires by transfer, conveyance, sale, lease or other disposition all or substantially all of the properties and assets of the Company or any Guarantor, as the case may be, (any such Person, a "Successor") shall be a corporation organized and validly existing under the laws of its place of incorporation, which (A) in the case of a Successor to CEMEX shall be Mexico, the United States of America, Canada, France, Belgium, Germany, Italy, Luxembourg, the Netherlands, Portugal, Spain, Switzerland or the United Kingdom, or any political subdivision thereof, (B) in the case of a Successor to the Company, shall expressly assume by an indenture supplemental hereto executed and delivered to the Trustee, in form satisfactory to the Trustee, the due and punctual payment of the principal of and interest on all the Securities and the performance of every covenant of the Note Indenture on the part of the Company to be performed or observed and (C) in the case of a Successor to any Guarantor, shall expressly assume (by an indenture supplemental hereto and an instrument supplemental to the Guarantee executed and delivered to the Trustee, in forms satisfactory to the Trustee) the performance of every covenant of the Note Indenture and the Guarantee on the part of such Guarantor to be performed or observed;

(2) in the case of any such transaction involving the Company or any Guarantor, the Company or such Guarantor, or the Successor thereof, as the case may be, shall expressly agree to indemnify each Holder (and each holder of a beneficial interest in a Security) against any tax, levy, assessment or governmental charge payable by withholding or deduction thereafter imposed on such Holder (or holder of a beneficial interest in the Securities) solely as a consequence of such transaction with respect to payments in respect of the Securities or any purchase thereof by the Company or any Guarantor, or the Successor of any thereof;

(3) immediately after giving effect to such transaction, including for purposes of this clause (3) the substitution of any Successor to the Company for the Company or the substitution of any Successor to a Guarantor for such Guarantor and treating any Debt or Lien incurred by the Company or any Successor to the Company, or by any Successor to the Company as a result of such transactions as having been incurred at the time of such transaction, no Event of Default, or an event or condition which, after the giving of notice or lapse of time, or both, would become an Event of Default, shall have occurred and be continuing; and

(4) CEMEX has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with.

SECTION 802 Successor Substituted.

Upon any consolidation of the Company or any Guarantor with, or merger of the Company or any Guarantor into, any other Person or any conveyance, transfer, sale, lease or other disposition of the properties and assets of the Company or any Guarantor in accordance with Section 801, the Successor shall succeed to, and be substituted for, and may exercise every right and power of, the Company or such Guarantor, as the case may be, under this Note Indenture and the Guarantee with the same effect as if such Successor had been named as the Company or such Guarantor, as the case may be, herein and therein, and thereafter, except in the case of a lease, the predecessor Person shall be relieved of all obligations and covenants under this Note Indenture, the Guarantee and the Securities.

ARTICLE NINE

Supplemental Indentures

SECTION 901 Supplemental Indentures Without Consent of Holders.

Without the consent of any Holders, the Company and the Guarantors, when authorized by an Officers' Certificate, and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form reasonably satisfactory to the Trustee, for any of the following purposes:

(1) to add a guarantor; or

(2) to add to the covenants of the Company for the benefit of the Holders, or to surrender any right or power herein conferred upon the Company; or

(3) to cure any ambiguity or correct any manifest error; or

(4) to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Note Indenture which shall not be inconsistent with the provisions of this Note Indenture, provided that such action pursuant to this Clause (4) shall not adversely affect the interests of the Holders or the holder of any beneficial interest in a Debenture in any material respect; or

(5) to evidence the succession of another Person to the Company or any Guarantor and the assumption by any such successor of the covenants of the Company or such Guarantor, as the case may be, herein and in the Securities; or

(6) to secure the Securities.

SECTION 902 Supplemental Indentures With Consent of Holders.

With the consent of the Trustee, Swap Counterparty, the holders of not less than the majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and the Holders of not less than a majority in principal amount of the Outstanding Securities (or such lesser percentage of the aggregate principal amount of the Outstanding Securities as may act at a meeting of the Holders pursuant to Section 1304), by Act of said Holders delivered to the Company and the Trustee, the Company and the Guarantors, when authorized by an Officers' Certificate, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Note Indenture or of modifying in any manner the rights of the Holders or any beneficial interests in the Securities under this Note Indenture; provided, however, that no such supplemental indenture shall, without the consent of the Holders of each Outstanding Security and the holders of each Debenture affected thereby,

(1) change any Stated Maturity of the principal of, or any installment of interest on, any Security, or reduce the principal amount thereof or the rate of interest thereon, or change the obligation of the Company to pay Additional Amounts pursuant to Section 1007 or change the place of payment where, or the coin or currency in which, any Security or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date), or

(2) reduce the percentage in principal amount of the Outstanding Securities, the consent of whose Holders is required for any such supplemental indenture or any amendment or modification to the Guarantee, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Note Indenture or certain defaults hereunder and their consequences or of compliance with the Guarantee) provided for in this Note Indenture, or

(3) modify any of the provisions of this Section 902 or Section 513 except to increase any such percentage or to provide that certain other provisions of this Note Indenture and the Guarantee cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby, or

(4) modify any of the provisions of Section 113, 1006 or 1010 in a manner adverse to any Holder of a Security, or

(5) release any Guarantor (other than as provided in Article Eight hereof).

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

SECTION 903 Execution of Supplemental Indentures.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Note Indenture, the Trustee shall be entitled to receive, and (subject to Section 601) shall be fully protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Note Indenture. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Note Indenture or otherwise.

SECTION 904 Effect of Supplemental Indentures.

Upon the execution of any supplemental indenture under this Article, this Note Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Note Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

SECTION 905 Reference in Securities to Supplemental Indentures.

Securities authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities so modified as to conform, in the opinion of the Trustee and the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Securities.

ARTICLE TEN

Covenants

SECTION 1001 Payment of Principal and Interest.

The Company will duly and punctually pay the principal of and interest (together with any Additional Amounts payable thereon) on the Securities in accordance with the terms of the Securities and this Note Indenture. The Guarantors jointly and severally covenant that they will, as and when any amounts are due hereunder or under any Security, duly and punctually pay such amounts as provided in the Guarantee.

SECTION 1002 Maintenance of Office or Agency.

The Company will maintain in the Borough of Manhattan, The City of New York, an office or agency where Securities may be presented or surrendered for payment, where Securities may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company or any Guarantor in respect of the Securities, this Note Indenture or the Guarantee may be served. The Company will give prompt written notice to the Trustee of the

location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and each of the Company and the Guarantors hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

SECTION 1003 Money for Security Payments to Be Held in Trust.

If the Company shall at any time act as its own Paying Agent, it will, on or before each due date of the principal of or interest (together with any Additional Amounts payable thereon) on any of the Securities, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal or interest (together with any Additional Amounts payable thereon) so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents, it will, prior to each due date of the principal of or interest (together with any Additional Amounts payable thereon) on any Securities, deposit with a Paying Agent a sum sufficient to pay such amount, such sum to be held in trust for the benefit of Persons entitled to such principal or interest (together with any Additional Amounts payable thereon), and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of its action or failure so to act.

The Company will cause each Paying Agent other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section 1003, that such Paying Agent will

(1) hold all sums held by it for the payment of the principal of or interest on Securities in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;

(2) give the Trustee notice of any default by the Company (or any other obligor upon the Securities including, without limitation, any Guarantor) in the making of any payment in respect of the Securities; and

(3) at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Note Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of or interest (together with any Additional Amounts payable thereon) on any Security and remaining unclaimed for two years after such principal or interest (together with any Additional Amounts payable thereon) has become due and

payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Security shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be published once, in newspapers published in the English language, customarily published on each Business Day and of general circulation in the Borough of Manhattan, The City of New York, that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 1004 Statement by Officers as to Default.

In the event that any officer of the Company or CEMEX becomes aware of or obtains knowledge of the occurrence of any Event of Default or Default, if any such Event of Default or Default is then continuing, CEMEX will deliver to a Responsible Officer of the Trustee an Officers' Certificate of CEMEX, one of the signatories of which shall be the Corporate Planning and Finance Director, Finance Director, Chief Financial Officer or Comptroller of CEMEX, setting forth the details thereof and the action that the Company or CEMEX is taking or proposes to take with respect thereto and shall make such Officers' Certificate available for inspection by Holders and holders of beneficial interests in the Securities.

SECTION 1005 Corporate Existence.

The Company and each Guarantor will at all times preserve and keep in full force and effect its corporate existence and rights and franchises deemed material to its business, except as otherwise specifically permitted by Section 801 and except that the corporate existence of any Subsidiary of CEMEX may be terminated, and any right or franchise may be disposed of, if such termination or disposition is, in the good faith judgment of CEMEX, in the best interests of CEMEX and is not disadvantageous to the Holders or the holders of beneficial interests in Securities.

SECTION 1006 Available Information.

(a) At all times when CEMEX is required to file any financial statements or reports with the Commission, CEMEX shall use its best efforts to file all required statements or reports in a timely manner in accordance with the rules and regulations of the Commission. In addition, at any time when CEMEX is not subject to or is not current in its reporting obligations under Section 13 or Section 15(d) of the Exchange Act or is not included on the Commission's list of foreign private issuers that claim exemption from the registration requirements of Section 12(g) of the Exchange Act pursuant to Rule 12g3-2(b) thereunder and any Debentures remain outstanding (or if otherwise required with respect to the Company, any Guarantor or Holder), CEMEX will make available, upon request, to any holder and any prospective purchaser of Debentures that are "restricted securities" under the Securities Act, the information referred to in Rule 144A(d)(4) under the Securities Act in order to permit resales of the Debentures in compliance with Rule 144A.

(b) In addition to the information required to be provided under Section 1006(a), CEMEX will deliver to the Trustee, promptly upon the mailing thereof to the shareholders of CEMEX, copies of all financial statements, reports and proxy statements so mailed.

SECTION 1007 Payment of Additional Amounts .

(a) All payments of principal and interest in respect of the Securities, the Note Indenture and the Guarantee by or for the account of the Company or any Guarantor shall be made without withholding or deduction for any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of Mexico, the Netherlands, the British Virgin Islands or in the event the Company or any Guarantor appoints additional paying agents, by the jurisdictions of such additional paying agents (each a "Note Taxing Jurisdiction"), or any political subdivision thereof or any authority therein or thereof ("Applicable Taxes"), except to the extent that such Applicable Taxes are required by a Note Taxing Jurisdiction or any such political subdivision or authority to be withheld or deducted. In the event of any withholding or deduction for any Applicable Taxes, the Company and the Guarantors shall pay such additional amounts ("Additional Amounts") as will result in receipt by the Holders of Securities on the respective due dates of such amounts as would have been received by them had no such withholding or deduction (including for any Applicable Taxes payable in respect of Additional Amounts) been required, except that no such Additional Amounts shall be payable with respect to any payment on a Security:

(i) to the extent that such taxes or duties are imposed or levied by reason of such holder (or the beneficial owner) having some connection with the Note Taxing Jurisdiction other than the mere holding (or beneficial ownership) of such Securities;

(ii) to the extent that such taxes or duties are imposed on, or measured by, net income of the holder (or beneficial owner);

(iii) in respect of which the holder (or beneficial owner) fails to comply with any certification, identification or other reporting requirement concerning its nationality, residence, identity or connection with the Note Taxing Jurisdiction if (1) compliance is required by applicable law, regulation, administrative practice or treaty as a precondition to exemption from all or a part of the taxes, (2) the holder (or beneficial owner) is able to comply with those requirements without undue hardship and (3) the Company has given all holders at least 30 days' prior notice that they will be required to comply with such requirements;

(iv) in respect of which the holder (or beneficial owner) fails to surrender (where surrender is required) its Securities for payment within 30 days after the Company has made available a payment of principal or interest, provided that the Company will pay Additional Amounts to which a holder would have been entitled had the Securities been surrendered on any day (including the last day) within such 30-day period;

(v) to the extent that such taxes or duties are imposed by reason of an estate, inheritance, gift, value added, use or sales tax or any similar taxes, assessments or other governmental charges;

(vi) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive; or

(vii) by or on behalf of a holder who would have been able to avoid such withholding or deduction by presenting the relevant Securities to another paying agent in a member state of the European Union.

The Company shall provide the Trustee, as soon as practicable, with documentation (which may consist of certified copies of such documentation) satisfactory to the Trustee evidencing the payment of Applicable Taxes in respect of which the Company has paid any Additional Amounts. Copies of such documentation shall be made available to the Holders of the Securities or the Paying Agent, as applicable, upon request therefor.

In respect of the Securities issued hereunder, at least five Business Days prior to the first date of payment of interest on the Securities and at least five Business Days prior to each date, if any, of payment of principal or interest thereafter if there has been any change with respect to the matters set forth in the below mentioned Officers' Certificate, the Company shall furnish the Trustee and each Paying Agent with an Officers' Certificate instructing the Trustee and such Paying Agent as to whether such payment of principal of or any interest on such Securities shall be made without deduction or withholding for or on account of any tax, duty, assessment or other governmental charge. If any such deduction or withholding shall be required by Mexico or under the federal laws of the United States, then such certificate shall specify, by country, the amount, if any, required to be deducted or withheld on such payment to Holders of such Securities, and the Company shall pay or cause to be paid to the Trustee or such Paying Agent Additional Amounts, if any, required by this Section 1007. The Company agrees to indemnify the Trustee and each Paying Agent for, and to hold them harmless against, any loss, liability or expense reasonably incurred without negligence or bad faith on their part arising out of or in connection with actions taken or omitted by them in reliance on any Officers' Certificate furnished pursuant to this Section 1007.

(b) The Company and the Guarantors shall pay all stamp and other duties, if any, which may be imposed by Mexico, the United States of America, the Netherlands or any other applicable jurisdiction or any other governmental entity or political subdivision therein or thereof, or any taxing authority of or in any of the foregoing, with respect to the Note Indenture, the Guarantee or the issuance of the Securities.

(c) The Company shall provide each Paying Agent and any withholding agent under relevant tax regulations with copies of each certificate received by the Company from a Holder of a Security pursuant to the text of such Security. Each such Paying Agent and withholding agent shall retain each such certificate received by it for as long as any Security is Outstanding and in no event for less than four years after its receipt, and for such additional period thereafter, as set forth in an Officers' Certificate, as such certificate may become material in the administration of applicable tax laws.

(d) All references in this Note Indenture, the Securities and the Guarantee to principal or interest in respect of any Security shall be deemed to mean and include all Additional Amounts, if any, payable in respect of such principal or interest, unless the context otherwise requires, and express mention of the payment of Additional Amounts in any provision hereof or thereof shall not be construed as excluding reference to Additional Amounts in those provisions hereof and thereof where such express mention is not made. All references in this Note Indenture, the Securities and the Guarantee to principal in respect of any Security shall be deemed to mean and include any Redemption Price payable in respect of such Security pursuant to any redemption hereunder (and all such references to the Stated Maturity of the principal in respect of any Security shall be deemed to mean and include the Redemption Date with respect to any such Redemption Price), and all such references to principal, interest or Additional Amounts shall be deemed to mean and include any amount payable in respect thereof pursuant to Section 1010, and express mention of the payment of any Redemption Price, or any such other amount, in those provisions hereof and thereof shall not be construed as excluding reference to the Redemption Price or any such other amount in those provisions hereof and thereof where such express reference is not made.

SECTION 1008 Limitation on Liens.

So long as any Securities remain Outstanding, CEMEX shall not, and shall not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of CEMEX or any Subsidiary, whether now owned or held or hereafter acquired, other than the following Liens ("Permitted Liens"):

(i) Liens for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Mexican GAAP shall have been made;

(ii) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Mexican GAAP shall have been made;

(iii) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security;

(iv) any attachment or judgment Lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(v) Liens existing on the date of original issuance of the Securities;

(vi) any Lien on property acquired by CEMEX after the date of original issuance of the Securities that was existing on the date of acquisition of such property; provided that such Lien was not incurred in anticipation of such acquisition, and any Lien created to secure all or any part of the purchase price, or to secure Debt incurred or assumed

to pay all or any part of the purchase price, of property acquired by CEMEX or any of its Subsidiaries after the date of original issuance of the Securities; provided, further, that (A) any such Lien permitted pursuant to this clause (vi) shall be confined solely to the item or items of property so acquired (including, in the case of any Acquisition of a corporation through the acquisition of 51% or more of the voting stock of such corporation, the stock and assets of any Acquired Subsidiary or Acquiring Subsidiary) and, if required by the terms of the instrument originally creating such Lien, other property which is an improvement to, or is acquired for specific use with, such acquired property; and (B) if applicable, any such Lien shall be created within nine months after, in the case of property, its acquisition, or, in the case of improvements, their completion;

(vii) any Liens renewing, extending or refunding any Lien permitted by paragraph (vi) above, provided that the principal amount of Debt secured by such Lien immediately prior thereto is not increased or the maturity thereof reduced and such Lien is not extended to the other property;

(viii) any Liens created on shares of capital stock of CEMEX or any of its Subsidiaries solely as a result of the deposit or transfer of such shares into a trust or a special purpose corporation (including any entity with legal personality) of which such shares constitute the sole assets; provided that any shares of Subsidiary stock held in such trust, corporation or entity could be sold by CEMEX under this Note Indenture; and provided, further, that such Liens may not secure Debt of CEMEX or any Subsidiary (unless permitted under another clause of this Section 1008);

(ix) any Liens on securities securing repurchase obligations in respect of such securities;

(x) any Liens in respect of any Qualified Receivables Transaction; or

(xi) in addition to the Liens permitted by the foregoing clauses (i) through (x), Liens securing Debt of CEMEX and its Subsidiaries that in the aggregate secure obligations in an amount not in excess of 5% of Adjusted Consolidated Net Tangible Assets;

unless, in each case, CEMEX has made or caused to be made effective provision whereby the Securities and the Conversion Payment Undertaking are secured equally and ratably with, or prior to, the Debt secured by such Liens (other than Permitted Liens) for so long as such Debt is so secured.

SECTION 1009 Listing.

CEMEX will use its best efforts to cause the Debentures to be duly authorized for listing on the Irish Stock Exchange or another recognized securities exchange and shall from time to time take such other actions as shall be necessary or advisable to maintain the listing of the Debentures thereon.

SECTION 1010 Indemnification of Judgment Currency.

The Company and each Guarantor shall, to the fullest extent permitted by law, indemnify the Trustee and any Holder of a Security against any loss incurred by the Trustee or such Holder, as the case may be, as a result of any judgment or order being given or made for any amount due under this Note Indenture or such Security and being expressed and paid in a currency (the "Judgment Currency") other than Dollars, and as a result of any variation between (i) the rate of exchange at which the Dollar amount is converted into the Judgment Currency for the purpose of such judgment or order and (ii) the spot rate of exchange in The City of New York at which the Trustee or such Holder, as the case may be, on the date of payment of such judgment or order is able to purchase Dollars with the amount of the Judgment Currency actually received by the Trustee or such Holder. If the amount of Dollars so purchased exceeds the amount originally to be paid to such Holder, such Holder agrees to pay to or for the account of the Company (with respect to payments made by the Company) and the Guarantors (with respect to payments made by the Guarantors) such excess; provided, that such Holder shall not have any obligation to pay any such excess as long as a default by the Company or the Guarantors, as applicable in its obligations hereunder has occurred and is continuing, in which case such excess may be applied by such Holder to such obligations. The foregoing indemnity shall constitute a separate and independent obligation of the Company and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid. The term "spot rate of exchange" shall include any premiums and costs of exchange payable in connection with the purchase of, or conversion into, United States dollars.

SECTION 1011 Payment of Certain Issuer Expenses.

The Company and the Guarantors have agreed under this Note Indenture that they will pay to C8 Capital (SPV) Limited from time to time, at least two Business Days in advance of any required payment, such amounts as may be necessary for C8 Capital (SPV) Limited to pay the commissions, fees and expenses of the Initial Purchasers of the Debentures, the fees and expenses of the Debenture Trustee, and any other fees, expenses, indemnification, reimbursement, contribution and other similar obligations, and all other amounts (other than payments under the Debentures and settlement and termination payments under the Extinguishable Coupon Swap) owed by C8 Capital (SPV) Limited to the Initial Purchasers, the Debenture Trustee, the officers and directors of C8 Capital (SPV) Limited, the Swap Counterparty, Barclays Bank PLC or any other person.

SECTION 1012 Ownership.

Except as otherwise specified or contemplated in this Note Indenture, CEMEX shall take any and all actions necessary to insure that the Company at all times remains, directly or indirectly, a wholly-owned subsidiary of CEMEX.

SECTION 1013 Restrictive Activities.

The Company has agreed, so long as any Securities (or any amount thereunder) is outstanding, not to do any of the following:

(i) engage at any time in any business activity unrelated to the issuance of the Securities, the entering into the Conversion Payment Undertaking, entering into similar capital raising activities and entering into financial arrangements with CEMEX and its Subsidiaries, or

(ii) file for, or consent to the filing of, any bankruptcy, liquidation insolvency or similar proceeding.

SECTION 1014 Waiver of Immunities.

To the extent that the Company or any of the Guarantors may in any jurisdiction claim for itself or its assets immunity from a suit, execution, attachment, whether in aid or execution, before judgment or otherwise, or other legal process in connection with this Note Indenture and the Securities and to the extent that in any jurisdiction there may be immunity attributed to the Company, the Company's assets, the Guarantors or the Guarantors' assets whether or not claimed, the Company and the Guarantors have irrevocably agreed for the benefit of the Holder not to claim, and irrevocably waive, the immunity to the full extent permitted by law.

ARTICLE ELEVEN

Redemption of Securities

SECTION 1101 Right of Redemption.

(a) The Securities may not be redeemed at the election of the Company except in accordance with the provisions of this Article.

(b) The Securities will be redeemable, at the option of the Company, on December 31, 2014, and on each interest payment date thereafter (or, if not a Business Day, on the preceding Business Day), in whole or in part, at par together with all accrued and unpaid interest, including deferred interest, provided that the Company as a condition to redemption, convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate as of the Interest Payment Date by written notice to the Holders, the Debenture Trustee, the Trustee and the Swap Counterparty no less than 10 Business Days prior to the Interest Payment Date; in the case of partial redemption the outstanding principal amount of the Securities immediately after such redemption shall not be less than U.S$200,000,000 million; provided further that no redemption shall be effective on any payment date (and such payment date shall not constitute the Conversion Date) unless C8 Capital (SPV) Limited shall have received from the Company on or prior to such payment date any applicable Conversion Payments with respect to such conversion.

(c) The Securities will be redeemable, at the option of the Company, within 90 days of the occurrence of a CEMEX Change of Control Event, in whole but not in part, at a Redemption Price equal to the greater of (i) par and (ii) the sum of the present values of the remaining scheduled payments on the Securities calculated (1) assuming a final maturity of December 31, 2014, (2) without giving effect to any increase in interest rates as a result of the CEMEX Change of Control Event, and (3) discounted to the Redemption Date at a rate equal to the then-current yield to maturity of treasuries with a comparable maturity plus a margin equal to 1.870% per annum, plus in each of cases (i) and (ii) above accrued and unpaid interest to the Redemption Date.

The Securities will not otherwise be redeemed by the Company. As a condition to any redemption prior to December 31, 2014, the Company must first convert the interest rate on the Securities from the Yen Rate to the Dollar Fixed Rate and pay any applicable Conversion Payment with respect to such conversion in accordance with Section 315.

SECTION 1102 Notice of Redemption.

Notice of redemption shall be given by first class mail, postage prepaid, mailed by the Company to the Trustee not less than 45 days nor more than 60 days prior to the proposed Redemption Date (unless a shorter period of time is agreed upon) and to each Holder and the Trustee will give a corresponding notice to the holders of the Debentures, at his address appearing in the Security Register. Any such notice of redemption is irrevocable and will be given as described below. If the redemption price in respect of any Security is improperly withheld or refused and is not paid by the Company or any Guarantor, interest on the Securities will continue to be payable until the Redemption Price is paid in full.

All notices of redemption shall state:

(1) the Redemption Date,

(2) the Redemption Price and amount of accrued interest, if any,

(3) that on the Redemption Date the Redemption Price and any accrued interest will become due and payable upon each Security to be redeemed and that interest thereon will cease to accrue on and after said date, and

(4) the place or places where such Securities are to be surrendered for payment of the Redemption Price and any accrued interest.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company, and such notice, when given to the Holders, shall be irrevocable.

SECTION 1103 Deposit of Redemption Price.

Prior to any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 1003) an amount of money sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on, all the Securities which are to be redeemed on that date.

SECTION 1104 Securities Payable on Redemption Date.

Notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price herein specified, and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest) such Securities shall cease to bear interest. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Company at the Redemption Price, together with accrued interest to the Redemption Date;

provided, however, that installments of interest whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 306.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal shall, until paid, bear interest from the Redemption Date at the rate borne by the Security.

ARTICLE TWELVE

Guarantee of the Securities

SECTION 1201 Guarantee.

Subject to the provisions of this Article Twelve, Article Eight and Article Nine, each Guarantor hereby jointly and severally irrevocably and unconditionally guarantees, on an unsecured basis, to each Holder of a Security authenticated and delivered by the Trustee and to the Trustee and its Successors, irrespective of the validity and enforceability of this Note Indenture, the Securities or the obligations of the Company or any other Guarantors to the Holders or the Trustee hereunder or thereunder, that: (a) the principal of and interest on the Securities (including any Additional Amounts) will be duly and punctually paid in full when due, whether at Maturity, by acceleration, call for redemption, purchase or otherwise, and all obligations of the Company or the Guarantors to the Holders or the Trustee hereunder or thereunder (including amounts due the Trustee under Section 607 hereof) or under the Securities (including fees, expenses or other disbursements) will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Securities or any of such other obligations, the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at maturity, by acceleration, call for redemption, purchase or otherwise (all such obligations guaranteed by the Guarantors, the "Guaranteed Obligations"). The guarantees of the Guarantors under this Article Twelve are herein referred to as the "Guarantee". Failing payment when due of any amount so guaranteed, or failing performance of any other obligation of the Company to the Holders, for whatever reason, each Guarantor will be obligated to pay, or to perform or cause the performance of, the same immediately. An Event of Default under this Note Indenture or the Securities shall constitute an event of default under this Guarantee, and shall entitle the Holders of Securities or the Trustee to accelerate the obligations of the Guarantors hereunder in the same manner and to the same extent as the obligations of the Company.

The Guarantors agree to pay any and all fees and expenses (including reasonable attorney's fees and expenses) incurred by the Trustee or the Holders in enforcing any rights under this Article Twelve with respect to the Guarantors.

Without limiting the generality of the foregoing, this Guarantee guarantees, to the extent provided herein, the payment of all amounts that constitute part of the Guaranteed Obligations and would be owed by the Company under this Note Indenture or the Securities but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving the Company.

No stockholder, officer, director, employee or incorporator, past, present or future, of any Guarantor, as such, shall have any personal liability under this Guarantee by reason of his, her or its status as such stockholder, officer, director, employee or incorporator.

The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under this Guarantee.

SECTION 1202 Execution and Delivery of Guarantee.

The Guarantee to be endorsed on the Securities shall include the terms of the Guarantees set forth in this Article Twelve and any other terms that may be set forth in the form established pursuant to Section 205. The Guarantors hereby agree to execute the Guarantee in the form established pursuant to Section 205, to be endorsed on each Security authenticated and delivered by the Trustee.

The Guarantee shall be executed on behalf of each Guarantor by any one of the individuals who may sign an Officers' Certificate on its behalf. The signature of any such Person on the Guarantee may be manual or facsimile.

A Guarantee bearing the manual or facsimile signature of an individual who was at any time the proper officer of a Guarantor shall bind such Guarantor, notwithstanding that such individual has ceased to hold such office prior to the authentication and delivery of the Security on which such Guarantee is endorsed or did not hold such office at the date of such Guarantee.

The delivery of any Security by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantee endorsed thereon on behalf of the respective Guarantor. The Guarantors hereby agree that their respective Guarantee set forth in Section 1201 shall remain in full force and effect notwithstanding any failure to endorse a Guarantee on any Security.

SECTION 1203 Obligations of the Guarantors Unconditional.

Nothing contained in this Article Twelve or elsewhere in this Note Indenture or in any Security is intended to or shall impair, as between the Guarantors and the Holders and the Trustee, the obligation of each Guarantor, which is absolute and unconditional, to pay to the Holders and the Trustee the principal of and interest (including Additional Amounts) on the Securities (and to the Trustee amounts due under Section 607) as and when the same shall become due and payable in accordance with the provisions of this Guarantee, nor shall anything herein or therein prevent the Trustee or any Holder from exercising all remedies otherwise permitted by applicable law upon Default under this Note Indenture. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not affect the liability of any Guarantor hereunder:

(a) the lack of validity, regularity or enforceability of this Note Indenture or the Securities with respect to the Company or any agreement or instrument relating thereto;

(b) any change in the time, manner or place of payment of, or in any other term of any of the Guaranteed Obligations, or any other amendment or waiver of or any consent to departure from this Note Indenture;

(c) any amendment or modification of or deletion from or addition or supplement to or other change in the Guarantee, the Note Indenture or the Securities or any other instrument or agreement applicable to any of the parties to the Guarantee, the Note Indenture or the Securities;

(d) any furnishing or acceptance of any security or any guarantee or other liability of any Subsidiary or any other party, or any release of any security or any guarantee or other liability of any Subsidiary or any other party, for the Guaranteed Obligations, or the failure of any security or any guarantee or other liability of any Subsidiary or any other party or the failure of any Person to perfect any interest in any collateral;

(e) any failure, omission or delay on the part of the Company, to conform or comply with any term of the Note Indenture or the Securities or any other instrument or agreement referred to in paragraph (a) above, including, without limitation, failure to give notice to the Guarantors or the Trustee of the occurrence of an Event of Default;

(f) any waiver of the payment, performance or observance of any of the obligations, conditions, covenants or agreements contained in the Guarantee, the Note Indenture or the Securities, or any other waiver, consent, extension, indulgence, compromise, settlement, release or other action or inaction under or in respect of the Guarantee, the Note Indenture or the Securities or any other instrument or agreement referred to in paragraph (a) above or any obligation or liability of the Company, or any exercise or non-exercise of any right, remedy, power or privilege under or in respect of any such instrument or agreement or any such obligation or liability;

(g) any failure, omission or delay on the part of the Trustee or any Holder of Securities to enforce, assert, exercise or continue exercising any right, power or remedy conferred on it in the Guarantee or the Note Indenture, or any such failure, omission or delay on the part of the Trustee or any Holder of Securities in connection with the Guarantee, the Note Indenture or the Securities, or any other action on the part of the Trustee or any Holder of Securities;

(h) the assignment of any right, title or interest of the Trustee or any Holder in this Note Indenture or the Securities to any other Person;

(i) any voluntary or involuntary bankruptcy, insolvency, *concurso mercantil*, reorganization, arrangement, readjustment, assignment for the benefit of creditors, receivership, liquidation or similar proceedings with respect to the Company, any Guarantor or any other Person or any of their respective properties or creditors, or any action taken by any trustee, receiver or similar officer or by any court in any such proceeding;

(j) any limitation on the liability or obligations of the Company or any other Person under the Guarantee, the Note Indenture or the Securities, or any partial discharge, cancellation or unenforceability of the Guarantee, the Note Indenture or the Securities or any other agreement or instrument referred to in paragraph (c) above or any term hereof, to the extent not mutually agreed upon by the parties hereto;

(k) any merger or consolidation of the Company or any Guarantor into or with any other corporation or any sale, lease or transfer of any of the assets of the Company or any Guarantor to any other Person;

(l) any change in the ownership of any shares of capital stock of the Guarantors, or any change in the corporate relationship between the Company and the Guarantors, or any termination of such relationship, or any change in the corporate existence, structure, or ownership of the Company;

(m) any release or discharge, by operation of law, of any Guarantor from the performance or observance of any obligation, covenant or agreement contained in the Guarantee, the Note Indenture or the Securities;

(n) any action, failure, omission or delay on the part of the Trustee or any Holder of Securities that may impede any Guarantor from acquiring or subrogating such Holder's or Trustee's rights or benefits; or

(o) any other occurrence, circumstance, happening or event whatsoever, whether similar or dissimilar to the foregoing, whether foreseen or unforeseen, and any other circumstance that might otherwise constitute a legal defense or discharge of the liabilities of a Guarantor or that might otherwise limit recourse against the Guarantors; it being the intent of each Guarantor that its obligations hereunder shall not be discharged except by payment of all amounts owing pursuant to this Note Indenture or the Securities.

The Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time any payment or performance with respect to any of the Guaranteed Obligations is rescinded or must otherwise be returned by the Trustee, any Holder or any other Person upon the insolvency, bankruptcy or reorganization of the Company or otherwise, all as though such payment or performance had not been made or occurred. In the event that any payment, or any part thereof, is rescinded or must otherwise be returned, the Guaranteed Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded or returned. The obligations of the Guarantors under the Guarantee shall not be subject to reduction, termination or other impairment by any set-off, recoupment, counterclaim or defense or for any other reason.

SECTION 1204 Waivers.

Each Guarantor hereby irrevocably waives, to the extent permitted by applicable law:

(a) promptness, demand for payment, diligence, presentment, notice of acceptance and any other notice with respect to any of the Guaranteed Obligations and the Guarantee;

(b) any requirement that the Trustee, any Holder or any other Person protect, secure, perfect or insure any Lien or any property subject thereto or exhaust any right, sue or take any action against the Company or any other Person, or obtain any relief pursuant to this Note Indenture or pursue any other available remedy prior to making a claim against any Guarantor hereunder;

(c) all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Note Indenture or the Securities;

(d) filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest or notice with respect to such Security or the Indebtedness evidenced thereby and all demands whatsoever;

(e) any defense arising by reason of any claim or defense based upon an election of remedies by the Trustee or any Holder that in any manner impairs, reduces, releases or otherwise adversely affects its subrogation, contribution or reimbursement rights or other rights to proceed against the Company or any other Person;

(f) any right to which it may be entitled to have the assets of the Company first be used as payment of the Company's or the Guarantor's obligations hereunder prior to any amounts being claimed from or paid by such Guarantor hereunder; or

(g) any duty on the part of the Trustee or any Holder to disclose to such Guarantor any matter, fact or thing relating to the business, operation or condition of the Company and its assets now known or hereafter known by the Trustee or such Holder.

SECTION 1205 Waiver of Subrogation and Contribution.

Each Guarantor hereby irrevocably waives any claim or other right that it may now or hereafter acquire against the Company that arises from the existence, payment, performance or enforcement of such Guarantor's obligations under this Guarantee and this Note Indenture, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution, indemnification, and any right to participate in any claim or remedy of the Trustee or any Holder of Securities against the Company, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law, including, without limitation, the right to take or receive from the Company, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or Security on account of such claim or other rights. If any amount shall be paid to any Guarantor in violation of the preceding sentence and the Securities shall not have been paid in full, such amount shall have been deemed to have been paid to such Guarantor for the benefit of, and held in trust for the benefit of, the Holders of the Securities, and shall forthwith be paid to the Trustee for the benefit of such Holders to be credited and applied upon the Securities, whether matured or unmatured, in accordance with the terms of this Note Indenture. Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Note Indenture and that the waiver set forth in this Section 1205 is knowingly made in contemplation of such benefits.

Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any Guaranteed Obligations until payment in full of all Guaranteed Obligations. Each Guarantor further agrees that, as between itself, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the Guaranteed Obligations may be accelerated as provided in Article Five hereof for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guaranteed Obligations, and (y) in the event of any declaration of acceleration of the Guaranteed Obligations as provided in Article Five hereof, the Guaranteed Obligations (whether or not due and payable) shall forthwith become due and payable by such Guarantor for the purpose of this Guarantee.

SECTION 1206 No Waiver; Cumulative Remedies.

No failure on the part of the Trustee or any Holder to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law. The Trustee and the Holders shall have all of the rights and remedies granted in this Note Indenture and available at law or in equity, and these same rights and remedies may be pursued separately, successively or concurrently against the Company or the Guarantors.

SECTION 1207 Continuing Guarantee.

The Guarantee is a continuing guarantee and, except as otherwise provided herein, shall (a) remain in full force and effect until the satisfaction of the Guaranteed Obligations, (b) be binding upon each Guarantor and (c) inure to the benefit of and be enforceable by the Trustee, the Holders and their successors, transferees and assigns.

ARTICLE THIRTEEN

Meetings of Holders of Securities

SECTION 1301 Purposes for Which Meetings May Be Called.

A meeting of Holders of Securities may be called at any time and from time to time pursuant to this Article to make, give or take any request, demand, authorization, direction, notice, consent, election, waiver or other action provided by this Note Indenture to be made, given or taken by Holders of Securities.

SECTION 1302 Call, Notice and Place of Meetings.

(a) The Company and the Trustee may at any time call a meeting of Holders of Securities for any purpose specified in Section 1301, to be held at such time and at such place in the Borough of Manhattan, the City of New York, New York as the Company or the Trustee, as the case may be, shall determine. Notice of every meeting of Holders of Securities, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be given, in the manner provided in Section 106, not less than 30 nor more than 180 days prior to the date fixed for the meeting.

(b) In case at any time the Company, pursuant to an Officers' Certificate, or the Holders of at least 10% in principal amount of the Outstanding Securities shall have requested the Trustee to call a meeting of the Holders of Securities for any purpose specified in Section 1301, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have made the first publication of the notice of such meeting within 30 days after receipt of such request or shall not thereafter proceed to cause the meeting to be held as provided herein, then the Company or the Holders of Securities in the amount above specified, as the case may be, may determine the time and the place in the Borough of Manhattan, the City of New York, New York for such meeting and may call such meeting for such purposes by giving notice thereof as provided in subsection (a) of this Section 1302.

SECTION 1303 Persons Entitled to Vote at Meetings.

To be entitled to vote at any meeting of Holders of Securities, a Person shall be (1) a Holder of one or more Outstanding Securities, or (2) a Person appointed by an instrument in writing as proxy for a Holder or Holders of one or more Outstanding Securities by such Holder or Holders. The only Persons who shall be entitled to be present or to speak at any meeting of Holders shall be the Persons entitled to vote at such meeting and their counsel, and representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

SECTION 1304 Quorum; Action.

The Persons entitled to vote a majority in principal amount of the Outstanding Securities shall constitute a quorum. In the absence of a quorum within 30 minutes of the time appointed for any such meeting, the meeting may be adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such meeting. In the absence of a quorum at any such adjourned meeting, such adjourned meeting may be further adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such adjourned meeting (subject to repeated applications of this sentence). Notice of the reconvening of any adjourned meeting shall be given as provided in Section 1302(a), except that such notice need be given only once not less than five days prior to the date on which the meeting is scheduled to be reconvened. Notice of the reconvening of an adjourned meeting shall state expressly the percentage of the principal amount of the Outstanding Securities which shall constitute a quorum. Any Holder who has executed an instrument in writing appointing a person as proxy shall be deemed to be present for the purposes of determining a quorum and be deemed to have voted; provided that such Holder shall be considered as present or voting only with respect to the matters covered by such instrument in writing (which may include authorization to vote on any other matters as may come before the meeting).

Subject to the foregoing, at the reconvening of any meeting further adjourned for a lack of a quorum the Persons entitled to vote 33 1/3% in principal amount of the Outstanding Securities at the time shall constitute a quorum for the taking of any action set forth in the notice of the original meeting.

Except as limited by Clauses (1) and (2) of Section 513 and by the proviso to Section 902, any modifications, amendments or waivers to this Note Indenture or the terms and conditions of the Securities shall require the lesser of (i) the written consent of the Holders of a majority in principal amount of the Outstanding Securities or (ii) at any time when there is more than one Holder of Securities, the approval of persons entitled to vote 66 2/3% of the principal amount of such Securities represented and voting at a meeting of the Holders duly called in accordance with the provisions hereof and at which a quorum is present; provided, however, that such modifications, amendments or waivers shall be approved by the Holders of Securities representing not less than 25% of the aggregate principal of Outstanding Securities and no such waiver shall be permitted unless provided for pursuant to Section 513.

Any modification, amendment or waiver approved or resolution passed or decision taken at any meeting of Holders of Securities held in accordance with this Article shall be binding on all the Holders of Securities, regardless of whether present or represented at the meeting.

SECTION 1305 Determination of Voting Rights; Conduct and Adjournment of Meetings.

(a) Notwithstanding any other provisions of this Note Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Holders of Securities in regard to proof of the holding of Securities and of the appointment of proxies and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the conduct of the meeting as it shall deem appropriate. Except as otherwise permitted or required by any such regulations, the holding of Securities shall be proved in the manner specified in Section 104 and the appointment of any proxy shall be proved in the manner specified in Section 104 or by having the signature of the person executing the proxy witnessed or guaranteed by any trust company, bank or banker authorized by Section 104 to certify to the holding of Securities. Such regulations may provide that written instruments appointing proxies, regular on their face, may be presumed valid and genuine without the proof specified in Section 104 or other proof.

(b) The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders of Securities as provided in Section 1302(b), in which case the Company or the Holders of Securities calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the Persons entitled to vote a majority in principal amount of the Outstanding Securities represented at the meeting.

(c) At any meeting each Holder of a Security or proxy shall be entitled to one vote for each $1,000 principal amount of Securities held or represented by him; provided, however, that no vote shall be cast or counted at any meeting in respect of any Security challenged as not Outstanding and ruled by the chairman of the meeting to be not Outstanding. The chairman of the meeting shall have no right to vote, except as a Holder of a Security or proxy.

(d) Any meeting of Holders of Securities duly called pursuant to Section 1302 at which a quorum is present may be adjourned from time to time by Persons entitled to vote a majority in principal amount of the Outstanding Securities represented at the meeting; and the meeting may be held as so adjourned without further notice.

SECTION 1306 Counting Votes and Recording Action of Meetings.

The vote upon any resolution submitted to any meeting of Holders of Securities shall be by written ballots on which shall be subscribed the signatures of the Holders of Securities or of their representatives by proxy and the principal amounts and serial numbers of the Outstanding Securities held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record, at least in duplicate, of the proceedings of each meeting of Holders of Securities shall be prepared by the secretary of the

meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was given as provided in Section 1302 and, if applicable, Section 1304. Each copy shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one such copy shall be delivered to the Company and another to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this Note Indenture to be duly executed, as of the day and year first above written.

The Bank of New York,
as Trustee

By: /s/ James Fevola
Name: James Fevola
Title: Vice President

NEW SUNWARD HOLDING
FINANCIAL VENTURES B.V.

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-In-Fact

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

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Chief Financial Officer

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

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Chief Financial Officer

NEW SUNWARD HOLDING B.V.

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-In-Fact

ANNEX A

Calculation of Conversion Payments and Conversion Credits

With respect to the Conversion Date (whether it has occurred or is expected to occur at the time of calculation), the Calculation Agent will determine whether a Conversion Payment or a Conversion Credit Reference Amount applies. If a Conversion Credit Reference Amount applies and the principal amount of the Dual-Currency Notes has not become, as of the Conversion Date, due and payable, the Calculation Agent will determine whether there are any Conversion Credit Application Dates and the amount of the Conversion Credit to be applied on each such Conversion Credit Application Date.

For the purposes of this Annex A:

"*Benchmark Swap*" means a derivative transaction between the Calculation Agent and a hypothetical counterparty with the following terms:

(i) no exchange of principal;

(ii) a term commencing on the date of issuance of the Dual-Currency Notes and ending on December 31, 2014;

(iii) the Calculation Agent obligated to pay an amount in U.S. Dollars equal to the semi-annual coupon on the Debentures, applied to the Dollar principal amount of the Debentures, on each payment date for the Debentures;

(iv) the counterparty obligated to pay an amount in Japanese Yen equal to the semi-annual coupon on the Dual-Currency Notes, applied to the Yen Equivalent Principal Amount of the Dual-Currency Notes, on each payment date for the Dual-Currency Notes;

(v) the parties' payment obligations under such derivative transaction ceasing as of the payment date for the Debentures immediately prior to the date on which the Conditions to Anticipated Swap Termination are deemed satisfied; and

(vi) upon early termination for any reason other than the satisfaction of the Conditions to Anticipated Swap Termination, the termination payment due to the Calculation Agent or the counterparty, as applicable, calculated based on the total gains and losses and costs incurred upon termination, including any loss of bargain, costs of funding, or, without duplication, any loss or cost or gain incurred as a result of obtaining or reestablishing any hedge or related trading position.

"*Conversion Credit*" means the amount the Calculation Agent determines to be the amount of investment proceeds in U.S. Dollars that would be available on each Conversion Credit Application Date were the Conversion Credit Reference Amount invested at the direction of the Calculation Agent (and on a date determined by the Calculation Agent but not more than 15 business days after the Conversion Date) in Permitted Investments, which Permitted Investments were designed to yield (without provision for credit losses) an equal amount of investment proceeds in U.S. Dollars on each such Conversion Credit Application Date.

"*Conversion Credit Application Date*" means (a) each interest payment date for the Debentures occurring prior to December 31, 2014, and more than 15 business days after the Conversion Date, and (b) December 31, 2014, so long as the Conversion Date occurs at least 15 business days prior to that date. If the Conversion Date occurs after the 15th business day prior to December 31, 2014, no Conversion Credits shall apply.

"*Conversion Credit Reference Amount*" means the amount, if any, determined by the Calculation Agent to be equal to the total amount that would be payable by the party obligated to pay U.S. Dollars under the Benchmark Swap (as defined below) upon its early termination on the applicable Note Conversion Date.

"*Conversion Payment*" means the amount, if any, determined by the Calculation Agent to be equal to the total amount that would be payable by the party obligated to pay Japanese Yen under the Benchmark Swap (as defined below) upon its early termination on the applicable Note Conversion Date.

"*Permitted Investments*" means Dollar-denominated, unsubordinated obligations that (a) do not bear interest or bear interest at a fixed rate and (b) are issued, accepted or guaranteed by one or more commercial banks in the United States or United Kingdom the long-term unsubordinated, unsecured indebtedness of which has a rating of at least "A2" from Fitch Ratings, Ltd. and "A" from Standard and Poor's Rating Service.

Capitalized terms used in this Annex A and not herein defined shall have the meaning ascribed to them in the Note Indenture.

ANNEX B

Conditions to Anticipated Swap Termination

The "Conditions to Anticipated Swap Termination" shall be deemed to have been satisfied on the Note Conversion Date when the Calculation Agent delivers written notice to the Note Issuer and the Debenture Trustee, on the Note Conversion Date or at a time prior to the 15 th Local Business Day after the Note Conversion Date, that:

(i) a CEMEX Credit Event had occurred on or prior to the Note Conversion Date; and

(ii) Barclays or the Note Issuer has delivered a Credit Event Notice that is effective during the Notice Period; and

(iii) such party delivering the Credit Event Notice also has delivered a Notice of Publicly Available Information that is effective during the Notice Period.

As used in this Annex B, the following terms shall have the following meanings:

"Affiliate" means, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

"Bankruptcy" means a Reference Entity (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (b) becomes insolvent or is unable to pay its debts or fails or admits in writing in a judicial, regulatory or administrative proceeding or filing its inability generally to pay its debts as they become due; (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (d) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding up or liquidation or (ii) is not dismissed, discharged, stayed or restrained in each case within thirty calendar days of the institution or presentation thereof; (e) has a resolution passed for its winding up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (f) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (g) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty calendar days thereafter; or (h) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (a) to (g) (inclusive).

"Barclays" means Barclays Bank PLC.

"Bond" means any obligation for Borrowed Money that is in the form of, or represented by, a bond, note (other than notes delivered pursuant to Loans), certificated debt security or other debt security and shall not include any other type of Borrowed Money.

"Borrowed Money" means any obligation (excluding an obligation under a revolving credit arrangement for which there are no outstanding, unpaid drawings in respect of principal) for the payment or repayment of borrowed money (which term shall include, without limitation, deposits and reimbursement obligations arising from drawings pursuant to letters of credit).

"C8 Capital" means C8 Capital (SPV) Limited.

"Calculation Agent" has the meaning set forth in the Master Collateral Agreement.

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

"CEMEX Credit Event" means one or more of Bankruptcy, Failure to Pay, Obligation Acceleration, Repudiation/Moratorium or Restructuring, in each case as determined by the Calculation Agent taking into account then-current interpretations of the text of the applicable definition in the swap markets. If an occurrence would otherwise constitute a CEMEX Credit Event, such occurrence will constitute a CEMEX Credit Event whether or not such occurrence arises directly or indirectly from, or is subject to a defense based upon: (a) any lack or alleged lack of authority or capacity of a Reference Entity to enter into any Obligation or, as applicable, an Underlying Obligor to enter into any Underlying Obligation, (b) any actual or alleged unenforceability, illegality, impossibility or invalidity with respect to any Obligation or, as applicable, any Underlying Obligation, however described, (c) any applicable law, order, regulation, decree or notice, however described, or the promulgation of, or any change in, the interpretation by any court, tribunal, regulatory authority or similar administrative or judicial body with competent or apparent jurisdiction of any applicable law, order, regulation, decree or notice, however described, or (d) the imposition of, or any change in, any exchange controls, capital restrictions or any other similar restrictions imposed by any monetary or other authority, however described.

"Counterparty" means the Swap 8 Capital (SPV) Limited.

"Credit Event Notice" means an irrevocable notice (which may be by telephone) from one party to the other party and to the Calculation Agent that describes a CEMEX Credit Event that occurred at or after 12:01 a.m., Greenwich Mean Time, on the Effective Date and at or prior to 11:59 p.m., Greenwich Mean Time, on the Note Conversion Date. A Credit Event Notice must contain a description in reasonable detail of the facts relevant to the determination that a CEMEX Credit Event has occurred. The CEMEX Credit Event that is the subject of the Credit Event Notice need not be continuing on the date that the Credit Event Notice is effective.

"Debenture Indenture" means the Debenture Indenture entered into on February 12, 2007, between C8 Capital and The Bank of New York, with respect to the issuance of the Debentures by C8 Capital.

"Debenture Trustee" means the Trustee under the Debenture Indenture.

"Default Requirement" means USD 10,000,000 or its equivalent in the relevant Obligation Currency as of the occurrence of the relevant CEMEX Credit Event.

"Deliver" means to deliver, novate, transfer (including, in the case of a Qualifying Guarantee, transfer of the benefit of the Qualifying Guarantee), assign or sell, as appropriate, in the manner customary for the settlement of the applicable Underlying Obligations (which shall

include executing all necessary documentation and taking any other necessary actions), in order to convey all right, title and interest in the Underlying Obligations free and clear of any and all liens, charges, claims or encumbrances (including, without limitation, any counterclaim, defense (other than a counterclaim or defense based on customary factors as determined by the Calculation Agent taking into account then-current interpretations of the text of the applicable definition in the swap markets) or right of set off by or of the Reference Entity or, as applicable, an Underlying Obligor); provided that to the extent that the Deliverable Obligations consist of Qualifying Guarantees, "Deliver" means to Deliver both the Qualifying Guarantee and the Underlying Obligation. "Delivery" and "Delivered" will be construed accordingly.

"Domestic Currency" means the lawful currency and any successor currency of the Reference Entity. Notwithstanding the foregoing, in no event shall Domestic Currency include any successor currency if such successor currency is the lawful currency of any of Canada, Japan, Switzerland, the United Kingdom or the United States of America or the euro (or any successor currency to any such currency).

"Domestic Law" means the laws of the jurisdiction of organization of the Reference Entity.

"Downstream Affiliate" means an entity, at the date of the event giving rise to the CEMEX Credit Event which is the subject of the Credit Event Notice or the time of identification of a Substitute Reference Obligation (as applicable), whose outstanding Voting Shares are more than 50 percent owned, directly or indirectly, by the Reference Entity.

"Dual-Currency Notes" means the Callable Perpetual Dual-Currency Notes issued by the Note Issuer on February 12, 2007 and guaranteed by the Guarantors.

"Failure to Pay" means, after the expiration of any applicable Grace Period (after the satisfaction of any conditions precedent to the commencement of such Grace Period), the failure by a Reference Entity to make, when and where due, any payments in an aggregate amount of not less than the Payment Requirement under one or more Obligations, in accordance with the terms of such Obligations at the time of such failure.

"Governmental Authority" means any de facto or de jure government (or any agency, instrumentality, ministry or department thereof), court, tribunal, administrative or other governmental authority or any other entity (private or public) charged with the regulation of the financial markets (including the central bank) of a Reference Entity.

"Grace Period" means the applicable grace period with respect to payments under the relevant Obligation under the terms of such Obligation in effect as of the later of the Effective Date or the date as of which such Obligation is issued or incurred; provided, that, if, at the later of the Effective Date and the date as of which an Obligation is issued or incurred, no grace period with respect to payments or a grace period with respect to payments of less than three Local Business Days is applicable under the terms of such Obligation, a Grace Period of three Local Business Days shall be deemed to apply to such Obligation.

"Guarantor" has the meaning set forth in the Note Indenture.

"Loan" means any obligation for Borrowed Money that is documented by a term loan agreement, revolving loan agreement or other similar credit agreement and shall not include any other type of Borrowed Money.

"Local Business Day" means, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in New York City, London and Tokyo, Japan.

"Master Collateral Agreement" has the meaning set forth in the Note Indenture.

"Multiple Holder Obligation" means an Obligation that (a) at the time of the event which constitutes a Restructuring Credit Event is held by more than three holders that are not Affiliates of each other and (b) with respect to which a percentage of holders (determined pursuant to the terms of the Obligation as in effect on the date of such event) at least equal to sixty-six-and-two-thirds is required to consent to the event which constitutes a Restructuring Credit Event.

"Note Conversion Date" has the meaning set forth in the Note Indenture for "Conversion Date".

"Note Indenture" means the Note Indenture dated as of February 12, 2007, among the Note Issuer, the Guarantors and the Note Trustee.

"Note Issuer" means New Sunward Holding Financial Ventures B.V.

"Note Trustee" means the Trustee under the Note Indenture.

"Notice of Publicly Available Information" means an irrevocable notice (which may be by telephone) from one party to the other party and to the Calculation Agent that cites Publicly Available Information confirming the occurrence of the CEMEX Credit Event or Potential Repudiation/Moratorium, as applicable, described in the Credit Event Notice. In relation to a Repudiation/Moratorium CEMEX Credit Event, the Notice of Publicly Available Information must cite Publicly Available Information confirming the occurrence of both clauses (i) and (ii) of the definition of Repudiation/Moratorium. The notice given must contain a copy, or a description in reasonable detail, of the relevant Publicly Available Information. Any notice given orally, including by telephone, will be effective when actually received by the intended recipient.

"Notice Period" means the period from and including the Effective Date to and including the tenth Local Business Day following the Note Conversion Date.

"Obligation" means, with respect to a Reference Entity, any obligation of the Reference Entity (either directly or as provider of a Qualifying Guarantee) that is a Qualifying Bond or Loan or a Qualifying Guarantee as of the date of the event which constitutes the CEMEX Credit Event that is the subject of the Credit Event Notice.

"Obligation Acceleration" means one or more Obligations in an aggregate amount of not less that the Default Requirement have become due and payable before they would otherwise have been due and payable as a result of, or on the basis of, the occurrence of a default, event of default or other similar condition or event (however described), other than a failure to make any required payment, in respect of a Reference Entity under one or more Obligations.

"Obligation Currency" means the currency or currencies in which an Obligation is denominated.

"Payment Requirement" means USD 1,000,000 or its equivalent in the relevant Obligation Currency as of the occurrence of the relevant Failure to Pay.

"Permitted Currency" means (1) the legal tender of any Group of 7 country (or any country that becomes a member of the Group of 7 if such Group of 7 expands its membership) or (2) the legal tender of any country which, as of the date of such change, is a member of the Organization for Economic Cooperation and Development and has a local currency long-term debt rating of either AAA or higher assigned to it by Standard & Poor's, a division of The McGraw-Hill Companies, Inc. or any successor to the rating business thereof, AAA or higher assigned to it by Moody's Investors Service, Inc. or any successor to the rating business thereof or AAA or higher assigned to it by Fitch Ratings or any successor to the rating business thereof.

"Potential Repudiation/Moratorium" means the occurrence of an event described in clause (i) of the definition of Repudiation/Moratorium.

"Publicly Available Information" means information that reasonably confirms any of the facts relevant to the determination that the CEMEX Credit Event or Potential Repudiation/Moratorium, as applicable, described in a Credit Event Notice has occurred and which (a) has been published in or on not less than two Public Sources, regardless of whether the reader or user thereof pays a fee to obtain such information; provided, that (subject to (b)(i), below), if Barclays or any of its Affiliates is cited as the sole source of such information, then such information shall not be deemed to be Publicly Available Information unless Barclays or its Affiliate, as applicable, is acting in its capacity as trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation; (b) is information received from or published by (i) the Reference Entity (or Sovereign Agency in respect of the Reference Entity), or (ii) a trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation; or (c) is information contained in any order, decree, notice or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body.

In the event that Barclays is (i) the sole source of information in its capacity as trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation and (ii) a holder of the Obligation with respect to which a CEMEX Credit Event has occurred, Barclays shall be required to deliver to the Counterparty and the Calculation Agent a certificate signed by a Managing Director (or other substantively equivalent title) of Barclays, which shall certify the occurrence of a CEMEX Credit Event with respect to a Reference Entity.

In relation to any information of the type described in (b) and (c), in the first paragraph above, the party receiving such information may assume that such information has been disclosed to it without violation of any law, agreement or understanding regarding the confidentiality of such information and that the party delivering such information has not taken any action or entered into any agreement or understanding with the Reference Entity or any Affiliate of the Reference Entity that would be breached by, or would prevent, the disclosure of such information to third parties.

Publicly Available Information need not state (a) in relation to the definition of Downstream Affiliate, the percentage of Voting Shares owned directly or indirectly by the Reference Entity or (b) that such occurrence (i) has met the Payment Requirement or Default Requirement, (ii) is the result of exceeding any applicable Grace Period, or (iii) has met the subjective criteria specified in certain CEMEX Credit Events.

"Public Sources" means each of Bloomberg Service, Dow Jones Telerate Service, Reuter Monitor Money Rates Services, Dow Jones News Wire, Wall Street Journal, New York Times, Nihon Keizai Shinbun, Asahi Shinbun, Yomiuri Shinbun, Financial Times, La

Tribune, Les Echos and The Australian Financial Review (and successor publications), the main source(s) of business news in the Reference Entity and any other internationally recognized published or electronically displayed news sources.

"Qualifying Affiliate Guarantee" means a Qualifying Guarantee provided by a Reference Entity in respect of an Underlying Obligation of a Downstream Affiliate of that Reference Entity.

"Qualifying Bond or Loan" means the Reference Obligation or any Bond or Loan that:

(a) is not Subordinated to the Reference Obligation or, if no Reference Obligation is outstanding, any unsubordinated Borrowed Money obligation of the Reference Entity. For purposes hereof, the ranking with respect to the Reference Obligation shall be determined as of the later of the Effective Date and the date on which such Reference Obligation was issued or incurred and not reflecting any change to such ranking in priority of payment after such later date; and

(b) is not primarily owed to a Sovereign or Supranational Organization, including, without limitation, obligations generally referred to as "Paris Club debt"; and

(c) is payable in any currency other than the Domestic Currency; and

(d) is not governed by Domestic Law; and

(e) at the time that it was issued (or reissued, as the case may be) or incurred, was not intended to be offered for sale primarily in the domestic market of the Reference Entity. Any obligation that is registered or qualified for sale outside the domestic market of the Reference Entity (regardless of whether such obligation is also registered or qualified for sale within the domestic market of the Reference Entity) shall be deemed not to be intended for sale primarily in the domestic market of the Reference Entity.

"Qualifying Guarantee" means an arrangement evidenced by a written instrument pursuant to which a Reference Entity irrevocably agrees (by guarantee of payment or equivalent legal arrangement) to pay all amounts due under an obligation (the " Underlying Obligation") for which another party is the obligor (the "Underlying Obligor") and that is not at the time of the CEMEX Credit Event Subordinated to any unsubordinated Borrowed Money obligation of the Underlying Obligor (with references in the definition of Subordination to the Reference Entity deemed to refer to the Underlying Obligor). Qualifying Guarantees shall exclude any arrangement (i) structured as a surety bond, financial guarantee insurance policy, letter of credit or equivalent legal arrangement or (ii) pursuant to the terms of which the payment obligations of the Reference Entity can be discharged, reduced, assigned or otherwise altered as a result of the occurrence or non-occurrence of an event or circumstance (other than payment). The benefit of a Qualifying Guarantee must be capable of being Delivered together with the Delivery of the Underlying Obligation.

In the event that an Obligation is a Qualifying Guarantee, the following will apply:

(i) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, the Qualifying Guarantee shall be deemed to be a Bond or Loan if the Underlying Obligation is a Bond or Loan.

(ii) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, both the Qualifying Guarantee and the Underlying Obligation must satisfy on the relevant date the requirements of each of clauses (b), (c) and (d) of the definition of Qualifying Bond or Loan. For these purposes, (A) the lawful currency of any of Canada, Japan,

Switzerland, the United Kingdom or the United States of America or the euro shall not be a Domestic Currency and (B) the laws of England and the laws of the State of New York shall not be a Domestic Law.

(iii) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, only the Qualifying Guarantee must satisfy on the relevant date the requirements of clause (a) of the definition of Qualifying Bond or Loan.

(iv) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, only the Underlying Obligation must satisfy on the relevant date the requirements of clause (e) of the definition of Qualifying Bond or Loan.

(v) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, references to the Reference Entity shall be deemed to refer to the Underlying Obligor.

(vi) The term "outstanding principal balance" (as used in this Transaction), when used in connection with Qualifying Guarantees is to be interpreted to be the then "outstanding principal balance" of the Underlying Obligation which is supported by a Qualifying Guarantee.

"Reference Entity" means CEMEX (the "Original Reference Entity") and any successor(s) to CEMEX. The Calculation Agent shall determine the changes, if any, to the terms of this Transaction required to reflect the treatment of a single name credit default swap related to the Original Reference Entity entered into as at the Effective Date specified herein on market standard terms at that time. For the avoidance of doubt in respect of the above, such changes may include: (i) this Transaction being split into two or more Transactions; (ii) the total number of Reference Entities being increased; and (iii) the Original Reference Entity being included as a successor.

"Reference Obligation" means the 9.625% Notes due 2009 (CUSIP 151290AQ6) issued by CEMEX, S.A.B. de C.V. and any Substitute Reference Obligation.

"Repudiation/Moratorium" means the occurrence of both of the following events (i) an authorized officer of a Reference Entity or a Governmental Authority (x) disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, one or more Obligations in an aggregate amount of not less than the Default Requirement, or (y) declares or imposes a moratorium, standstill, roll-over or deferral, whether de facto or de jure, with respect to one or more Obligations in an aggregate amount of not less than the Default Requirement and (ii) a Failure to Pay, determined without regard to the Payment Requirement, or a Restructuring, determined without regard to the Default Requirement, with respect to any such Obligation occurs on or prior to the Repudiation/Moratorium Evaluation Date.

"Repudiation/Moratorium Evaluation Date" means, if a Potential Repudiation/Moratorium occurs, (a) if the Obligations to which such Potential Repudiation/Moratorium relates include Bonds, the date that is the later of (i) the date that is 60 days after the date of such Potential Repudiation/Moratorium and (ii) the first payment date under any such Bond after the date of such Potential Repudiation/ Moratorium (or, if later, the expiration date of any applicable Grace Period in respect of such payment date) and (b) if the Obligations to which such Potential Repudiation/ Moratorium relates do not include Bonds, the date that is 60 days after the date of such Potential Repudiation/Moratorium.

"Restructuring" means, (a) with respect to one or more Obligations that are Multiple Holder Obligations and in relation to an aggregate amount of not less than the Default Requirement,

any one or more of the following events occurs in a form that binds all holders of such Obligation, is agreed between the Reference Entity or a Governmental Authority and a sufficient number of holders of such Obligation to bind all holders of the Obligation or is announced (or otherwise decreed) by a Reference Entity or a Governmental Authority in a form that binds all holders of such Obligation, and such event is not expressly provided for under the terms of such Obligation in effect as of the later of the Effective Date or date as of which such Obligation is issued or incurred:

(i) a reduction in the rate or amount of interest payable or the amount of scheduled interest accruals;

(ii) a reduction in the amount of principal or premium payable at maturity or at scheduled redemption dates;

(iii) a postponement or other deferral of a date or dates for either (A) the payment or accrual of interest or (B) the payment of principal or premium;

(iv) a change in the ranking in priority of payment of any Obligation, causing the Subordination of such Obligation to any other Obligation; or

(v) any change in the currency or composition of any payment of interest or principal to any currency that is not a Permitted Currency.

(b) Notwithstanding the provisions of (a) above, none of the following shall constitute a Restructuring:

(i) the payment in euros of interest or principal in relation to an Obligation denominated in a currency of a Member State of the European Union that adopts or has adopted the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union;

(ii) the occurrence of, agreement to or announcement of any of the events described in (a)(i) to (v) above due to an administrative adjustment, accounting adjustment or tax adjustment or other technical adjustment occurring in the ordinary course of business; and

(iii) the occurrence of, agreement to or announcement of any of the events described in (a)(i) to (v) above in circumstances where such event does not directly or indirectly result from a deterioration in the creditworthiness or financial condition of the Reference Entity.

For purposes of (a) and (b) above, the term Obligation shall be deemed to include Underlying Obligations for which the Reference Entity is acting as provider of any Qualifying Guarantee. In the case of a Qualifying Guarantee and an Underlying Obligation, references to the Reference Entity in (a) above shall be deemed to refer to the Underlying Obligor and the reference to the Reference Entity in (b) above shall continue to refer to the Reference Entity.

"Sovereign" means any state, political subdivision or government, or any agency, instrumentality, ministry, department or other authority (including, without limiting the foregoing, the central bank) thereof.

"Sovereign Agency" means any agency, instrumentality, ministry, department or other authority (including, without limiting the foregoing, the central bank) of the Reference Entity.

"Subordination" means, with respect to an obligation (the "Subordinated Obligation") and another obligation of the Reference Entity to which such obligation is being compared (the "Senior Obligation"), a contractual, trust or similar arrangement providing that (a) upon the liquidation, dissolution, reorganization or winding up of the Reference Entity, claims of the

holders of the Senior Obligation will be satisfied prior to the claims of the holders of the Subordinated Obligation or (b) the holders of the Subordinated Obligation will not be entitled to receive or retain payments in respect of their claims against the Reference Entity at any time that the Reference Entity is in payment arrears or is otherwise in default under the Senior Obligation. " Subordinated" will be construed accordingly. For purposes of determining whether Subordination exists or whether an obligation is Subordinated with respect to another obligation to which it is being compared, the existence of preferred creditors arising by operation of law or of collateral, credit support or other credit enhancement arrangements shall not be taken into account, except that, notwithstanding the foregoing, priorities arising by operation of law shall be taken into account.

"Substitute Reference Obligation" means one or more obligations of a Reference Entity (either directly or as provider of a Qualifying Guarantee) that will replace the Reference Obligation of such Reference Entity, identified by the Calculation Agent in accordance with the following procedures:

(a) In the event that (i) a Reference Obligation is redeemed in whole or (ii) in the opinion of the Calculation Agent (A) the aggregate amounts due under any Reference Obligation have been materially reduced by redemption or otherwise (other than due to any scheduled redemption, amortization or prepayments), (B) any Reference Obligation is an Underlying Obligation with a Qualifying Guarantee of a Reference Entity and, other than due to the existence or occurrence of a CEMEX Credit Event, the Qualifying Guarantee is no longer a valid and binding obligation of such Reference Entity enforceable in accordance with its terms, or (C) for any other reason, other than due to the existence or occurrence of a CEMEX Credit Event, any Reference Obligation is no longer an obligation of a Reference Entity, the Calculation Agent shall (after consultation with the parties) identify one or more Obligations to replace such Reference Obligation.

(b) Any Substitute Reference Obligation shall be an Obligation that (1) ranks pari passu (or, if no such Obligation exists, then, at the Calculation Agent's option, an Obligation that ranks senior) in priority of payment with such Reference Obligation (with the ranking in priority of payment of such Reference Obligation being determined as of the later of (A) the Effective Date and (B) the date on which such Reference Obligation was issued or incurred and not reflecting any change to such ranking in priority of payment after such later date), (2) preserves the economic equivalent, as closely as practicable as determined by the Calculation Agent in consultation with the parties, of the delivery and payment obligations of the parties pursuant to this Transaction and (3) is an obligation of a Reference Entity (either directly or as provider of a Qualifying Guarantee). The Substitute Reference Obligation identified by the Calculation Agent shall, without further action, replace such Reference Obligation.

(c) For purposes of identification of a Reference Obligation, any change in the Reference Obligation's CUSIP or ISIN number or other similar identifier will not, in and of itself, convert such Reference Obligation into a different Obligation.

"Supranational Organization" means any entity or organization established by treaty or other arrangement between two or more Sovereigns or the Sovereign Agencies of two or more Sovereigns and includes, without limiting the foregoing, the International Monetary Fund, European Central Bank, International Bank for Reconstruction and Development and European Bank for Reconstruction and Development.

"Voting Shares" means those shares or other interests that have the power to elect the board of directors or similar governing body of an entity.

Exhibit 4.21.1

EXECUTION COPY

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.,
as Issuer,

and

CEMEX, S.A.B. de C.V.,
CEMEX MEXICO, S.A. de C.V.,
and
NEW SUNWARD HOLDING B.V.
as Guarantors,

TO

THE BANK OF NEW YORK MELLON,
as Trustee

FIRST SUPPLEMENTAL INDENTURE

Dated as of August 10, 2009

Supplementing the Note Indenture, dated as of February 12, 2007, among New Sunward Holding Financial Ventures B.V., as Issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as Guarantors, and The Bank of New York Mellon, as Trustee.

$750,000,000

(C8)

Callable Perpetual Dual-Currency Notes

THIS FIRST SUPPLEMENTAL INDENTURE (the "**Supplemental Indenture**") is made as of the 10th day of August, 2009, among New Sunward Holding Financial Ventures B.V., as issuer (the "**Company**"), CEMEX, S.A.B. de C.V. ("**CEMEX**"), CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors (the "**Guarantors**"), and The Bank of New York Mellon, as trustee (the "**Trustee**").

WHEREAS, the Company, the Guarantors and the Trustee heretofore executed and delivered an indenture, dated as of February 12, 2007 (the "**Indenture**"); and

WHEREAS, pursuant to the Indenture, the Company issued and the Trustee authenticated and delivered $750 million aggregate principal amount of the Company's Callable Perpetual Dual-Currency Notes (the "**Securities**"), which Securities were guaranteed by each of the Guarantors; and

WHEREAS, Section 1008 of the Indenture provides that so long as any Securities remain Outstanding, CEMEX shall not, and shall not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of CEMEX or any Subsidiary, whether now owned or held or hereafter acquired, other than Permitted Liens, unless, in each case, CEMEX has made or caused to be made effective provision whereby the Securities and the Conversion Payment Undertaking are secured equally and ratably with, or prior to, the Debt secured by such Liens (other than Permitted Liens) for so long as such Debt is so secured; and

WHEREAS, the Conversion Date has occurred and no amounts were due under the Conversion Payment Undertaking, and thus the Conversion Payment Undertaking is now discharged; and

WHEREAS, CEMEX and certain of its Subsidiaries intend to create certain Liens (the " **New Liens**") on or with respect to certain of their assets, which New Liens are not Permitted Liens; and

WHEREAS, in accordance with Section 1008 of the Indenture, CEMEX desires to make effective provision whereby the Securities will be secured equally and ratably with the Debt secured by the New Liens for so long as such Debt is so secured; and

WHEREAS, Section 901 of the Indenture provides that the Company, the Guarantors, and the Trustee, when authorized by an Officers' Certificate, without the consent of any Holders of the Securities, may enter into one or more indentures supplemental to the Indenture, in order to secure the Securities; and

WHEREAS, the Company and the Guarantors have heretofore delivered or are delivering contemporaneously herewith to the Trustee (i) copies of Officers' Certificates and (ii) an Opinion of Counsel, in compliance with and to the effect set forth in Sections 102, 901 and 903 of the Indenture; and

WHEREAS, the Company and the Guarantors have requested and directed the Trustee to enter into this Supplemental Indenture, and this Supplemental Indenture has been duly authorized by all the necessary corporate action on the part of the Company and the Guarantors; and

WHEREAS, all conditions necessary to authorize the execution and delivery of this Supplemental Indenture and to make this Supplemental Indenture valid and binding have been complied with or have been done or performed; and

NOW, THEREFORE, in consideration of the foregoing and notwithstanding any provision of the Indenture which, absent this Supplemental Indenture, might operate to limit such action, the Company, the Guarantors and the Trustee agree as follows for the benefit of the Holders of the Securities:

ARTICLE I
DEFINITIONS

Section 1.1 General. For all purposes of the Indenture and this Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) the words "herein", "hereof" and "hereunder" and other words of similar import refer to the Indenture and this Supplemental Indenture as a whole and not to any particular Article, Section or subdivision; and

(b) capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture.

ARTICLE II
AMENDMENTS

Section 2.1 Security Documents. The Trustee is hereby authorized and directed (i) to enter into (or cause an agent to enter into), on its own behalf and on behalf of the Holders, such documents (the "**Security Documents**") as are necessary or desirable (which shall be evidenced by a Company Request or other written instruction satisfactory to the Trustee) in order to create and maintain the security interest of the Trustee and the Holders in such collateral as may from time to time be provided to equally and ratably secure the Securities, including, without limitation, the documents listed on Annex A hereto, (ii) to grant such powers of attorney and to do or cause to be done all such acts and things, on its own behalf and in the name and on behalf of the Holders, as are necessary or desirable (which shall be evidenced by a Company Request or other written instruction satisfactory to the Trustee) to create and maintain the security interest of the Trustee and the Holders in such collateral, and (iii) to appoint one or more agents to serve as representative of the Trustee and the Holders in connection with the creation and maintenance of the security interest of the Trustee and the Holders in such collateral. It is understood and acknowledged that in certain circumstances the Security Documents may be amended, modified or waived without the consent of the Trustee or the Holders. It is understood and acknowledged that any such agents, in addition to being appointed by and acting on behalf of the Trustee and the Holders, may also be appointed by and acting on behalf of other creditors of CEMEX and its subsidiaries.

ARTICLE III
MISCELLANEOUS

Section 3.1 Effectiveness. This Supplemental Indenture shall become effective upon its execution and delivery by the Company, the Guarantors and the Trustee.

Section 3.2 Indenture Remains in Full Force and Effect. Except as modified hereby, all provisions in the Indenture shall remain in full force and effect.

Section 3.3 Indenture and Supplemental Indenture Construed Together. This Supplemental Indenture is an indenture supplemental to and in implementation of the Indenture, and the Indenture and this Supplemental Indenture shall henceforth be read and construed together. From and after the effectiveness of this Supplemental Indenture, all references to the Indenture in the Indenture and the Securities shall refer to the Indenture as supplemented hereby.

Section 3.4 Confirmation and Preservation of Indenture. The Indenture as supplemented by this Supplemental Indenture is in all respects confirmed and preserved.

Section 3.5 Severability. In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.6 Headings. The Article and Section headings of this Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part of this Supplemental Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 3.7 Benefits of Supplemental Indenture, etc. Nothing in this Supplemental Indenture or the Securities, express or implied, shall give to any Person, other than the parties hereto and thereto and their successors hereunder and thereunder and the Holders of the Securities, any benefit of any legal or equitable right, remedy or claim under the Indenture, this Supplemental Indenture or the Securities.

Section 3.8 Successors. All agreements in this Supplemental Indenture by the Company and the Guarantors shall bind their respective successors. All agreements of the Trustee in this Supplemental Indenture shall bind its successors.

Section 3.9 Trustee Not Responsible for Recitals. The recitals contained herein shall be taken as the statements of the Company and the Guarantors, and the Trustee assumes no responsibility for their correctness. The Trustee shall not be liable or responsible for the validity or sufficiency of this Supplemental Indenture.

Section 3.10 Certain Duties and Responsibilities of the Trustee. In entering into this Supplemental Indenture, the Trustee shall be entitled to the benefit of every provision of the Indenture relating to the conduct or affecting the liability or affording protection to the Trustee, whether or not elsewhere herein so provided. The Company and each Guarantor expressly reaffirms and confirms its obligation to indemnify the Trustee in connection with the Indenture, this Supplemental Indenture and the actions contemplated hereby, all in accordance with Section 607 of the Indenture.

Section 3.11 Governing Law. **THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

Section 3.12 Counterpart Originals. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

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

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V., as Issuer

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

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

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

CEMEX MEXICO, S.A. de C.V., as Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

NEW SUNWARD HOLDING B.V., as Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

THE BANK OF NEW YORK MELLON, as Trustee

By: /s/ Karon Greene
Name: Karon Greene
Title: Vice President

Annex A

Initial Security Documents

1. Spanish Power of Attorney relating to the pledge of the shares of CEMEX España, S.A.

Exhibit 4.21.2

EXECUTION COPY

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.,
as Issuer,

and

CEMEX, S.A.B. de C.V.,
CEMEX MEXICO, S.A. de C.V.,
and
NEW SUNWARD HOLDING B.V.
as Guarantors,

TO

THE BANK OF NEW YORK MELLON,
as Trustee

SECOND SUPPLEMENTAL INDENTURE

Dated as of May 12, 2010

Supplementing the Note Indenture, dated as of February 12, 2007, among New Sunward Holding Financial Ventures B.V., as Issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as Guarantors, and The Bank of New York Mellon, as Trustee.

U.S.$750,000,000

(C8)

Callable Perpetual Dual-Currency Notes

THIS SECOND SUPPLEMENTAL INDENTURE (the "**Supplemental Indenture**") is made as of the 12th day of May, 2010, among New Sunward Holding Financial Ventures B.V., as issuer (the "**Company**"), CEMEX, S.A.B. de C.V. ("**CEMEX**"), CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors (the "**Guarantors**"), The Bank of New York Mellon, as trustee (the "**Trustee**"), Swap 8 Capital (SPV) Limited (the "**Swap Counterparty**") and C8 Capital (SPV) Limited.

WHEREAS, the Company, the Guarantors and the Trustee heretofore executed and delivered an indenture, dated as of February 12, 2007, as supplemented by a first supplemental indenture dated as of August 10, 2009, (as so supplemented, the " **Indenture**"); and

WHEREAS, pursuant to the Indenture, the Company issued and the Trustee authenticated and delivered U.S.$750 million aggregate principal amount of the Company's Callable Perpetual Dual-Currency Notes (the " **Securities**"), which Securities were guaranteed by each of the Guarantors; and

WHEREAS, Section 1101 of the Debenture Indenture provides that the 6.640% Fixed-to-Floating Rate Callable Perpetual Debentures (the "**Debentures**") may be redeemed only in limited circumstances if the Company redeems the Securities in accordance with the terms of the Indenture; and

WHEREAS, Section 1101 of the Indenture provides that, except under certain circumstances, the Securities may not be redeemed at the election of the Company until December 31, 2014; and

WHEREAS, the Company, acting pursuant to instructions, intends to deliver to the Trustee for cancellation pursuant to Section 309 of the Indenture an aggregate principal amount of Securities delivered to the Company by C8 Capital (SPV) Limited following the cancellation of a corresponding amount of Debentures validly tendered to C8 Capital (SPV) Limited and accepted in any exchange offer, tender offer or market transactions conducted by an Affiliate of CEMEX; and

WHEREAS, Section 902 of the Indenture provides that the Company, the Guarantors, the Swap Counterparty and the Trustee, when authorized by an Officers' Certificate, with the consent of the holders of not less than the majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and the Holders of not less than a majority in principal amount of the Outstanding Securities, may enter into one or more indentures supplemental to the Indenture, in order to modify certain provisions of the Indenture; and

WHEREAS, holders of at least a majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and Holders of at least a majority in principal amount of the Outstanding Securities have consented to the execution of this Supplemental Indenture; and

WHEREAS, the Company and the Guarantors have heretofore delivered or are delivering contemporaneously herewith to the Trustee (i) copies of Officers' Certificates and (ii) an Opinion of Counsel, in compliance with and to the effect set forth in Sections 102, 902 and 903 of the Indenture; and

WHEREAS, the Company, acting pursuant to instructions, and the Guarantors have requested and directed the Trustee to enter into this Supplemental Indenture, and this Supplemental Indenture has been duly authorized by all the necessary corporate action on the part of the Company and the Guarantors; and

WHEREAS, all conditions necessary to authorize the execution and delivery of this Supplemental Indenture and to make this Supplemental Indenture valid and binding have been complied with or have been done or performed; and

NOW, THEREFORE, in consideration of the foregoing and notwithstanding any provision of the Indenture which, absent this Supplemental Indenture, might operate to limit such action, the Company, the Guarantors and the Trustee agree as follows for the benefit of the Holders of the Securities, and the Swap Counterparty and C8 Capital (SPV) Limited, as the holder of all outstanding Securities, by their respective execution hereof, hereby consent to the execution of this Second Supplemental Indenture and the amendments effected hereby:

ARTICLE I
DEFINITIONS

Section 1.1 General. For all purposes of the Indenture and this Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) the words “herein”, “hereof” and “hereunder” and other words of similar import refer to the Indenture and this Supplemental Indenture as a whole and not to any particular Article, Section or subdivision; and

(b) capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture.

ARTICLE II
AMENDMENTS

Section 2.1 Right of Redemption.

Section 1101 of the Indenture is amended by adding a new clause (d) immediately following clause (c) reading as follows:

“Notwithstanding anything contained in this Indenture to the contrary, at any time and from time to time, the Company shall deliver to the Trustee for cancellation in accordance with Section 309 the aggregate principal amount of Securities delivered to the Company by C8 Capital (SPV) Limited in accordance with Section 1101(c) of the Debenture Indenture.”

ARTICLE III
MISCELLANEOUS

Section 3.1 Effectiveness. This Supplemental Indenture shall become effective upon its execution and delivery by the Company, the Guarantors and the Trustee.

Section 3.2 Indenture Remains in Full Force and Effect. Except as modified hereby, all provisions in the Indenture shall remain in full force and effect and the Guarantors hereby ratify and confirm the Guarantees provided in accordance with Section 1201 of the Indenture.

Section 3.3 Indenture and Supplemental Indenture Construed Together. This Supplemental Indenture is an indenture supplemental to and in implementation of the Indenture, and the Indenture and this Supplemental Indenture shall henceforth be read and construed together. From and after the effectiveness of this Supplemental Indenture, all references to the Indenture in the Indenture and the Securities shall refer to the Indenture as supplemented hereby.

Section 3.4 Confirmation and Preservation of Indenture. The Indenture as supplemented by this Supplemental Indenture is in all respects confirmed and preserved.

Section 3.5 Severability. In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.6 Headings. The Article and Section headings of this Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part of this Supplemental Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 3.7 Benefits of Supplemental Indenture, etc. Nothing in this Supplemental Indenture or the Securities, express or implied, shall give to any Person, other than the parties hereto and thereto and their successors hereunder and thereunder and the Holders of the Securities, any benefit of any legal or equitable right, remedy or claim under the Indenture, this Supplemental Indenture or the Securities.

Section 3.8 Successors. All agreements in this Supplemental Indenture by the Company and the Guarantors shall bind their respective successors. All agreements of the Trustee in this Supplemental Indenture shall bind its successors.

Section 3.9 Trustee Not Responsible for Recitals. The recitals contained herein shall be taken as the statements of the Company and the Guarantors, and the Trustee assumes no responsibility for their correctness. The Trustee shall not be liable or responsible for the validity or sufficiency of this Supplemental Indenture.

Section 3.10 Certain Duties and Responsibilities of the Trustee. In entering into this Supplemental Indenture, the Trustee shall be entitled to the benefit of every provision of the Indenture relating to the conduct or affecting the liability or affording protection to the Trustee, whether or not elsewhere herein so provided. The Company and each Guarantor expressly

reaffirms and confirms its obligation to indemnify the Trustee in connection with the Indenture, this Supplemental Indenture and the actions contemplated hereby, all in accordance with Section 607 of the Indenture.

Section 3.11 Governing Law. **THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

Section 3.12 Consent to Service; Jurisdiction. The Company, each Guarantor and the Trustee agree that any legal suit, action or proceeding arising out of or relating to this Supplemental Indenture, the Securities or the Guarantee, may be instituted in any federal or state court in the Borough of Manhattan, The City of New York, waives any objection which it may now or hereafter have to the laying of the venue of any such legal suit, action or proceeding, waives any immunity from jurisdiction or to service of process in respect of any such suit, action or proceeding, and irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding. Each of the Company, each Guarantor and the Trustee further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to this Supplemental Indenture, and each of the Company and the Guarantors further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to the Securities or the Guarantee. Each of the parties hereto also irrevocably waives any right it may have to the jurisdiction of any court other than the courts mentioned above pursuant to applicable law. Each of the Company and the Guarantors hereby designates and appoints CEMEX NY Corporation, 590 Madison Ave., 41 st Floor, New York, New York 10022, Attention: General Counsel, as its authorized agent upon which process may be served in any legal suit, action or proceeding arising out of or relating to this Supplemental Indenture, the Securities or the Guarantee which may be instituted in any federal or state court in the Borough of Manhattan, The City of New York, New York, and agrees that service of process upon such agent, and written notice of said service to the Company or a Guarantor by the Person serving the same, shall be deemed in every respect effective service of process upon the Company (if such notice is given to the Company) or upon such Guarantor (if such notice is given to a Guarantor) in any such suit, action or proceeding and further designates its domicile, the domicile of CEMEX NY Corporation specified above and any domicile CEMEX NY Corporation may have in the future as its domicile to receive any notice hereunder (including service of process). If for any reason CEMEX NY Corporation (or any successor agent for this purpose) shall cease to have a domicile in New York or to act as agent for service of process as provided above, each of the Company and the Guarantors will promptly appoint a successor agent domiciled in New York for this purpose reasonably acceptable to Trustee and shall grant thereto notarial powers-of-attorney for lawsuits and collections. Each of the Company and the Guarantors agrees to take any and all actions as may be necessary to maintain such designation and appointment of such agent in full force and effect. Notwithstanding the foregoing, if CEMEX NY Corporation ceases to be a New York Corporation the parties shall immediately appoint CT Corporation System, Inc. as a replacement thereof.

Section 3.13 Counterpart Originals. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

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

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.,
as Issuer

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

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

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-fact

CEMEX MEXICO, S.A. de C.V.,
as Guarantor

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-fact

NEW SUNWARD HOLDING B.V.,
as Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

THE BANK OF NEW YORK MELLON,
as Trustee

By: /s/ Christopher Curtie
Name: Christopher Curtie
Title: Vice President

SWAP 8 CAPITAL (SPV) LIMITED,
as Swap Counterparty

By: /s/ Illegible
Name:
Title: Authorised Signatories for
Ogier Managers (BVI) Limited Director

C8 CAPITAL (SPV) LIMITED

By: /s/ Illegible
Name:
Title: Authorised Signatories for
Ogier Managers (BVI) Limited Director

Exhibit 4.25

EXECUTION COPY

New Sunward Holding Financial Ventures B.V.,

As Issuer

and

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

CEMEX MEXICO, S.A. de C.V.,
and
NEW SUNWARD HOLDING B.V.,

As Guarantors

TO

The Bank of New York,

As Trustee

Note Indenture

Dated as of May 9, 2007

€730,000,000

Callable Perpetual Dual-Currency Notes

TABLE OF CONTENTS

Note: This table of contents shall not, for any purpose, be deemed to be a part of the Indenture.

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NOTE INDENTURE, dated as of May 9, 2007, among New Sunward Holding Financial Ventures B.V., a private company with limited liability formed under the laws of the Netherlands (herein called the "Company"), having its principal office at Amsteldijk 166, 1079 LH Amsterdam, each of the Guarantors (as hereinafter defined) and The Bank of New York, a bank duly organized and existing under the laws of the State of New York, as Trustee (herein called the "Trustee").

RECITALS OF THE COMPANY AND THE GUARANTORS

The Company has duly authorized the creation of an issue of its Callable Perpetual Dual-Currency Notes (herein called the "Securities") of substantially the tenor and amount hereinafter set forth, and to provide therefor the Company has duly authorized the execution and delivery of this Note Indenture.

The Guarantors, jointly and severally, desire to irrevocably and unconditionally guarantee the payment of the principal of and interest on, and any other amount due under, this Note Indenture and the Securities, as the same shall become due in accordance with the terms of this Note Indenture and the Securities pursuant to the Guarantee provided in this Note Indenture and endorsed on the Securities, and to provide therefor have duly authorized the execution and delivery of this Note Indenture.

All things necessary to make the Securities, when executed by the Company and authenticated and delivered hereunder and duly issued by the Company, the valid obligations of the Company, and to make this Note Indenture a valid agreement of the Company, in accordance with their and its terms, have been done.

All things necessary to make the Guarantee, when executed by the Guarantors, the valid obligation of the Guarantors, and to constitute these presents a valid indenture and agreement of the Guarantors, according to its terms, have been done.

NOW, THEREFORE, THIS NOTE INDENTURE WITNESSETH:

For and in consideration of the premises and the purchase of the Securities by the Holders thereof, it is mutually agreed, for the equal and proportionate benefit of all Holders of the Securities, as follows:

ARTICLE ONE

Definitions and Other Provisions of General Application

SECTION 101 Definitions.

For all purposes of this Note Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(1) the terms defined in this Article have the meanings assigned to them in this Article and include the plural as well as the singular;

(2) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles in Mexico, the Netherlands or any other applicable jurisdiction, and, except as otherwise herein expressly provided, the term "generally accepted accounting principles" with respect to any computation required or permitted hereunder shall mean such accounting principles as are generally accepted in Mexico, the Netherlands or any applicable jurisdiction at the date of such computation;

(3) unless the context otherwise requires, any reference to an "Article" or a "Section", or to an "Annex", refers to an Article or Section of, or to an Annex attached to, this Note Indenture, as the case may be;

(4) unless the context otherwise requires, any reference to a statute, rule or regulation refers to the same (including any successor statute, rule or regulation thereto) as it may be amended from time to time; and

(5) the words "herein", "hereof" and "hereunder" and other words of similar import refer to this Note Indenture as a whole and not to any particular Article, Section or other subdivision.

"Acquired Subsidiary" means any Subsidiary acquired by CEMEX or any other Subsidiary after the date of this Note Indenture in an Acquisition, and any Subsidiaries of such Acquired Subsidiary on the date of such Acquisition.

"Acquiring Subsidiary" means any Subsidiary formed by CEMEX or one of its Subsidiaries solely for the purpose of participating as the acquiring party in any Acquisition, and any Subsidiaries of such Acquiring Subsidiary acquired in such Acquisition.

"Acquisition" means any merger, consolidation, acquisition or lease of assets, acquisition of securities or business combination or acquisition, or any two or more of such transactions, if, upon the completion of such transaction or transactions, CEMEX or any Subsidiary thereof has acquired an interest in any Person who would be deemed to be a Subsidiary under this Note Indenture and was not a Subsidiary prior thereto.

"Act" when used with respect to any Holder, has the meaning specified in Section 104.

"Additional Amounts" has the meaning specified in Section 1007.

"Adjusted Consolidated Net Tangible Assets" means the total assets of CEMEX and its Subsidiaries (less applicable depreciation, amortization and other valuation reserves), including any write-ups or restatements (other than with respect to items referred to in clause (ii) below), after deducting therefrom (i) all current liabilities (excluding the current portion of long-term debt) and (ii) all goodwill, trade names, trademarks, licenses, concessions, patents and other intangibles, all as determined on a consolidated basis in accordance with Mexican FRS.

"Affiliate" of any specified Person means any other Person who directly or indirectly, through one or more intermediaries, controls or is controlled by, or is under common control with such specified Person. For the purposes of this definition, "control" when used with

respect to any specified Person means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms "controlling" and "controlled" have meanings correlative to the foregoing.

"Applicable Taxes" has the meaning specified in Section 1007.

"Authenticating Agent" means any Person authorized by the Trustee pursuant to Section 612 to act on behalf of the Trustee to authenticate Securities.

"Benchmark Swap" has the meaning specified in Annex A.

"Board of Directors" means either the board of directors of the Company or any committee of that board duly authorized to act for it in respect hereof.

"Board Resolution" means a copy of a resolution certified by the Secretary of the Company to have been duly adopted by the Board of Directors and to be in full force and effect on the date of such certification, and delivered to the Trustee.

"Business Day" means, with respect to any particular place, each day that is not a Saturday, a Sunday, a day on which banks in New York City or London are authorized or obligated by law or executive order to remain closed, or a day on which the Corporate Trust Office of the Debenture Trustee is closed for business, provided that, when the Euro Fixed Rate and Yen Rate is applicable, "Business Day" shall not include a day on which banks in Tokyo, Japan, are authorized or obligated by law or executive order to remain closed. If any day on which any delivery, request, surrender or other action is required or permitted hereunder to be taken by or on behalf of a Holder is not a business day in any place where such action is permitted hereunder to be taken, then such actions may be taken at such or any other permitted place on the next succeeding business day at such place with the same force and effect as if taken at the same time on such day that is not a business day at such place.

"C10-EUR Capital (SPV) Limited" means a restricted purpose company incorporated with limited liability domiciled in the British Virgin Islands.

"Calculation Agent" has the meaning specified in the Master Collateral Agreement.

"Capital Lease" means a lease that would be capitalized on a balance sheet of the lessee prepared in accordance with Mexican FRS.

"CEMEX" means CEMEX, S.A.B. de C.V., a publicly traded stock corporation with variable capital (sociedad anónima búrsatil de capital variable) organized under the laws of Mexico.

"CEMEX Change of Control" means the occurrence of either of the following: (a) any Person or Persons acting in concert or on behalf of any Person(s) is or becomes the beneficial owner, directly or indirectly, of more than 50% of the capital stock of CEMEX, then outstanding and normally entitled (without regard to the occurrence of any contingency) to vote in the election of directors (whether or not any necessary approvals therefor have been obtained); or (b) the direct or indirect sale, lease, transfer, conveyance or other disposition, in one or a series of related transactions, of all or substantially all of the assets of CEMEX, and its Subsidiaries, taken as a whole, to any Person or group of Persons acting in concert (other than to CEMEX or any of its Subsidiaries).

"CEMEX Change of Control Event" means the earliest date on which both of the following events have occurred: (i) a CEMEX Change of Control; and (ii) either prior to a CEMEX Change of Control or within 90 days after public notice of the occurrence of a CEMEX Change of Control (which period will be extended so long as any rating is under publicly-announced consideration of possible downgrade by any of the Rating Agencies), any Rating Agency publicly announces that the corporate credit rating of CEMEX by such Rating Agency is withdrawn or downgraded to a rating below BBB- by S&P or BBB- by Fitch (or their respective equivalents at such time).

"CEMEX México" means CEMEX México, S.A. de C.V., a stock corporation with variable capital (sociedad anónima de capital variable) organized under the laws of Mexico.

"Commission" means the U.S. Securities and Exchange Commission, as from time to time constituted, created under the Securities Exchange Act of 1934, or, if at any time after the execution of this instrument such Commission is not existing and performing the duties now assigned to it under applicable law, then the body performing such duties at such time.

"Company" means the Person named as the "Company" in the first paragraph of this instrument until a successor Person shall have become such pursuant to the applicable provisions of this Note Indenture, and thereafter "Company" shall mean such successor Person.

"Company Request" or "Company Order" means a written request or order signed in the name of the Company by any one of the individuals who may sign an Officers' Certificate on its behalf and delivered to the Trustee.

"Conditions to Anticipated Swap Termination" has the meaning specified in Annex B.

"Conversion Credits" has the meaning specified in Annex A.

"Conversion Date" has the meaning specified in Section 313, 314 or 315, as applicable.

"Conversion Payment" has the meaning specified in Annex A.

"Conversion Payment Undertaking" means the Conversion Payment Undertaking, dated as of May 9, 2007, of the Company and the Guarantors.

"Corporate Trust Office" means the principal office of the Trustee in the Borough of Manhattan, the City of New York, New York at which at any particular time its corporate trust business shall be administered.

"Debentures" has the meaning specified in the Debenture Indenture, dated as of May 9, 2007, between the Debenture Trustee and the Holders.

"Debentures Indenture" means the Debenture Indenture, dated as of May 9, 2007, between the C10-EUR Capital (SPV) Limited and the Debenture Trustee.

"Debenture Trustee" means The Bank of New York in its capacity as trustee for the Debentures.

"Debt" of any Person means, without duplication, (i) all obligations of such Person for borrowed money, (ii) all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, (iii) all obligations of such Person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of business, (iv) all obligations of such Person as lessee under Capital Leases, (v) all Debt of others secured by a Lien on any asset of such Person, up to the value of such asset, as recorded in such Person's most recent balance sheet, (vi) all obligations of such Person with respect to product invoices incurred in connection with export financing, (vii) all obligations of such Person under repurchase agreements for the stock issued by such Person or another Person and (viii) all Debt of others guaranteed by such Person. For the avoidance of doubt, Debt does not include Derivatives.

"Defaulted Interest" has the meaning specified in Section 307.

"Derivatives" means any type of derivative obligations, including but not limited to equity forwards, capital hedges, cross-currency swaps, currency forwards, credit default swaps, interest rate swaps and swaptions.

"Dollar", "$" or "USD" means a U.S. Dollar or other equivalent unit in such coin or currency of the United States of America as at the time shall be legal tender for the payment of public and private debts.

"Euro Fixed Rate" has the meaning specified in Section 203.

"Euro Floating Rate" has the meaning specified in Section 203.

"Euro" and "€" each means the lawful currency of the member states of the European Union that adopt the single currency in accordance with the EC Treaty (as amended from time to time).

"Event of Default" has the meaning specified in Section 501.

"Exchange Act" means the U.S. Securities Exchange Act of 1934, as amended, and (unless the context otherwise requires) includes the rules and regulations of the Commission promulgated thereunder.

"Expiration Date" has the meaning specified in Section 104(g).

"Extinguishable Coupon Swap" has the meaning specified in the Master Collateral Agreement.

"Fitch" means Fitch Ratings Ltd. or any successor to the rating agency business thereof.

"Global Security" has the meaning specified in Section 201.

"Guarantee" means the joint and several irrevocable and unconditional guarantee of the Securities by the Guarantors, as contained in Article Twelve of this Note Indenture.

"Guarantor" means each of CEMEX, CEMEX México, and New Sunward Holding, and each of their respective Successors, if any, who becomes a Successor pursuant to Section 801.

"Holder" means, with respect to any issuance of Securities, C10-EUR Capital (SPV) Limited or any other Person in whose name such issuance of Security is registered in the Security Register.

"Initial Purchasers" has the meaning specified in the Purchase Agreement.

"Interest Payment Date" means the Stated Maturity of an installment of interest on the Securities.

"Judgment Currency" has the meaning specified in Section 1010.

"LIBO Calculation Agent" has the meaning specified in Section 203.

"LIBOR Business Date" has the meaning specified in Section 203.

"LIBOR Interest Determination Date" has the meaning specified in Section 203.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. CEMEX or any Subsidiary of CEMEX shall be deemed to own, subject to a Lien, any asset that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capital Lease or other title retention lease relating to such asset, or any account receivable transferred by it with recourse (including any such transfer subject to a holdback or similar arrangement that effectively imposes the risk of collectability on the transferor).

"Master Collateral Agreement" means the Master Collateral Agreement dated as of May 9, 2007, among CEMEX, CEMEX México, New Sunward Holding, the Company, C10-EUR Capital (SPV) Limited, Swap C10-EUR Capital (SPV) Limited, The Bank of New York and HSBC Bank USA, N.A.

"Maturity", when used with respect to any Security, means the date on which the principal of such Security becomes due and payable as therein or herein provided, whether at the Stated Maturity, by declaration of acceleration, call for redemption, exercise of the repurchase right or otherwise.

"Mexican FRS" means, at any time of determination, Mexican Financial Reporting Standards as in effect at such time.

"Mexico" means the United Mexican States.

"New Sunward Holding" means New Sunward Holding B.V., a private company with limited liability formed under the laws of the Netherlands.

"Note Indenture" means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more indentures supplemental hereto entered into pursuant to the applicable provisions hereof, including, for all purposes of this instrument and any such supplemental indenture, the Annexes attached to this instrument.

"Note Taxing Jurisdiction" has the meaning specified in Section 203.

"Notice of Default" means a written notice of the kind specified in Section 501(4).

"Officers' Certificate" of the Company means a certificate signed by any one of its chief executive officer, corporate planning or finance director, chief financial officer, comptroller, chief accounting officer or chief legal officer or any other Person authorized to act on behalf of the Company, and delivered to the Trustee. "Officers' Certificate" of a Guarantor means a certificate signed by any one of the chief executive officer, corporate planning or finance director, chief financial officer, comptroller, chief accounting officer or chief legal officer or any other Person authorized to act on behalf of such Guarantor, and delivered to the Trustee. One of the officers signing an Officers' Certificate given pursuant to Section 1004 shall be the corporate planning or finance director, chief financial officer, comptroller or finance director of CEMEX. Unless the context otherwise requires, each reference herein to an "Officers' Certificate" shall mean an Officers' Certificate of the Company.

"Opinion of Counsel" means an opinion in writing signed by legal counsel who, unless otherwise provided herein, may be an employee of or counsel to CEMEX or the Trustee or who may be other counsel reasonably satisfactory to the Trustee.

"Outstanding" when used with respect to Securities, means, as of the date of determination, all Securities theretofore authenticated and delivered under this Note Indenture, except:

(i) Securities theretofore canceled by the Trustee or delivered to the Trustee for cancellation;

(ii) Securities for whose payment or redemption money in the necessary amount has been theretofore deposited with the Trustee or any Paying Agent (other than the Company or any Guarantor) in trust or set aside and segregated in trust by the Company (if the Company shall act as its own Paying Agent) for the Holders of such Securities; provided that, if such Securities are to be redeemed, notice of such redemption shall have been duly given pursuant to this Note Indenture or provision therefor satisfactory to the Trustee shall have been made; and

(iii) Securities that have been paid pursuant to Section 306 or in exchange for or in lieu of which other Securities have been authenticated and delivered pursuant to this Note Indenture, other than any such Securities in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Securities are held by a bona fide purchaser in whose hands such Securities are valid obligations of the Company;

provided, however, that in determining whether the Holders of the requisite principal amount of the Outstanding Securities have given, made or taken any request, demand, authorization, direction, notice, consent, waiver or other action hereunder as of any date, Securities owned by the Company, any Guarantor or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent, waiver or other action, only Securities that a Responsible Officer of the

Trustee knows to be so owned shall be so disregarded. Securities so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Securities and that the pledgee is not the Company or any other obligor upon the Securities or any Affiliate of the Company or of such other obligor.

"Paying Agent" means any Person authorized by the Company to pay the principal of or interest on any Securities on behalf of the Company.

"Permitted Lien" has the meaning specified in Section 1008.

"Person" means any individual, company, corporation, firm, partnership, joint venture, association, organization, state or agency or other entity, whether or not having a separate legal personality.

"Predecessor Security" of any particular Security means every previous Security evidencing all or a portion of the same debt as that evidenced by such particular Security; and, for the purposes of this definition, any Security authenticated and delivered under Section 306 in exchange for or in lieu of a mutilated, destroyed, lost or stolen Security shall be deemed to evidence the same debt as the mutilated, destroyed, lost or stolen Security.

"Purchase Agreement" means the Purchase Agreement, dated as of May 3, 2007, among C10-EUR Capital (SPV) Limited, CEMEX, CEMEX México, New Sunward Holding, the Company and the Initial Purchasers of the securities named therein, relating to the Debentures.

"Qualified Receivables Transaction" means a sale, transfer, or securitization of receivables and related assets by CEMEX or its Subsidiaries, including a sale at a discount, provided that (i) such receivables have been sold, transferred or otherwise conveyed, directly or indirectly, by the originator thereof in a manner that satisfies the requirements for a sale, transfer or other conveyance under the laws and regulations of the jurisdiction in which such originator is organized; (ii) at the time of the sale, transfer or securitization of receivables is put in place, the receivables are derecognized from the balance sheet of CEMEX or its Subsidiary in accordance with the generally accepted accounting principles applicable to such Person in effect as at the date of such sale, transfer or securitization; and (iii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or securitization is carried out on a non-recourse basis or on a basis where recovery is limited to the collection of receivables.

"Qualifying Equity Security" means any security that (a) is issued or guaranteed by CEMEX and (b) is accounted for as "equity" of CEMEX in the consolidated financial statements of CEMEX.

"Rating Agencies" means S&P and Fitch.

"Redemption Date" when used with respect to any Security to be redeemed, means the date fixed for such redemption by or pursuant to this Note Indenture.

"Redemption Price" when used with respect to any Security to be redeemed, means the price at which it is to be redeemed as set forth in the Securities.

"Regular Record Date" for the interest payable on any Interest Payment Date means March 15, June 15, September 15 or December 15 (regardless of whether a Business Day), as the case may be, immediately preceding such Interest Payment Date.

"Responsible Officer" with respect to the Trustee, any officer, within the Corporate Trust Office (or any successor group of the Trustee), including any senior vice president, vice president, assistant vice president, secretary, assistant secretary, or any other officer of the Trustee customarily performing functions similar to those performed by any of the above designated officers and also, with respect to a particular matter, any other officer to whom such matter is referred because of such officer's knowledge of and familiarity with the particular subject.

"Reuters Page LIBOR01" has the meaning specified in Section 203.

"Securities" means the securities designated as such in the first paragraph of the RECITALS OF THE COMPANY AND THE GUARANTORS.

"Securities Act" means the U.S. Securities Act of 1933, as amended, and (unless the context otherwise requires) includes the rules and regulations of the Commission promulgated thereunder.

"Security Register" and "Security Registrar" have the respective meanings specified in Section 305.

"Special Record Date" for the payment of any Defaulted Interest means a date fixed by the Trustee pursuant to Section 307.

"S&P" means Standard & Poor's, a division of McGraw-Hill Companies, Inc., or any successor to the rating agency business thereof.

"Stated Maturity" when used with respect to any Security or any installment of interest thereon, means any date specified in such Security as the fixed date on which such installment of interest is due and payable.

"Subsidiary" means, with respect to any Person, any corporation, partnership, joint venture, limited liability company, trust, estate or other entity of which (or in which) more than 50% of (a) in the case of a corporation, the issued and outstanding capital stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time capital stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency not in the control of such Person), (b) in the case of a limited liability company, partnership or joint venture, the interest in the capital or profits of such limited liability company, partnership or joint venture or (c) in the case of a trust or estate, the beneficial interest in such trust or estate, is at the time directly or indirectly owned or controlled by (X) such Person, (Y) such Person and one or more of its other Subsidiaries or (Z) one or more of such Person's other Subsidiaries. Unless the context otherwise requires, all references herein to a "Subsidiary" shall refer to a Subsidiary of CEMEX.

"Successor" has the meaning specified in Section 801.

"Swap Counterparty" means Swap C10-EUR Capital (SPV) Limited, a restricted purpose company incorporated with limited liability domiciled in the British Virgin Islands.

"Transfer" of any Security encompasses any sale, pledge, transfer, hypothecation or other disposition of such Security or any interest therein.

"Trust Indenture Act" means the U.S. Trust Indenture Act of 1939, as amended, and (unless the context otherwise requires) includes the rules and regulations of the Commission thereunder.

"Trustee" means the Person named as the "Trustee" in the first paragraph of this instrument until a successor Trustee shall have become such pursuant to the applicable provisions of this Note Indenture, and thereafter "Trustee" shall mean such successor Trustee.

"United States" means the United States of America (including the States thereof and the District of Columbia), its territories, its possessions and other areas subject to its jurisdiction.

"Yen" and "¥" means a Japanese Yen or other equivalent unit in such coin or currency of Japan as at the time shall be legal tender for the payment of public and private debts.

"Yen Equivalent Principal Amount" has the meaning specified in Section 203.

"Yen Rate" has the meaning specified in Section 203.

"3-month Euribo Rate" has the meaning specified in Section 203.

"12-month Yen LIBO Rate" has the meaning specified in Section 203.

SECTION 102 Compliance Certificates and Opinions.

Upon any application or request by the Company to the Trustee to take any action under any provision of this Note Indenture, the Company shall furnish to the Trustee such certificates and opinions as may be required hereunder. Each such certificate or opinion shall be given in the form of an Officers' Certificate, if to be given by an officer of the Company, or an Opinion of Counsel if to be given by counsel.

Every certificate or opinion with respect to compliance with a condition or covenant provided for in this Note Indenture (except for certificates provided for in Section 1004) shall include,

(1) a statement that each individual signing such certificate or opinion has read such covenant or condition and the definitions herein relating thereto;

(2) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(3) a statement that, in the opinion of each such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether such covenant or condition has been complied with; and

(4) a statement as to whether, in the opinion of each such individual, such condition or covenant has been complied with.

SECTION 103 Form of Documents Delivered to Trustee.

In any case where several matters are required to be certified by, or covered by an opinion of, any specified Person, it is not necessary that all such matters be certified by, or covered by the opinion of, only one such Person, or that they be so certified or covered by only one document, but one such Person may certify or give an opinion with respect to some matters and one or more other such Persons as to other matters, and any such Person may certify or give an opinion as to such matters in one or several documents.

Any certificate or opinion of an officer of the Company or any Guarantor may be based, insofar as it relates to legal matters, upon a certificate or opinion of, or representations by, counsel, unless such officer knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to the matters upon which his certificate or opinion is based are erroneous. Any such certificate or opinion of counsel may be based, insofar as it relates to factual matters, upon a certificate or opinion of, or representations by, an officer or officers of the Company or of the relevant Guarantor, as the case may be, stating that the information with respect to such factual matters is in the possession of the Company or such Guarantor, unless such counsel knows, or in the exercise of reasonable care should know, that the certificate or opinion or representations with respect to such matters are erroneous.

Where any Person is required to make, give or execute two or more applications, requests, consents, certificates, statements, opinions or other instruments under this Note Indenture, they may, but need not, be consolidated and form one instrument.

SECTION 104 Acts of Holders; Record Dates.

(a) Any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Note Indenture to be given or taken by Holders may be embodied in and evidenced by one or more instruments of substantially similar tenor signed by such Holders in person or by agent duly appointed in writing; and, except as herein otherwise expressly provided, such action shall become effective when such instrument or instruments are delivered to a Responsible Officer of the Trustee and, where it is hereby expressly required, to the Company or the Guarantors. Such instrument or instruments (and the action embodied therein and evidenced thereby) are herein sometimes referred to as the "Act" of the Holders signing such instrument or instruments. Proof of execution of any such instrument or of a writing appointing any such agent shall be sufficient for any purpose of this Note Indenture and (subject to Section 601) conclusive in favor of the Trustee and the Company, if made in the manner provided in this Section.

(b) The fact and date of the execution by any Person of any such instrument or writing may be proved by the affidavit of a witness of such execution or by a certificate of a notary public or other officer authorized by law to take acknowledgments of deeds, certifying that the individual signing such instrument or writing acknowledged to him the execution thereof. Where

such execution is by a signer acting in a capacity other than his individual capacity, such certificate or affidavit shall also constitute sufficient proof of his authority. The fact and date of the execution of any such instrument or writing, or the authority of the Person executing the same, may also be proved in any other manner which the Trustee deems sufficient.

(c) The ownership of Securities shall be proved by the Security Register.

(d) Any request, demand, authorization, direction, notice, consent, waiver or other Act of the Holder of any Security shall bind every future Holder of the same Security and the Holder of every Security issued upon the registration of transfer thereof or in exchange therefor or in lieu thereof in respect of anything done, omitted or suffered to be done by the Trustee or the Company in reliance thereon, regardless of whether notation of such action is made upon such Security.

(e) The Company may set any day as a record date for the purpose of determining the Holders of Outstanding Securities entitled to give, make or take any request, demand, authorization, direction, notice, consent, waiver or other action provided or permitted by this Note Indenture to be given, made or taken by Holders of Securities, provided that the Company may not set a record date for, and the provisions of this paragraph shall not apply with respect to, the giving or making of any notice, declaration, request or direction referred to in the next paragraph. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities on such record date, and no other Holders, shall be entitled to take the relevant action, regardless of whether such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities on such record date. Nothing in this paragraph shall be construed to prevent the Company from setting a new record date for any action for which a record date has previously been set pursuant to this paragraph (whereupon the record date previously set shall automatically and with no action by any Person be cancelled and of no effect), and nothing in this paragraph shall be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities on the date such action is taken. Promptly after any record date is set pursuant to this paragraph, the Company, at its own expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Trustee in writing and to each Holder of Securities in the manner set forth in Section 106.

(f) The Trustee may set any day as a record date for the purpose of determining the Holders of Outstanding Securities entitled to join in the giving or making of (i) any Notice of Default, (ii) any declaration of acceleration referred to in Section 502, (iii) any request to institute proceedings referred to in Section 507(2) or (iv) any direction referred to in Section 512. If any record date is set pursuant to this paragraph, the Holders of Outstanding Securities on such record date, and no other Holders, shall be entitled to join in such notice, declaration, request or direction, regardless whether such Holders remain Holders after such record date; provided that no such action shall be effective hereunder unless taken on or prior to the applicable Expiration Date by Holders of the requisite principal amount of Outstanding Securities on such record date. Nothing in this paragraph shall be construed to prevent the Trustee from setting a new record date for any action (whereupon the record date previously set shall automatically and without any action by any Person be cancelled and of no effect), nor shall anything in this paragraph be construed to render ineffective any action taken by Holders of the requisite principal amount of Outstanding Securities on the date such action is taken. Promptly after any record date is set pursuant to this

paragraph, the Trustee, at the Company's expense, shall cause notice of such record date, the proposed action by Holders and the applicable Expiration Date to be given to the Company in writing and to each Holder of Securities in the manner set forth in Section 106.

(g) With respect to any record date set pursuant to this Section, the party hereto that sets such record date may designate any day as the "Expiration Date" and from time to time may change the Expiration Date to any earlier or later day, provided that no such change shall be effective unless notice of the proposed new Expiration Date is given to the other party hereto in writing, and to each Holder of Securities in the manner set forth in Section 106, on or prior to the existing Expiration Date. If an Expiration Date is not designated with respect to any record date set pursuant to this Section, the party hereto that set such record date shall be deemed to have initially designated the 180th day after such record date as the Expiration Date with respect thereto, subject to its right to change the Expiration Date as provided in this paragraph. Notwithstanding the foregoing, no Expiration Date shall be later than the 180th day after the applicable record date.

Without limiting the foregoing, a Holder entitled hereunder to take any action hereunder with regard to any particular Security may do so with regard to all or any part of the principal amount of such Security or by one or more duly appointed agents each of which may do so pursuant to such appointment with regard to all or any part of such principal amount.

SECTION 105 Notices, Etc., to Trustee, Company and Guarantors.

Any request, demand, authorization, direction, notice, consent, waiver or Act of Holders or other document provided or permitted by this Note Indenture to be made upon, given or furnished to, or filed with,

(1) the Trustee by any Holder or by the Company or any Guarantor shall be in the English language and shall be sufficient for every purpose hereunder if made, given, furnished or filed in writing to or with the Trustee at its Corporate Trust Office, or

(2) the Company or any Guarantor by the Trustee or by any Holder shall be sufficient for every purpose hereunder (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, to it addressed to it at the address of the Company's principal office specified in the first paragraph of this instrument, Attention: Finance Director, with a copy to CEMEX at Av. Ricardo Margáin Zozaya #325, Colonia Valle del Campestre, Garza García, Nuevo León, México 66265, Attention: General Counsel, or at any other address previously furnished in writing to the Trustee by the Company.

SECTION 106 Notice to Holders; Waiver.

Where this Note Indenture provides for notice to Holders of any event, such notice shall be sufficiently given (unless otherwise herein expressly provided) if in writing and mailed, first class postage prepaid, to each Holder affected by such event, at his address as it appears in the Security Register. In any case where notice to Holders is given by mail, neither the failure to mail such notice, nor any defect in any notice so mailed, to any particular Holder shall affect the sufficiency of such notice with respect to other Holders. Where this Note Indenture provides for notice in any manner, such notice may be waived in writing by the Person entitled to receive such notice, either before or after the event, and such waiver shall be the equivalent of such notice. Waivers of notice by Holders shall be filed with the Trustee, but such filing shall not be a condition precedent to the validity of any action taken in reliance upon such waiver.

In case by reason of the suspension of regular mail service or by reason of any other cause it shall be impracticable to give such notice by mail, then such notification as shall be made with the approval of the Trustee shall constitute a sufficient notification for every purpose hereunder.

SECTION 107 Effect of Headings and Table of Contents.

The Article and Section headings herein and the Table of Contents are for convenience only and shall not affect the construction hereof.

SECTION 108 Successors and Assigns.

All covenants and agreements in this Note Indenture by the Company or any Guarantor shall bind its successors and assigns, regardless of whether so expressed.

SECTION 109 Separability Clause.

In case any provision in this Note Indenture or in the Securities or the Guarantee shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 110 Benefits of Note Indenture.

Nothing in this Note Indenture or in the Securities or the Guarantee, express or implied, shall give to any Person, other than the parties hereto and their successors hereunder and the Holders of Securities, any benefit or any legal or equitable right, remedy or claim under this Note Indenture.

SECTION 111 Governing Law.

THIS NOTE INDENTURE, THE GUARANTEE AND THE SECURITIES SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

SECTION 112 Legal Holidays.

In any case where any Interest Payment Date, Redemption Date, Conversion Date or Stated Maturity of any Security shall not be a Business Day, then (notwithstanding any other provision of this Note Indenture or of the Securities) payment of interest or principal (and premium, if any) need not be made on such date, but may be made on the preceding Business Day with the same force and effect as if made on the Interest Payment Date, Redemption Date, Conversion Date or at the Stated Maturity, as the case may be.

SECTION 113 Consent to Service; Jurisdiction.

The Company, each Guarantor and the Trustee agree that any legal suit, action or proceeding arising out of or relating to this Note Indenture, the Securities or the Guarantee, may be

instituted in any federal or state court in the Borough of Manhattan, The City of New York, waives any objection which it may now or hereafter have to the laying of the venue of any such legal suit, action or proceeding, waives any immunity from jurisdiction or to service of process in respect of any such suit, action or proceeding, and irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding. Each of the Company, each Guarantor and the Trustee further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to this Note Indenture, and each of the Company and the Guarantors further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to the Securities or the Guarantee. Each of the parties hereto also irrevocably waives any right it may have to the jurisdiction of any court other than the courts mentioned above pursuant to applicable law. Each of the Company and the Guarantors hereby designates and appoints CEMEX NY Corporation, 590 Madison Ave., 41st Floor, New York, New York 10022, Attention: General Counsel, as its authorized agent upon which process may be served in any legal suit, action or proceeding arising out of or relating to this Note Indenture, the Securities or the Guarantee which may be instituted in any federal or state court in the Borough of Manhattan, The City of New York, New York, and agrees that service of process upon such agent, and written notice of said service to the Company or a Guarantor by the Person serving the same, shall be deemed in every respect effective service of process upon the Company (if such notice is given to the Company) or upon such Guarantor (if such notice is given to a Guarantor) in any such suit, action or proceeding and further designates its domicile, the domicile of CEMEX NY Corporation specified above and any domicile CEMEX NY Corporation may have in the future as its domicile to receive any notice hereunder (including service of process). If for any reason CEMEX NY Corporation (or any successor agent for this purpose) shall cease to have a domicile in New York or to act as agent for service of process as provided above, each of the Company and the Guarantors will promptly appoint a successor agent domiciled in New York for this purpose reasonably acceptable to Trustee and shall grant thereto notarial powers-of-attorney for lawsuits and collections. Each of the Company and the Guarantors agrees to take any and all actions as may be necessary to maintain such designation and appointment of such agent in full force and effect. Notwithstanding the foregoing, if CEMEX NY Corporation ceases to be a New York Corporation the parties shall immediately appoint CT Corporation System, Inc. as a replacement thereof.

SECTION 114 Language of Notices, Etc.

Any request, demand, authorization, direction, notice, consent or waiver required or permitted under this Note Indenture shall be in the English language, except that any published notice may be in an official language of the country of publication.

ARTICLE TWO

Security Forms

SECTION 201 Forms Generally.

The Securities and the Trustee's certificates of authentication shall be in substantially the forms set forth in this Article, with such appropriate insertions, omissions, substitutions and other variations as are required or permitted by this Note Indenture, and may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as may be required to comply with the rules of any securities exchange or depositary thereof or as may, consistently herewith, be determined by the officers executing such Securities, as evidenced by their execution of the Securities.

The definitive Securities shall be printed, lithographed or engraved on steel engraved borders or may be produced in any other manner, all as determined by the officers executing such Securities, as evidenced by their execution of such Securities.

The legends set forth in Section 202 may not be omitted from Securities issued hereunder at any time.

Original Securities offered and sold in their initial distribution shall be initially issued in the form of one or more Global Securities in definitive, fully registered form without interest coupons, substantially in the form of Security set forth in Sections 202 and 203, with such applicable legends as are provided for in Section 202. Such Global Securities shall be registered in the name of the Holders or their nominees and deposited with the Trustee, at its Corporate Trust Office, as custodian for the Holders, duly executed by the Company and authenticated by the Trustee as hereinafter provided, for credit to the respective accounts of the Holders. The aggregate principal amount of the Global Security may from time to time be increased or decreased by adjustments made on the records of the Trustee, as custodian for the Holders, in connection with a corresponding decrease or increase in the aggregate principal amount of the Global Security, as hereinafter provided.

Securities issued in exchange for a Global Security or any portion thereof shall be issued in definitive, fully registered form, without interest coupons, shall have an aggregate principal amount equal to that of such Global Security or portion thereof to be so exchanged, shall be registered in such names and be in such authorized denominations as the Trustee shall designate and shall bear any legend required hereunder. Any Global Security to be exchanged in whole shall be surrendered. With regard to any Global Security to be exchanged in part, either such Global Security shall be surrendered for exchange or the principal amount thereof shall be reduced, by an amount equal to the portion thereof to be so exchanged, by means of an appropriate adjustment made on the records of the Trustee. Upon such surrender or adjustment, the Trustee shall authenticate and deliver the Security issuable on such exchange.

SECTION 202 Form of Face of Security.

THIS SECURITY (OR ITS PREDECESSOR) WAS ORIGINALLY ISSUED IN A TRANSACTION ORIGINALLY EXEMPT FROM REGISTRATION UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE “SECURITIES ACT”), AND MAY NOT BE TRANSFERRED IN THE UNITED STATES OR TO, OR FOR THE ACCOUNT OR BENEFIT OF, ANY “U.S. PERSON” WITHIN THE MEANING OF REGULATION S UNDER THE SECURITIES ACT, EXCEPT PURSUANT TO AN AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND ALL APPLICABLE STATE SECURITIES LAWS.

New Sunward Holding Financial Ventures B.V.

Callable Perpetual Dual-Currency Notes

No._____ €_____

New Sunward Holding Financial Ventures B.V., a private company with limited liability formed under the laws of the Netherlands (herein called the "Company", which term includes any successor Person under the Note Indenture hereinafter referred to), for value received, hereby promises to pay to [name of Holder] or registered assigns, the principal sum of _____ Euros, or such other principal amount as may be set forth in the records of the Trustee hereinafter referred to, in accordance with the Note Indenture and to pay interest thereon from May 9, 2007, or from the most recent Interest Payment Date to which interest has been paid or duly provided for in the amount and currency provided in the Note Indenture. The interest so payable, and punctually paid or duly provided for, on any Interest Payment Date will, as provided in such Note Indenture, be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest, which shall be March 15, June 15, September 15 or December 15 (regardless of whether a Business Day), as the case may be, immediately preceding such Interest Payment Date. Any such interest not so punctually paid or duly provided for will forthwith cease to be payable to the Holder on such Regular Record Date and may either be paid to the Person in whose name this Security (or one or more Predecessor Securities) is registered at the close of business on a Special Record Date for the payment of such Defaulted Interest to be fixed by the Trustee, notice whereof shall be given to Holders of Securities not less than 10 days prior to such Special Record Date, or be paid at any time in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities may be listed, and upon such notice as may be required by such exchange, all as more fully provided in said Note Indenture.

Payment of the principal of this Security will be made in immediately available funds in Euros or in such coin or currency of the European Union's member states as at the time of payment is legal tender for payment of public and private debts. Payment of interest on this Security will be made in immediately available funds in Euros or in such coin or currency of the European Union's member states or Japan, as applicable, as at the time of payment is legal tender payment of public and private debt. Each such payment of principal and interest will be made at the office or agency of the Company maintained for that purpose in the Borough of Manhattan, The City of New York or, at the option of the Holder and subject to any fiscal or other laws and regulations, at any other office or agency maintained by the Company for such purpose; provided, however, that upon application by the Holder to the Security Registrar not later than the 10th day immediately preceding the relevant Regular Record Date, such Holder may receive payment by wire transfer to an Euros account (such transfers to be made only to Holders of an aggregate principal amount in excess of €3,500,000) maintained by the payee with a bank in The City of New York; and provided, further, that, subject to the preceding proviso, payment of interest may, at the option of the Company, be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register. Unless such designation is revoked, any such designation made by the Holder with respect to this Security will remain in effect with respect to future payments with respect to this Security payable to the Holder. The Company will pay any administrative costs imposed by banks in connection with making any such payments upon application of such Holder for reimbursement.

The Company shall, to the fullest extent permitted by law, indemnify the Holder of this Security against any loss incurred by such Holder as a result of any judgment or order being given or made for any amount due under this Security and being expressed and paid in a currency other than Euros, and as a result of any variation between relevant rates of exchange, as provided in the Note Indenture.

Reference is hereby made to the further provisions of this Security set forth on the reverse hereof, which further provisions shall for all purposes have the same effect as if set forth at this place.

Unless the certificate of authentication hereon has been executed by the Trustee referred to on the reverse hereof by manual signature, this Security shall not be entitled to any benefit under the Note Indenture or be valid or obligatory for any purpose.

IN WITNESS WHEREOF, the Company has caused this instrument to be duly executed.

Dated:

New Sunward Holding Financial
Ventures B.V.

By _____
Name:
Title:

SECTION 203 Form of Reverse of Security.

This Security is one of a duly authorized issue of Securities of the Company designated as its Callable Perpetual Dual-Currency Notes (herein called the "Securities"), issued and to be issued under a Note Indenture, dated as of May 9, 2007 (herein called the "Note Indenture", which term shall have the meaning assigned to it in such instrument), among the Company, the Guarantors named therein and The Bank of New York, as Trustee (herein called the "Trustee", which term includes any successor trustee under the Note Indenture), to which Note Indenture and all indentures supplemental thereto reference is hereby made for a statement of the respective rights, limitations of rights, duties and immunities thereunder of the Company, the Guarantors, the Trustee and the Holders and of the terms upon which the Securities are, and are to be, authenticated and delivered.

As provided in Article Twelve of the Note Indenture, the Guarantors have, for the benefit of the Holders, jointly and severally irrevocably and unconditionally guaranteed the due and punctual payment of all amounts payable by the Company under the Note Indenture and the Securities as and when the same shall become due and payable. Reference is hereby made to Article Twelve of the Note Indenture for a statement of the respective rights, limitations of rights, duties and amounts thereunder of the Guarantors and the Trustee.

All payments of principal and interest in respect of the Securities, the Note Indenture and the Guarantee by or for the account of the Company or any Guarantor shall be made without withholding or deduction for any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of Mexico, the Netherlands, the British Virgin Islands or in the event the Company or any Guarantor appoints additional paying agents, by the jurisdictions of such additional paying agents (each a "Note Taxing Jurisdiction"), or any political subdivision thereof or any authority therein or thereof ("Applicable Taxes"), except to the extent that such Applicable Taxes are required by a Note Taxing Jurisdiction or any such political subdivision or authority to be withheld or deducted. In the event of any withholding or deduction for any Applicable Taxes, the Company and the Guarantors shall pay such additional amounts ("Additional Amounts") as will result in receipt by the Holders of Securities on the respective due dates of such amounts as would have been received by them had no such withholding or deduction (including for any Applicable Taxes payable in respect of Additional Amounts) been required, except that no such Additional Amounts shall be payable with respect to any payment on a Security:

(i) to the extent that such taxes or duties are imposed or levied by reason of such Holder (or the beneficial owner) having some connection with the Note Taxing Jurisdiction other than the mere holding (or beneficial ownership) of such Securities;

(ii) to the extent that such taxes or duties are imposed on, or measured by, net income of the Holder (or beneficial owner);

(iii) in respect of which the Holder (or beneficial owner) fails to comply with any certification, identification or other reporting requirement concerning its nationality, residence, identity or connection with the Note Taxing Jurisdiction if (1) compliance is required by applicable law, regulation, administrative practice or treaty as a precondition to exemption from all or a part of the taxes, (2) the Holder (or beneficial

owner) is able to comply with those requirements without undue hardship and (3) the Company has given all Holders at least 30 days' prior notice that they will be required to comply with such requirements;

(iv) in respect of which the Holder (or beneficial owner) fails to surrender (where surrender is required) its Securities for payment within 30 days after the Company has made available a payment of principal or interest, provided that the Company will pay Additional Amounts to which a Holder would have been entitled had the Securities been surrendered on any day (including the last day) within such 30-day period;

(v) to the extent that such taxes or duties are imposed by reason of an estate, inheritance, gift, value added, use or sales tax or any similar taxes, assessments or other governmental charges;

(vi) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive; or

(vii) by or on behalf of a Holder who would have been able to avoid such withholding or deduction by presenting the relevant Securities to another paying agent in a member state of the European Union.

The Company shall provide the Trustee, as soon as practicable, with documentation (which may consist of certified copies of such documentation) satisfactory to the Trustee evidencing the payment of Applicable Taxes in respect of which the Company has paid any Additional Amounts. Copies of such documentation shall be made available to the Holders of the Securities or the Paying Agent, as applicable, upon request therefor.

The Company shall pay all stamp and other duties, if any, which may be imposed by Mexico, the United States of America, the Netherlands or any other applicable jurisdiction or any authority therein or thereof, with respect to the Note Indenture, the Guarantee, the Conversion Payment Undertaking or the issuance of this Security.

At all times when CEMEX is required to file any financial statements or reports with the Commission, CEMEX shall use its best efforts to file all required statements or reports in a timely manner in accordance with the rules and regulations of the Commission.

If an Event of Default shall occur and be continuing, the principal of this Security or of all the Securities may be declared due and payable to the extent, in the manner and with the effect provided in the Note Indenture.

The Note Indenture permits, with certain exceptions as therein provided, the amendment thereof and the modification of the rights and obligations of the Company and the Guarantors and the rights of the Holders of the Securities under the Note Indenture at any time by the Company, the Guarantors and the Trustee with the consent of the Trustee, Swap Counterparty, the holders of not less than the majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and the Holders of not less

than a majority in principal amount of the Outstanding Securities. The Note Indenture also contains provisions permitting the Holders of a majority in aggregate principal amount of the Securities at the time Outstanding, on behalf of the Holders of all the Securities, to waive compliance by the Company with certain provisions of the Note Indenture and certain past defaults under the Note Indenture and their consequences. Any such consent or waiver by the Holder of this Security shall be conclusive and binding upon such Holder and upon all future Holders of this Security and of any Security issued upon the registration of transfer hereof or in exchange herefor or in lieu hereof, regardless of whether notation of such consent or waiver is made upon this Security.

As provided in and subject to the Note Indenture, at any time when there is more than one Holder of Securities, the Holder of this Security shall not have any right to institute any proceeding with respect to the Note Indenture, or for the appointment of a receiver or trustee, or for any other remedy thereunder, unless such Holder has previously given written notice to the Trustee of a continuing Event of Default, the Holders of not less than 25% in principal amount of the Outstanding Securities have made written request to the Trustee to institute proceedings in respect of such Event of Default as Trustee and offered the Trustee reasonable indemnity, and the Trustee has not received from the Holders of a majority in principal amount of the Outstanding Securities a direction inconsistent with such request, and has failed to institute any such proceeding, for 60 days after its receipt of such notice, request and indemnity. The foregoing does not apply to any suit instituted by the Holder of this Security for the enforcement of any payment of the principal hereof or interest hereon on or after the respective due dates expressed herein.

No reference herein to the Note Indenture and no provision of this Security or of the Note Indenture shall alter or impair the obligation of the Company, which is absolute and unconditional, to pay the principal of and interest on this Security at the times, place and rate, and in the coin or currency, herein prescribed.

As provided in the Note Indenture and subject to certain limitations and satisfaction of certain requirements therein set forth, the transfer of this Security is registrable in the Security Register, upon surrender of this Security for registration of transfer at the office or agency of the Company in the Borough of Manhattan, The City of New York, duly endorsed by, or accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed by, the Holder hereof or his attorney duly authorized in writing, and thereupon one or more new Securities, of authorized denominations and for the same aggregate principal amount, will be issued to the designated transferee or transferees.

The Securities are issuable only in registered form without coupons in denominations of €50,000 and integral multiples of €1,000 in excess thereof. As provided in the Note Indenture and subject to certain limitations and satisfaction of certain requirements therein set forth, Securities are exchangeable for a like aggregate principal amount of Securities of the same or a different authorized denomination, as requested by the Holder surrendering the same.

No service charge shall be made for any such registration of transfer or exchange, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge payable in connection therewith.

Prior to due presentment of this Security for registration of transfer, the Company, the Guarantors, the Trustee and any agent of the Company, any Guarantor or the Trustee may treat the Person in whose name this Security is registered as the owner hereof for all purposes, regardless of whether this Security be overdue, and neither the Company, the Guarantors, the Trustee nor any such agent shall be affected by notice to the contrary.

Interest on this Security shall be computed as follows:

Yen Floating Rate Interest— Unless the interest rate has been previously converted to the Euro Fixed Rate, the Securities will accrue interest in Japanese Yen beginning on the issue date to but not including June 30, 2017, at an annual percentage rate equal to the 12-month Yen LIBO Rate multiplied by 3.1037 (the "Yen Rate"), reset annually, as applied to a Yen principal amount of Japanese Yen 119,084,900,000 (the "Yen Equivalent Principal Amount"). Interest will be payable annually in arrears on June 30 of each year (or, if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on June 30, 2007.

The amount of interest payable for any annual interest period will be computed by multiplying the Yen Rate for that annual interest period by a fraction, the numerator of which will be the actual number of days elapsed during that annual interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the Yen Equivalent Principal Amount corresponding to the aggregate outstanding Euro principal amount of the Securities. The Yen Equivalent Principal Amount will not change over time as a result of fluctuations in the Yen Rate or the Euro Floating Rate. For the initial interest period ending on June 30, 2007, the Yen Rate will be 0.64455%.

Euro Fixed Rate Interest— If the interest rate on the Securities has been converted to the Euro Fixed Rate, the Securities will accrue interest in Euros, from the annual Interest Payment Date on or immediately prior to the Conversion Date (or the issue date if there is no annual Interest Payment Date prior to the Conversion Date) to but not including June 30, 2017, at the annual rate of 6.277% (the "Euro Fixed Rate"), as applied to the aggregate outstanding Euro principal amount of the Securities. Interest will be payable annually in arrears on June 30 of each year (or, if not a Business Day, on the preceding Business Day). The interest due at the Euro Fixed Rate on an Interest Payment Date may be reduced by the application of Conversion Credits, if applicable, on such Interest Payment Date.

The amount of interest payable for any annual interest accrual period at the Euro Fixed Rate will be computed on the basis of a 365-day or 366-day year for the actual number of days in the relevant period.

Euro Floating Rate Interest— The Securities will accrue interest in Euros, beginning on June 30, 2017, to the date the principal amount of the Securities is repaid in full, at an annual percentage rate equal to the 3-month Euribo Rate plus 4.79% (the "Euro Floating Rate"), as applied to the aggregate outstanding Euro principal amount of the Securities. Interest will be reset quarterly, as applied to the aggregate outstanding Euro principal amount of the Securities and payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year (or if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on September 30, 2017.

The amount of interest payable at the Euro Floating Rate for any quarterly interest period will be computed by multiplying the Euro Floating Rate for that quarterly interest period by a fraction, the numerator of which will be the actual number of days elapsed during that quarterly interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the aggregate principal amount of the Securities then Outstanding.

Determining the Floating Rates

The "12-month Yen LIBO Rate" means the rate determined in accordance with the following provisions:

(1) On the LIBOR Interest Determination Date, the Calculation Agent or its affiliate will determine the 12-month Yen LIBO Rate, which will be the rate for deposits in Japanese Yen having a twelve-month maturity which appears on the Reuters Page LIBOR01 as of 11:00 a.m., London time, on the LIBOR Interest Determination Date.

(2) If no rate appears on Reuters Page LIBOR01 on the LIBOR Interest Determination Date, the rate will be determined on the basis of the rates at which deposits in Japanese Yen are offered by the reference banks at approximately 11:00 a.m., London time, on that LIBOR Interest Determination Date to prime banks in the London Inter-Bank Market for the period of twelve months commencing on the applicable LIBO Rate Reset Date and in a principal amount that is representative for a single transaction in Yen in that market at that time. The Calculation Agent will request the principal London office of each of the reference banks to provide a quotation for its rate. If at least two such quotations are provided, then the 12-month Yen LIBO Rate for that LIBOR Interest Determination Date will be the arithmetic mean of the quotations (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent). If fewer than two quotations are provided as requested, the rate for that LIBOR Interest Determination Date will be the arithmetic mean (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent) of the rates quoted by major banks in Tokyo, selected by the Calculation Agent, at approximately 11:00 a.m., Tokyo time on that LIBOR Interest Determination Date for loans in Japanese Yen to leading European banks having a twelve-month maturity commencing on the applicable LIBO Rate Reset Date and in a principal amount that is representative for a single transaction in Yen in that market at that time.

The "3-month Euribo Rate" means the rate determined in accordance with the following provisions:

(1) On the LIBOR Interest Determination Date, the LIBO Calculation Agent or its affiliate will determine the 3-month Euribo Rate, which will be the rate for deposits in Euros having a three-month maturity which appears on the Reuters Page LIBOR01 as of 11:00 a.m., London time, on the LIBOR Interest Determination Date.

(2) If no rate appears on Reuters Page LIBOR01 on the LIBOR Interest Determination Date, the rate will be determined on the basis of the rates at which deposits in Euros are offered by the reference banks at approximately 11:00 a.m., London time, on that LIBOR Interest Determination Date to prime banks in the London Inter-Bank Market for the period of three months commencing on the applicable LIBO Rate Reset Date and in a principal amount that is representative for a single transaction in Euros in that market at that time. The LIBO Calculation Agent will request the principal London office of each of the reference banks to provide a quotation for its rate. If at least two such quotations are provided, then the 3-month Euribo Rate for that LIBOR Interest Determination Date will be the arithmetic mean of the quotations (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent). If fewer than two quotations are provided as requested, the rate for that LIBOR Interest Determination Date will be the arithmetic

mean (rounded, if necessary, to the nearest one-hundredth (0.01) of a percent) of the rates quoted by major banks in New York City, selected by the LIBO Calculation Agent, at approximately 11:00 a.m., New York time on the applicable LIBO Rate Reset Date for loans in Euros to leading European banks having a three-month maturity commencing on that LIBOR Interest Determination Date and in a principal amount that is representative for a single transaction in Euros in that market at that time.

"Reuters Page LIBOR01" means the display designated as "Page LIBOR01" on Reuters Money 3000 Service or any successor service (or such other page as may replace Page LIBOR01 on that service) or such other service displaying the London Inter-Bank offered rates of major banks, as may replace Reuters Money 3000 Service.

"LIBOR Interest Determination Date" means the second LIBOR Business Day preceding each LIBO Rate Reset Date.

"LIBOR Business Day" means (a) for the 12-month Yen LIBO Rate any Business Day on which dealings in deposits in Japanese Yen are transacted in the London Inter-Bank market and (b) for the 3-month Euribo Rate any Business Day on which dealings in deposits in Euros are transacted in the London Inter-Bank market.

"LIBO Calculation Agent" means The Bank of New York, or its successor, acting as calculation agent.

Interest upon CEMEX Change of Control

Upon a CEMEX Change of Control Event, from the date on which the CEMEX Change of Control Event occurs, the Securities will bear, in addition to the interest otherwise applicable to the Securities, additional interest in Euros at a rate of 5.00% per year, as applied to the aggregate outstanding Euro principal amount of the Securities. The amount of additional interest payable for any annual interest accrual period will be computed on the basis of a 365-day or 366-day year for the actual number of days in the relevant period if it occurs during a Fixed Rate Period or on the basis of a 360-day year consisting of twelve 30 days months for the actual number of days in the relevant period if it occurs during a Floating Rate Period.

Optional Deferral of Interest

The Company may defer, at its sole discretion, on one or more occasions, payment for all (but not part) of the scheduled interest payment otherwise due and payable on any Interest Payment Date that falls on or after the earlier of (a) the Conversion Date and (b) September 30, 2017. The Company will give the Holder and the Debenture Trustee notice of any interest deferral not more than 30 nor less than 10 Business Days prior to the applicable Interest Payment Date. If the Interest Payment Date for which interest deferral is proposed is also the Conversion Date, no election to defer interest due on that date shall be effective unless the Company shall have converted the interest rate on the Securities and paid in full any Conversion Payment due in connection with the conversion.

Any deferred amounts on the Securities not paid on an Interest Payment Date will accumulate but will bear no interest.

The Company may at any time pay in whole or in part any deferred interest by providing at least five Business Days written notice to the Holder and the Debenture Trustee.

The Company may not defer application of any available Conversion Credits, which shall be applied on each Interest Payment Date to reduce the amount of interest paid or deferred, as applicable, on the Securities.

The Company may not elect to defer any scheduled interest on the Securities due on any Interest Payment Date at any time when CEMEX or any of its Subsidiaries has:

(i) declared or paid any dividend, or made any distributions on common stock of CEMEX at or since the most recent annual general meeting of the shareholders of CEMEX;

(ii) paid any interest or other distributions on any Qualifying Equity Security during the 180-day period immediately preceding the Interest Payment Date for which interest deferral is proposed; or

(iii) repurchased, redeemed or otherwise reacquired any Qualifying Equity Security during the 180-day period immediately preceding the Interest Payment Date for which interest deferral is proposed, other than repurchases, redemptions or reacquisitions (a) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (b) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

At any time the Company elects to defer payment of any interest amount on the Securities and for so long as any amount of deferred interest remains unpaid none of CEMEX and its Subsidiaries will:

(i) declare or pay any dividends, make any distributions or pay any interest on any Qualifying Equity Security; or

(ii) repurchase, redeem or otherwise reacquire any Qualifying Equity Security, other than repurchases, redemptions or reacquisitions (a) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (b) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

At any time on or prior to June 30, 2017, upon the first Interest Payment Date for which the Company has elected to defer interest, the Company must, as a condition to interest deferral, convert the interest rate on the Securities from the Yen Rate to the Euro Fixed Rate as of that Interest Payment Date (which, in the case of such conversion, shall be the "Conversion Date") by written notice to the Holder, the Debenture Trustee, the Trustee and the Swap Counterparty not less than 10 Business Days prior to the Interest Payment Date. No conversion shall be effective on any Interest Payment Date (and such Interest Payment Date shall not constitute the Conversion Date) unless C10-EUR Capital (SPV) Limited shall have received from the Company the applicable Conversion Payments with respect to such conversion.

The interest rate on the Securities will automatically convert from the Yen Rate to the Euro Fixed Rate, if on any date (which, in the case of such conversion, shall be the "Conversion Date") on or prior to June 30, 2017:

(i) the Conditions to Anticipated Swap Termination have been deemed satisfied as of such date;

(ii) C10-EUR Capital (SPV) Limited delivers to the Company written notice that an Event of Default with respect to the payment of any installment of interest or any specified event of bankruptcy, liquidation, insolvency or similar proceeding with respect to the Company or any of the Guarantors has occurred;

(iii) the Securities are declared or become immediately due and payable as a result of an Event of Default; or

(iv) any amendment or modification on any term or condition under the Securities, which requires the consent of the holders of the Debentures pursuant to the Debenture Indenture, is made without the written consent of the Swap Counterparty.

Upon conversion, the Company may owe a Conversion Payment under the Conversion Payment Undertaking or may be entitled to Conversion Credits with respect to future interest payments on the Securities, provided that no Conversion Payment shall be due and no Conversion Credits shall apply if the Conditions to Anticipated Swap Termination have been satisfied as of the Conversion Date.

All terms used in this Security which are defined in the Note Indenture shall have the meanings assigned to them in the Note Indenture.

THE NOTE INDENTURE, THE GUARANTEE AND THIS SECURITY SHALL BE GOVERNED BY AND BE CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

SECTION 204 Form of Trustee's Certificate of Authentication.

This is one of the Securities referred to in the within mentioned Note Indenture.

The Bank of New York

By: _____
Authorized Officer

SECTION 205 Form of Guarantee.

GUARANTEE

For value received, each of the undersigned (collectively, the "Guarantors") hereby jointly and severally unconditionally guarantees, on an unsecured basis, to the Holder of the Security upon which this Guarantee is endorsed, and to the Trustee on behalf of such Holder, the

due and punctual payment of the principal of (and premium, if any) and interest (including Additional Amounts) on such Security when and as the same shall become due and payable, whether by acceleration, call for redemption, purchase or otherwise, according to the terms thereof and of the Note Indenture referred to therein. In case of the failure of the Company punctually to make any such payment, the Guarantors hereby agree to cause such payment to be made punctually when and as the same shall become due and payable, whether by acceleration, call for redemption, purchase or otherwise, and as if such payment were made by the Company.

The Guarantors hereby agree that their respective obligations hereunder shall be absolute and unconditional, irrespective of the validity, regularity or enforceability of such Security or the Note Indenture, any failure, omission, delay by or inability of the Trustee or the Holder to enforce the same, any amendment or modification of or deletion from or addition or supplement to or other change in this Guarantee, the Note Indenture, such Security or any other applicable instrument, any waiver of the payment, performance or observance of any of the obligations or agreements contained in this Guarantee, the Note Indenture or such Security, any release or discharge, by operation of law, of any Guarantor from the performance or observance of any obligation or agreement contained in this Guarantee, the Note Indenture or such Security or any other circumstances which might otherwise constitute a legal or equitable discharge or defense of a guarantor. The Guarantors hereby waive the benefits of promptness, demand for payment, diligence, presentment, notice of acceptance, any requirement that the Trustee or any of the Holders exhaust any right or take any action against the Company or any other Person, filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest or notice with respect to such Security or the Indebtedness evidenced thereby and all demands whatsoever, and covenant that this Guarantee will remain in full force and effect until the satisfaction of the Guaranteed Obligations. The Guarantors hereby agree that, in the event of a default in payment of principal (or premium, if any) or interest (including Additional Amounts) on such Security, whether at their maturity, by acceleration, call for redemption, purchase or otherwise, legal proceedings may be instituted by the Trustee on behalf of, or by, the Holder of such Security, subject to the terms and conditions set forth in the Note Indenture, directly against the Guarantors to enforce this Guarantee without first proceeding against the Company. The Guarantors agree that if, after the occurrence and during the continuance of an Event of Default, the Trustee or any of the Holders are prevented by applicable law from exercising their respective rights to accelerate the maturity of the Securities, to collect interest on the Securities, or to enforce or exercise any other right or remedy with respect to the Securities, the Guarantors agree to pay to the Trustee for the account of the Holders, upon demand therefor, the amount that would otherwise have been due and payable had such rights and remedies been permitted to be exercised by the Trustee or any of the Holders.

No reference herein to the Note Indenture and no provision of this Guarantee or of the Note Indenture shall alter or impair this Guarantee of the Guarantors, which is absolute and unconditional, of the due and punctual payment of the principal (and premium, if any) and interest (including Additional Amounts) on the Security upon which this Guarantee is endorsed.

The Guarantors shall be subrogated to all rights of the Holder of such Security against the Company in respect of any amounts paid by the Guarantors on account of such Security pursuant to the provisions of this Guarantee or the Note Indenture; provided, however, that the Guarantors shall not be entitled to enforce or to receive any payments arising out of, or based upon, such right of subrogation until the principal of (and premium, if any) and interest on such Security and all other Securities issued under the Note Indenture shall have been paid in full.

This Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time any payment or performance with respect to any of the Guaranteed Obligations is rescinded or must otherwise be returned by the Trustee, any Holder or any other Person upon the insolvency, bankruptcy or reorganization of the Company or otherwise, all as though such payment or performance had not been made or occurred. In the event that any payment, or any part thereof, is rescinded or must otherwise be returned, the Guaranteed Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded or returned. The obligations of the Guarantors under the Guarantee shall not be subject to reduction, termination or other impairment by any set-off, recoupment, counterclaim or defense or for any other reason.

All terms used in this Guarantee that are defined in the Note Indenture referred to in the Security upon which this Guarantee is endorsed shall have the meanings assigned to them in such Note Indenture.

This Guarantee shall not be valid or obligatory for any purpose until the certificate of authentication on the Security upon which this Guarantee is endorsed shall have been executed by the Trustee under the Note Indenture by manual signature.

Reference is made to Article Twelve of the Note Indenture for further provisions with respect to this Guarantee.

This Guarantee shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, each of the Guarantors has caused this Guarantee to be signed by a duly authorized officer.

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

By: _____
Name:
Title:

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

By: _____
Name:
Title:

NEW SUNWARD HOLDING B.V.

By: _____
Name:
Title:

ARTICLE THREE The Securities

SECTION 301 Title and Terms.

The Securities shall be known and designated as the "Callable Perpetual Dual-Currency Notes" of the Company. The Dual-Currency Notes will be perpetual securities with no maturity date, and they shall bear interest at the Yen Floating Rate, Euro Fixed Rate or Euro Floating Rate, as applicable, from the issue date or from the most recent Interest Payment Date to which interest has been paid or duly provided for, as the case may be, payable annually on or prior to June 30 of each year, beginning on June 30, 2007 during the Yen Floating Rate, as applicable, on or prior to June 30 on each year during the Euro Fixed Rate, as applicable, and quarterly on or prior to March 31, June 30, September 30 and December 31 of each year during the Euro Floating Rate, as applicable, beginning on September 30, 2017, until the principal thereof is paid or made available for payment (to the extent that payment of such interest shall be legally enforceable), from the date such amount is due until it is paid or made available for payment, and such interest on any overdue amount shall be payable on demand. Notwithstanding the foregoing, the Company shall make all payments to the Trustee within the dates and time periods set forth in the Master Collateral Agreement.

The principal on the Securities shall be payable in immediately available funds in Euros or in such coin or currency of the European Union's member states as at the time of payment is legal tender for payment of public and private debts. Payment of interest on the Security will be made in immediately available funds in Euros or in such coin or currency of the European Union or Japan, as applicable, as at the time of payment is legal tender payment of public and private debt. Subject to any written agreement between the Company and the applicable Holder, each such payment of principal and interest will be made at the office or agency of the Company in the Borough of Manhattan, The City of New York maintained for such purpose or, at the option of the Holder and subject to any fiscal or other laws and regulations, at any other office or agency maintained by the Company outside of Mexico for such purpose; provided, however, that upon application by the Holder to the Trustee not later than the 10th day immediately preceding the relevant Regular Record Date, such Holder may receive payment by wire transfer to an Euros account (such transfers to be made only to Holders of an aggregate principal amount in excess of €3,500,000) maintained by the payee with a bank in The City of New York, New York; and provided, further, that, subject to the preceding proviso, payment of interest may, at the option of the Company, be made by check mailed to the address of the Person entitled thereto as such address shall appear in the Security Register. Unless such designation is revoked, any such designation made by such Holder with respect to such Security will remain in effect with respect to any future payments with respect to such Security payable to such Holder. The Company will pay any administrative costs imposed by banks in connection with making such payments.

The Securities shall be redeemable as provided in Article Eleven.

The Securities shall be irrevocably and unconditionally guaranteed as provided in Article Twelve.

SECTION 302 Denominations.

The Securities shall be issuable only in registered form without coupons and only in denominations of €50,000 and integral multiples of €1,000 in excess thereof.

SECTION 303 Execution, Authentication, Delivery and Dating .

The Securities shall be executed on behalf of the Company by any one of the individuals who may sign an Officers' Certificate on its behalf. The signature of any such Person on the Securities may be manual or facsimile.

Securities bearing the manual or facsimile signatures of individuals who were at any time the proper officers of the Company shall bind the Company, notwithstanding that such individuals or any of them have ceased to hold such offices prior to the authentication and delivery of such Securities or did not hold such offices at the date of such Securities.

At any time and from time to time after the execution and delivery of this Note Indenture, the Company may deliver Securities executed by the Company to the Trustee for authentication, together with a Company Order for the authentication and delivery of such Securities; and the Trustee in accordance with such Company Order shall authenticate and deliver such Securities as in this Note Indenture provided and not otherwise.

Each Security shall be dated the date of its authentication.

No Security shall be entitled to any benefit under this Note Indenture or be valid or obligatory for any purpose unless there appears on such Security a certificate of authentication substantially in the form provided for herein executed by the Trustee by manual signature, and such certificate upon any Security shall be conclusive evidence, and the only evidence, that such Security has been duly authenticated and delivered hereunder.

SECTION 304 Temporary Securities.

Pending the preparation of definitive Securities, the Company may execute, and upon Company Order the Trustee shall authenticate and deliver, temporary Securities which are printed, lithographed, typewritten, mimeographed or otherwise produced, in any authorized denomination, substantially of the tenor of the definitive Securities in lieu of which they are issued and with such appropriate insertions, omissions, substitutions and other variations as the officers executing such Securities may determine, as evidenced by their execution of such Securities.

If temporary Securities are issued, the Company will cause definitive Securities to be prepared without unreasonable delay. After the preparation of definitive Securities, the temporary Securities shall be exchangeable for definitive Securities upon surrender of the temporary Securities at any office or agency of the Company designated pursuant to Section 1002, without charge to the Holder. Upon surrender for cancellation of any one or more temporary Securities the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a like principal amount of definitive Securities of authorized denominations. Until so exchanged the temporary Securities shall in all respects be entitled to the same benefits under this Note Indenture as definitive Securities.

SECTION 305 Registration, Registration of Transfer and Exchange.

(a) The Company shall cause to be kept at the Corporate Trust Office of the Trustee a register (the register maintained in such office and in any other office or agency designated pursuant to Section 1002 being herein sometimes collectively referred to as the "Security Register") in which, subject to such reasonable regulations as it may prescribe, the Company shall provide for the registration of Securities and of transfers of Securities. The Trustee is hereby appointed "Security Registrar" for the purpose of registering Securities and transfers of Securities as herein provided. Upon surrender for registration of transfer of any Security at an office or agency of the Company designated pursuant to Section 1002 for such purpose, and subject to the other provisions of this Section 305, the Company shall execute, and the Trustee shall authenticate and deliver, in the name of the designated transferee or transferees, one or more new Securities of any authorized denominations and of a like aggregate principal amount.

At the option of the Holder, and subject to the other provisions of this Section 305, Securities may be exchanged for other Securities of any authorized denominations and of a like aggregate principal amount, upon surrender of the Securities to be exchanged at such office or agency. Whenever any Securities are so surrendered for exchange, and subject to the other provisions of this Section 305, the Company shall execute, and the Trustee shall authenticate and deliver, the Securities which the Holder making the exchange is entitled to receive.

All Securities issued upon any registration of transfer or exchange of Securities shall be the valid obligations of the Company, evidencing the same debt, and subject to the other provisions of this Section 305, entitled to the same benefits under this Note Indenture, as the Securities surrendered upon such registration of transfer or exchange.

Every Security presented or surrendered for registration of transfer or for exchange shall (if so required by the Company or the Trustee) be duly endorsed, or be accompanied by a written instrument of transfer in form satisfactory to the Company and the Security Registrar duly executed, by the Holder thereof or his attorney duly authorized in writing.

No service charge shall be made for any registration of transfer or exchange of Securities, but the Company may require payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in connection with any registration of transfer or exchange of Securities, other than exchanges pursuant to Section 304 or 905 not involving any transfer.

(b) Notwithstanding any other provisions of this Note Indenture or the Securities, a Global Security may not be transferred, in whole or in part, to any Person other than the Holders or a nominee thereof, and no such transfer to any such other Person may be registered.

(c) Each Global Security issued hereunder shall, upon issuance, bear the legends required by Section 202 to be applied to such a Security and such required legends shall not be removed from such Security.

SECTION 306 Mutilated, Destroyed, Lost and Stolen Securities.

If any mutilated Security is surrendered to the Trustee, the Company shall execute and the Trustee shall authenticate and deliver in exchange therefor a new Security of like tenor and principal amount and bearing a number not contemporaneously outstanding.

If there shall be delivered to the Company and the Trustee (i) evidence to their satisfaction of the destruction, loss or theft of any Security and (ii) such security or indemnity as may be required by them to save each of them and any agent of either of them harmless, then, in the absence of notice to the Company or the Trustee that such Security has been acquired by a bona fide purchaser, the Company shall execute and the Trustee shall authenticate and deliver, in lieu of any such destroyed, lost or stolen Security, a new Security of like tenor and principal amount and bearing a number not contemporaneously outstanding at the office or agency maintained by the Company for such purpose in the Borough of Manhattan, The City of New York, which will initially be the office of the Trustee.

In case any such mutilated, destroyed, lost or stolen Security has become or is about to become due and payable, the Company in its discretion may, instead of issuing a new Security, pay such Security.

Upon the issuance of any new Security under this Section, the Company may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) connected therewith.

Every new Security issued pursuant to this Section in lieu of any destroyed, lost or stolen Security shall constitute an original additional contractual obligation of the Company,

regardless of whether the destroyed, lost or stolen Security shall be at any time enforceable by anyone, and shall be entitled to all the benefits of this Note Indenture equally and proportionately with any and all other Securities duly issued hereunder.

The provisions of this Section are exclusive and shall preclude (to the extent lawful) all other rights and remedies with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities.

SECTION 307 Payment of Interest; Interest Rights Preserved .

Interest on any Security which is payable, and is punctually paid or duly provided for, on any Interest Payment Date shall be paid to the Person in whose name that Security (or one or more Predecessor Securities) is registered at the close of business on the Regular Record Date for such interest.

Any interest on any Security which is payable, but is not punctually paid or duly provided for, on any Interest Payment Date (herein called "Defaulted Interest") shall forthwith cease to be payable to the Holder on the relevant Regular Record Date by virtue of having been such Holder, and such Defaulted Interest may be paid by the Company, at its election in each case, as provided in Clause (1) or (2) below:

(1) The Company may elect to make payment of any Defaulted Interest to the Persons in whose names the Securities (or their respective Predecessor Securities) are registered at the close of business on a special record date (herein called a "Special Record Date) for the payment of such Defaulted Interest, which shall be fixed in the following manner. The Company shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid on each Security and the date of the proposed payment, and at the same time the Company shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Persons entitled to such Defaulted Interest as in this Clause provided. Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest which shall be not more than 15 days and not less than 10 days prior to the date of the proposed payment and not less than 10 days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Company of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be mailed, first class postage prepaid, to each Holder at his address as it appears in the Security Register, not less than 10 days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been so mailed, such Defaulted Interest shall be paid to the Persons in whose names the Securities (or their respective Predecessor Securities) are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to the following Clause (2).

(2) The Company may make payment of any Defaulted Interest in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Securities may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Company to the Trustee of the proposed payment pursuant to this Clause, such manner of payment shall be deemed practicable by the Trustee.

Subject to the foregoing provisions of this Section, each Security delivered under this Note Indenture upon registration of transfer of or in exchange for or in lieu of any other Security shall carry the rights to interest accrued and unpaid, and to accrue, which were carried by such other Security.

SECTION 308 Persons Deemed Owners.

Prior to due presentment of a Security for registration of transfer, the Company, the Guarantors, the Trustee and any agent of the Company, any Guarantor or the Trustee may treat the Person in whose name such Security is registered as the owner of such Security for the purpose of receiving payment of principal of (and premium, if any) and (subject to Section 307) interest on such Security and for all other purposes whatsoever, regardless of whether such Security be overdue, and neither the Company, the Guarantors, the Trustee nor any agent of the Company, any Guarantor or the Trustee shall be affected by notice to the contrary.

SECTION 309 Cancellation.

All Securities surrendered for payment, redemption, registration of transfer or exchange shall, if surrendered to any Person other than the Trustee, be delivered to the Trustee and shall be promptly cancelled by it. The Company may at any time deliver to the Trustee for cancellation any Securities previously authenticated and delivered hereunder which the Company may have acquired in any manner whatsoever, and all Securities so delivered shall be promptly cancelled by the Trustee. No Securities shall be authenticated in lieu of or in exchange for any Securities cancelled as provided in this Section, except as expressly permitted by this Note Indenture. All cancelled Securities held by the Trustee shall be disposed of as directed by a Company Order or otherwise in accordance with the customary procedures of the Trustee.

SECTION 310 Computation of Interest.

Interest on the Securities shall be computed as follows:

Yen Floating Rate Interest— Unless the interest rate has been previously converted to the Euro Fixed Rate, the Securities will accrue interest in Japanese Yen beginning on the issue date to but not including June 30, 2017, at an annual percentage rate equal to the 12-month Yen LIBO Rate multiplied by 3.1037 (the "Yen Rate"), reset annually, as applied to a Yen principal amount of Japanese Yen 119,084,900,000 (the "Yen Equivalent Principal Amount"). Interest will be payable annually in arrears on June 30 of each year (or, if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on June 30, 2007.

The amount of interest payable for any annual interest period will be computed by multiplying the Yen Rate for that annual interest period by a fraction, the numerator of which will be the actual number of days elapsed during that annual interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the Yen Equivalent Principal Amount corresponding to the aggregate outstanding Euro principal amount of the Securities. The Yen Equivalent Principal Amount will not change over time as a result of fluctuations in the Yen Rate or the Euro Floating Rate. For the initial interest period ending on June 30, 2007, the Yen Rate will be 0.64455%.

Euro Fixed Rate Interest— If the interest rate on the Securities has been converted to the Euro Fixed Rate, the Securities will accrue interest in Euros, from the annual Interest Payment Date on or immediately prior to the Conversion Date (or the issue date if there is no annual Interest Payment Date prior to the Conversion Date) to but not including June 30, 2017, at the annual rate of 6.277% (the "Euro Fixed Rate"), as applied to the aggregate outstanding Euro principal amount of the Securities. Interest will be payable annually in arrears on June 30 of each year (or, if not a Business Day, on the preceding Business Day). The interest due at the Euro Fixed Rate on an Interest Payment Date may be reduced by the application of Conversion Credits, if applicable, on such Interest Payment Date.

The amount of interest payable for any annual interest accrual period at the Euro Fixed Rate will be computed on the basis of a 365-day or 366-day year for the actual number of days in the relevant period.

Euro Floating Rate Interest— The Securities will accrue interest in Euros, beginning on June 30, 2017, to the date the principal amount of the Securities is repaid in full, at an annual percentage rate equal to the 3-month Euribo Rate plus 4.79% (the "Euro Floating Rate"), as applied to the aggregate outstanding Euro principal amount of the Securities. Interest will be reset quarterly, as applied to the aggregate outstanding Euro principal amount of the Securities and payable quarterly in arrears on March 31, June 30, September 30 and December 31 of each year (or if not a Business Day, on the preceding Business Day), each also a "LIBO Rate Reset Date", beginning on September 30, 2017.

The amount of interest payable at the Euro Floating Rate for any quarterly interest period will be computed by multiplying the Euro Floating Rate for that quarterly interest period by a fraction, the numerator of which will be the actual number of days elapsed during that quarterly interest period (determined by including the first day of the interest period and excluding the last day), and the denominator of which will be 360, and by multiplying the result by the aggregate principal amount of the Securities then Outstanding.

Determining the Floating Rates

The "12-month Yen LIBO Rate" means the rate determined in accordance with the provisions defined in Section 203.

The "3-month Euribo Rate" means the rate determined in accordance with the provisions defined in Section 203.

Interest upon CEMEX Change of Control

Upon a CEMEX Change of Control Event, from the date on which the CEMEX Change of Control Event occurs, the Securities will bear, in addition to the interest otherwise applicable to the Securities, additional interest in Euros at a rate of 5.00% per year, as applied to the aggregate outstanding Euro principal amount of the Securities. The amount of additional interest payable for any annual interest accrual period will be computed on the basis of a 365-day or 366-day year for the actual number of days in the relevant period if it occurs during a Fixed Rate Period or on the basis of a 360-day year consisting of twelve 30 days months for the actual number of days in the relevant period if it occurs during a Floating Rate Period.

SECTION 311 Interest Deferral.

The Company may defer, at its sole discretion, on one or more occasions, payment for all (but not part) of the scheduled interest payment otherwise due and payable on any Interest Payment Date that falls on or after the earlier of (a) the Conversion Date and (b) September 30, 2017. The Company will give the Holder and the Debenture Trustee notice of any interest deferral not more than 30 nor less than 10 Business Days prior to the applicable Interest Payment Date. If the Interest Payment Date for which interest deferral is proposed is also the Conversion Date, no election to defer interest due on that date shall be effective unless the Company shall have converted the interest rate on the Securities and paid in full any Conversion Payment due in connection with the conversion.

Any deferred amounts on the Securities not paid on an Interest Payment Date will accumulate but will bear no interest.

The Company may at any time pay in whole or in part any deferred interest by providing at least five Business Days prior written notice to the Holder and the Debenture Trustee.

The Company may not defer application of any available Conversion Credits, which shall be applied on each Interest Payment Date to reduce the amount of interest paid or deferred, as applicable, on the Securities.

SECTION 312 Limitation on Interest Deferral.

The Company may not elect to defer any scheduled interest on the Securities due on any Interest Payment Date at any time when CEMEX or any of its Subsidiaries has:

(i) declared or paid any dividend, or made any distributions on common stock of CEMEX at or since the most recent annual general meeting of the shareholders of CEMEX;

(ii) paid any interest or other distributions on any Qualifying Equity Security during the 180-day period immediately preceding the Interest Payment Date for which interest deferral is proposed; or

(iii) repurchased, redeemed or otherwise reacquired any Qualifying Equity Security during the 180-day period immediately preceding the Interest Payment Date for which interest deferral is proposed, other than repurchases, redemptions or reacquisitions (a) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (b) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

At any time the Company elects to defer payment of any interest amount on the Securities and for so long as any amount of deferred interest remains unpaid none of CEMEX and its Subsidiaries will:

(i) declare or pay any dividends, make any distributions or pay any interest on any Qualifying Equity Security; or

(ii) repurchase, redeem or otherwise reacquire any Qualifying Equity Security, other than repurchases, redemptions or reacquisitions (i) the sole consideration for which was the payment of common stock of CEMEX (or rights to acquire common stock of CEMEX), or (ii) in connection with the satisfaction of obligations under any existing or future benefit plan for directors, officers or employees.

SECTION 313 Conversion Upon Deferral.

At any time on or prior to June 30, 2017, upon the first Interest Payment Date for which the Company has elected to defer interest, the Company must, as a condition to interest deferral, convert the interest rate on the Securities from the Yen Rate to the Euro Fixed Rate as of that Interest Payment Date (which shall be the "Conversion Date" for purposes of any conversion pursuant to this Section 313) by written notice to the Holder, the Debenture Trustee, the Trustee and the Swap Counterparty not less than 10 Business Days prior to the payment date. No conversion shall be effective on any Interest Payment Date (and such Interest Payment Date shall not constitute the Conversion Date) unless C10-EUR Capital (SPV) Limited shall have received from the Company on or prior to such Interest Payment Date any applicable Conversion Payments with respect to such conversion.

SECTION 314 Conversion Upon Redemption.

If the company elects to redeem the Securities in accordance with Article Eleven on or prior to June 30, 2017, the Company must, as a condition to redemption, convert the interest rate on the Securities from the Yen Rate to the Euro Fixed Rate as of that Redemption Date (which shall be the "Conversion Date" for purposes of any conversion pursuant to this Section 314) by written notice to the Holder, the Debenture Trustee, the Trustee and the Swap Counterparty not less than 10 Business Days prior to the Interest Payment Date. Neither C10-EUR Capital (SPV) Limited nor the Debenture Trustee shall apply any proceeds of redemption of the Securities to pay any redemption price due with respect to the Debentures unless C10-EUR Capital (SPV) Limited shall have received from the Company on or prior to such Interest Payment Date any applicable Conversion Payment with respect to such conversion.

SECTION 315 Mandatory Conversion.

The interest rate on the Securities will automatically convert from the Yen Rate to the Euro Fixed Rate, if on any date (which shall be the "Conversion Date" for purposes of any conversion pursuant to this Section 315) on or prior to June 30, 2017:

(i) the Conditions to Anticipated Swap Termination have been deemed satisfied as of such date;

(ii) C10-EUR Capital (SPV) Limited delivers to the Company written notice that an Event of Default with respect to the payment of any installment of interest or any Event of Default under clause (5) or (6) of Section 501 has occurred;

(iii) the Securities are declared or become immediately due and payable as a result of an Event of Default; or

(iv) any amendment or modification on any term or condition under the Securities, which requires the consent of the holders of the Debentures pursuant to the Debenture Indenture, is made without the written consent of the Swap Counterparty.

Upon conversion, the Company may owe a Conversion Payment under the Conversion Payment Undertaking or may be entitled to Conversion Credits with respect to future interest payments on the Securities, provided that no Conversion Payment shall be due and no Conversion Credits shall apply if the Conditions to Anticipated Swap Termination have been satisfied as of the Conversion Date.

SECTION 316 No Sinking Fund.

The Securities will not be entitled to the benefit of a sinking fund.

ARTICLE FOUR

Satisfaction and Discharge

SECTION 401 Satisfaction and Discharge of Note Indenture.

This Note Indenture shall cease to be of further effect (except as to any surviving rights of registration of transfer or exchange of Securities herein expressly provided for), and the Trustee, on demand of and at the expense of the Company, shall execute proper instruments acknowledging satisfaction and discharge of this Note Indenture, when

(1) either

(A) all Securities theretofore authenticated and delivered (other than (i) Securities which have been destroyed, lost or stolen and which have been replaced or paid as provided in Section 305 and (ii) Securities for whose payment money has theretofore been deposited in trust or segregated and held in trust by the Company and thereafter repaid to the Company or discharged from such trust, as provided in Section 1003) have been delivered to the Trustee for cancellation; or

(B) all such Securities not theretofore delivered to the Trustee for cancellation

(i) have become due and payable, or

(ii) will become due and payable at their Stated Maturity within one year, or

(iii) are to be called for redemption within one year under arrangements satisfactory to the Trustee for the giving of notice of redemption by the Trustee in the name, and at the expense, of the Company,

and the Company or a Guarantor, in the case of (i), (ii) or (iii) above, has deposited or caused to be deposited with the Trustee as trust funds in trust for the purpose an amount sufficient to pay and discharge the entire indebtedness on such Securities not theretofore delivered to the Trustee for cancellation, for principal and interest to the date of such deposit (in the case of Securities which have become due and payable) or to the Stated Maturity or Redemption Date, as the case may be;

(2) the Company or a Guarantor has paid or caused to be paid all other sums payable hereunder by the Company and the Guarantors; and

(3) the Company has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that all conditions precedent herein provided for relating to the satisfaction and discharge of this Note Indenture have been complied with.

Notwithstanding the satisfaction and discharge of this Note Indenture, the obligations of the Company to the Trustee under Section 607, the obligations of the Trustee to any Authenticating Agent under Section 612 and, if money shall have been deposited with the Trustee pursuant to subclause (B) of Clause (1) of this Section, the obligations of the Trustee under Section 402 and the last paragraph of Section 1003 shall survive.

SECTION 402 Application of Trust Money.

Subject to the provisions of the last paragraph of Section 1003, all money deposited with the Trustee pursuant to Section 401 shall be held in trust and applied by it, in accordance with the provisions of the Securities and this Note Indenture, to the payment, either directly or through any Paying Agent (including the Company acting as its own Paying Agent) as the Trustee may determine, to the Persons entitled thereto, of the principal and interest for whose payment such money has been deposited with the Trustee.

ARTICLE FIVE

Remedies

SECTION 501 Events of Default.

"Event of Default", wherever used herein, means any one of the following events (whatever the reason for such Event of Default and whether it shall be voluntary or involuntary or be effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body):

(1) a failure to pay principal when due upon redemption or failure to pay interest, other than deferred interest, or other amounts due upon any Securities or under the Note Indenture within five Business Days after receipt of notice for any interest payment or such other amount due on or prior to the Conversion Date, and within 30 days of the date due for any interest payment due after the earlier of the Conversion Date and June 30, 2017;

(2) a failure to pay any amount due under the Conversion Payment Undertaking within 30 days of the due date;

(3) the Company or any of the Guarantors defaults in the performance or observance of any of its obligations with respect Sections 801 and 1005;

(4) the Company or any of the Guarantors defaults in the performance or observance of any of its covenants or other obligations (other than the obligation of CEMEX under Section 1006) and continuance of such default or breach for a period of 30 days after there has been given, by registered or certified mail, to the Company by the Trustee or by the Holders of at least 25% in principal amount of the Outstanding Securities a written notice specifying such default or breach and requiring it to be remedied and stating that such notice is a "Notice of Default" hereunder;

(5) the entry by a competent court of (A) a decree or order for relief in respect of the Company or any Guarantor in an involuntary case or proceeding under any applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law, or (B) a decree or order adjudging the Company or any such Guarantor bankrupt, insolvent or in *concurso mercantil*, or approving as properly filed a petition seeking reorganization, arrangement, adjustment, *concurso mercantil*, or composition of or in respect of, the Company or any such Guarantor under any applicable law of Mexico, or the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable law, or appointing a custodian, receiver, *síndico*, liquidator, conciliator, assignee, trustee, sequestrator or other similar official of the Company or any such Guarantor or of any substantial part of the property of the Company or any such Guarantor, or ordering the winding up or liquidation of the affairs of the Company or any such Guarantor and the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive days, other than, in any such case, any decree or order issued pursuant to proceedings that have been commenced prior to the date of this Note Indenture;

(6) the commencement by the Company or any Guarantor of a voluntary case or proceeding under any applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law or of any other case or proceeding to be adjudicated bankrupt, insolvent or in *concurso mercantil*, or the consent by the Company or any such Guarantor to the entry of a decree or order for relief in respect of the Company or any Guarantor in an involuntary case or proceeding under any applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable bankruptcy, insolvency, *concurso mercantil*, reorganization or other similar law or to the commencement of any bankruptcy or insolvency case or proceeding against the Company or any Guarantor, or the filing by the Company or any such Guarantor of a petition or answer or consent seeking reorganization, *concurso mercantil*, or relief under

any applicable law of Mexico, the United States of America, the Netherlands or other applicable jurisdiction or any political subdivision thereof or other applicable law, or the consent by the Company or any such Guarantor to the filing of such petition or to the appointment of or taking possession by a custodian, receiver, *síndico*, liquidator, conciliator, assignee, trustee, sequestrator or similar official of the Company or any Guarantor or of any substantial part of the property of the Company or any Guarantor, or the making by the Company or any Guarantor of an assignment for the benefit of creditors, or the admission by the Company or any such Guarantor in writing of its inability to pay its debts generally as they become due, or the taking of corporate action by the Company or any such Guarantor in furtherance of any such action; or

(7) any of the Securities, the Note Indenture, the Conversion Payment Undertaking or any Guarantee ceases to be, or is claimed by the Company or any Guarantor not to be, in full force and effect.

SECTION 502 Acceleration of Maturity; Rescission and Annulment .

If an Event of Default (other than an Event of Default specified in Section 501(5) or 501 (6)) occurs and is continuing, then and in every such case the Trustee shall, at the written request of the Holders of not less than 25% in principal amount of the Outstanding Securities, by notice in writing to the Company, declare the principal of all the Securities to be due and payable immediately, and upon any such declaration such principal and any accrued interest and any unpaid Additional Amounts thereon shall become immediately due and payable. Regardless of whether any action is taken by Holders pursuant to the preceding sentence if an Event of Default specified in Section 501(5) or (6) occurs and is continuing, the principal and any accrued interest, together with any Additional Amounts thereon, on all of the Securities then Outstanding shall *ipso facto* become due and payable immediately without any declaration or other Act on the part of the Trustee or any Holder.

At any time after such a declaration of acceleration has been made and before a judgment or decree for payment of the money due has been obtained by the Trustee as hereinafter in this Article, provided the Holders of at least 25% in principal amount of the Outstanding Securities, by written notice to the Company and the Trustee, may rescind and annul such declaration and its consequences if:

(1) the Company or any Guarantor has paid or deposited with the Trustee a sum sufficient to pay

(A) all overdue interest and any Additional Amounts thereon on all of the Securities,

(B) the principal of any Securities which have become due otherwise than by such declaration of acceleration and interest and any Additional Amounts thereon at the rate borne by the Securities,

(C) to the extent that payment of such interest is lawful, interest upon overdue interest at the rate borne by the Securities, and

(D) all sums paid or advanced by the Trustee hereunder and all amounts owing the Trustee under Section 607;

and

(2) all Events of Default, other than the non payment of the principal of Securities which have become due solely by such declaration of acceleration, have been cured or waived as provided in Section 513.

No such rescission shall affect any subsequent default or impair any right consequent thereon.

SECTION 503 Collection of Indebtedness and Suits for Enforcement by Trustee .

The Company covenants that if default is made in the payment of the principal of any Security at the Maturity thereof or any interest on any Security when such interest becomes due and payable and such default continues for a period of five Business Days after receipt of notice for any interest payment or such other amount due on or prior to the Conversion Date, and within 30 days of the date due for any interest payment or such other amount due after the earlier of the Conversion Date and June 30, 2017, the Company will, upon demand of the Trustee, pay to it, for the benefit of the Holders of such Securities, the whole amount then due and payable on such Securities for principal and interest, and, to the extent that payment of such interest shall be legally enforceable, interest on any overdue principal and on any overdue interest, at the rate borne by the Securities, together with any Additional Amounts thereon, and, in addition thereto, such further amount as shall be sufficient to cover the costs and expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and all amounts due the Trustee under Section 607.

If the Company fails to pay such amounts forthwith upon such demand, the Trustee, in its own name and as trustee of an express trust, may institute a judicial proceeding for the collection of the sums so due and unpaid, may prosecute such proceeding to judgment or final decree and may enforce the same against the Company, any Guarantor or any other obligor upon the Securities and collect the moneys adjudged or decreed to be payable in the manner provided by law out of the property of the Company, any Guarantor or any other obligor upon the Securities, wherever situated.

If an Event of Default occurs and is continuing, the Trustee may in its discretion proceed to protect and enforce its rights and the rights of the Holders by such appropriate judicial proceedings as the Trustee shall deem most effectual to protect and enforce any such rights, whether for the specific enforcement of any covenant or agreement in this Note Indenture or the Guarantee or in aid of the exercise of any power granted herein, or to enforce any other proper remedy.

SECTION 504 Trustee May File Proofs of Claim.

In case of any judicial proceeding relating to the Company, any Guarantor or any other obligor upon the Securities, its property or its creditors, the Trustee shall be entitled and empowered, by intervention in such proceeding or otherwise, to take any and all actions authorized

under the Trust Indenture Act (were such Act to apply with respect to this Note Indenture) in order to have claims of the Holders and the Trustee allowed in any such proceeding. In particular, the Trustee shall be authorized to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same; and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due it for the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, and any other amounts due the Trustee under Section 607.

No provision of this Note Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Securities or the rights of any Holder thereof or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding; provided, however, that the Trustee may, on behalf of the Holders, vote for the election of a trustee in bankruptcy or similar official and be a member of a creditors' or other similar committee.

SECTION 505 Trustee May Enforce Claims Without Possession of Securities.

All rights of action and claims under this Note Indenture or the Securities may be prosecuted and enforced by the Trustee without the possession of any of the Securities or the production thereof in any proceeding relating thereto, and any such proceeding instituted by the Trustee shall be brought in its own name as trustee of an express trust, and any recovery of judgment shall, after provision for the payment of the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel, be for the ratable benefit of the Holders of the Securities in respect of which such judgment has been recovered.

SECTION 506 Application of Money Collected.

Any money collected by the Trustee pursuant to this Article shall be applied in the following order, at the date or dates fixed by the Trustee and, in case of the distribution of such money on account of principal or interest, upon presentation of the Securities and the notation thereon of the payment if only partially paid and upon surrender thereof if fully paid:

FIRST: To the payment of all amounts due the Trustee under Section 607; and

SECOND: To the payment of the amounts then due and unpaid for principal of and interest on the Securities in respect of which or for the benefit of which such money has been collected, ratably, without preference or priority of any kind, according to the amounts due and payable on such Securities for principal and interest, respectively.

SECTION 507 Limitation on Suits.

At any time when there is more than one Holder of Securities, no Holder of any Security shall have any right to institute any proceeding, judicial or otherwise, with respect to this Note Indenture or the Guarantee, or for the appointment of a receiver or trustee, or for any other remedy hereunder or under the Guarantee, unless

(1) such Holder has previously given written notice to the Trustee of a continuing Event of Default;

(2) the Holders of not less than 25% in principal amount of the Outstanding Securities shall have made written request to the Trustee to institute proceedings in respect of such Event of Default in its own name as Trustee hereunder;

(3) such Holder or Holders have offered to the Trustee reasonable indemnity against the costs, expenses and liabilities to be incurred in compliance with such request;

(4) the Trustee for 60 days after its receipt of such notice, request and offer of indemnity has failed to institute any such proceeding; and

(5) no direction inconsistent with such written request has been given to the Trustee during such 60 day period by the Holders of a majority in principal amount of the Outstanding Securities;

it being understood and intended that no one or more Holders shall have any right in any manner whatever by virtue of, or by availing of, any provision of this Note Indenture to affect, disturb or prejudice the rights of any other Holders, or to obtain or to seek to obtain priority or preference over any other Holders or to enforce any right under this Note Indenture, except in the manner herein provided and for the equal and ratable benefit of all the Holders.

SECTION 508 Unconditional Right of Holders to Receive Principal and Interest .

Notwithstanding any other provision in this Note Indenture, the Holder of any Security (subject to Section 311) shall have the right, which is absolute and unconditional, to receive payment of the principal of and (subject to Section 307) interest on such Security, as applicable, on any relevant Stated Maturity expressed in such Security (or, in the case of redemption, on the Redemption Date), and to institute suit for the enforcement of any such payment, including under the Guarantee, and such rights shall not be impaired without the consent of such Holder.

SECTION 509 Restoration of Rights and Remedies .

If the Trustee or any Holder has instituted any proceeding to enforce any right or remedy under this Note Indenture or the Guarantee and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Trustee or to such Holder, then and in every such case, subject to any determination in such proceeding, the Company, the Guarantors, the Trustee and the Holders shall be restored severally and respectively to their former positions hereunder and thereafter all rights and remedies of the Trustee and the Holders shall continue as though no such proceeding had been instituted.

SECTION 510 Rights and Remedies Cumulative .

Except as otherwise provided with respect to the replacement or payment of mutilated, destroyed, lost or stolen Securities in the last paragraph of Section 306, no right or remedy herein or in the Guarantee conferred upon or reserved to the Trustee or to the Holders is intended to be exclusive of any other right or remedy, and every right and remedy shall, to the

extent permitted by law, be cumulative and in addition to every other right and remedy given hereunder or now or hereafter existing at law or in equity or otherwise. The assertion or employment of any right or remedy hereunder, or otherwise, shall not prevent the concurrent assertion or employment of any other appropriate right or remedy.

SECTION 511 Delay or Omission Not Waiver.

No delay or omission of the Trustee or of any Holder of any Security to exercise any right or remedy accruing upon any Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence therein. Every right and remedy given by this Article 5 or by law to the Trustee or to the Holders may be exercised from time to time, and as often as may be deemed expedient, by the Trustee or by the Holders, as the case may be.

SECTION 512 Control by Holders.

The Holders of a majority in principal amount of the Outstanding Securities shall have the right to direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or exercising any trust or power conferred on the Trustee, provided that

(1) such direction shall not be in conflict with any rule of law or with this Note Indenture,

(2) the Trustee may take any other action deemed proper by the Trustee which is not inconsistent with such direction, and

(3) the Trustee need not follow any such direction if doing so would in its reasonable discretion either involve it in personal liability or be unduly prejudicial to Holders not joining in such direction;

provided further, that the Trustee shall have no obligation to make any determination with respect to any such conflict, personal liability or undue prejudice.

SECTION 513 Waiver of Past Defaults.

The Holders of not less than a majority in principal amount of the Outstanding Securities (or such lesser percentage of the aggregate principal amount of the Outstanding Securities as may act at a meeting of the Holders pursuant to Section 1304) may on behalf of the Holders of all the Securities waive any past default hereunder and its consequences, except a default

(1) in the payment of the principal of or interest on any Security, or

(2) in respect of a covenant or provision hereof which under Article Nine cannot be modified or amended without the consent of the Holder of each Outstanding Security affected.

Upon any such waiver, such default shall cease to exist, and any Event of Default arising therefrom shall be deemed to have been cured, for every purpose of this Note Indenture; but no such waiver shall extend to any subsequent or other default or impair any right consequent thereon.

SECTION 514 Undertaking for Costs.

In any suit for the enforcement of any right or remedy under this Note Indenture or the Guarantee, or in any suit against the Trustee for any action taken, suffered or omitted by it as Trustee, a court may require any party litigant in such suit to file an undertaking to pay the costs of such suit, and may assess costs against any such party litigant; provided, that this Section 514 shall not be deemed to authorize any court to require such an undertaking or to make such an assessment in any suit instituted by the Company or any Guarantor, to any suit instituted by the Trustee, to any suit instituted by any Holder or group of Holders holding in the aggregate more than 10% in principal amount of the Outstanding Securities, or to any suit instituted by any Holder of any Security for the enforcement of the payment of the principal of or interest on any Security on or after the Stated Maturity expressed in such Security (or, in the case of redemption, on or after the Redemption Date).

SECTION 515 Waiver of Usury, Stay or Extension Laws.

Each of the Company and the Guarantors covenants (to the extent that it may lawfully do so) that it will not at any time insist upon, or plead, or in any manner whatsoever claim or take the benefit or advantage of, any usury, stay or extension law wherever enacted, now or at any time hereafter in force, which may affect the covenants or the performance of this Note Indenture; and each of the Company and the Guarantors (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

ARTICLE SIX

The Trustee

SECTION 601 Certain Duties and Responsibilities.

(a) Except during the continuance of an Event of Default,

(1) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Note Indenture, and no implied covenants or obligations shall be read into this Note Indenture against the Trustee; and

(2) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Note Indenture; but in the case of any such certificates or opinions which by any provision hereof are specifically required to be furnished to the Trustee, the Trustee shall be under a duty to examine the same to determine whether they conform to the requirements of this Note Indenture.

(b) In case an Event of Default has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Note Indenture, and use the same degree of care and skill in their exercise, as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(c) No provision of this Note Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that

(1) this paragraph (c) shall not be construed to limit the effect of paragraph (a) of this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith, unless it shall be proved that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of the Holders of a majority in principal amount of the Outstanding Securities relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Note Indenture; and

(4) no provision of this Note Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(d) Regardless of whether therein expressly so provided, every provision of this Note Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Section.

SECTION 602 Notice of Defaults.

Within 90 days after the occurrence of any default hereunder of which the Trustee has adequate actual notice, the Trustee shall give to all Holders, in the manner provided for in Section 106, notice of such default hereunder known to the Trustee, unless such default shall have been cured or waived; provided, however, that in the case of any default of the character specified in Section 501(2) and 501(4), no such notice to Holders shall be given until at least 30 days after the occurrence thereof. For the purpose of this Section, the term “default” means any event which is, or after notice or lapse of time or both would become, an Event of Default.

SECTION 603 Certain Rights of Trustee.

Subject to the provisions of Section 601:

(a) the Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties;

(b) any request or direction of the Company mentioned herein shall be sufficiently evidenced by a Company Request or Company Order and any resolution of the Board of Directors may be sufficiently evidenced by a Board Resolution;

(c) whenever in the administration of this Note Indenture the Trustee shall deem it desirable that a matter be proved or established prior to taking, suffering or omitting any action hereunder, the Trustee (unless other evidence be herein specifically prescribed) may, in the absence of bad faith on its part, rely upon an Officers' Certificate;

(d) the Trustee may consult with counsel and the written advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon;

(e) the Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Note Indenture at the request or direction of any of the Holders pursuant to this Note Indenture, unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses and liabilities which might be incurred by it in compliance with such request or direction;

(f) the Trustee shall not be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, bond, debenture, note, other evidence of indebtedness or other paper or document, but the Trustee, in its discretion, may make such further inquiry or investigation into such facts or matters as it may see fit, and, if the Trustee shall determine to make such further inquiry or investigation, it shall be entitled to examine the books, records and premises of the Company, personally or by agent or attorney; and

(g) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

SECTION 604 Not Responsible for Recitals or Issuance of Securities.

The recitals contained herein and in the Securities, except the Trustee's certificates of authentication, shall be taken as the statements of the Company or the Guarantors, as the case may be, and the Trustee or any Authenticating Agent assumes no responsibility for their correctness. The Trustee makes no representations as to the validity or sufficiency of this Note Indenture, the Guarantee or of the Securities. The Trustee or any Authenticating Agent shall not be accountable for the use or application by the Company of Securities or the proceeds thereof.

SECTION 605 May Hold Securities.

The Trustee, any Authenticating Agent, any Paying Agent, any Security Registrar or any other agent of the Company or any Guarantor, in its individual or any other capacity, may become the owner or pledgee of Securities and, subject to Section 601, may otherwise deal with the Company or any Guarantor with the same rights it would have if it were not Trustee, Authenticating Agent, Paying Agent, Security Registrar or such other agent.

SECTION 606 Money Held in Trust.

Money held by the Trustee in trust hereunder need not be segregated from other funds except to the extent required by law. The Trustee shall be under no liability for interest on any money received by it hereunder except as otherwise agreed in writing with the Company or any Guarantor, as the case may be.

SECTION 607 Compensation and Reimbursement.

The Company and each Guarantor agrees

(1) to pay to the Trustee from time to time reasonable compensation for all services rendered by it hereunder (which compensation shall not be limited by any provision of law in regard to the compensation of a trustee of an express trust);

(2) except as otherwise expressly provided herein, to reimburse the Trustee upon its request for all reasonable expenses, disbursements and advances incurred or made by the Trustee in accordance with any provision of this Note Indenture (including the reasonable compensation and the expenses and disbursements of its agents and counsel), except to the extent any such expense, disbursement or advance may be attributable to its negligence or bad faith; and

(3) to indemnify the Trustee for, and to hold it harmless against, any loss, liability or expense arising out of or in connection with the acceptance or administration of this trust or the performance of its duties hereunder, including the costs and expenses of defending itself against any claim or liability in connection with the exercise or performance of any of its powers or duties hereunder, except to the extent any such loss, liability or expense may be attributable to its negligence or bad faith.

The obligations of the Company under this Section 607 shall constitute additional indebtedness hereunder as to which the Trustee shall have a claim senior to the Securities (which are hereby subordinated thereto) to all property and funds collected by the Trustee as such (except funds held in trust for the benefit of particular Securities) and shall survive satisfaction and discharge of this Note Indenture. "Trustee" for purposes of this Section 607 shall include each Trustee, predecessor trustee, Authenticating Agent, Paying Agent, Security Registrar or other agent of the Trustee, Company or Guarantor appointed hereunder, but the negligence or bad faith of any such Person shall not affect the rights of any other such Person under this Section 607. The Guarantors agree that upon the occurrence of the conditions to the effectiveness of the Guarantee described therein, the Guarantors shall be jointly and severally liable for the obligations of the Company pursuant to this Section 607.

SECTION 608 Corporate Trustee Required; Eligibility.

There shall at all times be one (and only one) Trustee hereunder, which shall be a corporation organized, in good standing and doing business under the laws of the United States of America, any State thereof or the District of Columbia, shall be authorized under such laws to

exercise corporate trust powers, shall have a combined capital and surplus of at least $50,000,000, shall be subject to supervision or examination by federal or state authority, and shall have a place of business in the Borough of Manhattan, The City of New York. If such corporation publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section 608, the combined capital and surplus of such corporation shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time the Trustee shall cease to be eligible in accordance with the provisions of this Section, it shall resign immediately in the manner and with the effect hereinafter specified in this Article. Neither the Company, nor any Guarantor nor any other obligor upon the Securities nor any Affiliate of any of the foregoing shall serve as Trustee.

SECTION 609 Resignation and Removal; Appointment of Successor .

(a) No resignation or removal of the Trustee and no appointment of a successor Trustee pursuant to this Article shall become effective until the acceptance of appointment by the successor Trustee under Section 610.

(b) The Trustee may resign at any time by giving written notice thereof to the Company and the Guarantors. If an instrument of acceptance by a successor Trustee required by Section 610 shall not have been delivered to the Trustee within 30 days after the giving of such notice of resignation, the resigning Trustee may petition any court of competent jurisdiction for the appointment of a successor Trustee.

(c) The Trustee may be removed at any time by Act of the Holders of a majority in principal amount of the Outstanding Securities, delivered to the Trustee and to the Company.

(d) If at any time:

(1) the Trustee shall cease to be eligible under Section 608 and shall fail to resign after written request therefor by the Company or by any such Holder, or

(2) the Trustee shall become incapable of acting or shall be adjudged a bankrupt or insolvent or a receiver of the Trustee or of its property shall be appointed or any public officer shall take charge or control of the Trustee or of its property or affairs for the purpose of rehabilitation, conservation or liquidation,

then, in any such case, (i) the Company by a Board Resolution may remove the Trustee, or (ii) subject to Section 514, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(e) If the Trustee shall resign, be removed or become incapable of acting, or if a vacancy shall occur in the office of Trustee for any cause, the Company, by a Board Resolution, shall promptly appoint a successor Trustee. If, within one year after such resignation, removal or incapability, or the occurrence of such vacancy, a successor Trustee shall be appointed by Act of the Holders of a majority in principal amount of the Outstanding Securities delivered to the Company, the Guarantors and the retiring Trustee, the successor Trustee so appointed shall, forthwith upon its acceptance of such appointment in the manner hereinafter provided, become the successor Trustee

and supersede the successor Trustee appointed by the Company. If no successor Trustee shall have been so appointed by the Company or the Holders and accepted appointment in the manner hereinafter provided, any Holder who has been a bona fide Holder of a Security for at least six months may, on behalf of himself and all others similarly situated, petition any court of competent jurisdiction for the appointment of a successor Trustee.

(f) The Company shall give notice of each resignation and each removal of the Trustee and each appointment of a successor Trustee to all Holders in the manner provided in Section 106. Each notice shall include the name of the successor Trustee and the address of its Corporate Trust Office.

SECTION 610 Acceptance of Appointment by Successor.

Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to the Company, the Guarantors and to the retiring Trustee an instrument accepting such appointment, and thereupon the resignation or removal of the retiring Trustee shall become effective and such successor Trustee, without any further act, deed or conveyance, shall become vested with all the rights, powers, trusts and duties of the retiring Trustee; but, on request of the Company or the successor Trustee, such retiring Trustee shall, upon payment of its charges, execute and deliver an instrument transferring to such successor Trustee all the rights, powers and trusts of the retiring Trustee and shall duly assign, transfer and deliver to such successor Trustee all property and money held by such retiring Trustee hereunder. Upon request of any such successor Trustee, the Company and the Guarantors shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts.

No successor Trustee shall accept its appointment unless at the time of such acceptance such successor Trustee shall be qualified and eligible under this Article.

SECTION 611 Merger, Conversion, Consolidation or Succession to Business.

Any corporation into which the Trustee may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which the Trustee shall be a party, or any corporation succeeding to all or substantially all the corporate trust business of the Trustee, shall be the successor of the Trustee hereunder, provided such corporation shall be otherwise qualified and eligible under this Article, without the execution or filing of any paper or any further act on the part of any of the parties hereto. In case any Securities shall have been authenticated, but not delivered, by the Trustee then in office, any successor by merger, conversion or consolidation to such authenticating Trustee may adopt such authentication and deliver the Securities so authenticated with the same effect as if such successor Trustee had itself authenticated such Securities.

SECTION 612 Appointment of Authenticating Agent.

The Trustee may appoint an Authenticating Agent or Agents which shall be authorized to act on behalf of the Trustee to authenticate Securities issued upon original issue and upon exchange, registration of transfer or pursuant to Section 305, and Securities so authenticated shall be entitled to the benefits of this Note Indenture and shall be valid and obligatory for all purposes as if authenticated by the Trustee hereunder. Wherever reference is made in this Note Indenture to the authentication and delivery of Securities by the Trustee or the Trustee's certificate

of authentication, such reference shall be deemed to include authentication and delivery on behalf of the Trustee by an Authenticating Agent and a certificate of authentication executed on behalf of the Trustee by an Authenticating Agent. Each Authenticating Agent shall be acceptable to the Company and shall at all times be a corporation organized and doing business under the laws of the United States of America, any State thereof or the District of Columbia, authorized under such laws to act as Authenticating Agent, having a combined capital and surplus of not less than $50,000,000 and subject to supervision or examination by federal or State authority. If such Authenticating Agent publishes reports of condition at least annually, pursuant to law or to the requirements of said supervising or examining authority, then for the purposes of this Section, the combined capital and surplus of such Authenticating Agent shall be deemed to be its combined capital and surplus as set forth in its most recent report of condition so published. If at any time an Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, such Authenticating Agent shall resign immediately in the manner and with the effect specified in this Section.

Any corporation into which an Authenticating Agent may be merged or converted or with which it may be consolidated, or any corporation resulting from any merger, conversion or consolidation to which such Authenticating Agent shall be a party, or any corporation succeeding to the corporate agency or corporate trust business of an Authenticating Agent, shall continue to be an Authenticating Agent, provided such corporation shall be otherwise eligible under this Section, without the execution or filing of any paper or any further act on the part of the Trustee or the Authenticating Agent.

An Authenticating Agent may resign at any time by giving written notice thereof to the Trustee and to the Company. The Trustee may at any time terminate the agency of an Authenticating Agent by giving written notice thereof to such Authenticating Agent and to the Company. Upon receiving such a notice of resignation or upon such a termination, or in case at any time such Authenticating Agent shall cease to be eligible in accordance with the provisions of this Section, the Trustee may appoint a successor Authenticating Agent which shall be acceptable to the Company and shall mail written notice of such appointment by first class mail, postage prepaid, to all Holders as their names and addresses appear in the Security Register. Any successor Authenticating Agent upon acceptance of its appointment hereunder shall become vested with all the rights, powers and duties of its predecessor hereunder, with like effect as if originally named as an Authenticating Agent. No successor Authenticating Agent shall be appointed unless eligible under the provisions of this Section.

The Trustee agrees to pay to each Authenticating Agent from time to time reasonable compensation for its services under this Section, and the Trustee shall be entitled to be reimbursed for such payments, subject to the provisions of Section 607.

If an appointment is made pursuant to this Section, the Securities may have endorsed thereon, in addition to the Trustee's certificate of authentication, an alternative certificate of authentication in the following form:

This is one of the Securities described in the within mentioned Note Indenture.

The Bank of New York,
As Trustee

By _____
As Authenticating Agent

By _____
Authorized Officer

SECTION 613 Withholding Tax Information.

The Trustee will provide copies to the Company, upon the written request of the Company, of any Department of the Treasury Form W-8 (Certificate of Foreign Status) or W-9 (Request for Taxpayer Identification Number and Certification), any substitute form therefor and any other similar documentation, if any, that is received by the Trustee from the Holders or beneficial owners of the Securities, unless, in the case of any such form or documentation provided to the Trustee by a particular Holder or beneficial owner of Securities, such Holder or beneficial owner provides a legal opinion reasonably satisfactory to the Trustee to the effect that so providing such form or similar documentation to the Company is prohibited by applicable law.

ARTICLE SEVEN

Holders' Lists and Reports by Trustee and Company

SECTION 701 Company to Furnish Trustee Names and Addresses of Holders .

The Company will furnish or cause to be furnished to the Trustee

(a) semi-annually, not more than 15 days after each Regular Record Date, a list, in such form as the Trustee may reasonably require, of the names and addresses of the Holders as of such Regular Record Date, and

(b) at such other times as the Trustee may request in writing, within 30 days after the receipt by the Company of any such request, a list of similar form and content as of a date not more than 15 days prior to the time such list is furnished;

excluding from any such list names and addresses received by the Trustee in its capacity as Security Registrar.

SECTION 702 Preservation of Information; Communications to Holders .

The Trustee shall preserve, in as current a form as is reasonably practicable, the names and addresses of Holders contained in the most recent list furnished to the Trustee as provided in Section 701 and the names and addresses of Holders received by the Trustee in its capacity as Security Registrar. The Trustee may destroy any list furnished to it as provided in Section 701 upon receipt of a new list so furnished.

ARTICLE EIGHT

Consolidation, Merger, Conveyance, Transfer or Lease

SECTION 801 Company May Consolidate, Etc. Only on Certain Terms.

So long as any of the Securities remain outstanding, neither the Company nor any Guarantor will, in one or more related transactions, (x) consolidate with or merge into any other Person or permit any other Person to merge into it or (y), directly or indirectly, transfer, convey, sell, lease or otherwise dispose of all or substantially all of its properties and assets to any Person, unless, with respect to any transaction described in clause (x) or (y), immediately after giving effect to such transaction:

(1) the Person formed by any such consolidation or merger, if it is not the Company or any Guarantor, or the Person that acquires by transfer, conveyance, sale, lease or other disposition all or substantially all of the properties and assets of the Company or any Guarantor, as the case may be, (any such Person, a "Successor") shall be a corporation organized and validly existing under the laws of its place of incorporation, which (A) in the case of a Successor to CEMEX shall be Mexico, the United States of America, Canada, France, Belgium, Germany, Italy, Luxembourg, the Netherlands, Portugal, Spain, Switzerland or the United Kingdom, or any political subdivision thereof, (B) in the case of a Successor to the Company, shall expressly assume by an indenture supplemental hereto executed and delivered to the Trustee, in form satisfactory to the Trustee, the due and punctual payment of the principal of and interest on all the Securities and the performance of every covenant of the Note Indenture on the part of the Company to be performed or observed and (C) in the case of a Successor to any Guarantor, shall expressly assume (by an indenture supplemental hereto and an instrument supplemental to the Guarantee executed and delivered to the Trustee, in forms satisfactory to the Trustee) the performance of every covenant of the Note Indenture and the Guarantee on the part of such Guarantor to be performed or observed;

(2) in the case of any such transaction involving the Company or any Guarantor, the Company or such Guarantor, or the Successor thereof, as the case may be, shall expressly agree to indemnify each Holder (and each holder of a beneficial interest in a Security) against any tax, levy, assessment or governmental charge payable by withholding or deduction thereafter imposed on such Holder (or holder of a beneficial interest in the Securities) solely as a consequence of such transaction with respect to payments in respect of the Securities or any purchase thereof by the Company or any Guarantor, or the Successor of any thereof;

(3) immediately after giving effect to such transaction, including for purposes of this clause (3) the substitution of any Successor to the Company for the Company or the substitution of any Successor to a Guarantor for such Guarantor and treating any Debt or Lien incurred by the Company or any Successor to the Company, or by any Successor to the Company as a result of such transactions as having been incurred at the time of such transaction, no Event of Default, or an event or condition which, after the giving of notice or lapse of time, or both, would become an Event of Default, shall have occurred and be continuing; and

(4) CEMEX has delivered to the Trustee an Officers' Certificate and an Opinion of Counsel, each stating that such consolidation, merger, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture comply with this Article and that all conditions precedent herein provided for relating to such transaction have been complied with.

SECTION 802 Successor Substituted.

Upon any consolidation of the Company or any Guarantor with, or merger of the Company or any Guarantor into, any other Person or any conveyance, transfer, sale, lease or other disposition of the properties and assets of the Company or any Guarantor in accordance with Section 801, the Successor shall succeed to, and be substituted for, and may exercise every right and power of, the Company or such Guarantor, as the case may be, under this Note Indenture and the Guarantee with the same effect as if such Successor had been named as the Company or such Guarantor, as the case may be, herein and therein, and thereafter, except in the case of a lease, the predecessor Person shall be relieved of all obligations and covenants under this Note Indenture, the Guarantee and the Securities.

ARTICLE NINE

Supplemental Indentures

SECTION 901 Supplemental Indentures Without Consent of Holders.

Without the consent of any Holders, the Company and the Guarantors, when authorized by an Officers' Certificate, and the Trustee, at any time and from time to time, may enter into one or more indentures supplemental hereto, in form reasonably satisfactory to the Trustee, for any of the following purposes:

(1) to add a guarantor; or

(2) to add to the covenants of the Company for the benefit of the Holders, or to surrender any right or power herein conferred upon the Company; or

(3) to cure any ambiguity or correct any manifest error; or

(4) to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, or to make any other provisions with respect to matters or questions arising under this Note Indenture which shall not be inconsistent with the provisions of this Note Indenture, provided that such action pursuant to this Clause (4) shall not adversely affect the interests of the Holders or the holder of any beneficial interest in a Debenture in any material respect; or

(5) to evidence the succession of another Person to the Company or any Guarantor and the assumption by any such successor of the covenants of the Company or such Guarantor, as the case may be, herein and in the Securities; or

(6) to secure the Securities.

SECTION 902 Supplemental Indentures With Consent of Holders.

With the consent of the Trustee, Swap Counterparty, the holders of not less than the majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and the Holders of not less than a majority in principal amount of the Outstanding Securities (or such lesser percentage of the aggregate principal amount of the Outstanding Securities as may act at a meeting of the Holders pursuant to Section 1304), by Act of said Holders delivered to the Company and the Trustee, the Company and the Guarantors, when authorized by an Officers' Certificate, and the Trustee may enter into an indenture or indentures supplemental hereto for the purpose of adding any provisions to or changing in any manner or eliminating any of the provisions of this Note Indenture or of modifying in any manner the rights of the Holders or any beneficial interests in the Securities under this Note Indenture; provided, however, that no such supplemental indenture shall, without the consent of the Holders of each Outstanding Security and the holders of each Debenture affected thereby,

(1) change any Stated Maturity of the principal of, or any installment of interest on, any Security, or reduce the principal amount thereof or the rate of interest thereon, or change the obligation of the Company to pay Additional Amounts pursuant to Section 1007 or change the place of payment where, or the coin or currency in which, any Security or interest thereon is payable, or impair the right to institute suit for the enforcement of any such payment on or after the Stated Maturity thereof (or, in the case of redemption, on or after the Redemption Date), or

(2) reduce the percentage in principal amount of the Outstanding Securities, the consent of whose Holders is required for any such supplemental indenture or any amendment or modification to the Guarantee, or the consent of whose Holders is required for any waiver (of compliance with certain provisions of this Note Indenture or certain defaults hereunder and their consequences or of compliance with the Guarantee) provided for in this Note Indenture, or

(3) modify any of the provisions of this Section 902 or Section 513 except to increase any such percentage or to provide that certain other provisions of this Note Indenture and the Guarantee cannot be modified or waived without the consent of the Holder of each Outstanding Security affected thereby, or

(4) modify any of the provisions of Section 113, 1006 or 1010 in a manner adverse to any Holder of a Security, or

(5) release any Guarantor (other than as provided in Article Eight hereof).

It shall not be necessary for any Act of Holders under this Section to approve the particular form of any proposed supplemental indenture, but it shall be sufficient if such Act shall approve the substance thereof.

SECTION 903 Execution of Supplemental Indentures.

In executing, or accepting the additional trusts created by, any supplemental indenture permitted by this Article or the modifications thereby of the trusts created by this Note Indenture, the Trustee shall be entitled to receive, and (subject to Section 601) shall be fully

protected in relying upon, an Opinion of Counsel stating that the execution of such supplemental indenture is authorized or permitted by this Note Indenture. The Trustee may, but shall not be obligated to, enter into any such supplemental indenture which affects the Trustee's own rights, duties or immunities under this Note Indenture or otherwise.

SECTION 904 Effect of Supplemental Indentures.

Upon the execution of any supplemental indenture under this Article, this Note Indenture shall be modified in accordance therewith, and such supplemental indenture shall form a part of this Note Indenture for all purposes; and every Holder of Securities theretofore or thereafter authenticated and delivered hereunder shall be bound thereby.

SECTION 905 Reference in Securities to Supplemental Indentures.

Securities authenticated and delivered after the execution of any supplemental indenture pursuant to this Article may, and shall if required by the Trustee, bear a notation in form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Company shall so determine, new Securities so modified as to conform, in the opinion of the Trustee and the Company, to any such supplemental indenture may be prepared and executed by the Company and authenticated and delivered by the Trustee in exchange for Outstanding Securities.

ARTICLE TEN

Covenants

SECTION 1001 Payment of Principal and Interest.

The Company will duly and punctually pay the principal of and interest (together with any Additional Amounts payable thereon) on the Securities in accordance with the terms of the Securities and this Note Indenture. The Guarantors jointly and severally covenant that they will, as and when any amounts are due hereunder or under any Security, duly and punctually pay such amounts as provided in the Guarantee.

SECTION 1002 Maintenance of Office or Agency.

The Company will maintain in the Borough of Manhattan, The City of New York, an office or agency where Securities may be presented or surrendered for payment, where Securities may be surrendered for registration of transfer or exchange and where notices and demands to or upon the Company or any Guarantor in respect of the Securities, this Note Indenture or the Guarantee may be served. The Company will give prompt written notice to the Trustee of the location, and any change in the location, of such office or agency. If at any time the Company shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and each of the Company and the Guarantors hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

SECTION 1003 Money for Security Payments to Be Held in Trust.

If the Company shall at any time act as its own Paying Agent, it will, on or before each due date of the principal of or interest (together with any Additional Amounts payable thereon) on any of the Securities, segregate and hold in trust for the benefit of the Persons entitled thereto a sum sufficient to pay the principal or interest (together with any Additional Amounts payable thereon) so becoming due until such sums shall be paid to such Persons or otherwise disposed of as herein provided and will promptly notify the Trustee of its action or failure so to act.

Whenever the Company shall have one or more Paying Agents, it will, prior to each due date of the principal of or interest (together with any Additional Amounts payable thereon) on any Securities, deposit with a Paying Agent a sum sufficient to pay such amount, such sum to be held in trust for the benefit of Persons entitled to such principal or interest (together with any Additional Amounts payable thereon), and (unless such Paying Agent is the Trustee) the Company will promptly notify the Trustee of its action or failure so to act.

The Company will cause each Paying Agent other than the Trustee to execute and deliver to the Trustee an instrument in which such Paying Agent shall agree with the Trustee, subject to the provisions of this Section 1003, that such Paying Agent will

(1) hold all sums held by it for the payment of the principal of or interest on Securities in trust for the benefit of the Persons entitled thereto until such sums shall be paid to such Persons or otherwise disposed of as herein provided;

(2) give the Trustee notice of any default by the Company (or any other obligor upon the Securities including, without limitation, any Guarantor) in the making of any payment in respect of the Securities; and

(3) at any time during the continuance of any such default, upon the written request of the Trustee, forthwith pay to the Trustee all sums so held in trust by such Paying Agent.

The Company may at any time, for the purpose of obtaining the satisfaction and discharge of this Note Indenture or for any other purpose, pay, or by Company Order direct any Paying Agent to pay, to the Trustee all sums held in trust by the Company or such Paying Agent, such sums to be held by the Trustee upon the same trusts as those upon which such sums were held by the Company or such Paying Agent; and, upon such payment by any Paying Agent to the Trustee, such Paying Agent shall be released from all further liability with respect to such money.

Any money deposited with the Trustee or any Paying Agent, or then held by the Company, in trust for the payment of the principal of or interest (together with any Additional Amounts payable thereon) on any Security and remaining unclaimed for two years after such principal or interest (together with any Additional Amounts payable thereon) has become due and payable shall be paid to the Company on Company Request, or (if then held by the Company) shall be discharged from such trust; and the Holder of such Security shall thereafter, as an unsecured general creditor, look only to the Company for payment thereof, and all liability of the Trustee or such Paying Agent with respect to such trust money, and all liability of the Company as trustee thereof, shall thereupon cease; provided, however, that the Trustee or such Paying Agent, before being required to make any such repayment, may at the expense of the Company cause to be

published once, in newspapers published in the English language, customarily published on each Business Day and of general circulation in the Borough of Manhattan, The City of New York, that such money remains unclaimed and that, after a date specified therein, which shall not be less than 30 days from the date of such publication, any unclaimed balance of such money then remaining will be repaid to the Company.

SECTION 1004 Statement by Officers as to Default.

In the event that any officer of the Company or CEMEX becomes aware of or obtains knowledge of the occurrence of any Event of Default or Default, if any such Event of Default or Default is then continuing, CEMEX will deliver to a Responsible Officer of the Trustee an Officers' Certificate of CEMEX, one of the signatories of which shall be the Corporate Planning and Finance Director, Finance Director, Chief Financial Officer or Comptroller of CEMEX, setting forth the details thereof and the action that the Company or CEMEX is taking or proposes to take with respect thereto and shall make such Officers' Certificate available for inspection by Holders and holders of beneficial interests in the Securities.

SECTION 1005 Corporate Existence.

The Company and each Guarantor will at all times preserve and keep in full force and effect its corporate existence and rights and franchises deemed material to its business, except as otherwise specifically permitted by Section 801 and except that the corporate existence of any Subsidiary of CEMEX may be terminated, and any right or franchise may be disposed of, if such termination or disposition is, in the good faith judgment of CEMEX, in the best interests of CEMEX and is not disadvantageous to the Holders or the holders of beneficial interests in Securities.

SECTION 1006 Available Information.

(a) At all times when CEMEX is required to file any financial statements or reports with the Commission, CEMEX shall use its best efforts to file all required statements or reports in a timely manner in accordance with the rules and regulations of the Commission.

(b) In addition to the information required to be provided under Section 1006(a), CEMEX will deliver to the Trustee, promptly upon the mailing thereof to the shareholders of CEMEX, copies of all financial statements, reports and proxy statements so mailed.

SECTION 1007 Payment of Additional Amounts.

(a) All payments of principal and interest in respect of the Securities, the Note Indenture and the Guarantee by or for the account of the Company or any Guarantor shall be made without withholding or deduction for any present or future taxes, duties, assessments or governmental charges of whatever nature imposed, levied, collected, withheld or assessed by or on behalf of Mexico, the Netherlands, the British Virgin Islands or in the event the Company or any Guarantor appoints additional paying agents, by the jurisdictions of such additional paying agents (each a "Note Taxing Jurisdiction"), or any political subdivision thereof or any authority therein or thereof ("Applicable Taxes"), except to the extent that such Applicable Taxes are required by a Note Taxing Jurisdiction or any such political subdivision or authority to be withheld or deducted. In the event of any withholding or deduction for any Applicable Taxes, the Company and the

Guarantors shall pay such additional amounts ("Additional Amounts") as will result in receipt by the Holders of Securities on the respective due dates of such amounts as would have been received by them had no such withholding or deduction (including for any Applicable Taxes payable in respect of Additional Amounts) been required, except that no such Additional Amounts shall be payable with respect to any payment on a Security:

(i) to the extent that such taxes or duties are imposed or levied by reason of such holder (or the beneficial owner) having some connection with the Note Taxing Jurisdiction other than the mere holding (or beneficial ownership) of such Securities;

(ii) to the extent that such taxes or duties are imposed on, or measured by, net income of the holder (or beneficial owner);

(iii) in respect of which the holder (or beneficial owner) fails to comply with any certification, identification or other reporting requirement concerning its nationality, residence, identity or connection with the Note Taxing Jurisdiction if (1) compliance is required by applicable law, regulation, administrative practice or treaty as a precondition to exemption from all or a part of the taxes, (2) the holder (or beneficial owner) is able to comply with those requirements without undue hardship and (3) the Company has given all holders at least 30 days' prior notice that they will be required to comply with such requirements;

(iv) in respect of which the holder (or beneficial owner) fails to surrender (where surrender is required) its Securities for payment within 30 days after the Company has made available a payment of principal or interest, provided that the Company will pay Additional Amounts to which a holder would have been entitled had the Securities been surrendered on any day (including the last day) within such 30-day period;

(v) to the extent that such taxes or duties are imposed by reason of an estate, inheritance, gift, value added, use or sales tax or any similar taxes, assessments or other governmental charges;

(vi) where such withholding or deduction is imposed on a payment to an individual and is required to be made pursuant to any European Union Directive on the taxation of savings implementing the conclusions of the ECOFIN Council meeting of 26-27 November 2000 or any law implementing or complying with, or introduced in order to conform to, such Directive; or

(vii) by or on behalf of a holder who would have been able to avoid such withholding or deduction by presenting the relevant Securities to another paying agent in a member state of the European Union.

The Company shall provide the Trustee, as soon as practicable, with documentation (which may consist of certified copies of such documentation) satisfactory to the Trustee evidencing the payment of Applicable Taxes in respect of which the Company has paid any Additional Amounts. Copies of such documentation shall be made available to the Holders of the Securities or the Paying Agent, as applicable, upon request therefor.

In respect of the Securities issued hereunder, at least five Business Days prior to the first date of payment of interest on the Securities and at least five Business Days prior to each date, if any, of payment of principal or interest thereafter if there has been any change with respect to the matters set forth in the below mentioned Officers' Certificate, the Company shall furnish the Trustee and each Paying Agent with an Officers' Certificate instructing the Trustee and such Paying Agent as to whether such payment of principal of or any interest on such Securities shall be made without deduction or withholding for or on account of any tax, duty, assessment or other governmental charge. If any such deduction or withholding shall be required by Mexico or under the federal laws of the United States, then such certificate shall specify, by country, the amount, if any, required to be deducted or withheld on such payment to Holders of such Securities, and the Company shall pay or cause to be paid to the Trustee or such Paying Agent Additional Amounts, if any, required by this Section 1007. The Company agrees to indemnify the Trustee and each Paying Agent for, and to hold them harmless against, any loss, liability or expense reasonably incurred without negligence or bad faith on their part arising out of or in connection with actions taken or omitted by them in reliance on any Officers' Certificate furnished pursuant to this Section 1007.

(b) The Company and the Guarantors shall pay all stamp and other duties, if any, which may be imposed by Mexico, the United States of America, the Netherlands or any other applicable jurisdiction or any other governmental entity or political subdivision therein or thereof, or any taxing authority of or in any of the foregoing, with respect to the Note Indenture, the Guarantee or the issuance of the Securities.

(c) The Company shall provide each Paying Agent and any withholding agent under relevant tax regulations with copies of each certificate received by the Company from a Holder of a Security pursuant to the text of such Security. Each such Paying Agent and withholding agent shall retain each such certificate received by it for as long as any Security is Outstanding and in no event for less than four years after its receipt, and for such additional period thereafter, as set forth in an Officers' Certificate, as such certificate may become material in the administration of applicable tax laws.

(d) All references in this Note Indenture, the Securities and the Guarantee to principal or interest in respect of any Security shall be deemed to mean and include all Additional Amounts, if any, payable in respect of such principal or interest, unless the context otherwise requires, and express mention of the payment of Additional Amounts in any provision hereof or thereof shall not be construed as excluding reference to Additional Amounts in those provisions hereof and thereof where such express mention is not made. All references in this Note Indenture, the Securities and the Guarantee to principal in respect of any Security shall be deemed to mean and include any Redemption Price payable in respect of such Security pursuant to any redemption hereunder (and all such references to the Stated Maturity of the principal in respect of any Security shall be deemed to mean and include the Redemption Date with respect to any such Redemption Price), and all such references to principal, interest or Additional Amounts shall be deemed to mean and include any amount payable in respect thereof pursuant to Section 1010, and express mention of the payment of any Redemption Price, or any such other amount, in those provisions hereof and thereof shall not be construed as excluding reference to the Redemption Price or any such other amount in those provisions hereof and thereof where such express reference is not made.

SECTION 1008 Limitation on Liens.

So long as any Securities remain Outstanding, CEMEX shall not, and shall not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of CEMEX or any Subsidiary, whether now owned or held or hereafter acquired, other than the following Liens ("Permitted Liens"):

(i) Liens for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Mexican FRS shall have been made;

(ii) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Mexican FRS shall have been made;

(iii) Liens incurred or deposits made in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security;

(iv) any attachment or judgment Lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(v) Liens existing on the date of original issuance of the Securities;

(vi) any Lien on property acquired by CEMEX after the date of original issuance of the Securities that was existing on the date of acquisition of such property; provided that such Lien was not incurred in anticipation of such acquisition, and any Lien created to secure all or any part of the purchase price, or to secure Debt incurred or assumed to pay all or any part of the purchase price, of property acquired by CEMEX or any of its Subsidiaries after the date of original issuance of the Securities; provided, further, that (A) any such Lien permitted pursuant to this clause (vi) shall be confined solely to the item or items of property so acquired (including, in the case of any Acquisition of a corporation through the acquisition of 51% or more of the voting stock of such corporation, the stock and assets of any Acquired Subsidiary or Acquiring Subsidiary) and, if required by the terms of the instrument originally creating such Lien, other property which is an improvement to, or is acquired for specific use with, such acquired property; and (B) if applicable, any such Lien shall be created within nine months after, in the case of property, its acquisition, or, in the case of improvements, their completion;

(vii) any Liens renewing, extending or refunding any Lien permitted by paragraph (vi) above, provided that the principal amount of Debt secured by such Lien immediately prior thereto is not increased or the maturity thereof reduced and such Lien is not extended to the other property;

(viii) any Liens created on shares of capital stock of CEMEX or any of its Subsidiaries solely as a result of the deposit or transfer of such shares into a trust or a special purpose corporation (including any entity with legal personality) of which such shares constitute the sole assets; provided that any shares of Subsidiary stock held in such trust, corporation or entity could be sold by CEMEX under this Note Indenture; and provided, further, that such Liens may not secure Debt of CEMEX or any Subsidiary (unless permitted under another clause of this Section 1008);

(ix) any Liens on securities securing repurchase obligations in respect of such securities;

(x) any Liens in respect of any Qualified Receivables Transaction; or

(xi) in addition to the Liens permitted by the foregoing clauses (i) through (x), Liens securing Debt of CEMEX and its Subsidiaries that in the aggregate secure obligations in an amount not in excess of 5% of Adjusted Consolidated Net Tangible Assets;

unless, in each case, CEMEX has made or caused to be made effective provision whereby the Securities and the Conversion Payment Undertaking are secured equally and ratably with, or prior to, the Debt secured by such Liens (other than Permitted Liens) for so long as such Debt is so secured.

SECTION 1009 Listing.

CEMEX will use its best efforts to cause the Debentures to be duly authorized for listing on the Irish Stock Exchange or another recognized securities exchange and shall from time to time take such other actions as shall be necessary or advisable to maintain the listing of the Debentures thereon.

SECTION 1010 Indemnification of Judgment Currency.

The Company and each Guarantor shall, to the fullest extent permitted by law, indemnify the Trustee and any Holder of a Security against any loss incurred by the Trustee or such Holder, as the case may be, as a result of any judgment or order being given or made for any amount due under this Note Indenture or such Security and being expressed and paid in a currency (the "Judgment Currency") other than Euros, and as a result of any variation between (i) the rate of exchange at which the Euro amount is converted into the Judgment Currency for the purpose of such judgment or order and (ii) the spot rate of exchange in The City of New York at which the Trustee or such Holder, as the case may be, on the date of payment of such judgment or order is able to purchase Euros with the amount of the Judgment Currency actually received by the Trustee or such Holder. If the amount of Euros so purchased exceeds the amount originally to be paid to such Holder, such Holder agrees to pay to or for the account of the Company (with respect to payments made by the Company) and the Guarantors (with respect to payments made by the Guarantors) such excess; provided, that such Holder shall not have any obligation to pay any such excess as long as a default by the Company or the Guarantors, as applicable in its obligations hereunder has occurred and is continuing, in which case such excess may be applied by such Holder to such obligations. The foregoing indemnity shall constitute a separate and independent obligation of the Company and shall continue in full force and effect notwithstanding any such judgment or order as aforesaid. The term "spot rate of exchange" shall include any premiums and costs of exchange payable in connection with the purchase of, or conversion into, Euros.

SECTION 1011 Payment of Certain Issuer Expenses.

The Company and the Guarantors have agreed under this Note Indenture that they will pay to C10-EUR Capital (SPV) Limited from time to time, at least two Business Days in advance of any required payment, such amounts as may be necessary for C10-EUR Capital (SPV) Limited to pay the commissions, fees and expenses of the Initial Purchasers of the Debentures, the fees and expenses of the Debenture Trustee, and any other fees, expenses, indemnification, reimbursement, contribution and other similar obligations, and all other amounts (other than payments under the Debentures and settlement and termination payments under the Extinguishable Coupon Swap) owed by C10-EUR Capital (SPV) Limited to the Initial Purchasers, the Debenture Trustee, the officers and directors of C10-EUR Capital (SPV) Limited, the Swap Counterparty, HSBC Bank USA, N.A. or any other person.

SECTION 1012 Ownership.

Except as otherwise specified or contemplated in this Note Indenture, CEMEX shall take any and all actions necessary to insure that the Company at all times remains, directly or indirectly, a wholly-owned subsidiary of CEMEX.

SECTION 1013 Restrictive Activities.

The Company has agreed, so long as any Securities (or any amount thereunder) is outstanding, not to do any of the following:

(i) engage at any time in any business activity unrelated to the issuance of the Securities, the entering into the Conversion Payment Undertaking, entering into similar capital raising activities and entering into financial arrangements with CEMEX and its Subsidiaries, or

(ii) file for, or consent to the filing of, any bankruptcy, liquidation insolvency or similar proceeding.

SECTION 1014 Waiver of Immunities.

To the extent that the Company or any of the Guarantors may in any jurisdiction claim for itself or its assets immunity from a suit, execution, attachment, whether in aid or execution, before judgment or otherwise, or other legal process in connection with this Note Indenture and the Securities and to the extent that in any jurisdiction there may be immunity attributed to the Company, the Company's assets, the Guarantors or the Guarantors' assets whether or not claimed, the Company and the Guarantors have irrevocably agreed for the benefit of the Holder not to claim, and irrevocably waive, the immunity to the full extent permitted by law.

ARTICLE ELEVEN

Redemption of Securities

SECTION 1101 Right of Redemption.

(a) The Securities may not be redeemed at the election of the Company except in accordance with the provisions of this Article.

(b) The Securities will be redeemable, at the option of the Company, on June 30, 2017, and on each interest payment date thereafter (or, if not a Business Day, on the preceding Business Day), in whole or in part, at par together with all accrued and unpaid interest, including deferred interest, provided that the Company as a condition to redemption, convert the interest rate on the Securities from the Yen Rate to the Euro Fixed Rate as of the Interest Payment Date by written notice to the Holders, the Debenture Trustee, the Trustee and the Swap Counterparty no less than 10 Business Days prior to the Interest Payment Date; in the case of partial redemption the outstanding principal amount of the Securities immediately after such redemption shall not be less than €200,000,000; provided further that no redemption shall be effective on any payment date (and such payment date shall not constitute the Conversion Date) unless C10-EUR Capital (SPV) Limited shall have received from the Company on or prior to such payment date any applicable Conversion Payments with respect to such conversion.

(c) The Securities will be redeemable, at the option of the Company, within 90 days of the occurrence of a CEMEX Change of Control Event, in whole but not in part, at a Redemption Price equal to the greater of (i) par and (ii) the sum of the present values of the remaining scheduled payments on the Securities calculated (1) assuming a final maturity of June 30, 2017, (2) without giving effect to any increase in interest rates as a result of the CEMEX Change of Control Event, and (3) discounted to the redemption date at a rate equal to the interpolated EUR swap rate to June 30, 2017 based on Bloomberg's IYC1 I53 screen, at or around 8:00 a.m., London time on the second Business Day immediately prior to the date on which the redemption notice is delivered, plus a margin equal to 1.79% per annum, plus in each of cases (i) and (ii) above accrued and unpaid interest to the Redemption Date.

The Securities will not otherwise be redeemed by the Company. As a condition to any redemption prior to June 30, 2017, the Company must first convert the interest rate on the Securities from the Yen Rate to the Euro Fixed Rate and pay any applicable Conversion Payment with respect to such conversion in accordance with Section 315.

SECTION 1102 Notice of Redemption.

Notice of redemption shall be given by first class mail, postage prepaid, mailed by the Company to the Trustee not less than 45 days nor more than 60 days prior to the proposed Redemption Date (unless a shorter period of time is agreed upon) and to each Holder and the Trustee will give a corresponding notice to the holders of the Debentures, at his address appearing in the Security Register. Any such notice of redemption is irrevocable and will be given as described below. If the redemption price in respect of any Security is improperly withheld or refused and is not paid by the Company or any Guarantor, interest on the Securities will continue to be payable until the Redemption Price is paid in full.

All notices of redemption shall state:

(1) the Redemption Date,

(2) the Redemption Price and amount of accrued interest, if any,

(3) that on the Redemption Date the Redemption Price and any accrued interest will become due and payable upon each Security to be redeemed and that interest thereon will cease to accrue on and after said date, and

(4) the place or places where such Securities are to be surrendered for payment of the Redemption Price and any accrued interest.

Notice of redemption of Securities to be redeemed at the election of the Company shall be given by the Company or, at the Company's request, by the Trustee in the name and at the expense of the Company, and such notice, when given to the Holders, shall be irrevocable.

SECTION 1103 Deposit of Redemption Price.

Prior to any Redemption Date, the Company shall deposit with the Trustee or with a Paying Agent (or, if the Company is acting as its own Paying Agent, segregate and hold in trust as provided in Section 1003) an amount of money sufficient to pay the Redemption Price of, and (except if the Redemption Date shall be an Interest Payment Date) accrued interest on, all the Securities which are to be redeemed on that date.

SECTION 1104 Securities Payable on Redemption Date.

Notice of redemption having been given as aforesaid, the Securities so to be redeemed shall, on the Redemption Date, become due and payable at the Redemption Price herein specified, and from and after such date (unless the Company shall default in the payment of the Redemption Price and accrued interest) such Securities shall cease to bear interest. Upon surrender of any such Security for redemption in accordance with said notice, such Security shall be paid by the Company at the Redemption Price, together with accrued interest to the Redemption Date; provided, however, that installments of interest whose Stated Maturity is on or prior to the Redemption Date shall be payable to the Holders of such Securities, or one or more Predecessor Securities, registered as such at the close of business on the relevant Record Dates according to their terms and the provisions of Section 306.

If any Security called for redemption shall not be so paid upon surrender thereof for redemption, the principal shall, until paid, bear interest from the Redemption Date at the rate borne by the Security.

ARTICLE TWELVE

Guarantee of the Securities

SECTION 1201 Guarantee.

Subject to the provisions of this Article Twelve, Article Eight and Article Nine, each Guarantor hereby jointly and severally irrevocably and unconditionally guarantees, on an unsecured basis, to each Holder of a Security authenticated and delivered by the Trustee and to the Trustee and its Successors, irrespective of the validity and enforceability of this Note Indenture, the Securities or the obligations of the Company or any other Guarantors to the Holders or the Trustee hereunder or thereunder, that: (a) the principal of and interest on the Securities (including any Additional Amounts) will be duly and punctually paid in full when due, whether at Maturity, by acceleration, call for redemption, purchase or otherwise, and all obligations of the Company or the Guarantors to the Holders or the Trustee hereunder or thereunder (including amounts due the Trustee under Section 607 hereof) or under the Securities (including fees, expenses or other disbursements) will be promptly paid in full or performed, all in accordance with the terms hereof and thereof; and (b) in case of any extension of time of payment or renewal of any Securities or any of such other obligations, the same will be promptly paid in full when due or performed in accordance with the terms of the extension or renewal, whether at maturity, by acceleration, call for redemption, purchase or otherwise (all such obligations guaranteed by the Guarantors, the "Guaranteed Obligations"). The guarantees of the Guarantors under this Article Twelve are herein referred to as the "Guarantee". Failing payment when due of any amount so guaranteed, or failing performance of any other obligation of the Company to the Holders, for whatever reason, each Guarantor will be obligated to pay, or to perform or cause the performance of, the same immediately. An Event of Default under this Note Indenture or the Securities shall constitute an event of default under this Guarantee, and shall entitle the Holders of Securities or the Trustee to accelerate the obligations of the Guarantors hereunder in the same manner and to the same extent as the obligations of the Company.

The Guarantors agree to pay any and all fees and expenses (including reasonable attorney's fees and expenses) incurred by the Trustee or the Holders in enforcing any rights under this Article Twelve with respect to the Guarantors.

Without limiting the generality of the foregoing, this Guarantee guarantees, to the extent provided herein, the payment of all amounts that constitute part of the Guaranteed Obligations and would be owed by the Company under this Note Indenture or the Securities but for the fact that they are unenforceable or not allowable due to the existence of a bankruptcy, reorganization or similar proceeding involving the Company.

No stockholder, officer, director, employee or incorporator, past, present or future, of any Guarantor, as such, shall have any personal liability under this Guarantee by reason of his, her or its status as such stockholder, officer, director, employee or incorporator.

The Guarantors shall have the right to seek contribution from any non-paying Guarantor so long as the exercise of such right does not impair the rights of the Holders under this Guarantee.

SECTION 1202 Execution and Delivery of Guarantee.

The Guarantee to be endorsed on the Securities shall include the terms of the Guarantees set forth in this Article Twelve and any other terms that may be set forth in the form established pursuant to Section 205. The Guarantors hereby agree to execute the Guarantee in the form established pursuant to Section 205, to be endorsed on each Security authenticated and delivered by the Trustee.

The Guarantee shall be executed on behalf of each Guarantor by any one of the individuals who may sign an Officers' Certificate on its behalf. The signature of any such Person on the Guarantee may be manual or facsimile.

A Guarantee bearing the manual or facsimile signature of an individual who was at any time the proper officer of a Guarantor shall bind such Guarantor, notwithstanding that such individual has ceased to hold such office prior to the authentication and delivery of the Security on which such Guarantee is endorsed or did not hold such office at the date of such Guarantee.

The delivery of any Security by the Trustee, after the authentication thereof hereunder, shall constitute due delivery of the Guarantee endorsed thereon on behalf of the respective Guarantor. The Guarantors hereby agree that their respective Guarantee set forth in Section 1201 shall remain in full force and effect notwithstanding any failure to endorse a Guarantee on any Security.

SECTION 1203 Obligations of the Guarantors Unconditional.

Nothing contained in this Article Twelve or elsewhere in this Note Indenture or in any Security is intended to or shall impair, as between the Guarantors and the Holders and the Trustee, the obligation of each Guarantor, which is absolute and unconditional, to pay to the Holders and the Trustee the principal of and interest (including Additional Amounts) on the Securities (and to the Trustee amounts due under Section 607) as and when the same shall become due and payable in accordance with the provisions of this Guarantee, nor shall anything herein or therein prevent the Trustee or any Holder from exercising all remedies otherwise permitted by applicable law upon Default under this Note Indenture. Without limiting the generality of the foregoing, it is agreed that the occurrence of any one or more of the following shall not affect the liability of any Guarantor hereunder:

(a) the lack of validity, regularity or enforceability of this Note Indenture or the Securities with respect to the Company or any agreement or instrument relating thereto;

(b) any change in the time, manner or place of payment of, or in any other term of any of the Guaranteed Obligations, or any other amendment or waiver of or any consent to departure from this Note Indenture;

(c) any amendment or modification of or deletion from or addition or supplement to or other change in the Guarantee, the Note Indenture or the Securities or any other instrument or agreement applicable to any of the parties to the Guarantee, the Note Indenture or the Securities;

(d) any furnishing or acceptance of any security or any guarantee or other liability of any Subsidiary or any other party, or any release of any security or any guarantee or other liability of any Subsidiary or any other party, for the Guaranteed Obligations, or the failure of any security or any guarantee or other liability of any Subsidiary or any other party or the failure of any Person to perfect any interest in any collateral;

(e) any failure, omission or delay on the part of the Company, to conform or comply with any term of the Note Indenture or the Securities or any other instrument or agreement referred to in paragraph (a) above, including, without limitation, failure to give notice to the Guarantors or the Trustee of the occurrence of an Event of Default;

(f) any waiver of the payment, performance or observance of any of the obligations, conditions, covenants or agreements contained in the Guarantee, the Note Indenture or the Securities, or any other waiver, consent, extension, indulgence, compromise, settlement, release or other action or inaction under or in respect of the Guarantee, the Note Indenture or the Securities or any other instrument or agreement referred to in paragraph (a) above or any obligation or liability of the Company, or any exercise or non-exercise of any right, remedy, power or privilege under or in respect of any such instrument or agreement or any such obligation or liability;

(g) any failure, omission or delay on the part of the Trustee or any Holder of Securities to enforce, assert, exercise or continue exercising any right, power or remedy conferred on it in the Guarantee or the Note Indenture, or any such failure, omission or delay on the part of the Trustee or any Holder of Securities in connection with the Guarantee, the Note Indenture or the Securities, or any other action on the part of the Trustee or any Holder of Securities;

(h) the assignment of any right, title or interest of the Trustee or any Holder in this Note Indenture or the Securities to any other Person;

(i) any voluntary or involuntary bankruptcy, insolvency, *concurso mercantil*, reorganization, arrangement, readjustment, assignment for the benefit of creditors, receivership, liquidation or similar proceedings with respect to the Company, any Guarantor or any other Person or any of their respective properties or creditors, or any action taken by any trustee, receiver or similar officer or by any court in any such proceeding;

(j) any limitation on the liability or obligations of the Company or any other Person under the Guarantee, the Note Indenture or the Securities, or any partial discharge, cancellation or unenforceability of the Guarantee, the Note Indenture or the Securities or any other agreement or instrument referred to in paragraph (c) above or any term hereof, to the extent not mutually agreed upon by the parties hereto;

(k) any merger or consolidation of the Company or any Guarantor into or with any other corporation or any sale, lease or transfer of any of the assets of the Company or any Guarantor to any other Person;

(l) any change in the ownership of any shares of capital stock of the Guarantors, or any change in the corporate relationship between the Company and the Guarantors, or any termination of such relationship, or any change in the corporate existence, structure, or ownership of the Company;

(m) any release or discharge, by operation of law, of any Guarantor from the performance or observance of any obligation, covenant or agreement contained in the Guarantee, the Note Indenture or the Securities;

(n) any action, failure, omission or delay on the part of the Trustee or any Holder of Securities that may impede any Guarantor from acquiring or subrogating such Holder's or Trustee's rights or benefits; or

(o) any other occurrence, circumstance, happening or event whatsoever, whether similar or dissimilar to the foregoing, whether foreseen or unforeseen, and any other circumstance that might otherwise constitute a legal defense or discharge of the liabilities of a Guarantor or that might otherwise limit recourse against the Guarantors; it being the intent of each Guarantor that its obligations hereunder shall not be discharged except by payment of all amounts owing pursuant to this Note Indenture or the Securities.

The Guarantee shall continue to be effective or be reinstated, as the case may be, if at any time any payment or performance with respect to any of the Guaranteed Obligations is rescinded or must otherwise be returned by the Trustee, any Holder or any other Person upon the insolvency, bankruptcy or reorganization of the Company or otherwise, all as though such payment or performance had not been made or occurred. In the event that any payment, or any part thereof, is rescinded or must otherwise be returned, the Guaranteed Obligations shall be reinstated and deemed reduced only by such amount paid and not so rescinded or returned. The obligations of the Guarantors under the Guarantee shall not be subject to reduction, termination or other impairment by any set-off, recoupment, counterclaim or defense or for any other reason.

SECTION 1204 Waivers.

Each Guarantor hereby irrevocably waives, to the extent permitted by applicable law:

(a) promptness, demand for payment, diligence, presentment, notice of acceptance and any other notice with respect to any of the Guaranteed Obligations and the Guarantee;

(b) any requirement that the Trustee, any Holder or any other Person protect, secure, perfect or insure any Lien or any property subject thereto or exhaust any right, sue or take any action against the Company or any other Person, or obtain any relief pursuant to this Note Indenture or pursue any other available remedy prior to making a claim against any Guarantor hereunder;

(c) all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Note Indenture or the Securities;

(d) filing of claims with a court in the event of insolvency or bankruptcy of the Company, any right to require a proceeding first against the Company, protest or notice with respect to such Security or the Indebtedness evidenced thereby and all demands whatsoever;

(e) any defense arising by reason of any claim or defense based upon an election of remedies by the Trustee or any Holder that in any manner impairs, reduces, releases or otherwise adversely affects its subrogation, contribution or reimbursement rights or other rights to proceed against the Company or any other Person;

(f) any right to which it may be entitled to have the assets of the Company first be used as payment of the Company's or the Guarantor's obligations hereunder prior to any amounts being claimed from or paid by such Guarantor hereunder; or

(g) any duty on the part of the Trustee or any Holder to disclose to such Guarantor any matter, fact or thing relating to the business, operation or condition of the Company and its assets now known or hereafter known by the Trustee or such Holder.

SECTION 1205 Waiver of Subrogation and Contribution.

Each Guarantor hereby irrevocably waives any claim or other right that it may now or hereafter acquire against the Company that arises from the existence, payment, performance or enforcement of such Guarantor's obligations under this Guarantee and this Note Indenture, including, without limitation, any right of subrogation, reimbursement, exoneration, contribution, indemnification, and any right to participate in any claim or remedy of the Trustee or any Holder of Securities against the Company, whether or not such claim, remedy or right arises in equity, or under contract, statute or common law, including, without limitation, the right to take or receive from the Company, directly or indirectly, in cash or other property or by set-off or in any other manner, payment or Security on account of such claim or other rights. If any amount shall be paid to any Guarantor in violation of the preceding sentence and the Securities shall not have been paid in full, such amount shall have been deemed to have been paid to such Guarantor for the benefit of, and held in trust for the benefit of, the Holders of the Securities, and shall forthwith be paid to the Trustee for the benefit of such Holders to be credited and applied upon the Securities, whether matured or unmatured, in accordance with the terms of this Note Indenture. Each Guarantor acknowledges that it will receive direct and indirect benefits from the financing arrangements contemplated by this Note Indenture and that the waiver set forth in this Section 1205 is knowingly made in contemplation of such benefits.

Each Guarantor agrees that it shall not be entitled to any right of subrogation in relation to the Holders in respect of any Guaranteed Obligations until payment in full of all Guaranteed Obligations. Each Guarantor further agrees that, as between itself, on the one hand, and the Holders and the Trustee, on the other hand, (x) the maturity of the Guaranteed Obligations may be accelerated as provided in Article Five hereof for the purposes of this Guarantee, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Guaranteed Obligations, and (y) in the event of any declaration of acceleration of the Guaranteed Obligations as provided in Article Five hereof, the Guaranteed Obligations (whether or not due and payable) shall forthwith become due and payable by such Guarantor for the purpose of this Guarantee.

SECTION 1206 No Waiver; Cumulative Remedies.

No failure on the part of the Trustee or any Holder to exercise, and no delay in exercising, any right hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right hereunder preclude any other or further exercise thereof or the exercise of any other right. The remedies herein provided are cumulative and not exclusive of any remedies provided by law. The Trustee and the Holders shall have all of the rights and remedies granted in this Note Indenture and available at law or in equity, and these same rights and remedies may be pursued separately, successively or concurrently against the Company or the Guarantors.

SECTION 1207 Continuing Guarantee.

The Guarantee is a continuing guarantee and, except as otherwise provided herein, shall (a) remain in full force and effect until the satisfaction of the Guaranteed Obligations, (b) be binding upon each Guarantor and (c) inure to the benefit of and be enforceable by the Trustee, the Holders and their successors, transferees and assigns.

ARTICLE THIRTEEN

Meetings of Holders of Securities

SECTION 1301 Purposes for Which Meetings May Be Called.

A meeting of Holders of Securities may be called at any time and from time to time pursuant to this Article to make, give or take any request, demand, authorization, direction, notice, consent, election, waiver or other action provided by this Note Indenture to be made, given or taken by Holders of Securities.

SECTION 1302 Call, Notice and Place of Meetings.

(a) The Company and the Trustee may at any time call a meeting of Holders of Securities for any purpose specified in Section 1301, to be held at such time and at such place in the Borough of Manhattan, the City of New York, New York as the Company or the Trustee, as the case may be, shall determine. Notice of every meeting of Holders of Securities, setting forth the time and the place of such meeting and in general terms the action proposed to be taken at such meeting, shall be given, in the manner provided in Section 106, not less than 30 nor more than 180 days prior to the date fixed for the meeting.

(b) In case at any time the Company, pursuant to an Officers' Certificate, or the Holders of at least 10% in principal amount of the Outstanding Securities shall have requested the Trustee to call a meeting of the Holders of Securities for any purpose specified in Section 1301, by written request setting forth in reasonable detail the action proposed to be taken at the meeting, and the Trustee shall not have made the first publication of the notice of such meeting within 30 days after receipt of such request or shall not thereafter proceed to cause the meeting to be held as provided herein, then the Company or the Holders of Securities in the amount above specified, as the case may be, may determine the time and the place in the Borough of Manhattan, the City of New York, New York for such meeting and may call such meeting for such purposes by giving notice thereof as provided in subsection (a) of this Section 1302.

SECTION 1303 Persons Entitled to Vote at Meetings.

To be entitled to vote at any meeting of Holders of Securities, a Person shall be (1) a Holder of one or more Outstanding Securities, or (2) a Person appointed by an instrument in writing as proxy for a Holder or Holders of one or more Outstanding Securities by such Holder or Holders. The only Persons who shall be entitled to be present or to speak at any meeting of Holders shall be the Persons entitled to vote at such meeting and their counsel, and representatives of the Trustee and its counsel and any representatives of the Company and its counsel.

SECTION 1304 Quorum; Action.

The Persons entitled to vote a majority in principal amount of the Outstanding Securities shall constitute a quorum. In the absence of a quorum within 30 minutes of the time appointed for any such meeting, the meeting may be adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such meeting. In the absence of a quorum at any such adjourned meeting, such adjourned meeting may be further adjourned for a period of not less than 10 days as determined by the chairman of the meeting prior to the adjournment of such adjourned meeting (subject to repeated applications of this sentence). Notice of the reconvening of any adjourned meeting shall be given as provided in Section 1302(a), except that such notice need be given only once not less than five days prior to the date on which the meeting is scheduled to be reconvened. Notice of the reconvening of an adjourned meeting shall state expressly the percentage of the principal amount of the Outstanding Securities which shall constitute a quorum. Any Holder who has executed an instrument in writing appointing a person as proxy shall be deemed to be present for the purposes of determining a quorum and be deemed to have voted; provided that such Holder shall be considered as present or voting only with respect to the matters covered by such instrument in writing (which may include authorization to vote on any other matters as may come before the meeting).

Subject to the foregoing, at the reconvening of any meeting further adjourned for a lack of a quorum the Persons entitled to vote 33 1/3% in principal amount of the Outstanding Securities at the time shall constitute a quorum for the taking of any action set forth in the notice of the original meeting.

Except as limited by Clauses (1) and (2) of Section 513 and by the proviso to Section 902, any modifications, amendments or waivers to this Note Indenture or the terms and conditions of the Securities shall require the lesser of (i) the written consent of the Holders of a majority in principal amount of the Outstanding Securities or (ii) at any time when there is more than one Holder of Securities, the approval of persons entitled to vote 66 2/3% of the principal amount of such Securities represented and voting at a meeting of the Holders duly called in accordance with the provisions hereof and at which a quorum is present; provided, however, that such modifications, amendments or waivers shall be approved by the Holders of Securities representing not less than 25% of the aggregate principal of Outstanding Securities and no such waiver shall be permitted unless provided for pursuant to Section 513.

Any modification, amendment or waiver approved or resolution passed or decision taken at any meeting of Holders of Securities held in accordance with this Article shall be binding on all the Holders of Securities, regardless of whether present or represented at the meeting.

SECTION 1305 Determination of Voting Rights; Conduct and Adjournment of Meetings.

(a) Notwithstanding any other provisions of this Note Indenture, the Trustee may make such reasonable regulations as it may deem advisable for any meeting of Holders of Securities in regard to proof of the holding of Securities and of the appointment of proxies and in regard to the appointment and duties of inspectors of votes, the submission and examination of proxies, certificates and other evidence of the right to vote, and such other matters concerning the

conduct of the meeting as it shall deem appropriate. Except as otherwise permitted or required by any such regulations, the holding of Securities shall be proved in the manner specified in Section 104 and the appointment of any proxy shall be proved in the manner specified in Section 104 or by having the signature of the person executing the proxy witnessed or guaranteed by any trust company, bank or banker authorized by Section 104 to certify to the holding of Securities. Such regulations may provide that written instruments appointing proxies, regular on their face, may be presumed valid and genuine without the proof specified in Section 104 or other proof.

(b) The Trustee shall, by an instrument in writing, appoint a temporary chairman of the meeting, unless the meeting shall have been called by the Company or by Holders of Securities as provided in Section 1302(b), in which case the Company or the Holders of Securities calling the meeting, as the case may be, shall in like manner appoint a temporary chairman. A permanent chairman and a permanent secretary of the meeting shall be elected by vote of the Persons entitled to vote a majority in principal amount of the Outstanding Securities represented at the meeting.

(c) At any meeting each Holder of a Security or proxy shall be entitled to one vote for each €1,000 principal amount of Securities held or represented by him; provided, however, that no vote shall be cast or counted at any meeting in respect of any Security challenged as not Outstanding and ruled by the chairman of the meeting to be not Outstanding. The chairman of the meeting shall have no right to vote, except as a Holder of a Security or proxy.

(d) Any meeting of Holders of Securities duly called pursuant to Section 1302 at which a quorum is present may be adjourned from time to time by Persons entitled to vote a majority in principal amount of the Outstanding Securities represented at the meeting; and the meeting may be held as so adjourned without further notice.

SECTION 1306 Counting Votes and Recording Action of Meetings.

The vote upon any resolution submitted to any meeting of Holders of Securities shall be by written ballots on which shall be subscribed the signatures of the Holders of Securities or of their representatives by proxy and the principal amounts and serial numbers of the Outstanding Securities held or represented by them. The permanent chairman of the meeting shall appoint two inspectors of votes who shall count all votes cast at the meeting for or against any resolution and who shall make and file with the secretary of the meeting their verified written reports in duplicate of all votes cast at the meeting. A record, at least in duplicate, of the proceedings of each meeting of Holders of Securities shall be prepared by the secretary of the meeting and there shall be attached to said record the original reports of the inspectors of votes on any vote by ballot taken thereat and affidavits by one or more persons having knowledge of the facts setting forth a copy of the notice of the meeting and showing that said notice was given as provided in Section 1302 and, if applicable, Section 1304. Each copy shall be signed and verified by the affidavits of the permanent chairman and secretary of the meeting and one such copy shall be delivered to the Company and another to the Trustee to be preserved by the Trustee, the latter to have attached thereto the ballots voted at the meeting. Any record so signed and verified shall be conclusive evidence of the matters therein stated.

This instrument may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all such counterparts shall together constitute but one and the same instrument.

SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this Note Indenture to be duly executed, as of the day and year first above written.

The Bank of New York,
as Trustee

By: /s/ Karon Greene
Name: Karon F. Greene
Title: Assistant Vice President

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.

By: /s/ Juan Alberto Urionabarrencechea
Name: Juan Alberto Urionabarrencechea Guenchea
Title: Attorney-In-Fact

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

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Chief Financial Officer

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

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Chief Financial Officer

NEW SUNWARD HOLDING B.V.

By: /s/ Juan Alberto Urionabarrencechea
Name: Juan Alberto Urionabarrencechea Guenchea
Title: Attorney-In-Fact

ANNEX A

Calculation of Conversion Payments and Conversion Credits

With respect to the Conversion Date (whether it has occurred or is expected to occur at the time of calculation), the Calculation Agent will determine whether a Conversion Payment or a Conversion Credit Reference Amount applies. If a Conversion Credit Reference Amount applies and the principal amount of the Dual-Currency Notes has not become, as of the Conversion Date, due and payable, the Calculation Agent will determine whether there are any Conversion Credit Application Dates and the amount of the Conversion Credit to be applied on each such Conversion Credit Application Date.

For the purposes of this Annex A:

"*Benchmark Swap*" means a derivative transaction between the Calculation Agent and a hypothetical counterparty with the following terms:

(i) no exchange of principal;

(ii) a term commencing on the date of issuance of the Dual-Currency Notes and ending on June 30, 2017;

(iii) the Calculation Agent obligated to pay an amount in Euros equal to the annual coupon on the Debentures, applied to the Euro principal amount of the Debentures, on each payment date for the Debentures;

(iv) the counterparty obligated to pay an amount in Japanese Yen equal to the annual coupon on the Dual-Currency Notes, applied to the Yen Equivalent Principal Amount of the Dual-Currency Notes, on each payment date for the Dual-Currency Notes;

(v) the parties' payment obligations under such derivative transaction ceasing as of the payment date for the Debentures immediately prior to the date on which the Conditions to Anticipated Swap Termination are deemed satisfied; and

(vi) upon early termination for any reason other than the satisfaction of the Conditions to Anticipated Swap Termination, the termination payment due to the Calculation Agent or the counterparty, as applicable, calculated based on the total gains and losses and costs incurred upon termination, including any loss of bargain, costs of funding, or, without duplication, any loss or cost or gain incurred as a result of obtaining or reestablishing any hedge or related trading position.

"*Conversion Credit*" means the amount the Calculation Agent determines to be the amount of investment proceeds in Euros that would be available on each Conversion Credit Application Date were the Conversion Credit Reference Amount invested at the direction of the Calculation Agent (and on a date determined by the Calculation Agent but not more than 15 Business Days after the Conversion Date) in Permitted Investments, which Permitted Investments were designed to yield (without provision for credit losses) an equal amount of investment proceeds in Euros on each such Conversion Credit Application Date.

"*Conversion Credit Application Date*" means (a) each interest payment date for the Debentures occurring prior to June 30, 2017, and more than 15 Business Days after the Conversion Date, and (b) June 30, 2017, so long as the Conversion Date occurs at least 15 Business Days prior to that date. If the Conversion Date occurs after the 15th Business Day prior to June 30, 2017, no Conversion Credits shall apply.

"*Conversion Credit Reference Amount*" means the amount, if any, determined by the Calculation Agent to be equal to the total amount that would be payable by the party obligated to pay Euros under the Benchmark Swap (as defined below) upon its early termination on the applicable Note Conversion Date.

"*Conversion Payment*" means the amount, if any, determined by the Calculation Agent to be equal to the total amount that would be payable by the party obligated to pay Japanese Yen under the Benchmark Swap (as defined below) upon its early termination on the applicable Note Conversion Date.

"*Permitted Investments*" means Euro-denominated, unsubordinated obligations that (a) do not bear interest or bear interest at a fixed rate and (b) are issued, accepted or guaranteed by one or more commercial banks in the United States or United Kingdom the long-term unsubordinated, unsecured indebtedness of which has a rating of at least "A2" from Fitch Ratings, Ltd. and "A" from Standard and Poor's Rating Service.

Capitalized terms used in this Annex A and not herein defined shall have the meaning ascribed to them in the Note Indenture.

ANNEX B

Conditions to Anticipated Swap Termination

The "Conditions to Anticipated Swap Termination" shall be deemed to have been satisfied on the Note Conversion Date when the Calculation Agent delivers written notice to the Note Issuer and the Debenture Trustee, on the Note Conversion Date or at a time prior to the 15 th Local Business Day after the Note Conversion Date, that:

(i) a CEMEX Credit Event had occurred on or prior to the Note Conversion Date; and

(ii) HSBC or the Note Issuer has delivered a Credit Event Notice that is effective during the Notice Period; and

(iii) such party delivering the Credit Event Notice also has delivered a Notice of Publicly Available Information that is effective during the Notice Period.

As used in this Annex B, the following terms shall have the following meanings:

"Affiliate" means, in relation to any person, any entity controlled, directly or indirectly, by the person, any entity that controls, directly or indirectly, the person or any entity directly or indirectly under common control with the person. For this purpose, "control" of any entity or person means ownership of a majority of the voting power of the entity or person.

"Bankruptcy" means a Reference Entity (a) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (b) becomes insolvent or is unable to pay its debts or fails or admits in writing in a judicial, regulatory or administrative proceeding or filing its inability generally to pay its debts as they become due; (c) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (d) institutes or has instituted against it a proceeding seeking a judgment of insolvency or bankruptcy or any other relief under any bankruptcy or insolvency law or other similar law affecting creditors' rights, or a petition is presented for its winding up or liquidation, and, in the case of any such proceeding or petition instituted or presented against it, such proceeding or petition (i) results in a judgment of insolvency or bankruptcy or the entry of an order for relief or the making of an order for its winding up or liquidation or (ii) is not dismissed, discharged, stayed or restrained in each case within thirty calendar days of the institution or presentation thereof; (e) has a resolution passed for its winding up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (f) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (g) has a secured party take possession of all or substantially all its assets or has a distress, execution, attachment, sequestration or other legal process levied, enforced or sued on or against all or substantially all its assets and such secured party maintains possession, or any such process is not dismissed, discharged, stayed or restrained, in each case within thirty calendar days thereafter; or (h) causes or is subject to any event with respect to it which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (a) to (g) (inclusive).

"Bond" means any obligation for Borrowed Money that is in the form of, or represented by, a bond, note (other than notes delivered pursuant to Loans), certificated debt security or other debt security and shall not include any other type of Borrowed Money.

"Borrowed Money" means any obligation (excluding an obligation under a revolving credit arrangement for which there are no outstanding, unpaid drawings in respect of principal) for the payment or repayment of borrowed money (which term shall include, without limitation, deposits and reimbursement obligations arising from drawings pursuant to letters of credit).

"C10-EUR Capital" means C10-EUR Capital (SPV) Limited.

"Calculation Agent" has the meaning set forth in the Master Collateral Agreement.

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

"CEMEX Credit Event" means one or more of Bankruptcy, Failure to Pay, Obligation Acceleration, Repudiation/Moratorium or Restructuring, in each case as determined by the Calculation Agent taking into account then-current interpretations of the text of the applicable definition in the swap markets. If an occurrence would otherwise constitute a CEMEX Credit Event, such occurrence will constitute a CEMEX Credit Event whether or not such occurrence arises directly or indirectly from, or is subject to a defense based upon: (a) any lack or alleged lack of authority or capacity of a Reference Entity to enter into any Obligation or, as applicable, an Underlying Obligor to enter into any Underlying Obligation, (b) any actual or alleged unenforceability, illegality, impossibility or invalidity with respect to any Obligation or, as applicable, any Underlying Obligation, however described, (c) any applicable law, order, regulation, decree or notice, however described, or the promulgation of, or any change in, the interpretation by any court, tribunal, regulatory authority or similar administrative or judicial body with competent or apparent jurisdiction of any applicable law, order, regulation, decree or notice, however described, or (d) the imposition of, or any change in, any exchange controls, capital restrictions or any other similar restrictions imposed by any monetary or other authority, however described.

"Counterparty" means the Swap C10-EUR Capital (SPV) Limited.

"Credit Event Notice" means an irrevocable notice (which may be by telephone) from one party to the other party and to the Calculation Agent that describes a CEMEX Credit Event that occurred at or after 12:01 a.m., Greenwich Mean Time, on the Effective Date and at or prior to 11:59 p.m., Greenwich Mean Time, on the Note Conversion Date. A Credit Event Notice must contain a description in reasonable detail of the facts relevant to the determination that a CEMEX Credit Event has occurred. The CEMEX Credit Event that is the subject of the Credit Event Notice need not be continuing on the date that the Credit Event Notice is effective.

"Debenture Indenture" means the Debenture Indenture entered into on May 9, 2007, between C10-EUR Capital and The Bank of New York, with respect to the issuance of the Debentures by C10-EUR Capital.

"Debenture Trustee" means the Trustee under the Debenture Indenture.

"Default Requirement" means USD 10,000,000 or its equivalent in the relevant Obligation Currency as of the occurrence of the relevant CEMEX Credit Event.

"Deliver" means to deliver, novate, transfer (including, in the case of a Qualifying Guarantee, transfer of the benefit of the Qualifying Guarantee), assign or sell, as appropriate, in the manner customary for the settlement of the applicable Underlying Obligations (which shall

include executing all necessary documentation and taking any other necessary actions), in order to convey all right, title and interest in the Underlying Obligations free and clear of any and all liens, charges, claims or encumbrances (including, without limitation, any counterclaim, defense (other than a counterclaim or defense based on customary factors as determined by the Calculation Agent taking into account then-current interpretations of the text of the applicable definition in the swap markets) or right of set off by or of the Reference Entity or, as applicable, an Underlying Obligor); provided that to the extent that the Deliverable Obligations consist of Qualifying Guarantees, "Deliver" means to Deliver both the Qualifying Guarantee and the Underlying Obligation. "Delivery" and "Delivered" will be construed accordingly.

"Domestic Currency" means the lawful currency and any successor currency of the Reference Entity. Notwithstanding the foregoing, in no event shall Domestic Currency include any successor currency if such successor currency is the lawful currency of any of Canada, Japan, Switzerland, the United Kingdom or the United States of America or the Euro (or any successor currency to any such currency).

"Domestic Law" means the laws of the jurisdiction of organization of the Reference Entity.

"Downstream Affiliate" means an entity, at the date of the event giving rise to the CEMEX Credit Event which is the subject of the Credit Event Notice or the time of identification of a Substitute Reference Obligation (as applicable), whose outstanding Voting Shares are more than 50 percent owned, directly or indirectly, by the Reference Entity.

"Dual-Currency Notes" means the Callable Perpetual Dual-Currency Notes issued by the Note Issuer on May 9, 2007 and guaranteed by the Guarantors.

"Failure to Pay" means, after the expiration of any applicable Grace Period (after the satisfaction of any conditions precedent to the commencement of such Grace Period), the failure by a Reference Entity to make, when and where due, any payments in an aggregate amount of not less than the Payment Requirement under one or more Obligations, in accordance with the terms of such Obligations at the time of such failure.

"Governmental Authority" means any de facto or de jure government (or any agency, instrumentality, ministry or department thereof), court, tribunal, administrative or other governmental authority or any other entity (private or public) charged with the regulation of the financial markets (including the central bank) of a Reference Entity.

"Grace Period" means the applicable grace period with respect to payments under the relevant Obligation under the terms of such Obligation in effect as of the later of the Effective Date or the date as of which such Obligation is issued or incurred; provided, that, if, at the later of the Effective Date and the date as of which an Obligation is issued or incurred, no grace period with respect to payments or a grace period with respect to payments of less than three Local Business Days is applicable under the terms of such Obligation, a Grace Period of three Local Business Days shall be deemed to apply to such Obligation.

"Guarantor" has the meaning set forth in the Note Indenture.

"Loan" means any obligation for Borrowed Money that is documented by a term loan agreement, revolving loan agreement or other similar credit agreement and shall not include any other type of Borrowed Money.

"Local Business Day" means, a day on which commercial banks are open for business (including dealings in foreign exchange and foreign currency deposits) in New York City, London and Tokyo, Japan.

"Master Collateral Agreement" has the meaning set forth in the Note Indenture.

"HSBC" means HSBC Bank USA, N.A.

"Multiple Holder Obligation" means an Obligation that (a) at the time of the event which constitutes a Restructuring Credit Event is held by more than three holders that are not Affiliates of each other and (b) with respect to which a percentage of holders (determined pursuant to the terms of the Obligation as in effect on the date of such event) at least equal to sixty-six-and-two-thirds is required to consent to the event which constitutes a Restructuring Credit Event.

"Note Conversion Date" has the meaning set forth in the Note Indenture for "Conversion Date".

"Note Indenture" means the Note Indenture dated as of May 9, 2007, among the Note Issuer, the Guarantors and the Note Trustee.

"Note Issuer" means New Sunward Holding Financial Ventures B.V.

"Note Trustee" means the Trustee under the Note Indenture.

"Notice of Publicly Available Information" means an irrevocable notice (which may be by telephone) from one party to the other party and to the Calculation Agent that cites Publicly Available Information confirming the occurrence of the CEMEX Credit Event or Potential Repudiation/Moratorium, as applicable, described in the Credit Event Notice. In relation to a Repudiation/Moratorium CEMEX Credit Event, the Notice of Publicly Available Information must cite Publicly Available Information confirming the occurrence of both clauses (i) and (ii) of the definition of Repudiation/Moratorium. The notice given must contain a copy, or a description in reasonable detail, of the relevant Publicly Available Information. Any notice given orally, including by telephone, will be effective when actually received by the intended recipient.

"Notice Period" means the period from and including the Effective Date to and including the tenth Local Business Day following the Note Conversion Date.

"Obligation" means, with respect to a Reference Entity, any obligation of the Reference Entity (either directly or as provider of a Qualifying Guarantee) that is a Qualifying Bond or Loan or a Qualifying Guarantee as of the date of the event which constitutes the CEMEX Credit Event that is the subject of the Credit Event Notice.

"Obligation Acceleration" means one or more Obligations in an aggregate amount of not less that the Default Requirement have become due and payable before they would otherwise have been due and payable as a result of, or on the basis of, the occurrence of a default, event of default or other similar condition or event (however described), other than a failure to make any required payment, in respect of a Reference Entity under one or more Obligations.

"Obligation Currency" means the currency or currencies in which an Obligation is denominated.

"Payment Requirement" means USD 1,000,000 or its equivalent in the relevant Obligation Currency as of the occurrence of the relevant Failure to Pay.

"Permitted Currency" means (1) the legal tender of any Group of 7 country (or any country that becomes a member of the Group of 7 if such Group of 7 expands its membership) or (2) the legal tender of any country which, as of the date of such change, is a member of the Organization for Economic Cooperation and Development and has a local currency long-term debt rating of either AAA or higher assigned to it by Standard & Poor's, a division of The McGraw-Hill Companies, Inc. or any successor to the rating business thereof, AAA or higher assigned to it by Moody's Investors Service, Inc. or any successor to the rating business thereof or AAA or higher assigned to it by Fitch Ratings or any successor to the rating business thereof.

"Potential Repudiation/Moratorium" means the occurrence of an event described in clause (i) of the definition of Repudiation/Moratorium.

"Publicly Available Information" means information that reasonably confirms any of the facts relevant to the determination that the CEMEX Credit Event or Potential Repudiation/Moratorium, as applicable, described in a Credit Event Notice has occurred and which (a) has been published in or on not less than two Public Sources, regardless of whether the reader or user thereof pays a fee to obtain such information; provided, that (subject to (b)(i), below), if HSBC or any of its Affiliates is cited as the sole source of such information, then such information shall not be deemed to be Publicly Available Information unless HSBC or its Affiliate, as applicable, is acting in its capacity as trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation; (b) is information received from or published by (i) the Reference Entity (or Sovereign Agency in respect of the Reference Entity), or (ii) a trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation; or (c) is information contained in any order, decree, notice or filing, however described, of or filed with a court, tribunal, exchange, regulatory authority or similar administrative, regulatory or judicial body.

In the event that HSBC is (i) the sole source of information in its capacity as trustee, fiscal agent, administrative agent, clearing agent or paying agent for an Obligation and (ii) a holder of the Obligation with respect to which a CEMEX Credit Event has occurred, HSBC shall be required to deliver to the Counterparty and the Calculation Agent a certificate signed by a Managing Director (or other substantively equivalent title) of HSBC, which shall certify the occurrence of a CEMEX Credit Event with respect to a Reference Entity.

In relation to any information of the type described in (b) and (c), in the first paragraph above, the party receiving such information may assume that such information has been disclosed to it without violation of any law, agreement or understanding regarding the confidentiality of such information and that the party delivering such information has not taken any action or entered into any agreement or understanding with the Reference Entity or any Affiliate of the Reference Entity that would be breached by, or would prevent, the disclosure of such information to third parties.

Publicly Available Information need not state (a) in relation to the definition of Downstream Affiliate, the percentage of Voting Shares owned directly or indirectly by the Reference Entity or (b) that such occurrence (i) has met the Payment Requirement or Default Requirement, (ii) is the result of exceeding any applicable Grace Period, or (iii) has met the subjective criteria specified in certain CEMEX Credit Events.

"Public Sources" means each of Bloomberg Service, Dow Jones Telerate Service, Reuter Monitor Money Rates Services, Dow Jones News Wire, Wall Street Journal, New York Times, Nihon Keizai Shinbun, Asahi Shinbun, Yomiuri Shinbun, Financial Times, La

Tribune, Les Echos and The Australian Financial Review (and successor publications), the main source(s) of business news in the Reference Entity and any other internationally recognized published or electronically displayed news sources.

"Qualifying Affiliate Guarantee" means a Qualifying Guarantee provided by a Reference Entity in respect of an Underlying Obligation of a Downstream Affiliate of that Reference Entity.

"Qualifying Bond or Loan" means the Reference Obligation or any Bond or Loan that:

(a) is not Subordinated to the Reference Obligation or, if no Reference Obligation is outstanding, any unsubordinated Borrowed Money obligation of the Reference Entity. For purposes hereof, the ranking with respect to the Reference Obligation shall be determined as of the later of the Effective Date and the date on which such Reference Obligation was issued or incurred and not reflecting any change to such ranking in priority of payment after such later date; and

(b) is not primarily owed to a Sovereign or Supranational Organization, including, without limitation, obligations generally referred to as "Paris Club debt"; and

(c) is payable in any currency other than the Domestic Currency; and

(d) is not governed by Domestic Law; and

(e) at the time that it was issued (or reissued, as the case may be) or incurred, was not intended to be offered for sale primarily in the domestic market of the Reference Entity. Any obligation that is registered or qualified for sale outside the domestic market of the Reference Entity (regardless of whether such obligation is also registered or qualified for sale within the domestic market of the Reference Entity) shall be deemed not to be intended for sale primarily in the domestic market of the Reference Entity.

"Qualifying Guarantee" means an arrangement evidenced by a written instrument pursuant to which a Reference Entity irrevocably agrees (by guarantee of payment or equivalent legal arrangement) to pay all amounts due under an obligation (the " Underlying Obligation") for which another party is the obligor (the "Underlying Obligor") and that is not at the time of the CEMEX Credit Event Subordinated to any unsubordinated Borrowed Money obligation of the Underlying Obligor (with references in the definition of Subordination to the Reference Entity deemed to refer to the Underlying Obligor). Qualifying Guarantees shall exclude any arrangement (i) structured as a surety bond, financial guarantee insurance policy, letter of credit or equivalent legal arrangement or (ii) pursuant to the terms of which the payment obligations of the Reference Entity can be discharged, reduced, assigned or otherwise altered as a result of the occurrence or non-occurrence of an event or circumstance (other than payment). The benefit of a Qualifying Guarantee must be capable of being Delivered together with the Delivery of the Underlying Obligation.

In the event that an Obligation is a Qualifying Guarantee, the following will apply:

(i) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, the Qualifying Guarantee shall be deemed to be a Bond or Loan if the Underlying Obligation is a Bond or Loan.

(ii) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, both the Qualifying Guarantee and the Underlying Obligation must satisfy on the relevant date the requirements of each of clauses (b), (c) and (d) of the definition of Qualifying Bond or Loan. For these purposes, (A) the lawful currency of any of Canada, Japan,

Switzerland, the United Kingdom or the United States of America or the Euro shall not be a Domestic Currency and (B) the laws of England and the laws of the State of New York shall not be a Domestic Law.

(iii) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, only the Qualifying Guarantee must satisfy on the relevant date the requirements of clause (a) of the definition of Qualifying Bond or Loan.

(iv) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, only the Underlying Obligation must satisfy on the relevant date the requirements of clause (e) of the definition of Qualifying Bond or Loan.

(v) For purposes of applying the provisions of the definition of Qualifying Bond or Loan to the Qualifying Guarantee, references to the Reference Entity shall be deemed to refer to the Underlying Obligor.

(vi) The term "outstanding principal balance" (as used in this Transaction), when used in connection with Qualifying Guarantees is to be interpreted to be the then "outstanding principal balance" of the Underlying Obligation which is supported by a Qualifying Guarantee.

"Reference Entity" means CEMEX (the "Original Reference Entity") and any successor(s) to CEMEX. The Calculation Agent shall determine the changes, if any, to the terms of this Transaction required to reflect the treatment of a single name credit default swap related to the Original Reference Entity entered into as at the Effective Date specified herein on market standard terms at that time. For the avoidance of doubt in respect of the above, such changes may include: (i) this Transaction being split into two or more Transactions; (ii) the total number of Reference Entities being increased; and (iii) the Original Reference Entity being included as a successor.

"Reference Obligation" means the EUR 4.75% Notes due 2014 (ISIN XS0289333048) issued by CEMEX Finance Europe B.V. and any Substitute Reference Obligation.

"Repudiation/Moratorium" means the occurrence of both of the following events (i) an authorized officer of a Reference Entity or a Governmental Authority (x) disaffirms, disclaims, repudiates or rejects, in whole or in part, or challenges the validity of, one or more Obligations in an aggregate amount of not less than the Default Requirement, or (y) declares or imposes a moratorium, standstill, roll-over or deferral, whether de facto or de jure, with respect to one or more Obligations in an aggregate amount of not less than the Default Requirement and (ii) a Failure to Pay, determined without regard to the Payment Requirement, or a Restructuring, determined without regard to the Default Requirement, with respect to any such Obligation occurs on or prior to the Repudiation/Moratorium Evaluation Date.

"Repudiation/Moratorium Evaluation Date" means, if a Potential Repudiation/Moratorium occurs, (a) if the Obligations to which such Potential Repudiation/Moratorium relates include Bonds, the date that is the later of (i) the date that is 60 days after the date of such Potential Repudiation/Moratorium and (ii) the first payment date under any such Bond after the date of such Potential Repudiation/ Moratorium (or, if later, the expiration date of any applicable Grace Period in respect of such payment date) and (b) if the Obligations to which such Potential Repudiation/ Moratorium relates do not include Bonds, the date that is 60 days after the date of such Potential Repudiation/Moratorium.

"Restructuring" means, (a) with respect to one or more Obligations that are Multiple Holder Obligations and in relation to an aggregate amount of not less than the Default Requirement,

any one or more of the following events occurs in a form that binds all holders of such Obligation, is agreed between the Reference Entity or a Governmental Authority and a sufficient number of holders of such Obligation to bind all holders of the Obligation or is announced (or otherwise decreed) by a Reference Entity or a Governmental Authority in a form that binds all holders of such Obligation, and such event is not expressly provided for under the terms of such Obligation in effect as of the later of the Effective Date or date as of which such Obligation is issued or incurred:

(i) a reduction in the rate or amount of interest payable or the amount of scheduled interest accruals;

(ii) a reduction in the amount of principal or premium payable at maturity or at scheduled redemption dates;

(iii) a postponement or other deferral of a date or dates for either (A) the payment or accrual of interest or (B) the payment of principal or premium;

(iv) a change in the ranking in priority of payment of any Obligation, causing the Subordination of such Obligation to any other Obligation; or

(v) any change in the currency or composition of any payment of interest or principal to any currency that is not a Permitted Currency.

(b) Notwithstanding the provisions of (a) above, none of the following shall constitute a Restructuring:

(i) the payment in Euros of interest or principal in relation to an Obligation denominated in a currency of a Member State of the European Union that adopts or has adopted the single currency in accordance with the Treaty establishing the European Community, as amended by the Treaty on European Union;

(ii) the occurrence of, agreement to or announcement of any of the events described in (a)(i) to (v) above due to an administrative adjustment, accounting adjustment or tax adjustment or other technical adjustment occurring in the ordinary course of business; and

(iii) the occurrence of, agreement to or announcement of any of the events described in (a)(i) to (v) above in circumstances where such event does not directly or indirectly result from a deterioration in the creditworthiness or financial condition of the Reference Entity.

For purposes of (a) and (b) above, the term Obligation shall be deemed to include Underlying Obligations for which the Reference Entity is acting as provider of any Qualifying Guarantee. In the case of a Qualifying Guarantee and an Underlying Obligation, references to the Reference Entity in (a) above shall be deemed to refer to the Underlying Obligor and the reference to the Reference Entity in (b) above shall continue to refer to the Reference Entity.

"Sovereign" means any state, political subdivision or government, or any agency, instrumentality, ministry, department or other authority (including, without limiting the foregoing, the central bank) thereof.

"Sovereign Agency" means any agency, instrumentality, ministry, department or other authority (including, without limiting the foregoing, the central bank) of the Reference Entity.

"Subordination" means, with respect to an obligation (the "Subordinated Obligation") and another obligation of the Reference Entity to which such obligation is being compared (the "Senior Obligation"), a contractual, trust or similar arrangement providing that (a) upon the liquidation, dissolution, reorganization or winding up of the Reference Entity, claims of the

holders of the Senior Obligation will be satisfied prior to the claims of the holders of the Subordinated Obligation or (b) the holders of the Subordinated Obligation will not be entitled to receive or retain payments in respect of their claims against the Reference Entity at any time that the Reference Entity is in payment arrears or is otherwise in default under the Senior Obligation. " Subordinated" will be construed accordingly. For purposes of determining whether Subordination exists or whether an obligation is Subordinated with respect to another obligation to which it is being compared, the existence of preferred creditors arising by operation of law or of collateral, credit support or other credit enhancement arrangements shall not be taken into account, except that, notwithstanding the foregoing, priorities arising by operation of law shall be taken into account.

"Substitute Reference Obligation" means one or more obligations of a Reference Entity (either directly or as provider of a Qualifying Guarantee) that will replace the Reference Obligation of such Reference Entity, identified by the Calculation Agent in accordance with the following procedures:

(a) In the event that (i) a Reference Obligation is redeemed in whole or (ii) in the opinion of the Calculation Agent (A) the aggregate amounts due under any Reference Obligation have been materially reduced by redemption or otherwise (other than due to any scheduled redemption, amortization or prepayments), (B) any Reference Obligation is an Underlying Obligation with a Qualifying Guarantee of a Reference Entity and, other than due to the existence or occurrence of a CEMEX Credit Event, the Qualifying Guarantee is no longer a valid and binding obligation of such Reference Entity enforceable in accordance with its terms, or (C) for any other reason, other than due to the existence or occurrence of a CEMEX Credit Event, any Reference Obligation is no longer an obligation of a Reference Entity, the Calculation Agent shall (after consultation with the parties) identify one or more Obligations to replace such Reference Obligation.

(b) Any Substitute Reference Obligation shall be an Obligation that (1) ranks pari passu (or, if no such Obligation exists, then, at the Calculation Agent's option, an Obligation that ranks senior) in priority of payment with such Reference Obligation (with the ranking in priority of payment of such Reference Obligation being determined as of the later of (A) the Effective Date and (B) the date on which such Reference Obligation was issued or incurred and not reflecting any change to such ranking in priority of payment after such later date), (2) preserves the economic equivalent, as closely as practicable as determined by the Calculation Agent in consultation with the parties, of the delivery and payment obligations of the parties pursuant to this Transaction and (3) is an obligation of a Reference Entity (either directly or as provider of a Qualifying Guarantee). The Substitute Reference Obligation identified by the Calculation Agent shall, without further action, replace such Reference Obligation.

(c) For purposes of identification of a Reference Obligation, any change in the Reference Obligation's ISIN number or other similar identifier will not, in and of itself, convert such Reference Obligation into a different Obligation.

"Supranational Organization" means any entity or organization established by treaty or other arrangement between two or more Sovereigns or the Sovereign Agencies of two or more Sovereigns and includes, without limiting the foregoing, the International Monetary Fund, European Central Bank, International Bank for Reconstruction and Development and European Bank for Reconstruction and Development.

"Voting Shares" means those shares or other interests that have the power to elect the board of directors or similar governing body of an entity.

Exhibit 4.25.1

EXECUTION COPY

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.,
as Issuer,

and

CEMEX, S.A.B. de C.V.,
CEMEX MEXICO, S.A. de C.V.,
and
NEW SUNWARD HOLDING B.V.
as Guarantors,

TO

THE BANK OF NEW YORK MELLON,
as Trustee

FIRST SUPPLEMENTAL INDENTURE

Dated as of August 10, 2009

Supplementing the Note Indenture, dated as of May 9, 2007, among New Sunward Holding Financial Ventures B.V., as Issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as Guarantors, and The Bank of New York Mellon, as Trustee.

€730,000,000

(C10/EUR)

Callable Perpetual Dual-Currency Notes

THIS FIRST SUPPLEMENTAL INDENTURE (the "**Supplemental Indenture**") is made as of the 10th day of August, 2009, among New Sunward Holding Financial Ventures B.V., as issuer (the "**Company**"), CEMEX, S.A.B. de C.V. ("**CEMEX**"), CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors (the "**Guarantors**"), and The Bank of New York Mellon, as trustee (the "**Trustee**").

WHEREAS, the Company, the Guarantors and the Trustee heretofore executed and delivered an indenture, dated as of May 9, 2007 (the "**Indenture**"); and

WHEREAS, pursuant to the Indenture, the Company issued and the Trustee authenticated and delivered €730 million aggregate principal amount of the Company's Callable Perpetual Dual-Currency Notes (the "**Securities**"), which Securities were guaranteed by each of the Guarantors; and

WHEREAS, Section 1008 of the Indenture provides that so long as any Securities remain Outstanding, CEMEX shall not, and shall not permit any of its Subsidiaries to, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of CEMEX or any Subsidiary, whether now owned or held or hereafter acquired, other than Permitted Liens, unless, in each case, CEMEX has made or caused to be made effective provision whereby the Securities and the Conversion Payment Undertaking are secured equally and ratably with, or prior to, the Debt secured by such Liens (other than Permitted Liens) for so long as such Debt is so secured; and

WHEREAS, the Conversion Date has occurred and no amounts were due under the Conversion Payment Undertaking, and thus the Conversion Payment Undertaking is now discharged; and

WHEREAS, CEMEX and certain of its Subsidiaries intend to create certain Liens (the " **New Liens**") on or with respect to certain of their assets, which New Liens are not Permitted Liens; and

WHEREAS, in accordance with Section 1008 of the Indenture, CEMEX desires to make effective provision whereby the Securities will be secured equally and ratably with the Debt secured by the New Liens for so long as such Debt is so secured; and

WHEREAS, Section 901 of the Indenture provides that the Company, the Guarantors, and the Trustee, when authorized by an Officers' Certificate, without the consent of any Holders of the Securities, may enter into one or more indentures supplemental to the Indenture, in order to secure the Securities; and

WHEREAS, the Company and the Guarantors have heretofore delivered or are delivering contemporaneously herewith to the Trustee (i) copies of Officers' Certificates and (ii) an Opinion of Counsel, in compliance with and to the effect set forth in Sections 102, 901 and 903 of the Indenture; and

WHEREAS, the Company and the Guarantors have requested and directed the Trustee to enter into this Supplemental Indenture, and this Supplemental Indenture has been duly authorized by all the necessary corporate action on the part of the Company and the Guarantors; and

WHEREAS, all conditions necessary to authorize the execution and delivery of this Supplemental Indenture and to make this Supplemental Indenture valid and binding have been complied with or have been done or performed; and

NOW, THEREFORE, in consideration of the foregoing and notwithstanding any provision of the Indenture which, absent this Supplemental Indenture, might operate to limit such action, the Company, the Guarantors and the Trustee agree as follows for the benefit of the Holders of the Securities:

ARTICLE I
DEFINITIONS

Section 1.1 General. For all purposes of the Indenture and this Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) the words "herein", "hereof" and "hereunder" and other words of similar import refer to the Indenture and this Supplemental Indenture as a whole and not to any particular Article, Section or subdivision; and

(b) capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture.

ARTICLE II
AMENDMENTS

Section 2.1 Security Documents. The Trustee is hereby authorized and directed (i) to enter into (or cause an agent to enter into), on its own behalf and on behalf of the Holders, such documents (the "**Security Documents**") as are necessary or desirable (which shall be evidenced by a Company Request or other written instruction satisfactory to the Trustee) in order to create and maintain the security interest of the Trustee and the Holders in such collateral as may from time to time be provided to equally and ratably secure the Securities, including, without limitation, the documents listed on Annex A hereto, (ii) to grant such powers of attorney and to do or cause to be done all such acts and things, on its own behalf and in the name and on behalf of the Holders, as are necessary or desirable (which shall be evidenced by a Company Request or other written instruction satisfactory to the Trustee) to create and maintain the security interest of the Trustee and the Holders in such collateral, and (iii) to appoint one or more agents to serve as representative of the Trustee and the Holders in connection with the creation and maintenance of the security interest of the Trustee and the Holders in such collateral. It is understood and acknowledged that in certain circumstances the Security Documents may be amended, modified or waived without the consent of the Trustee or the Holders. It is understood and acknowledged that any such agents, in addition to being appointed by and acting on behalf of the Trustee and the Holders, may also be appointed by and acting on behalf of other creditors of CEMEX and its subsidiaries.

ARTICLE III
MISCELLANEOUS

Section 3.1 Effectiveness. This Supplemental Indenture shall become effective upon its execution and delivery by the Company, the Guarantors and the Trustee.

Section 3.2 Indenture Remains in Full Force and Effect. Except as modified hereby, all provisions in the Indenture shall remain in full force and effect.

Section 3.3 Indenture and Supplemental Indenture Construed Together. This Supplemental Indenture is an indenture supplemental to and in implementation of the Indenture, and the Indenture and this Supplemental Indenture shall henceforth be read and construed together. From and after the effectiveness of this Supplemental Indenture, all references to the Indenture in the Indenture and the Securities shall refer to the Indenture as supplemented hereby.

Section 3.4 Confirmation and Preservation of Indenture. The Indenture as supplemented by this Supplemental Indenture is in all respects confirmed and preserved.

Section 3.5 Severability. In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.6 Headings. The Article and Section headings of this Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part of this Supplemental Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 3.7 Benefits of Supplemental Indenture, etc. Nothing in this Supplemental Indenture or the Securities, express or implied, shall give to any Person, other than the parties hereto and thereto and their successors hereunder and thereunder and the Holders of the Securities, any benefit of any legal or equitable right, remedy or claim under the Indenture, this Supplemental Indenture or the Securities.

Section 3.8 Successors. All agreements in this Supplemental Indenture by the Company and the Guarantors shall bind their respective successors. All agreements of the Trustee in this Supplemental Indenture shall bind its successors.

Section 3.9 Trustee Not Responsible for Recitals. The recitals contained herein shall be taken as the statements of the Company and the Guarantors, and the Trustee assumes no responsibility for their correctness. The Trustee shall not be liable or responsible for the validity or sufficiency of this Supplemental Indenture.

Section 3.10 Certain Duties and Responsibilities of the Trustee. In entering into this Supplemental Indenture, the Trustee shall be entitled to the benefit of every provision of the Indenture relating to the conduct or affecting the liability or affording protection to the Trustee, whether or not elsewhere herein so provided. The Company and each Guarantor expressly reaffirms and confirms its obligation to indemnify the Trustee in connection with the Indenture, this Supplemental Indenture and the actions contemplated hereby, all in accordance with Section 607 of the Indenture.

Section 3.11 Governing Law. **THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

Section 3.12 Counterpart Originals. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

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

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V., as Issuer

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

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

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

CEMEX MEXICO, S.A. de C.V., as Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

NEW SUNWARD HOLDING B.V., as Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

THE BANK OF NEW YORK MELLON, as Trustee

By: /s/ Karon Greene
Name: Karon Greene
Title: Vice President

Annex A

Initial Security Documents

1. Spanish Power of Attorney relating to the pledge of the shares of CEMEX España, S.A.

Exhibit 4.25.2

EXECUTION COPY

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.,
as Issuer,

and

CEMEX, S.A.B. de C.V.,
CEMEX MEXICO, S.A. de C.V.,
and
NEW SUNWARD HOLDING B.V.
as Guarantors,

TO

THE BANK OF NEW YORK MELLON,
as Trustee

SECOND SUPPLEMENTAL INDENTURE

Dated as of May 12, 2010

Supplementing the Note Indenture, dated as of May 9, 2007, among New Sunward Holding Financial Ventures B.V., as Issuer, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as Guarantors, and The Bank of New York Mellon, as Trustee.

€730,000,000

(C10-EUR)

Callable Perpetual Dual-Currency Notes

THIS SECOND SUPPLEMENTAL INDENTURE (the "**Supplemental Indenture**") is made as of the 12th day of May, 2010, among New Sunward Holding Financial Ventures B.V., as issuer (the "**Company**"), CEMEX, S.A.B. de C.V. ("**CEMEX**"), CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors (the "**Guarantors**"), The Bank of New York Mellon, as trustee (the "**Trustee**"), Swap C10-EUR Capital (SPV) Limited (the "**Swap Counterparty**") and C10-EUR Capital (SPV) Limited.

WHEREAS, the Company, the Guarantors and the Trustee heretofore executed and delivered an indenture, dated as of May 9, 2007, as supplemented by a first supplemental indenture dated as of August 10, 2009, (as so supplemented, the " **Indenture**"); and

WHEREAS, pursuant to the Indenture, the Company issued and the Trustee authenticated and delivered €730 million aggregate principal amount of the Company's Callable Perpetual Dual-Currency Notes (the " **Securities**"), which Securities were guaranteed by each of the Guarantors; and

WHEREAS, Section 1101 of the Debenture Indenture provides that the 6.277% Fixed-to-Floating Rate Callable Perpetual Debentures (the "**Debentures**") may be redeemed only in limited circumstances if the Company redeems the Securities in accordance with the terms of the Indenture; and

WHEREAS, Section 1101 of the Indenture provides that, except under certain circumstances, the Securities may not be redeemed at the election of the Company until June 30, 2017; and

WHEREAS, the Company, acting pursuant to instructions, intends to deliver to the Trustee for cancellation pursuant to Section 309 of the Indenture an aggregate principal amount of Securities delivered to the Company by C10-EUR Capital (SPV) Limited following the cancellation of a corresponding amount of Debentures validly tendered to C10-EUR Capital (SPV) Limited and accepted in any exchange offer, tender offer or market transactions conducted by an Affiliate of CEMEX; and

WHEREAS, Section 902 of the Indenture provides that the Company, the Guarantors, the Swap Counterparty and the Trustee, when authorized by an Officers' Certificate, with the consent of the holders of not less than the majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and the Holders of not less than a majority in principal amount of the Outstanding Securities, may enter into one or more indentures supplemental to the Indenture, in order to modify certain provisions of the Indenture; and

WHEREAS, holders of at least a majority in principal amount (by aggregate liquidation preference) of the Debentures then Outstanding (as defined in the Debenture Indenture) and Holders of at least a majority in principal amount of the Outstanding Securities have consented to the execution of this Supplemental Indenture; and

WHEREAS, the Company and the Guarantors have heretofore delivered or are delivering contemporaneously herewith to the Trustee (i) copies of Officers' Certificates and (ii) an Opinion of Counsel, in compliance with and to the effect set forth in Sections 102, 902 and 903 of the Indenture; and

WHEREAS, the Company, acting pursuant to instructions, and the Guarantors have requested and directed the Trustee to enter into this Supplemental Indenture, and this Supplemental Indenture has been duly authorized by all the necessary corporate action on the part of the Company and the Guarantors; and

WHEREAS, all conditions necessary to authorize the execution and delivery of this Supplemental Indenture and to make this Supplemental Indenture valid and binding have been complied with or have been done or performed; and

NOW, THEREFORE, in consideration of the foregoing and notwithstanding any provision of the Indenture which, absent this Supplemental Indenture, might operate to limit such action, the Company, the Guarantors and the Trustee agree as follows for the benefit of the Holders of the Securities, and the Swap Counterparty and C10-EUR Capital (SPV) Limited, as the holder of all outstanding Securities, by their respective execution hereof, hereby consent to the execution of this Second Supplemental Indenture and the amendments effected hereby:

ARTICLE I
DEFINITIONS

Section 1.1 General. For all purposes of the Indenture and this Supplemental Indenture, except as otherwise expressly provided or unless the context otherwise requires:

(a) the words "herein", "hereof" and "hereunder" and other words of similar import refer to the Indenture and this Supplemental Indenture as a whole and not to any particular Article, Section or subdivision; and

(b) capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture.

ARTICLE II
AMENDMENTS

Section 2.1 Right of Redemption.

Section 1101 of the Indenture is amended by adding a new clause (d) immediately following clause (c) reading as follows:

"Notwithstanding anything contained in this Indenture to the contrary, at any time and from time to time, the Company shall deliver to the Trustee for cancellation in accordance with Section 309 the aggregate principal amount of Securities delivered to the Company by C10-EUR Capital (SPV) Limited in accordance with Section 1101(c) of the Debenture Indenture."

ARTICLE III
MISCELLANEOUS

Section 3.1 Effectiveness. This Supplemental Indenture shall become effective upon its execution and delivery by the Company, the Guarantors and the Trustee.

Section 3.2 Indenture Remains in Full Force and Effect. Except as modified hereby, all provisions in the Indenture shall remain in full force and effect and the Guarantors hereby ratify and confirm the Guarantees provided in accordance with Section 1201 of the Indenture.

Section 3.3 Indenture and Supplemental Indenture Construed Together. This Supplemental Indenture is an indenture supplemental to and in implementation of the Indenture, and the Indenture and this Supplemental Indenture shall henceforth be read and construed together. From and after the effectiveness of this Supplemental Indenture, all references to the Indenture in the Indenture and the Securities shall refer to the Indenture as supplemented hereby.

Section 3.4 Confirmation and Preservation of Indenture. The Indenture as supplemented by this Supplemental Indenture is in all respects confirmed and preserved.

Section 3.5 Severability. In case any provision in this Supplemental Indenture shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 3.6 Headings. The Article and Section headings of this Supplemental Indenture have been inserted for convenience of reference only, are not to be considered a part of this Supplemental Indenture and shall in no way modify or restrict any of the terms or provisions hereof.

Section 3.7 Benefits of Supplemental Indenture, etc. Nothing in this Supplemental Indenture or the Securities, express or implied, shall give to any Person, other than the parties hereto and thereto and their successors hereunder and thereunder and the Holders of the Securities, any benefit of any legal or equitable right, remedy or claim under the Indenture, this Supplemental Indenture or the Securities.

Section 3.8 Successors. All agreements in this Supplemental Indenture by the Company and the Guarantors shall bind their respective successors. All agreements of the Trustee in this Supplemental Indenture shall bind its successors.

Section 3.9 Trustee Not Responsible for Recitals. The recitals contained herein shall be taken as the statements of the Company and the Guarantors, and the Trustee assumes no responsibility for their correctness. The Trustee shall not be liable or responsible for the validity or sufficiency of this Supplemental Indenture.

Section 3.10 Certain Duties and Responsibilities of the Trustee. In entering into this Supplemental Indenture, the Trustee shall be entitled to the benefit of every provision of the Indenture relating to the conduct or affecting the liability or affording protection to the Trustee,

whether or not elsewhere herein so provided. The Company and each Guarantor expressly reaffirms and confirms its obligation to indemnify the Trustee in connection with the Indenture, this Supplemental Indenture and the actions contemplated hereby, all in accordance with Section 607 of the Indenture.

Section 3.11 Governing Law. **THIS SUPPLEMENTAL INDENTURE SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.**

Section 3.12 Consent to Service; Jurisdiction. The Company, each Guarantor and the Trustee agree that any legal suit, action or proceeding arising out of or relating to this Supplemental Indenture, the Securities or the Guarantee, may be instituted in any federal or state court in the Borough of Manhattan, The City of New York, waives any objection which it may now or hereafter have to the laying of the venue of any such legal suit, action or proceeding, waives any immunity from jurisdiction or to service of process in respect of any such suit, action or proceeding, and irrevocably submits to the jurisdiction of any such court in any such suit, action or proceeding. Each of the Company, each Guarantor and the Trustee further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to this Supplemental Indenture, and each of the Company and the Guarantors further submits to the jurisdiction of the courts of its own corporate domicile in any legal suit, action or proceeding initiated against each of them arising out of or relating to the Securities or the Guarantee. Each of the parties hereto also irrevocably waives any right it may have to the jurisdiction of any court other than the courts mentioned above pursuant to applicable law. Each of the Company and the Guarantors hereby designates and appoints CEMEX NY Corporation, 590 Madison Ave., 41st Floor, New York, New York 10022, Attention: General Counsel, as its authorized agent upon which process may be served in any legal suit, action or proceeding arising out of or relating to this Supplemental Indenture, the Securities or the Guarantee which may be instituted in any federal or state court in the Borough of Manhattan, The City of New York, New York, and agrees that service of process upon such agent, and written notice of said service to the Company or a Guarantor by the Person serving the same, shall be deemed in every respect effective service of process upon the Company (if such notice is given to the Company) or upon such Guarantor (if such notice is given to a Guarantor) in any such suit, action or proceeding and further designates its domicile, the domicile of CEMEX NY Corporation specified above and any domicile CEMEX NY Corporation may have in the future as its domicile to receive any notice hereunder (including service of process). If for any reason CEMEX NY Corporation (or any successor agent for this purpose) shall cease to have a domicile in New York or to act as agent for service of process as provided above, each of the Company and the Guarantors will promptly appoint a successor agent domiciled in New York for this purpose reasonably acceptable to Trustee and shall grant thereto notarial powers-of-attorney for lawsuits and collections. Each of the Company and the Guarantors agrees to take any and all actions as may be necessary to maintain such designation and appointment of such agent in full force and effect. Notwithstanding the foregoing, if CEMEX NY Corporation ceases to be a New York Corporation the parties shall immediately appoint CT Corporation System, Inc. as a replacement thereof.

Section 3.13 Counterpart Originals. The parties may sign any number of copies of this Supplemental Indenture. Each signed copy shall be an original, but all of them together represent the same agreement.

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

NEW SUNWARD HOLDING FINANCIAL VENTURES B.V.,
as Issuer

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

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

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-fact

CEMEX MEXICO, S.A. de C.V.,
as Guarantor

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-fact

NEW SUNWARD HOLDING B.V.,
as Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-fact

THE BANK OF NEW YORK MELLON,
as Trustee

By: /s/ Christopher Curtie
Name: Christopher Curtie
Title: Vice President

SWAP C10-EUR CAPITAL (SPV) LIMITED,
as Swap Counterparty

By: /s/ Illegible
Name:
Title: Authorised Signatories for Ogier Managers (BVI) Limited Director

C10-EUR CAPITAL (SPV) LIMITED

By: /s/ Illegible
Name:
Title: Authorised Signatories for Ogier Managers (BVI) Limited Director

Exhibit 4.33

CLIFFORD CHANCE LLP

CLEARY GOTTLIEB STEEN & HAMILTON LLP

CONFORMED COPY

FINANCING AGREEMENT

for

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

with

THE FINANCIAL INSTITUTIONS AND NOTEHOLDERS NAMED HEREIN
as Participating Creditors

and

CITIBANK INTERNATIONAL PLC
acting as Administrative Agent

and

WILMINGTON TRUST (LONDON) LIMITED
acting as Security Agent

FINANCING AGREEMENT

CONTENTS

THIS FINANCING AGREEMENT is dated 14 August 2009 and made

BETWEEN:

(1) **CEMEX, S.A.B. de C.V.** (the "**Parent**");

(2) **THE SUBSIDIARIES** of the Parent listed in Part I of Schedule 1 (*The Original Parties*) as borrowers or issuers (together with the Parent, the "**Original Borrowers**");

(3) **THE SUBSIDIARIES** of the Parent listed in Part I of Schedule 1 (*The Original Parties*) as guarantors (together with the Parent, the "**Original Guarantors**");

(4) **THE SUBSIDIARIES** of the Parent listed in Part I of Schedule 1 (*The Original Parties*) as security providers (the "**Original Security Providers**");

(5) **THE FINANCIAL INSTITUTIONS AND NOTEHOLDERS** listed in Part II of Schedule 1 (the "**Original Participating Creditors**");

(6) **THE CREDITORS REPRESENTATIVES** listed in Part III (*The Creditors' Representatives*) of Schedule 1;

(7) **CITIBANK INTERNATIONAL PLC** as administrative agent of the Finance Parties (other than itself) (the "**Administrative Agent**"); and

(8) **WILMINGTON TRUST (LONDON) LIMITED** as security agent of the Secured Parties (the "**Security Agent**").

IT IS AGREED as follows:

SECTION 1
INTERPRETATION

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Acceptable Bank**" means:

(a) a bank or financial institution which has a rating for its long-term unsecured and non credit-enhanced debt obligations of A- or higher by S&P or A- or higher by Fitch or A3 or higher by Moody's or a comparable rating from an internationally recognised credit rating agency;

(b) any other bank or financial institution in a jurisdiction in which a member of the Group conducts commercial operations where such member of the Group, in the ordinary course of trading, subscribes for certificates of deposit issued by such bank or financial institution; or

(c) any other bank or financial institution approved by the Administrative Agent.

"**Accession Letter**" means a document substantially in the form set out in Schedule 4 (*Form of Accession Letter*).

"**Additional Guarantor**" means a company that becomes an Additional Guarantor in accordance with Clause 28 (*Changes to the Obligors*).

"**Additional Security Provider**" means a company that becomes an Additional Security Provider in accordance with Clause 28 (*Changes to the Obligors*).

"**Affiliate**" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

"**Applicable GAAP**" means:

(a) in the case of the Parent, Mexican FRS or, if adopted by the Parent in accordance with Clause 22.3 (*Requirements as to financial statements*), IFRS;

(b) in the case of CEMEX España, Spanish GAAP or, if adopted by CEMEX España in accordance with Clause 22.3 (*Requirements as to financial statements*), IFRS; and

(c) in the case of any other Obligor, the generally accepted accounting principles applying to it in the country of its incorporation or in a jurisdiction agreed to by the Administrative Agent or, if adopted by the relevant Obligor, IFRS.

"**Authorisation**" means an authorisation, consent, approval, resolution, licence, exemption, filing, notarisation or registration.

"**Authorised Signatory**" means, in relation to any Obligor, any person who is duly authorised and in respect of whom the Administrative Agent has received a certificate signed by a director or another Authorised Signatory of such Obligor setting out the name and signature of such person and confirming such person's authority to act.

"**Banobras Facility**" means a revolving loan agreement (*Contrato de Apertura de Crédito en Cuenta Corriente*) between CEMEX CONCRETOS, S.A. de C.V., as borrower and Banco Nacional de Obras y Servicios Públicos, Sociedad Nacional de Crédito, Institución de Banca de Desarrollo, as lender ("**Banobras**"), in an aggregate principal amount equal to Mex$ 5,000,000,000.00 (five billion pesos), dated April 22, 2009, which was formalized by means of public deeds number 116,380 and 116,381 dated April 22, 2009, granted before Mr. José Angel Villalobos Magaña, notary public number 9 for Mexico, Federal District.

"**Base Currency**" means US dollars.

"**Base Currency Amount**" means on any date:

(a) in relation to an amount or Exposure denominated in the Base Currency, that amount or the amount of that Exposure; and

(b) in relation to an amount or Exposure denominated in a currency other than the Base Currency, that amount or the amount of that Exposure converted into the Base Currency at:

(i) for the purposes of determining the Majority Participating Creditors, the Super Majority Participating Creditors or the relevant proportion of Participating Creditors under paragraph (b) of Clause 24.28 (*Equity Issuance and Securities Demand*), the exchange rate displayed on the appropriate Reuters screen at or about 11:00 a.m. on the date on which such determination is made (or if the agreed page is replaced or services cease to be available, the Administrative Agent may specify another page or service displaying the appropriate rate after consultation with the Parent and the Participating Creditors); and

(ii) for all other purposes, the exchange rate displayed on the appropriate Reuters screen at or about 11:00 a.m. on the date which is five Business Days before that date (or if the agreed page is replaced or services cease to be available, the Administrative Agent may specify another page or service displaying the appropriate rate after consultation with the Parent and the Participating Creditors).

"**Bilateral Bank Facilities**" means the facilities described in Part IB of Part II of Schedule 1 (*The Original Participating Creditors*).

"**Borrower**" means an Original Borrower unless it has ceased to be a Borrower in accordance with Clause 28.2 (*Resignation of a Borrower*).

"**Break Costs**" means the amount (if any) by which:

(a) the interest (excluding any margin) which a Participating Creditor (other than a USPP Noteholder) should have received for the period from the date of receipt of all or any part of its participation in a Loan or Unpaid Sum to the last day of the current Interest Period in respect of that Loan or Unpaid Sum, had the principal amount or Unpaid Sum received been paid on the last day of that Interest Period;

exceeds:

(b) the amount of interest which that Participating Creditor would be able to obtain by placing an amount equal to the principal amount or Unpaid Sum received by it on deposit with a leading bank in the Relevant Interbank Market for a period starting on the Business Day following receipt or recovery and ending on the last day of the current Interest Period.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Madrid, New York, Amsterdam and Mexico City (in the case of Mexico City, if applicable, as specified by a governmental authority), and:

(a) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, a currency other than euro) the principal financial centre of the country of that currency; or

(b) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, euro) any TARGET Day.

"**Business Plan**" means the five year business plan of the Group contained within the FTI Report.

"**Capital Lease**" has the meaning given to such term in Clause 23.1 (*Financial definitions*).

"**Cash Equivalent Investments**" means at any time:

(a) certificates of deposit maturing within one year after the relevant date of calculation and issued by an Acceptable Bank;

(b) any investment in marketable debt obligations issued or expressly guaranteed by the government of Mexico, the United States of America (or any state thereof (including any political subdivision of such state)), the United Kingdom, any member state of the European Economic Area or any Participating Member State or any member state of NAFTA (or any other jurisdiction in which a member of the Group conducts commercial operations if that member of the Group makes investments in such debt obligations in the ordinary course of its trading) or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;

(c) commercial paper not convertible into or exchangeable for any other security:

(i) for which a recognised trading market exists;

(ii) issued by an issuer incorporated in Mexico, the United States of America (or any state thereof (including any political subdivision of such state)), the United Kingdom, any member state of the European Economic Area or any Participating Member State or any member state of NAFTA (or any other jurisdiction in which a member of the Group makes investments in such debt obligations in the ordinary course of trading);

(iii) which matures within one year after the relevant date of calculation; and

(iv) which has a credit rating of either A-1 or higher by S&P or F1 or higher by Fitch or P-1 or higher by Moody's, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;

(d) sterling bills of exchange eligible for rediscount at the Bank of England and accepted by an Acceptable Bank (or their dematerialised equivalent);

(e) any investment in money market funds which (i) have a credit rating of either A-1 or higher by S&P or F1 or higher by Fitch or P-1 or higher by Moody's, (ii) which invest substantially all their assets in securities of the types described in paragraphs (a) to (d) above and (f) and (g) below and (iii) can be turned into cash on not more than 30 days' notice; or

(f) any deposit issued by any of Nacional Financiera, S.N.C., Banco Nacional de Comercio Exterior, S.N.C., Banco National de Obras y Sevicios Publicos, S.N.C. or any other development bank controlled by the Mexican government;

(g) any other debt instrument rated "investment grade" (or the local equivalent thereof according to local criteria in a country in which any member of the Group conducts commercial operations and in which local pensions are permitted by law to invest) with maturities of 12 months or less from the date of acquiring such investment;

(h) investments in mutual funds, managed by banks or financial institutions, with a local currency credit rating of at least MxAA by S&P or equivalent by any other reputable local rating agency, that invest principally in marketable direct obligations issued by the Mexican government, or issued by any agency or instrumentality thereof; and

(i) any other debt security, certificate of deposit, commercial paper, bill of exchange, investment in money market funds or material funds approved by the Majority Participating Creditors,

in each case, to which any member of the Group is alone (or together with other members of the Group) beneficially entitled at that time and which is not issued or guaranteed by any member of the Group or subject to any Security (other than Security arising under the Transaction Security Documents).

"**CEMEX Australia Holdings**" means CEMEX Australia Holdings Pty Limited.

"**CEMEX España**" means CEMEX España, S.A.

"**Change of Control**" means that the beneficial ownership (within the meaning of Rule 13d-3 promulgated by the SEC under the Securities Exchange Act of 1934, as

amended) of 20 per cent. or more in voting power of the outstanding voting stock of the Parent is acquired by any person, **provided that** the acquisition of beneficial ownership of capital stock of the Parent by Lorenzo H. Zambrano or any member of his immediate family shall not constitute a Change of Control.

"**Charged Property**" means all of the assets of the Security Providers which from time to time are, or are expressed to be, the subject of the Transaction Security.

"**Co-Com Documents**" means the appointment letter and the fee letter each entered into on or about 16 April 2009 between the Parent, CEMEX España, the Co-ordinators and the Co-ordinating Committee Banks

"**Compliance Certificate**" means a certificate substantially in the form set out in Schedule 5 (*Form of Compliance Certificate*).

"**Confidentiality Undertaking**" means a confidentiality undertaking substantially in the form set out in Schedule 13 (*Confidentiality Undertaking*) or in any other form agreed between the Parent and the Administrative Agent.

"**Consolidated Leverage Ratio**" has the meaning given to such term in Clause 23.1 (*Financial definitions*).

"**Contingent Instrument**" means any documentary credit (including all forms of letter of credit) or performance bond, advance payment, bank guarantee or similar instrument.

"**Co-ordinating Committee Banks**" means the Co-ordinators, Australia and New Zealand Banking Group Limited, Bank of America, N.A., Barclays Bank PLC, acting through its investment banking division Barclays Capital, Calyon, ING Bank N.V., JPMorgan Chase Bank, N.A., Lloyds TSB Bank plc and The Bank of Tokyo- Mitsubishi UFJ, Ltd. each in its capacity as a co-ordinating committee bank for the lenders under the Core Bank Facilities in relation to the process for the completion and implementation of the New Finance Documents.

"**Co-ordinators**" means Banco Bilbao Vizcaya Argentaria, S.A., Banco Santander, S.A., BNP Paribas, Citigroup Global Markets Limited, HSBC Bank plc and The Royal Bank of Scotland plc each in its capacity as co-ordinator for the lenders under the Core Bank Facilities in relation to the process for the completion and implementation of the New Finance Documents.

"**Core Bank Facilities**" means the Syndicated Bank Facilities, the Bilateral Bank Facilities and the Promissory Notes.

"**Covenant Reset Date**" means the first date falling after the Effective Date on which all of the following conditions are met:

(a) the Rating satisfies two of the following (in each case, with a stable Outlook): (i) at least BBB- from S&P; (ii) at least Baa3 from Moody's; and (iii) at least BBB- from Fitch;

(b) the Base Currency Amount of the Exposures of the Participating Creditors under the Facilities has been reduced by an aggregate amount equal to at least 50.96% of the aggregate Exposures (as at the Reference Date) of the Participating Creditors under the Facilities since the Reference Date;

(c) the Consolidated Leverage Ratio for the two most recently completed Reference Periods in respect of which Compliance Certificates have been (or are required to have been) delivered under this Agreement was not greater than 3.50:1; and

(d) no Default is continuing.

"**Creditor's Representative**" means:

(a) with respect to each of the Syndicated Bank Facilities, the person appointed as the agent of the creditors in relation to such Facility under the Existing Finance Documents relating to such Facility;

(b) with respect to each other Core Bank Facility, the Participating Creditor with an Exposure under that Facility; and

(c) with respect to each USPP Note, the Participating Creditor with an Exposure under that USPP Note.

"**CWEA**" means the letter entitled "conditional waiver and extension agreement" dated on or about 16 April 2009 (with effect from 24 March 2009) to the Parent and CEMEX España (for itself and on behalf of each subsidiary obligor thereunder) from certain Participating Creditors (and certain of their affiliates), as amended or varied from time to time.

"**Default**" means an Event of Default or any event or circumstance specified in Clause 26 (*Events of Default*) which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"**Delegate**" means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

"**Derivatives Side Letter**" means the letter entitled "side letter to the conditional waiver and extension agreement" dated on or about 1 April 2009 (with effect from 24 March 2009) to the Parent and CEMEX España (for itself and on behalf of each subsidiary obligor thereunder) from certain Participating Creditors (and certain of their affiliates), as amended or varied from time to time.

"**Dutch Borrower**" means New Sunward Holding B.V.

"**Dutch Civil Code**" means the Dutch Civil code (*Burgerlijk Wetboek*).

"**Dutch FSA**" means the Financial Supervision Act (*Wet op het financieel toezicht*) and the rules and regulations promulgated thereunder.

"**Dutch Obligor**" means an Obligor incorporated in The Netherlands.

"**Effective Date**" means the date on which the Administrative Agent has received all of the documents and evidence listed in Part I of Schedule 2 (*Conditions Precedent*) in form and substance satisfactory to the Administrative Agent (acting reasonably).

"**Employee Compensation Structured Note**" means the Mex$ 126,562,263.59 Nota Estructurada dated 17 April 2008 and issued by the Parent.

"**Environmental Claim**" means any claim, proceeding or investigation by any person in respect of any Environmental Law or use of Hazardous Materials.

"**Environmental Law**" means any applicable law or regulation in any jurisdiction in which any member of the Group conducts business which relates to the pollution or protection of the environment or harm to or the protection of human health or the health of animals or plants.

"**Environmental Permits**" means any permit, licence, consent, approval and other authorisation and the filing of any notification, report or assessment required under any Environmental Law for the operation of the business of any member of the Group conducted on or from the properties owned or used by the relevant member of the Group.

"**ERISA**" means the U.S. Employee Retirement Income Security Act of 1974, as amended, and any successor statute thereto, as interpreted by the rules and regulations thereunder, all as the same may be in effect from time to time. References to sections of ERISA shall be construed also to refer to any successor sections.

"**ERISA Affiliate**" means an entity, whether or not incorporated, that is under common control with the Parent within the meaning of Section 4001(a)(14) of ERISA, or is a member of a group that includes the Parent and that is treated as a single employer under Section 414(b) or (c) of the U.S. Internal Revenue Code.

"**Event of Default**" means any event or circumstance specified as such in Clause 26 (*Events of Default*).

"**Excess Cashflow**" has the meaning given to such term in Clause 23.1 (*Financial definitions*).

"**Excluded Positions**" shall have the meaning ascribed thereto in Schedule 15 (*Hedging Parameters*).

"**Executive Compensation Plan**" means any stock option plan, restricted stock plan or retirement plan which the Parent or any other Obligor customarily provides to its employees, consultants and directors.

"**Existing Acceleration Clause**" means, in relation to a Facility, the provision(s) identified as such in Schedule 9 (*The Facilities*).

"**Existing Change of Control Provisions**" means, in relation to a Facility, the provision(s) identified as such in Schedule 9 (*The Facilities*).

"**Existing Drawdown Conditions**" means, in relation to a Facility, the provision(s) identified as such in Schedule 9 (*The Facilities*).

"**Existing Events of Default**" means, in relation to a Facility, the provision(s) identified as such in Schedule 9 (*The Facilities*).

"**Existing Extension and Term Out Provisions**" means, in relation to a Facility, the provisions identified as such in Schedule 9 (*The Facilities*).

"**Existing Facility Agreements**" means the facility agreements and other documents described in Part II, Schedule 1 (*The Original Participating Creditors*).

"**Existing Finance Documents**" means each Existing Facility Agreement, the USPP Note Guarantee, the "Finance Documents" as defined in any Existing Facility Agreement and the "Facility Transaction Documents" as defined in Exhibit H to the NY Law Amendment Agreement (but in each case excluding any document that is designated a "**Finance Document**" or "**Facility Transaction Document**" by an Obligor and the relevant Creditor's Representative under an Existing Facility Agreement after the date of this Agreement).

"**Existing Financial Covenants**" means, in relation to a Facility, the provision(s) identified as such in Schedule 9 (*The Facilities*).

"**Existing Financial Indebtedness**" means:

(a) the Financial Indebtedness described in Part I of Schedule 10 (*Existing Financial Indebtedness*) **provided that** the principal amount of such Financial Indebtedness does not increase above the principal amount outstanding as at the date of this Agreement (except by the amount of any capitalised interest under any facility or instrument that provided for capitalisation of interest on those terms as at the date of this Agreement) less the amount of any repayments and prepayments made in respect of such Financial Indebtedness;

(b) the Financial Indebtedness described in Part II of Schedule 10 (*Existing Financial Indebtedness*) and any Short-Term Certificados Bursatiles, working capital or other operating facilities that replace or refinance such Financial Indebtedness;

(c) the Financial Indebtedness described in Part III of Schedule 10 (*Existing Financial Indebtedness*) and any Capital Leases that replace (and relate to the same or similar assets as) such Financial Indebtedness;

(d) the Financial Indebtedness described in Part IV of Schedule 10 (*Existing Financial Indebtedness*) and any Inventory Financing or factoring arrangements that replace (and relate to the same or similar assets as) such Financial Indebtedness; and

(e) the Banobras Facility and any other facility that replaces or refinances such facility **provided that** any such replacement or refinancing facility is (i) with a development bank controlled by the Mexican Government or (ii) with any other financial institution to finance public works or infrastructure assets,

provided that (i) the aggregate principal amount of such Existing Financial Indebtedness falling under each of paragraphs (b) to (e) of this definition shall not be increased above the principal amount of Financial Indebtedness committed or capable of being drawn down under the Financial Indebtedness referred to in that paragraph of this definition as at the date of this Agreement (except by the amount of any capitalised interest under any facility or instrument that provided for capitalisation of interest on those terms as at the date of this Agreement) and (ii), for the avoidance of doubt, any refinancing or replacement of Existing Financial Indebtedness falling within paragraphs (b) to (d) above need not satisfy the requirements of paragraph (f) of the definition of Permitted Financial Indebtedness.

"**Existing Guarantor Release Restriction Clause**" means, in relation to a Facility the provision(s) identified as such in Schedule 9 (*The Facilities*).

"**Existing General Undertakings**" means, in relation to a Facility, the provision(s) identified as such in Schedule 9 (*The Facilities*).

"**Existing Illegality Clause**" means, in relation to a Facility, the provision(s) identified as such in Schedule 9 (*The Facilities*).

"**Existing Information Undertakings**" means, in relation to a Facility, the provision(s) identified as such in Schedule 9 (*The Facilities*).

"**Existing Mandatory Prepayment Provisions**" means, in relation to a Facility, the provision(s) identified as such in Schedule 9 (*The Facilities*).

"**Existing Notification Requirements**" means, in relation to a Facility, the provisions identified as such in Schedule 9 (*The Facilities*).

"**Existing Optional Currency Provisions**" means, in relation to a Facility the provisions identified as such in Schedule 9 (*The Facilities*).

"**Existing Representations and Warranties**" means, in relation to a Facility, the provision(s) identified as such in Schedule 9 (*The Facilities*).

"**Existing Sharing Provisions**" means, in relation to a Facility, the provision(s) identified as such in Schedule 9 (*The Facilities*).

"**Existing Single Lender Repayment Clause**" means, in relation to a Facility, the provision(s) identified as such in Schedule 9 (*The Facilities*).

"**Exposure**" means, at any time:

(a) in relation to a Participating Creditor and a Syndicated Bank Facility or Bilateral Bank Facility, that Participating Creditor's participation in Loans made under the relevant Facility at that time;

(b) in relation to Participating Creditor and a Promissory Note, the principal amount owed to that Participating Creditor under that Promissory Note at that time; and

(c) in relation to a Participating Creditor and a USPP Note, the principal amount owed to that Participating Creditor under that USPP Note at that time.

"**Facility**" means a Core Bank Facility and each USPP Note.

"**Facility Limit**" means the maximum principal amount capable of being utilised or issued, as the case may be, under a Facility.

"**Facility Office**" means (other than in the case of a USPP Noteholder) the office or offices notified by a Participating Creditor to the Administrative Agent in writing on or before the date it becomes a Participating Creditor (or, following that date, by not less than five Business Days' written notice) as the office or offices through which it will perform its obligations under this Agreement.

"**Fee Letter**" means any letter or agreement between the Administrative Agent or Security Agent and the Parent setting out (i) the upfront fee and (ii) the level of fees payable in respect of the services and obligations performed by those agents under the relevant New Finance Documents.

"**Finance Document**" means each New Finance Document and each Existing Finance Document.

"**Finance Party**" means the Administrative Agent, the Security Agent, each Creditor's Representative or a Participating Creditor.

"**Financial Indebtedness**" means any indebtedness for or in respect of:

(a) moneys borrowed and debit balances at banks or other financial institutions;

(b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);

(c) any amount raised pursuant to a note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument (including, without limitation, any perpetual bonds);

(d) the amount of any liability in respect of any lease or hire purchase contract which would (in accordance with Applicable GAAP of the Parent) be treated as a finance or capital lease;

(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meet any requirement for de-recognition under Applicable GAAP of the Parent);

(f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the mark-to-market value (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account);

(g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;

(h) any amount raised by the issue of redeemable shares which are redeemable (other than at the option of the issuer) before the Termination Date or are otherwise classified as borrowings under Applicable GAAP of the Parent;

(i) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 60 days after the date of supply;

(j) any arrangement pursuant to which an asset sold or otherwise disposed of by that person may be re-acquired by a member of the Group (whether following the exercise of an option or otherwise) and any Inventory Financing;

(k) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under Applicable GAAP of the Parent; and

(l) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (k) above.

"**Financial Quarter**" has the meaning given to such term in Clause 23.1 (*Financial definitions*).

"**Financial Year**" has the meaning given to such term in Clause 23.1 (*Financial definitions*).

"**Fitch**" means Fitch Ratings Limited or any successor thereto from time to time.

"**FTI Report**" means the report dated 19 May 2009 by FTI Consulting Canada, ULC. relating to the Group and addressed to and/or capable of being relied upon by the Finance Parties.

"**Group**" means the Parent and each of its Subsidiaries for the time being.

"**Group Structure** *precedent*).

"**Guarantors**" means the Original Guarantors and any Additional Guarantor other than any Original Guarantor or Additional Guarantor which has ceased to be a Guarantor pursuant to Clause 28.4 (*Resignation of Guarantor)* and has not subsequently become an Additional Guarantor pursuant to Clause 28.3 (*Additional Guarantors and Additional Security Providers*) and "**Guarantor**" means any of them.

"**Hazardous Materials**" means (a) radioactive materials, asbestos-containing materials, polychlorinated biphenyls, radon gas and (b) any other chemicals, materials or substances designated, classified or regulated as hazardous or toxic or as a pollutant or contaminant under any applicable Environmental Law.

"**Holding Company**" means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

"**IFRS**" means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

"**IMSS**" means the Mexican Social Security Institute (*Instituto Mexicano del Seguro Social*).

"**INFONAVIT**" means the Mexican Workers' Housing Fund Institute (*Instituto del Fondo Nacional de la Vivienda para los Trabajadores*).

"**Insolvency Proceedings**" means any of the matters described in Clause 26.7 (*Insolvency proceedings*).

"**Intellectual Property**" means:

(a) any patents, trademarks, service marks, designs, business names, copyrights, design rights, data-base rights, inventions, knowhow and other intellectual property rights and interests, whether registered or unregistered; and

(b) the benefit of all applications and rights to use such assets of each member of the Group.

"**Intercreditor Agreement**" means the intercreditor agreement dated on or about the date of this Agreement and made between, among others, the Parent, Wilmington Trust (London) Limited as Security Agent, Citibank International PLC as Administrative Agent, the Participating Creditors and any other creditors of the Group that may accede to it from time to time in accordance with its terms.

"**Interest Period**" means each period by reference to which interest on money advanced or the principal amount outstanding is calculated under the terms of the relevant Existing Finance Documents.

"**Inventory Financing**" means a financing arrangement pursuant to which a member of the Group sells inventory to a bank or other institution (or a special purpose vehicle

or partnership incorporated or established by or on behalf of such bank or other institution or an Affiliate of such bank or other institution) and has an obligation to repurchase such inventory to the extent that it is not sold to a third party within a specified period.

"**Joint Venture**" means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity.

"

any Additional Guarantors or Additional Security Providers.

"**Legal Reservations**" means:

(a) the principle that equitable remedies may be granted or refused at the discretion of a court and the limitation of enforcement by laws relating to insolvency, reorganisation and other laws generally affecting the rights of creditors;

(b) the time barring of claims under the Limitation Act 1980 and the Foreign Limitation Periods Act 1984, the possibility that an undertaking to assume liability for or indemnify a person against non-payment of UK stamp duty may be void and defences of set-off or counterclaim;

(c) similar principles, rights and defences under the laws of any Relevant Jurisdiction; and

(d) any other matters which are set out as qualifications or reservations as to matters of law in the Legal Opinions.

"**Loan**" means:

(a) in relation to a Syndicated Bank Facility or Bilateral Bank Facility, a loan made or to be made under such Facility or the principal amount outstanding for the time being of that loan; and

(b) in relation to a Promissory Note, the Exposure of the Participating Creditors for the time being under that Promissory Note.

"**Majority Participating Creditors**" means, at any time, a Participating Creditor or Participating Creditors the Base Currency Amount of whose Exposures under the Facilities at that time aggregate 66.67 per cent. or more of the Base Currency Amount of all the Exposures of the Participating Creditors under all of the Facilities at that time.

"**Margin**" means, in relation to any Facility (other than a USPP Note) or Unpaid Sum, 4.50 per cent. per annum, subject to the following:

(a) if, between the date of this Agreement and 30 June 2010, the Parent has not issued common equity securities to persons who are not members of the

Group for net cash proceeds of at least $1,000,000,000 (or its equivalent in any other currency) then from (and including) 1 July 2010 onwards the Margin will be increased by 0.75 per cent. per annum; and

(b) if the Base Currency Amount of the Exposures of the Participating Creditors under the Facilities has not been reduced by an amount equal to at least 31.85% of the aggregate Exposures as at the Reference Date of the Participating Creditors under the Facilities (since the Effective Date) on or before 31 December 2010 (the "**First Amortisation Target**") then, for the period from (and including) 1 January 2011 to (and including) the earlier of the Covenant Reset Date and the Termination Date, the Margin will be increased in accordance with the following:

(i) if the difference between the First Amortisation Target and the amount by which the Base Currency Amount of the Exposures of the Participating Creditors under the Facilities has actually been reduced since the Effective Date (the " **Actual Reduction Amount**") as at 31 December 2010 is less than half the difference between the First Amortisation Target and the amount equal to the "Cumulative Repayment Amount %" set out in the table in paragraph (a) of Clause 11.1 (the " **Cumulative Repayment Amount**") for 15 December 2010, 0.50 per cent. per annum; or

(ii) if the difference between the First Amortisation Target and the Actual Reduction Amount as at 31 December 2010 is equal to or greater than half the difference between the First Amortisation Target and the Cumulative Repayment Amount for 15 December 2010, 1.00 per cent. per annum; and

(c) if the Base Currency Amount of the Exposures of the Participating Creditors under the Facilities has not been reduced by an amount equal to at least 50.96% of the aggregate Exposures as at the Reference Date of the Participating Creditors under all the Facilities (since the Effective Date) on or before 31 December 2011 (the "**Second Amortisation Target**") then, for the period from (and including) 1 January 2012 to (and including) the earlier of the Covenant Reset Date and the Termination Date, the Margin will be increased in accordance with the following:

(i) if the difference between the Second Amortisation Target and the Actual Reduction Amount as at 31 December 2011 is less than half the difference between the Second Amortisation Target and the Cumulative Repayment Amount for 15 December 2011, 0.50 per cent. per annum; or

(ii) if the difference between the Second Amortisation Target and the Actual Reduction Amount as at 31 December 2011 is equal to or greater than half the difference between the Second Amortisation Target and the Cumulative Repayment Amount for 15 December 2011, 1.00 per cent. per annum.

For the avoidance of doubt:

(A) the adjustments to the Margin under paragraphs (a), (b) and (c) above are cumulative; and

(B) such adjustments will also apply to the USPP Note Interest Rate.

"**Marketable Securities**" means securities (whether equity, debt or other securities) which are listed on a stock exchange or for which a trading market exists (whether on market or over the counter) but excluding: (A) shares in any member of the Group, and (B) any shares in Axtel, S.A.B. de C.V.

"**Material Adverse Effect**" means a material adverse effect on:

(a) the business, property, assets, condition (financial or otherwise) or operations of the Group, taken as a whole; or

(b) the rights or remedies of any Finance Party under the Finance Documents; or

(c) the ability of any Obligor to perform its obligations under the Finance Documents or the validity or enforceability, effectiveness or ranking of any of the Transaction Security granted or purported to be granted under or pursuant to any of the New Finance Documents.

"**Material Operating Subsidiary**" means a Material Subsidiary other than a member of the Group that is a Material Subsidiary solely by virtue of its being a Holding Company of a Material Subsidiary or Obligor.

"**Material Subsidiary**" means, as at the date of this Agreement those companies set out in Schedule 7 (*Material Subsidiaries*) and after the date of this Agreement, any other Subsidiary of the Parent which:

(a) has total gross assets representing 5 per cent. or more of the total consolidated assets of the Group;

(b) has revenues representing 5 per cent. or more of the consolidated turnover of the Group; and/or

(c) has earnings before interest, tax, depreciation and amortisation calculated on the same basis as EBITDA, representing 5 per cent. or more of the consolidated EBITDA of the Group,

in each case calculated on a consolidated basis (without duplication) and any Holding Company of any such Subsidiary or of an Obligor.

Compliance with the conditions set out in paragraphs (a) to (c) shall be determined by reference to the most recent Compliance Certificate supplied by the Parent and/or the latest audited financial statements of that Subsidiary (if available) and the latest audited

consolidated financial statements of the Group, but if a Subsidiary has been acquired since the date as at which the latest audited consolidated financial statements of the Group were prepared, the financial statements shall be adjusted in order to take into account the acquisition of that Subsidiary (that adjustment being certified by the Group's auditors as representing an accurate reflection of each of the respective revised total assets and turnover of the Group).

A report by the auditors of the Parent (or, as the case may be, any other internationally recognised accounting firm that is approved by the Administrative Agent) that a Subsidiary is a Material Subsidiary shall, in the absence of manifest error, be conclusive and binding on all Parties.

"**Mexican FRS**" means Mexican Financial Reporting Standards (*Normas de Información Financiera*) as in effect from time to time and consistent with those used in the preparation of the most recent audited financial statements referred to in Clause 22.1 (*Financial statements*).

"**Mexico**" means the United Mexican States.

"**Month**" means a period starting on one day in a calendar month and ending on the numerically corresponding day in the next calendar month, except that:

(a) if the numerically corresponding day is not a Business Day, that period shall end on the next Business Day in that calendar month in which that period is to end if there is one, or if there is not, on the immediately preceding Business Day; and

(b) if there is no numerically corresponding day in the calendar month in which that period is to end, that period shall end on the last Business Day in that calendar month.

The above rules will only apply to the last Month of any period. **"Monthly**" shall be construed accordingly.

"**Moody's**" means Moody's Investor Services Limited or any successor to its ratings business.

"**New Finance Document**" means this Agreement, the NY Law Amendment Agreement, the Intercreditor Agreement, each Transaction Security Document, any Accession Letter, any Fee Letter, any Resignation Letter, any Resignation Letter (Australia) and any other document designated as a **"New Finance Document**" by the Administrative Agent and the Parent.

"**New Participating Creditor**" has the meaning given to such term in Clause 27 (*Changes to the Participating Creditors*).

e date of this Agreement between, among others,
the Parent and the Participating Creditors with Exposures under those Existing Facility Agreements (other than the USPP Note Agreement) that are governed by the laws of the State of New York.

"**Obligors**" means the Borrowers, the Guarantors and the Security Providers and **"Obligor**" means any of them.

"**Original Financial Statements**" means:

(a) in relation to the Parent, its audited unconsolidated and consolidated financial statements for its Financial Year ended 31 December 2008 accompanied by an audit opinion of KPMG Cardenas Dosal, S.C.;

(b) in relation to CEMEX España, its audited consolidated financial statements for its financial year ended 31 December 2008; and

(c) in relation to any other Borrower or Guarantor, its most recent annual financial statements (audited, if available).

"**Original Obligor**" means an Original Borrower, an Original Guarantor or an Original Security Provider.

"**Outlook**" means a rating outlook of the Parent with regard to the Parent's economic and/or fundamental business condition, as assigned by a Rating Agency.

"**Override Period**" means the period beginning on the Effective Date and ending on the date on which all amounts payable under the Finance Documents to the Finance Parties have been paid in full and no Participating Creditor is under any further obligation under any Finance Document.

"**Participating Creditor**" means:

(a) any Original Participating Creditor; and

(b) any person which has become a Party in accordance with Clause 27 (*Changes to the Participating Creditors*),

which in each case has not ceased to be a Party in accordance with the terms of this Agreement.

"**Participating Creditor Accession Undertaking**" means an undertaking substantially in the form set out in Schedule 3 (*Form of Participating Creditor Accession Undertaking*) or any other form agreed between the Administrative Agent and the Parent.

"**Participating Member State**" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"**Party**" means a party to this Agreement.

"**Pension Plan**" means a "pension plan," as such term is defined in Section 3(2) of ERISA, which is subject to Title IV of ERISA (other than a multiemployer plan as defined in Section 4001(a)(3) of ERISA), and to which any Obligor or any of its ERISA Affiliates has any liability.

"**Permitted Acquisition**" means:

(a) an acquisition by a member of the Group of an asset sold, leased, transferred or otherwise disposed of by another member of the Group in circumstances constituting a Permitted Disposal;

(b) an acquisition of shares or securities pursuant to a Permitted Share Issue;

(c) an acquisition of cash or securities which are Cash Equivalent Investments;

(d) an acquisition to which a member of the Group is contractually committed as at the date of this Agreement, with the material terms of those acquisitions requiring consideration payable in excess of $10,000,000 being described in the list delivered to the Administrative Agent under paragraph 4(f) of Part I (*Initial Conditions Precedent*) of Schedule 2 (**provided that** there is no material change to the terms of such acquisition after the date of this Agreement);

(e) the incorporation of a company which on incorporation becomes a member of the Group or which is a special purpose vehicle, whether a member of the Group or not;

(f) an acquisition that constitutes a Permitted Joint Venture;

(g) an acquisition of assets and, if applicable, cash, in exchange for other assets and, if applicable, cash, of equal or higher value **provided that**: (i) the cash element of any such acquisition must not be more than 20 per cent. of the aggregate consideration for the acquisition; and (ii) the maximum aggregate market value of the assets acquired pursuant to all such transactions must not be more than $100,000,000 (or its equivalent in any other currency) in any Financial Year;

(h) any acquisition of shares of the Parent pursuant to an obligation in respect of any Executive Compensation Plan;

(i) any other acquisition consented to by the Administrative Agent acting on the instructions of the Majority Participating Creditors;

(j) an acquisition of shares in the Parent to the extent that a member of the Group has an obligation to deliver such shares to any holder(s) of convertible securities falling within paragraph (f)(i) of the definition of Permitted Financial Indebtedness pursuant to the terms of such convertible securities; and

(k) any other acquisition of a company, of shares, securities or a business or undertaking (or, in each case, any interest in any of them) **provided that** the aggregate amount of the consideration for such acquisitions (when aggregated with the aggregate amount of Permitted Joint Ventures falling within paragraph (b)(iii)(1) of the definition of Permitted Joint Venture in that Financial Year) does not exceed $100,000,000 (or its equivalent in any other currencies) in any Financial Year.

"**Permitted Disposal**" means any sale, lease, licence, transfer or other disposal which, except in the case of Disposals as between members of the Group, is on arm's length terms:

(a) of trading stock or cash made by any member of the Group in the ordinary course of trading of the disposing entity;

(b) of any asset by a member of the Group (the **"Disposing Company**") to another member of the Group (the **"Acquiring Company**"), but if:

(i) the Disposing Company is an Obligor, the Acquiring Company must also be an Obligor;

(ii) the Disposing Company had given Transaction Security over the asset, the Acquiring Company must give equivalent Transaction Security over that asset; and

(iii) the Disposing Company is a Guarantor, the Acquiring Company must be a Guarantor guaranteeing at all times an amount no less than that guaranteed by the Disposing Company,

provided that the conditions set out in paragraphs (i), (ii) and (iii) above shall only apply if the applicable assets are shares or if all or substantially all of the assets of the Disposing Company are being disposed of;

(c) of obsolete or redundant vehicles, machinery, parts and equipment in the ordinary course of trading;

(d) of cash or Cash Equivalent Investments for cash or in exchange for other Cash Equivalent Investments;

(e) constituted by a licence of Intellectual Property in the ordinary course of trading;

(f) to a Joint Venture, to the extent permitted by Clause 24.17 (*Joint ventures*);

(g) arising as a result of any Permitted Security;

(h) of any shares in a member of the Group (**provided that** all such shares in that entity owned by a member of the Group are the subject of the Disposal) or of any other asset, in each case on arm's length terms and for full market value where:

(i) no less than 85 per cent. of the consideration for the Disposal is payable to the Group in cash or Marketable Securities paid or received by a member of the Group at completion of the Disposal (**provided that** where a portion of that 85 per cent. is comprised of Marketable Securities, those Marketable Securities must be disposed of for cash to a person that is not a member of the Group within 90 days of completion);

(ii) if the aggregate consideration for the Disposal (when aggregated with the consideration for any related Disposals) is equal to 5 per cent. or more of the value of consolidated assets of the Group, the Parent has delivered to the Administrative Agent a certificate signed by an Authorised Signatory confirming that, on a pro forma basis, assuming that the Disposal had been completed and the proceeds had been applied in accordance with Clause 13 (*Mandatory Prepayment*) immediately prior to the first day of the most recent Reference Period for which a Compliance Certificate has been or is required to have been delivered under this Agreement, the Parent would have been in compliance with the financial covenants in paragraphs (a) and (b) of Clause 23.2 (*Financial condition*) as at the last day of the most recent Reference Period for which a Compliance Certificate has been or is required to have been delivered under this Agreement; and

(iii) the Disposal Proceeds received by members of the Group are applied (to the extent required) in accordance with Clause 13 (*Mandatory prepayment*);

(i) of any asset compulsorily acquired by a governmental authority **provided that** the Disposal Proceeds received by members of the Group are applied (to the extent required) in accordance with Clause 13 (*Mandatory prepayment*);

(j) of any receivables disposed of pursuant to a factoring or similar receivables financing arrangement that is otherwise permitted under this Agreement (including, for the avoidance of doubt, the Banobras Facilities);

(k) of any inventory disposed of pursuant to an Inventory Financing or similar arrangement that is otherwise permitted under this Agreement;

(l) of any plant or equipment disposed of pursuant to a sale and lease-back arrangement that is otherwise permitted under this Agreement;

(m) of any asset to which a member of the Group was contractually committed as at the date of this Agreement, with all material terms of those disposals which relate to the disposal of assets with a value of at least $10,000,000 being described in Schedule 14 (*Disposals*) (**provided that** there is no material change to the terms of such Disposal after the date of this Agreement);

(n) of receivables disposed of pursuant to a Permitted Securitisation;

(o) of land or buildings arising as a result of lease or licence in the ordinary course of its trading;

(p) of any shares of the Parent pursuant to an obligation in respect of any Executive Compensation Plan;

(q) of shares in the Parent to the extent that a member of the Group has an obligation to deliver such shares to any holder(s) of convertible securities falling within paragraph (f)(i) of the definition of Permitted Financial Indebtedness pursuant to the terms of such convertible securities;

(r) of assets and, if applicable, cash in exchange for other assets and, if applicable, cash, of equal or higher value **provided that**: (i) the cash element of any such Disposal must not be more than 20 per cent. of the aggregate consideration for the Disposal; and (ii) the maximum aggregate market value of all assets disposed of in such transactions must not be more than $100,000,000 (or its equivalent in any other currencies) in any Financial Year; or

(s) otherwise approved by the Administrative Agent acting on the instructions of the Majority Participating Creditors.

"**Permitted Distribution**" means the declaration, making or payment of a dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution):

(a) on or in respect of share capital to the Parent or any of its Subsidiaries; or

(b) that is:

(i) a recapitalisation of earnings on or in respect of the share capital of the Parent (or any class of its share capital) pursuant to which additional share capital of the Parent or the right to subscribe for additional share capital is issued to the existing shareholders of the Parent on a *pro rata* basis; or

(ii) by way of the issuance of common equity securities of the Parent or the right to subscribe for such common equity securities to the existing shareholders of the Parent on a *pro rata* basis,

provided that, for the avoidance of doubt, no cash or other asset of any member of the Group (or any interest in any such cash or asset) is paid or otherwise transferred or assigned to any person that is not a member of the Group in connection with such distribution or interest; or

(c) that is a payment of interest (at a time at which no Default is continuing) on any perpetual debt securities issued by the Parent or New Sunward Holding Financial Ventures B.V. or otherwise permitted by this Agreement; or

(d) to any minority shareholders of any Subsidiary of the Parent *pro rata* to its holding in such Subsidiary and **provided that** all other shareholders of the relevant Subsidiary receive their equivalent *pro rata* share in any such dividend, charge, fee, distribution or interest payment at the same time.

"**Permitted Financial Indebtedness**" means Financial Indebtedness:

(a) incurred or arising under the Finance Documents;

(b) that is Existing Financial Indebtedness;

(c) owed to a member of the Group;

(d) that constitutes a Permitted Securitisation;

(e) arising under Capital Leases, factoring arrangements, Inventory Financing arrangements or export credit facilities for the purchase of equipment (**provided that** any Security granted in relation to any such facility relates solely to equipment, the purchase of which was financed under such Facility) or pursuant to sale and lease-back transactions **provided that** the maximum aggregate Financial Indebtedness of members of the Group under such transactions (excluding any Existing Financial Indebtedness) does not exceed $350,000,000 at any time;

(f) arising:

(i) pursuant to an issuance of bonds, notes or other debt securities, or of convertible or exchangeable securities by:

(A) in the case of bonds, notes or other debt securities or convertible or exchangeable securities issued to refinance or replace Existing Financial Indebtedness falling within Part I of Schedule 10 (*Existing Financial Indebtedness*), one or more Obligors (other than CEMEX Materials LLC, CEMEX, Inc. and CEMEX Australia Holdings) or the same member of the Group (including, where applicable, CEMEX Materials LLC and CEMEX, Inc.) that issued the relevant Existing Financial Indebtedness that is being refinanced or replaced (whether acting as co-issuers or otherwise but, for the avoidance of doubt, with several liability only); or

(B) in the case of bonds, notes or other debt securities or convertible or exchangeable securities issued so as to be applied in repayment or prepayment of the Exposures of the Participating Creditors under the Facilities, one or more Obligors (other than CEMEX Materials LLC, CEMEX, Inc. and CEMEX Australia Holdings) whether acting as co-issuers or otherwise,

(and, for the avoidance of doubt, such securities may be issued with an original issue discount) on the capital markets in each case subscribed or paid for in full in cash on issue (unless such securities are exchanged on issue for other securities that constitute Existing Financial Indebtedness falling within paragraph (a) of the definition thereof on issue) **provided that** (other than any conversion into common equity securities of the Parent) no principal repayments are scheduled (and no call options can be exercised) in respect thereof until after the Termination Date;

(ii) under a loan facility in respect of which the only borrowers are:

(A) in the case of loan facilities entered into to refinance or replace Existing Financial Indebtedness falling within Part I of Schedule 10 (*Existing Financial Indebtedness*) one or more Obligors (other than CEMEX Materials LLC, CEMEX, Inc. and CEMEX Australia Holdings) or the same member of the Group (including, where applicable, CEMEX Materials LLC and CEMEX, Inc.) that borrowed the relevant Existing Financial Indebtedness that is being refinanced or replaced, (whether acting as joint or multiple borrowers but for the avoidance of doubt, with several liability only); or

(B) in the case of loan facilities entered into so as to refinance or replace the Exposures of the Participating Creditors under the Facilities, one or more Obligors (other than CEMEX Materials LLC, CEMEX, Inc. and CEMEX Australia Holdings) whether acting as joint or multiple borrowers,

provided that no principal repayments are scheduled (and no mandatory prepayment obligations arise save as a result of unlawfulness affecting a creditor in respect of such loan facility) in respect thereof until after the Termination Date,

and further **provided that** (1) the terms applicable to such issuance or incurrence (excluding pricing, but including, without limitation, as to prepayments, representations, covenants, events of default, guarantees and security) are no more restrictive or onerous than the terms applicable to the Facilities; (2) the proceeds of such issuance or incurrence are applied (to the extent required) in accordance with Clause 13 (*Mandatory prepayment*); (3) to the extent that the proceeds of such issuance or incurrence are being used to replace or refinance Financial Indebtedness which shares in the Transaction Security, such Financial Indebtedness shall be entitled to share in the Transaction Security in accordance with (and on the terms of) the Intercreditor Agreement; and (4) for the avoidance of doubt, any refinancing

or replacement of Existing Financial Indebtedness falling within paragraphs (b) to (d) of the definition of Existing Financial Indebtedness need not satisfy the requirements of this paragraph (f);

(g) that constitutes a Permitted Liquidity Facility;

(h) that becomes Financial Indebtedness solely as a result of any change in Applicable GAAP of the Parent after the date of this Agreement and that existed prior to the date of such change in Applicable GAAP of the Parent (or that replaces, and is on substantially the same terms as, such Financial Indebtedness);

(i) of any person acquired by a member of the Group pursuant to an acquisition falling within paragraphs (d) or (f) of the definition of Permitted Acquisition **provided that**: (i) such Financial Indebtedness existed prior to the date of the acquisition and was not incurred, increased or extended in contemplation of, or since, the acquisition; and (ii) the aggregate amount of any such Financial Indebtedness of members of the Group does not exceed $100,000,000 at any time;

(j) under Treasury Transactions entered into in accordance with Clause 24.26 (*Treasury Transactions*);

(k) incurred pursuant to or in connection with any cash pooling or other cash management agreements in place with a bank or financial institution, but only to the extent of offsetting credit balances of the Parent or its Subsidiaries pursuant to such cash pooling or other cash management arrangement;

(l) constituting Financial Indebtedness for taxes levied, assessments due and other governmental charges required to be paid as a matter of law or regulation in the ordinary course of trading;

(m) that constitutes a Permitted Joint Venture;

(n) approved by the Administrative Agent acting on the instructions of the Majority Participating Creditors; and

(o) that, when aggregated with the principal amount of any other Financial Indebtedness not falling within paragraphs (a) to (n) above, does not exceed $200,000,000 (or its equivalent in other currencies) in aggregate at any time.

"**Permitted Fundraising**" means:

(a) any issuance of equity securities by the Parent paid for in full in cash on issue (and, for the avoidance of doubt, such securities may be issued with an original issue discount) and not redeemable on or prior to the Termination Date and where such issue does not lead to a Change of Control;

(b) any issuance of equity-linked securities issued by any member of the Group that are linked solely to, and result only in the issuance of, equity securities of

the Parent otherwise entitled to be issued under this definition (and that do not, for the avoidance of doubt, result in the issuance of any equity securities by such member of the Group) and that are paid for in full in cash on issue (and, for the avoidance of doubt, such securities may be issued with an original issue discount) and where such issue does not lead to a Change of Control (**provided that** such securities do not provide for the payment of interest in cash and are not redeemable on or prior to the Termination Date); and

(c) any incurrence of Financial Indebtedness falling within paragraph (f) of the definition of Permitted Financial Indebtedness.

"**Permitted Guarantee**" means:

(a) any guarantee existing on the date of this Agreement with those guaranteeing Financial Indebtedness above an amount of $10,000,000 (or its equivalent) (other than Financial Indebtedness described in paragraphs (i) and (j) of the definition thereof) being listed in Schedule 16 (*Existing Guarantees*);

(b) any guarantee forming part of the obligations comprised in the Finance Documents;

(c) the endorsement of negotiable instruments in the ordinary course of trade but excluding an *aval*;

(d) any Contingent Instrument guaranteeing performance by a member of the Group under any contract entered into in the ordinary course of trade;

(e) any guarantee of a Joint Venture to the extent permitted by Clause 24.17 (*Joint ventures*);

(f) any guarantee (including an *aval*) of Financial Indebtedness falling within the following paragraphs of the definition of Permitted Financial Indebtedness: (a), (b) (other than Existing Financial Indebtedness described in Part I of Schedule 10 (*Existing Financial Indebtedness*) unless such guarantee is already in place as at the date of this Agreement), (c), (e), (f) (so long as: (A) the Financial Indebtedness refinanced from the proceeds of such Permitted Financial Indebtedness was issued, borrowed or guaranteed by the relevant guarantor; or (B) such Permitted Financial Indebtedness that is guaranteed is used to repay Participating Creditors), (g) and (j) to (o);

(g) any guarantee given in respect of the netting or set-off arrangements permitted pursuant to paragraph (b) of the definition of Permitted Security;

(h) any indemnity given to professional advisers on customary terms as part of the terms of their engagement;

(i) any indemnity given on customary terms in connection with a Permitted Disposal or a Permitted Acquisition (but not, for the avoidance of doubt, a

guarantee of Financial Indebtedness), in each case in a maximum amount not exceeding the cash consideration received by members of the Group for that Disposal or, as the case may be, paid by members of the Group for that acquisition (except in the case of environmental, employment or tax indemnities given in connection with a Permitted Acquisition or Permitted Disposal);

(j) any guarantee consented to by the Administrative Agent acting on behalf of the Participating Majority Creditors;

(k) any guarantee given by a member of the Group in favour of another member of the Group other than:

(i) a guarantee given by a member of the Group in favour of another member of the Group that is an issuer, borrower or guarantor of:

(A) any Financial Indebtedness falling within paragraph (a) of the definition of Existing Financial Indebtedness; or

(B) any Financial Indebtedness falling within paragraph (f) of the definition of Permitted Financial Indebtedness that is not used to repay or prepay the Exposures of Participating Creditors,

where such guarantee provides direct or indirect support for such person's obligations in respect of such Financial Indebtedness (**provided that** for the avoidance of doubt, other guarantees given by a member of the Group in favour of the relevant issuer, borrower or guarantor will not be restricted under this paragraph (i));

(ii) a guarantee given by a member of the Group in favour of another member of the Group that provides direct or indirect support for Financial Indebtedness falling within paragraphs (h) (other than where such guarantee was granted prior to the date of the relevant change in Applicable GAAP of the Parent) or (i) of the definition of Permitted Financial Indebtedness;

(iii) a guarantee given by an Obligor in favour of CEMEX, Inc. or CEMEX Materials LLC or (unless it has granted a guarantee pursuant to Clause 24.32 (*Conditions subsequent*)) CEMEX Australia Holdings that, in each case, provides direct or indirect support for such company's obligations under the Facilities;

(iv) a guarantee given by a member of the Group in favour of another member of the Group that is the issuer (or equivalent) under any Permitted Securitisation, other than any indemnities that are customary in the context of such a transaction carried out on a non-recourse basis or on a basis where recovery is limited solely to the collection of the relevant receivables; and

(l) any other guarantee given by a member of the Group in favour of a bank or financial institution in respect of obligations of that bank or financial institution to a third party that does not fall within paragraph (d) above **provided that** at any time the aggregate principal amount of all such guarantees then outstanding does not exceed $500,000,000.

"**Permitted Joint Venture**" means any investment in any Joint Venture where:

(a) such investment exists or a member of the Group is contractually committed to such investment at the date of this Agreement and, if the value of the Group's investment in such Joint Venture is $50,000,000 or greater (as shown in the Original Financial Statements of the Parent) is detailed in Schedule 12 (*Permitted Joint Ventures*); or

(b) such investment is made after the date of this Agreement and:

(i) either the investment has been consented to by the Administrative Agent acting on the instructions of the Majority Participating Creditors or the Joint Venture is engaged in a business substantially the same as that carried on by the Group; and

(ii) in any Financial Year of the Parent, the aggregate (the "**Joint Venture Investment**") of:

(1) all amounts subscribed for shares in, lent to, or invested in all such Joint Ventures by any member of the Group;

(2) the contingent liabilities of any member of the Group under any guarantee given in respect of the liabilities of any such Joint Venture; and

(3) the market value of any assets transferred by any member of the Group to any such Joint Venture,

does not exceed $100,000,000 (or its equivalent in other currencies) (or such greater amount as the Administrative Agent (acting on the instructions of the Majority Participating Creditors) may agree); and

(iii) the Parent has (by written notice to the Administrative Agent prior to the end of the Financial Year in which the investment is made) designated the investment as counting against:

(1) paragraph (k) of the definition of Permitted Acquisitions; or

(2) the maximum amount of Capital Expenditure permitted in that Financial Year under paragraph (c) of Clause 23.2 (*Financial condition*).

"**Permitted Liquidity Facilities**" means a loan facility or facilities made available to one or more members of the Group by one or more Participating Creditors (or their

respective Affiliates) **provided that** the aggregate principal amount of utilised and unutilised commitments under such facilities must not exceed $1,000,000,000 (or its equivalent in any other currency) at any time.

"**Permitted Loan**" means:

(a) any trade credit extended by any member of the Group to its customers on normal commercial terms and in the ordinary course of its trading activities;

(b) Financial Indebtedness which is referred to in the definition of, or otherwise constitutes, Permitted Financial Indebtedness (except under paragraph (d) of that definition);

(c) a loan made to a Joint Venture to the extent permitted under Clause 24.17 (*Joint ventures*);

(d) a loan made by a member of the Group to another member of the Group;

(e) deferred consideration in relation to Disposals falling within paragraphs (h) or (m) of the definition of Permitted Disposal;

(f) a loan made by a member of the Group to an employee or director of any member of the Group if the amount of that loan when aggregated with the amount of all loans to employees and directors by members of the Group does not exceed $15,000,000 (or its equivalent) at any time;

(g) any loan consented to by the Administrative Agent acting on the instructions of the Majority Participating Creditors;

(h) a loan arising as a result of an advance payment of Capital Expenditure made in the ordinary course of trading where such Capital Expenditure is permitted under this Agreement;

(i) any credit extended by way of receipt by a member of the Group of promissory notes in exchange for supplying materials or services for use in Mexican public works projects as long as the aggregate principal amount of the Financial Indebtedness under any such loan(s) does not exceed $100,000,000 (or its equivalent) at any time; and

(j) any other loan(s) as long as the aggregate principal amount of the Financial Indebtedness under any such loan(s) does not exceed $250,000,000 (or its equivalent) at any time.

"**Permitted Payment**" means:

(a) a scheduled principal repayment or redemption in respect of any Existing Financial Indebtedness (but not, for the avoidance of doubt, any prepayment or early redemption of any such Existing Financial Indebtedness save as described in paragraphs (b) to (e) below);

(b) a principal prepayment or early redemption in respect of Financial Indebtedness falling within (i) paragraph (a) of the definition of Existing Financial Indebtedness from the proceeds of a Permitted Fundraising falling within paragraph (f)(i) of the definition of Permitted Financial Indebtedness, or (ii) paragraph (b) of the definition of Permitted Financial Indebtedness to the extent it relates to Short Term Certificados Bursatiles;

(c) a principal prepayment or early redemption in respect of Financial Indebtedness falling within paragraphs (a) to (e) of the definition of Existing Financial Indebtedness from the proceeds of a Permitted Fundraising falling within paragraph (f)(ii) of the definition of Permitted Financial Indebtedness;

(d) a principal repayment or redemption required under the terms of the Banobras Facilities or the Employee Compensation Structured Note;

(e) a principal prepayment or early redemption in respect of Financial Indebtedness falling within paragraphs (b) to (e) of the definition of Existing Financial Indebtedness from the proceeds of a refinancing or replacement capital markets issuance, facility or facilities that constitute Existing Financial Indebtedness; and

(f) any prepayment of Existing Financial Indebtedness as a result of a change of control or as a result of unlawfulness affecting a Creditor, in each case in respect of such Existing Financial Indebtedness,

including, in each case, any payment, prepayment or redemption pursuant to a Permitted Guarantee given in respect of such Financial Indebtedness.

"**Permitted Reorganisation**" means:

(a) the intra-Group reorganisation described in the presentation delivered as a condition precedent under paragraph 4(i) of Part I of Schedule 2 (*Conditions precedent*); and

(b) other than a reorganisation that would not be permitted under Clause 24.33 (*Restriction on transfer of Material Operating Subsidiaries*), any intra-Group reorganisation involving an Obligor consented to by the Administrative Agent (acting on the instructions of the Majority Participating Creditors),

provided that upon completion of each step in the Permitted Reorganisation the requirements of paragraph (c) of Clause 24.27 (*Further assurance*) are satisfied.

"**Permitted Securitisations**" means a transaction or series of related transactions providing for the securitisation of receivables and related assets by the Parent or its Subsidiaries, including a sale at a discount, **provided that** (i) such receivables have been transferred, directly or indirectly, by the originator thereof to a person that is not a member of the Group in a manner that satisfies the requirements for an absolute conveyance (or, where the originator is organised in Mexico, a true sale), and not merely a pledge, under the laws and regulations of the jurisdiction in which such

originator is organised; and (ii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or other securitisation is carried out on a non-recourse basis or on a basis where recovery is limited solely to the collection of the relevant receivables.

"**Permitted Security**" has the meaning given to such term in Clause 24.5 (*Negative Pledge*).

"**Permitted Share Issue**" means:

(a) a Permitted Fundraising falling within paragraphs (a) or (b) of the definition thereof;

(b) an issue of shares by a member of the Group which is a Subsidiary of the Parent to another member of the Group or the Parent (and, where the member of the Group has a minority shareholder, to that minority shareholder on a *pro rata* basis) where (if the existing shares of the Subsidiary are the subject of the Transaction Security) the newly-issued shares also become subject to the Transaction Security on the same terms;

(c) an issue of shares by the Parent to comply with an obligation in respect of any Executive Compensation Plan; or

(d) an issue of common equity securities of the Parent to a member of the Group where that member of the Group has an obligation to deliver such shares to the holder(s) of convertible or exchangeable securities falling within paragraph (f)(i) of the definition of Permitted Financial Indebtedness pursuant to the terms of such convertible or exchangeable securities.

"**Permitted Transaction**" means:

(a) any disposal required, Financial Indebtedness incurred, guarantee, indemnity or Security given, or other transaction arising, under the Finance Documents;

(b) the solvent liquidation or reorganisation of any member of the Group which is not an Obligor so long as any payments or assets distributed as a result of such liquidation or reorganisation are distributed to other members of the Group (and, where the member of the Group has a minority shareholder, to that minority shareholder on a *pro rata* basis); and

(c) transactions (other than (i) any sale, lease, license, transfer or other disposal and (ii) the granting or creation of Security or the incurring or permitting to subsist of Financial Indebtedness) conducted in the ordinary course of trading on arm's length terms.

"**Permitted Treasury Transaction**" shall have the meaning ascribed thereto in Schedule 15 (*Hedging Parameters*).

"**Process Agent**" means CEMEX UK at its registered address being, as at the date of this Agreement, CEMEX House, Coldharbour Lane, Thorpe, Egham, Surrey TW20 8TD and with fax number (+44) 01932 568933, Attn: The Secretary.

"**Promissory Notes**" means the promissory notes described in Part II of Schedule 1 (*The Original Participating Creditors*).

"**Protected Party**" means a Finance Party which is or will be subject to any liability or required to make any payment for or on account of Tax in relation to a sum received or receivable (or any sum deemed for the purposes of Tax to be received or receivable) under a Finance Document.

"**Quasi-Security**" has the meaning given to such terms in Clause 24.5 (*Negative Pledge*).

"**Rating**" means at any time the solicited long term credit rating or the senior implied rating of the Parent or an issue of securities of or guaranteed by the Parent, where the rating is based primarily on the senior unsecured credit risk of the Parent and/or, in the case of the senior implied rating, on the characteristics of any particular issue, assigned by a Rating Agency.

"**Rating Agency**" means S&P, Moody's or Fitch.

"**Receiver**" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Properties.

"**Reference Date**" means the date of this Agreement.

"**Reference Period**" has the meaning given to that term in Clause 23.1 (*Financial definitions*).

"**Relevant Interbank Market**" means in relation to euro, the European interbank market and, in relation to any other currency, the London interbank market.

"**Relevant Jurisdiction**" means, in relation to an Obligor:

(a) its jurisdiction of incorporation or formation;

(b) any jurisdiction where any asset subject to or intended to be subject to the Transaction Security to be created by it is situated;

(c) any jurisdiction where it conducts its business; and

(d) the jurisdiction whose laws govern the perfection of any of the Transaction Security Documents entered into by it.

"**Repayment Date**" means each of the dates specified in paragraph (a) of Clause 11.1 (*Repayment of Exposures and reduction of Facility Limits*) as Repayment Dates and the Termination Date.

"**Repayment Instalment**" has the meaning given to such term in Clause 11.1 (*Repayment of Exposures and reduction of Facility Limits*).

"**Repeating Representations**" means each of the representations set out in Clauses 21.1 (*Status*) to Clause 21.5 (*Validity and admissibility in evidence*) and paragraphs (a) and (b) of Clause 21.11 (*Financial statements*).

"**Resignation Letter**" means a document substantially in the form set out in Part I of Schedule 11 (*Form of Resignation Letter*).

"**Resignation Letter (Australia)**" means a document substantially in the form set out in Part II of Schedule 11 (*Form of Resignation Letter (Australia*)).

"**Responsible Officer**" means the Chief Financial Officer and/or Chief Controlling Officer of the Parent or a person holding equivalent status (or higher).

"**Revolving Facility**" means each facility under a Syndicated Bank Facility or a Bilateral Bank Facility described as a revolving facility in Part II of Schedule 1 (*The Original Participating Creditors*).

"**Rinker Facilities**" means the facilities made available under the US$6,000,000,000 (originally US$9,000,000,000) facilities agreement dated 6 December 2006 (as amended) between, among others, CEMEX España as borrower and The Royal Bank of Scotland plc as facility agent.

"**RMC Facilities**" means the facilities made available under the US$2,300,000,000 facilities agreement dated 24 September 2004 (as amended) between, among others, CEMEX España as borrower and guarantor and Citibank International PLC as facility agent.

"**Rollover Loan**" means one or more Loans:

(a) made or to be made under the same Revolving Facility and tranche as a maturing Loan was made;

(b) made or to be made on the same day that a maturing Loan is due to be repaid;

(c) the aggregate amount of which is equal to or less than the maturing Loan;

(d) in the same currency as the maturing Loan; and

(e) made or to be made for the purpose of refinancing a maturing Loan.

"**S&P**" means Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc., or any successor thereto from time to time.

"**SEC**" means the U.S. Securities Exchange Commission and any successor thereto.

"**Secured Parties**" means each Finance Party from time to time party to this Agreement and any Receiver or Delegate.

"**Security**" means a mortgage, charge, pledge, lien, security trust or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Security Providers**" means the Original Security Providers and any Additional Security Provider other than any Original Security Provider or Additional Security Provider which has ceased to be a Security Provider pursuant to Clause 28.6 (*Resignation of a Security Provider*) and has not subsequently become an Additional Security Provider pursuant to Clause 28.3 (*Additional Guarantors and Additional Security Providers*), and "Security Provider" means any of them.

"**Short-Term Certificados Bursatiles**" means any securities with a term of not more than 12 months issued by the Parent in the Mexican capital markets with the approval of the Mexican National Banking and Securities Banking and Securities Commission and listed on the Mexican Stock Exchange.

"**SPA**" has the meaning given to such term in Clause 28.5 (*Release of CEMEX Australia Holdings*).

"**Spain**" means the Kingdom of Spain.

"**Spanish GAAP**" means the Spanish General Accounting Plan (*Plan general Contable*) approved by Royal Decree 1514/2007 as in effect from time to time and consistent with those used in the preparation of the most recent audited financial statements referred to in Clause 22.1 (*Financial Statements*).

"**Spanish Public Document**" means any obligation in an *Escritura Pública* or *poliza intervenida*.

"**Subsidiary**" means in relation to any company or corporation, a company or corporation:

(a) which is controlled, directly or indirectly, by the first mentioned company or corporation;

(b) more than half the issued share capital of which is beneficially owned, directly or indirectly by the first mentioned company or corporation; or

(c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

"**Super Majority Participating Creditors**" means, at any time, a Participating Creditor or Participating Creditors the Base Currency Amount of whose Exposures under the Facilities at that time aggregate more than 85 per cent. of the Base Currency Amount of all the Exposures of the Participating Creditors under all of the Facilities at that time.

"**Syndicated Bank Facilities**" means the facilities described in Part IA of Part II of Schedule 1 (*The Original Participating Creditors*).

"**Swiss Obligor**" means an Obligor incorporated in Switzerland.

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

"**TARGET Day**" means any day on which TARGET2 is open for the settlement of payments in euro.

"**Tax**" means any tax, levy, impost, duty or other charge, deduction or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Tax Deduction**" means a deduction or withholding for or on account of Tax from a payment under a Finance Document.

"**Termination Date**" means 14 February 2014.

"**Third Party Disposal**" has the meaning given to such term in Clause 28 (*Changes to the Obligors*).

"**Transaction Security**" means the Security created or expressed to be created in favour of the Security Agent pursuant to the Transaction Security Documents.

"**Transaction Security Documents**" means each of the documents listed as being a Transaction Security Document in paragraph 2(e) of Part I of Schedule 2 (*Conditions Precedent*) and any document required to be delivered to the Administrative Agent under paragraph 3(d) of Part II of Schedule 2 (*Conditions Precedent*) together with any other document entered into by any Obligor creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of the Obligors under any of the Finance Documents (and any other "Debt Documents" as defined in the Intercreditor Agreement).

"**Treasury Transactions**" means any derivatives transaction (i) that is a rate swap transaction, swap option, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, credit protection transaction, credit swap, credit default swap, credit default option, total return swap, credit spread transaction, repurchase transaction, reverse repurchase transaction, buy/sell-back transaction, securities lending transaction, weather index transaction or forward purchase or sale of a security, commodity or other financial instrument or interest (including any option with respect to any of these transactions), (ii) that is a type of transaction that is similar to any transaction referred to in clause (i) above that is currently, or in the future becomes, recurrently entered into in the financial markets and that is a forward, swap,

future, option or other derivative (including one or more spot transactions that are equivalent to any of the foregoing) on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, economic indices or measures of economic risk or value, or other benchmarks against which payments or deliveries are to be made or (iii) that is a combination of these transactions, it being understood that any Executive Compensation Plan permitted by this Agreement is not a Treasury Transaction.

"**Unpaid Sum**" means any sum due and payable but unpaid by an Obligor under the Finance Documents.

"**U.S.**", "**US**" or "**United States**" means the United States of America.

"**USPP Note**" means a note issued under the USPP Note Agreement.

"**USPP Note Agreement**" means the consolidated, amended and restated note purchase agreement described in Part II of Schedule 1 (*The Original Participating Creditors*).

"**USPP Note Guarantee**" means the consolidated, amended and restated note guarantee granted in favour of the USPP Noteholders.

"**USPP Noteholders**" means the holders from time to time of the notes issued pursuant to the USPP Note Agreement.

"**USPP Note Interest Rate**" means the original stated interest rate set forth in the USPP Note Agreement.

"**Utilisation**" means a utilisation of a Facility.

"**Utilisation Request**" means, in relation to a proposed Utilisation, a notice requesting a Utilisation substantially in the form required under the Existing Facility Agreement under which the Utilisation is requested.

"**VAT**" means value added tax, as defined in the Value Added Tax Act 1994 and any other tax of a similar nature.

1.2 **Construction**

(a) Unless a contrary indication appears a reference in this Agreement to:

(i) the "**Administrative Agent**", any "**Secured Party**", the "**Security Agent**", any "**Finance Party**", any "**Participating Creditor**", any "**Obligor**" any "**Creditor's Representative**", any "**Co-ordinator**", any "**Co-ordinating Committee Bank**" or any "**Party**" shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with the Finance Documents;

(ii) "**assets**" includes present and future properties, revenues and rights of every description;

(iii) the "**European interbank market**" means the interbank market for euro operating in Participating Member States;

(iv) a "**Finance Document**" or any other agreement or instrument is a reference to that Finance Document or other agreement or instrument as amended or novated;

(v) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

(vi) a "**participation**" of a Participating Creditor in a Loan, means the amount of such Loan which such Participating Creditor has made or is to make available and thereafter that part of the Loan which is owed to such Participating Creditor;

(vii) a "**person**" includes any person, firm, company, corporation, government, state or agency of a state or any association, trust or partnership (whether or not having separate legal personality) of two or more of the foregoing;

(viii) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law but, if not having the force of law, with which persons who are subject thereto are accustomed to comply) of any governmental, intergovernmental or supranational body, agency, department or regulatory, self-regulatory or other authority or organisation;

(ix) the "**winding-up**", "**dissolution**", "**administration**" or "**reorganisation**" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings (such as, in Mexico, a *concurso mercantil* or *quiebra* and in Spain, any *situación concursal*) under the laws and regulations of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganisation, bankruptcy, dissolution, administration, examinership in Ireland, arrangement, adjustment, protection or relief of debtors;

(x) a provision of law is a reference to that provision as amended or re-enacted without material modification;

(xi) a time of day is a reference to London time; and

(xii) a reference to a clause, paragraph or schedule, unless the context otherwise requires, is a reference to a clause, a paragraph of or a schedule to this Agreement.

(b) "**guarantee**" means (other than in Clause 20 (*Guarantee and indemnity*) and unless otherwise stated) any guarantee, *aval*, letter of credit, bond, indemnity, counter-indemnity or similar assurance against loss, or any obligation, direct or indirect, actual or contingent, to purchase or assume any indebtedness of any person or to make an investment in or loan to any person or to purchase assets of any person where, in each case, such obligation is assumed in order to maintain or assist the ability of such person to meet its indebtedness.

(c) where it relates to a Dutch entity, a reference to:

(i) necessary action to authorise, where applicable, includes without limitation:

(A) any action required to comply with the Dutch Works Council Act (*Wet op de ondernemingsraden*); and

(B) obtaining unconditional positive advice (*advies*) from each competent works council.

(ii) a winding-up, administration or dissolution includes a Dutch entity being:

(A) declared bankrupt (*failliet verklaard*); and

(B) dissolved (*ontbonden*);

(iii) a moratorium includes *surséance van betaling* and granted a moratorium includes *surséance verleend*;

(iv) a trustee in bankruptcy includes a *curator*;

(v) an administrator includes a *bewindvoerder*;

(vi) a receiver or an administrative receiver does not include a *curator* or *bewindvoerder*; and

(vii) an attachment includes a *beslag*.

(d) Section, Clause and Schedule headings are for ease of reference only.

(e) Unless a contrary indication appears, a term used in any other Finance Document or in any notice given under or in connection with any Finance Document has the same meaning in that Finance Document or notice as in this Agreement.

(f) Unless otherwise provided for in this Agreement, for the purposes of determining whether a material adverse change or material adverse effect has occurred, the date from which the change or effect is assessed will be the date of this Agreement.

(g) A Default (including an Event of Default) is "**continuing**" if it has not been remedied or waived but, for the avoidance of doubt, no breach of any of the financial covenants set out in Clause 23 (*Financial Covenants*) shall be capable of being, or be deemed to be, remedied by virtue of the fact that upon any subsequent testing of such covenants pursuant to Clause 23 (*Financial Covenants*), there is no breach thereof.

1.3 **Currency Symbols and Definitions**

"**£**" and "**sterling**" denote lawful currency of the United Kingdom, "**€**", "**EUR**" and "**euro**" means the single currency unit of the Participating Member States, "**US$**", "**$**" and "**dollars**" denote lawful currency of the United States of America, "**¥**" and "**yen**" denote lawful currency of Japan, "**Mexican pesos**", "**Mex$**", "**MXN**" and "**pesos**" denotes the lawful currency of Mexico and "**UDI**" denotes the Mexican *Unidad de Inversion*, n c"**AU$**" and " o f A u s t r a l i a , " of Colombia, "**PLN**" denotes the lawful currency of Poland, "**ISL**" denotes the lawful currency of Israel, "**HUF**" denotes the lawful currency of Hungary, "**DOP**" denotes the lawful currency of Dominican Republic, "**CZK**" denotes the lawful currency of Czech Republic, "**EGP**" denotes the lawful currency of Egypt and "**AED**" denotes the lawful currency of United Arab Emirates.

1.4 **Participating Creditors**

Each Participating Creditor will be regarded, for the purposes of this Agreement, as acting in a different capacity in respect of its Exposure under each Facility in which it has an Exposure and may (in the case of a Participating Creditor other than a USPP Noteholder), for the avoidance of doubt, have a different Facility Office in each such capacity.

1.5 **Third party rights**

(a) Unless expressly provided to the contrary in a Finance Document, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or enjoy the benefit of any term of any Finance Document.

(b) Clause 29.18 (*Role of FTI Consulting Canada, ULC*) is for the benefit of FTI Consulting Canada, ULC and FTI Consulting Canada, ULC (although not a party to this Agreement) is entitled to rely on and enforce such clause on behalf of itself and its employees and officers under the Contracts (Rights of Third Parties) Act 1999.

(c) The provisions of this Agreement relating to the Co-ordinating Committee Banks are for the benefit of the Co-ordinating Committee Banks and each Co-ordinating Committee Bank (although not a party to this Agreement) is entitled to rely on and enforce such clause on behalf of itself under the Contracts (Rights of Third Parties) Act 1999.

(d) Notwithstanding any term of any Finance Document, the consent of any person who is not a Party is not required to rescind or vary any Finance Document at any time.

SECTION 2
INTRODUCTION

2. PURPOSE OF THIS AGREEMENT

This Agreement and the other New Finance Documents record the terms upon which, during the Override Period, the Participating Creditors are willing to continue to make available the Facilities and amend, vary, modify, waive, override, replace and supplement certain terms of the Existing Finance Documents.

3. RELATIONSHIP BETWEEN NEW FINANCE DOCUMENTS AND OTHER FINANCE DOCUMENTS

3.1 Termination of CWEA and Derivatives Side Letter

With effect from the Effective Date the CWEA and Derivatives Side Letter shall cease to have any further force and effect.

3.2 Termination of Co-Com Documents

With effect from the Effective Date (and without prejudicing any accrued rights and liabilities of the parties to those documents), the Co-Com Documents shall be terminated in accordance with their terms.

3.3 Other Finance Documents continue

Each Obligor (other than a Security Provider which is not also a Borrower or a Guarantor) confirms that (in respect of the Existing Finance Documents to which it is a party), save to the extent amended, varied, overridden, replaced and supplemented by the New Finance Documents, the Existing Finance Documents (including, without limitation, any guarantee contained therein), shall remain in full force and effect.

3.4 Agreement prevails

To the maximum extent permitted by law:

(a) in the event of any inconsistency or conflict between the Intercreditor Agreement and any other Finance Document, the Intercreditor Agreement will prevail;

(b) in the event of any inconsistency or conflict between this Agreement and any other Finance Document (except the Intercreditor Agreement), the terms of this Agreement will prevail; and

(c) neither the entry into the New Finance Documents, nor any action required by an Obligor pursuant to the New Finance Documents shall be regarded as a breach of any Existing Finance Document.

4. RELATIONSHIP BETWEEN THE PARTIES

4.1 Finance Parties' rights and obligations

(a) The obligations of each Finance Party under the New Finance Documents are several. Failure by a Finance Party to perform its obligations under the New Finance Documents does not affect the obligations of any other Party under the New Finance Documents. No Finance Party is responsible for the obligations of any other Finance Party under the New Finance Documents.

(b) Except as otherwise stated in the New Finance Documents, the rights of each Finance Party under or in connection with the New Finance Documents are separate and independent rights and any debt arising under the New Finance Documents and owed to a Finance Party from an Obligor (other than a Security Provider which is not also a Borrower or Guarantor) shall be a separate and independent debt.

(c) A Finance Party may, except as otherwise stated in the New Finance Documents, separately enforce its rights under the New Finance Documents.

(d) No Party may require any Finance Party to act in breach of the New Finance Documents even if that Finance Party would otherwise be obliged to act in accordance with the decisions of other banks or financial institutions under any Existing Finance Document.

4.2 **The Security Agent**

(a) The Security Agent's duties under this Agreement are solely mechanical and administrative in nature.

(b) In particular, the role and, *inter alia*, duties, rights, powers, protections and benefits of the Security Agent are more particularly described in the Intercreditor Agreement, which sets out the basis upon which the Security Agent acts under this Agreement. Should any provision regarding the duties, discretions, rights, benefits, protections, indemnities and immunities of the Security Agent (the " **Security Agent Provisions**") conflict or otherwise be inconsistent as between this Agreement and the Intercreditor Agreement, then the Security Agent Provisions as contained in the Intercreditor Agreement shall prevail.

5. **INITIAL CONDITIONS PRECEDENT**

Clause 2 (*Purpose of this Agreement),* Clause 3 *(Relationship between New Finance Documents and Other Finance Documents),* Clauses 6 (*Provisions applicable to Facilities generally)* to 15 (*Interest)*, Clause 16 (*Fees*) (other than Clauses 16.3 and 16.4), Clause 20 (*Guarantee and indemnity*), Clauses 21 (*Representations*) to 24 (*General Undertakings*) and Clause 26 (*Events of Default*) will take effect from (and not, for the avoidance of doubt, at any time before) the Effective Date (and the Administrative Agent shall notify the Parent and the Participating Creditors of the Effective Date promptly upon its occurrence).

SECTION 3
THE FACILITIES

6. PROVISIONS APPLICABLE TO FACILITIES GENERALLY

6.1 Confirmation of Exposure

Each Participating Creditor confirms to the Parent and the Borrower under each relevant Facility in respect of which it is a Participating Creditor (but without liability to the Parent or any other member of the Group or any other person) to the best of its current knowledge and belief that Part II of Schedule 1 (*The Original Participating Creditors*) accurately records its Exposures under the Facilities as at close of business on the Reference Date.

6.2 Deemed Consent

By their execution of this Agreement, each Participating Creditor is deemed to give any express or implied consent required under the Existing Finance Documents to any relevant provision of the New Finance Documents.

7. EXTENSION

7.1 Extension of maturities for Core Bank Facilities

In relation to each Core Bank Facility, the scheduled repayment of principal amounts and/or (if applicable) scheduled cancellation of commitments and reduction in the applicable Facility Limit for such Core Bank Facility will (subject to the terms of the New Finance Documents including, without limitation, Clause 11 (*Repayment*)) be extended until the Termination Date.

7.2 USPP Note Agreement

The Parent confirms (and each USPP Noteholder acknowledges) that all existing notes held by the USPP Noteholders have, as at the Effective Date, been replaced by new USPP Notes issued under the USPP Note Agreement with a stated maturity of 14 February 2014, with the USPP Note Agreement comprising an "Existing Finance Document" for all purposes hereunder.

8. SPECIFIC AMENDMENTS AND OTHER AGREEMENTS IN RELATION TO FINANCE DOCUMENTS

8.1 Waiver of certain existing defaults

Without prejudicing or affecting in any respect any of the rights of the Participating Creditors under the New Finance Documents, the Participating Creditors hereby waive any default that has arisen prior to the date of this Agreement (including any such default that was waived under the terms of the CWEA) under the Finance Documents) of which the Participating Creditors have knowledge prior to the date of this Agreement.

8.2 **Replacement and / or deletion of specific provisions**

In the Existing Finance Documents relating to the Syndicated Bank Facilities and in the Bilateral Bank Facilities:

(a) The Existing Representations and Warranties, the Existing Information Undertakings, the Existing Financial Covenants, the Existing Notification Requirements and the Existing General Undertakings are deleted.

(b) The Existing Events of Default are deleted in their entirety and replaced with the following Event of Default:

> "Any Event of Default occurs under any of Clauses 26.1 (*Non-payment*) to 26.15 (*Failure to perform payment obligations*) of the financing agreement entered into in August 2009 between, among others, CEMEX, S.A.B. de C.V. and certain of its subsidiaries (including CEMEX España), Citibank International PLC as Administrative Agent, Wilmington Trust (London) Limited as Security Agent and the "Participating Creditors" (as defined therein)."

(c) The Existing Sharing Provisions are deleted.

(d) The Existing Extension and Term Out Provisions are deleted.

(e) The Existing Mandatory Prepayment Provisions and the Existing Change of Control Provisions are deleted.

(f) Each Existing Single Lender Repayment Clause is deleted.

(g) Each Existing Guarantor Release Restriction Clause is deleted and the provisions of Clause 28 (*Changes to the Obligors*) will replace any provisions in the Existing Finance Documents relating to the release of Obligors (with such amendments to defined terms required to be made being deemed to be made).

(h) The Existing Optional Currency Provisions are deleted.

(i) The Existing Acceleration Clauses are amended by providing that:

(i) the ability of any party to an Existing Finance Document to exercise their rights under any such clause is expressly subject to prior authorisation by the Majority Participating Creditors of the taking of such action under the Intercreditor Agreement; and

(ii) in the case of an Event of Default under Clauses 26.6 (*Insolvency*) or Clause 26.7 (*Insolvency proceedings*) of this Agreement with respect to an Obligor, all commitments under the Facilities shall be cancelled automatically and immediately, each Facility Limit will be reduced to zero automatically and immediately and all Exposures of the Participating Creditors under the Facilities (together with accrued

interest and all other amounts accrued under the Finance Documents) shall become due and payable automatically and immediately without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived.

(j) In relation to each Revolving Facility:

(i) the Existing Drawdown Conditions are deleted;

(ii) the relevant Existing Finance Documents relating to each Revolving Facility are amended to provide that:

(A) in relation to each lender under that Revolving Facility the Borrower may set off that lender's participation in any Loan against that lender's participation in a Rollover Loan requested under that Facility for the purpose of repaying that Loan (and that lender will not require a Borrower to repay any such participation in the Loan in cash) except to the extent that the lender is entitled to receive, request, demand or require repayment or prepayment of such Loan (or a portion of it) otherwise than by way of Rollover Loan under the terms of the New Finance Documents;

(B) if any Loan matures under that Revolving Facility then (except to the extent of any reduction in the applicable Facility Limit under the New Finance Documents) the relevant Borrower under the Revolving Facility will be deemed to have delivered a Utilisation Request for a Rollover Loan under the Revolving Facility in the currency and amount of the maturing Loan in accordance with (and within the timeframe required by) the Existing Finance Documents relating to that Revolving Facility and each Participating Creditor under each such Revolving Facility shall (unless otherwise provided in the New Finance Documents) continue to make available and/or leave outstanding (as applicable) the amount of any Rollover Loan.

(k) The definition of "**Business Day**" in each Existing Finance Document is amended to conform to the " **Business Day**" definition in this Agreement.

8.3 **Other agreements in respect of certain Facilities**

In connection with each Syndicated Bank Facility and each Bilateral Bank Facility:

(a) in respect of any Existing Finance Documents under which the consent of (or consultation with) any Borrower or Guarantor is required in order for a Participating Creditor under such Existing Finance Document to transfer, assign or enter into a sub-participation in respect of any of its rights under such Existing Finance Documents, by executing this Agreement the relevant Borrower or Guarantor will be deemed to have given its consent to any transfer, assignment or sub-participation by any Participating Creditor under

such Existing Finance Document (or, as the case may be, the relevant Participating Creditor will be deemed to have satisfied any applicable consultation requirement);

(b) notwithstanding anything to the contrary in the Existing Finance Documents relating to that Facility, there shall be no restriction as to the identity of any transferee, assignee or sub-participant of any rights of any of the Participating Creditors under any Facility;

(c) the Borrowers and Guarantors agree:

(i) not to request that any member of the Group becomes a borrower or (except to the extent required under the terms of the Existing Finance Documents relating to such Facility under any Facility) guarantor in respect of a Facility where such member of the Group is not a borrower or, as the case may be, guarantor under that Facility, at the date of this Agreement (**provided that** this provision shall not prevent any member of the Group from becoming a Guarantor under this Agreement); and

(ii) to ensure that any member of the Group that is not already a Guarantor and that accedes to any Existing Finance Documents as a guarantor or obligor simultaneously accedes to this Agreement as an Additional Guarantor;

(d) each Participating Creditor (other than a USPP Noteholder) agrees not to exercise its rights under any Existing Facility Agreement to designate one of its Affiliates as its Facility Office for any purpose;

(e) each Participating Creditor agrees not to consent to a redenomination of any part of its Exposure under any Facility under the terms of the Existing Finance Documents; and

(f) each Participating Creditor with an Exposure under the " **NSH Facility**" (as defined in Schedule 9 (*The Facilities*)) agrees that the Borrower in respect of such Facility need only issue a promissory note to such Participating Creditor under the terms of that Facility promptly following a request by such Participating Creditor.

8.4 **Direction to the Creditor's Representatives**

The Participating Creditors with Exposures under each Syndicated Bank Facility hereby:

(a) confirm that they consent to the amendments, deletions, variations, modifications and waivers of the Existing Finance Documents provided for in this Agreement and instruct the Creditor's Representative in relation to that Syndicated Bank Facility to execute this Agreement for the purpose of effecting those amendments, deletions, variations, modifications and waivers on their behalf;

(b) direct the Creditor's Representative in relation to that Syndicated Bank Facility to execute any transfer certificate relating to a transfer or assignment by a Participating Creditor in accordance with this Agreement;

(c) agree not to give an instruction to a Creditor's Representative under an Existing Facility Agreement that conflicts with the terms of the New Finance Documents; and

(d) direct the Creditor's Representative in relation to a Syndicated Bank Facility to act in accordance with the Existing Finance Documents for that Syndicated Bank Facility as the same have been amended, varied, modified, overridden, replaced, supplemented and waived by the terms of this Agreement and the other New Finance Documents.

8.5 **Acknowledgement of Facility Agents under Existing Finance Documents**

Each Creditor's Representative in relation to a Syndicated Bank Facility is executing this Agreement for the purpose of effecting the amendments, variations, modifications, replacements, supplements and waivers specified in this Agreement and acknowledges that it will act in accordance with the directions and instructions provided for in Clause 8.4 (*Direction to the Creditor's Representatives*) above.

9. **USPP NOTE AGREEMENT**

The Parent and each USPP Noteholder confirms that the USPP Note Agreement contains provisions that have the same substantive effect as Clauses 8.1 (*Waiver of certain existing defaults*) and 8.2 (*Replacement and / or deletion of specific provisions*) above (to the extent applicable).

10. **RESTRICTIONS ON PARTICIPATING CREDITORS DURING THE OVERRIDE PERIOD**

During the Override Period no Participating Creditor shall, and the Administrative Agent shall not, save as otherwise expressly permitted by, or provided for in, the New Finance Documents:

(a) amend the terms (including but not limited to the margin, interest rate and other pricing) of any Facility, except in a way which:

(i) could not be reasonably expected materially and adversely to affect the interests of the other Participating Creditors; and

(ii) would not change the date, amount or method of payment of interest or principal on any Exposures under the relevant Facility; or

(b) amend any Facility Limit; or

(c) call in, reduce, withdraw, or cease to make available or refuse to allow drawing against or borrowing under all or any part of any Facility; or

(d) make any demand for, or take any proceedings or steps to enforce payment or discharge of, any fees, expenses or other Exposure or liability to it under or in respect of any Facility; or

(e) accept or recover any sums in settlement or discharge of any Exposure or liability in respect of any Facility from any member of the Group including under any security, guarantee or indemnity granted by any member of the Group; or

(f) declare to have occurred a default or an event of default under any of the Facilities or enforce any provision for the automatic or accelerated payment or discharge of all or any part of the money and liabilities due, owing or incurred under any Facility, upon or following the occurrence of any default or event of default applicable under the terms thereof; or

(g) except for the Transaction Security and any guarantee provided for in the Finance Documents (or otherwise as expressly permitted under this Agreement), request or take from any member of the Group any new Security, cash collateral, cash cover, guarantee or indemnity of whatever nature in respect of any of the Facilities, fixed security over assets expressed to be subject only to floating security under the Transaction Security or legal assignments of assets subject only to equitable charges or assignments under the Transaction Security (save for Permitted Security); or

(h) (save (i) as required by law and (ii) pursuant to current account netting, auto transfer or any other similar arrangements) exercise any right of set off or combination of accounts against any member of the Group by virtue of or in relation to rights under any of the Facilities; or in respect of reserves on maturity of the relevant contingency; or

(i) initiate or threaten to initiate any Insolvency Proceedings against any member of the Group; or

(j) attach or seek to attach any asset of any member of the Group; or

(k) amend the date for any payments in respect of the Facilities,

provided that nothing in the New Finance Documents shall prevent:

(i) payments of principal in respect of the Participating Creditors' Exposures under the Facilities and reduction of any Facility Limit, in each case to the extent expressly permitted under the New Finance Documents; or

(ii) payments of interest, fees and expenses in respect of the Facilities being paid on their due date in accordance with the terms of the Facilities (as amended by this Agreement),

and further provided that any Participating Creditor shall be entitled to take any action available to it to recover any amount due to it under the Finance Documents and unpaid other than the taking of any action described in Clause 26.16 (*Acceleration*) except as contemplated in that Clause.

SECTION 4
REPAYMENT, PREPAYMENT AND CANCELLATION

11. REPAYMENT

11.1 Repayment of Exposures and reduction of Facility Limits

(a) The Borrowers shall repay the aggregate Exposures of the Participating Creditors under their respective Facilities in instalments by repaying on each Repayment Date an amount which reduces the Base Currency Amount of the outstanding aggregate Exposures under each such Facility by an amount (each such amount, and the amount to be repaid under paragraph (b) below, a " **Repayment Instalment**") such that the amount of all Repayment Instalments up to (and including) that Repayment Date (as a percentage of the aggregate Exposures as at the Reference Date under all Facilities) is equal to the "Cumulative Repayment Amount %" set out opposite that Repayment Date below (and on each Repayment Date the Facility Limit for each Facility will be reduced by the aggregate amount of the Exposures of the Participating Creditors under that Facility that are required to be repaid on that date under this Clause 11.1):

Repayment Date:	Cumulative Repayment Amount %:
15 December 2009	3.18%
15 June 2010	4.77%
15 December 2010	19.10%
15 June 2011	20.69%
15 December 2011	33.11%
15 June 2012	35.75%
15 December 2012	38.39%
15 June 2013	46.35%
15 December 2013	54.31%

(b) Each Borrower shall repay the remaining Exposures of Participating Creditors under Facilities in which it is a Borrower in full on the Termination Date.

(c) The Borrowers may not re-borrow any part of a Facility which is repaid as contemplated in this Clause 11.1 (*Repayment of Exposures and reduction of Facility Limits*), Clause 12 (*Illegality, voluntary prepayment and cancellation*), Clause 13 (*Mandatory prepayment*) or Clause 26.16 (*Acceleration*).

(d) Each repayment and cancellation under this Clause 11.1 (*Repayment of Exposures and reduction of Facility Limits*) will reduce the Base Currency Amounts of the Exposures of the Participating Creditors across all Facilities as at the date of the repayment and cancellation rateably.

11.2 Repayment of Loans under Revolving Facilities

Each Borrower which has drawn a Loan under a Revolving Facility shall satisfy its obligations in respect thereof on the last day of its Interest Period by way of a Rollover

Loan (except to the extent that repayment or prepayment of such Loan is contemplated in Clause 11.1 (*Repayment of Exposures and reduction of Facility Limits*), Clause 12 (*Illegality, voluntary prepayment and cancellation*), Clause 13 (*Mandatory prepayment*) or Clause 26.16 (*Acceleration*)).

11.3 **Effect of cancellation and prepayment on scheduled repayments and reductions**

If any of the Exposures of Participating Creditors under the Facilities are prepaid in accordance with Clause 12.2 (*Voluntary prepayment of Exposures*), or Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) then such prepayment will be deemed to have been applied in reduction of the amount of the Repayment Instalment for the Repayment Dates falling after that prepayment in the following order:

(a) **first**, in reduction of the Repayment Instalments falling due on or before 31 December 2011, in the order of those Repayment Instalments; and

(b) **secondly**, following the prepayment in full of all Repayment Instalments falling due on or before 31 December 2011, in *pro rata* reduction of all remaining Repayment Instalments.

11.4 **Automatic cancellation of unutilised commitments under Core Bank Facilities**

Any part of any Core Bank Facility that was not utilised as at close of business on the Reference Date shall be cancelled with effect from the Effective Date and the commitment of each Participating Creditor under such Core Bank Facility shall be reduced rateably.

12. ILLEGALITY, VOLUNTARY PREPAYMENT AND CANCELLATION

12.1 **Illegality**

(a) Any Existing Illegality Clause in an Existing Finance Document will continue in full force and effect in accordance with its terms.

(b) If, at any time, it is or will become unlawful in any applicable jurisdiction for a Participating Creditor to perform any of its obligations as contemplated by the Finance Documents, or to fund, issue or maintain its participation in any Loan:

(i) that Participating Creditor, shall promptly notify the Administrative Agent and the relevant Creditor's Representative upon becoming aware of that event;

(ii) subject to Clause 17.10 (*Replacement of Participating Creditor*), upon the Administrative Agent notifying the Parent and the relevant Creditor's Representative, the commitment of that Participating Creditor under the relevant Facilities will be immediately cancelled (and the Facility Limit applicable to those Facilities will be reduced accordingly); and

(iii) subject to Clause 17.10 (*Replacement of Participating Creditor*), each Borrower shall repay that Participating Creditor's participation in Loans made to that Borrower on the last day of the Interest Period for each such Loan occurring after the Administrative Agent has notified the Parent and the relevant Creditor's Representative or, if earlier, the date specified by the Participating Creditor in the notice delivered to the Administrative Agent and the relevant Creditor's Representative (being no earlier than the last day of any applicable grace period permitted by law).

(c) For the avoidance of doubt, this Clause 12.1 (*Illegality*) shall not apply to a USPP Note and any reference in this Agreement to this Clause 12.1 (*Illegality*) in respect of a USPP Note shall have no effect.

12.2 **Voluntary prepayment of Exposures**

Subject to Clause 12.3 (*Proportionate cancellation and prepayment*), a Borrower may, if it or the Parent gives the Administrative Agent not less than 5 Business Days' (or such shorter period as the Majority Participating Creditors and the Administrative Agent may agree) prior notice, prepay the whole or any part of the Exposures of Participating Creditors under the Facilities in accordance with the terms of the relevant Existing Finance Documents **provided that** in relation to any prepayment of an Exposure under a Revolving Facility, the Facility Limit applicable to that Facility is simultaneously reduced in an equal amount.

12.3 **Proportionate cancellation and prepayment**

Any prepayment under Clause 12.2 (*Voluntary prepayment of Exposures*) must reduce the Base Currency Amounts of the Exposures of the Participating Creditors across all Facilities as at the date of the prepayment rateably (and will reduce the Repayment Instalments in the order set out in Clause 11.3 (*Effect of cancellation and prepayment on scheduled repayments and reductions*)).

13. **MANDATORY PREPAYMENT**

13.1 **Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow**

(a) For the purposes of this Clause 13.1 and Clause 13.2 (*Application of mandatory prepayments*):

"**Disposal**" means a sale, lease, licence, transfer, loan or other disposal by a person of any asset (including shares in any Subsidiary or other company), undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions).

"**Disposal Proceeds**" means:

(i) the cash consideration received by any member of Group (including any amount received from a person who is not a member of the Group in repayment of intercompany debt save to the extent that the creditor in respect of the intercompany debt is obliged to repay that amount to the purchaser at or about completion of the Disposal) for any Disposal;

(ii) any proceeds of any Disposal received in the form of Marketable Securities that are required to be disposed of for cash (after deducting reasonable expenses incurred by the party disposing of those Marketable Securities to persons other than members of the Group) pursuant to the criteria set out at paragraph (h) of the definition of Permitted Disposal; and

(iii) any proceeds of any Disposal received in any other form to the extent disposed of or otherwise converted into cash within 90 days of receipt; and

(iv) any consideration falling within paragraphs (i) to (iii) above that is received by any member of the Group from the Disposal of assets of the Group in Venezuela prior to the date of this Agreement,

but excluding any Excluded Disposal Proceeds and, in every case, after deducting:

(1) any reasonable expenses which are incurred by the disposing party of such assets with respect to that Disposal to persons who are not members of the Group;

(2) any Tax incurred and required to be paid by the disposing party in connection with that Disposal (as reasonably determined by the disposing party on the basis of rates existing at the time of the disposal and taking account of any available credit, deduction or allowance);

"**Excluded Disposal Proceeds**" means the proceeds of any Disposal of:

(i) inventory or trade receivables in the ordinary course of trading of the disposing entity;

(ii) assets pursuant to a Permitted Securitisation programme existing as at the date of this Agreement (or any rollover or extension of such a Permitted Securitisation);

(iii) any asset from any member of the Group to another member of the Group on arm's length terms and for fair market or book value;

(iv) any assets the consideration for which (when aggregated with the consideration for any related Disposals) is less than $5,000,000 (or its equivalent in any other currency);

(v) assets leased or licensed to any director, officer or employee of any member of the Group in connection with and as part of the ordinary course of the service or employment arrangements of the Group; and

(vi) Marketable Securities (other than Marketable Securities received as consideration for a Disposal as envisaged in paragraphs (ii) and (iii) of the definition of Disposal Proceeds).

"**Excluded Fundraising Proceeds**" means the proceeds of:

(i) a Permitted Fundraising falling within paragraph (f)(i) of the definition of Permitted Financial Indebtedness entered into for the purpose of refinancing or extending the maturity of Existing Financial Indebtedness falling within paragraph (a) of the definition thereof (or paragraph (b) of the definition thereof, to the extent that it relates to Short Term Certificados Bursatiles) (and, in the case of a refinancing, where the proceeds that would, but for this paragraph (i), constitute "Permitted Fundraising Proceeds", are actually applied for such purpose upon receipt of those proceeds by any member of the Group);

(ii) a Permitted Fundraising falling within paragraph (f)(ii) of the definition of Permitted Financial Indebtedness entered into for the purpose of refinancing or extending the maturity of Existing Financial Indebtedness falling within paragraphs (a) to (e) of the definition thereof (and, in the case of a refinancing, where the proceeds that would, but for this paragraph (ii), constitute "Permitted Fundraising Proceeds", are actually applied for such purpose upon receipt of those proceeds by any member of the Group);

(iii) any transaction between members of the Group; and

(iv) Permitted Securitisations.

"**Permitted Fundraising Proceeds**" means the cash proceeds received by any member of the Group from a Permitted Fundraising other than Excluded Fundraising Proceeds after deducting:

(i) any reasonable expenses which are incurred by the relevant member(s) of the Group with respect to that Permitted Fundraising owing to persons who are not members of the Group; and

(ii) any Tax incurred and required to be paid by the relevant member(s) of the Group with respect to that Permitted Fundraising (as reasonably determined by the relevant member(s) of the Group on the basis of rates existing at the time and taking account of any available credit, deduction or allowance).

"**Permitted Securitisation Proceeds**" means the cash consideration received by any member of the Group (including any amount received in repayment of intercompany debt) in each case after the date of this Agreement from any Permitted Securitisation (other than any consideration received from (x) a Permitted Securitisation under a programme which exists on the date of this Agreement; or (y) any rollover or extension of such a Permitted Securitisation

or a Permitted Securitisation between members of the Group, in each case in an amount not greater than the commitments under such Permitted Securitisation at the date of this Agreement) after deducting:

(i) any reasonable expenses which are incurred by the relevant member(s) of the Group with respect to that Permitted Securitisation owing to persons who are not members of the Group; and

(ii) any Tax incurred and required to be paid by the relevant member(s) of the Group with respect to that Permitted Securitisation (as reasonably determined by the relevant member(s) of the Group on the basis of rates existing at the time and taking account of any available credit, deduction or allowance).

(b) The Parent shall ensure that the Exposures of Participating Creditors under the Facilities are prepaid in the following amounts at the times and in the order of application contemplated by Clause 13.2 (*Application of mandatory prepayments*):

(i) the amount of Disposal Proceeds **provided that** (A) the obligation to prepay such amounts shall only apply on each occasion that the aggregate amount of any Disposal Proceeds received (whether from a single Disposal or a series of Disposals) is equal to or greater than $50,000,000; and (B) if there is no Permitted Liquidity Facility in place and the cash in hand of the Parent on a consolidated basis as at the most recent Quarter Date preceding the date of the Disposal in respect of which financial statements of the Parent have been (or are required to have been) delivered under paragraphs (a) or (f) of Clause 22.1 (*Financial Statements*) is less than $350,000,000 (the amount of such shortfall being the " **Shortfall**") then the amount required to be prepaid under this paragraph (b)(i) in relation to the relevant Disposal will be reduced by the amount of the Shortfall;

(ii) the amount of Permitted Fundraising Proceeds;

(iii) the amount of Permitted Securitisation Proceeds; and

(iv) the amount equal to Excess Cashflow for any Financial Quarter of the Parent.

(c) In the case of a Disposal of all of the shares in a Borrower (or the Holding Company of a Borrower), the Parent shall ensure that:

(i) unless otherwise agreed to in writing by the relevant Borrower and the relevant Participating Creditors that a prepayment is not required to be made, upon completion of the Disposal, the Exposures of the relevant Participating Creditors under the relevant Facilities in respect of which that Borrower is the borrower or issuer (or the Holding Company is a holding company of that Borrower) (and for this purpose CEMEX España will be regarded as an issuer

of the USPP Notes as well as CEMEX España Finance LLC) shall be prepaid in full using the Disposal Proceeds and, for the avoidance of doubt, such prepayment shall first be applied in respect of the Exposures of the relevant Participating Creditors under the relevant Facilities and, subject to paragraph (ii) below, not be required to be applied to reduce the Base Currency Amount of the Exposures of the Participating Creditors across all the Facilities as at the date of prepayment rateably (but will reduce the Repayment Instalments in the order set out in Clause 11.3 (*Effect of cancellation and prepayment on scheduled repayments and reductions*));

(ii) any Disposal Proceeds arising from the Disposal that are not required to be applied under paragraph (i) above shall be applied in accordance with paragraph (b) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*).

13.2 **Application of mandatory prepayments**

(a) A prepayment made under paragraph (b) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) shall be paid by, or on behalf of, the Parent to the Creditor's Representative under each Facility and shall be applied to reduce the Base Currency Amount of the Exposures of the Participating Creditors across all Facilities as at the date of the prepayment rateably (and will reduce the Repayment Instalments in the order set out in Clause 11.3 (*Effect of cancellation and prepayment on scheduled repayments and reductions*).

(b) Exposures of Participating Creditors under the Facilities shall be prepaid at the following times:

(i) in the case of any prepayment relating to the amounts of Disposal Proceeds, Permitted Fundraising Proceeds or Permitted Securitisation Proceeds, promptly upon (and in any event within 30 days of) receipt of those proceeds (or, in the case of proceeds falling within limbs (ii) or (iii) of the definition of Disposal Proceeds, promptly upon (and in any event within 30 days of) receipt of any cash arising from those Disposal Proceeds); and

(ii) in the case of any prepayment relating to an amount of Excess Cashflow, within 30 days of delivery pursuant to Clause 22.1 (*Financial statements*) of the consolidated financial statements of the Parent for the relevant Financial Quarter of the Parent.

14. **RESTRICTIONS**

14.1 **Notices of Cancellation or Prepayment**

Any notice of cancellation, prepayment, authorisation or other election given by any Party under Clause 12 (*Illegality, voluntary prepayment and cancellation*), shall (subject to the terms of those Clauses) be irrevocable and, unless a contrary indication appears in this Agreement, shall specify the date or dates upon which the relevant cancellation or prepayment is to be made and the amount of that cancellation or prepayment.

14.2 **Interest and other amounts**

Any prepayment under this Agreement (whether voluntary, mandatory, by acceleration or otherwise) shall be made together with accrued interest on the amount prepaid and, subject to (and including) any Break Costs, without premium or penalty.

14.3 **Prepayment in accordance with Agreement**

No Borrower shall repay or prepay all or any part of the Exposures of Participating Creditors under the Facilities or cancel or reduce any Facility Limit except at the times and in the manner expressly provided for in this Agreement.

14.4 **No reinstatement of Facility Limit**

No cancellation of commitments and reduction in a Facility Limit under (or required by) this Agreement may be subsequently reinstated.

14.5 **Administrative Agent's receipt of Notices**

If the Administrative Agent receives a notice under Clause 12 (*Illegality, voluntary prepayment and cancellation*), it shall promptly forward a copy of that notice or election to either the Parent or the affected Participating Creditor, as appropriate.

SECTION 5
INTEREST AND FEES

15. **INTEREST**

15.1 **Calculation and payment of interest**

(a) Under each Syndicated Bank Facility and Bilateral Bank Facility:

(i) the rate of interest on each Loan for each Interest Period is the percentage rate per annum determined in accordance with the Existing Finance Documents under which that Loan has been made save that the applicable margin will be the Margin, and such interest is payable to the relevant Creditor's Representative at the times and in the manner specified in those Existing Finance Documents; and

(ii) any facility fee or utilisation fee provided for in the Existing Finance Documents for such facility will be deleted and will cease to accrue after the Effective Date, **provided that** any such fees that have accrued on or prior to the Effective Date will continue to be due and payable in accordance with the provisions of the relevant Existing Finance Documents.

(b) Under each Promissory Note, the rate of interest on the Exposures under that Promissory Note is the percentage rate per annum determined in accordance with that Promissory Note, and such interest is payable to the relevant Participating Creditors at the times, and in the manner, specified in that Promissory Note.

(c) Under the USPP Note Agreement, the rate of interest shall be the rate set forth therein (**provided that** this rate will be subject to any adjustments to the Margin from time to time under paragraphs (a) to (c) of the definition of Margin and Clause 25 (*Covenant Reset Date*)) and shall be payable on the 15th day of the last month of each Financial Quarter or (at any time after the date falling three Months after the date of this Agreement) such shorter period as is applicable to the Loans under paragraph (c) or of Clause 15.3 (*Harmonisation of Interest Periods*), and shall be payable all in the manner and on the timing as more particularly set forth in the USPP Note Agreement.

15.2 **Default interest**

(a) If an Obligor fails to pay any amount payable by it under a Finance Document on its due date, interest shall accrue on the overdue amount from the due date up to the date of actual payment (both before and after judgment) at a rate which, subject to paragraph (b) below, is 2.00 per cent. higher than the rate which would have been payable if the overdue amount had, during the period of non-payment, constituted a Loan or other amount outstanding in the currency of the overdue amount under the relevant Facility for successive Interest Periods, each of a duration selected by the Administrative Agent (acting reasonably). Any interest accruing under this Clause 15.2 (*Default interest*) shall be immediately payable by the Obligor on demand by the Administrative Agent.

(b) If any overdue amount consists of all or part of a Loan or other amount outstanding which became due on a day which was not the last day of an Interest Period relating to that Loan or other amount outstanding:

(i) the first Interest Period for that overdue amount shall have a duration equal to the unexpired portion of the current Interest Period relating to that Loan or other amount outstanding; and

(ii) the rate of interest applying to the overdue amount during that first Interest Period shall be 2.00 per cent. higher than the rate which would have applied if the overdue amount had not become due.

(c) Default interest (if unpaid) arising on an overdue amount will be compounded with the overdue amount at the end of each Interest Period applicable to that overdue amount but will remain immediately due and payable.

(d) To the extent that default interest accrues in respect of any unpaid amount under the Existing Finance Documents, default interest will only accrue under this Clause 15.2 (*Default interest*) in respect of such unpaid amount for an Interest Period to the extent (if any) by which the amount of default interest that would have accrued in respect of such amount under this Clause 15.2 (*Default interest*) but for this paragraph (d) exceeds the amount of default interest accrued in respect of such unpaid sum during that Interest Period under the Existing Finance Documents.

15.3 **Harmonisation of Interest Periods**

(a) The Parent shall procure that as soon as reasonably practicable after the date of this Agreement the Interest Periods in respect of the Exposures of the Participating Creditors under the Facilities are harmonised such that, subject to paragraph (c) below, each Interest Period begins and ends on or about the 15th day of the last Month of a Financial Quarter and has a duration of three Months (provided that if the current Interest Period of a Loan ends within less than 5 days before 15 September 2009, the Parent may select an Interest Period for the relevant Loan that ends on 15 December 2009).

(b) Each Participating Creditor consents (and hereby notifies the relevant Creditor's Representative of its consent) to the selection by the relevant Obligor (during the first three Months after the Effective Date (or, if the Interest Period applicable to any Loan as at the Effective Date extends beyond 15 September 2009, six Months) of an Interest Period ending on or about the 15 th day of the last Month of the next Financial Quarter if reasonably required to effect the harmonisation contemplated in paragraph (a).

(c) The Parent may, by giving written notice to the Administrative Agent (for distribution by the Administrative Agent to the Creditor's Representatives) at

least four Business Days prior to the last day of the then current Interest Period, select Interest Periods of 1 Month for all (but not some) of the Loans. If a selection is made by the Parent under this paragraph (c) then, for each Month ending on or before the next Quarter Date, the Interest Period applicable to all Loans will be 1 Month (and the relevant Borrower will be deemed to have submitted a selection notice, rollover notice or, as the case may be, utilisation request to that effect in respect of (and in accordance with the terms of) each Facility).

15.4 **Retrospective margin uplift**

The Parent shall pay (or procure to be paid) to the Creditor's Representative under each Facility, on the last day of the first Interest Period to end after the Effective Date in relation to a Facility, for the account of:

(a) each Participating Creditor (other than a USPP Noteholder) with an Exposure under a Facility, additional margin in an amount equal to the difference between:

(i) the aggregate of the facility fee and utilisation fee (in each case, if applicable) and margin component of interest that accrued under that Facility for the account of the Participating Creditors from (and including) 1 August 2009 to (but excluding) the Effective Date; and

(ii) the margin component of interest that would have accrued under that Facility in accordance with Clause 15.1 (*Calculation and payment of interest*) had the Effective Date occurred on 31 July 2009; and

(b) each USPP Noteholder, additional margin in an amount equal to the difference between:

(i) the aggregate of the fees and interest that accrued under that USPP Note for the account of the USPP Noteholder from (and including) 1 August 2009 to (but excluding) the Effective Date; and

(ii) the interest that would have accrued under that USPP Note in accordance with Clause 15.1 (*Calculation and payment of interest*) had the Effective Date occurred on 31 July 2009.

16. **FEES**

16.1 **Upfront fee**

The Parent shall pay (or procure to be paid) to the Creditor's Representative under each Facility and the Creditor's Representative shall distribute to the respective Participating Creditor under each Facility, an upfront fee in the amount and at the times agreed in a Fee Letter (and the Administrative Agent shall be authorised to execute on behalf of each Participating Creditor such Fee Letter in substantially the form circulated to the Participating Creditors prior the date of this Agreement).

16.2 **Non-issuance fee**

If, between the date of this Agreement and 30 June 2010, the Parent has not issued common equity securities to persons who are not members of the Group for net cash proceeds of at least $1,000,000,000 (or its equivalent in any other currency) then on 1 July 2010 the Parent shall pay (or procure to be paid) to the Creditor's Representative under each Facility, for the account of each Participating Creditor with an Exposure under a Facility, a fee in an amount equal to 0.75 per cent. of the amount of that Participating Creditor's Exposure under that Facility as at the Reference Date (payable in the currency of the relevant Exposure) as specified in Part II of Schedule 1 (*The Original Participating Creditors*).

16.3 **Administrative Agency fee**

The Parent shall pay to the Administrative Agent (for its own account) an agency fee in the amount and at the times agreed in a Fee Letter.

16.4 **Security Agent fee**

The Parent shall pay to the Security Agent (for its own account) the Security Agent fee in the amount and at the times agreed in a Fee Letter.

16.5 **Other existing fees**

The Borrowers shall pay all fees payable under the Existing Finance Documents in accordance with their terms (except as such terms are expressly modified by the New Finance Documents).

SECTION 6
ADDITIONAL PAYMENT OBLIGATIONS

17. TAX GROSS-UP, INCREASED COSTS AND INDEMNITIES

17.1 Tax gross-up

(a) Any tax gross up provisions (and any related mitigation provisions) in the Existing Finance Documents will continue in full force and effect in accordance with their terms.

(b) In addition, in relation to any payments to be made under the New Finance Documents in respect of a Facility, any tax gross-up provisions in the Existing Finance Documents for that Facility will apply to such payments as if the Obligors had been "Obligors", "Borrowers" and/or "Guarantors" (as applicable) and the New Finance Documents had been "Finance Documents" and/or the "Agreement" (as applicable) and the "Agent" had been the "Administrative Agent" for the purposes of those Existing Finance Documents.

(c) In relation to any Facility in respect of which the relevant Existing Finance Documents do not contain a tax gross up provision:

(i) each Obligor shall make all payments to be made by it under the Finance Documents in relation to that Facility without any Tax Deduction, unless a Tax Deduction is required by law.

(ii) the Parent shall, promptly upon becoming aware that an Obligor must make a Tax Deduction (or that there is any change in the rate or the basis of a Tax Deduction) under the Finance Documents in relation to that Facility, notify the Administrative Agent accordingly. Similarly, a Participating Creditor shall notify the Administrative Agent on becoming so aware in respect of a payment payable to that Participating Creditor. If the Administrative Agent receives such notification from a Participating Creditor it shall notify the Parent and that Obligor.

(iii) if a Tax Deduction is required by law to be made by an Obligor under the Finance Documents in relation to that Facility, the amount of the payment due from that Obligor shall be increased to an amount which (after making any Tax Deduction) leaves an amount equal to the payment which would have been due if no Tax Deduction had been required and will provide to the Administrative Agent, upon request, evidence of the payment of the applicable Taxes.

17.2 Increased costs

(a) Any increased costs provisions (and any related mitigation provisions) in the Existing Finance Documents will continue in full force and effect in accordance with their terms.

(b) In addition, in relation to any payments to be made or actions to be taken under the New Finance Documents in respect of a Facility (other than a USPP Note), any increased cost provisions in the Existing Finance Documents for that Facility will apply to such payments or actions as if the Obligors (other than a Security Provider that is not also a Borrower or a Guarantor) had been "Obligors", "Borrowers" and/or "Guarantors" (as applicable) and the New Finance Documents had been "Finance Documents" or the "Agreement" (as applicable), the Administrative Agent had been the "Agent" and the term "Business Day" had the meaning ascribed to it in this Agreement, in each case for the purposes of those Existing Finance Documents.

(c) In relation to any Facility (other than a USPP Note) in respect of which the relevant Existing Finance Documents do not contain an increased costs provision, subject to paragraph (g) below, the Parent shall, within three Business Days of a demand by the Administrative Agent, pay for the account of a Finance Party the amount of any Increased Costs incurred by that Finance Party or any of its Affiliates in relation to that Facility as a result of (i) the introduction of or any change in (or in the interpretation, administration or application of) any law or regulation or (ii) compliance with any law or regulation made after the date of this Agreement.

(d) In this Agreement "**Increased Costs**" means:

(i) a reduction in the rate of return from a Facility or on a Finance Party's (or its Affiliate's) overall capital;

(ii) an additional or increased cost; or

(iii) a reduction of any amount due and payable under any Finance Document,

which is incurred or suffered by a Finance Party or any of its Affiliates to the extent that it is attributable to that Finance Party having entered into its obligations under the Facility (other than a USPP Note) or funding or performing its obligations under any Finance Document (other than the USPP Note Agreement).

(e) A Finance Party intending to make a claim pursuant to paragraph (c) above shall notify the Administrative Agent of the event giving rise to the claim, following which the Administrative Agent shall promptly notify the Parent.

(f) Each Finance Party shall, as soon as practicable after a demand by the Administrative Agent, provide a certificate confirming the amount of its Increased Costs.

(g) Paragraph (c) above does not apply to the extent any Increased Cost is:

(i) attributable to a Tax Deduction required by law to be made by an Obligor;

(ii) compensated for by any tax indemnity in the Existing Finance Documents; or

(iii) attributable to the wilful breach by the relevant Finance Party or its Affiliates of any law or regulation.

(h) For the avoidance of doubt, this Clause 17.2 (*Increased costs*) shall not apply to a USPP Note and any reference in this Agreement to this Clause 17.2 (*Increased costs*) in respect of a USPP Note shall have no effect.

17.3 **Other existing indemnities**

(a) Any indemnities in the Existing Finance Documents will continue in full force and effect in accordance with their terms.

(b) In addition, in relation to any payments to be made or actions to be taken under the New Finance Documents in respect of a Facility, any indemnities in the Existing Finance Documents for that Facility will apply to such payments or actions as if the Obligors (other than a Security Provider that is not also a Borrower or Guarantor) had been "Obligors", "Borrowers" and/or "Guarantors" (as applicable) and the New Finance Documents had been "Finance Documents" for the purposes of those Existing Finance Documents.

17.4 **Currency Indemnity**

Without limiting any provision in an Existing Finance Document that provides for such an indemnity, to the extent permitted under applicable law, if any sum due from an Obligor under the Finance Documents (a "**Sum**"), or any order, judgment or award given or made in relation to a Sum, has to be converted from the currency (the "**First Currency**") in which that Sum is payable into another currency (the "**Second Currency**") for the purpose of:

(a) making or filing a claim or proof against that Obligor; or

(b) obtaining or enforcing an order, judgment or award in relation to any litigation or arbitration proceedings,

that Obligor shall as an independent obligation, within three Business Days of demand, indemnify each Secured Party to whom that Sum is due against any cost, loss or liability arising out of or as a result of the conversion including any discrepancy between (i) the rate of exchange used to convert that Sum from the First Currency into the Second Currency and (ii) the rate or rates of exchange available to that person at the time of its receipt of that Sum.

Each Obligor waives any right it may have in any jurisdiction to pay any amount under the Finance Documents in a currency or currency unit other than that in which it is expressed to be payable.

17.5 **Tax indemnity**

(a) Any tax indemnity provisions (and any related mitigation provisions) in the Existing Finance Documents will continue in full force and effect in accordance with their terms.

(b) The Parent shall (within three Business Days of demand by the Administrative Agent) pay (or procure to be paid) to a Protected Party an amount equal to the loss, liability or cost which that Protected Party determines will be or has been (directly or indirectly) suffered for or on account of Tax by that Protected Party in respect of a Finance Document.

(c) Paragraph (a) above shall not apply:

(i) with respect to any Tax assessed on a Finance Party:

(A) under the law of the jurisdiction in which that Finance Party is incorporated or, if different, the jurisdiction (or jurisdictions) in which that Finance Party is treated as resident for tax purposes; or

(B) (other than in the case of a USPP Noteholder) under the law of the jurisdiction in which that Finance Party's Facility Office is located in respect of amounts received or receivable in that jurisdiction,

if that Tax is imposed on or calculated by reference to the net income received or receivable (but not any sum deemed to be received or receivable) by that Finance Party; or

(ii) to the extent a loss, liability or cost is compensated for by an increased payment under Clause 17.1 (*Tax gross-up*).

(d) A Protected Party making, or intending to make a claim under paragraph (a) above shall promptly notify the Administrative Agent of the event which will give, or has given, rise to the claim, following which the Administrative Agent shall notify the Parent.

(e) A Protected Party shall, on receiving a payment from an Obligor under this Clause 17.5, notify the Administrative Agent.

17.6 **Other indemnities**

(a) Without limiting any provision in an Existing Finance Document that provides for such an indemnity, the Parent shall (or shall procure that an Obligor (other than a Security Provider that is not also a Borrower or Guarantor) will), within three Business Days of demand, indemnify each Secured Party against any cost, loss or liability incurred by it as a result of:

(i) the occurrence of any Event of Default;

(ii) a failure by an Obligor to pay any amount due under a Finance Document on its due date, including without limitation, any cost, loss or liability arising as a result of Clause 31 (*Sharing among the Finance Parties*);

(iii) funding, or making arrangements to fund, its participation in a Loan requested by a Borrower in a Utilisation Request but not made by reason of the operation of any one or more of the provisions of the Finance Documents (other than by reason of default or negligence by that Finance Party alone); or

(iv) a Loan (or part thereof) not being prepaid in accordance with a notice of prepayment given by a Borrower or the Parent.

(b) The Parent will indemnify and hold harmless each Finance Party and its Affiliates and each of their and their Affiliates respective directors, officers, employees, agents, advisors and representatives (each being an " **Indemnified Person**") from and against any and all claims, damages, losses, liabilities, costs, legal expenses and other expenses (all together " **Losses**") which have been incurred by or awarded against any Indemnified Person, in each case arising out of or in connection with any claim, investigation, litigation or proceeding (or the preparation of any defence with respect thereto) commenced or threatened by any person in relation to any of the Finance Documents (or in connection with the execution and/or notarisation of any Finance Document) except to the extent such Losses or claims result from such Indemnified Person's negligence or misconduct or a breach of any term of any Finance Document by that Indemnified Person. Any third party referred to in this paragraph (b) may rely on this Clause 17.6.

17.7 **Mitigation**

(a) Each Finance Party shall, in consultation with the Parent, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 12.1 (*Illegality*) or Clauses 17.1 (*Tax gross-up*) to 17.6 (*Other indemnities*) including (but not limited to) transferring its rights and obligations under the Finance Documents to another Affiliate or Facility Office.

(b) Paragraph (a) above does not in any way limit the obligations of any Obligor under the Finance Documents.

17.8 **Break Costs**

Without limiting any provision in an Existing Finance Document that provides for the payment of break costs:

(a) each Borrower shall, within three Business Days of demand by a Finance Party, pay to that Finance Party its Break Costs attributable to all or any part of a Loan or Unpaid Sum being paid by that Borrower on a day other than the last day of an Interest Period for that Loan or Unpaid Sum;

(b) each Participating Creditor shall, as soon as reasonably practicable after a demand by the Administrative Agent, provide a certificate confirming the amount of its Break Costs for any Interest Period in which they accrue; and

(c) for the avoidance of doubt, this Clause 17.8 (*Break Costs*) shall not apply to a USPP Note and any reference in this Agreement to this Clause 17.8 (*Break Costs*) in respect of a USPP Note shall have no effect.

17.9 **Indemnity to the Administrative Agent and Creditor's Representative**

The Parent shall promptly indemnify the Administrative Agent and any Creditor's Representative (and any of their Affiliates that acts as their agent, sub-agent or delegate in connection with a Finance Document), against any cost, loss or liability reasonably incurred by the Administrative Agent or such Creditor's Representative (or any of their Affiliates that acts as its agent, sub-agent or delegate in connection with a Finance Document) (each acting reasonably) as a result of:

(a) investigating any event which it reasonably believes is a Default; or

(b) acting or relying on any notice, request or instruction which it reasonably believes to be genuine, correct and appropriately authorised.

Any third party referred to in this Clause 17.9 can rely on this Clause 17.9.

17.10 **Replacement of Participating Creditor**

(a) If at any time an Obligor (other than a Security Provider that is not also a Borrower or a Guarantor) becomes obliged to repay any amount in accordance with Clause 12.1 (*Illegality*) or to pay additional amounts pursuant to Clause 17.2 (*Increased costs*) or Clause 17.1 (*Tax gross-up*) to any Participating Creditor in excess of amounts payable to the other Participating Creditors generally then the Parent may, on 10 Business Days' prior written notice to the Administrative Agent and such Participating Creditor, replace (or procure the replacement of) such Participating Creditor by requiring such Participating Creditor to (and such Participating Creditor shall) transfer pursuant to Clause 27 (*Changes to the Participating Creditors*) all (and not part only) of its rights and obligations under the Finance Documents to a Participating Creditor or other person (a "**Replacement Participating Creditor**") selected by the Parent, and which is acceptable to the Administrative Agent (acting reasonably) and which confirms its willingness to assume and does assume all the obligations of the transferring Participating Creditor (including the assumption of the transferring Participating Creditor's participations on the same basis as the transferring Participating Creditor) for a purchase price in cash payable at the time of transfer equal to the outstanding principal amount of such Lender's participation in the outstanding Utilisations and all accrued interest and/or fees, Break Costs and other amounts payable in relation thereto under the Finance Documents.

(b) The replacement of a Participating Creditor pursuant to this Clause shall be subject to the following conditions:

(i) neither the Administrative Agent nor the Participating Creditor shall have any obligation to the Parent to find a Replacement Participating Creditor; and

(ii) in no event shall the Participating Creditor replaced under this Clause 17.10 be required to pay or surrender to such Replacement Participating Creditor any of the fees received by such Participating Creditor pursuant to the Finance Documents.

17.11 **Value added tax**

(a) All consideration expressed to be payable under a Finance Document by any Party to a Finance Party shall be deemed to be exclusive of any VAT. If VAT is chargeable on any supply made by any Finance Party to any party in connection with a Finance Document, that Party shall pay to the Finance Party (in addition to and at the same time as paying the consideration) an amount equal to the amount of the VAT and such Finance Party shall promptly provide an appropriate VAT invoice to such Party.

(b) Where a Finance Document requires any Party to reimburse a Finance Party for any costs or expenses, that Party shall also at the same time pay and indemnify that Finance Party against all VAT incurred by the Finance Party in respect of the costs or expenses to the extent that the Finance party reasonably determines that it is not entitled to credit or repayment of the VAT.

17.12 **No double-recovery**

No Finance Party may recover more than once under the Finance Documents for any cost, loss or liability in respect of which it has a claim under this Clause 17.

18. **STAMP TAXES**

The Parent shall pay and, within five Business Days of demand, indemnify each Secured Party against any cost, loss or liability that Secured Party incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Finance Document (**provided that** no Finance Party may recover more than once under the Finance Documents for the same portion of any cost, loss or liability).

19. **COSTS AND EXPENSES**

19.1 **Transaction expenses**

The Parent shall promptly on demand pay (or procure to be paid) the Administrative Agent and the Security Agent the amount of all costs and expenses (including legal fees) reasonably incurred by any of them (and, in the case of the Security Agent, by any Receiver or Delegate) in connection with the negotiation, preparation, printing, execution and perfection of:

(a) this Agreement and any other documents referred to in this Agreement and the Transaction Security; and

(b) any other Finance Documents executed after the date of this Agreement.

19.2 **Amendment costs**

If an Obligor requests an amendment, waiver or consent, the Parent shall, within three Business Days of demand, reimburse (or procure to be reimbursed) each of the Administrative Agent and the Security Agent for the amount of all costs and expenses (including legal fees) reasonably incurred by the Administrative Agent and the Security Agent (and, in the case of the Security Agent, by any Receiver or Delegate) in responding to, evaluating, negotiating or complying with that request or requirement.

19.3 **Security Agent's ongoing costs**

(a) In the event of (i) a Default or (ii) the Security Agent considering it necessary or expedient or (iii) the Security Agent being requested by an Obligor or the Majority Participating Creditors to undertake duties which the Security Agent and the Parent agree to be of an exceptional nature and/or outside the scope of the normal duties of the Security Agent under the Finance Documents, the Parent shall pay to the Security Agent any additional remuneration that may be agreed between them.

(b) If the Security Agent and the Parent fail to agree upon the nature of the duties or upon any additional remuneration, that dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Parent or, failing approval, nominated (on the application of the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Parent) and the determination of any investment bank shall be final and binding upon the parties to this Agreement.

19.4 **Enforcement and preservation costs**

The Parent shall, within three Business Days of demand, pay (or procure to be paid) to each Secured Party the amount of all costs and expenses (including legal fees) incurred by it in connection with the enforcement of or the preservation of any rights under any Finance Document and the Transaction Security and any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Transaction Security or enforcing these rights.

19.5 **Preservation of existing costs and expenses provisions**

The obligations in this Clause 19 are in addition to any other provisions relating to costs and expenses in the Existing Finance Documents (**provided that** no Finance Party may recover more than once under the Finance Documents for the same portion of any cost or expense).

SECTION 7
GUARANTEE

20. GUARANTEE AND INDEMNITY

20.1 Guarantee and indemnity

Each Guarantor (other than CEMEX, Inc. and (unless it has granted a guarantee pursuant to Clause 24.32 (*Conditions subsequent*)) CEMEX Australia Holdings) irrevocably and unconditionally jointly and severally:

(a) guarantees to each Finance Party punctual performance by each other Obligor of that Obligor's obligations under the Finance Documents;

(b) undertakes with each Finance Party that whenever an Obligor does not pay any amount when due under or in connection with any Finance Document, it shall immediately on demand pay that amount as if it were the principal obligor; and

(c) indemnifies each Finance Party immediately on demand against any cost, loss or liability suffered by that Finance Party if any obligation guaranteed by it is or becomes unenforceable, invalid or illegal or is otherwise discharged by the operation of Clause 7.2 (*Distressed Disposals*) of the Intercreditor Agreement. The amount of the cost, loss or liability shall be equal to the amount which that Finance Party would otherwise have been entitled to recover.

20.2 Continuing Guarantee

This guarantee is a continuing guarantee and will extend to the ultimate balance of sums payable by each Obligor under the Finance Documents, regardless of any intermediate payment or discharge in whole or in part.

20.3 Reinstatement

If any payment by any Obligor or any discharge given by a Finance Party (whether in respect of the obligations of any Obligor or any security for those obligations or otherwise) is avoided or reduced as a result of insolvency or any similar event:

(a) the liability of each Obligor (other than a Security Provider that is not also a Borrower or a Guarantor) shall continue as if the payment, discharge, avoidance or reduction had not occurred; and

(b) each Finance Party shall be entitled to recover the value or amount of that security or payment from each Obligor (other than a Security Provider that is not also a Borrower or a Guarantor), as if the payment, discharge, avoidance or reduction had not occurred.

20.4 Waiver of defences

The obligations of each Guarantor (other than CEMEX, Inc. and (unless it has granted a guarantee pursuant to Clause 24.32 (*Conditions subsequent*)) CEMEX Australia Holdings) under this Clause 20 will not be affected by an act, omission, matter or thing which, but for this Clause 20, would reduce, release or prejudice any of its obligations under this Clause 20 (without limitation and whether or not known to it or any Finance Party) including:

(a) any time, waiver or consent granted to, or composition with, any other Obligor or other person;

(b) the release of any other Obligor or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any other Obligor or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any security;

(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any other Obligor or any other person;

(e) any amendment (however fundamental) or replacement of a Finance Document or any other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Finance Document or any other document or security;

(g) any insolvency or similar proceedings;

(h) the existence of any claim, set-off or other right which any of the Guarantors may have at any time against any Obligor, the Administrative Agent, any Participating Creditor or any other person, whether in connection with this transaction or with any unrelated transaction;

(i) any provision of applicable law or regulation purporting to prohibit the payment by any Obligor of any amount payable by any Obligor under any Finance Document or the payment, observance, fulfilment or performance of any other obligations to the Participating Creditors, the Administrative Agent now or in future existing under or in connection with the Finance Documents, whether direct or indirect, absolute or contingent, due or to become due;

(j) any change in the name, purposes, business, capital stock (including the ownership thereof) or constitution of any Obligor;

(k) any other act or omission to act or delay of any kind by any Obligor, the Administrative Agent, the Participating Creditors or any other person or any other circumstance whatsoever which might otherwise constitute a legal or equitable discharge of or defense to any Guarantor's obligations hereunder.

To the extent permitted by applicable law and notwithstanding any contrary principles under the laws of any other jurisdiction, each of the Guarantors (other than CEMEX, Inc. and (unless it has granted a guarantee pursuant to Clause 24.32 (*Condition*

Subsequent)) CEMEX Australia Holdings) hereby waives any and all defences to which it may be entitled, whether at common law, in equity or by statute which limits the liability of, or exonerates, guarantors or which may conflict with the terms of this Clause 20 including failure of consideration, breach of warranty, statute of frauds, merger or consolidation of any Obligor, statute of limitations, accord and satisfaction and usury. Without limiting the generality of the foregoing, each of the Guarantors (other than CEMEX, Inc. and (unless it has granted a guarantee pursuant to Clause 24.32 (*Conditions subsequent*)) CEMEX Australia Holdings) consents that, without notice to such Guarantor and without the necessity for additional endorsement or consent by such Guarantor, and without impairing or affecting in any way the liability of such Guarantor hereunder, the Administrative Agent and the Participating Creditors may at any time and from time to time, upon or without any terms or conditions and in whole or in part, (a) change the manner, place or terms of payment of, and/or change or extend the time or payment of, renew or alter, any of the Guarantors' obligations under the Finance Documents, any security therefor, or any liability incurred directly or indirectly in respect thereof, and this Clause 20 shall apply to the such obligations as so changed, extended, renewed or altered; (b) exercise or refrain from exercising any rights against any Obligor or others (including the Guarantors) or otherwise act or refrain from acting; (c) settle or compromise any such obligations, any security therefor or any liability (including any of those hereunder) incurred directly or indirectly in respect thereof or hereof, and may subordinate the payment of all or any part thereof to the payment of any such liability (whether due or not) of any Obligor to creditors of any Obligor other than the Administrative Agent and the Participating Creditors and Guarantors; (d) apply any sums by whomsoever paid or howsoever realised, other than payments of the Guarantors of such obligations, to any liability or liabilities of any Obligor under the Finance Documents or any instruments or agreements referred to herein or therein, to the Administrative Agent and the Participating Creditors regardless of which of such liability or liabilities of any Obligor under the Finance Documents or any instruments or agreements referred to herein or therein remain unpaid; (e) consent to or waive any breach of, or any act, omission or default under such obligations or any of the instruments or agreements referred to in this Agreement and the other Finance Documents, or otherwise amend, modify or supplement such obligations or any of such instruments or agreements, including the Finance Documents; and/or (f) request or accept other support of such obligations or take and hold any security for the payment of such obligations, or allow the release, impairment, surrender, exchange, substitution, compromise, settlement, rescission or subordination thereof. Each Guarantor incorporated in Mexico expressly waives, irrevocably and unconditionally:

(a) any right to require any Finance Party first proceed against, initiate any actions before a court or any other judge or authority, or enforce any other rights or security or claim payment from any Obligor or any other person, before claiming any amounts due from such Guarantor incorporated in Mexico hereunder;

(b) any right to which it may be entitled to have the assets of any Borrower, any other Obligor or any other person first be used, applied or depleted as payment of the Obligor's obligations hereunder, prior to any amount being claimed from or paid by any Guarantor incorporated in Mexico hereunder;

(c) any right to which it may be entitled to have claims against it, or assets to be used or applied as payment, divided among different Guarantors;

(d) the benefits of *orden*, *excusión*, *división*, *quita* and *espera* and any right specified in Articles 2814, 2815, 2817, 2818, 2819, 2820, 2821, 2822, 2823, 2826, 2829, 2837, 2840, 2845, 2846, 2847 and any other related or applicable Articles that are not explicitly set forth herein because of the Guarantor's knowledge thereof, the *Código Civil Federal* of Mexico and the *Código Civil* of each State of the Mexican Republic and the Federal District of Mexico.

20.5 **Immediate recourse**

Each Guarantor (other than CEMEX, Inc. and (unless it has granted a guarantee pursuant to Clause 24.32 (*Conditions subsequent*)) CEMEX Australia Holdings) waives any right it may have of first requiring any Finance Party (or any trustee or agent on its behalf) to proceed against or enforce any other rights or security or claim payment from any person before claiming from a Guarantor under this Clause 20. This waiver applies irrespective of any law or regulation or any provision of a Finance Document to the contrary.

Each Guarantor also waives any right to be sued jointly with other Guarantors and to share liability resulting from any claim against it.

20.6 **Appropriations**

Until all amounts which may be or become payable by any Obligor under or in connection with the Finance Documents have been irrevocably paid in full, each Finance Party (or any trustee or agent on its behalf) may:

(a) refrain from applying or enforcing any other monies, security or rights held or received by that Finance Party (or any trustee or agent on its behalf) in respect of those amounts, or apply and enforce the same in such manner and order as it sees fit (whether against those amounts or otherwise) and no Guarantor shall be entitled to the benefit of the same; and

(b) hold in an interest-bearing suspense account any monies received from a Guarantor or on account of such Guarantor's liability under this Clause 20,

provided that the operation of this Clause 20.6 shall not be deemed to create any Security.

20.7 **Deferral of Guarantors' rights**

Until all amounts which may be or become payable by any Obligor under or in connection with the Finance Documents have been irrevocably paid in full and unless the Administrative Agent otherwise directs, no Guarantor will exercise any rights which it may have by reason of performance by it of its obligations under the Finance Documents:

(a) to be indemnified by any other Obligor;

(b) to claim any contribution from any other guarantor of any other Obligor's obligations under the Finance Documents; and/or

(c) to take the benefit (in whole or in part and whether by way of subrogation or otherwise) of any rights of the Finance Parties under the Finance Documents or of any other guarantee or security taken pursuant to, or in connection with, the Finance Documents by any Finance Party.

20.8 **Additional security**

This guarantee is in addition to and is not in any way prejudiced by any other guarantee or security now or subsequently held by any Finance Party.

20.9 **General limitation on guaranty**

In any action or proceeding involving any applicable corporate law, or any applicable bankruptcy, insolvency, reorganisation, *concurso mercantil, quiebra* or other law affecting the rights of creditors generally, if the obligations of any Guarantor (other than CEMEX, Inc. and (unless it has granted a guarantee to Clause 24.32 (*Conditions subsequent*)) CEMEX Australia Holdings) under this Clause 20 would otherwise be held or determined to be void, invalid or unenforceable, or subordinated to the claims of any other creditors, on account of the amount of its liability under this Clause 20, then, notwithstanding any other provision hereof to the contrary, the amount of such liability shall, without any further action by such Guarantor, any Participating Creditor, the Administrative Agent or any other person to the greatest extent permitted under applicable law, be automatically limited and reduced to the highest amount that is valid and enforceable and not subordinated to the claims of other creditors as determined in such action or proceeding.

20.10 **Bankruptcy and Related Matters**

(a) So long as any of the obligations under the Finance Documents are outstanding, each of the Guarantors shall not (unless required to do so by law or regulation), without the prior written consent of the Majority Participating Creditors, commence or join with any other person in commencing any bankruptcy, liquidation, reorganisation, *concurso mercantil, quiebra* or insolvency proceedings of, or against, any Obligor.

(b) If acceleration of the time for payment of any amount payable by Parent under the Finance Documents is stayed upon the insolvency, bankruptcy, reorganisation, *concurso mercantil*, *quiebra* or any similar event of any Obligor or otherwise, all such amounts otherwise subject to acceleration under the terms of this Agreement shall nonetheless be payable by the Guarantors hereunder forthwith on demand by the Administrative Agent made at the request of the Participating Creditors.

(c) The obligations of each of the Guarantors under this Clause 20 shall not be reduced, limited, impaired, discharged, deferred suspended or terminated by any proceeding or action, voluntary or involuntary, involving the bankruptcy, insolvency, *concurso mercantil, quiebra*, receivership, reorganisation, marshalling of assets, assignment for the benefit of creditors, readjustment, liquidation or arrangement of any Obligor or similar proceedings or actions or by any defense which any Obligor may have by reason of the order, decree or decision of any court or administrative body resulting from any such proceeding or action. Without limiting the generality of the foregoing, the Guarantors' liability shall extend to all amounts and obligations under the Finance Documents and would be owed by any Obligor but for the fact that they are unenforceable or not allowable due to the existence of any such proceeding or action.

(d) Each of the Guarantors (other than CEMEX, Inc. or (unless it has granted a guarantee pursuant to Clause 24.32 (*Conditions subsequent*)) CEMEX Australia Holdings) acknowledges and agrees that any interest on any portion of the obligations under the Finance Documents which accrues after the commencement of any proceeding or action referred to above in paragraph (c) of this Clause 20.10 (or, if interest on any portion of such obligations ceases to accrue by operation of law by reason of the commencement of said proceeding or action, such interest as would have accrued on such portion of such obligations if said proceedings or actions had not been commenced) shall be included in such obligations, it being the intention of the Guarantors, the Administrative Agent, and the Participating Creditors that such obligations which are to be guaranteed by the Guarantors (other than CEMEX, Inc. or (unless it has granted a guarantee pursuant to Clause 24.32 (*Conditions subsequent*)) CEMEX Australia Holdings) pursuant to this Clause 20 shall be determined without regard to any rule of law or order which may relieve any Obligor of any portion of such obligations. The Guarantors will take no action to prevent any trustee in bankruptcy, receiver, debtor in possession, assignee for the benefit of creditors or similar person from paying the Administrative Agent, or allowing the claim of the Administrative Agent, for the benefit of the Administrative Agent, and the Participating Creditors, in respect of any such interest accruing after the date of which such proceeding is commenced, except to the extent any such interest shall already have been paid by the Guarantors.

(e) Notwithstanding anything to the contrary contained herein, if all or any portion of the obligations under the Finance Documents are paid by or on behalf of any Obligor, the obligations of the Guarantors hereunder shall continue and remain in full force and effect or be reinstated, as the case may be, in the event that all or any part of such payment(s) are rescinded or recovered, directly or indirectly, from the Administrative Agent and/or the Participating Creditors as a preference, preferential transfer, fraudulent transfer or otherwise, and any such payments which are so rescinded or recovered shall constitute obligations under the Finance Documents for all purpose under this Clause 20, to the extent permitted by applicable law.

20.11 **Dutch guarantee limitation**

Notwithstanding any other provision of this Clause 20 (*Guarantee and indemnity*) the guarantee, indemnity and other obligations of any Dutch Obligor expressed to be assumed in this Clause 20 (*Guarantee and indemnity*) shall be deemed not to be assumed by such Dutch Obligor to the extent that the same would constitute unlawful financial assistance within the meaning of Article 2:207c or 2:98c Dutch Civil Code or any other applicable financial assistance rules under any rules under any relevant jurisdiction (the " **Prohibition**") and the provisions of this Agreement and the other Finance Documents shall be construed accordingly. For the avoidance of doubt, it is expressly acknowledged that the relevant Dutch Obligors will continue to guarantee all such obligations which, if included, do not constitute a violation of the Prohibition.

20.12 **Spanish Guarantee limitation**

Notwithstanding any other provision of this Clause 20 (*Guarantee and indemnity*) the guarantee, indemnity and other obligations of any Obligor incorporated in Spain expressed to be assumed in this Clause 20 (*Guarantee and indemnity*) shall be deemed not to be assumed by such Obligor incorporated in Spain to the extent that the same would constitute the provision of financial assistance within the meaning of either Article 81 of the 1989 Spanish Corporations Act (*Ley de Sociedades Anónimas*) or Article 40.5 of the 1995 Spanish Limited Liability Companies Act (*Ley de Sociedadas de Responsabilidad Limitada*).

20.13 **Swiss guarantee limitation**

The obligations and liabilities of an Obligor incorporated in Switzerland (the " **Swiss Obligor**") under this Agreement in relation to the obligations, undertakings, indemnities or liabilities of an Obligor other than that Swiss Obligor or any of its fully owned and controlled subsidiaries (the "**Restricted Obligations**") shall be limited to the amount of that Swiss Obligor's Free Reserves Available for Distribution at the time payment is requested, **provided that** such limitation is a requirement under applicable law (including any case law) at that point in time and that such limitation shall not free the Swiss Obligor from its obligations in excess thereof, but merely postpone the performance date until such time as performance is permitted notwithstanding such limitation.

For the purpose of this Clause, "**Free Reserves Available for Distribution**" means an amount equal to the maximal amount in which the relevant Swiss Obligor can make a dividend payment to its shareholder(s) (being the balance sheet profit and any freely disposable reserves available for this purpose, in each case in accordance with applicable Swiss law).

As soon as possible after having been requested to discharge a Restricted Obligation, the Swiss Obligor shall, if it cannot discharge the full amount of the Restricted Obligations, provide the Security Agent with an interim statutory balance sheet audited by the statutory auditors of the Swiss Obligor setting out the Free Reserves Available

for Distribution and, immediately thereafter, pay the amount corresponding to the Free Reserves Available for Distribution to the Security Agent (save to the extent provided below).

In respect of the Restricted Obligations, the Swiss Obligor shall:

(a) if and to the extent required by applicable law in force at the relevant time:

(i) subject to any applicable double taxation treaties, deduct Swiss withholding tax at the rate of 35 per cent. (or such other rate as is in force at that time) from any payment made by it;

(ii) pay any such deduction to the Swiss Federal Tax Administration; and

(iii) notify and provide evidence to the Security Agent that the Swiss withholding tax has been paid to the Swiss Federal Tax Administration;

(b) to the extent such deduction is made, not be required to make a gross-up, indemnify or otherwise hold harmless the Finance Parties for the deduction of the Swiss withholding tax notwithstanding anything to the contrary contained in the Finance Documents, unless grossing up is permitted under the laws of Switzerland then in force and **provided that** this should not in any way limit any obligations of any non-Swiss Obligors under the Finance Documents to indemnify the Finance Parties in respect of the deduction of the Swiss withholding tax, including, without limitation, in accordance with Clause 17 of this Agreement (*Tax Gross-Up, Increased Costs and Indemnities*). The Swiss Obligor shall use all reasonable efforts to procure that any person which is entitled to a full or partial refund of any Swiss withholding tax paid pursuant to paragraph (a) above will, as soon as possible after the deduction of the Swiss withholding tax: (y) request a refund of the Swiss withholding tax under any applicable law (including double taxation treaties) and (z) pay to the Security Agent upon receipt any amount so refunded.

The Swiss Obligor will take, and cause to be taken, all and any other action, including, without limitation, the passing of any shareholders' resolutions to approve any payment or other performance under the Finance Documents and the receipt of any confirmations from the Swiss Obligor's auditors, whether following a request to discharge a Restricted Obligation or which may be required as a matter of mandatory Swiss law in force at the time it is required to make a payment or perform other obligations under the Finance Documents in order to allow a prompt payment or performance of other obligations under the Finance Documents.

If the enforcement of the Restricted Obligations would be limited due to the effects referred to in this Clause 20.13 and if any asset of the Swiss Obligor has a book value that is less than its market value (an " **Undervalued Asset**"), the Swiss Obligor shall, to the extent permitted by applicable law and its Accounting Standards (i) write up the book value of such Undervalued Asset

such that its balance sheet reflects a book value that is equal to the market value of such Undervalued Asset, and (ii) make reasonable efforts to realise the Undervalued Asset for a sum which is at least equal to the market value of such asset. Without prejudice to the rights of the Security Agent under the Finance Documents, the Swiss Obligor will only be required to realise an Undervalued Asset if such asset is not necessary for the Swiss Obligor's business (*nicht betriebsnotwendig*).

SECTION 8
REPRESENTATION, UNDERTAKINGS AND EVENTS OF DEFAULT

21. REPRESENTATIONS

Each Obligor makes the representations and warranties set out in this Clause 21 to each Finance Party except that:

(a) no representation or warranty is made by a Security Provider that is not also a Borrower or a Guarantor in respect of the representations and warranties set out in Clauses 21.9 (*No default*) to 21.11 (*Financial statements*), 21.13 (*No proceedings pending or threatened*) to, 21.17 (*Environmental Claims*), 21.20 (*Accuracy of Exposures and Existing Financial Indebtedness*) 21.21 (*Group Structure Chart*), 21.24 (*Governmental Regulations*) to 21.27 (*Pension, Welfare and other Similar Plans*); and

(b) no representation or warranty is made by CEMEX Materials LLC, CEMEX, Inc. or (unless it has acceded as an Additional Guarantor) CEMEX Australia Holdings in respect of the representations and warranties set out in Clauses 21.10 (*No misleading information*), 21.15 (*Material Adverse Change*) to 21.17 (*Environmental Claims*), 21.20 (*Accuracy of Exposures and Existing Financial Indebtedness*) to 21.24 (*Governmental Regulations*), 21.26 (*Treasury Transactions*) and, in the case of CEMEX Australia Holdings only, 21.27 (*Pension, Welfare and other similar plans*).

21.1 Status

(a) It is a corporation or limited liability company, duly organised and validly existing under the laws and regulations of its jurisdiction of incorporation or formation other than in the case of CEMEX International Finance Company which is a private company duly incorporated with unlimited liability under the laws and regulations of Ireland.

(b) It has the power to own its assets and carry on its business as it is being conducted.

21.2 Binding obligations

Subject to the Legal Reservations:

(a) the obligations expressed to be assumed by it in each Finance Document are legal, valid, binding and enforceable obligations; and

(b) (without limiting the generality of paragraph (a) above) each Transaction Security Document to which it is a party creates the Security which that Transaction Security Document purports to create and that Security is valid and effective.

21.3 **Non-conflict with other obligations**

The entry into and performance by it (or, in the case of paragraph (c) below, any Obligor) of, and the transactions contemplated by, the Finance Documents and the granting of the Transaction Security do not and will not conflict with:

(a) any law or regulation applicable to it or any judgment or other administrative or judicial order affecting it or binding upon it or any of its assets (including in respect of CEMEX International Finance Company, section 60 of the Companies Act, 1963);

(b) its constitutional documents;

(c) the Finance Documents or any documentation relating to any publicly-issued securities binding upon it; or

(d) any agreement or instrument binding upon it or any of its assets, in a manner or to an extent which would have or would be reasonably likely to have a Material Adverse Effect.

21.4 **Power and authority**

It has the power to enter into, perform and deliver, and has taken all necessary action to authorise its entry into, performance and delivery of, the Finance Documents to which it is a party and the transactions contemplated by those Finance Documents.

21.5 **Validity and admissibility in evidence**

All Authorisations required or desirable:

(a) to enable it lawfully to enter into, exercise its rights and comply with its obligations under the Finance Documents to which it is a party; and

(b) to make the Finance Documents to which it is a party admissible in evidence in its jurisdiction of incorporation,

have been obtained or effected and are in full force and effect.

21.6 **Governing law, choice of forum and enforcement**

Subject to the Legal Reservations:

(a) the choice of governing law of each Finance Document to which it is a party in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in its jurisdiction of incorporation;

(b) the choice of the English courts set forth in this Agreement is a valid and enforceable choice of forum under any other applicable law; and

(c) any judgment obtained in relation to a Finance Document to which it is a party in the jurisdiction of the governing law of that Finance Document will be recognised and enforced in its jurisdiction of incorporation.

21.7 **Tax**

(a) No Borrower is required under the laws and regulations of its jurisdiction of incorporation to make any deduction for or on account of Tax from any payment it may make under any Finance Document to any Participating Creditor (other than as disclosed under each relevant Existing Finance Document prior to the date of this Agreement).

(b) In respect of the Dutch Obligors only, no notice under Article 36 Tax Collection Act (*Invorderingswet 1990*) has been given prior to the date of this Agreement.

21.8 **No filing or stamp taxes**

(a) Subject to the Legal Reservations, no order, permission, consent, approval, license, authorisation, registration or validation of, or notice to, or filing with, or exemption by, any governmental authority or third party is required to authorise, or is required in connection with, the execution, delivery and performance by each Obligor of the Finance Documents or the taking of any action contemplated thereby.

(b) Under the laws and regulations of its jurisdiction of incorporation it is not necessary that any stamp, registration or similar tax be paid on or in relation to the Finance Documents or the transactions contemplated by the Finance Documents except any tax or fee which is referred to in any Legal Opinion and which will be paid promptly after the date of the relevant Finance Document.

(c) Each New Finance Document is in proper legal form under the law of the jurisdiction of organisation of each Obligor for the enforcement thereof against each such Obligor under the law of its respective jurisdiction of organisation. To ensure the legality, validity, enforceability or admissibility in evidence of any Finance Document in such jurisdiction, it is not necessary that any Finance Document be filed or recorded with any governmental authority in such jurisdiction (other than in the case of CEMEX International Finance Company, where the Transaction Security created by it as referred to in paragraph 2(e) of Part I, Schedule 2 (*Conditions precedent*) shall be registered at the Companies Registration Office in Ireland within 21 days of the creation thereof) or that any stamp or similar tax be paid on or in respect of any Finance Document, unless such stamp or similar taxes have been paid by the relevant Borrower **provided that** in the event that any legal proceedings are brought to the courts of Mexico or Spain, a Spanish translation of the documents required in such proceedings prepared by a court-approved translator (or, in the case of the courts of Spain, an authorised sworn translator), would have to be approved by the court after the defendant had been given an opportunity to be heard with respect to the accuracy of the translation, and proceedings would thereafter be based upon the translated documents.

(d) It is not necessary (i) in order for the Administrative Agent or any Participating Creditor to enforce any right or remedies under the Finance Documents, or (ii) solely by reason of the execution, delivery and performance of any Finance Document by the Administrative Agent or any Participating Creditor, that the Administrative Agent or such Participating Creditor be licensed or qualified with any governmental authority or be entitled to carry on business, in each case in the jurisdiction of organisation of the applicable Obligors.

21.9 **No default**

(a) No Default or Event of Default (save, for the avoidance of doubt, any such Default or Event of Default that is waived under Clause 8.1 (*Waiver of certain existing defaults*) on the Effective Date) is continuing or might reasonably be expected to result from the making of any Rollover Loan.

(b) No other event or circumstance is outstanding which constitutes a default under any other agreement or instrument which is binding on it or any of its Subsidiaries or to which its (or its Subsidiaries') assets are subject which would have or would be reasonably likely to have a Material Adverse Effect.

21.10 **No misleading information**

(a) Any factual information provided by or on behalf of a member of the Group to FTI Consulting Canada, ULC in connection with the FTI Report was true and accurate in all material respects as at the date the information is expressed to be given.

(b) The Business Plan has been prepared in accordance with Applicable GAAP as applied to the Original Financial Statements of the Parent, and the financial projections contained in the Business Plan have been prepared on the basis of recent historical information and on the basis of assumptions which the Chief Financial Officer of the Parent considers reasonable.

(c) Any financial projection or forecast provided by or on behalf of a member of the Group to FTI Consulting Canada, ULC in connection with the FTI Report or contained in the Business Plan has been prepared on the basis of recent historical information and on the basis of reasonable assumptions and was fair (as at the date of the relevant report or document containing the projection or forecast) and arrived at after careful consideration.

(d) The expressions of opinion or intention provided by or on behalf of an Obligor for the purposes of the FTI Report or the Business Plan were made after careful consideration and (as at the date of the relevant report or document containing the expression of opinion or intention) were fair and based on reasonable grounds.

(e) No event or circumstance has occurred or arisen and no information has been omitted from the Business Plan and no information has been given or withheld that results in the information, assumptions, forecasts or projections provided

by or on behalf of a member of the Group to FTI Consulting Canada, ULC for the purposes of preparation of the FTI Report or contained in the Business Plan being untrue or misleading in any material respect.

(f) All written information provided by or on behalf of any member of the Group to a Finance Party or FTI Consulting Canada, ULC in connection with the transaction contemplated by the New Finance Documents was true, complete and accurate in all material respects as at the date it was provided and was not misleading in any material respect as at such date.

21.11 **Financial statements**

(a) Its Original Financial Statements were prepared in accordance with Applicable GAAP (save as disclosed therein) consistently applied and are complete and accurate in all material respects.

(b) Its Original Financial Statements fairly represent its financial condition and operations during the relevant financial year unless expressly disclosed to the Administrative Agent in writing prior to the date of this Agreement.

(c) For the purposes of any repetition of the representation contained in paragraphs (a) and (b) of this Clause 21.11 (pursuant to Clause 21.28 (*Times at which representations are made*)) the representations will be made in respect of the latest consolidated (or if, in the case of a Borrower or a Guarantor other than the Parent or CEMEX España, consolidated financial statements are not available, unconsolidated) financial statements of each Borrower and Guarantor instead of the Original Financial Statements.

21.12 **Ranking**

(a) Its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law or regulation applying to companies generally.

(b) The Transaction Security has or will have the ranking in priority which it is expressed to have in the Transaction Security Documents and it is not subject to any prior ranking or *pari passu* ranking Security.

(c) Each New Finance Document constitutes a direct, unconditional and unsubordinated obligation of each Obligor which is a party to such Finance Document.

21.13 **No proceedings pending or threatened**

Except as disclosed in Schedule 8 (*Proceedings Pending or Threatened*), no litigation, arbitration or administrative proceedings of or before any court, arbitral body or agency which:

(a) are likely to be adversely determined and which, if so determined, would be reasonably likely to have a Material Adverse Effect; or

(b) purport to affect the legality, validity or enforceability of any of the obligations under the Finance Documents,

have been started or threatened against it or, in the case of the Parent, any Obligor or Material Subsidiary.

21.14 **No winding-up**

No legal proceedings or other procedures or steps have been taken or, to the Parent's knowledge after reasonable enquiry, are being threatened, in relation to the winding-up, dissolution, administration or reorganisation of any Obligor or Material Subsidiary (other than a solvent liquidation or reorganisation of any Material Subsidiary which is not an Obligor).

21.15 **Material Adverse Change**

There has been no material adverse change in the Parent's business, condition (financial or otherwise), operations, performance or assets taken as a whole (or the business, consolidated condition (financial or otherwise) operations, performance or the assets generally of the Group taken as a whole) since its Original Financial Statements save as disclosed in the Business Plan, the FTI Report or by publicly available information filed with the SEC.

21.16 **Environmental compliance**

Each member of the Group has performed and observed in all material respects all Environmental Law, Environmental Permits and all other material covenants, conditions, restrictions or agreements directly or indirectly concerned with any contamination, pollution or waste or the release or discharge of any toxic or hazardous substance in connection with any real property which is or was at any time owned, leased or occupied by any member of the Group or on which any member of the Group has conducted any activity where failure to do so might reasonably be expected to have a Material Adverse Effect.

21.17 **Environmental Claims**

No Environmental Claim has been commenced or (to the best of its knowledge and belief) is threatened against any member of the Group where that claim would be reasonably likely, if determined against that member of the Group, to have a Material Adverse Effect.

21.18 **No Immunity**

In any proceedings taken in its jurisdiction of incorporation in relation to any New Finance Document, it will not be entitled to claim for itself or any of its assets immunity from suit, execution, attachment (prior to judgment or in aid of execution) or other legal process.

21.19 **Private and commercial acts**

Its execution of the Finance Documents constitutes, and its exercise of its rights and performance of its obligations hereunder will constitute, private and commercial acts done and performed for private and commercial purposes.

21.20 **Accuracy of Exposures and Existing Financial Indebtedness**

The Exposures of the Participating Creditors under the Facilities as at close of business on the Reference Date are correctly described in Part II of Schedule 1 (*The Original Participating Creditors*) and the list of Existing Financial Indebtedness contained in Schedule 10 (*Existing Financial Indebtedness*) is, in all material respects, a true, complete and accurate list of all the Group's existing Financial Indebtedness as at the date of this Agreement.

21.21 **Group Structure Chart**

The Group Structure Chart is true, complete and accurate in all material respects.

21.22 **Legal and beneficial ownership**

It and each of its Subsidiaries is the sole legal and beneficial owner of the respective assets over which it purports to grant Transaction Security.

21.23 **Shares**

(a) The shares of any member of the Group which are subject to the Transaction Security are fully paid and not subject to any option to purchase or similar rights. The constitutional documents of companies whose shares are subject to the Transaction Security do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Transaction Security (other than in the case of CEMEX Trademarks Holding Ltd. (until such time as it accedes as an Additional Security Provider). There are no agreements in force which provide for the issue or allotment of, or grant any person the right to call for the issue or allotment of, any share or loan capital of any Obligor or Material Subsidiary (including any option or right of pre-emption or conversion) other than pre-emptive rights (i) arising under applicable law in favour of shareholders generally; and (ii) arising under any obligation in respect of any Executive Compensation Plan.

(b) Under the Transaction Security Documents, Transaction Security is granted over all the issued share capital in each member of the Group whose shares are subject to the Transaction Security except:

(i) in the case of CEMEX España:

(A) 0.3602% of the issued share capital, being shares owned by Subsidiaries of CEMEX España; and

(B) 0.1716% of the issued share capital, being shares owned by persons that are not members of the Group;

(ii) in the case of CEMEX Trademarks Holding Ltd., 0.4326% of the issued share capital, being shares owned by CEMEX, Inc.;

(iii) in the case of each Mexican company whose shares are the subject of Transaction Security (except in the case of CEMEX México, S.A. de C.V.), the single share held by a minority shareholder that is a member of the Group;

(iv) in the case of CEMEX México, S.A. de C.V., 0.1245% of the issued share capital, being shares owned by CEMEX, Inc.; and

(v) in the case of CEMEX Concretos, S.A. de C.V., 0.0357% of the issued share capital, being shares owned by CEMEX, Inc. and 0.0131%, being shares owned by third parties.

21.24 **Governmental Regulations**

Each of the Borrowers is not controlled by, an "investment company" within the meaning of the United States Investment Company Act of 1940, as amended.

21.25 **Taxes**

(a) It has filed all material tax returns which are required to be filed by it and has paid all taxes due pursuant to such returns or pursuant to any material assessment received by it, except where the same may be contested in good faith by appropriate proceedings and as to which such Obligor maintains reserves to the extent it is required to do so by law or pursuant to Applicable GAAP. The charges, accruals and reserves on the books of each Obligor in respect of taxes or other governmental charges are, in the opinion of Parent, adequate.

(b) Except for taxes imposed by way of withholding on interest, fees and commissions paid to non-residents of the jurisdiction of organisation of any Borrower, there is no tax (other than taxes on, or measured by, income or profits), levy, impost, deduction, charge or withholding imposed, levied, charged, assessed or made by the jurisdiction of organisation of any Borrower or any political subdivision or taxing authority thereof or therein either (i) on or by virtue of the execution of delivery of this Agreement or (ii) on any payment to be made by any Borrower pursuant to this Agreement. It is permitted to pay any additional amounts payable pursuant to Clause 17 (*Tax gross-up increased costs and indemnities*) or Clause 18 (*Stamp Taxes*).

21.26 **Treasury Transactions**

The Parent represents and warrants that, as of the Effective Date, neither it nor any member of the Group is party to any Treasury Transaction other than an "Excluded Position", a "Permitted Intercompany Treasury Transaction", a "Permitted Compensation Plan Hedging Transaction" or a "Permitted Non-Bank Commodity Contract" (each as defined in Schedule 15 (*Hedging Parameters*).

21.27 **Pension, Welfare and other Similar Plans**

No steps have been taken to terminate any Pension Plan, and no contribution failure has occurred with respect to any Pension Plan sufficient to give rise to a Security under Section 303(k) of ERISA. No condition exists or event or transaction has occurred with respect to any Pension Plan which would reasonably be expected to result in the incurrence by any Obligor, any of its Subsidiaries, or any ERISA Affiliates of any liability, fine or penalty (other than liabilities incurred in the ordinary course of maintaining the Pension Plan), which would have or be reasonably likely to have a Material Adverse Effect. No Obligor, nor any of its Subsidiaries, has any

contingent liability with respect to any post-retirement benefit under a Welfare Plan subject to ERISA which would reasonably be expected to have a Material Adverse Effect, other than liability for continuation coverage described in Part 6 of Title 1 of ERISA. Except as would not have or be reasonably likely to have a Material Adverse Effect, each applicable Borrower is in compliance with and has duly and in a timely manner paid any amounts due to IMSS, INFONAVIT or as required under any mandatory retirement fund laws.

21.28 **Times at which representations are made**

(a) All the representations and warranties in this Clause 21 are made to each Finance Party on the Effective Date.

(b) The Repeating Representations are deemed to be made by each Obligor to each Finance Party on the date of each Utilisation Request and on the first day of each Interest Period.

(c) The Repeating Representations are deemed to be made by each Additional Guarantor to each Finance Party on the day on which it becomes an Additional Guarantor.

(d) Each representation or warranty deemed to be made after the date of this Agreement shall be made by reference to the facts and circumstances existing at the date the representation or warranty is made.

22. INFORMATION UNDERTAKINGS

The undertakings in this Clause 22 remain in force from the Effective Date for so long as any Participating Creditor has any Exposure under the Finance Documents.

22.1 **Financial statements**

The Parent shall supply to the Administrative Agent (for distribution to the Participating Creditors):

(a) as soon as the same become available, but in any event within 120 days after the end of each of the Parent's Financial Years, a copy of the annual audit report for such Financial Year for the Parent and its Subsidiaries containing consolidated and consolidating balance sheets of the Parent and its Subsidiaries, as of the end of such Financial Year and consolidated statements of income and cash flows of the Parent and its Subsidiaries, for such Financial Year, in each case accompanied by an opinion acceptable to the Majority Participating Creditors (acting reasonably) by KPMG Cardenas Dosal, S.C. or other independent public accountants of recognised standing acceptable to the Majority Participating Creditors, together with (i) a certificate of such accounting firm to the Participating Creditors stating that in the course of the regular audit of the business of the Parent and its Subsidiaries, which audit was conducted by such accounting firm in accordance with Applicable GAAP of the Parent, such accounting firm has obtained no knowledge that a Default or Event of Default has occurred and is continuing, or if, in the opinion of such accounting firm a Default or Event of Default has occurred and is

continuing, a statement as to the nature thereof; and (ii) a certificate of a Responsible Officer of Parent stating that no Default or Event of Default has occurred and is continuing or, if a Default or Event of Default has occurred and is continuing, a statement as to the nature thereof and the action that the Parent has taken and proposes to take with respect thereto;

(b) as soon as the same become available, but in any event within 120 days after the end of each of the Parent's Financial Years, the Parent's audited unconsolidated financial statements for that Financial Year;

(c) as soon as the same become available, but in any event within 180 days after the end of each of CEMEX España's financial years, CEMEX España's audited consolidated and unconsolidated financial statements for that financial year;

(d) as soon as the same become available, but in any event within 180 days after the end of each financial year of each Obligor (other than CEMEX España, the Parent and each Security Provider), such Obligor's audited consolidated (to the extent available) and unconsolidated financial statements for that financial year;

(e) as soon as the same become available, but in any event within 90 days after the end of the first half of each of CEMEX España's financial years, CEMEX España's consolidated financial statements for that period;

(f) as soon as the same become available, but in any event within 60 days after the end of each of the first three Financial Quarters of each of the Parent's Financial Years, consolidated balance sheets of the Parent and its Subsidiaries, as of the end of such quarter and consolidated statements of income and cash flows of the Parent and its Subsidiaries for the period commencing at the end of the previous Financial Year and ending with the end of such Financial Quarter, duly certified (subject to year-end audit adjustments) by a Responsible Officer of the Parent as having been prepared in accordance with Applicable GAAP of the Parent and together with a certificate of a Responsible Officer of the Parent, as to compliance with the terms of this Agreement and stating that no Default or Event of Default has occurred and is continuing or, if a Default or Event of Default has occurred and is continuing, the nature thereof and the action that the Parent has taken and proposes to take with respect thereto;

(g) as soon as the same become available, but in any event within 90 days after the end of each of the first three quarterly periods of each of the financial years of each Obligor (other than the Parent, CEMEX España and each Security Provider), its unconsolidated financial statements for that period; and

(h) as soon as the same become available, but in any event within 30 days of the end of each calendar month, monthly financial management accounts for the Parent for such month (including: (i) cumulative accounts for the Parent's

Financial Year to date, and (ii) a comparison to the Business Plan) and any other financial information of a non-confidential nature submitted to its board of directors.

22.2 **Compliance Certificate**

(a) The Parent shall supply to the Administrative Agent (for distribution to the Participating Creditors), with each set of consolidated financial statements delivered pursuant to paragraph (a) of Clause 22.1 (*Financial statements*) above and each set of consolidated financial statements delivered pursuant to paragraph (f) of Clause 22.1 (*Financial statements*) for a Financial Quarter ending on or about 30 June, a Compliance Certificate setting out (in reasonable detail) computations as to compliance with Clause 23 (*Financial Covenants*) as at the date at which those financial statements were drawn up.

(b) Each Compliance Certificate shall be signed by two Responsible Officers of the Parent and, if required to be delivered with the consolidated financial statements delivered pursuant to paragraph (a) of Clause 22.1 (*Financial statements*), the Parent shall provide to the Administrative Agent (for distribution to the Participating Creditors), by no later than 180 days after the end of the relevant Financial Year, a letter (in a form approved by the Administrative Agent) from the Parent's auditors or any other internationally recognised accounting firm confirming that the numbers used in the Compliance Certificate calculations have been correctly extracted from the consolidated financial statements of the Parent.

(c) The Parent shall supply to the Administrative Agent (for distribution to the Participating Creditors), with each set of consolidated financial statements delivered under paragraphs (a) and (f) of Clause 22.1 (*Financial statements*) in respect of Financial Quarters of the Parent, a certificate signed by an Authorised Signatory of the Parent setting out (in reasonable detail) computations as to Excess Cashflow for the relevant Financial Quarter of the Parent.

22.3 **Requirements as to financial statements**

(a) Each set of financial statements delivered by the Parent pursuant to Clause 22.1 (*Financial statements*) shall be certified by a Responsible Officer of the relevant company as fairly representing its financial condition as at the date at which those financial statements were drawn up.

(b) The audited consolidated accounts of the Parent and CEMEX España and each other set of financial statements described pursuant to Clause 22.1 (*Financial statements*) which the relevant member of the Group ordinarily produces in English shall be provided in English.

(c) The Parent shall procure that each set of financial statements delivered pursuant to Clause 22.1 (*Financial statements*) is prepared using Applicable GAAP and accounting practices and financial reference periods consistent with those applied to the preparation of the Original Financial Statements for

that Obligor unless, in relation to any set of financial statements, it notifies the Administrative Agent that there has been a change in Applicable GAAP, or the accounting practices or reference periods and, unless amendments are agreed in accordance with paragraph (d) of this Clause 22.3, its auditors deliver to the Administrative Agent:

(i) a description of any change necessary for those financial statements to reflect the Applicable GAAP, accounting practices and reference periods upon which that Obligor's Original Financial Statements were prepared; and

(ii) sufficient information, in form and substance as may be reasonably required by the Administrative Agent, to enable the Participating Creditors to determine whether Clause 23 (*Financial covenants*) has been complied with, to determine the amount of any prepayments to be made under paragraph (b)(iv) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) and to make an accurate comparison between the financial position indicated in those financial statements and that Obligor's Original Financial Statements.

Any reference in this Agreement to those financial statements shall be construed as a reference to those financial statements as adjusted to reflect the basis upon which the Original Financial Statements for that Obligor were prepared.

(d) If the Parent (or CEMEX España or a relevant Obligor, as the case may be) adopts IFRS or, unless the procedure in paragraph (c) above is utilised, there are changes to Applicable GAAP, or the accounting practices or reference periods, the Parent (or CEMEX España or a relevant Obligor, as the case may be) and the Administrative Agent (acting on the instructions of the Majority Participating Creditors) shall, at the Parent's (or CEMEX España or a relevant Obligor, as the case may be) request, negotiate in good faith with a view to agreeing such amendments to the financial covenants in Clause 23 (*Financial Covenants*) and the definitions used therein as may be necessary to ensure that the criteria for evaluating the Group's financial condition grant to the Participating Creditors protection equivalent to that which would have been enjoyed by them had the (or CEMEX España or a relevant Obligor, as the case may be) Parent not adopted IFRS or there had not been a change in Applicable GAAP, or the accounting practices or reference periods (subject to compliance with paragraph (b) above). Any amendments agreed will take effect on the date agreed between the Administrative Agent and the Parent (or CEMEX España or a relevant Obligor, as the case may be) subject to the consent of the Majority Participating Creditors. If no such agreement is reached within 90 days of the Parent's (or CEMEX España or a relevant Obligor, as the case may be) request, the Parent (or CEMEX España or a relevant Obligor, as the case may be) will remain subject to the obligation to

deliver the information specified in paragraph (b) of this Clause 22.3 and the financial covenants in Clause 23 (*Financial covenants*) and the financial ratios to calculate the Margin shall be based on the information delivered.

22.4 **Liquidity forecast**

No later than the thirtieth day in each calendar month, the Parent shall supply to the Administrative Agent (in sufficient copies for all the Participating Creditors, if the Administrative Agent so requests) an updated thirteen week management cashflow forecast (beginning on the first day of such calendar month) substantially in the form delivered to the Administrative Agent as a condition precedent under paragraph 4(e) of Part I of Schedule 2 (*Conditions precedent*).

22.5 **Information: miscellaneous**

The Parent shall supply to the Administrative Agent (for distribution to the Participating Creditors):

(a) all documents dispatched by the Parent to its shareholders (or any class of them) or its creditors generally at the same time as they are dispatched;

(b) within five days after the same are sent, copies of all financial statements and reports that the Parent sends to the holders of any class of its debt securities;

(c) promptly upon becoming aware of them, the details of any litigation, arbitration, administrative proceedings or enforcement proceedings and any material tax related event or assessment which are current, or which, to the Parent's knowledge after reasonable enquiry, are being threatened or are pending and are likely to be adversely determined against any member of the Group which, in the reasonable opinion of the Parent, are not spurious or vexatious, and which might, if adversely determined, have a Material Adverse Effect;

(d) promptly, such further information as the Security Agent may reasonably require about the Charged Property and compliance of the Obligors with the terms of any Transaction Security Documents;

(e) promptly, such further information regarding the financial condition, assets and business of any Obligor or member of the Group as the Administrative Agent (or any Participating Creditor through the Administrative Agent) may reasonably request (including, but not limited to, information on Ratings, if such credit rating has not been publicly announced) other than any information the disclosure of which would result in a breach of any applicable law or regulation or confidentiality agreement entered into in good faith **provided that** the Parent shall use reasonable efforts to be released from any such confidentiality agreement;

(f) promptly upon becoming aware of them, the details of any Environmental Claim which is current, threatened or pending against any member of the Group which is referred to in Clause 24.11 (*Environmental Claims*) which are

not spurious or vexatious, which are likely to be adversely determined against any member of the Group and which could reasonably be expected, if adversely determined, to have a Material Adverse Effect;

(g) on the same date on which the liquidity forecast is provided pursuant to Clause 22.4 (*Liquidity forecast*), an updated list of the details of the Existing Financial Indebtedness in substantially the same format as Schedule 10 (*Existing Financial Indebtedness*) and an updated list of Excluded Positions, in substantially the same format as Annex 1 (*Excluded Positions*) to Schedule 15 (*Hedging Parameters*), in each case certified by an Authorised Signatory as being true, complete and up to date as at the last day of the most recently completed calendar month; and

(h) on the same date on which the liquidity forecast is provided pursuant to Clause 22.4 (*Liquidity forecast*) for each calendar month, details of the Group's mark-to-market exposures under Treasury Transactions as at the last day of the most recently completed calendar month (including type of derivative, brief description of the risk hedged and amount of collateral posted (if any)) and any material amendment, modification or termination of a Treasury Transaction during such calendar month.

22.6 **Notification of Default**

(a) Each Obligor shall notify the Administrative Agent of any Default (and the steps, if any, being taken to remedy it) promptly upon becoming aware of its occurrence (unless that Obligor is aware that a notification has already been provided by another Obligor).

(b) Promptly upon a request by the Administrative Agent, the Parent shall supply to the Administrative Agent a certificate signed by an Authorised Signatory on its behalf certifying that no Default is continuing (or if a Default is continuing, specifying the Default and the steps, if any, being taken to remedy it).

22.7 **"Know your client" checks**

(a) Each Obligor shall promptly upon the request of the Administrative Agent or any Participating Creditor, and each Participating Creditor shall promptly upon the request of the Administrative Agent, supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Administrative Agent (for itself or on behalf of any Participating Creditor) or any Participating Creditor (for itself or on behalf of any prospective New Participating Creditor) in order for the Administrative Agent, such Participating Creditor or any prospective New Participating Creditor to carry out and be satisfied with the results of all necessary "know your client" or other checks, such as the checks required by the US Patriot Act (Title III of Pub. L. 107-55 (signed into law on 26 October 2001)) in relation to the identity of any person that it is required by law to carry out in relation to the transactions contemplated in the Finance Documents. For the avoidance of

doubt, a Participating Creditor will have no obligation towards the Administrative Agent to evidence that it has complied with any "know your client" or similar checks in relation to the Obligors.

(b) The Parent shall, by not less than five Business Days' written notice to the Administrative Agent, notify the Administrative Agent (which shall promptly notify the Participating Creditors) of its intention to request that one of its Subsidiaries becomes an Additional Guarantor or Additional Security Provider pursuant to Clause 28 (*Changes to the Obligors*).

(c) Following the giving of any notice pursuant to paragraph (b) above, the Parent shall promptly upon the request of the Administrative Agent or any Participating Creditor supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Administrative Agent (for itself or on behalf of any Participating Creditor) or any Participating Creditor (for itself or on behalf of any prospective New Participating Creditor) in order for the Administrative Agent, such Participating Creditor or any prospective New Participating Creditor to carry out and be satisfied with the results of all necessary "know your client" or other checks in relation to the identity of any person that it is required by law to carry out in relation to the accession of such Additional Guarantor or Additional Security Provider to this Agreement.

22.8 **Appointment of financial adviser**

(a) If, following receipt of any information requested under paragraph (e) of Clause 22.5 (*Information: miscellaneous*), the Majority Participating Creditors so elect, they may, after consultation with the Parent, appoint a financial adviser to provide them with advice in relation to such information (and the Parent will pay (or procure to be paid) the documented and properly incurred costs associated with any such financial adviser's appointment).

(b) The Parent shall, within three Business Days of demand, pay (or procure to be paid) to each Participating Creditor in respect of whom the financial adviser appointed under paragraph (a) is appointed, the amount of all documented and properly incurred costs and expenses incurred by it in connection with the appointment and role of any financial adviser appointed in accordance with paragraph (a).

22.9 **Permitted Liquidity Facilities**

The Parent shall notify the Administrative Agent, on or before the date on which the next succeeding liquidity forecast is provided under Clause 22.4 (*Liquidity forecast*) of:

(a) the details of the borrower(s), lender(s) and amount of the utilised and unutilised commitments under such facility and of any guarantees or Security granted in connection with such facility since the last such notification; and

(b) any change in any of the details referred to in paragraph (a) above since the last such notification,

and shall certify in each such notification that the relevant facility constitutes a Permitted Liquidity Facility for the purposes of this Agreement.

22.10 **Notification of Margin adjustment**

On 30 June 2010, the Parent will give notice to the Administrative Agent (for distribution to the Creditor's Representatives) confirming whether any adjustment to the Margin is required pursuant to paragraph (a) of the definition of Margin.

22.11 **Confirmation as to public information**

The Parent will, by notice in writing to the Administrative Agent at the same time as any information is delivered to the Administrative Agent under the Finance Documents, confirm whether that information is publicly available information or not and any Participating Creditor that is unable to receive non-publicly available information will be able to elect, by notice in writing to the Administrative Agent, not to receive any information confirmed by the Parent to be non-publicly available information.

23. **FINANCIAL COVENANTS**

23.1 **Financial definitions**

In this Agreement:

"**Capital Expenditure**" means any expenditure or obligation in respect of expenditure which, in accordance with Applicable GAAP of the Parent, is treated as capital expenditure (and including the capital element of any expenditure or obligation incurred in connection with a Capital Lease) (and, solely for the purposes of paragraph (c) of Clause 23.2 (*Financial condition*), the maximum amount of Capital Expenditure of the Group permitted in the Financial Year ending on or about 31 December 2009 will be increased by an amount not exceeding $50,000,000 in aggregate to the extent necessary to take into account currency fluctuations or additional costs and expenses contemplated by (or that have occurred since the date of) the Business Plan).

"**Capital Lease**" means, as to any person, the obligations of such person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of the Parent under Applicable GAAP of the Parent and, for the purposes of this Agreement, the amount of such obligations at any time shall be the capitalised amount thereof at such time determined in accordance with Applicable GAAP of the Parent.

"**Capital Stock**" means any and all shares, interests, participations or other equivalents (however designed) of capital stock of a corporation, any and all equivalent ownership interests in a person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing.

"**Consolidated Coverage Ratio**" means, on any date of determination, the ratio of (a) EBITDA for the one (1) year period ending on such date to (b) Consolidated Interest Expense for the one (1) year period ending on such date.

"**Consolidated Debt**" means, at any date, the sum (without duplication) of (a) the aggregate amount of all Debt of the Parent and its Subsidiaries at such date, which shall include the amount of any recourse in respect of Inventory Financing permitted under paragraph (e) of the definition of Permitted Financial Indebtedness, *plus* (b) to the extent not included in Debt, the aggregate net mark-to-market amount of all derivative financing in the form of equity swaps outstanding at such date (except to the extent such exposure is cash collateralised to the extent permitted under the Finance Documents).

"**Consolidated Funded Debt**" means, for any period, Consolidated Debt less the sum (without duplication) of (i) all obligations of such person to pay the deferred purchase price of property or services, (ii) all obligations of such person as lessee under Capital Leases, and (iii) all obligations of such person with respect to product invoices incurred in connection with export financing.

"**Consolidated Interest Expense**" means, for any period, the sum of the (1) total gross cash and non cash interest expense of the Parent and its consolidated Subsidiaries relating to Consolidated Funded Debt of such persons, (2) any amortisation or accretion of debt discount or any interest paid on Consolidated Funded Debt of such person and its Subsidiaries in the form of additional Financial Indebtedness (but excluding any amortisation of deferred financing and debt issuance costs), (3) the net costs under Treasury Transactions in respect of interest rates (but excluding amortisation of fees), (4) any amounts paid in cash on preferred stock, and (5) any interest paid or accrued in respect of Consolidated Funded Debt without a maturity date, regardless of whether considered interest expense under Applicable GAAP of the Parent. For purposes of calculating Consolidated Interest Expense for the Reference Period ending 30 June 2010, $131,406,696.17 shall be deducted, constituting the amount of interest paid in respect of perpetual debentures on 1 July 2009 for the period ending 30 June 2009.

"**Consolidated Leverage Ratio**" means, on any date of determination, the ratio of (a) Consolidated Funded Debt on such date to (b) EBITDA for the one (1) year period ending on such date.

"**Debt**" of any person means, without duplication, (i) all obligations of such person for borrowed money, (ii) all obligations of such person evidenced by bonds, debentures, notes or other similar instruments, including the perpetual bonds, (iii) the aggregate net mark-to-market of Treasury Transactions (except to the extent such exposure is cash collateralised to the extent permitted under the Finance Documents) of such person but excluding Treasury Transactions relating to the rate or price of energy or any commodity, (iv) all obligations of such person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of Trading, (v) all obligations of such person as lessee under Capital Leases, (vi) all Debt

of others secured by Security on any asset of such person, up to the value of such asset, (vii) all obligations of such Person with respect to product invoices incurred in connection with export financing, (viii) all obligations of such person under repurchase agreements for the stock issued by such person or another person, (ix) all obligations of such person in respect of Inventory Financing permitted under paragraph (e) of the definition of Permitted Financial Indebtedness and (x) all guarantees of such person in respect of any of the foregoing. For the avoidance of doubt, all letters of credit, banker's acceptances or similar credit transactions, including reimbursement obligations in respect thereof are not Debt until they are required to be funded.

"**Discontinued EBITDA**" means, for any period, the sum for Discontinued Operations of (a) operating income (*utilidad de operación*), and (b) depreciation and amortisation expense, in each case determined in accordance with Applicable GAAP of the Parent consistently applied for such period.

"**Discontinued Operations**" means operations that are accounted for as discontinued operations pursuant to Applicable GAAP of the Parent for which the Disposal of such assets has not yet occurred.

"**EBITDA**" means, for any period, the sum for the Parent and its Subsidiaries, determined on a consolidated basis of (a) operating income (*Utilidad de Operacion*), and (b) depreciation and amortisation expense, in each case determined in accordance with Applicable GAAP of the Parent, subject to the adjustments herein, consistently applied for such period and adjusted for Discontinued EBITDA as follows: if the amount of Discontinued EBITDA is a positive amount, then EBITDA shall increase by such amount, and if the amount of Discontinued EBITDA is a negative amount, then EBITDA shall decrease by the absolute value of such amount. For the purposes of calculating EBITDA for any applicable period pursuant to any determination of the Consolidated Leverage Ratio (but not the Consolidated Coverage Ratio): (A) (i) if at any time during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Disposal, the EBITDA for such applicable period shall be reduced by an amount equal to the EBITDA (if positive) attributable to the property that is the subject of such Material Disposal for such applicable period (but when the Material Disposal is by way of lease, income received by the Parent or any of its Subsidiaries under such lease shall be included in EBITDA) and (ii) if at any time during such applicable period the Parent or any of its Subsidiaries shall have made any Material Acquisition, EBITDA for such applicable period shall be calculated after giving pro forma effect thereto as if such Material Acquisition had occurred on the first day of such applicable period. Additionally, if since the beginning of such applicable period any person that subsequently shall have become a Subsidiary or was merged or consolidated with the Parent or any of its Subsidiaries as a result of a Material Acquisition occurring during such applicable period shall have made any Material Disposal or Material Acquisition of property that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Parent or any of its Subsidiaries during such applicable period, EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Material Disposal or Material

Acquisition had occurred on the first day of such applicable period; and (B) EBITDA will be recalculated by multiplying each month's EBITDA by the Ending Exchange Rate and dividing the amount obtained thereto by the exchange rate used by the Parent in preparation of its monthly financial statements in accordance with Applicable GAAP of the Parent to convert $ into Mexican pesos (such recalculated EBITDA being the **"Recalculated EBITDA**").

"**Ending Exchange Rate**" means the exchange rate at the end of a Reference Period for converting $ into Mexican pesos as used by the Parent and its auditors in preparation of the Parent's financial statements in accordance with Applicable GAAP of the Parent.

"**Excess Cashflow**" means, for any period for which it is being calculated, the amount by which the aggregate of the cash on hand of the Parent on a consolidated basis on the last day of the period and the amount of any unutilised commitments under any Permitted Liquidity Facility on the last day of the period exceed $650,000,000.

"**Financial Quarter**" means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

"**Financial Year**" means the annual accounting period of the Parent ending on or about 31 December in each year.

"**Material Acquisition**" means any (a) acquisition of property or series of related acquisitions of property that constitutes assets comprising all or substantially all of an operating unit, division or line of business or (b) acquisition of or other investment in the Capital Stock of any Subsidiary or any Person which becomes a Subsidiary or is merged or consolidated with the Borrower or any of its Subsidiaries, in each case, which involves the payment of consideration by the Borrower and its Subsidiaries in excess of $100,000,000 (or the equivalent in other currencies).

"**Material Disposal**" means any Disposal of property or series of related Disposals of property that yields gross proceeds to the Parent or any of its Subsidiaries in excess of $100,000,000 (or the equivalent in other currencies).

"**Quarter Date**" means each of 31 March, 30 June, 30 September and 31 December.

"**Reference Period**" means a period of four consecutive Financial Quarters.

23.2 **Financial condition**

The Parent shall ensure that:

(a) *Consolidated Coverage Ratio*: the Consolidated Coverage Ratio in respect of any Reference Period specified in column 1 below shall not be less than the ratio set out in column 2 below opposite that Reference Period.

Column 1 Reference Period ending	Column 2 Ratio
30 June 2010	1.75: 1
31 December 2010	1.75: 1
30 June 2011	1.75: 1
31 December 2011	2.00: 1
30 June 2012	2.00: 1
31 December 2012	2.00: 1
30 June 2013	2.25: 1
31 December 2013	2.25: 1

(b) *Consolidated Leverage Ratio*: the Consolidated Leverage Ratio in respect of any Reference Period specified in column 1 below shall not exceed the ratio set out in column 2 below opposite that Reference Period.

Column 1 Reference Period ending	Column 2 Ratio
30 June 2010	7.75: 1
31 December 2010	6.75: 1
30 June 2011	5.75: 1
31 December 2011	5.25: 1
30 June 2012	4.75: 1
31 December 2012	4.25: 1
30 June 2013	3.90: 1
31 December 2013	3.50: 1

(c) *Capital Expenditure*: The aggregate Capital Expenditure of the Group in respect of any Financial Year specified in column 1 below shall not exceed the amount set out in column 2 below opposite that Financial Year (in each case, reduced by the amount of any Permitted Joint Ventures falling within paragraph (b)(iii)(2) of the definition thereof in that Financial Year):

Column 1 Financial Year ending	Column 2 Amount
31 December 2009	$600,000,000
31 December 2010	$ 700,000,000
Each Financial Year thereafter	$ 800,000,000

If in any Financial Year (the "**First Financial Year**") the amount of the Capital Expenditure of the Group is less than the maximum amount permitted for that Financial Year (the difference being referred to as the "**Unused Amount**"), then a portion of the Capital Expenditure incurred in the Financial Quarter immediately following the First Financial Year in an amount up to the Unused Amount will be treated for the purposes of this paragraph (c) as if it had been incurred in the First Financial Year.

23.3 **Financial testing**

The financial covenants set out in Clause 23.2 (*Financial condition*) shall be tested semi-annually by reference to the Parent's consolidated financial statements delivered pursuant to Clause 22.1 (*Financial statements*) and/or each Compliance Certificate delivered pursuant to Clause 22.2 (*Compliance Certificate*).

23.4 **Accounting terms**

All accounting expressions which are not otherwise defined herein shall have the meaning ascribed thereto in Applicable GAAP of the Parent.

24. **GENERAL UNDERTAKINGS**

The undertakings in this Clause 24 remain in force from the Effective Date for so long as any Participating Creditor has any Exposure under the Finance Documents.

24.1 **Authorisations**

Each Obligor shall promptly:

(a) obtain, comply with and do all that is necessary to maintain in full force and effect; and

(b) supply certified copies to the Administrative Agent of,

any Authorisation required under any law or regulation of its jurisdiction of incorporation to enable it to perform its obligations under the Finance Documents and to ensure the legality, validity, enforceability or admissibility in evidence in its jurisdiction of incorporation of any Finance Document.

24.2 **Preservation of corporate existence**

Subject to Clause 24.7 (*Merger*), each Obligor shall (and the Parent shall ensure that each of its Material Subsidiaries will), preserve and maintain its corporate existence and rights.

24.3 **Preservation of properties**

Each Obligor shall (and the Parent shall ensure that each of its Material Subsidiaries will):

(a) maintain and preserve all of its properties that are used in the conduct of its business in good working order and condition, ordinary wear and tear excepted; and

(b) maintain, preserve and protect all Intellectual Property and all necessary governmental and third party approvals, franchises, licenses and permits, material to the business of Parent or its Subsidiaries,

provided neither paragraph (a) nor paragraph (b) shall prevent the Parent or any of its Subsidiaries from discontinuing the operation and maintenance of any of its properties or allowing to lapse certain approvals, licenses or permits which discontinuance is desirable in the conduct of its business and which discontinuance could not individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

24.4 **Compliance with laws, regulations and contractual obligations**

(a) Each Obligor shall (and shall procure that each of its Subsidiaries will) comply in all respects with all laws and regulations to which it may be subject and all material contractual obligations to which it is a party or by which it or any of its property or assets is bound, in each case, if failure to so comply would be likely to have a Material Adverse Effect.

(b) The Parent shall (and shall procure that each of its Subsidiaries will) comply with ERISA and laws relating to IMSS, INFONAVIT or under other mandatory pension or retirement fund laws and will ensure that the levels of contribution to pension schemes are and continue to be sufficient to comply with all its and their material obligations under such schemes and generally under applicable laws (including ERISA) and regulations, except where such failure to comply or failure to make such contributions would not reasonably be expected to have a Material Adverse Effect.

(c) Each Dutch Obligor will comply with the Dutch FSA.

24.5 **Negative pledge**

The Parent shall not and shall not permit any of its Subsidiaries:

(a) to directly or indirectly, create, incur, assume or permit to exist any Security on or with respect to any of its property or assets or those of any Subsidiary, whether now owned or held or hereafter acquired; or

(b) to:

(i) sell, transfer or otherwise dispose of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group;

(ii) sell, transfer or otherwise dispose of any of its receivables on recourse terms;

(iii) enter into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

(iv) enter into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset (such arrangement or transaction being " **Quasi-Security**"),

other than the following Security and Quasi-Security (" **Permitted Security**"):

(A) Security for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Applicable GAAP of the Parent shall have been made;

(B) Security granted pursuant to or in connection with any netting or set-off arrangements entered into in the ordinary course of trading (including, for the avoidance of doubt, any cash pooling or cash management arrangements in place with a bank or financial institution falling within paragraph (k) of the definition of Permitted Financial Indebtedness);

(C) statutory liens of landlords and liens of carriers, warehousemen, mechanics and materialment incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Applicable GAAP of the Parent shall have been made;

(D) liens incurred or deposits made in the ordinary course of business in connection with (1) workers' compensation, unemployment insurance and other types of social security, or (2) other insurance maintained by the Group in accordance with Clause 24.9 (*Insurance*);

(E) any attachment or judgment lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(F) Security and Quasi-Security existing on the date of this Agreement as described in Schedule 6 (*Existing Security and Quasi-Security*) (or any equivalent Security or Quasi-Security for Existing Financial Indebtedness that is a refinancing or replacement of Existing Financial Indebtedness) **provided that** the principal amount secured thereby is not increased (save that principal amounts secured by Security or Quasi-Security in respect of:

(1) Treasury Transactions where there are fluctuations in the mark-to-market exposures of those Treasury Transactions;

(2) Existing Financial Indebtedness under paragraph (a) of the definition where principal may increase by virtue of capitalisation of interest; and,

(3) the Banobras Facility, where further drawings may be made **provided that** the maximum amount outstanding under such facility does not exceed Mex$5,000,000,000 at any time,

may be increased by the amount of such fluctuations or capitalisations, as the case may be);

(G) any Security or Quasi-Security permitted by the Administrative Agent, acting on the instructions of the Majority Participating Creditors;

(H) any Security created or deemed created pursuant to a Permitted Securitisation;

(I) any Security granted by any member of the Group to secure Financial Indebtedness under a Permitted Liquidity Facility **provided that**: (1) such Security is not granted in respect of assets that are the subject of the Transaction Security; and (2) the maximum aggregate amount of the Financial Indebtedness secured by such Security does not exceed $500,000,000 at any time;

(J) any Security granted by the Parent or any member of the Group incorporated in Mexico in favour of a Mexican development bank (*sociedad nacional de crédito*) controlled by the government of Mexico (including Banco Nacional de Comercio Exterior, S.N.C., and Banco Nacional de Obras y Sevicios Publicos, S.N.C.) securing indebtedness of the members of the Group in an aggregate additional amount of such indebtedness not exceeding $250,000,000 (or its equivalent in any other currency);

(K) any Security or Quasi-Security granted in connection with any Treasury Transaction, excluding any Treasury Transaction described in Schedule 6 (*Existing Security and Quasi-Security*), that constitutes Permitted Financial Indebtedness **provided that** the aggregate value of the assets that are the subject of such Security or Quasi-Security does not exceed $200,000,000 (or its equivalent in other currencies) at any time;

(L) Security or Quasi-Security granted or arising over receivables, inventory, plant or equipment that are the subject of an arrangement falling within paragraph (e) of the definition of Permitted Financial Indebtedness;

(M) the Transaction Security;

(N) any Quasi-Security that is created or deemed created on shares of the Parent under paragraph (q) of the definition of Permitted Disposals by virtue of such shares being held on trust for the holders of the convertible securities pending exercise of any conversion option, where such Quasi-Security is customary for such transaction;

(O) in addition to the Security and Quasi-Security permitted by the foregoing paragraphs (A) to (N), Security or Quasi-Security securing indebtedness of the Parent and its Subsidiaries (taken as a whole) not in excess of $500,000,000.

24.6 **Financial Indebtedness**

(a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no member of the Group will) incur or allow to remain outstanding any Financial Indebtedness.

(b) Paragraph (a) above does not apply to Financial Indebtedness which is Permitted Financial Indebtedness, Permitted Security, a Permitted Guarantee or Financial Indebtedness constituting a Permitted Transaction.

24.7 **Merger**

(a) Subject to paragraph (b) of this Clause 24.7, unless it has obtained the prior written approval of the Majority Participating Creditors, no Obligor shall (and the Parent shall ensure that none of its Subsidiaries will) enter into any amalgamation, demerger, merger, *escisión* or other corporate reconstruction (a "**Reconstruction**"), other than (i) a Reconstruction relating only to the Parent's Subsidiaries inter se; (ii) a Reconstruction between the Parent and any of its Subsidiaries; or (iii) a solvent reorganisation or liquidation of any of the Subsidiaries that are not Obligors, **provided that** in any case no Default shall have occurred and be continuing at the time of such transaction or would result therefrom and **provided further that** (a) none of the Transaction Security (if any) granted to the Participating Creditors nor the guarantees granted by the Guarantors hereunder is or are adversely affected as a result and (b) the resulting entity, if it is not an Obligor, assumes the obligations of the Obligor the subject of the merger.

(b) No merger otherwise permitted by paragraph (a) of this Clause 24.7 (other than a Permitted Reorganisation) shall be so permitted if:

(i) as a result the then existing Ratings of the Parent would be downgraded or the Outlook would be negative, in each case at the date of announcement of a Reconstruction, directly as a result of any merger involving the Parent; or

(ii) the resulting entity, if it is not an Obligor, does not assume the obligations of the Obligor that is the subject of the merger.

24.8 **Change of business**

(a) None of the Obligors (other than a Security Provider that is not also a Borrower or a Guarantor) shall make a substantial change to the general nature of its business from that carried on at the date of this Agreement and there shall be no cessation of business in relation to any of the Obligors (save (except in the case of the Parent which shall in no event cease or substantially change its business) unless another Obligor continues to operate any such business).

(b) The Parent shall procure that no substantial change is made to the general nature of the business of any of its Material Subsidiaries from that carried on at the date of this Agreement and that there shall be no cessation of such business (save that a Material Subsidiary that is only a Material Subsidiary by virtue of its being a Holding Company of a Material Subsidiary may change the nature of its business such that it is substantially similar to the business carried on by any other Material Subsidiary).

24.9 **Insurance**

The Obligors (other than a Security Provider that is not also a Borrower or a Guarantor) shall (and the Parent shall ensure that each of its Material Subsidiaries will) maintain insurances on and in relation to its business and assets with reputable underwriters or insurance companies against those risks and to the extent as is usual for companies carrying on the same or substantially similar business where such insurance is available on reasonable commercial terms.

24.10 **Environmental Compliance**

The Parent shall (and the Parent shall ensure that each of its Subsidiaries will) comply in all material respects with all Environmental Law and obtain and maintain any Environmental Permits and take all reasonable steps in anticipation of known or expected future changes to or obligations under the same, in each case where failure to do so might reasonably be expected to have a Material Adverse Effect.

24.11 **Environmental Claims**

The Parent shall inform the Administrative Agent in writing as soon as reasonably practicable upon becoming aware of the same:

(a) if any Environmental Claim has been commenced or (to the best of the Parent's knowledge and belief) is threatened against any member of the Group which is likely to be determined adversely to the member of the Group; or

(b) of any facts or circumstances which will or are reasonably likely to result in any Environmental Claim being commenced or threatened against any member of the Group,

where the claim would be reasonably likely, if determined against that member of the Group, to have a Material Adverse Effect.

24.12 **Transactions with Affiliates**

Each Obligor shall (and the Parent shall ensure that its Subsidiaries will) ensure that any transactions with respective Affiliates (other than a Permitted Reorganisation) are on terms that are fair and reasonable and no less favourable to such Obligor or such Subsidiary than it would obtain in a comparable arm's-length transaction with a person not an Affiliate (and, if applicable, in accordance with any requirement of law (such as the Mexican Security Market Law (*Ley del Mercado de Valores*)).

24.13 **Pari passu ranking**

Each Obligor shall ensure that at all times its payment obligations under the Finance Documents rank at least *pari passu* with the claims of all its other unsecured and unsubordinated creditors, except for obligations mandatorily preferred by law or regulation applying to companies generally from time to time.

24.14 **Payment restrictions affecting Subsidiaries**

The Parent shall not enter into or suffer to exist, or permit any of its Subsidiaries to enter into or suffer to exist, any agreement or arrangement (other than any Finance Document) directly limiting the ability of any of its Subsidiaries to:

(a) declare or pay dividends or other distributions in respect of its or their respective equity interests in a Subsidiary, except any agreement or arrangement entered into by a person prior to such person becoming a Subsidiary, in which case the Parent shall use its reasonable endeavours to remove such limitations. If however, such limitations are reasonably likely to affect the ability of any Obligor to satisfy its payment obligations under this Agreement, the Parent shall use its best endeavours to remove such limitations as soon as possible; or

(b) repay or capitalise any intercompany indebtedness owed by any Subsidiary to any Obligor and, for the avoidance of doubt, subordination provisions shall not be considered a limitation for the purpose of this Clause 24.14.

The provision of paragraphs (a) and (b) above shall not restrict:

(i) any agreements or arrangements that are binding upon any person in connection with a Permitted Securitisation and any agreement or arrangement that limits the ability of any Subsidiary of the Parent that transfers receivables and related assets pursuant to a Permitted Securitisation to distribute or transfer receivables and related assets **provided that**, in each case, all such agreements and arrangements are customarily required by the institutional sponsor or arranger of such Permitted Securitisation in similar types of documents relating to the purchase of receivables and related assets in connection with the financing thereof;

(ii) customary provisions in Joint Venture agreements relating to dividends or other distributions in respect of such Joint Venture or the securities, assets or revenues of such Joint Venture; and

(iii) restrictions on distributions applicable to Subsidiaries of the Parent that are the subject of agreements to sell or otherwise dispose of the stock or assets of such Subsidiaries pending such sale or other disposition.

24.15 **Notification of adverse change in Ratings**

The Parent shall promptly notify the Administrative Agent of any change in its Ratings or Outlook.

24.16 **Acquisitions**

(a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no other member of the Group will) acquire a company or any shares or securities or a business or undertaking (or, in each case, any interest in any of them).

(b) Paragraph (a) above does not apply to an acquisition of a company, of shares, securities or a business or undertaking (or, in each case, any interest in any of them) or the incorporation of a company which is a Permitted Acquisition, a Permitted Joint Venture or a Permitted Transaction.

24.17 **Joint ventures**

(a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no member of the Group will):

(i) enter into, invest in or acquire (or agree to acquire) any shares, stocks, securities or other interest in any Joint Venture; or

(ii) transfer any assets or lend to or guarantee or give an indemnity for or give Security for the obligations of a Joint Venture or maintain the solvency of or provide working capital to any Joint Venture (or agree to do any of the foregoing).

(b) Paragraph (a) above does not apply to any acquisition of (or agreement to acquire) any interest in a Joint Venture or transfer of assets (or agreement to transfer assets) to a Joint Venture or loan made to or guarantee or indemnity or Security given in respect of the obligations of a Joint Venture if such transaction is a Permitted Acquisition, a Permitted Transaction, a Permitted Disposal, a Permitted Loan, Permitted Security or a Permitted Joint Venture.

24.18 **Disposals**

(a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no member of the Group will) enter into a single transaction or a series of transactions (whether related or not) and whether voluntary or involuntary to sell, lease, transfer or otherwise dispose of any asset.

(b) Paragraph (a) above does not apply to any sale, lease, transfer or other disposal which is a Permitted Disposal, a Permitted Distribution or a Permitted Transaction.

24.19 **Arm's length basis**

(a) Except as permitted by paragraph (b) below, no Obligor shall (and the Parent shall ensure no member of the Group will) enter into any transaction with any person except on arm's length terms and for full market value.

(b) The following transactions shall not be a breach of this Clause 24:

(i) intra-Group loans permitted under Clause 24.20 (*Loans or credit*);

(ii) any Permitted Reorganisation or Permitted Transaction.

24.20 **Loans or credit**

(a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no member of the Group will) be a creditor in respect of any Financial Indebtedness.

(b) Paragraph (a) above does not apply to:

(i) a Permitted Loan; or

(ii) a Permitted Transaction.

24.21 **No Guarantees or indemnities**

(a) Except as permitted under paragraph (b) below, no Obligor shall (and the Parent shall ensure that no member of the Group will) incur or allow to remain outstanding any guarantee in respect of any obligation of any person.

(b) Paragraph (a) does not apply to a guarantee which is:

(i) a Permitted Guarantee; or

(ii) a Permitted Transaction.

24.22 **Dividends and share redemption**

(a) Except as permitted under paragraph (b) below, the Parent shall not (and will ensure that no other member of the Group will):

(i) declare, make or pay any dividend, charge, fee or other distribution (or interest on any unpaid dividend, charge, fee or other distribution) (whether in cash or in kind) on or in respect of its share capital (or any class of its share capital);

(ii) repay or distribute any dividend or share premium reserve;

(iii) pay or allow any member of the Group to pay any management, advisory or other fee to or to the order of any of the shareholders of the Parent; or

(iv) redeem, repurchase, defease, retire or repay any of its share capital or resolve to do so.

(b) Paragraph (a) above does not apply to:

(i) a Permitted Distribution; or

(ii) a Permitted Transaction (other than one referred to in paragraph (c) of the definition of that term).

24.23 **Existing Financial Indebtedness and Permitted Fundraisings**

(a) Except as permitted under paragraph (b) below, the Parent shall not (and will ensure that no other member of the Group will):

(i) repay or prepay any principal amount (or capitalised interest) outstanding under the Existing Financial Indebtedness or any Permitted Fundraising falling within paragraph (c) of the definition thereof; or

(ii) (other than where such Financial Indebtedness is acquired by the Group in consideration for a Permitted Disposal or results from a Permitted Acquisition) purchase, redeem, defease or discharge any of the Existing Financial Indebtedness or any Permitted Fundraising falling within paragraph (c) of the definition thereof.

(b) Paragraph (a) above does not apply to a Permitted Payment.

24.24 **Share capital**

No Obligor shall (and the Parent shall ensure no member of the Group will) issue any shares except pursuant to:

(a) a Permitted Share Issue;

(b) a Permitted Distribution; and

(c) a Permitted Transaction.

24.25 **Amendments**

(a) No Obligor shall (and the Parent shall ensure that no member of the Group will) amend, vary, novate, supplement, supersede, waive or terminate any term of an Existing Finance Document or any other document delivered to the Administrative Agent pursuant to Clause 5 (*Initial conditions precedent*) or Clause 28 (*Changes to the Obligors*) or any document evidencing or relating to any Existing Financial Indebtedness or enter into any agreement with any shareholders of the Parent or any of their Affiliates which is not a member of the Group except in writing:

(i) in the case of an Existing Finance Document, to the extent that that amendment, variation, novation, supplement, superseding, waiver or termination could not reasonably be expected materially and adversely to affect the interests of the other Participating Creditors;

(ii) in the case of any document evidencing or relating to any Existing Financial Indebtedness, in a way which:

(A) could not be reasonably expected materially and adversely to affect the interests of the Participating Creditors; and

(B) except as provided for under this Agreement, would not change the obligors, borrowers or guarantors, provide Security or Quasi-Security, bring forward a date for payment or increase the amount of interest, principal or fees payable, in each case in respect of Existing Financial Indebtedness falling within paragraph (a) of the definition thereof (**provided that** nothing in this Clause 24.25 will affect the ability of members of the Group to enter into a Permitted Fundraising); and

(iii) in the case of an agreement with any shareholder of the Parent or any of their Affiliates which is not a member of the Group, where such agreement could not be reasonably expected to materially and adversely affect the interests of the Participating Creditors (taken as a whole).

(b) The Parent shall promptly supply to the Administrative Agent a copy of any document relating to any of the matters referred to in paragraphs (i) to (iii) above.

24.26 **Treasury Transactions**

No Obligor shall (and the Parent will procure that no members of the Group will) engage in any Treasury Transaction, other than in accordance with the terms of Schedule 15 (*Hedging Parameters*).

24.27 **Further assurance**

(a) Each Obligor shall (and the Parent shall procure that each member of the Group will) promptly do all such acts or execute all such documents (including assignments, transfers, mortgages, charges, notices and instructions) as the Security Agent may reasonably specify (and in such form as the Security Agent may reasonably require in favour of the Security Agent or its nominee(s)):

(i) to perfect the Security created or intended to be created under or evidenced by the Transaction Security Documents (which may include the execution of a mortgage, security trust, charge, assignment or other Security over all or any of the assets which are, or are intended to be, the subject of the Transaction Security) or for the exercise of any rights, powers and remedies of the Security Agent or the Finance Parties provided by or pursuant to the Finance Documents or by law (directly, through the Administrative Agent or Security Agent, through any sub-agent appointed thereby or otherwise);

(ii) to confer on the Security Agent (or confer on the Finance Parties) Security over any property and assets of that Obligor located in any jurisdiction equivalent or similar to the Security intended to be conferred by or pursuant to the Transaction Security Documents; and/or

(iii) to facilitate the realisation of the assets which are, or are intended to be, the subject of the Transaction Security.

(b) Each Obligor shall (and the Parent shall procure that each member of the Group shall) take all such action as is available to it (including making all filings and registrations) as may be necessary for the purpose of the creation, perfection, protection or maintenance of any Security conferred or intended to be conferred on the Security Agent or the Finance Parties by or pursuant to the Finance Documents.

(c) The Parent will ensure that, under the Transaction Security Documents, save as a result of the operation of Clause 8 (*Automatic Release of Transaction Security)* of the Intercreditor Agreement the Participating Creditors have Transaction Security over (1) all of the shares in each entity that is a direct or indirect shareholder in CEMEX España (except (A) CEMEX International Finance Company, CEMEX Trading Caribe Ltd, CEMEX Trading LLC, Sunbelt Trading, S.A. and Sunbelt-Re Limited; (B) 0.4326% of the shares in CEMEX Trademarks Holding Ltd. held by CEMEX, Inc. (C) 0.1245% of the shares in CEMEX México, S.A. de C.V. held by CEMEX, Inc.) (D) 0.0357% of the shares in CEMEX Concretos, S.A. de C.V. held by CEMEX, Inc. and 0.0131% of the shares in CEMEX Concretos, S.A. de C.V., being shares owned by third parties; and (E) the single share held by a minority shareholder that is a member of the Group in each Mexican company whose shares are the subject of Transaction Security (other than CEMEX México, S.A. de C.V.) and (2) all of the shares in CEMEX España (except (A) 0.3602% of the issued share capital, being shares owned by Subsidiaries of CEMEX España; and (B) 0.1716% of the issued share capital, being shares owned by persons that are not members of the Group), such Transaction Security to be, in each case, in substantially the form of the existing Transaction Security granted in the jurisdiction of incorporation or establishment of the company whose shares are the subject of the Transaction Security or, where there is no existing Transaction Security in such jurisdiction, in form and substance satisfactory to the Administrative Agent (acting reasonably).

24.28 **Equity Issuance and Securities Demand**

(a) The Parent shall engage, on the Effective Date or promptly thereafter, one or more banks (collectively, the " **Bank**") to privately place or publicly sell common equity (including in the form of American Depositary Shares) or, with the prior approval of the Majority Participating Creditors, equity-linked securities issued by a member of the Group that are linked solely to equity securities of the Parent otherwise entitled to be issued under this Agreement

and that does not result in the issuance of any equity securities by such member of the Group (the **"Securities**") for net cash proceeds of at least US$1,000,000,000 (or its equivalent in any other currency) to persons other than members of the Group. The Parent shall take actions reasonably necessary so that the Bank can, as soon as practicable after the Effective Date, offer and sell, in one or more offerings or placements, the Securities.

(b) If, during the period from the Effective Date to 30 June 2010, the Parent has not issued Securities to persons other than members of the Group for net cash proceeds of at least $1,000,000,000 (or its equivalent in any other currency) then, upon written notice given to the Parent between 1 May 2010 and 1 September 2010 by a Participating Creditor or Participating Creditors the Base Currency Amount of whose Exposures under the Facilities at that time aggregate not less than 25 per cent. of the Base Currency Amount of all the Exposures of the Participating Creditors under all of the Facilities at that time (a " **Securities Demand**"), at any time and from time to time during the period from 1 July 2010 until 31 December 2010, the Parent will cause the issuance and sale of Securities or convertibles and/or debt securities in a maximum amount (unless the Parent, at its sole discretion, determines to increase such amount) such that the net cash proceeds from such issuance are equal to $1,000,000,000 less the amount of net cash proceeds (if any) received by a member of the Group in respect of any issue of Securities or convertibles and/or debt securities carried out during the period from the date of this Agreement to 30 June 2010; **provided that** (i) the Securities or convertibles and/or debt securities will be issued pursuant to documentation which shall contain such terms and conditions as are typical and customary for similar financings and in compliance with applicable law; and (ii) all other arrangements with respect to the Securities or convertibles and/or debt securities shall be reasonably satisfactory in all respects to the Bank and the Parent in light of the then prevailing market conditions and shall not have been objected to by the Majority Participating Creditors; and (iii) the Parent shall give prior written notice of the terms of the proposed issuance to the Administrative Agent; and (iv) a Securities Demand cannot be given to the Parent on or prior to 1 July 2010 unless there is sufficient evidence that the Parent will not issue Securities for net cash proceeds of at least $1,000,000,000 (or its equivalent in any other currency) prior to that date.

24.29 **Restriction on exercise of perpetual bond call options**

The Parent shall not (and shall procure that no member of the Group will) exercise (or take any action or step with a view to exercising) any call option in relation to any perpetual bonds issued by any member of the Group unless the exercise of the call option will not have a materially negative impact on the cashflow of the Group (and, prior to exercising such call option, the Parent has delivered written notice to the Administrative Agent confirming that this is the case).

24.30 **Payment of Obligations**

The Parent will pay and discharge, and cause each of its Subsidiaries to pay and discharge, before the same shall become delinquent, (a) all taxes, assessments and governmental charges or levies assessed, charged or imposed upon it or upon its property and (b) all lawful claims that, if unpaid, might by law become a Security upon its property, except where the failure to make such payments or effect such discharges could not reasonably be expected to have Material Adverse Effect, provided, however, that neither Parent nor any of its Subsidiaries shall be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim that is being contested in good faith and proper proceedings and as to which appropriate reserves are being maintained in accordance with Applicable GAAP of the Parent, unless and until any Security resulting therefrom attaches to its property and becomes enforceable against its other creditors.

24.31 **Margin regulations**

No Borrower shall use any part of the proceeds of the Exposures of the Participating Creditors for any purpose which would result in any violation (whether by any Borrower, the Administrative Agent or the Participating Creditors) of Regulation T, U or X of the Board of Governors of the Federal Reserve System or to extend credit to others for any such purpose. No Borrower shall engage in, or maintain as one of its important activities, the business of extending credit for the purpose of purchasing or carrying any margin stock (as defined in such regulations).

24.32 **Conditions subsequent**

(a) The Parent undertakes to procure that if, as at 1 January 2010 (or, if the purchaser under the SPA and CEMEX España have agreed to extend the termination date of the SPA to 31 January 2010, 1 February 2010), CEMEX Australia Holdings is still a member of the Group, CEMEX Australia Holdings shall accede to this Agreement as an Additional Guarantor within 15 Business Days of 1 January 2010 (or, if the purchaser under the SPA and CEMEX España have agreed to extend the termination date of the SPA to 31 January 2010, 1 February 2010), and, by such accession, grant a guarantee under Clause 20 (*Guarantee and indemnity*) of this Agreement.

(b) The Parent shall take all steps necessary to ensure that on or prior to the 15 October 2009 or, if the Security Agent has not confirmed its availability to take the actions required of it in order for the matters described in this paragraph (b) to be effected on or before 15 October 2009, within 10 days of the date on which the Security Agent so confirms (or such longer period as the Administrative Agent may agree), it shall:

(i) procure that a share pledge over shares in CEMEX España substantially in the form distributed to the Participating Creditors prior to the date of this Agreement is granted (and that Dutch and Spanish legal opinions have been issued in respect thereof in form and substance satisfactory to the Administrative Agent (acting reasonably)) and that each person (other than a Participating Creditor) that is required to take any action in order to execute and accept such share pledge before a notary in Madrid has taken such action; and

(ii) upon the request of the Administrative Agent and at the time requested by the Administrative Agent during ordinary business hours, appear before a notary in Madrid to notarise or raise to the status of a public document this Agreement (*otorgar una póliza intervendia por notario, escritura pública y/o elevar a publico*) and to execute before a notary in Madrid the Transaction Security governed by the laws of Spain and the irrevocable powers of attorney in connection therewith and shall procure that any Obligor a party to either of such documents so appears and enters into such public or private document, in each case, as the Administrative Agent may reasonably require **provided that**:

(A) any such request may only be made by the Administrative Agent if the proposed appearance before the notary is to occur 10 days or more after the notice is given (and in ordinary business hours); and

(B) where the date requested is not 15 October 2009 (or, if the Security Agent has not confirmed its availability to take the actions required of it in order for the matters described in this paragraph (b) to be effected on or before 15 October 2009, the date 10 days from the date on which the Security Agent so confirms, the Administrative Agent confirms at the time of giving each notice under sub-paragraph (i) above that at least 25 of the Participating Creditors (or such lesser number as would represent the remainder of the Participating Creditors that have yet to appear and enter into the necessary public or private documents referred to above) have confirmed to it that they are able to appear or have prepared the necessary documentation required by Spanish law for a person or persons to act on their behalf to raise this Agreement to the status of a public deed under the laws of Spain and for the Transaction Security governed by the laws of Spain to be executed before a notary in Spain.

(c) The Parent shall procure that, on giving the Security Agent reasonable notice and in any event within 30 days of the date of this Agreement (or, if the Security Agent has not so confirmed on or before the date falling 30 days after the date of this Agreement, within 10 days of the date on which the Security Agent confirms its availability to execute the necessary documentation), CEMEX Trademarks Holding Ltd. shall accede to this Agreement as an Additional Security Provider and shall enter into:

(i) a possessory deed of pledge of bearer shares between CEMEX Trademarks Holding Ltd. as pledgor and Wilmington Trust (London) Limited as pledgee and Sunward Acquisitions N.V. as the company; and

(ii) a deed of pledge of registered shares between CEMEX Trademarks Holding Ltd. as pledgor and Wilmington Trust (London) Limited as pledgee and New Sunward Holdings B.V. as the company.

(d) The Parent shall procure that, within 30 days counted from the date of this Agreement, the Parent, Empresas Tolteca de Mexico, S.A. de C.V., Impra Café S.A. de C.V., Interamerican Investments Inc., Centro Distribuidor de Cemento, S.A. de C.V. and CEMEX México, S.A. de C.V. will enter into a Mexican security trust agreement substantially in the form distributed (in Spanish, together with an English translation) to the Participating Creditors prior to the date of this Agreement, under which the shares each of them owns in CEMEX México, S.A de C.V., Centro Distribuidor de Cemento, S.A. de C.V., Corporación Gouda, S.A. de C.V. and Mexcement Holdings, S.A. de C.V., are subject to the exceptions set out in paragraph (c) of Clause 24.27 (*Further assurance*), transferred to Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria as trustee (and that legal opinions as to the validity and enforceability thereof under Mexican law and related opinions be issued in respect thereof in form and substance satisfactory to the Administrative Agent (acting reasonably)).

24.33 **Restriction on transfer of Material Operating Subsidiaries**

The Parent shall procure that:

(a) neither:

(i) the direct or indirect legal or beneficial ownership of more than 10 per cent. of the shares held by members of the Group in any Material Operating Subsidiary that is a Subsidiary of CEMEX España; nor

(ii) all or substantially all the assets of CEMEX España or any Material Operating Subsidiary that is a Subsidiary of CEMEX España,

are disposed of (in a single transaction or series of related or unrelated transactions) to a member of the Group that is not CEMEX España or a Subsidiary of CEMEX España; and

(b) neither:

(i) the direct or indirect legal or beneficial ownership of more than 10 per cent. of the shares held by members of the Group in any Material Operating Subsidiary that is not a Subsidiary of CEMEX España; nor

(ii) all or substantially all the assets of the Parent or any Material Operating Subsidiary that is not a CEMEX España or a Subsidiary of CEMEX España,

are disposed of (in a single transaction or series of related or unrelated transactions) to CEMEX España or any of its Subsidiaries.

25. **COVENANT RESET DATE**

With effect from the Covenant Reset Date:

(a) the Margin adjustments under paragraphs (b) and (c) of the definition of "Margin" will cease to apply;

(b) the definition of "Excluded Disposal Proceeds" of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) shall be amended to include:

"(vii) redundant or obsolete assets; and

(viii) any assets **provided that** such proceeds are re-invested within 120 days of receipt".

(c) paragraph (b)(iv) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) shall be deleted, the figure of "50,000,000" shall be deleted and the figure of "100,000,000" substituted therefor, and the words "50 per cent. of" shall be added at the beginning of sub-paragraphs (i), (ii) and (iii) of paragraph (b) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*), and at the end of such sub-paragraph (ii) and (iii) the words "raised in excess of $100,000,000 in any Financial Year" shall be added;

(d) Clause 22.4 (*Liquidity forecast*) and Clause 22.8 (*Appointment of financial adviser*) shall be deleted;

(e) paragraph (c) of Clause 23.2 (*Financial condition*) shall be deleted;

(f) subject to the proviso below:

(i) Clause 24.22 (*Dividends and share redemption*), Clause 24.23 (*Existing Financial Indebtedness and Permitted Fundraising*), Clause 24.24 (*Share capital*), Clause 24.28 (*Equity Issuance and Securities Demand*) and Clause 24.29 (*Restrictions on exercise of perpetual bond call options*) shall be deleted;

(ii) in paragraph (h) of the definition of "Permitted Disposal", sub-paragraphs (i) and (ii) are deleted;

(iii) in paragraph (k) of the definition of "Permitted Acquisition", the reference to "$100,000,000" shall be replaced with a reference to "$200,000,000";

(iv) in paragraph (b) of the definition of "Permitted Joint Venture", the reference to "$100,000,000" shall be replaced with a reference to "$150,000,000";

(v) in paragraph (j) of the definition of "Permitted Loan", the reference to "$250,000,000" shall be replaced with a reference to "$350,000,000";

(vi) in paragraph (o) of the definition of "Permitted Financial Indebtedness", the reference to "$200,000,000" shall be replaced with a reference to "$350,000,000";

(vii) in paragraph (l) of the definition of "Permitted Guarantee", the reference to "$500,000,000" shall be replaced with a reference to "$750,000,000";

(viii) in paragraph (O) of Clause 24.5 (*Negative pledge*), the reference to "$500,000,000" shall be replaced with a reference to "5% of the total consolidated gross assets of the Group";

(ix) in Clauses 26.5 (*Cross default*), 26.6 (*Insolvency*), 26.10 (*Creditors' process and enforcement of Security*), 26.12 (*Judgment*), each reference to "$50,000,000" shall be replaced with a reference to "$75,000,000"; and

(x) Clause 24.26 (*Treasury Transactions*) shall be deleted and replaced with "No Obligor shall (and the Parent will procure that no member of the Group will) engage in any Treasury Transaction other than Treasury Transactions entered into in the ordinary course of business and for non-speculative purposes."

provided that where, at any time after the Covenant Reset Date, any Financial Indebtedness of a member of the Group under a facility in respect of which the utilised and unutilised commitments are at least $75,000,000 (or under an issuance where the principal amount outstanding under such issuance is at least $75,000,000) benefits from more restrictive covenants in respect of any of the matters to which any of these provisions relates than those set out above, the Participating Creditors will also have the benefit of those more restrictive covenants.

(g) The definition of "Repeating Representations" in Clause 1.1 (*Definitions*) shall have added to the end thereof "save that Clause 21.3 (*Non-conflict with other obligations*) shall not be repeated with respect to the Transaction Security".

26. EVENTS OF DEFAULT

Each of the events or circumstances set out in this Clause 26 is an Event of Default.

26.1 Non-payment

An Obligor does not pay on the due date any amount payable to or for the account of a Participating Creditor pursuant to a Finance Document at the place at and in the currency in which it is expressed to be payable unless such failure to pay is caused by an administrative error or technical difficulties within the banking system in relation to the transmission of funds and payment is made within three Business Days of its due date.

26.2 **Financial Covenants and other obligations**

Any requirement of Clause 23 (*Financial Covenants*) is not satisfied or the Parent fails to deliver any Compliance Certificate in accordance with Clause 22.2 (*Compliance Certificate*).

26.3 **Other obligations**

(a) An Obligor or any other member of the Group does not comply with any provision of the Finance Documents (other than those referred to in Clause 26.1 (*Non-payment*) and Clause 26.2 (*Financial covenants and other obligations*)).

(b) No Event of Default under paragraph (a) of this Clause 26.3 above will occur if the failure to comply is capable of remedy and is remedied within fifteen Business Days of the Administrative Agent giving written notice to the Parent or an Obligor becoming aware of the failure to comply, whichever is the earlier.

26.4 **Misrepresentation**

(a) Any representation or statement made or deemed to be made by an Obligor in the Finance Documents or any other document delivered by or on behalf of any Obligor under or in connection with any Finance Document is or proves to have been incorrect or misleading in any material respect when made or deemed to be made.

(b) No Event of Default under paragraph (a) of this Clause 26.4 above will arise if the circumstances giving rise to the misrepresentation are capable of remedy and are remedied within fifteen Business Days of the Administrative Agent giving written notice to the Parent or an Obligor becoming aware of the failure to comply, whichever is the earlier.

26.5 **Cross default**

(a) Any Financial Indebtedness of any Obligor or member of the Group is not paid when due nor within any originally applicable grace period.

(b) Any Financial Indebtedness of any Obligor or member of the Group is declared to be or otherwise becomes due and payable prior to its specified maturity as a result of an event of default (however described).

(c) Any creditor of any member of the Group or any Obligor becomes entitled to declare any Financial Indebtedness of any member of the Group or any Obligor due and payable prior to its specified maturity as a result of an event of default (however described).

(d) No Event of Default will occur under this Clause 26.5 if the aggregate amount of Financial Indebtedness falling within paragraphs (a) to (c) of this Clause 26.5 above is less than $50,000,000 (or its equivalent in any other currency or currencies).

26.6 **Insolvency**

(a) Any of the Obligors or Material Subsidiaries is unable or admits inability to pay its debts as they fall due or, by reason of actual financial difficulties: (i) suspends or threatens to suspend making payments on any of its debts in an aggregate amount exceeding $50,000,000 (or its equivalent in any other currency or currencies) or (ii) commences negotiations with one or more of its creditors with a view to rescheduling any of its indebtedness in respect of an aggregate amount of indebtedness exceeding $50,000,000 (or its equivalent in any other currency or currencies).

(b) The value of the assets of any of the Obligors or Material Subsidiaries is less than its liabilities (taking into account contingent and prospective liabilities other than any such liabilities arising under Clause 20 (*Guarantee and indemnity)*).

(c) A moratorium is declared in respect of any indebtedness of any of the Obligors or Material Subsidiaries.

26.7 **Insolvency proceedings**

Any corporate action, legal proceeding or other procedure or step is taken in relation to:

(a) the suspension of payments, a moratorium of any indebtedness, winding-up, dissolution, administration, Irish law examinership, reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise), *concurso mercantil, quiebra* of any of the Obligors or Material Subsidiaries other than a solvent liquidation or reorganisation of any of the Material Subsidiaries;

(b) a composition, assignment or arrangement with any class of creditor of any of the Obligors or Material Subsidiaries;

(c) the appointment of a liquidator (other than in respect of a solvent liquidation of any of the Material Subsidiaries), receiver, administrator, examiner, *conciliador*, administrative receiver, compulsory manager or other similar officer in respect of any of the Obligors or Material Subsidiaries or any of their assets,

or any analogous procedure or step is taken in any jurisdiction.

This paragraph shall not apply to any winding-up petition (or equivalent procedure in any jurisdiction) which is frivolous or vexatious and is discharged, stayed or dismissed within 60 days of commencement.

26.8 **Expropriation and sequestration**

(a) Any expropriation or sequestration (or equivalent event under any applicable law) affects any asset or assets of any Obligor or any Material Subsidiary and has a Material Adverse Effect.

(b) The authority or ability of the Parent or any Material Subsidiary to conduct its business is limited or wholly or substantially curtailed by any seizure, expropriation, nationalisation, intervention, restriction or other action by or on behalf of any governmental, regulatory or other authority or other person in relation to the Parent or any Material Subsidiary (or, in each case, any of its assets) with an aggregate book value equal to 5 per cent. or more of the gross book value of the assets of the Group (on a consolidated basis).

26.9 **Availability of foreign exchange**

Any restriction or requirement not in effect on the date hereof shall be imposed, whether by legislative enactment, decree, regulation, order or otherwise, which limits the availability or the transfer of foreign exchange by any Obligor for the purpose of performing any material obligations under the Finance Documents, any certificates, waivers, or any other agreements delivered pursuant to the Finance Documents.

26.10 **Creditors' process and enforcement of Security**

(a) Any Security is enforced against any Obligor or any Material Subsidiary.

(b) Any attachment, distress or execution affects any asset or assets of any Obligor or any Material Subsidiary which is reasonably likely to cause a Material Adverse Effect.

(c) No Event of Default under paragraphs (a) or (b) of this Clause 26.10 above will occur if:

(i) the action is being contested in good faith by appropriate proceedings;

(ii) the principal amount of the indebtedness secured by such Security or in respect of which such attachment, distress or execution is carried out represents less than $50,000,000 (or its equivalent in any other currency or currencies); and

(iii) the enforcement proceedings, attachment, distress or execution is or are discharged within 60 days of commencement.

26.11 **Ownership of Obligors**

(a) Any Obligor (other than the Parent) ceases to be a wholly owned Subsidiary of the Parent (or, in the case of CEMEX España or CEMEX Concretos, S.A. de C.V., the Parent's percentage indirect shareholding in CEMEX España or CEMEX Concretos, S.A. de C.V. is reduced from the percentage as at the date of this Agreement) except if it is the subject of a Third Party Disposal.

(b) Either of the following events occurs:

(i) a Change of Control; or

(ii) the sale of all or substantially all of the assets of the Group whether in a single transaction or a series of related transactions.

26.12 **Judgment**

(a) A final judgment or judgments or order or orders not subject to further appeal for the payment of money in an aggregate amount in excess of $50,000,000 shall be rendered against the Parent and/or any of its Subsidiaries that are neither discharged nor bonded in full within 60 days thereafter; or

(b) Any Obligor or any Material Subsidiary fails to comply with or pay any sum due from it under any judgment or any order made or given by any court of competent jurisdiction (in each case in an amount exceeding $5,000,000) save unless payment of any such sum is suspended pending an appeal.

26.13 **Unlawfulness**

(a) It is or becomes unlawful for an Obligor or any other member of the Group that is a party to the Intercreditor Agreement to perform any of its obligations under the Finance Documents where non-performance is reasonably likely to cause a Material Adverse Effect.

(b) Any Transaction Security created or expressed to be created or evidenced by the Transaction Security Documents ceases to be effective except in accordance with the terms of the Finance Documents.

(c) Any obligation or obligations of any Obligor under any Finance Documents or any other member of the Group under the Intercreditor Agreement are not (subject to the Legal Reservations) or cease to be legal, valid, binding or enforceable and the cessation individually or cumulatively materially and adversely affects the interests of the Participating Creditors under the Finance Documents.

(d) Any Finance Document ceases to be in full force and effect or is alleged by an Obligor to be ineffective except in accordance with the terms of the Finance Documents.

26.14 **Repudiation**

An Obligor repudiates a Finance Document or any of the Transaction Security or evidences an intention to repudiate a Finance Document or any of the Transaction Security.

26.15 **Failure to perform payment obligations**

Any material adverse change arises in the financial condition of the Group taken as a whole which the Majority Participating Creditors reasonably determine would result in the failure by the Obligors (taken as a whole) to perform their payment obligations under any of the Finance Documents.

26.16 **Acceleration**

On and at any time after the occurrence of an Event of Default which is continuing and in respect of which the Majority Participating Creditors have authorised the taking of such action, each Participating Creditor may, in relation to any Facility to which it is a party, subject to the provisions of the relevant Existing Finance Documents by notice to the Parent:

(a) cancel any commitments and reduce any Facility Limit under that Facility whereupon they shall immediately be cancelled and reduced; and/or

(b) declare that all or part of the Participating Creditors' Exposures under that Facility, together with accrued interest, and all other amounts accrued under the Finance Documents relating to that Facility be immediately due and payable, at which time they shall become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived; and/or

(c) declare that all or part of the Participating Creditors' Exposures under that Facility be payable on demand, whereupon they shall immediately become payable on demand by the relevant Creditor's Representative without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived; and/or

(d) make demand on any Guarantor under this Agreement or the Existing Finance Documents relating to that Facility in respect of amounts due and payable under or in connection with that Facility without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived; and/or

(e) subject to the Intercreditor Agreement (including the requirements of Clause 6.2 (*Enforcement Instructions*) thereof), exercise or direct the Security Agent to exercise any or all of its rights, remedies, powers or discretions under the Finance Documents,

provided that in the case of an Event of Default under Clauses 26.6 (*Insolvency*) or Clause 26.7 (*Insolvency proceedings*) with respect to an Obligor, all commitments shall be cancelled automatically and immediately each Facility Limit will be reduced to zero automatically and immediately and all Exposures of the Participating Creditors under the Facilities (together with accrued interest and all other amounts accrued under the Finance Documents) shall become due and payable automatically and immediately without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived.

SECTION 9
CHANGES TO PARTIES

27. CHANGES TO THE PARTICIPATING CREDITORS

27.1 Assignments and transfers by the Participating Creditors

A Participating Creditor (the "**Existing Participating Creditor**") may:

(a) assign any of its rights and benefits in respect of any of its Exposures under the Facilities; or

(b) transfer by novation any of its rights, benefits and obligations in respect of any of its Exposures under the Facilities,

to another person (the "**New Participating Creditor**") if: (i) that transfer or assignment is in accordance with the terms of the relevant Existing Finance Documents (in each case as amended by the New Finance Documents); and (ii) the New Participating Creditor is not a member of the Group or an Affiliate of a member of the Group; and (iii) the New Participating Creditor is already a Participating Creditor or has executed and delivered a Participating Creditor Accession Undertaking to the Administrative Agent with a copy to the relevant Creditor's Representative (as well as any equivalent accession document howsoever described under the relevant Facility to the relevant Creditor's Representative); and (iv) the Existing Participating Creditor and New Participating Creditor have given prior written notice of the transfer or assignment (including details of the Exposures to be transferred or assigned) to the Administrative Agent (**provided that** the giving of such notice shall not be a condition to the effectiveness of any transfer or assignment but, for the avoidance of doubt, until the Administrative Agent and Security Agent have received such notice, they will be entitled to act on the basis that no such transfer or assignment has occurred and shall not incur or owe any liability to any Party for so acting); and (v) (at any time at which no Default is continuing) such transfer or assignment would not give rise to a requirement for any relevant Obligor to gross up for withholding tax at a rate higher than the then prevailing rate under the Syndicated Bank Facilities (as limited in accordance with the relevant provisions of any such Syndicated Bank Facility which provides for a limit on withholding tax) which provisions shall continue in full force and effect.

27.2 Conditions of assignment or transfer

Upon an assignment or transfer becoming effective in accordance with Clause 27.1 (*Assignments and transfers by the Participating Creditors*):

(a) any Participating Creditor ceasing entirely to be a creditor in respect of any of the Facilities shall be discharged from further obligations towards the other Parties under the New Finance Documents and their respective rights against one another shall be cancelled; and

(b) the New Participating Creditor shall assume the same obligations, and become entitled to the same rights, as if it had been an original party to this Agreement.

27.3 **Assignment by way of security**

In addition to the other assignment rights provided in this Clause 27, each Participating Creditor may assign, as collateral or otherwise, any of its rights under the New Finance Documents (including rights to payments of principal or interest on their Exposures under the Facilities) to any trustee for the benefit of the holders of such Participating Creditor's securities **provided that** no such assignment shall release the assigning Participating Creditor from any of its obligations under the New Finance Documents.

27.4 **Assignment or transfer fee**

The New Participating Creditor shall, on the date upon which an assignment or transfer takes effect, pay to the Administrative Agent (for its own account) a fee of US$1,500.

27.5 **Limitation of responsibility of Existing Participating Creditors**

(a) Unless expressly agreed to the contrary, an Existing Participating Creditor makes no representation or warranty and assumes no responsibility to a New Participating Creditor for:

(i) the legality, validity, effectiveness, adequacy or enforceability of the Finance Documents, the Transaction Security or any other documents;

(ii) the financial condition of any Obligor;

(iii) the performance and observance by any Obligor of its obligations under the Finance Documents or any other documents; or

(iv) the accuracy of any statements (whether written or oral) made in or in connection with any Finance Document or any other document,

and any representations or warranties implied by law or regulation are excluded.

(b) Each New Participating Creditor confirms to the Existing Participating Creditor, and the other Finance Parties and Secured Parties that it:

(i) has made (and shall continue to make) its own independent investigation and assessment of the financial condition and affairs of each Obligor and its related entities in connection with its participation in the Finance Documents and has not relied exclusively on any information provided to it by the Existing Participating Creditor in connection with any Finance Document or the Transaction Security; and

(ii) will continue to make its own independent appraisal of the creditworthiness of each Obligor and its related entities whilst any amount is or may be outstanding under the Finance Documents.

(c) Nothing in any New Finance Document obliges an Existing Participating Creditor to:

(i) accept a re-transfer from a New Participating Creditor of any of the rights and obligations assigned or transferred under this Clause 27; or

(ii) support any losses directly or indirectly incurred by the New Participating Creditor by reason of the non-performance by any Obligor of its obligations under the Finance Documents or otherwise.

27.6 **Copy of Participating Creditor Accession Undertaking to Parent**

The Administrative Agent shall, as soon as reasonably practicable after it has received a Participating Creditor Accession Undertaking, send to the Parent a copy of that Participating Creditor Accession Undertaking.

27.7 **Disclosure of information**

Any Participating Creditor may disclose to any of its Affiliates and any other person:

(a) to (or through) whom that Participating Creditor assigns or transfers (or may potentially assign or transfer) all or any of its rights and obligations under the Finance Documents;

(b) with (or through) whom that Participating Creditor enters into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made by reference to, the Finance Documents;

(c) to whom, and to the extent that, information is required to be disclosed by any applicable law or regulation or audit requirement (internal or otherwise),

any information about any Obligor, the Group and the Finance Documents as that Participating Creditor shall consider appropriate **provided that** (in the case of paragraphs (a) and (b) above) the person to whom the information is to be given has entered into a Confidentiality Undertaking.

27.8 **Security over Participating Creditors' rights**

In addition to the other rights provided to Participating Creditors under this Clause 27, each Participating Creditor may without consulting with or obtaining consent from any Obligor, at any time charge, assign or otherwise create Security in or over (whether by way of collateral or otherwise) all or any of its rights under any Finance Document to secure obligations of that Participating Creditor including, without limitation:

(a) any charge, assignment or other Security to secure obligations to a federal reserve or central bank; and

(b) in the case of any Participating Creditor which is a fund, any charge, assignment or other Security granted to any holders (or trustee or representatives of holders) of obligations owed, or securities issued, by that Participating Creditor as security for those obligations or securities,

except that no such charge, assignment or other Security shall:

(i) release a Participating Creditor from any of its obligations under the Finance Documents or substitute the beneficiary of the relevant charge, assignment or Security for the Participating Creditor as a party to any of the Finance Documents; or

(ii) require any payments to be made by an Obligor or grant to any person any more extensive rights than those required to be made or granted to the relevant Participating Creditor under the Finance Documents.

28. CHANGES TO THE OBLIGORS

28.1 Assignment and Transfers by Obligors

No Obligor or any other member of the Group may assign any of its rights or transfer any of its rights or obligations under the New Finance Documents.

28.2 Resignation of a Borrower

(a) In this Clause 28.2, Clause 28.4 (*Resignation of a Guarantor*) and Clause 28.8 (*Resignation and release of Security on disposal*), "**Third Party Disposal**" means the disposal of all of the issued share capital of an Obligor to a person which is not a member of the Group where that disposal is permitted under Clause 24.18 (*Disposals*) or made with the approval of the Majority Participating Creditors (and the Parent has confirmed this is the case).

(b) If a Borrower is the subject of a Third Party Disposal, the Parent may request that such Borrower (other than the Parent) ceases to be a Borrower by delivering to the Administrative Agent a Resignation Letter.

(c) The Administrative Agent shall accept a Resignation Letter and notify the Parent and the other Finance Parties of its acceptance if:

(i) the Parent has confirmed that no Default is continuing or would result from the acceptance of the Resignation Letter;

(ii) either:

(A) the Borrower has repaid all Exposures in respect of which it is the Borrower or issuer as provided in paragraph (c) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) (and paid all other amounts relating to such Exposures) and is under no actual or contingent obligations as a Borrower under any Finance Documents; or

(B) the Participating Creditor(s) under any Facility in respect of which the Obligor the subject of the Third Party Disposal is the Borrower and the Borrower have agreed in writing that such Facility will remain in place (without recourse to any member of the Group) following completion of the Third Party Disposal and notified the Administrative Agent of the same in the relevant Resignation Letter;

(iii) where the Borrower is also a Guarantor (unless its resignation has been accepted in accordance with Clause 28.4 (*Resignation of a Guarantor*)), its obligations in its capacity as Guarantor continue to be legal, valid, binding and enforceable and in full force and effect (subject to the Legal Reservations) and the amount guaranteed by it as a Guarantor is not decreased (and the Parent has confirmed this is the case); and

(iv) the Parent has confirmed that it shall, if so required, ensure that any relevant Disposal Proceeds will be applied in accordance with Clause 13 (*Mandatory prepayment*).

(d) If the Participating Creditor(s) under any Facility in respect of which the Obligor the subject of the Third Party Disposal is the Borrower and the Borrower have agreed that such Facility will remain in place (without recourse to any member of the Group) following completion of the Third Party Disposal then upon completion of the Third Party Disposal:

(i) the Borrower will cease to be a "**Borrower**" or "**Guarantor**" for the purposes of the Finance Documents (other than the Existing Finance Documents relating to the relevant Facility);

(ii) the relevant Facility will cease to be a "**Facility**" for the purposes of the Finance Documents (other than the Existing Finance Documents relating to the relevant Facility); and

(iii) the Participating Creditor(s) in respect of that Facility will cease to be " **Participating Creditors**" in respect of that Facility under the Finance Documents (other than the Existing Finance Documents relating to the relevant Facility).

(e) Upon notification by the Administrative Agent to the Parent of its acceptance of the resignation of a Borrower, that company shall cease to be a Borrower and shall have no further rights or obligations under the New Finance Documents as a Borrower except that the resignation shall not take effect (and the Borrower will continue to have rights and obligations under the Finance Documents) until the later of (i) the date on which the Third Party Disposal takes effect; and (ii) the date on which the Borrower ceases to be a borrower and /or guarantor under the Existing Finance Documents.

(f) The Administrative Agent may, at the cost and expense of the Parent, require a legal opinion from counsel to the Administrative Agent confirming the matters set out in paragraph (c)(iii) above and the Administrative Agent shall be under no obligation to accept a Resignation Letter until it has obtained such opinion in form and substance reasonably satisfactory to it.

28.3 **Additional Guarantors and Additional Security Providers**

(a) Subject to compliance with the provisions of paragraphs (b) and (c) of Clause 22.7 (*"Know your client" checks*), the Parent may request that any of its wholly owned Subsidiaries become an Additional Guarantor or an Additional Security Provider by:

(i) the Parent delivering to the Administrative Agent a duly-completed and executed Accession Letter; and

(ii) the Parent delivers (or procures that the Additional Guarantor or Additional Security Provider (as the case may be) delivers) all of the documents and other evidence referred to in Part II (*Conditions Precedent required to be delivered by an Additional Guarantor or an Additional Security Provider*) of Schedule 2 in relation to that Additional Guarantor or Additional Security Provider to the Administrative Agent.

(b) The Administrative Agent shall notify the Obligors and the Participating Creditors promptly upon being satisfied that it has received all the documents and other evidence listed in Part II (*Conditions Precedent required to be delivered by an Additional Guarantor or an Additional Security Provider*) of Schedule 2.

28.4 **Resignation of a Guarantor**

(a) The Parent may request that a Guarantor (other than the Parent) ceases to be a Guarantor by delivering to the Administrative Agent a Resignation Letter if:

(i) that Guarantor is being disposed of by way of a Third Party Disposal (as defined in Clause 28.2 (*Resignation of a Borrower*)) and the Parent has confirmed this is the case; or

(ii) all the Participating Creditors have consented to the resignation of that Guarantor.

(b) The Administrative Agent shall accept a Resignation Letter and notify the Parent and the Participating Creditors of its acceptance if:

(i) the Parent has confirmed that no Default is continuing or would result from the acceptance of the Resignation Letter;

(ii) no payment is due from the Guarantor under Clause 20 (*Guarantee and indemnity*);

(iii) where the Guarantor is also a Borrower, it is under no actual or contingent obligations as a Borrower and has resigned and ceased to be a Borrower under Clause 28.2 (*Resignation of a Borrower*); and

(iv) the Parent has confirmed that it shall ensure, if so required, that the Disposal Proceeds will be applied in accordance with Clause 13 (*Mandatory prepayments*).

(c) The resignation of that Guarantor shall not be effective until the later of (i) date of the relevant Third Party Disposal and (ii) the date on which the Guarantor ceases to be a borrower and /or guarantor under the Existing Finance Documents, at which time that company shall cease to be a Guarantor and shall have no further rights or obligations under the Finance Documents as a Guarantor.

28.5 **Release of CEMEX Australia Holdings**

The Participating Creditors agree that CEMEX Australia Holdings shall be automatically released as a Guarantor (and shall have no further rights, liabilities or obligations under the Finance Documents as an Obligor) if:

(a) pursuant to the terms of a share purchase agreement dated on or about 15 June 2009 under which CEMEX España agreed to transfer all the issued share capital it holds in CEMEX Australia Holdings to Vennor Investments Pty Ltd (the "**SPA**"), all of the conditions precedent referred to in the SPA, other than the release of CEMEX Australia Holdings as a Guarantor under this Agreement, have been satisfied or waived and the transactions under the SPA shall promptly after the release of CEMEX Australia Holdings complete in accordance with the terms of the SPA on or before 31 December 2009 (or, if the purchaser under the SPA and CEMEX España have agreed to extend the termination date of the SPA to 31 January 2010, 31 January 2010); and

(b) the Parent has confirmed that it shall procure, if so required, that the Disposal Proceeds from the sale of all the issued share capital in CEMEX Australia Holdings will be applied in accordance with Clause 13 (*Mandatory prepayments*); and

(c) the Parent has delivered to the Administrative Agent a Resignation Letter (Australia).

28.6 **Resignation of a Security Provider**

(a) The Parent may request that a Security Provider ceases to be a Security Provider by delivering to the Administrative Agent a Resignation Letter if:

(i) the Transaction Security granted by that Security Provider is being released under and in accordance with the Intercreditor Agreement and the Parent has confirmed that this is the case; or

(ii) all the Participating Creditors have consented to the resignation of that Security Provider.

(b) The Administrative Agent shall accept a Resignation Letter and notify the Parent and the Participating Creditors of its acceptance if:

(i) the Parent has confirmed that no Default is continuing or would result from the acceptance of the Resignation Letter;

(ii) the Parent has confirmed that the Transaction Security granted by that Security Provider has not become enforceable in accordance with its terms.

(c) The resignation of that Security Provider shall not be effective until the date on which the Transaction Security granted by the Security Provider has been released under and in accordance with the Intercreditor Agreement, at which time that company shall cease to be a Security Provider and shall have no further rights or obligations under the Finance Documents as a Security Provider.

28.7 **Repetition of Representations**

Delivery of an Accession Letter constitutes confirmation by the relevant Affiliate that the Repeating Representations are true and correct in relation to it as at the date of delivery as if made by reference to the facts and circumstances then existing.

28.8 **Resignation and release of Security on disposal**

If a Borrower or Guarantor is or is proposed to be the subject of a Third Party Disposal then:

(a) where that Obligor created Transaction Security over any of its assets or business in favour of the Security Agent, or Transaction Security in favour of the Security Agent was created over the shares (or equivalent) of that Obligor, the Security Agent may, at the cost and request of the Parent, release those assets, business or shares (or equivalent) and issue certificates of non-crystallisation;

(b) the resignation of that Obligor and related release of Transaction Security referred to in paragraph (a) above shall not become effective until the date of that disposal; and

(c) if the disposal of that Obligor is not made, the Resignation Letter of that Obligor and the related release of Transaction Security referred to in paragraph (a) above shall have no effect and the obligations of the Obligor and the Transaction Security created or intended to be created by or over that Obligor shall continue in such force and effect as if that release had not been effected.

SECTION 10
THE FINANCE PARTIES

29. ROLE OF THE ADMINISTRATIVE AGENT

29.1 Appointment of the Administrative Agent

(a) Each of the Participating Creditors appoints the Administrative Agent to act as its agent under and in connection with the New Finance Documents.

(b) Each of the Participating Creditors, authorises the Administrative Agent to exercise the rights, powers, authorities and discretions specifically given to the Administrative Agent under or in connection with the New Finance Documents (including the appointment of any sub-agents or local agents to assist in the supervision or enforcement of any of the Finance Documents) together with any other incidental rights, powers, authorities and discretions.

29.2 Interests of Participating Creditors

Without limiting paragraphs (a) to (c) of Clause 29.8 (*Majority Participating Creditors' instructions*), in connection with the exercise of its powers, authorities or discretions (including, but not limited to, those in relation to any proposed modifications, waiver or authorisation of any breach or proposed breach of any of the provisions of this Agreement), the Administrative Agent shall have regard to the general interests of the Participating Creditors (taken as a whole) and shall not have regard to any interest arising from circumstances particular to individual Participating Creditors.

29.3 Duties of the Administrative Agent

(a) The Administrative Agent shall promptly forward to a Party the original or a copy of any document (including, but not limited to, the Parent's annual financial statements) which is delivered to the Administrative Agent for that Party by any other Party.

(b) The Administrative Agent is not obliged to review or check the adequacy, accuracy or completeness of any document it forwards to another Party.

(c) If the Administrative Agent receives notice from a Party referring to this Agreement, describing a Default and stating that the circumstance described is a Default, it shall promptly notify the other Finance Parties.

(d) If the Administrative Agent is aware of the non-payment of any principal, interest or fee payable to a Finance Party (other than the Administrative Agent or the Security Agent) under this Agreement it shall promptly notify the other Finance Parties.

(e) The Administrative Agent's duties under the New Finance Documents are solely mechanical and administrative in nature.

29.4 **Role of the Co-ordinating Committee Banks**

Except as specifically provided in the Finance Documents, the Co-ordinating Committee Banks do not have any obligations or liabilities of any kind to any other Party under or in connection with any Finance Document.

29.5 **No fiduciary duties**

(a) Nothing in this Agreement constitutes the Administrative Agent, any Creditor's Representative, and/or any Co-ordinating Committee Bank as a trustee or fiduciary of any other person.

(b) Neither the Administrative Agent, any Creditor's Representative under a Syndicated Bank Facility, the Security Agent nor the Co-ordinating Committee Banks shall be bound to account to any Participating Creditor for any sum or the profit element of any sum received by it for its own account.

29.6 **Business with the Group**

The Administrative Agent, any Creditor's Representative, the Security Agent and the Co-ordinating Committee Banks may accept deposits from, lend money to and generally engage in any kind of banking or other business with any member of the Group.

29.7 **Rights and discretions**

(a) The Administrative Agent and each Creditor's Representative under a Syndicated Bank Facility may rely on:

(i) any representation, notice or document (including, for the avoidance of doubt, any representation, notice or document communicating the consent of the Majority Participating Creditors pursuant to Clause 38.1 (*Required consents*)) believed by it to be genuine, correct and appropriately authorised; and

(ii) any statement made by a director, authorised signatory or employee of any person regarding any matters which may reasonably be assumed to be within his knowledge or within his power to verify.

(b) The Administrative Agent may assume (unless it has received notice to the contrary in its capacity as agent for the Participating Creditors) and each Creditor's Representative under a Syndicated Bank Facility may assume that:

(i) no Default has occurred (unless it has actual knowledge of a Default arising under Clause 26.1 (*Non-payment*));

(ii) any right, power, authority or discretion vested in any Party or the Majority Participating Creditors has not been exercised; and

(iii) any notice or request made by the Parent (other than a Utilisation Request) is made on behalf of and with the consent and knowledge of all the Obligors.

(c) The Administrative Agent and each Creditor's Representative under a Syndicated Bank Facility may engage, pay for and rely on the advice or services of any lawyers, accountants, surveyors or other experts.

(d) The Administrative Agent may act in relation to the Finance Documents through its personnel and agents and through any necessary subagent, local agent or Affiliate and for that purpose, may enter into any agreement or cause any agreement to be entered into, by any such subagent, local agent or Affiliate, including the execution, delivery, performance or enforcement of any Transaction Security Document.

(e) The Administrative Agent may disclose to any other Party any information it reasonably believes it has received as agent under this Agreement.

(f) Notwithstanding any other provision of any Finance Document or any Syndicated Bank Facility, as applicable, to the contrary, neither the Administrative Agent, any Creditor's Representative under a Syndicated Bank Facility nor the Co-ordinating Committee Banks are obliged to do or omit to do anything if it would or might in its reasonable opinion constitute a breach of any law and regulation or a breach of a fiduciary duty or duty of confidentiality.

(g) Any Creditor's Representative under a Syndicated Bank Facility may disclose to any other Party any information it reasonably believes it has received as agent under a Syndicated Bank Facility.

29.8 **Majority Participating Creditors' instructions**

(a) Unless a contrary indication appears in a New Finance Document, the Administrative Agent shall (i) exercise any right, power, authority or discretion vested in it as Administrative Agent in accordance with any instructions given to it by the Majority Participating Creditors (or, if so instructed by the Majority Participating Creditors, refrain from exercising any right, power, authority or discretion vested in it as Administrative Agent) and (ii) not be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Participating Creditors.

(b) Unless a contrary indication appears in a New Finance Document, any instructions given by the Majority Participating Creditors will be binding on all the Finance Parties other than the Security Agent.

(c) The Administrative Agent and any Creditor's Representative under a Syndicated Bank Facility may refrain from acting in accordance with the instructions of the Majority Participating Creditors (or, if appropriate, the Participating Creditors) until it has received such security as it may require for any cost, loss or liability (together with any associated VAT) which it may incur in complying with the instructions.

(d) In the absence of instructions from the Majority Participating Creditors, (or, if appropriate, the Participating Creditors) the Administrative Agent may act (or refrain from taking action) as it considers to be in the best interest of the Participating Creditors (taken as a whole).

(e) The Administrative Agent is not authorised to act on behalf of a Participating Creditor (without first obtaining that Participating Creditor's consent) in any legal or arbitration proceedings relating to any New Finance Document. This paragraph (e) shall not apply to any legal or arbitration proceeding relating to the perfection, preservation or protection of rights under the Transaction Security Documents or enforcement of the Transaction Security or Transaction Security Documents.

(f) No Creditor's Representative under a Syndicated Bank Facility shall be liable for any act (or omission) if it acts (or refrains from taking any action) in accordance with an instruction of the Majority Participating Creditors or the required lenders under a Finance Document.

29.9 **Responsibility for documentation**

Neither the Administrative Agent, any Creditor's Representative under a Syndicated Bank Facility nor any Co-ordinating Committee Bank is:

(a) responsible for the adequacy, accuracy and/or completeness of any information (whether oral or written) supplied by the Administrative Agent, an Obligor or any other person given in or in connection with any Finance Document or the Transaction Security; or

(b) responsible for the legality, validity, effectiveness, adequacy or enforceability of any Finance Document or the Transaction Security or any other agreement, arrangement or document entered into, made or executed in anticipation of or in connection with any Finance Document.

29.10 **Exclusion of liability**

(a) Without limiting paragraph (b) below, neither the Administrative Agent nor any Co-ordinating Committee Bank will be liable for any action taken by it under or in connection with any New Finance Document or the Transaction Security (or the negotiation or implementation of such documents) unless directly caused by its gross negligence or wilful misconduct or wilful breach of any New Finance Document (and, for the avoidance of doubt, the Administrative Agent will not be liable in any circumstances for any consequential loss).

(b) No Party (other than the Administrative Agent) may take any proceedings against any officer, employee or agent of the Administrative Agent or any Creditor's Representative under a Syndicated Bank Facility in respect of any claim it might have against the Administrative Agent or any Creditor's Representative under a Syndicated Bank Facility or in respect of any act or omission of any kind by that officer, employee or agent in relation to any

New Finance Document and any officer, employee or agent of the Administrative Agent or any Creditor's Representative under a Syndicated Bank Facility may rely on this Clause 29 subject to Clause 1.5 (*Third Party Rights*) and the provisions of the Third Parties Act.

(c) The Administrative Agent will not be liable for any delay (or any related consequences) in crediting an account with an amount required under the Finance Documents to be paid by the Administrative Agent if the Administrative Agent has taken all necessary steps as soon as reasonably practicable to comply with the regulations or operating procedures of any recognised clearing or settlement system used by the Administrative Agent for that purpose.

(d) Nothing in this Agreement shall oblige the Administrative Agent, any Creditor's Representative under a Syndicated Bank Facility or any Co-ordinating Committee Bank to carry out any checks pursuant to any laws or regulations relating to money laundering in relation to any person on behalf of any Participating Creditor and each Participating Creditor confirms to the Administrative Agent, each Creditor's Representative under a Syndicated Bank Facility and each Co-ordinating Committee Bank that it is solely responsible for any such checks it is required to carry out and that it may not rely on any statement in relation to such checks made by the Administrative Agent, any Creditor's Representative under a Syndicated Bank Facility or any Co-ordinating Committee Bank.

(e) No Creditor's Representative under a Syndicated Bank Facility will be liable for any action taken by it under or in connection with any Syndicated Bank Facility, unless directly caused by its gross negligence or wilful misconduct or wilful breach of such Syndicated Bank Facility.

(f) The Administrative Agent will have no liability for the acts of its agents, sub-agents or delegates (including Affiliates acting in such capacities) except to the extent that the acts or omissions of such agent or sub-agent (to the extent that it is an Affiliate of the Administrative Agent) constituted gross negligence, wilful misconduct.

29.11 **Participating Creditors' indemnity to the Administrative Agent**

Each Participating Creditor shall (in proportion to its share of the aggregate Base Currency Amount of the Exposures of all of the Participating Creditors under the Facilities or, if the aggregate Base Currency Amount of the Exposures of all of the Participating Creditors under the Facilities are then zero, to its share of the aggregate Base Currency Amount of the Exposures of all of the Participating Creditors under the Facilities immediately prior to their reduction to zero) indemnify the Administrative Agent and its Affiliates (to the extent that they act as agents, sub-agents or delegates in relation to the Finance Documents), within three Business Days of demand, against any cost, loss or liability incurred by the Administrative Agent and its Affiliates (to the extent that they act as agents, sub-agents or delegates in relation to the Finance

Documents) (otherwise than by reason of the Administrative Agent's or relevant Affiliate's gross negligence or wilful misconduct) in acting as (or, as the case may be, assisting) Administrative Agent under the New Finance Documents (unless the Administrative Agent or Affiliate has been reimbursed by an Obligor pursuant to a New Finance Document).

Any third party referred to in this Clause 29.11 may rely on this Clause 29.11.

29.12 **Resignation of the Administrative Agent**

(a) The Administrative Agent may resign and appoint one of its Affiliates acting through an office in the European Union as successor by giving notice to the other Finance Parties and the Parent.

(b) Alternatively the Administrative Agent may resign by giving notice to the other Finance Parties and the Parent, in which case the Majority Participating Creditors (after consultation with the Parent) may appoint a successor Administrative Agent.

(c) If the Majority Participating Creditors have not appointed a successor Administrative Agent in accordance with paragraph (b) above within 30 days after notice of resignation was given, the Administrative Agent (after consultation with the Parent) may appoint a successor Administrative Agent (acting through an office in the European Union).

(d) The retiring Administrative Agent shall, at its own cost, make available to the successor Administrative Agent such documents and records and provide such assistance as the successor Administrative Agent may reasonably request for the purposes of performing its functions as Administrative Agent under the New Finance Documents.

(e) The Administrative Agent's resignation notice shall only take effect upon the appointment of a successor.

(f) Upon the appointment of a successor, the retiring Administrative Agent shall be discharged from any further obligation in respect of the New Finance Documents but shall remain entitled to the benefit of this Clause 29.12. Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if such successor had been an original Party.

(g) After consultation with the Parent, the Majority Participating Creditors may, by notice to the Administrative Agent, require it to resign in accordance with paragraph (b) above. In this event, the Administrative Agent shall resign in accordance with paragraph (b) above.

29.13 **Confidentiality**

(a) In acting as agent for the Finance Parties, the Administrative Agent shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments.

(b) If information is received by another division or department of the Administrative Agent, it may be treated as confidential to that division or department and the Administrative Agent shall not be deemed to have notice of it.

(c) Notwithstanding any other provision of any Finance Document to the contrary, neither the Administrative Agent, any Creditor's Representative under a Syndicated Bank Facility nor any Co-ordinating Committee Bank is obliged to disclose to any other person (i) any confidential information or (ii) any other information if the disclosure would or might in its reasonable opinion constitute a breach of any law or a breach of a fiduciary duty.

(d) In acting as agent under a Syndicated Bank Facility, each Creditor's Representative under a Syndicated Bank Facility shall be regarded as acting through its agency division which shall be treated as a separate entity from any other of its divisions or departments. If information is received by another division or department of such Creditor's Representative, it may be treated as confidential to that division or department and such Creditor's Representative under a Syndicated Bank Facility shall not be deemed to have notice of it.

29.14 **Relationship with the Participating Creditors**

(a) The Administrative Agent may treat each Participating Creditor as a Participating Creditor, entitled to payments under this Agreement and (other than in the case of a USPP Noteholder) acting through its Facility Office unless it has received not less than five Business Days' prior notice from that Participating Creditor to the contrary in accordance with the terms of this Agreement.

(b) Each Participating Creditor shall supply the Administrative Agent with any information that the Security Agent may reasonably specify (through the Administrative Agent) as being necessary or desirable to enable the Security Agent to perform its functions as Security Agent. Each Participating Creditor shall deal with the Security Agent exclusively through the Administrative Agent and shall not deal directly with the Security Agent.

(c) The Administrative Agent may disclose to any Participating Creditor any information received by it in its capacity as Administrative Agent (including, without limitation, details of the identities and Exposures of the Participating Creditors).

29.15 **Credit appraisal by the Finance Parties**

Without affecting the responsibility of any Obligor for information supplied by it or on its behalf in connection with any Finance Document, each Finance Party confirms to the Administrative Agent and each Creditor's Representative under a Syndicated Bank Facility that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Finance Document including but not limited to:

(a) the financial condition, status and nature of each member of the Group;

(b) the legality, validity, effectiveness, adequacy or enforceability of any Finance Document and the Transaction Security and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document or the Transaction Security;

(c) whether that Secured Party has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Finance Document, the Transaction Security, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

(d) the adequacy, accuracy and/or completeness of any information provided by the Administrative Agent, any Party or by any other person under or in connection with any Finance Document, the transactions contemplated by the Finance Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Finance Document;

(e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property; and

(f) the legality, validity, effectiveness, adequacy or enforceability of any action taken or made in connection with any Syndicated Bank Facility or other Finance Document.

29.16 **Administrative Agent's Management Time**

Any amount payable to the Administrative Agent or a Creditor's Representative under a Syndicated Bank Facility under Clause 17.9 (*Indemnity to the Administrative Agent and Creditor's Representative*) and Clause 29.11 (*Participating Creditors' indemnity to the Administrative Agent*) shall include the cost of utilising the Administrative Agent's or such Creditor's Representative's. As applicable, management time or other resources and will be calculated on the basis of such reasonable daily or hourly rates as the Administrative Agent or such Creditor's Representative under a Syndicated Bank Facility, as applicable, may notify to the Parent and the Participating Creditors, and is in addition to any fee paid or payable to the Administrative Agent under Clause 16 (*Fees*).

29.17 **Deduction from amounts payable by the Administrative Agent**

If any Party owes an amount to the Administrative Agent under the New Finance Documents the Administrative Agent may, after giving notice to that Party, deduct an amount not exceeding that amount from any payment to that Party which the Administrative Agent would otherwise be obliged to make under the New Finance Documents and apply the amount deducted in or towards satisfaction of the amount owed. For the purposes of the New Finance Documents that Party shall be regarded as having received any amount so deducted.

29.18 **Role of FTI Consulting Canada, ULC**

Each Party (other than the USPP Noteholders) agrees and acknowledges that FTI Consulting Canada, ULC has provided the FTI Report and is otherwise acting on the terms of its engagement letter dated 6 April 2009 with, among others, the Parent and certain of the Co-ordinating Committee Banks and shall have no liability whatsoever save to the extent expressly contemplated in that engagement letter and the form of any accompanying reliance letter(s) (whether or not such reliance letter has been signed.

29.19 **Reliance and engagement letters**

Each Finance Party and Secured Party confirms that the Administrative Agent has authority to accept on its behalf (and ratifies the acceptance on its behalf of any letters or reports already accepted by the Administrative Agent) the terms of any reliance letter or engagement letters relating to the FTI Report or any reports or letters provided by accountants in connection with the Finance Documents or the transactions contemplated in the Finance Documents and to bind itself in respect of the FTI Report or those other reports or letters and to sign such letters on its behalf and further confirms that it accepts the terms and qualifications set out in such letters unless, in the case of the FTI Report, it has already entered into a non-reliance letter in form and substance satisfactory to FTI Consulting Canada, ULC.

30. **CONDUCT OF BUSINESS BY THE FINANCE PARTIES**

No provision of this Agreement will:

(a) interfere with the right of any Finance Party to arrange its affairs (tax or otherwise) in whatever manner it thinks fit;

(b) oblige any Finance Party to investigate or claim any credit, relief, remission or repayment available to it or the extent, order and manner of any claim; or

(c) oblige any Finance Party to disclose any information relating to its affairs (tax or otherwise) or any computations in respect of Tax.

31. SHARING AMONG THE FINANCE PARTIES

31.1 Payments to Finance Parties

If a Finance Party (a "**Recovering Finance Party**") receives or recovers any amount from an Obligor other than in accordance with Clause 32 (*Payment mechanics*) or otherwise receives or recovers more than the amount to which it is entitled under the Finance Documents (whether by way of set-off or otherwise) and applies that amount to a payment due under the Finance Documents then:

(a) the Recovering Finance Party shall, within three Business Days, notify details of the receipt or recovery, to the Administrative Agent;

(b) the Administrative Agent shall determine whether the receipt or recovery is in excess of the amount the Recovering Finance Party would have been paid had the receipt or recovery been received or made by the Administrative Agent and distributed in accordance with Clause 32 (*Payment mechanics*), without taking account of any Tax which would be imposed on the Administrative Agent in relation to the receipt, recovery or distribution; and

(c) the Recovering Finance Party shall, within three Business Days of demand by the Administrative Agent, pay to the Administrative Agent an amount (the "**Sharing Payment**") equal to such receipt or recovery less any amount which the Administrative Agent determines may be retained by the Recovering Finance Party as its share of any payment to be made, in accordance with Clause 32.5 (*Partial payments*).

31.2 Redistribution of payments

The Administrative Agent shall treat the Sharing Payment as if it had been paid by the relevant Obligor and distribute it between the Finance Parties (other than the Recovering Finance Party) in accordance with Clause 32.5 (*Partial payments*).

31.3 Recovering Finance Party's rights

(a) On a distribution by the Administrative Agent under Clause 31.2 (*Redistribution of payments*), the Recovering Finance Party will be subrogated to the rights of the Finance Parties which have shared in the redistribution.

(b) If and to the extent that the Recovering Finance Party is not able to rely on its rights under paragraph (a) above, the relevant Obligor shall be liable to the Recovering Finance Party for a debt equal to the Sharing Payment which is immediately due and payable.

31.4 Reversal of redistribution

If any part of the Sharing Payment received or recovered by a Recovering Finance Party becomes repayable and is repaid by that Recovering Finance Party, then:

(a) each Finance Party which has received a share of the relevant Sharing Payment pursuant to Clause 31.2 (*Redistribution of payments*) shall, upon request of the Administrative Agent, pay to the Administrative Agent for account of that Recovering Finance Party an amount equal to the appropriate

part of its share of the Sharing Payment (together with an amount as is necessary to reimburse that Recovering Finance Party for its proportion of any interest on the Sharing Payment which that Recovering Finance Party is required to pay); and

(b) that Recovering Finance Party's rights of subrogation in respect of any reimbursement shall be cancelled and the relevant Obligor will be liable to the reimbursing Finance Party for the amount so reimbursed.

31.5 **Exceptions**

(a) This Clause 31 shall not apply to the extent that the Recovering Finance Party would not, after making any payment pursuant to this Clause, have a valid and enforceable claim against the relevant Obligor.

(b) A Recovering Finance Party is not obliged to share with any other Finance Party any amount which the Recovering Finance Party has received or recovered as a result of taking legal or arbitration proceedings, if:

(i) it notified that other Finance Party of the legal or arbitration proceedings; and

(ii) that other Finance Party had an opportunity to participate in those legal or arbitration proceedings but did not do so as soon as reasonably practicable having received notice and did not take separate legal or arbitration proceedings.

(c) This Clause 31 shall not impose any obligation on the Security Agent to pay a Sharing Payment to the Administrative Agent under Clause 31.1 (*Payments to Finance Parties*) or Clause 31.4 (*Reversal of redistribution*).

SECTION 11
ADMINISTRATION

32. PAYMENT MECHANICS

32.1 Payments to the Administrative Agent

(a) Subject to paragraph (b), on each date on which an Obligor or a Participating Creditor is required to make a payment under a Finance Document, that Obligor or Participating Creditor shall make the same available to the relevant Creditor's Representative, as the case may be (unless a contrary indication appears in a Finance Document (including the USPP Note Agreement)) for value on the due date at the time and in such funds specified by the Creditor's Representative (as applicable) as being customary at the time for settlement of transactions in the relevant currency in the place of payment.

(b) Payments by Obligors or Participating Creditors shall be made to such account in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in a Participating Member State or London) with such bank as the Administrative Agent specifies.

32.2 Distributions by the Administrative Agent

Each payment received by the Administrative Agent under the Finance Documents for another Party shall, subject to Clause 32.3 (*Distributions to an Obligor*), Clause 32.4 (*Clawback*) and Clause 29.17 (*Deduction from amounts payable by the Administrative Agent*) be made available by the Administrative Agent as soon as practicable after receipt to the Party entitled to receive payment in accordance with this Agreement (in the case of a payment to a Participating Creditor under or in respect of a Facility, to its Creditor's Representative under that Facility and (other than in the case of a USPP Noteholder) for the account of its Facility Office), to such account as that Creditor's Representative may notify to the Administrative Agent by not less than five Business Days' notice with a bank in the principal financial centre of the country of that currency (or, in relation to euro, in a principal financial centre in a Participating Member State or London).

32.3 Distributions to an Obligor

The Administrative Agent may (with the consent of the Obligor or in accordance with Clause 33 (*Set-Off*)) apply any amount received by it for that Obligor in or towards payment (on the date and in the currency and funds of receipt) of any amount due from that Obligor under the Finance Documents or in or towards purchase of any amount of any currency to be so applied.

32.4 Clawback

(a) Where a sum is to be paid to the Administrative Agent under the Finance Documents for another Party, the Administrative Agent is not obliged to pay that sum to that other Party (or to enter into or perform any related exchange contract) until it has been able to establish to its satisfaction that it has actually received that sum.

(b) If the Administrative Agent pays an amount to another Party and it proves to be the case that the Administrative Agent had not actually received that amount, then the Party to whom that amount (or the proceeds of any related exchange contract) was paid by the Administrative Agent shall on demand refund the same to the Administrative Agent together with interest on that amount from the date of payment to the date of receipt by the Administrative Agent, calculated by the Administrative Agent to reflect its cost of funds.

32.5 **Partial payments**

Subject to the provisions of the Intercreditor Agreement:

(a) If the Administrative Agent receives a payment for application against amounts due in respect of any Finance Documents that is insufficient to discharge all the amounts then due and payable by an Obligor under those Finance Documents, the Administrative Agent shall apply that payment towards the obligations of that Obligor under those Finance Documents in the following order:

(i) first, in or towards payment pro rata of any unpaid fees, costs and expenses of the Administrative Agent and the Security Agent under those Finance Documents;

(ii) secondly, in or towards payment pro rata of any accrued interest, fee or commission due but unpaid under those Finance Documents;

(iii) thirdly, in or towards payment pro rata of any principal due but unpaid under those Finance Documents; and

(iv) fourthly, in or towards payment pro rata of any other sum due but unpaid under the Finance Documents.

(b) The Administrative Agent shall, if so directed by the Majority Participating Creditors, vary the order set out in paragraphs (a)(ii) to (iv) above (but not, for the avoidance of doubt, the *pro rata* allocation of payments falling within any such paragraph).

(c) Paragraphs (a) and (b) above will override any appropriation made by an Obligor.

32.6 **No set-off by Obligors**

All payments to be made by an Obligor under the Finance Documents shall be calculated and be made without (and free and clear of any deduction for) set-off or counterclaim.

32.7 **Business Days**

(a) Any payment which is due to be made on a day that is not a Business Day shall be made on the next Business Day in the same calendar month (if there is one) or the preceding Business Day (if there is not).

(b) During any extension of the due date for payment of any principal or an Unpaid Sum under this Agreement interest is payable on the principal or Unpaid Sum at the rate payable on the original due date.

32.8 **Currency of account**

(a) Subject to paragraphs (b) to (e) below, the Base Currency is the currency of account and payment for any sum due from an Obligor under any Finance Document.

(b) A repayment of an Exposure of any Participating Creditor under a Facility or Unpaid Sum or a part of an Exposure of any Participating Creditor under a Facility or Unpaid Sum shall be made in the currency in which that Exposure or Unpaid Sum is denominated on its due date.

(c) Each payment of interest shall be made in the currency in which the sum in respect of which the interest is payable was denominated when that interest accrued.

(d) Each payment in respect of costs, expenses or Taxes shall be made in the currency in which the costs, expenses or Taxes are incurred.

(e) Any amount expressed to be payable in a currency other than the Base Currency shall be paid in that other currency.

32.9 **Change of currency**

(a) Unless otherwise prohibited by law or regulation, if more than one currency or currency unit are at the same time recognised by the central bank of any country as the lawful currency of that country, then:

(i) any reference in the Finance Documents to, and any obligations arising under the Finance Documents in, the currency of that country shall be translated into, or paid in, the currency or currency unit of that country designated by the Administrative Agent (after consultation with the Parent); and

(ii) any translation from one currency or currency unit to another shall be at the official rate of exchange recognised by the central bank for the conversion of that currency or currency unit into the other rounded up or down by the Administrative Agent (acting reasonably).

(b) If a change in any currency of a country occurs, this Agreement will, to the extent the Administrative Agent (acting reasonably and after consultation with the Parent) specifies to be necessary be amended to comply with any generally accepted conventions and market practice in the Relevant Interbank Market and otherwise to reflect the change in currency.

32.10 **Payments discharge obligations under Existing Finance Documents**

For the avoidance of doubt, payments of principal in respect of a Facility made pursuant to the terms of the New Finance Documents will be treated as discharging the equivalent obligations in respect of that Facility under the relevant Existing Finance Documents.

32.11 **Determination and verification of payments**

(a) At least 4 Business Days prior to the date on which an Obligor makes a payment under a Finance Document, the Parent will provide (to the Administrative Agent for distribution to the Creditor's Representatives in respect of the Facility or Facilities to which the payment relates) a schedule setting out how the payment is to be applied as between each Facility.

(b) To the extent that the payment is a repayment or prepayment of principal in respect of one or more Facilities, the Parent will consult with the Administrative Agent in determining the application of the payment as between each Facility to enable the Administrative Agent to verify the amount and application of the payment before such payment is made.

(c) The Parent will advise the relevant Creditors' Representatives of the amount and currency of any principal payment to be made to such Creditor's Representative under the Finance Documents no later than 10:00 a.m. (London time) 3 Business Days prior to the date on which that payment is (or is required to be) made.

33. **SET-OFF**

A Finance Party may set off any matured obligation due from an Obligor under the Finance Documents (to the extent beneficially owned by that Finance Party) against any matured obligation owed by that Finance Party to that Obligor, regardless of the place of payment, booking branch or currency of either obligation. If the obligations are in different currencies, the Finance Party may convert either obligation at a market rate of exchange in its usual course of business for the purpose of the set-off.

34. **NOTICES**

34.1 **Communications in writing**

Any communication to be made under or in connection with the New Finance Documents shall be made in writing and, unless otherwise stated, may be made by fax or letter or (in accordance with Clause 34.5 (*Electronic communication*)) by email.

34.2 **Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party for any communication or document to be made or delivered under or in connection with the New Finance Documents is:

(a) in the case of the Parent:

Address: CEMEX, S.A.B. de C.V.
Ave Ricardo Margáin Zozaya #325
Colonia Valle del Campestre
San Pedro Garza García Monterrey, 66265
Mexíco

Fax: +52 (81) 8888 4399
Attention: Financial Operations Manager

And to: CEMEX, S.A.B. de C.V.
Calle Hernández de Tejada,
28027 Madrid
Spain
Fax: +34 (91) 377 6500
Attention: Financial Operations Manager;

(b) in the case of each Participating Creditor, or any other Obligor, that notified in writing to the Administrative Agent on or prior to the date on which it becomes a Party; and

(c) in the case of the Administrative Agent:

Address: Citibank International PLC
5th Floor, Citigroup Centre
25 Canada Square, Canary Wharf
London E14 5LB
United Kingdom

Fax: +44 20 8636 3824
Attention: Loans Agency;

(d) in the case of the Security Agent:

Address: Fifth Floor, 6 Broad Street Place, London EC2M 7JH

Fax: +44 (0) 20 7614 1122
Attention: Elaine K. Lockhart;

or any substitute address or fax number or department or officer as the Party may notify to the Administrative Agent (or the Administrative Agent may notify to the other Parties, if a change is made by the Administrative Agent) by not less than five Business Days' notice.

34.3 **Delivery**

(a) Any communication or document made or delivered by one person to another under or in connection with the New Finance Documents will only be effective:

(i) if by way of fax, when received in legible form; or

(ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post (postage prepaid) in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 34.2 (*Addresses*), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Administrative Agent or Security Agent will be effective only when actually received by the Administrative Agent or Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Administrative Agent's signature below (or any substitute department or officer as the Administrative Agent or Security Agent shall specify for this purpose).

(c) All notices from or to an Obligor shall be sent through the Administrative Agent. The Parent may make and/or deliver as agent of each Obligor notices and/or requests on behalf of each Obligor.

(d) Any communication or document made or delivered to the Parent in accordance with this Clause 34.3 will be deemed to have been made or delivered to each of the Obligors.

34.4 **Notification of address and fax number**

Promptly upon receipt of notification of an address or fax number or change of address or fax number pursuant to Clause 34.2 (*Addresses*) or changing its own address or fax number, the Administrative Agent shall notify the other Parties.

34.5 **Electronic communication**

(a) Any communication to be made between the Administrative Agent or the Security Agent and a Participating Creditor and/or any member of the Group under or in connection with the New Finance Documents may be made by electronic mail or other electronic means, if the Administrative Agent, the Security Agent and the relevant Participating Creditor and/or member of the Group:

(i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;

(ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and

(iii) notify each other of any change to their address or any other such information supplied by them.

(b) Any electronic communication made between the Administrative Agent and a Participating Creditor and/or the Security Agent and/or any member of the Group will be effective only when actually received in readable form and in the case of any electronic communication made by a Participating Creditor and/or the Security Agent and/or any member of the Group to the Administrative Agent only if it is addressed in such a manner as the Administrative Agent or Security Agent shall specify for this purpose.

(c) As at the date of this Agreement, the Security Agent has not agreed that electronic communication as contemplated by this Clause 34.5 is an accepted form of communication unless any communication from a Creditor, Noteholder or Noteholder Trustee to the Security Agent by electronic means is also made by fax, and such communication shall only be effective when such fax is received in legible form.

34.6 **English language**

(a) Any notice given under or in connection with any New Finance Document must be in English.

(b) All other documents provided under or in connection with any New Finance Document must be:

(i) in English; or

(ii) if not in English, and if so required by the Administrative Agent, accompanied by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document.

34.7 **Obligor Agent**

(a) Each Obligor (other than the Parent) by its execution of this Agreement or an Accession Letter (as the case may be) irrevocably appoints the Parent to act on its behalf as its agent in relation to the New Finance Documents and irrevocably authorises (i) the Parent on its behalf to supply all information concerning itself contemplated by this Agreement to the Finance Parties and to give all notices and instructions, to execute on its behalf any documents required hereunder and to make such agreements capable of being given or made by any Obligor notwithstanding that they may affect such Obligor, without further reference to or consent of such Obligor; and (ii) each Finance Party to give any notice, demand or other communication to such Obligor pursuant to the New Finance Documents to the Parent on its behalf, and in each case such Obligor shall be bound thereby as though such Obligor itself had given such notices and instructions or executed or made such agreements or received any notice, demand or other communication.

(b) Every act, agreement, undertaking, settlement, waiver, notice or other communication given or made by the Parent, or given to the Parent, in its capacity as agent in accordance with paragraph (a) of this Clause 34.7, in connection with this Agreement shall be binding for all purposes on such Obligors as if the other Obligors had expressly made, given or concurred with the same. In the event of any conflict between any notices or other communications of the Parent and any other Obligor, those of the Parent shall prevail.

34.8 **Use of Websites**

(a) The Parent may satisfy its obligation under this Agreement to deliver any information in relation to those Participating Creditors (the "**Website Participating Creditors**") who accept this method of communication by posting this information onto an electronic website designated by the Parent and the Administrative Agent (the "**Designated Website**") if:

(i) the Administrative Agent expressly agrees (after consultation with each of the Participating Creditors) that it will accept communication of the information by this method;

(ii) both the Parent and the Administrative Agent are aware of the address of and any relevant password specifications for the Designated Website; and

(iii) the information is in a format previously agreed between the Parent and the Administrative Agent.

If any Participating Creditor (a "**Paper Form Participating Creditor**") does not agree to the delivery of information electronically then the Administrative Agent shall notify the Parent accordingly and the Parent shall supply the information to the Administrative Agent in paper form. In any event the Parent shall supply the Administrative Agent with at least one copy in paper form of any information required to be provided by it.

(b) The Administrative Agent shall supply each Website Participating Creditor with the address of and any relevant password specifications for the Designated Website following designation of that website by the Parent and the Administrative Agent.

(c) The Parent shall promptly upon becoming aware of its occurrence notify the Administrative Agent if:

(i) the Designated Website cannot be accessed due to technical failure;

(ii) the password specifications for the Designated Website change;

(iii) any new information which is required to be provided under this Agreement is posted onto the Designated Website;

(iv) any existing information which has been provided under this Agreement and posted onto the Designated Website is amended; or

(v) the Parent becomes aware that the Designated Website or any information posted onto the Designated Website is or has been infected by any electronic virus or similar software.

If the Parent notifies the Administrative Agent under paragraph (c)(i) or paragraph (c)(v) above, all information to be provided by the Parent under this Agreement after the date of that notice shall be supplied in paper form

unless and until the Administrative Agent and each Website Participating Creditor is satisfied that the circumstances giving rise to the notification are no longer continuing.

(d) Any Website Participating Creditor may request, through the Administrative Agent, one paper copy of any information required to be provided under this Agreement which is posted onto the Designated Website. The Parent shall comply with any such request within ten Business Days.

34.9 **Delivery of information to Creditor's Representatives**

The Administrative Agent may provide a copy of any information, notice or communication that is delivered or addressed to a Participating Creditor to the Creditor's Representative of the Facility to which it relates and shall provide details of the outcome of a decision in relation to a request for a consent, amendment or waiver to the Creditor's Representatives.

35. CALCULATIONS AND CERTIFICATES

35.1 **Accounts**

In any litigation or arbitration proceedings arising out of or in connection with a New Finance Document, the entries made in the accounts maintained by a Finance Party are *prima facie* evidence of the matters to which they relate.

35.2 **Certificates and Determinations**

Any certification or determination by a Finance Party of a rate or amount under any New Finance Document is, in the absence of manifest error, conclusive evidence of the matters to which it relates.

35.3 **Day count convention**

Any interest, commission or fee accruing under a New Finance Document will accrue from day to day and is calculated on the basis of the actual number of days elapsed and a year of 360 days, or where the interest, commission or fee is to accrue in respect of any amount denominated in sterling, 365 days or, in any case where the practice in the Relevant Interbank Market differs, in accordance with that market practice.

35.4 **Spanish Civil Procedure**

In the event that this Agreement is raised to a Spanish Public Document, for the purposes of Article 572.2 of the Spanish Civil Procedure Law (*Ley de Enjuiciamiento Civil*), all parties expressly agree that the exact amount due at any time by the Obligors to the Participating Creditors will be the amount specified in a certificate issued by the Administrative Agent (and/or any Participating Creditor) in accordance with Clause 35.2 (*Certificates and Determinations*) as representative of the Participating Creditors reflecting the balance of the accounts referred to in Clause 35.1 (*Accounts*).

35.5 **No personal liability**

If an individual signs a certificate on behalf of any member of the Group and the certificate proves to be incorrect, the individual will incur no personal liability as a result, unless the individual acted fraudulently in giving the certificate. In this case any liability of the individual will be determined in accordance with applicable law.

36. **PARTIAL INVALIDITY**

If, at any time, any provision of the New Finance Documents is or becomes illegal, invalid or unenforceable in any respect under any law or regulation of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of such provision under the laws or regulations of any other jurisdiction will in any way be affected or impaired.

37. **REMEDIES AND WAIVERS**

No failure to exercise, nor any delay in exercising, on the part of any Finance Party or Secured Party, any right or remedy under the New Finance Documents shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law or regulation.

38. **AMENDMENTS AND WAIVERS**

38.1 **Required consents**

(a) Subject to Clause 38.2 (*Exceptions*) any term of the New Finance Documents may be amended or waived only with the consent of the Majority Participating Creditors and the Parent and any such amendment or waiver will be binding on all Parties.

(b) The Administrative Agent may effect, on behalf of any Finance Party, any amendment or waiver permitted by this Clause 38.

(c) The Parent may effect, as agent of each Obligor, any amendment or waiver permitted by this Clause 38.

38.2 **Exceptions**

(a) An amendment or waiver that has the effect of changing or which relates to:

(i) the definition of "**Majority Participating Creditors**" or "**Super Majority Participating Creditors**" in Clause 1.1 (*Definitions*);

(ii) an extension to the Termination Date or to the date of any scheduled payment of any amount or reduction of any Facility Limit under the Finance Documents;

(iii) a reduction in the Margin or a reduction in the amount (or, in respect of interest, fees and commissions, the rate) of any payment of principal, interest, fees or commission payable (or the allocation as among the Participating Creditors of such payment);

(iv) a change in currency of payment of any amount under the Finance Documents;

(v) an increase in or an extension of any Exposure of any Participating Creditor under a Facility or an increase in or an extension of any Facility Limit;

(vi) a change to the Borrowers or any of the Guarantors other than in accordance with Clause 28 (*Changes to the Obligors*);

(vii) any provision which expressly requires the consent of all the Participating Creditors;

(viii) Clause 4.1 (*Finance Parties' Rights and Obligations*), Clause 20 (*Guarantee and indemnity*), Clause 27 (*Changes to the Participating Creditors*), Clause 28 (*Changes to the Obligors*) or this Clause 38; or

(ix) any amendment to the order of priority or subordination under the Intercreditor Agreement,

shall not be made without the prior consent of all the Participating Creditors.

(b) An amendment or waiver which relates to the rights or obligations of the Administrative Agent, a Co-ordinating Committee Bank a Creditor's Representative under a Syndicated Bank Facility or, as the case may be, the Security Agent may not be effected without the consent of the Administrative Agent, that Co-ordinating Committee Bank, the relevant Creditor's Representative under a Syndicated Bank Facility or, as the case may be, the Security Agent at such time.

(c) Any amendment or waiver that has the effect of changing or that relates to:

(i) the nature or scope of the Charged Property or the manner in which the proceeds of enforcement of the Transaction Security are distributed (except insofar as it relates to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document); or

(ii) the release of any guarantee and indemnity granted under Clause 20 (*Guarantee and indemnity*) or of any Transaction Security unless permitted under this Agreement or any other Finance Document or relating to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under this Agreement or any other Finance Document,

may only be made with the consent of the Super Majority Participating Creditors and in accordance with the terms of the Intercreditor Agreement.

39. **COUNTERPARTS**

Each New Finance Document may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of the New Finance Document.

SECTION 12
GOVERNING LAW AND ENFORCEMENT

40. **GOVERNING LAW**

(a) This Agreement and all non-contractual obligations arising from or connected with it are governed by English law.

(b) If any of the Original Guarantors is represented by an attorney or attorneys in connection with the signing and/or execution and/or delivery of this Agreement or any agreement or document referred to herein or made pursuant hereto and the relevant power or powers of attorney is or are expressed to be governed by the laws and regulations of a particular jurisdiction, it is hereby expressly acknowledged and accepted by the other parties hereto that such laws and regulations shall govern the existence and extent of such attorney's or attorney's authority and the effects of the exercise thereof.

(c) Nothing in this Agreement will operate to change the governing law of any Existing Finance Document.

41. **ENFORCEMENT**

41.1 **Jurisdiction in relation to actions brought against parties organised or incorporated in Mexico**

In relation to actions brought by or against any Party organised or incorporated in Mexico:

(a) the courts of England and the courts of each Party's corporate domicile, have jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement or any non-contractual obligations arising from or connected with this Agreement) (a " **Dispute**"); and

(b) the Parties agree that the courts of England and such courts of each Party's corporate domicile are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary and hereby waive any right to which any of them may be entitled on account of place of residence or domicile.

41.2 **Jurisdiction of English Courts in other cases**

Subject to Clause 41.1 (*Jurisdiction in relation to actions brought against parties organised or incorporated in Mexico*) above:

(a) the courts of England have jurisdiction to settle any Dispute;

(b) the Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary and hereby waive any right to which any of them may be entitled on account of place of residence or domicile; and

(c) This Clause 41.2 is for the benefit of the Finance Parties and Secured Parties only. As a result, no Finance Party or Secured Party shall be prevented from taking proceedings relating to a Dispute (or any other dispute whatsoever) in any other courts with jurisdiction. To the extent allowed by law or regulation, the Finance Parties and Secured Parties may take concurrent proceedings in any number of jurisdictions.

41.3 **Service of process**

Without prejudice to any other mode of service allowed under any relevant law or regulation, each Obligor (other than an Obligor incorporated in England and Wales):

(a) shall irrevocably appoint the Process Agent as its agent for service of process in relation to any proceedings before the English courts in connection with any New Finance Document and shall procure that the Process Agent confirms its acceptance of that appointment in writing on or before the date of this Agreement; and

(b) agrees that failure by the Process Agent to notify the relevant Obligor of the process will not invalidate the proceedings concerned.

41.4 **Waiver of right to trial by jury**

To the extent permitted by applicable law, each party to this Agreement hereby expressly and irrevocably waives any right to trial by jury of any claim, demand, action or cause of action arising under any Finance Document or in any way connected with or related or incidental to the dealings of the Parties hereto or any of them with respect to any Finance Document, or the transactions related thereto, in each case whether now existing or hereafter arising, and whether founded in contract or tort or otherwise; and each party hereby agrees and consents that any such claim, demand, action or cause of action shall be decided by court trial without a jury, and that any Party to this Agreement may file an original counterpart or a copy of this Clause 41.4 with any court as written evidence of the consent of the signatories hereto to the waiver of their right to trial by jury.

This Agreement has been entered into on the date stated at the beginning of this Agreement.

SCHEDULE 1
THE ORIGINAL PARTIES

Part I
The Obligors

Name of Original Borrowers	**Registration number or equivalent**
CEMEX, S.A.B. de C.V.	CEM-880726-UZA
CEMEX España, S.A.	A-46004214
New Sunward Holding B.V.	34133556
CEMEX Materials LLC	File# 4443303 (Delaware)
CEMEX España Finance LLC	File#: 3654572
Name of Original Guarantors	**Registration number or equivalent**
CEMEX, S.A.B. de C.V.	CEM-880726-UZA
CEMEX España, S.A.	A-46004214
CEMEX México, S.A. de C.V.	CME-820101-LJ4
CEMEX Concretos, S.A. de C.V.	CCO-740918-9M1
Empresas Tolteca de México, S.A. de C.V.	ETM-890720-DJ2
New Sunward Holding B.V.	34133556
CEMEX Corp.	File #: 2162255
CEMEX, Inc.	Charter # 13000400D (Louisiana)
CEMEX España Finance LLC	File #: 3654572
CEMEX Australia Holdings Pty Ltd	ABN: 46 122 401 405

Name of Original Security Providers	Registration number or equivalent
CEMEX, S.A.B. de C.V.	CEM-880726-UZA
CEMEX México, S.A. de C.V.	CME-820101-LJ4
Centro Distribuidor de Cemento, S.A. de C.V.	CDC-960913-SK6
Empresas Tolteca de México, S.A. de C.V.	ETM-890720-DJ2
Impra Café, S.A. de C.V.	ICA-801002-5E8
Interamerican Investments, Inc.	File #: 2252951
Mexcement Holdings, S.A. de C.V.	MHO-010605-UDA
Corporación Gouda, S.A. de C.V.	CGO-020124-4W0
Sunward Acquisitions N.V.	33235711
Sunward Investments B.V.	34169379
Sunward Holdings B.V.	34169530
CEMEX Dutch Holdings B.V.	34218087
New Sunward Holding B.V.	34133556
CEMEX International Finance Company	226652

Part II
The Original Participating Creditors[1]

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
Part I			
Part I.A (Syndicated Facilities)			
CEMEX, S.A.B. de C.V. US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004 as amended	**$ 700,000,000**	**CEMEX, S.A.B. de C.V.**	**CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.**
BANCO BILBAO VIZCAYA ARGENTARIA, S.A., GRAND CAYMAN BRANCH	$ 38,000,000		
BANCO SANTANDER S.A., NEW YORK BRANCH	$ 42,000,000		
HSBC MEXICO, S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC	$ 30,000,000		
BNP PARIBAS PANAMA BRANCH	$ 50,000,000		
BANK OF AMERICA, N.A.	$ 34,000,000		
BARCLAYS BANK PLC	$ 42,000,000		
JPMORGAN CHASE BANK, N.A.	$ 10,000,000		
CITIBANK N.A., NASSAU, BAHAMAS BRANCH	$ 28,000,000		
CITIBANK (BANAMEX USA)	$ 10,000,000		
ING BANK, N.V. (ACTING THROUGH ITS CURACAO BRANCH)	$ 42,000,000		
CALYON NEW YORK BRANCH	$ 42,000,000		
DEUTSCHE BANK AG NEW YORK BRANCH	$ 20,000,000		
THE BANK OF NOVA SCOTIA	$ 42,000,000		
SOCIÉTÉ GÉNÉRALE	$ 10,000,000		

[1] Promptly following the Effective Date, the Participating Creditors (in consultation with the Parent) under each Facility should confirm to the Administrative Agent exact details of the currency and amount of their Exposures under such Facility as at the Effective Date and to the extent that any changes are required to this Schedule as a result, this Schedule will be updated accordingly by the Administrative Agent (with notice to the Parent, the Creditor's Representatives and the other Participating Creditors).

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.	$ 42,000,000		
INTESA SANPAOLO S.p.A., NEW YORK BRANCH	$ 20,000,000		
BAYERISCHE LANDESBANK	$ 30,000,000		
UNICREDIT SPA – NEW YORK BRANCH	$ 10,000,000		
Commerzbank AG (formerly Dresdner Bank AG acting through its lending office, Dresdner Bank AG, New York Branch)	$ 20,000,000		
STANDARD CHARTERED BANK	$ 34,000,000		
MIZUHO CORPORATE BANK, LTD	$ 42,000,000		
WACHOVIA BANK, NATIONAL ASSOCIATION	$ 42,000,000		
COMERICA BANK	$ 20,000,000		
CEMEX, S.A.B. de C.V. US$1,200,000,000 Credit Agreement dated 31 May 2005 as amended	**$ 1,200,000,000**	**CEMEX, S.A.B. de C.V.**	**CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.**
BANCO BILBAO VIZCAYA ARGENTARIA, S.A., GRAND CAYMAN BRANCH	$ 79,500,000		
BANCO SANTANDER S.A., NEW YORK BRANCH	$ 88,000,000		
HSBC BANK PLC, SUCURSAL EN ESPAÑA	$ 50,000,000		
BNP PARIBAS PANAMA BRANCH	$ 100,000,000		
THE ROYAL BANK OF SCOTLAND PLC	$ 50,000,000		
BANK OF AMERICA, N.A.	$ 25,000,000		
BARCLAYS BANK PLC	$ 89,500,000		
JPMORGAN CHASE BANK, N.A.	$ 25,000,000		
CITIBANK, N.A., NASSAU BAHAMAS BRANCH	$ 81,000,000		
ING BANK, N.V. (ACTING THROUGH ITS CURACAO BRANCH)	$ 88,000,000		
CALYON NEW YORK BRANCH	$ 88,000,000		
THE BANK OF NOVA SCOTIA	$ 88,000,000		
FORTIS BANK SA/NV CAYMAN ISLANDS BRANCH	$ 50,000,000		

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
SOCIÉTÉ GÉNÉRALE	$ 50,000,000		
THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.	$ 25,000,000		
INTESA SANPAOLO S.p.A., NEW YORK BRANCH	$ 25,000,000		
CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID, MIAMI AGENCY	$ 10,000,000		
MORGAN STANLEY BANK, N.A.	$ 25,000,000		
BAYERISCHE LANDESBANK	$ 50,000,000		
WACHOVIA BANK, NATIONAL ASSOCIATION	$ 88,000,000		
BANCA MONTE DEI PASCHI DI SIENA S.P.A.	$ 15,000,000		
COMERICA BANK	$ 10,000,000		
CEMEX, S.A.B. de C.V. US$437,500,000 & Mex$4,773,282,950 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	**$ 437,500,000 Mex$ 4,773,282,950**	**CEMEX, S.A.B. de C.V.**	**CEMEX México, S.A. de C.V.; CEMEX Concretos, S.A. de C.V.**
USD TRANCHE	**$ 437,500,000**	**CEMEX, S.A.B. de C.V.**	**CEMEX México, S.A. de C.V.; CEMEX Concretos, S.A. de C.V.**
BBVA BANCOMER, S.A., INSTITUCION DE BANCA MULTIPLE GRUPO FINANCIERO BBVA BANCOMER	$ 230,000,000		
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	$ 55,000,000		
CITIBANK, N.A. NASSAU BAHAMAS BRANCH	$ 47,500,000		
CITIBANK (BANAMEX USA)	$ 25,000,000		
BANCO NACIONAL DE COMERCIO EXTERIOR, S.N.C.	$ 80,000,000		
Mex$ TRANCHE	**Mex$ 4,773,282,950**	**CEMEX, S.A.B. de C.V.**	**CEMEX México, S.A. de C.V.; CEMEX Concretos, S.A. de C.V.**
BBVA BANCOMER, S.A., INSTITUCION DE BANCA MULTIPLE GRUPO FINANCIERO BBVA BANCOMER	Mex$ 2,266,359,200		
BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER	Mex$ 742,747,500		

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
HSBC MEXICO S.A. INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO HSBC	Mex$ 785,100,000		
BANCO NACIONAL DE MÉXICO, S.A. INTEGRANTE DEL GRUPO FINANCIERO BANAMEX	Mex$ 979,076,250		
CEMEX España, S.A. €250,000,000 and ¥19,308,000,000 term and revolving facilities agreement dated 30 March 2004 as amended	€ 139,133,387.37 $ 8,696,228.26	CEMEX España, S.A.	N/A
FACILITY C1 (EURO TRANCHE)	**€ 139,133,387.37**	**CEMEX España, S.A.**	**N/A**
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	€ 22,035,138.06		
BANCO SANTANDER S.A.	€ 14,471,725.81		
HSBC BANK PLC, SUCURSAL EN ESPAÑA	€ 14,471,725.81		
BNP PARIBAS SUCURSAL EN ESPAÑA	€ 14,471,725.81		
THE ROYAL BANK OF SCOTLAND PLC	€ 14,471,725.81		
ING BELGIUM, S.A., SUCURSAL EN ESPAÑA	€ 14,471,725.81		
FORTIS, S.A., SUCURSAL EN ESPAÑA	€ 4,460,976.01		
SOCIÉTÉ GÉNÉRALE	€ 17,866,328.16		
BANCO ESPAÑOL DE CRÉDITO, S.A. MADRID	€ 22,412,316.09		
FACILITY C2 (USD TRANCHE)	**$ 8,696,228.26**	**CEMEX España, S.A.**	**N/A**
CITIBANK INTERNATIONAL PLC, SUCURSAL EN ESPAÑA	$ 8,696,228.26		
CEMEX España, S.A. US$2,300,000,000 RMC Revolving Facilities Agreement dated 24 September 2004 as amended	**$ 1,050,000,000**	**CEMEX España, S.A.**	**CEMEX España, S.A.**
FACILITY B (Revolving Facility)	**$ 525,000,000**	**CEMEX España, S.A.**	**CEMEX España, S.A.**
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	$ 45,016,398		
BANCO SANTANDER S.A.	$ 29,577,409		
CALYON NEW YORK BRANCH	$ 29,577,409		
CITIBANK INTERNATIONAL PLC, SUCURSAL EN ESPAÑA	$ 22,516,398		
BANCO ESPAÑOL DE CRÉDITO, S.A. MADRID	$ 25,375,000		

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
BNP PARIBAS, SUCURSAL EN ESPAÑA	$ 29,125,000		
HSBC BANK PLC, SUCURSAL EN ESPAÑA	$ 22,875,000		
INSTITUTO DE CREDITO OFICIAL	$ 31,250,000		
JPMORGAN CHASE BANK N.A., SUCURSAL EN ESPAÑA	$ 25,375,000		
THE ROYAL BANK OF SCOTLAND PLC	$ 25,375,000		
WEST LB AG, SUCURSAL EN ESPAÑA	$ 25,375,000		
UNICREDIT S.P.A. SUCURSAL EN ESPAÑA	$ 10,000,000		
BARCLAYS BANK PLC	$ 21,560,809		
BAYERISCHE LANDESBANK	$ 11,104,669		
BANK OF AMERICA, N.A., SUCURSAL EN ESPAÑA	$ 8,988,309		
BRED BANQUE POPULAIRE	$ 3,750,000		
CAJA DE AHORROS DE ASTURIAS	$ 4,050,000		
CAJA DE AHORROS DE GALICIA	$ 2,500,000		
CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID	$ 4,500,000		
CENTROBANCA - BANCA DE CREDITO	$ 12,500,000		
CAISSE REGIONALE DE CREDIT AGRICOLE MUTUEL DE PARIS ET D'ILE-DE-FRANCE	$ 10,000,000		
DEUTSCHE BANK LUXEMBOURG S.A.	$ 11,104,669		
COMMERZBANK AG LONDON BRANCH	$ 5,000,000		
FORTIS BANK, SUCURSAL EN ESPANA	$ 32,000,000		
IKB DEUTSCHE INDUSTRIEBANK AG, SUCURSAL EN ESPAÑA	$ 4,987,500		
ING BELGIUM SA, Sucursal en España	$ 14,850,229		
LLOYDS TSB BANK, PLC	$ 14,322,978		
INTESA SANPAOLO S.P.A. SUCURSAL EN ESPAÑA	$ 9,722,500		
SCOTIABANK EUROPE, PLC, LONDON	$ 12,070,725		
SOCIÉTÉ GÉNÉRALE	$ 5,000,000		
BANK OF TOKYO-MITSUBISHI UFJ LTD. SUCURSAL EN ESPAÑA	$ 5,550,000		
THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND	$ 10,000,000		

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
FACILITY C (Revolving Facility)	**$ 525,000,000**	**CEMEX España, S.A.**	**CEMEX España, S.A.**
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	$ 45,568,732		
BANCO SANTANDER S.A.	$ 29,577,409		
CALYON NEW YORK BRANCH	$ 29,577,409		
CITIBANK NA INTERNATIONAL PLC, SUCURSAL EN ESPAÑA	$ 23,068,732		
BANCO ESPAÑOL DE CRÉDITO, S.A. MADRID	$ 25,375,000		
BNP PARIBAS, SUCURSAL EN ESPAÑA	$ 29,125,000		
FORTIS BANK, SUCURSAL EN ESPANA	$ 32,000,000		
HSBC BANK PLC, MADRID	$ 22,875,000		
INSTITUTO DE CRÉDITO OFICIAL	$ 31,250,000		
JPMORGAN CHASE BANK N.A., SUCURSAL EN ESPAÑA	$ 25,375,000		
THE ROYAL BANK OF SCOTLAND PLC	$ 25,375,000		
WEST LB AG, SUCURSAL EN ESPAÑA	$ 25,375,000		
UNICREDIT S.P.A. SUCURSAL EN ESPAÑA	$ 10,000,000		
BARCLAYS BANK PLC, SUCURSAL EN ESPAÑA	$ 16,988,309		
BAYERISCHE LANDESBANK	$ 11,104,669		
BANK OF AMERICA, N.A., SUCURSAL EN ESPAÑA	$ 8,988,309		
BRED BANQUE POPULAIRE	$ 13,750,000		
CAJA DE AHORROS DE ASTURIAS	$ 4,050,000		
CAJA DE AHORROS DE GALICIA	$ 2,500,000		
CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID	$ 9,072,500		
CENTROBANCA - BANCA DE CREDITO	$ 12,500,000		
CAISSE REGIONALE DE CREDIT AGRICOLE MUTUEL DE PARIS ET D'ILE-DE-FRANCE	$ 10,000,000		
COMMERZBANK AG LONDON BRANCH	$ 5,000,000		
IKB DEUTSCHE INDUSTRIEBANK AG, SUCURSAL EN ESPAÑA	$ 4,987,500		

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
ING BELGIUM SA, Sucursal en España	$ 14,850,229		
LLOYDS TSB BANK, PLC	$ 14,322,978		
INTESA SANPAOLO SPA SUCURSAL EN ESPAÑA	$ 9,722,500		
SCOTIABANK EUROPE, PLC, LONDON	$ 12,070,725		
SOCIÉTÉ GÉNÉRALE	$ 5,000,000		
BANK OF TOKYO-MITSUBISHI UFJ LTD. SUCURSAL EN ESPAÑA	$ 5,550,000		
THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND	$ 10,000,000		
CEMEX España, S.A. US$6,000,000,000 (originally US$9,000,000,000) Rinker Acquisition Facilities Agreement dated 6 December, 2006 as amended	**$ 1,300,999,999** **$ 1,142,939,394** **€ 419,605,045** **€ 1,320,000,000** **$ 1,185,000,000**	**CEMEX España, S.A.**	**N/A**
FACILITY B1	**$ 1,300,999,999**	**CEMEX España, S.A.**	**N/A**
THE BANK OF TOKYO-MITSUBISHI UFJ, LTD. SUCURSAL EN ESPAÑA	$ 105,681,818		
BARCLAYS BANK PLC	$ 105,681,818		
BAYERISCHE HYPO- UND VEREINSBANK AG	$ 85,681,818		
BAYERISCHE LANDESBANK	$ 105,681,818		
FORTIS BANK, S.A. SUCURSAL EN ESPAÑA	$ 105,681,818		
CALYON	$ 105,681,818		
MIZUHO CORPORATE BANK NEDERLAND, N.V.	$ 105,681,818		
SCOTIABANK EUROPE, PLC	$ 105,681,818		
SOCIÉTÉ GÉNÉRALE	$ 57,681,818		
STANDARD CHARTERED BANK	$ 4,318,182		
WESTLB AG, SUCURSAL EN ESPAÑA	$ 105,681,818		
THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND	$ 33,333,333		
MEDIOBANCA - BANCA DI CREDITO FINANZIARIO S.P.A.	$ 70,833,333		
CAISSE REGIONALE DE CREDIT AGRICOLE MUTUEL DE PARIS ET D'ILE-DE-FRANCE	$ 24,166,667		

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
CREDIT INDUSTRIEL ET COMMERCIAL LONDON BRANCH	$ 24,166,667		
BANCA MONTE DEI PASCHI DI SIENA S.P.A., London Branch	$ 16,666,667		
BANCO CAIXA GENERAL	$ 12,333,333		
CAJA DE AHORROS DE ASTURIAS	$ 12,333,333		
LANDESBANK BADEN-WÜRTTEMBERG, LONDON BRANCH	$ 14,333,333		
LANDESBANK BADEN-WÜRTTEMBERG, STUTTGART BRANCH	$ 49,363,636		
WESTPAC EUROPE LIMITED	$ 8,333,333		
CENTROBANCA - Banca di Credito Finanziario e Mobiliare S.p.A.	$ 35,000,000		
ATLANTIC SECURITY BANK	$ 5,000,000		
TAKAREKBANK (Magyar)	$ 2,000,000		
FACILITY B2	**$ 1,142,939,394**	**CEMEX España, S.A.**	**N/A**
CITIBANK INTERNATIONAL PLC, SUCURSAL EN ESPAÑA	$ 87,666,667		
THE ROYAL BANK OF SCOTLAND PLC	$116,666,667		
ABN AMRO Bank N.V. Sucursal en España	$ 75,000,000		
BANCO SANTANDER, S.A.	$ 100,681,818		
BANCO ESPAÑOL DE CRÉDITO, S.A. MADRID	$ 38,166,667		
BANK OF AMERICA, N.A., SUCURSAL EN ESPAÑA	$ 105,681,818		
CAJA DE AHORROS DE GALICIA	$ 95,681,818		
HSBC BANK PLC, SUCURSAL EN ESPAÑA	$ 105,681,818		
INSTITUTO DE CREDITO OFICIAL	$ 105,681,818		
JPMORGAN CHASE BANK N.A., SUCURSAL EN ESPAÑA	$ 99,681,818		
LLOYDS TSB BANK, PLC	$ 105,681,818		
BANCO DE SABADELL, S.A.	$ 50,000,000		
CAIXA D'ESTALVIS I PENSIONS DE BARCELONA	$ 8,333,333		
MORGAN STANLEY BANK INTERNATIONAL LIMITED	$ 8,333,333		

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
BANCO DE GALICIA	$ 40,000,000		
FACILITY B3	**€ 419,605,045**	**CEMEX España, S.A.**	**N/A**
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	€ 88,037,026		
BNP PARIBAS SUCURSAL EN ESPAÑA	€ 79,747,825		
CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID	€ 79,747,825		
ING BELGIUM S.A. SUCURSAL EN ESPAÑA	€ 79,747,825		
INTESA SANPAOLO S.P.A., SUCURSAL EN ESPAÑA	€ 79,747,825		
BRED BANQUE POPULAIRE	€ 12,576,718		
FACILITY C	**€ 1,320,000,000** **$ 1,185,000,000**	**CEMEX España, S.A.**	**N/A**
€ 1,320,000,000			
CITIBANK INTERNATIONAL PLC, SUCURSAL EN ESPAÑA	€ 39,453,333		
THE ROYAL BANK OF SCOTLAND PLC	€ 51,333,333		
ABN AMRO BANK N.V. SUCURSAL EN ESPAÑA	€ 33,000,000		
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	€ 51,333,333		
BANCO SANTANDER, S.A.	€ 44,300,000		
BANCO ESPAÑOL DE CRÉDITO, S.A. MADRID	€ 16,793,333		
THE BANK OF TOKYO-MITSUBISHI UFJ, LTD. SUCURSAL EN ESPAÑA	€ 46,500,000		
BARCLAYS BANK PLC	€ 46,500,000		
BAYERISCHE HYPO- UND VEREINSBANK AG	€ 46,500,000		
BAYERISCHE LANDESBANK	€ 46,500,000		
BNP PARIBAS SUCURSAL EN ESPAÑA	€ 46,500,000		
FORTIS BANK, S.A. SUCURSAL EN ESPAÑA	€ 46,500,000		
BANK OF AMERICA, N.A., SUCURSAL EN ESPAÑA	€ 46,500,000		
CAJA DE AHORROS DE GALICIA	€ 35,500,000		

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID	€ 46,500,000		
CALYON	€ 46,500,000		
HSBC BANK PLC, SUCURSAL EN ESPAÑA	€ 46,500,000		
ING BELGIUM S.A. SUCURSAL EN ESPAÑA	€ 46,500,000		
INSTITUTO DE CREDITO OFICIAL	€ 46,500,000		
INTESA SANPAOLO S.P.A., SUCURSAL EN ESPAÑA	€ 46,500,000		
JPMORGAN CHASE BANK N.A., SUCURSAL EN ESPAÑA	€ 43,860,000		
LLOYDS TSB BANK, PLC	€ 46,500,000		
MIZUHO CORPORATE BANK NEDERLAND, N.V.	€ 46,500,000		
SCOTIABANK EUROPE PLC	€ 46,500,000		
SOCIÉTÉ GÉNÉRALE	€ 46,500,000		
STANDARD CHARTERED BANK	€ 20,100,000		
WESTLB AG, SUCURSAL EN ESPAÑA	€ 46,500,000		
BANCO DE SABADELL, S.A.	€ 22,000,000		
THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND	€ 14,666,667		
MEDIOBANCA - BANCA DI CREDITO FINANZIARIO S.P.A.	€ 31,166,667		
BRED BANQUE POPULAIRE	€ 7,333,333		
CAISSE REGIONALE DE CREDIT AGRICOLE MUTUEL DE PARIS ET D'ILE-DE-FRANCE	€ 10,633,333		
CRÉDIT INDUSTRIEL ET COMMERCIAL LONDON BRANCH	€ 10,633,333		
BANCA MONTE DEI PASCHI DI SIENA S.P.A., London Branch	€ 7,333,333		
BANCO CAIXA GENERAL	€ 5,426,667		
CAIXA D'ESTALVIS I PENSIONS DE BARCELONA	€ 3,666,667		
CAJA DE AHORROS DE ASTURIAS	€ 5,426,667		
LANDESBANK BADEN-WÜRTTEMBERG, LONDON BRANCH	€ 6,306,667		
MORGAN STANLEY BANK INTERNATIONAL LIMITED	€ 3,666,667		

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
WESTPAC EUROPE LIMITED	€ 3,666,667		
CENTROBANCA - Banca di Credito Finanziario e Mobiliare S.p.A.	€ 15,400,000		
$ 1,185,000,000			
CITIBANK INTERNATIONAL PLC, SUCURSAL EN ESPAÑA	$ 35,418,333		
THE ROYAL BANK OF SCOTLAND PLC	$ 46,083,333		
ABN AMRO BANK N.V. SUCURSAL EN ESPAÑA	$ 29,625,000		
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	$ 46,083,333		
BANCO SANTANDER, S.A.	$ 39,769,318		
BANCO ESPAÑOL DE CRÉDITO, S.A. MADRID	$ 15,075,833		
THE BANK OF TOKYO-MITSUBISHI UFJ, LTD. SUCURSAL EN ESPAÑA	$ 41,744,318		
BARCLAYS BANK PLC	$ 41,744,318		
BAYERISCHE HYPO- UND VEREINSBANK AG	$ 41,744,318		
BAYERISCHE LANDESBANK	$ 41,744,318		
BNP PARIBAS SUCURSAL EN ESPAÑA	$ 41,744,318		
FORTIS BANK, S.A. SUCURSAL EN ESPAÑA	$ 41,744,318		
BANK OF AMERICA, N.A., SUCURSAL EN ESPAÑA	$ 41,744,318		
CAJA DE AHORROS DE GALICIA	$ 31,869,318		
CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID	$ 41,744,318		
CALYON	$ 41,744,318		
HSBC BANK PLC, SUCURSAL EN ESPAÑA	$ 41,744,318		
ING BELGIUM S.A. SUCURSAL EN ESPAÑA	$ 41,744,318		
INSTITUTO DE CREDITO OFICIAL	$ 41,744,318		
INTESA SANPAOLO S.P.A., SUCURSAL EN ESPAÑA	$ 41,744,318		
JPMORGAN CHASE BANK N.A., SUCURSAL EN ESPAÑA	$ 39,374,318		

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
LLOYDS TSB BANK, PLC	$ 41,744,318		
MIZUHO CORPORATE BANK NEDERLAND, N.V.	$ 41,744,318		
SCOTIABANK EUROPE PLC	$ 41,744,318		
SOCIÉTÉ GÉNÉRALE	$ 41,744,318		
STANDARD CHARTERED BANK	$ 18,044,318		
WESTLB AG, SUCURSAL EN ESPAÑA	$ 41,744,318		
BANCO DE SABADELL, S.A.	$ 19,750,000		
THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND	$ 13,166,667		
MEDIOBANCA - BANCA DI CREDITO FINANZIARIO S.P.A.	$ 27,979,167		
BRED BANQUE POPULAIRE	$ 6,583,333		
CAISSE REGIONALE DE CREDIT AGRICOLE MUTUEL DE PARIS ET D'ILE-DE-FRANCE	$ 9,545,833		
CRÉDIT INDUSTRIEL ET COMMERCIAL LONDON BRANCH	$ 9,545,833		
BANCA MONTE DEI PASCHI DI SIENA S.P.A., London Branch	$ 6,583,333		
BANCO CAIXA GENERAL	$ 4,871,667		
CAIXA D'ESTALVIS I PENSIONS DE BARCELONA	$ 3,291,667		
CAJA DE AHORROS DE ASTURIAS	$ 4,871,667		
LANDESBANK BADEN-WÜRTTEMBERG, LONDON BRANCH	$ 5,661,667		
MORGAN STANLEY BANK INTERNATIONAL LIMITED	$ 3,291,667		
WESTPAC EUROPE LIMITED	$ 3,291,667		
CENTROBANCA - Banca di Credito Finanziario e Mobiliare S.p.A.	$ 13,825,000		
CEMEX España, S.A. US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009 (as amended)	**$ 617,500,000 € 587,500,000**	**CEMEX España, S.A.**	**CEMEX Australia Holdings Pty Ltd.; CEMEX, Inc.**
FACILITY A	**$ 617,500,000**	**CEMEX España, S.A.**	**CEMEX Australia Holdings Pty Ltd.; CEMEX, Inc.**
THE ROYAL BANK OF SCOTLAND PLC	$ 362,500,000		

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
BANCO SANTANDER, S.A.	$ 105,000,000		
BANK OF AMERICA, N.A., SUCURSAL EN ESPAÑA	$ 150,000,000		
FACILITY B	**€ 587,500,000**	**CEMEX España, S.A.**	**CEMEX Australia Holdings Pty Ltd.; CEMEX, Inc.**
LLOYDS TSB BANK PLC, SUCURSAL EN ESPAÑA	€ 22,500,000		
BANCO SANTANDER S.A.	€ 307,000,000		
BANCO ESPAÑOL DE CRÉDITO, S.A. MADRID	€ 40,000,000		
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	€ 48,000,000		
CAIXA D'ESTALVIS I PENSIONS DE BARCELONA	€ 70,000,000		
BANCO CAIXA GERAL, S.A.	€ 50,000,000		
HSBC BANK, PLC, SUCURSAL EN ESPAÑA	€ 30,000,000		
CAJA DE AHORROS Y MONTE DE PIEDAD MADRID	€ 20,000,000		
New Sunward Holding B.V. US$1,050,000,000 Senior Unsecured Dutch Loan "A & B" Agreement dated 2 June, 2008 (Club Loan)	**$ 1,050,000,000**	**NEW SUNWARD HOLDING B.V.**	**CEMEX, S.A.B. de C.V.; CEMEX México, S.A. de C.V.**
BANCO SANTANDER, S.A.	$ 250,000,000		
HSBC MÉXICO, S.A., Institución de Banca Multiple, Grupo Financiero HSBC, acting through its Grand Cayman Branch	$ 250,000,000		
THE ROYAL BANK OF SCOTLAND PLC	$ 250,000,000		
ING BANK, N.V., acting through its Curacao Branch	$ 150,000,000		
CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID - Miami Agency	$ 150,000,000		
New Sunward Holding B.V. US$700,000,000 Facilities Agreement dated 27 June 2005 (as amended)	**$ 350,000,000**	**NEW SUNWARD HOLDING B.V.**	**CEMEX, S.A.B. de C.V.; CEMEX México, S.A. de C.V.; Empresas Tolteca de México S.A. de C.V.**
FACILITY B (Revolving Facility)			
BANCO BILBAO VIZCAYA ARGENTARIA, S.A.	$ 34,916,667		

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
SANTANDER OVERSEAS BANK INC	$ 24,250,000		
BNP PARIBAS	$ 31,166,667		
THE ROYAL BANK OF SCOTLAND PLC	$ 24,250,000		
BANK OF AMERICA, N.A.	$ 7,500,000		
JPMORGAN CHASE BANK, N.A.	$ 24,250,000		
CITIBANK, N.A. NASSAU BAHAMAS BRANCH	$ 34,916,667		
ING BANK N.V.	$ 24,250,000		
CALYON SUCURSAL EN ESPAÑA	$ 24,250,000		
FORTIS BANK S.A./N.V.	$ 15,000,000		
LLOYDS TSB BANK PLC	$ 24,250,000		
THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.	$ 15,000,000		
BANCO DE SABADELL, S.A.	$ 10,000,000		
THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND	$ 7,500,000		
MIZUHO CORPORATE BANK, LTD.	$ 24,250,000		
WACHOVIA BANK, NATIONAL ASSOCIATION	$ 24,250,000		
Part I.B (Bilateral Facilities)			
US$500,000,000 Pez Loan between Banco Bilbao Vizcaya Argentaria, S.A. and CEMEX, S.A.B. de C.V. dated 25 June 2008, as further amended	$ 500,000,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.
US$170,000,000 Loan Facility Agreement between JPMorgan Chase Bank, N.A. and CEMEX Materials LLC, dated 1 October 2007 (as amended)	$ 170,000,000	CEMEX Materials LLC	CEMEX España, S.A.
US$37,500,000 Facility Agreement between CEMEX BNP Paribas (Sydney Branch) and CEMEX Materials LLC, dated 1 October 2007 (as amended)	$ 37,500,000	CEMEX Materials LLC	CEMEX España, S.A.
€3,900,291 and $38,431,286 bilateral revolving loan agreements dated 29 September 2009 between Banco de Sabadell, S.A. and CEMEX España, S.A (replacing, respectively, a €3,900,291 bilateral loan agreement dated 13 August 2009 which in turn replaced a €32,000,000 bilateral loan agreement dated 24 June 2008, and a $38,431,286 bilateral loan agreement dated 13 August 2009 which in turn replaced a $51,000,000 bilateral loan agreement dated 24 June 2008 (as amended), each between the same parties)	€ 3,900,291 $ 38,431,286	CEMEX España, S.A.	N/A

Obligation	Original Exposure at the calculation date	Obligor	Guarantor
€40,000,000 Multidivisa Bilateral Loan Agreement between Fortis, S.A., Sucursal en España and CEMEX España, S.A., dated 28 August 2006	$ 24,616,009 € 10,662,171	CEMEX España, S.A.	N/A
Part I.C (Promissory Notes)			
Promissory Note US$45,434,817 JPMorgan Chase Bank, N.A.	$ 45,434,817	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.
Promissory Note US$20,000,000 JPMorgan Chase Bank, N.A.	$ 20,000,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.
Promissory Note US$50,000,000 BNP Paribas	$ 50,000,000	CEMEX, S.A.B. de C.V.	N/A
Promissory Note US$49,128,020 Barclays Bank plc	$ 49,128,020	CEMEX, S.A.B. de C.V.	N/A
Promissory Note US$50,000,000 BBVA Bancomer, S.A., Institución de Banca Múltiple Grupo Financiero BBVA Bancomer	$ 50,000,000	CEMEX, S.A.B. de C.V.	N/A
Promissory Note US$6,625,000 ABN AMRO Bank, N.V.	$ 6,625,000	CEMEX, S.A.B. de C.V.	N/A
Promissory Note US$1,296,000 Calyon	$ 1,296,000	CEMEX, S.A.B. de C.V.	N/A
Promissory Note US$ 34,318,339 ING Bank N.V., sucursal Curazao	$ 34,318,339	CEMEX, S.A.B. de C.V.	N/A
Promissory Note Mex$ 739,385,879.95 HSBC México, S.A., Institución de Banca Múltiple, Grupo Financiero HSBC	Mex$739,385,879.95	CEMEX, S.A.B. de C.V.	N/A
Promissory Note US$4,093,054 Bank of America, N.A.	$ 4,093,054	CEMEX S.A.B. de C.V.	N/A
Promissory Note US$4,504,861 The Royal Bank of Scotland plc	$ 4,504,861	CEMEX S.A.B. de C.V.	N/A
Promissory Note US$34,072,566 Merrill Lynch International Bank Limited	$ 34,072,566	CEMEX S.A.B. de C.V.	N/A
Promissory Note US$51,947,000 Citibank N.A. New York	$ 51,947,000	CEMEX S.A.B. de C.V.	N/A.
Part I.D (US Private Placements)			
US$882,407,495.57 Note Purchase Agreement	**US$ 882,407,495.57**	**CEMEX España Finance LLC**	**CEMEX España, S.A.**
Noteholders breakdown as identified in Schedule A to the USPP Note Purchase Agreement			
¥1,185,389,696.06 Note Purchase Agreement	**¥ 1,185,389,696.06**	**CEMEX España Finance LLC**	**CEMEX España, S.A.**
Noteholders breakdown as identified in Schedule A to the USPP Note Purchase Agreement			

Part III

The Creditors' Representatives

Representative	Agreement
Part I.A (Syndicated Facilities)	
English law documents	
The Royal Bank of Scotland plc	CEMEX España, S.A. Joint Bilateral Facilities Agreement
	$6,000,000,000 Rinker Acquisition Facilities Agreement
Citibank International PLC	$2,300,000,000 RMC Revolving Facilities Agreement
Citibank, N.A.	$700,000,000 NSH Facilities Agreement
Banco Bilbao Vizcaya Argentaria, S.A.	€250,000,000 and JPY19,308,000,000 Euro/Yen Facilities Agreement
New York law documents	
BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer	CEMEX, S.A.B. de C.V. Joint Bilateral Facility
ING Capital LLC	NSH Senior Unsecured Maturity Loan A Agreement as amended
	NSH Senior Unsecured Maturity Loan B Agreement as amended
	CEMEX, S.A.B. de C.V. $700M Revolving Credit Facility as amended
Barclays Bank PLC, New York Branch	CEMEX, S.A.B. de C.V. $1,200M Revolving Credit Facility as amended
Part I.B (Bilateral Facilities)	
Banco Bilbao Vizcaya Argentaria, S.A.	US$500,000,000 Credit Agreement between Banco Bilbao Vizcaya Argentaria, S.A. and CEMEX, S.A.B. de C.V. dated 25 June 2008, as further amended

Representative	Agreement
JP Morgan Chase Bank, N.A.	US$170,000,000 Loan Facility Agreement between JP Morgan Chase Bank, N.A. and CEMEX Materials LLC, dated 1 October 2007 (as amended)
BNP Paribas, (Sydney Branch)	US$37,500,000 Facility Agreement between BNP Paribas (Sydney Branch) and CEMEX Materials LLC, dated 1 October 2007 as amended
Banco de Sabadell, S.A.	€3,900,291 and $38,431,286 bilateral revolving loan agreements dated 29 September 2009 between Banco de Sabadell, S.A. and CEMEX España, S.A (replacing, respectively, a €3,900,291 bilateral loan agreement dated 13 August 2009 which in turn replaced a €32,000,000 bilateral loan agreement dated 24 June 2008, and a $38,431,286 bilateral loan agreement dated 13 August 2009 which in turn replaced a $51,000,000 bilateral loan agreement dated 24 June 2008 (as amended), each between the same parties)
Fortis, S.A., Sucursal en España	€ 40,000,000 Multidivisa Bilateral Loan Agreement between Fortis, S.A., Sucursal en España and CEMEX España, S.A., dated 28 August 2006
Part I.C (Promissory Notes)	
JPMorgan Chase Bank, N.A.	Promissory Note US$45,434,817 JPMorgan Chase Bank, N.A.
	Promissory Note US$20,000,000 JPMorgan Chase Bank, N.A.
BNP Paribas	Promissory Note US$50,000,000 BNP Paribas
Barclays Bank PLC	Promissory Note US$49,128,020 Barclays Bank plc, dated 31 March 2009
BBVA Bancomer, S.A., Institución de Banca Múltiple Grupo Financiero BBVA Bancomer	Promissory Note US$50,000,000 BBVA Bancomer, S.A., Institucion de Banca Multiple Grupo Financiero BBVA Bancomer

Representative	Agreement
ABN AMRO Bank, N.V.	Promissory Note US$6,625,000 ABN AMRO Bank, N.V.
Calyon	Promissory Note US$1,296,000 Calyon
ING Bank N.V., sucursal Curazao	Promissory Note US$34,318,339 ING Bank N.V., sucursal Curazao
HSBC México, S.A., Institución de Banca Multiple, Grupo Financiero HSBC	Promissory Note Mex$739,385,880 HSBC México, S.A., Institución de Banca Multiple, Grupo Financiero HSBC
Bank of America, N.A.	Promissory Note US$4,093,054 Bank of America, N.A.
The Royal Bank of Scotland plc	Promissory Note US$4,504,861 The Royal Bank of Scotland plc
Merrill Lynch International Bank Limited	Promissory Note US$34,072,566 Merrill Lynch International Bank Limited
Citibank N.A. New York	Promissory Note US$51,947,000 Citibank N.A. New York

Part I.D (US Private Placements)

US$882,407,495.57 Note Purchase Agreement	**$**	**882,407,495.57**	**CEMEX España Finance LLC**	**CEMEX España, S.A.**
Noteholders breakdown as identified in Schedule A to the new USPP Note Agreement				
¥1,185,389,696.06 Note Purchase Agreement	**¥**	**1,185,389,696.06**	**CEMEX España Finance LLC**	**CEMEX España, S.A.**
Noteholders breakdown as identified in Schedule A to the new USPP Note Agreement				

SCHEDULE 2

CONDITIONS PRECEDENT

Part I

Initial Conditions Precedent

1. **Obligors**

(a) A copy (in the case of an Obligor incorporated in Mexico, certified by a notary public or otherwise authenticated) of the current constitutional documents of each Original Obligor other than a Dutch Obligor (or, in the case of an Original Obligor incorporated in Spain, a certificate or excerpt from the relevant Mercantile Registry including the updated by-laws of the Original Obligor).

(b) A copy (or, in the case of an Original Obligor incorporated in Spain, a certificate issued by the secretary with the approval of the president and raised to public document status) of a resolution of the board of directors of each Original Obligor (except for any Dutch Obligor and any Original Obligor (other than the Parent) incorporated in Mexico) and, in the case of the Parent, a resolution of its shareholder's meeting:

(i) approving the terms of, and the transactions contemplated by, the New Finance Documents to which it is a party and resolving that it execute the New Finance Documents to which it is a party;

(ii) authorising a specified person or persons to execute the New Finance Documents to which it is a party on its behalf (including, in the case of an Original Obligor incorporated in Spain, the authority to irrevocably appoint a process agent (" *mandatario ad litem*") unless such appointment has been made by other means by a duly authorised representative); and

(iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the New Finance Documents to which it is a party.

(c) In the case of an Obligor incorporated in Mexico (to the extent not covered under paragraph (b) above), (i) powers of attorney duly notarised containing authority for acts of administration, for acts of disposition (in respect of any Transaction Security Document) and to execute negotiable instruments; and (ii) powers of attorney for the Process Agent, duly notarised before a Mexican notary public, together with any necessary appointment and acceptance letter.

(d) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above in relation to the New Finance Documents.

(e) In the case of Dutch Obligors:

(i) a copy of the articles of association (*statuten*) and deed of incorporation (*oprichtingsakte*) of each Dutch Obligor, as well as an extract (*uittreksel*) from the Dutch Commercial Register (*Handelsregister*) of such Dutch Obligor;

(ii) a copy of the resolution of the board of managing directors of each Dutch Obligor:

(A) approving the terms of, and the transactions contemplated by, the New Finance Documents to which it is a party and resolving that it execute the New Finance Documents to which it is a party;

(B) if applicable, authorising a specified person or persons to execute the New Finance Documents to which it is a party on its behalf; and

(C) if applicable, authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the New Finance Documents to which it is a party;

(iii) if applicable, a copy of the resolution of the board of supervisory directors of each Dutch Obligor approving the resolutions of the board of managing directors referred to under (ii) above and, to the extent applicable, appointing an authorised person to represent the relevant Dutch Obligor in case of a conflict of interest;

(iv) a copy of the resolution of the shareholder(s) of each Dutch Obligor approving the resolutions of the board of managing directors referred to under (ii) above and, to the extent applicable, appointing an authorised person to represent the relevant Dutch Obligor in case of a conflict of interest;

(v) a copy of (i) the request for advice from each works council, or central or European works council with jurisdiction over the transactions contemplated by this Agreement, (ii) the positive advice from such works council which contains no condition, which if complied with, could result in a breach of any of the New Finance Documents and (iii) positive advice in respect of the security to be granted by the Dutch Obligor as well as the conditional transfer of the voting rights attached to the shares which are subject to security.

(vi) a specimen of the signature of each member of the board of managing directors of each Dutch Obligor and, if applicable, each person authorised by the resolutions referred to in paragraph (ii) sub (B) and/or (C) above in relation to the New Finance Documents; and

(vii) such evidence as may be required (if any) to enable the Finance Parties to comply with the *Wet identificatie financiële dienstverlening*.

(f) A certificate of each Original Obligor (signed by an Authorised Signatory) confirming that borrowing or guaranteeing, as appropriate, the Exposures would not cause any borrowing, guarantee, security or similar limit binding on any Original Obligor to be exceeded.

(g) A certificate of an Authorised Signatory of the relevant Original Obligor certifying that each copy document relating to it specified in this Part I of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of this Agreement.

2. **New Finance Documents**

(a) This Agreement executed by the members of the Group party to this Agreement and the creditors under each Facility.

(b) The NY Law Amendment Agreement executed by the members of the Group party to the NY Law Amendment Agreement and the Original Participating Creditors with respect to each Facility to which it relates.

(c) The Intercreditor Agreement executed by the member of the Group party to the Intercreditor Agreement and the creditors under each Facility.

(d) The Fee Letters executed by the Parent.

(e) At least two originals of the following Transaction Security Documents (in form and substance satisfactory to the Security Agent) executed by the relevant Obligors:

(i) a deed of pledge of registered shares between CEMEX Dutch Holdings B.V., Sunward Holdings B.V., Sunward Acquisitions N.V., Corporación Gouda, S.A. de C.V., Mexcement Holdings, S.A. de C.V. and CEMEX International Finance Company as pledgors, the Security Agent as pledgee and New Sunward Holdings B.V. as the company;

(ii) a possessory deed of pledge of bearer shares between Mexcement Holdings, S.A. de C.V., Corporación Gouda, S.A. de C.V. and CEMEX International Finance Company as pledgors, the Security Agent as pledgee and Sunward Acquisitions N.V. as the company;

(iii) a deed of pledge of registered shares between Corporación Gouda, S.A. de C.V. as pledgor, the Security Agent as pledgee and Sunward Investments B.V. as the company;

(iv) a deed of pledge of registered shares between Sunward Investments B.V., Sunward Acquisitions N.V. and CEMEX International Finance Company as pledgors, the Security Agent as pledgee and Sunward Holdings B.V. as the company;

(v) a deed of pledge of registered shares between Sunward Holdings B.V. and CEMEX International Finance Company as pledgors, the Security Agent as pledgee and CEMEX Dutch Holdings B.V. as the company; and

(vi) a share pledge agreement between CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V., Interamerican Investments Inc. and Empresas Tolteca de México, S.A. de C.V. as pledgors, the Security Agent as security agent concerning 99.5674% of the shares of CEMEX Trademarks Holding Ltd.

(f) A copy of all notices to be sent under the Transaction Security Documents.

(g) A copy of all share certificates, transfers and stock transfer forms or equivalent duly executed by the relevant Obligor in blank in relation to the assets subject to or expressed to be subject to the Transaction Security and other documents of title to be provided under the Transaction Security Documents.

3. **Legal Opinions**

(a) A legal opinion of Clifford Chance LLP, legal advisers to the Administrative Agent in England, as to English law substantially in the form distributed to the Original Participating Creditors and the Security Agent prior to signing this Agreement.

(b) An opinion with respect to the laws and regulations of the Kingdom of Spain from Clifford Chance, S.L., substantially in the form distributed to the Original Participating Creditors and the Security Agent prior to signing this Agreement.

(c) An opinion with respect to the laws and regulations of The Netherlands from Clifford Chance LLP, substantially in the form distributed to the Original Participating Creditors and the Security Agent prior to signing this Agreement.

(d) An opinion with respect to the laws and regulations of Mexico from Ritch Mueller S.C., substantially in the form distributed to the Original Participating Creditors and the Security Agent prior to signing this Agreement.

(e) An opinion with respect to the laws and regulations of New York and Delaware from Skadden, Arps, Slate, Meagher & Flom, LLP, substantially in the form distributed to the Original Participating Creditors and the Security Agent prior to signing this Agreement.

(f) An opinion from in-house counsel of the Parent, substantially in the form distributed to the Original Participating Creditors and the Security Agent prior to signing this Agreement.

(g) An opinion with respect to the laws and regulations of the Commonwealth of Australia from Minter Ellison, substantially in the form distributed to the Original Participating Creditors and the Security Agent prior to signing this Agreement.

(h) An opinion with respect to the USPP Note Agreement from Skadden, Arps, Slate, Meagher & Flom, LLP, substantially in the form distributed to the USPP Noteholders prior to signing the USPP Note Agreement.

(i) An opinion with respect to the laws and regulations of Ireland from A&L Goodbody, substantially in the form distributed to the Original Participating Creditors and the Security Agent prior to signing this Agreement.

(j) An opinion with respect to the laws and regulations of Switzerland from Bär & Karrer AG, substantially in the form distributed to the Original Participating Creditors and the Security Agent prior to signing this Agreement.

(k) An opinion with respect to the laws and regulations of Louisiana from Liskow & Lewis substantially in the form distributed to the Original Participating Creditors and the Security Agent prior to signing the Financing Agreement.

4. **Other Documents and Evidence**

(a) The Group Structure Chart.

(b) The FTI Report.

(c) The Original Financial Statements of each Borrower and Guarantor.

(d) A copy of the monthly management accounts of the Company and the monthly thirteen week management cash flow forecasts to be supplied by the Parent to the Administrative Agent under and in accordance with the terms of Clauses 22.4 (*Liquidity forecast*) of this Agreement verified by FTI Consulting Canada ULC.

(e) Evidence that the fees, costs and expenses due and payable under the Finance Documents on or before the Effective Date have been paid or will be paid on or before the Effective Date.

(f) A list of all acquisitions falling within paragraphs (d) of the definition of "Permitted Acquisition" to which members of the Group are contractually committed as at the date of the Agreement.

(g) Evidence that the Promissory Notes have been cancelled or in the case of a lost Promissory Note, an affidavit delivered and exchanged for replacement notes that reflect the terms of this Agreement.

(h) A list of the Group's mark-to-market exposures under Treasury Transactions as at 30 June 2009 (including details of the type of derivative).

(i) A presentation detailing the proposed intra-Group reorganisation relating to the Dutch Holding Company structure.

(j) The USPP Note Agreement and USPP Note Guarantee executed by the parties thereto.

(k) Evidence that each holder of an existing private placement note shall have exchanged such note for a corresponding USPP Note.

Part II

Conditions Precedent Required to be

Delivered by an Additional Guarantor or an Additional Security Provider

Obligors:

1. An Accession Letter, duly executed by the Additional Guarantor or Additional Security Provider and the Parent.

(a) A copy (in the case of an Obligor incorporated in Mexico, certified by a notary public or otherwise authenticated) of the constitutional documents of the Additional Guarantor or an Additional Security Provider (other than a Dutch Obligor) (or, in the case of an Additional Guarantor or Additional Security Provider incorporated in Spain, a certificate or excerpt from the relevant Mercantile Registry including the updated by-laws of the Additional Guarantor or Additional Security Provider).

(b) A copy (or, in the case of an Additional Guarantor or Additional Security Provider incorporated in Spain, a certificate issued by the secretary with the approval of the president and raised to public document status) of a resolution of the board of directors of the Additional Guarantor or Additional Security Provider (other than a Dutch Obligor) and, when applicable, in the case of any Additional Guarantor or Additional Security Provider incorporated in Mexico, a resolution of its shareholder's meeting:

(i) approving the terms of, and the transactions contemplated by, the Accession Letter and the Finance Documents and resolving that it execute the Accession Letter;

(ii) authorising a specified person or persons to execute the Accession Letter and other Finance Documents on its behalf (including, in the case of an Additional Guarantor or Additional Security Provider incorporated in Spain, the authority to irrevocably appoint a process agent ("*mandatario ad litem*") unless such appointment has been made by other means by a duly authorised representative); and

(iii) authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the Finance Documents to which it is a party.

(c) In the case of an Additional Guarantor or Additional Security Provider incorporated in Mexico, (to the extent not covered or not applicable under paragraph (b) above) (i) powers of attorney duly notarised containing authority for acts of administration, for acts of disposition (in respect of any Transaction Security Document) and to execute negotiable instruments; and (ii) powers of attorney for the Process Agent, duly notarised before a Mexican notary public, together with any necessary appointment and acceptance letter.

(d) A specimen of the signature of each person authorised by the resolution referred to in paragraph (b) above.

(e) In the case of Dutch Obligors:

(i) a copy of the articles of association (*statuten*) and deed of incorporation (*oprichtingsakte*) of each Dutch Obligor, as well as an extract (*uittreksel*) from the Dutch Commercial Register (*Handelsregister*) of such Dutch Obligor;

(ii) a copy of the resolution of the board of managing directors of each Dutch Obligor:

(A) approving the terms of, and the transactions contemplated by, the New Finance Documents to which it is a party and resolving that it execute the New Finance Documents to which it is a party;

(B) if applicable, authorising a specified person or persons to execute the New Finance Documents to which it is a party on its behalf; and

(C) if applicable, authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the New Finance Documents to which it is a party;

(iii) if applicable, a copy of the resolution of the board of supervisory directors of each Dutch Obligor approving the resolutions of the board of managing directors referred to under (ii) above and, to the extent applicable, appointing an authorised person to represent the relevant Dutch Obligor in case of a conflict of interest;

(iv) a copy of the resolution of the shareholder(s) of each Dutch Obligor approving the resolutions of the board of managing directors referred to under (ii) above and, to the extent applicable, appointing an authorised person to represent the relevant Dutch Obligor in case of a conflict of interest;

(v) a copy of (i) the request for advice from each works council, or central or European works council with jurisdiction over the transactions contemplated by this Agreement, (ii) the positive advice from such works council which contains no condition, which if complied with, could result in a breach of any of the Finance Documents and (iii) positive advice in respect of the security to be granted by the Dutch Obligor as well as the conditional transfer of the voting rights attached to the shares which are subject to security.

(vi) a specimen of the signature of each member of the board of managing directors of each Dutch Obligor and, if applicable, each person authorised by the resolutions referred to in paragraph (ii) sub-paragraph (B) and/or (C) above in relation to the Finance Documents; and

(vii) such evidence as may be required to enable the Finance Parties to comply with the *Wet identificatie financiële dienstverlening*.

(f) In the case of the Swiss Obligor:

(i) a copy of the articles of association (*Statuten*) of the Swiss Obligor, as well as an extract from the Commercial Register (*Handelsregister*) of such Swiss Obligor;

(ii) a copy of a unanimous resolution of the board of directors of the Swiss Obligor:

(A) approving the terms of, and the transactions contemplated by, the New Finance Documents to which it is a party and resolving that it executes the New Finance Documents to which it is a party;

(B) resolving that the execution of the transactions contemplated by the New Finance Documents to which it is a party is in the best interest of such Swiss Obligor;

(C) if applicable, authorising a specified person or persons to execute the New Finance Documents to which it is a party on its behalf; and

(D) if applicable, authorising a specified person or persons, on its behalf, to sign and/or despatch all documents and notices to be signed and/or despatched by it under or in connection with the New Finance Documents to which it is a party;

(iii) a copy of the unanimous shareholders' resolution of the Swiss Obligor approving the terms of, and the transactions contemplated by, the New Finance Documents to which it is a party and resolving that (i) it executes the New Finance Documents to which it is a party and (ii) the execution of the transactions contemplated by the New Finance Documents to which it is a party is in its best interest;

(iv) a specimen of the signature of each member of the board of directors of the Swiss Obligor and, if applicable, each person authorised by the resolutions referred to in paragraph (ii) (C) and/or (D) above in relation to the New Finance Documents; and

(v) evidence to the effect that the Swiss Obligor's articles of association empower such Swiss Obligor to enter into upstream and/or cross-stream obligations.

(g) Should the legal advisers of the Participating Creditors consider it advisable, a copy of a resolution signed by all the holders of the issued shares of the Additional Guarantor or Additional Security Provider, approving the terms of, and the transactions contemplated by, the Finance Documents to which the Additional Guarantor or Additional Security Provider is a party.

(h) A certificate of the Additional Guarantor or Additional Security Provider (signed by an Authorised Signatory) confirming that guaranteeing the aggregate Exposures of all of the Participating Creditors under the Facilities would not cause any guaranteeing or similar limit binding on it to be exceeded.

(i) A certificate of an Authorised Signatory of the Additional Guarantor or Additional Security Provider certifying that each copy document listed in this Part II of Schedule 2 is correct, complete and in full force and effect as at a date no earlier than the date of the Accession Letter.

2. Legal opinions

(a) A legal opinion of the legal advisers to the Additional Guarantor or Additional Security Provider in form and substance reasonably satisfactory to the legal advisers of the Participating Creditors.

(b) A legal opinion of Clifford Chance, or other firm that can opine for the Additional Guarantor if not Clifford Chance, legal advisers to the Participating Creditors.

3. Other documents and evidence

(a) Evidence that any process agent referred to in Clause 41.3 (*Service of process*) has accepted its appointment.

(b) A copy of any other Authorisation or other document, opinion or assurance which the Administrative Agent considers (after having taken appropriate legal advice) to be necessary or desirable (if it has notified the Additional Guarantor or Additional Security Provider and the Parent accordingly) in connection with the entry into and performance of the transactions contemplated by any Finance Document or for the validity and enforceability of any Finance Document.

(c) The Original Financial Statements of the Additional Guarantor.

(d) Any security documents that are required by the Administrative Agent to be executed by the proposed Additional Security Provider.

(e) Any notices or documents required to be given or executed under the terms of those security documents.

(f) An accession deed to the Intercreditor Agreement executed by the Additional Guarantor or Additional Security Provider.

SCHEDULE 3

FORM OF PARTICIPATING CREDITOR ACCESSION UNDERTAKING

To: [*Administrative Agent*]

From: [*The Existing Participating Creditor*] (the "**Existing Participating Creditor**") and [*The New Participating Creditor*] (the "**New Participating Creditor**")

Dated:

CEMEX – Financing Agreement [2]

dated [●] 2009 ("Financing Agreement")

1. We refer to the Financing Agreement. This is a Participating Creditor Accession Undertaking. Terms defined in the Financing Agreement have the same meaning in this Participating Creditor Accession Undertaking unless given a different meaning in this Participating Creditor Accession Undertaking.
2. The New Participating Creditor confirms that as from [date] it intends to be bound as a party to the Financing Agreement as a Participating Creditor and undertakes to perform all the obligations expressed in the New Finance Documents and the relevant Existing Finance Documents to be assumed by a Participating Creditor and agrees that it shall be bound by all the provisions of the Financing Agreement as if it had been an original party to the Financing Agreement.
3. The New Participating Creditor also confirms that it is a party to the Intercreditor Agreement as a Participating Creditor.
4. The Exposures of the New Participating Creditor under the Facilities are described in the Schedule.
5. The New Participating Creditor expressly acknowledges the limitations on the Existing Participating Creditor's obligations set out in paragraph (c) of Clause 27.5 (*Limitation of responsibility of Existing Participating Creditors*) of the Financing Agreement.
6. This Participating Creditor Accession Undertaking may be executed in any number of counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Participating Creditor Accession Undertaking.
7. We confirm that we have carried out and are satisfied with the results of all compliance checks we consider necessary in relation to our participation in the Facilities.
8. This Participating Creditor Accession Undertaking and any non-contractual obligations arising out of or in connection with it are governed by English law.

[2] Intercreditor Agreement accession is also required.

THE SCHEDULE

Exposures/rights and obligations transferred

[*insert relevant details*]
[[*Facility Office] address, email, fax number and attention details for notices and account details for payments* ,]

[Existing Participating Creditor] [New Participating Creditor]

By: By:

This Participating Creditor Accession Undertaking is accepted by the Administrative Agent.

[Administrative Agent]

By:

SCHEDULE 4

FORM OF ACCESSION LETTER

To: [*Administrative Agent*]

From: [*Subsidiary*] and [*Parent*]

Dated:

Dear Sirs

CEMEX – Financing Agreement
Dated [●] 2009 ("Financing Agreement")

1. [Subsidiary] agrees to become an [Additional Guarantor/Additional Security Provider] and to be bound by the terms of the Financing Agreement and the other Finance Documents as an [Additional Guarantor/Additional Security Provider] pursuant to Clause 28.3 (Additional Guarantors and Additional Security Providers)] of the Financing Agreement. [Subsidiary] is a limited liability company duly incorporated under the laws of [name of relevant jurisdiction] with registered number [●].

2. [Subsidiary's] administrative details are as follows:

   Address:

   Fax No.:

   Attention:

3. This letter is and any non-contractual obligations arising out of or in connection with it are governed by English law.

4. Terms which are used in this Accession Letter which are not defined in this Accession Letter but are defined in the Financing Agreement shall have the meaning given to those terms in the Financing Agreement.

   [This Accession Letter is entered into by deed.]**

Signed by: _____ _____

[Parent] [Subsidiary]

NOTES:

* Delete as appropriate.

** If the Facilities are fully drawn there may be an issue in relation to past consideration for a proposed Additional Guarantor or Additional Security Provider. This can be overcome by acceding by way of deed.

SCHEDULE 5

FORM OF COMPLIANCE CERTIFICATE

To: [•] as Administrative Agent

From: [*Parent*]

Dated:

Dear Sirs

CEMEX – Financing Agreement
dated [•] 2009 ("Financing Agreement")

1. We refer to the Financing Agreement. This is a Compliance Certificate. Terms defined in the Financing Agreement have the same meaning when used in this Compliance Certificate unless given a different meaning in this Compliance Certificate.

2. We confirm that:

   (a) Consolidated Funded Debt as at the last day of the Reference Period ending [•] was $[•] and EBITDA for the Reference Period ending [•] was $[•]. Therefore the Consolidated Leverage Ratio for such Reference Period was [•]:1 which [is/is not] in compliance with paragraph (b) of Clause 23.2 (*Financial condition*) of the Financing Agreement.

   (b) For the Reference Period ending [•], EBITDA was $[•] and Consolidated Interest Expense was $[•]. Therefore the Consolidated Coverage Ratio for such Reference Period was [•]:1 which [is/is not] in compliance with paragraph (a) Clause 23.2 (*Financial condition*) of the Financing Agreement.

   (c) Capital Expenditure of the Group for the Financial Year ending [•] was $[•] and the amount of Permitted Joint Ventures falling within paragraph (b) of the definition thereof in such Financial Year was [•]. Therefore the requirements of paragraph (c) of Clause 23.2 (*Financial condition*) of the Financing Agreement [have/have not] been complied with.

SCHEDULE 6

EXISTING SECURITY AND QUASI-SECURITY

(Figures in Millions, USD)

NAME OF CEMEX SUBSIDIARY	COUNTERPARTY	LIEN CONCEPT	MATURITY DATE	SECURED AMOUNT	AGREEMENT TYPE
RMC Beton Śląsk Sp. z o.o.	SG Equipment Leasing Polska Sp. z o.o.	Plant Equipment Lien	2011-2013	$ 1.619	Equipment Leasing Agreement by and between SG Equipment Leasing Polska Sp. z o.o. and RMC Beton Śląsk Sp. z o.o. dated June 23, 2006.
CEMEX Granulats Rhone-Mediterranee	SLIBAIL IMMOBILIER	Plant Equipment Lien	October-2012	$ 0.669	Leasing Agreement by and between Slibail Immobilier and Morrillon Corvol Rhone Mediterranee dated July 24, 2000.
CEMEX Betons Nord Quest	SLIBAIL IMMOBILIER	Plant Equipment Lien	April-2014	$ 0.123	Leasing Agreement by and between Slibail Immobilier - SAS Beton de France Normandie dated June 03, 2002.
CEMEX Sand, s.r.o.	Impuls Leasing Austria, s.r.o.	Machinery and Equipment for Operations	June 1, 2010	$ 0.052	Financial Leasing between CEMEX Sand, s.r.o. and Impulse Leasing Austria dated March 1, 2008
Transbeton Lieferbeton Gesellschaft m.b.H.	Raiffeisenbank Bruck an der Mur eg. Gen.	Plant Equipment Lien	September 1, 2010	$ 3.225	Leasing agreement on movables entered by and between Raiffeisen-Leasing Mobilien und KFZ GmbH and Trans-Beton Ges.m.b.H. dated March 31, 2004.
CEMEX Kies Hamburg GmbH & Co. KG	Kreissparkasse Herzogfum Lauenburg	Land Lien	March 30, 2014	$ 0.196	Leasing Agreement Kreissparkasse Herzogfum Lauenburg - Wunder GmbH, Wunder Kiestransporte GmbH und Günter Wunder Baustoffhandel dated March 22, 1994.

NAME OF CEMEX SUBSIDIARY	COUNTERPARTY	LIEN CONCEPT	MATURITY DATE	SECURED AMOUNT	AGREEMENT TYPE
CEMEX UK Operations Limited	ING Lease (UK) Limited	Plant Equipment Lien	December 31, 2011	$ 11.179	Leasing Master Agreement by and between Kleinwort Benson Fleet Finance Limited and Rombus Materials Limited dated December 31, 1997. Assignment and Continuation Schedule dated September 30, 2005 between ING Lease Fleet Finance Limited and CEMEX UK Operations Ltd.
CEMEX UK Operations Limited	Lloyds TSB Asset Finance	Plant Equipment Lien	December 31, 2014	$ 2.703	Lease Agreement by and between The Rugby Group PLC and UDT Budget Leasing Limited dated December 21, 1998.
RMC Beton Śląsk Sp. z o.o.	Bankowy Fundusz Leasingowy S.A.	Plant Equipment Lien	March 15, 2012	$ 0.013	Leasing Agreement by and between Bankowy Fundusz Leasingowy, S.A. and RMC Beton Śląsk Sp. z o.o. dated March 11, 2008.
Centro Distribuidor de Cemento, S.A. de C.V.	Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	Cash Collateral	October 13, 2009	$ 41.365	ISDA Master Agreement dated February 14, 2003 / See Annex 1 (Excluded Positions) item (e) in the Hedging Schedule
CEMEX, S.A.B. de C.V.	Citigroup Global Markets Inc as agent for Citibank, N.A.	Cash Collateral	October 13, 2009	$168.289	ISDA Master Agreement dated April 23, 2008 / See Annex 1 (Excluded Positions) item (b) in the Hedging Schedule
CEMEX, S.A.B. de C.V. and CEMEX México, S.A. de C.V.	JPMorgan Chase Bank	Cash Collateral	July 31, 2009	$ 20,000	Promissory Note in relation with ISDA Agreement**
CEMEX, S.A.B. de C.V. and Subsidiaries	Banco Nacional de Comercio Exterior	Pledge of Cementos Chihuahua, S.A.B. de C.V. shares and Mortgage of Cement Plants in Mérida Yucatan and Ensenada, Baja California*	February 14, 2014	$ 250.000	Credit Agreement entered on October 14, 2008 (as amended) secured with Stock Pledge and Cement Plants in Mérida Yucatan and Ensenada, Baja California *

NAME OF CEMEX SUBSIDIARY	COUNTERPARTY	LIEN CONCEPT	MATURITY DATE	SECURED AMOUNT	AGREEMENT TYPE
CEMEX, S.A.B.de C.V., and CEMEX México, S.A. de C.V.	Nacional Financiera S.N.C.	Mortgage of CEMEX México's headquarters Edificio Constitución # 444 in Monterrey, N.L.	October 21, 2010	$ 33.025	Bank Guarantee Agreement to issue the government guarantee on CEMEX's short term Certificados Bursátiles entered on October 22, 2008.
CEMEX Concretos, S.A. de C.V. and CEMEX México, S.A. de C.V.	Banco de Obras y Servicios, S.N.C.	Mortgage of Planta Yaqui in Hemosillo Sonora	April-2014	$159.742	Revolving Credit Agreements
CEMEX Deutschland AG	HypoVereinsban (Unicredit)	Cash Collateral	Revolving	$ 7.315	Bank Guarantees
CEMEX Deutschland AG	HypoVereinsban (Unicredit)	Cash Collateral	October 2013	$ 2.164	Leasing Agreement for office building in Berlin
		Total		**$ 701.677**	

* Currently in the process of cancelling the Stock Pledge.

** The Maturity Date is extended pursuant to the terms of the CWEA. JPMorgan will release the Security immediately after the Effective Date.

SCHEDULE 7

MATERIAL SUBSIDIARIES

CEMEX, S.A.B de C.V.
CEMEX España, S.A.
CEMEX México, S.A. de C.V.
CEMEX Concretos, S.A. de C.V.
Centro Distribuidor de Cemento, S.A. de C.V.
Corporación Gouda, S.A. de C.V.
CEMEX Central, S.A. de C.V.
CEMEX Colombia, S.A.
Sunbelt Investments, Inc.
CEMEX, Inc.
CEMEX Corp.
CEMEX Materials LLC
CEMEX Construction Materials Florida LLC
CEMEX Australia Pty Limited
Rinker Group Pty Limited
New Sunward Holding B.V.
CEMEX Caracas Investments B.V.
CEMEX Egyptian Investments B.V.
CEMEX Dutch Holdings B.V.
CEMEX Finance Europe B.V.
Sunward Investments B.V.
Sunward Holdings B.V.
CEMEX Trademarks Holding Ltd.
Assiut Cement Company
CEMEX Trading LLC

SCHEDULE 8

PROCEEDINGS PENDING OR THREATENED

1. **Tariffs**

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

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

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

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

2. **Environmental Matters**

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

To prevent, control and remediate environmental problems and maintain compliance with regulatory requirements, we maintain an environmental policy designed to monitor and control environmental matters. Our environmental policy requires each subsidiary to respect local laws and meet our own internal standards to minimize the

use of non-renewable resources and the generation of hazardous and other wastes. We use processes that are designed to reduce the impact of our operations on the environment throughout all the production stages in all our operations worldwide. We believe that we are in substantial compliance with all material environmental laws applicable to us.

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

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

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

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

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

Mexico. We were one of the first industrial groups in Mexico to sign an agreement with the *Secretaría del Medio Ambiente y Recursos Naturales*, or SEMARNAT, the Mexican government's environmental ministry, to carry out voluntary environmental audits in our 15 Mexican cement plants under a government-run program. In 2001, the Mexican environmental protection agency in charge of the voluntary environmental auditing program, the *Procuraduría Federal de Protección al Ambiente* ("**PROFEPA**"), which is part of SEMARNAT, completed auditing our 15 cement plants and awarded all our plants a *Certificado de Industria Limpia* ("**Clean Industry Certificate**") certifying that our plants are in full compliance with environmental laws. The Clean Industry Certificates are strictly renewed every two years. As of this date, all of our cement plants have Clean Industry Certificates or are in the process of renewing them. We expect renewal of all currently expired Clean Industry Certificates.

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

Between 1999 and March 2009, our Mexican operations have invested approximately US$50.24 million in the acquisition of environmental protection equipment and the

implementation of the ISO 14001 environmental management standards of the International Organization for Standardization, or ISO. The audit to obtain the renewal of the ISO 14001 certification took place during April 2006. All our operating cement plants in Mexico and an aggregates plant in Monterrey have obtained the renewal of the ISO 14001 certification for environmental management systems.

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

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

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

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

As required by the directive, each of the Member States established a National Allocations Plan (" **NAP**") that defines the free allocation to each industrial facility for Phase II of the Emissions Trading Scheme (the " **ETS**") (2008-2012). Although the overall yearly volume of allowances in Phase II is significantly lower than that during Phase I of the ETS (2005 – 2007) we do not see any significant risk that CEMEX will be short of allowances in Phase II; this is the result of various factors, notably a reasonable allocation policy in some countries, our efforts to reduce emissions per unit of clinker, reduced demand for our products, and the use of certain risk-free financial instruments. We expect to be a net seller of allowances over Phase II, even under the assumption of the worst case in terms of allocation (see below). In addition, we are actively pursuing a strategy aimed at generating additional emission credits through the implementation of CDM projects. Despite having already sold a substantial amount of

allowances for Phase II, we believe the overall volume of transactions is justified by our most conservative emissions forecast, meaning that the risk of having to buy allowances in the market in the future is very low. As of 31 December 2007, the market value of carbon dioxide allowances for Phase I was €0.03 per ton. As of 31 March 2009, the market value of carbon dioxide allowances for Phase II was approximately €11.45 per ton. We are taking appropriate measures to minimize our exposure to this market while assuring the supply of our products to our customers.

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

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

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

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

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

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

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

The Club of Environmental Protection, a Latvian environmental protection organization (the " **Applicant**"), has initiated a Latvian court administrative proceeding against the decision made by the Latvian Environmental State Bureau (the " **Defendant**") in order to amend the environmental pollution permit (the "**Permit**") for the Broceni cement plant in Latvia, owned by CEMEX SIA (the " **Disputed Decision**"). CEMEX SIA was invited to participate in the court proceedings as a third party, whose rights and legal interest may be infringed by the relevant administrative act. On 5 June 2008, the court rendered its judgment, granting the Applicant's claim and revoking the Disputed Decision, declaring it illegal because Defendant failed to perform public inquiry in accordance with legal regulations. The judgment was appealed by both the Defendant and CEMEX SIA before the Court of Appeal, and on 20 May 2009, the Court of Appeal decided that the Defendant must supplement the Permit with the requirements applicable as of 1 January 2008 on the emission limits of hard particles for clinker melting-on stove. This amendment to the Permit will not adversely affect CEMEX SIA's operations in the existing plant, unless the competent authorities decide to lower the emission limit. The rest of the Applicant's claims were rejected by the court. The judgment may be appealed by the Applicant before the Senate of the Supreme Court no later than 19 June 2009. As of 30 June 2009, the Applicant has not appealed the judgment.

3. **Anti-Dumping/Anti-Trust**

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

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

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

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

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

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

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

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

Polish Antitrust Investigation. During the period from 31 May 2006 to 2 June 2006, officers of the Polish Competition and Consumer Protection Office, (the "**Protection Office**") assisted by police officers, conducted a search in the Warsaw office of CEMEX Polska, one of our indirect subsidiaries in Poland, and in offices of other cement producers in Poland. The search took place as a part of the exploratory investigation that the head of the Polish Competition and Consumer Protection Office

started on 26 April 2006. On 2 January 2007, CEMEX Polska received a notification from the Protection Office informing about the formal initiation of an antitrust proceeding against all cement producers in Poland, including CEMEX Polska and another of our indirect subsidiaries in Poland. In the notification it was assumed that there was an agreement between all cement producers in Poland regarding prices and other sales conditions of cement, an agreed division of the market with respect to the sale and production of cement, and the exchange of confidential information, all of which limited competition in the Polish market with respect to the production and sale of cement. On 22 January 2007, CEMEX Polska filed its response to the notification, denying that it committed the practices listed by the Protection Office in the notification. In its response, CEMEX Polska also included various formal comments and objections gathered during the proceeding, as well as facts supporting its position and intended to prove that its activities were in line with competition law. On 29 April 2009, the Protection Office notified CEMEX Polska of its decision to extend the antitrust proceeding until 20 June 2009, due to the complexity of the case. As 30 June 2009, we have no information regarding further developments on this legal assessment.

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

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

Antitrust Investigations in Mexico . In January and March 2009, we were notified of two findings of presumptive responsibility against CEMEX issued by the Mexican competition authority (*Comisión Federal de Competencia*), alleging certain violations of Mexican antitrust laws. We believe these findings have several procedural errors and are unfounded on the merits. We filed our responses to these findings on 27 February 2009 and 19 May 2009. For one of the cases we have obtained a favorable first instance ruling that if sustained on appeal will terminate the investigation. The proceedings for the second case have continued and it is currently in the evidence producing stage, we expect this procedure to continue for several months before resolution.

4. **Tax Matters**

Pursuant to amendments to the Mexican income tax law (*Ley del Impuesto sobre la Renta*), which became effective on 1 January 2005, Mexican companies with direct or indirect investments in entities incorporated in foreign countries whose income tax liability in those countries is less than 75% of the income tax that would be payable in Mexico will be required to pay taxes in Mexico on passive income, such as dividends, royalties, interest, capital gains and rental fees obtained by such foreign entities, except for income derived from entrepreneurial activities in such countries, which is not subject to tax under these amendments. We filed two motions in the Mexican federal courts challenging the constitutionality of the amendments. On 29 June 2006, we obtained a favorable ruling from the Mexican federal court stating that the amendments were unconstitutional. The Mexican tax authority appealed the ruling, and the proceeding reached the Mexican Supreme Court of Justice. On 9 September 2008, the Mexican Supreme Court ruled against our constitutional challenge of the controlled foreign corporation tax rules in effect in Mexico for tax years 2005 to 2007. Since the Supreme Court's decision does not pertain to an amount of taxes due or other tax obligations, we will self-assess any taxes due through the submission of amended tax returns. We have not yet determined the amount of tax or the periods affected, but the amount is likely to be material. If the Mexican tax authorities do not agree with our self-assessment of the taxes due for past periods, they may assess additional amounts of taxes past due, which may be material and may impact our cash flows.

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

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

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

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

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

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

5. **Other Legal Proceedings**

On 5 August 2005, a lawsuit was filed against a subsidiary of CEMEX Colombia, claiming that it was liable along with the other members of the *Asociación Colombiana de Productores de Concreto* (the "**ASOCRETO**") a union formed by all the ready-mix concrete producers in Colombia, for the premature distress of the roads built for the mass public transportation system of Bogotá using ready-mix concrete supplied by CEMEX Colombia and other ASOCRETO members. The plaintiffs allege that the base material supplied for the road construction failed to meet the quality standards offered by CEMEX Colombia and the other ASOCRETO members and/or that they provided insufficient or inaccurate information in connection with the product. The plaintiffs seek the repair of the roads in a manner which guarantees their service during the 20-year period for which they were originally designed, and estimate that the cost of such repair will be approximately US$45 million. The lawsuit was filed within the context of a criminal investigation of two ASOCRETO officers and other individuals, alleging that the ready-mix concrete producers were liable for damages if the ASOCRETO officers were criminally responsible. The court completed the evidentiary stage, and on 17 August 2006 dismissed the charges against the members of ASOCRETO. The

other defendants (one ex-director of the Distrital Institute of Development, the legal representative of the constructor and the legal representative of the contract auditor) were formally accused. The decision was appealed, and on 11 December 2006, the decision was reversed and the two ASOCRETO officers were formally accused as participants (determiners) in the execution of a state contract without fulfilling all legal requirements thereof. The first public hearing took place on 20 November 2007. In this hearing, the judge dismissed an annulment petition filed by the ASOCRETO officers. The petition was based on the fact that the officers were formally accused of a different crime from the one for which they were being investigated. This decision was appealed, but the decision was confirmed by the Superior Court of Bogotá. On 21 January 2008, CEMEX Colombia was subject to a judicial order, issued by the court, sequestering a quarry called El Tujuelo, as security for a possible future money judgment to be rendered against CEMEX Colombia in these proceedings. The court determined that in order to lift this attachment and prevent further attachments, CEMEX Colombia was required within a period of 10 days to deposit with the court in cash CoP$337,800 million (approximately US$132.7 million as of 31 March 2009, based on an exchange rate of CoP$2.544 to US$1.00, which was the Colombian Peso/Dollar exchange rate on 31 March 2009, as published by the *Banco de la República de Colombia*, the central bank of Colombia), instead of being allowed to post an insurance policy to secure such recovery. CEMEX Colombia asked for reconsideration, and the court allowed CEMEX to present an insurance policy. Nevertheless, CEMEX appealed this decision, in order to reduce the amount of the insurance policy, and also requested that the guarantee be covered by all defendants in the case. On 9 March 2009, the Superior Court of Bogotá reversed this decision, allowing CEMEX to offer a security in the amount of US$8 million. The measure does not affect the normal activity of the quarry. At this stage, we are not able to assess the likelihood of an adverse result or the potential damages which could be borne by CEMEX Colombia.

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

acquired new assigners and announced an increase in the claim to €131 million (approximately US$183.1 million). As of 31 March 2009, we had accrued liabilities regarding this matter for a total amount of approximately €20 million (approximately US$27.9 million).

After an extended consultation period, in April 2006, the cities of Kaštela and Solin in Croatia published their respective (physical) Master Plans defining the development zones within their respective municipalities, adversely impacting the mining concession granted to Dalmacijacement, our subsidiary in Croatia, by the Government of Croatia in September 2005. During the consultation period, Dalmacijacement submitted comments and suggestions to the Master Plans, but these were not taken into account or incorporated into the Master Plans by Kaštela and Solin. Most of these comments and suggestions were intended to protect and preserve the rights of Dalmacijacement´s mining concession. Immediately after publication of the Master Plans, Dalmacijacement filed a series of lawsuits and legal actions before the local and federal courts to protect its acquired rights under the mining concessions. Among the legal actions taken and filed by Dalmacijacement were as follows: (i) on 17 May 2006, a constitutional appeal before the Constitutional Court in Croatia, seeking a declaration by the court concerning Dalmacijacement's constitutional claim for decrease and obstruction of rights earned by investment, and seeking prohibition of implementation of the Master Plans; this appeal is currently under review by the Constitutional Court in Croatia, and we cannot predict when it will be resolved; (ii) on 17 May 2006, a possessory action against the cities of Kaštela and Solin seeking the enactment of interim measures prohibiting implementation of the Master Plans and including a request to implead the Republic of Croatia into the proceeding on our side; this possessory action has been definitively dismissed; and (iii) on 17 May 2006, an administrative proceeding before the State Lawyer, seeking a declaration from the Government of Croatia confirming that Dalmacijacement acquired rights under the mining concessions. Dalmacijacement received the State Lawyer's opinion which confirms the Dalmacijacement's acquired rights according to the previous decisions ("**old concession**"). The Administrative Court in Croatia has ruled in favor of Dalmacijacement, validating the legality of the mining concession granted to Dalmacijacement by the Government of Croatia, in September 2005. We are still waiting for an official declaration from the Constitutional Court regarding an open question that Dalmacijacement has formally made as to whether the cities of Solin and Kaštela, within the scope of their Master Plans, can unilaterally change the borders of exploited fields.

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

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

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

an investigation shall be conducted in order to determine the cause and further responsibility; and (b) there will be no further permissions for additional structures of the same height as the tallest structure already granted. Therefore, additional permits may be obtained as long as the structures are lower than the tallest building, on a case-by-case analysis to be conducted by the authority. We are still waiting for a ruling in respect of the additional ten structures.

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

On 12 August 2007, the Australian Takeovers Panel published a declaration of unacceptable circumstances, namely, that CEMEX's 7 May 2007 announcement that it would allow Rinker shareholders to retain the final dividend of US$0.25 per Rinker share constituted a departure from CEMEX's announcement on 10 April 2007 that its offer of US$15.85 per share was its "best and final offer." On 27 September 2007, the Panel ordered CEMEX to pay compensation of US$0.25 per share to Rinker shareholders for the net number of Rinker shares they disposed of a beneficial interest during the period from 10 April 2007 to 7 May 2007. CEMEX believes that the market was fully informed by its announcements on 10 April 2007, and notes that the Takeovers Panel has made no finding that CEMEX breached any law. On 27 September 2007, the Review Panel made an order staying the operation of the orders until further notice pending CEMEX's application for judicial review of the Panel's decision. CEMEX applied to the Federal Court of Australia for such a judicial review. That application was dismissed on 23 October 2008. CEMEX appealed that decision to the Full Court of the Federal Court of Australia, which heard the appeal in May 2009 and a judgment has been rendered. CEMEX has deposited A$15 million (approximately US$12 million based on the accounting A$/Dollar exchange rate in effect on 29 May 2009 of A$1.2734 to US$1.00) in a special purpose account from which qualifying claims will be paid.

Expropriation of CEMEX Venezuela and ICSID Arbitration. On 18 August 2008, Venezuelan officials took physical control of the facilities of CEMEX Venezuela, following the issuance of several governmental decrees purporting to authorize the take over by Venezuela of all of CEMEX Venezuela's assets, shares and business. At around the same time, the Venezuelan government removed the board of CEMEX

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

Additionally, Venezuela claims that the vessels Marianela, Corregidora and Edalan (the "**Vessels**") are property of the former CEMEX Venezuela. The Vessels were properly transferred by CEMEX Venezuela to Sunbulk Shipping, N.V. prior to the nationalization; therefore we believe that Venezuela has no ownership rights over the Vessels. The Government of Venezuela has obtained an interim measure in a Venezuelan court ordering that no transfer or disposition of the Vessels should take place (this was obtained long after the transfer had been done) and they requested the Panamanian courts, which is the country where the Vessels are flagged, to execute this measure on one of the Vessels that was on its way to Panama. The Panamanian court arrested one of the Vessels however we were able to procure its and are contesting the order in Panama. Furthermore, we are requesting an interim measure to prevent Venezuela from taking any actions in respect of the Vessels, to preserve the subject matter which is the expropriation.

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

On 31 July 2008, we agreed to sell our operations in Austria (consisting of 26 aggregates and 41 ready-mix concrete plants) and Hungary (consisting of 6 aggregates,

29 ready-mix concrete and 4 paving stone plants) to Strabag SE, one of Europe's leading construction and building materials groups, for €310 million (approximately US$433 million). On 11 February 2009, the Hungarian Competition Commission (HCC) approved the sale subject to the condition that the purchaser sell the ready-mix concrete plant operating in Salgótarján to a third party within the next year. On 28 April 2009, the Austrian Cartel Court (Kartellgericht) approved the sale subject to the implementation of certain remedies. Contrary to its duties under the Share Purchase Agreement, Strabag SE filed on 9 June 2009 an appeal against the decision of the Austrian Cartel Court. This appeal had the effect that the merger control proceeding was extended. On 8 June 2009 the Austrian Competition Authority also filed an appeal. On 1 July 2009, CEMEX received notice from Strabag SE of its withdrawal from the Share Purchase Agreement since merger control approval could not be obtained by 30 June 2009. On 8 July 2009, Strabag SE withdrew from its appeal against the decision of the Austrian Cartel Court. Since then CEMEX has provided Strabag SE written notice that it considers its withdrawal from the Share Purchase Agreement invalid due to Strabag SE's continued breach of the Share Purchase Agreement. CEMEX believes the Share Purchase Agreement still to be valid and is considering taking appropriate legal recourse.

SCHEDULE 9

THE FACILITIES

Syndicated Bank Facilities

DEFINITIONS

English Law Documents

Euro/Yen Facility	EUR 250,000,000 and JPY 19,308,000,000 facilities agreement dated 30 March 2004 (as amended) between CEMEX España, S.A. as borrower and, among others, Banco Bilbao Vizcaya Argentaria, S.A. as agent.
Joint Bilateral Facility	USD 617,500,000 and EUR 587,500,000 facilities agreement dated 27 January 2009 (as amended) between CEMEX España, S.A. as borrower and, among others, The Royal Bank of Scotland plc as agent.
NSH Facility	USD 700,000,000 facilities agreement dated 27 June 2005 (as amended) between, New Sunward Holding B.V., as borrower, and among others, Citibank, N.A. as agent.
Rinker Facility	As defined in Clause 1.1 (*Definitions and Interpretation*)
RMC Facility	As defined in Clause 1.1 (*Definitions and Interpretation*)

New York Law Documents

Syndicated Bank Facilities

NY Joint Bilateral Facility	Joint Bilateral Facility dated 27 January 2009, between CEMEX, S.A.B. de C.V., as borrower, and among others, BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as administrative agent.
NSH Senior Unsecured Maturity Loan Facilities	USD 525,000,000 Senior Unsecured Maturity Loan "A" Agreement and USD 525,000,000 Senior Unsecured Maturity Loan "B" Agreement, each dated 31 December 2008 (as amended) between New Sunward Holding B.V., as borrower and, among others, ING Capital LLC, as agent.
$700mm Facility	USD 700,000,000 Amended and Restated Credit Agreement, dated 6 June 2005 (as amended) between CEMEX, S.A.B. de C.V., as borrower and, among others, ING CAPITAL LLC, as administrative agent.

$1.2bn Facility	USD 1,200,000,000 Credit Agreement, dated 31 May 2005 (as amended) between CEMEX, S.A.B. de C.V., as borrower and, among others, Barclays Bank plc as agent.

Bilateral Bank Facilities

$500mm Credit Facility	Credit Agreement dated 25 June 2008 (as amended), among CEMEX, S.A.B. de C.V., as borrower, and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch, as lender.
BNPP Bilateral	USD 37,500,000 First Amended and Restated Loan and Letter of Credit Facility Agreement (undated) (as amended) between CEMEX Materials LLC (f/k/a Rinker Materials LLC), as borrower, and BNP Paribas (Sydney Branch), as lender.
	Amended and Restated Guarantee dated 1 October 2007 between CEMEX España, S.A., a guarantor, and BNP Paribas (Sydney Branch), as lender.
JPMC Bilateral	USD 90,000,000 – USD 80,000,000 First Amended and Restated Loan and Letter of Credit Facility Agreement as amended on 27 January 2009, among CEMEX Materials LLC (f/k/a Rinker Materials LLC), as borrower, and JP Morgan Chase Bank, N.A., as lender.
	Guarantee as amended on 27 January 2009 between CEMEX España, S.A., as guarantor, and JP Morgan Chase Bank, N.A., as lender.

Part 1A

Syndicated Bank Facilities

ENGLISH LAW FACILITIES

		Rinker Facility	Joint Bilateral Facility	RMC Facility	Euro/Yen Facility	NSH Facility
1.	Existing Acceleration Clause	Clause 24.16	Clause 23.15	Clause 24.15	Clause 23.15	Clause 22.1
2.	Existing Change of Control Provisions	Clause 9.2	Clause 8.2	N/A	N/A	N/A
3.	Existing Drawdown Conditions	N/A	N/A	Clause 4.2	N/A	Clause 4.2
4.	Existing Events of Default	Clause 24.1 – Clause 24.15 and Clause 24.17	Clause 23.1 – Clause 23.14	Clause 24.1 – Clause 24.14	Clause 23.1 – Clause 23.14	Clause 22.1 paragraphs (a) to (o)
5.	Existing Extension and	No Extension Option	Clause 7	N/A	N/A	No Extension Option
	Term Out Provisions	Term Out Clause 8	No Term Out Option	No Term Out Option	No Term Out Option	No Term Out Option
6.	Existing Financial Covenants	Clause 22	Clause 21	Clause 22	Clause 21	Clause 21.13
7.	Existing General Undertakings	Clause 23	Clause 22	Clause 23	Clause 22	Clause 21
8.	Existing Illegality Clause	Clause 9.1	Clause 8.1	Clause 9.1	Clause 8.1	Clause 8.1
9.	Existing Information Undertakings	Clause 21	Clause 20	Clause 21	Clause 20	Clause 20
10.	Existing Mandatory Prepayment Provisions	Clause 9.7 Clause 9.8	Clause 8.6 Clause 8.7	N/A	N/A	N/A
11.	Existing Representations and Warranties	Clause 20	Clause 19	Clause 20	Clause 19	Clause 19
12.	Existing Sharing Provisions	Clause 29	Clause 28	Clause 29	Clause 28	Clause 27
13.	Existing Single Lender Repayment Clause	Clause 9.6	Clause 8.5	Clause 9.5	Clause 8.6	Clause 8.5
14.	Existing Optional Currency Provisions	Clause 6	N/A	Clause 6	Clause 6	Clause 6

	Rinker Facility	Joint Bilateral Facility	RMC Facility	Euro/Yen Facility	NSH Facility
15. Existing Notification Requirements	Clause 4.5 Conditions relating to Optional Currencies	Clause 7.1 Request for Extension	Clause 8.1 Request for Extension	Clause 4.5 Extension Request	Clause 8.2 Voluntary cancellation
		Clause 8.4 Voluntary prepayment of Loans	Clause 9.2 Voluntary cancellation	Clause 6.1 (a) (ii) Selection of currency	Clause 8.4 Voluntary Prepayment of Facility B Loans
		Clause 8.5 Right of repayment and cancellation in relation to a single Lender	Clause 9.4 Voluntary prepayment of Loans	Clause 8.2 Voluntary cancellation	Clause 8.5 (a) Voluntary Prepayment of Facility C Loan
	Clause 9.3 Voluntary cancellation	Clause 10.1 Selection of Interest Periods	Clause 9.5 (a) Right of repayment and cancellation in relation to a single Lender	Clause 8.3 Voluntary prepayment of Facility A Loan	Clause 8.6 Right of repayment and cancellation in relation to a single Lender
	Clause 9.5 Voluntary prepayment of Loans	Clause 14.2 (b) Tax gross-up	Clause 14.2 (b) Tax gross-up	Clause 8.4 Voluntary Prepayment of Facility B Loans	Clause 10.1 Selection of Interest Periods
	Clause 9.6 Right of repayment and cancellation in relation to a single Lender	Clause 20.5 Notification of default	Clause 21.6 (b) “Know your client” checks	Clause 8.5 Voluntary Prepayment of Facility C Loan	20.3 (b) Money laundering obligations
	Clause 11.1 Selection of Interest Periods	Clause 20.6 (b) “Know your client” checks	Clause 21.7 Notarisations	Clause 8.6 Right of repayment and cancellation in relation to a single Lender	Clause 20.5 Notification of default
	Clause 14.2 (b) Tax gross-up	Clause 22.7 Disposal Proceeds	Clause 23.7 (a) Disposal Proceeds	Clause 10.1 (a) Selection of Interest Periods	Clause 20.6 (b) “Know your client” checks
	Clause 21.3 (c) Requirements as to financial statements	Clause 22.19 Notification of adverse change in Ratings	Clause 23.18 Notification of adverse change in Ratings	Clause 13.2 Tax gross-up	Clause 20.7 Notices
	Clause 21.5 Notification of default	Clause 25.4 (b) Resignation of Guarantor	Clause 26.4 (b) (ii) Resignation of Guarantor	Clause 20.3 Requirements as to financial statements	Clause 30 Notices
	Clause 21.6 (b) 21.6 “Know your client” checks	Clause 31 Notices	Clause 26.5 Removal of Guarantor	Clause 20.5 Notification of default	
	Clause 21.7 Notarisations		Clause 32 Notices	Clause 20.7 Notarisations	

		Rinker Facility	Joint Bilateral Facility	RMC Facility	Euro/Yen Facility	NSH Facility
		Clause 23.7 (a) Disposal Proceeds			Clause 22.17 Notification of adverse change in Rating	
		Clause 23.18 (b)(ii) and (f) The Offer			Clause 25.3 Resignation of Guarantor	
		Clause 26.4 (b) Resignation of Guarantor			Clause 31 Notices	
		Clause 26.6 (d) Removal of Guarantor				
		Clause 32 Notices				
		Clause 36.3 Reallocation of Facility B Commitments				
16.	Existing Guarantor Release Restriction	Clause 26.4	Clause 25.4	Clause 26.4	Clause 25.3	Clause 24.3

NEW YORK FACILITIES

	NY Joint Bilateral Facility	$700mm Facility	$1.2bn Facility	NSH Senior Unsecured Maturity Loan Facilities
1. Existing Acceleration Clause	Section 10.02 Remedies	Section 11.02 Remedies	Section 10.02 Remedies	Section 10.02 Remedies
2. Existing Change of Control Provisions	Section 10.01 (n) Change of Ownership or Control	Section 11.01 (n) Change of Ownership or Control	Section 10.01 (n) Change of Ownership and Control	Section 10.01 (n) Change of Ownership and Control
3. Existing Drawdown Conditions	No Existing Drawdown Conditions	Section 2.01 (c) Revolving Loans Borrowings Section 2.02 (c) Borrowing Mechanics for Swing Line Loans Section 5.02 Conditions Precedent to Borrowings, Continuation or Conversion of the Loans and Issuances of Standby L/Cs	Section 2.01 (c) Revolving Loan Borrowings Section 4.02 Conditions Precedent to Borrowings and Continuation or Conversion of the Loans	No Existing Drawdown Conditions
4. Existing Events of Default	Section 10.01 Events of Default	Section 11.01 Events of Default	Section 10.01 Events of Default	Section 10.01 Events of Default
5. Existing Extension and Term Out Provisions	Section 3.13 Extension of Termination Date	Section 2.02 (c) (iv) Borrowing Mechanics for Swing Line Loans Section 4.02 Extension of Termination Date Section 4.14 Loan Extension	Section 3.13 Loan Extension	No Extension Option
6. Existing Financial Covenants	Section 8.01 Financial Conditions	Section 9.01 Financial Conditions	Section 8.01 Financial Conditions	Section 8.01 Financial Conditions
7. Existing General Undertakings	Section 7.03 Compliance with Laws and Contractual Obligations	Section 8.03 Compliance with Laws and Contractual Obligations, Etc.	Section 7.03 Compliance with Laws and Contractual Obligations	Section 7.03 Compliance with Laws and Contractual Obligations, Etc.
	Section 7.04 Payment of Obligations	Section 8.04 Payment of Obligations	Section 7.04 Payment of Obligations	Section 7.04 Payment of Obligations
	Section 7.05 Maintenance of Insurance	Section 8.05 Maintenance of Insurance	Section 7.05 Maintenance of Insurance	Section 7.05 Maintenance of Insurance
	Section 7.06 Conduct of Business and Preservation of Corporate Existence	Section 8.06 Conduct of Business and Preservation of Corporate Existence	Section 7.06 Conduct of Business and Preservation of Corporate Existence	Section 7.06 Conduct of Business and Preservation of Corporate Existence
	Section 7.07 Books and Records	Section 8.07 Books and Records	Section 7.07 Books and Records	Section 7.07 Books and Records

		NY Joint Bilateral Facility	$700mm Facility	$1.2bn Facility	NSH Senior Unsecured Maturity Loan Facilities
		Section 7.08 Maintenance of Properties	Section 8.08 Maintenance of Properties, Etc.	Section 7.08 Maintenance of Properties	Section 7.08 Maintenance of Properties, Etc.
		Section 7.09 Use of Proceeds	Section 8.09 Use of Proceeds	Section 7.09 Use of Proceeds	Section 7.09 Pari Passu Ranking
		Section 7.10 Pari Passu Ranking	Section 8.10 Pari Passu Ranking	Section 7.10 Aggregate Exposure	Section 7.10 Transactions with Affiliates
		Section 7.11 Transactions with Affiliates	Section 8.11 Transactions with Affiliates	Section 7.11 Pari Passu Ranking	Section 7.11 Maintenance of Governmental Approvals
		Section 7.12 Maintenance of Governmental Approvals	Section 8.12 Maintenance of Governmental Approvals	Section 7.12 Transactions with Affiliates	Section 7.12 Inspection of Property
		Section 7.13 Inspection of Property	Section 8.13 Measurement Date	Section 7.13 Maintenance of Governmental Approvals	
		Section 7.14 Asset Sales	Section 8.14 Inspection of Property	Section 7.14 Measurement Date	
				Section 7.15 Inspection of Property	
		Section 8.02 Liens	Section 9.02 Liens	Section 8.02 Liens	Section 8.02 Liens
		Section 8.03 Consolidations and Mergers	Section 9.03 Consolidations and Mergers	Section 8.03 Consolidations and Mergers	Section 8.03 Consolidations and Mergers
		Section 8.04 Sales of Assets, Etc.	Section 9.04 Sales of Assets, Etc.	Section 8.04 Sales of Assets, Etc.	Section 8.04 Sales of Assets, Etc.
		Section 8.05 Change in Nature of Business	Section 9.05 Change in Nature of Business	Section 8.05 Change in Nature of Business	Section 8.05 Change in Nature of Business
		Section 8.06 Margin Regulations	Section 9.06 Margin Regulations	Section 8.06 Margin Regulations	Section 8.06 Margin regulations
		Section 8.07 Limitations on Indebtedness	Section 9.07 Limitations on Indebtedness	Section 8.07 Limitations on Indebtedness	Section 8.07 Limitations on Indebtedness
8.	Existing Illegality Clause	Section 3.09 Illegality	Section 4.10 Illegality	Section 3.09 Illegality	Section 3.06 Illegality
9.	Existing Information Undertakings	Section 7.01 Financial Reports and Other Information	Section 8.01 Financial Reports and Other Information	Section 7.01 Financial Reports and Other Information	Section 7.01 Financial Reports and Other Information
10.	Existing Mandatory Prepayment Provisions	Section 2.01 (h) Mandatory Prepayment	Section 9.04 Sales of Assets	Section 2.01 (h) Mandatory Prepayment	Section 8.04 Sales of Assets, etc.

	NY Joint Bilateral Facility	$700mm Facility	$1.2bn Facility	NSH Senior Unsecured Maturity Loan Facilities
	Section 8.04 Sales of Assets		Section 8.04 Sales of Assets	
	The second sentence of Section 2.01(i) Payments generally			
11. Existing Representations and Warranties	Section 5 Representations and Warranties of the Borrower	Section 6 Representations and Warranties of the Borrower	Section 5 Representations and Warranties of the Borrower	Section 5 Representations and Warranties of the Borrower
	Section 6 Representations and Guarantees of the Guarantors	Section 7 Representations and Guarantees of the Guarantors	Section 6 Representations and Guarantees of the Guarantors	Section 6 Representations and Guarantees of the Guarantors
12. Existing Sharing Provisions	Section 3.12 Sharing of Payments, Etc.	Section 4.13 Sharing of Payments, Etc.	Section 3.12 Sharing of Payments	Section 3.09 Sharing of Payments in connection with the Loans, Etc.
13. Existing Single Lender Repayment Clause	Section 3.11 Substitute Lenders	Section 4.12 Substitute Lenders	Section 3.11 Substitute Lenders	Section 3.08 Substitute Lenders
14. Existing Notification Requirements	Section 13.01 Notices	Section 15.01 Notices	Section 13.01 Notices	Section 13.01 Notices
	Section 7.02 Notice of Default and Litigation	Section 8.02 Notice of Default and Litigation	Section 7.02 Notice of Default and Litigation	Section 7.02 Notice of Default and Litigation
	Section 10.03 Notice of Default	Section 11.03 Notice of Default	Section 10.03 Notice of Default	Section 11.03 Notice of Default
15. Existing Optional Currency Provisions	No Existing Optional Currency Provisions	N/A	N/A	No Existing Optional Currency Provisions
16. Existing Guarantor Release Restriction Clause	The words “and irrevocably” in Section 9.01 (The Guaranty)	The words “and irrevocably” in Section 10.01 (The Guaranty)	The words “and irrevocably” in Section 9.01 (The Guaranty)	The words “and irrevocably” in Section 9.01 (The Guaranty)
	The phrase “remain in full force and effect… all Commitments have been terminated, and shall” in the first sentence of Section 9.02 (Nature of Liability)	The phrase “remain in full force and effect… all Commitments have been terminated, and shall” in the first sentence of Section 10.02 (Nature of Liability)	The phrase “remain in full force and effect… all Commitments have been terminated, and shall” in the first sentence of Section 9.02 (Nature of Liability)	The phrase “remain in full force and effect… all Commitments have been terminated, and shall” in the first sentence of Section 9.02 (Nature of Liability)
	The phrase “shall be unconditional, irrevocable and absolute and, without limiting the generality of the foregoing,” of the introductory clause to Section 9.03 (Unconditional Obligations)	The phrase “shall be unconditional, irrevocable and absolute and, without limiting the generality of the foregoing,” of the introductory clause to Section 10.03 (Unconditional Obligations)	The phrase “shall be unconditional, irrevocable and absolute and, without limiting the generality of the foregoing,” of the introductory clause to Section 9.03 (Unconditional Obligations)	The phrase “shall be unconditional, irrevocable and absolute and, without limiting the generality of the foregoing,” of the introductory clause to Section 9.03 (Unconditional Obligations)

NY Joint Bilateral Facility	$700mm Facility	$1.2bn Facility	NSH Senior Unsecured Maturity Loan Facilities
Section 10.01(n) Change of Ownership or Control	Section 10.10 General Limitation on Guaranty	Section 10.01(n) Change of Ownership or Control	Section 10.01(n) Events of Default: Change of Ownership or Control
Section 13.02(b)(iii)	Section 11.01(n) Events of Default: Change of Ownership or Control	Section 13.02(b)(v)	Section 13.02(b)(v) Amendments and Waivers
	Section 15.02(b)(vii) Amendments and Waivers		

Part 1B

Bilateral Bank Facilities

NEW YORK FACILITIES

		$500M Credit Facility	$37.5M BNPP Bilateral[1]	JPMC Bilateral[1]
1.	Existing Acceleration Clause	Section 10.02 Remedies	The remainder of Clause 16 (Events of Default), immediately following 16(p)	Clause 16(b) Acceleration
2.	Existing Change of Control Provisions	Section 10.01 (n) Change of Ownership or Control	Clause 16 (o) subsidiary	Clause 8.3 Change of Control
				Clause 16 (a)(x) Ownership of Borrower
3.	Existing Drawdown Conditions	None	Clause 4 Drawdown	Clause 13.3 Conditions precedent to Drawdown
			Clause 13.3 Conditions precedent to Drawdown	Clause 4 Principal Amounts and Drawdown
4.	Existing Events of Default	Section 10.01 Events of Default	Clause 16 (a) – (p) Events of Default	Clause 16 (a) Events of Default
5.	Existing Extension and Term Out Provisions	No Extension Option	Clause 8.2 Extension of Repayment Date	Clause 8.2 Extension of Repayment Date
6.	Existing Financial Covenants	Section 8.01 Financial Conditions	Clause 15.1 Financial Covenants	Guarantee Clause 5.1 Financial Covenants
			Guarantee Clause 5.1 Financial Covenants	
7.	Existing General Undertakings	Section 7.03 Compliance with Laws and Contractual Obligations, Etc.	Clause 15.2 General undertakings	Clause 15 Undertakings
			Clause 15.3 Negative Pledge	
		Section 7.04 Payment of Obligations	Clause 15.4 Term of undertakings	
		Section 7.05 Maintenance of Insurance		
		Section 7.06 Conduct of Business and Preservation of Corporate Existence		

[1] Unless otherwise indicated, provisions listed for the BNPP and JPMC Facilities are provisions in Schedule 1 of the Loan Facility Agreement for each Facility.

		$500M Credit Facility	$37.5M BNPP Bilateral[1]	JPMC Bilateral[1]
		Section 7.07 Books and Records		
		Section 7.08 Maintenance of Properties, Etc.		
		Section 7.09 Use of Proceeds		
		Section 7.10 Pari Passu Ranking		
		Section 7.11 Transactions with Affiliates		
		Section 7.12 Maintenance of Governmental Approvals		
		Section 7.13 Measurement Date		
		Section 7.14 Inspection of Property		
		Section 7.15 Payment of Bridge Facility		
		Section 8.02 Liens		
		Section 8.03 Consolidations and Mergers	Guarantee Clause 5.2 (d)-(j) General undertakings	Guarantee Clause 5.2 (d)-(i) General undertakings
		Section 8.04 Sales of Assets, Etc.	Guarantee Clause 5.3 Term of undertakings	Guarantee Clause 5.3 Negative Pledge, Financial Indebtedness and other undertakings
		Section 8.05 Change in Nature of Business		
		Section 8.06 Margin Regulations		
		Section 8.07 Limitation on Indebtedness		Guarantee Clause 5.4 Terms of Undertakings
8.	Existing Illegality Clause	Section 3.06 Illegality	Clause 12.6 Lender Illegality	Clause 12.6 Lender Illegality
			Clause 12.7 Borrower or Guarantor Illegality	Clause 12.7 Borrower or Guarantor Illegality
9.	Existing Information Undertakings	Section 7.01 Financial Reports and Other Information	Guarantee Clause 5.2 (a) Corporate reporting and information	Guarantee Clause 5.2(a) Financial Statements
			Guarantee Clause 5.2 (b) Accounting Principles	Guarantee Clause 5.2 (b) Compliance Certificate
			Guarantee Clause 5.2 (c) Compliance Certificate	Guarantee Clause 5.2 (c) Requirements as to financial statements
				Guarantee Clause 5.3(o) Information Undertaking
10.	Existing Mandatory Prepayment Provisions	Section 8.04 Sales of Assets, etc.	No Mandatory Prepayment	Clause 8.4 (b) Additional Repayments
				Guarantee Clause 5.3 (b) Disposal Proceeds

		$500M Credit Facility	$37.5M BNPP Bilateral[1]	JPMC Bilateral[1]
				Clause 8.5 Effect of Cancellation and Prepayment on Facility A Scheduled Repayments
11.	Existing Representations and Warranties	Section 5 Representations and Warranties of the Borrower	Clause 14 Representations and Warranties	Clause 14 Representations and Warranties
		Section 6 Representations and Warranties of the Guarantor	Guarantee Clause 4 Representations and Warranties	Guarantee Clause 4 Representations and Warranties
12.	Existing Sharing Provisions	No Sharing Provisions	No Sharing Provisions	No Sharing Provisions
13.	Existing Single Lender Repayment Clause	No Existing Single Lender Repayment Provisions	No Single Lender Repayment Provisions	No Single Lender Repayment Provisions
14.	Existing Optional Currency Provisions	No Optional Currency Provisions	No Optional Currency Provisions	No Optional Currency Provisions
15.	Existing Notification Requirements	Section 7.02 Notice of Default and Litigation	Clause 29 Notices	Clause 29 Notices
		Section 11.01 Notices	Guarantee Clause 14 Notices	Guarantee Clause 14 Notices
16.	Existing Guarantor Release Restriction Clause	The words “and irrevocably” in Section 9.01 (The Guaranty)		
		The phrase “remain in full force and effect… all Commitments have been terminated, and shall” in the first sentence of Section 9.02 (Nature of Liability)	Guarantee Clause 2.2 Unconditional nature of obligation	Clause 16 (a)(x) Ownership of Borrower
		The phrase “shall be unconditional, irrevocable and absolute and, without limiting the generality of the foregoing,” of the introductory clause to Section 9.03 (Unconditional Obligations)	Guarantee Clause 2.9 Continuing Guarantee	Guarantee Clause 2.2 Unconditional Obligations Guarantee Clause 2.9 Continuing Guarantee
		Section 10.01(n) Change of Ownership or Control	Guarantee Clause 2.10 Guarantee Clause 10.2	Guarantee Clause 2.10 Guarantee Clause 10.2

SCHEDULE 10

EXISTING FINANCIAL INDEBTEDNESS

Obligation	Type	Outstanding Principal Amounts (Notional for Equity Derivatives)	Obligor	Guarantor(s)	Bank Party	Security	Maturity	Security
Part I.A	**Public Debt Instruments**							
US$200,000,000 9.625% Indenture dated October 1, 1999	Public Debt Instrument	$ 61,516,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	October 1, 2009	
US$170,000,000 Rinker 2025 Indenture, dated 1 April 2003	Public Debt Instrument	$ 166,762,053	CEMEX Materials LLC	CEMEX Corp.		No	July 21, 2025	
€900,000,000 4.75% Eurobond dated 5 March 2007	Public Debt Instrument	€ 900,000,000	CEMEX Finance Europe B.V.	CEMEX España, S.A.		No	March 5, 2014	
NSHFV $900m Perpetual Debenture Indenture (C10) dated 18 December 2006	Public Debt Instrument	$ 900,000,000	New Sunward Holding Financial Ventures B.V.	CEMEX, S.A.B. de C.V.; CEMEX México, S.A. de C.V.; New Sunward Holding B.V.		No	Perpetual - but interest rate steps-up if not called on December 31, 2016	
NSHFV €730m Perpetual Debenture Indenture (C10-EUR) dated 9 May 2007	Public Debt Instrument	€ 730,000,000	New Sunward Holding Financial Ventures B.V.	CEMEX, S.A.B. de C.V.; CEMEX México, S.A. de C.V.; New Sunward Holding B.V.		No	Perpetual - but interest rate steps-up if not called on June 30, 2017	
£4,669,678 CEMEX UK Loan Notes, dated 1 March 2005	Public Debt Instrument	£ 3,458,020	CEMEX UK	CEMEX, S.A.B. de C.V.		No	December 31, 2009	
NSHFV US$350m Perpetual Debenture Indenture (C5) dated 18 December 2006	Public Debt Instrument	$ 350,000,000	New Sunward Holding Financial Ventures B.V.	CEMEX, S.A.B. de C.V.; CEMEX México, S.A. de C.V.; New Sunward Holding B.V.		No	Perpetual - but interest rate steps-up if not called on December 31, 2011	
NSHFV US$750m Perpetual Debenture Indenture (C8)† dated 12 February 2007	Public Debt Instrument	$ 750,000,000	New Sunward Holding Financial Ventures B.V.	CEMEX, S.A.B. de C.V.; CEMEX México, S.A. de C.V.; New Sunward Holding B.V.		No	Perpetual - but interest rate steps up if not called on December 31, 2014	

Obligation	Type	Outstanding Principal Amounts (Notional for Equity Derivatives)	Obligor	Guarantor(s)	Bank Party	Security	Maturity	Security
Part I.B	**Tax Exempt Bonds**							
Part I.C	**Mexican Public Debt Instruments**							
Programa de Certificados Bursátiles dated 11 August 2004 for up to Mex$ 5,000,000,000 (no further issuances can be made under this program, as it has matured)								
Certificado Bursátil CMX0001 05 Mex$ 1,500MM, dated 15 April 2005	Mexican Public Debt Instrument	Mex$ 1,500,000,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	April 9, 2012	
Programa Dual Revolvente de Certificados Bursátiles dated 14 March 2006 as amended for up to Mex$ 30,000,000,000 for short and long term issuances (and with a sublimit of Mex$ 2,500,000,000 in respect of short term issuances)								
Certificado Bursátil CEMEX 06 Mex $ 1,750MM, dated 17 March 2006	Mexican Public Debt Instrument	Mex$ 1,750,000,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	March 10, 2011	
Certificado Bursátil Mex $ 1,500MM CEMEX 06, dated 28 April 2006	Mexican Public Debt Instrument	Mex$ 1,500,000,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	March 10, 2011	
Certificado Bursátil CMX0002 06 Mex$ 750MM, dated 17 March 2006	Mexican Public Debt Instrument	Mex$ 750,000,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	March 10, 2011	
Certificado Bursátil Mex $ 2,500MM CEMEX 06-2, dated 29 September 2006	Mexican Public Debt Instrument	Mex$2,500,000,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	September 22, 2011	
Certificado Bursátil Mex$ 1,500MM CEMEX 06-2, dated 13 October 2006	Mexican Public Debt Instrument	Mex$ 1,500,000,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	September 22, 2011	
Certificado Bursátil Mex$ 2,950MM CEMEX 06-3, dated 15 December 2006	Mexican Public Debt Instrument	Mex$2,950,000,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	March 8, 2012	

Obligation	Type	Outstanding Principal Amounts (Notional for Equity Derivatives)		Obligor	Guarantor(s)	Bank Party	Security	Maturity	Security
Certificado Bursátil Mex$ 3,000MM CEMEX 07, dated 2 February 2007	Mexican Public Debt Instrument	Mex$	3,000,000,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	January 26, 2012	
Certificado Bursátil Mex$ 3,000MM CEMEX 07-2, dated 28 September 2007	Mexican Public Debt Instrument	Mex$	3,000,000,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	September 21, 2012	
Certificado Bursátil UDI 511.5896MM CEMEX 07U, dated 30 November 2007	Mexican Public Debt Instrument	UDI	511,598,600	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	November 26, 2010	
Certificado Bursátil UDI 116.5308MM CEMEX 07-2U, dated 30 November 2007	Mexican Public Debt Instrument	UDI	116,530,800	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	November 17, 2017	
Certificado Bursátil Mex$ 1,000MM CEMEX 08, dated 25 April 2008	Mexican Public Debt Instrument	Mex$	1,000,000,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	November 5, 2010	
Certificado Bursátil Mex$ 450.0459MM CEMEX 08-2, dated 11 December 2008	Mexican Public Debt Instrument	Mex$	450,045,900	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	September 15, 2011	
Certificado Bursátil UDI 124.8171MM CEMEX 08U, dated 11 December 2008	Mexican Public Debt Instrument	UDI	124,817,100	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.		No	September 15, 2011	
Part I.D	**Bilateral Bank Facilities**								
US$250,000,000 Crédito Simple Bancomext, dated 14 October 2008	Bilateral Bank Facility	$	250,000,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.	Banco Nacional de Comercio Exterior, S.N.C.	Yes	February 14, 2014.	Pledge of Cementos Chihuahua, S.A.B. de C.V. Shares[2] and Mortgage of Cement Plants in Mérida Yucatan and Ensenada, Baja California.

Obligation	Type	Outstanding Principal Amounts (Notional for Equity Derivatives)		Obligor	Guarantor(s)	Bank Party	Security	Maturity	Security
Mex$ 126,562,263.59 Crédito Santander Nota Estructurada, dated 17 April 2008	Bilateral Bank Facility	Mex$	126,562,264	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.	Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander	No	April 16, 2013	
US$ 8,000,000 Banco Industrial de Guatemala	Bilateral Bank Facility	$	8,000,000	Global Cement, S.A.	N/A	Banco Industrial, S.A.	No	June 15, 2014	
Kreissparkasse loan	Bilateral Bank Facility	€	1,078	CEMEX Kies Hamburg GmbH & Co. KG	N/A	Kreissparkasse Schwarzenbek	No	September 30, 2009	
Part II	**Short Term Certificados Bursatiles, working capital and other operating facilities**								
Part II.A	**Short Term Certificados Bursatiles**								
Programa Dual Revolvente de Certificados Bursátiles dated 14 March 2006 as amended for up to Mex$ 30,000,000,000 for short and long term issuances (and with a sublimit of Mex$ 2,500,000,000 in respect of short term issuances)									
Certificado Bursátil Corto Plazo ABN, dated August 6, 2009	Short Term Certificado Bursátil	Mex$	484,640,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.; Nacional Financiera S.N.C. Institución de Banca de Desarrollo		No	September 3, 2009	
Certificado Bursátil Corto Plazo ABN, dated July 23, 2009	Short Term Certificado Bursátil	Mex$	378,132,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.; Nacional Financiera S.N.C. Institución de Banca de Desarrollo		No	August 20, 2009	

[2] Currently in the process of cancelling the stock pledge.

Obligation	Type		Outstanding Principal Amounts (Notional for Equity Derivatives)	Obligor	Guarantor(s)	Bank Party	Security	Maturity	Security
Part II.B	**Bilateral Bank Facilities**								
US$150,000,000 Loan Facility Agreement between Australia and New Zealand Banking Group Limited and CEMEX Australia Pty Limited, dated 19 March, 2009 (as amended)	Bilateral Bank Facility	$	150,000,000	CEMEX Australia Pty Limited	CEMEX España, S.A.	Australia and New Zealand Banking Group Limited	No	The earlier of (i) October 31, 2010 and (ii) the Holcim sale.	
Mex$ 5,000,000,000 Crédito Banobras, dated 22 April 2009	Bilateral Bank Facility	Mex$	2,086,626,018	CEMEX Concretos, S.A. de C.V.	CEMEX México, S.A. de C.V.	Banco Nacional de Obras y Servicios Públicos, S.N.C.	Yes	April, 2014	Mortgage of Planta Yaqui in Hemosillo, Sonora
Caisse Régionale de Crédit Agricole Mutuel du Gard bank loan	Bilateral Bank Facility	€	292,685	CEMEX Granulats, S.A.	N/A	Caisse Régionale de Crédit Agricole Mutuel du Gard	No	February 29, 2012	
Mex$140,000,000 Crédito ABC Capital, dated 29 June 2009	Bilateral Bank Facility	Mex$	140,000,000	CEMEX México, S.A. de C.V.	N/A	ABC Capital, S.A. de C.V., SOFOM, E.N.R.	No	June 29, 2009	
€18,000,000 Bankinter Multidivisa Bilateral Loan Agreement, dated 21 December 2004 (multicurrency)	Bilateral Bank Facility	$ €	14,345,624 1,177,316	CEMEX España, S.A.	N/A	Bankinter, S.A.	No	March 6, 2010 Annual Maturity	
US$ 29,000,000 Promissory Note Commerce Bank, dated June 30, 2009	Bilateral Bank Facility	$	15,000,000	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; CEMEX Concretos, S.A. de C.V.	Mercantil Commercebank, N.A.	No	September 22, 2009	
US$30,000,000 Credit Agreement, dated 31 August 2005 (as amended)	Bilateral Bank Facility	$	30,000,000	CEMEX de Puerto Rico, Inc.	N/A	Banco Bilbao Vizcaya Argentaria Puerto Rico	No	August 31, 2009	
CZK 2,810,000 bilateral line due 31 December 2009	Bilateral Bank Facility	CZK	2,810,000	CEMEX Czech Republic k.s.	N/A	Unicredit S.P.A.	No	December 31, 2009	
DOP 150,000,000 Promissory Note Banco Popular, dated 18 December 2008	Bilateral Bank Facility	DOP	150,000,000	CEMEX Dominicana, S.A.	N/A	Banco Popular Dominicano, C. por A.	No	February 15, 2010	
DOP 150,000,000 Promissory Note Banco Popular, dated 18 December 2008	Bilateral Bank Facility	DOP	150,000,000	CEMEX Dominicana, S.A.	N/A	Banco Popular Dominicano, C. por A.	No	February 15, 2010	

Obligation	Type	Outstanding Principal Amounts (Notional for Equity Derivatives)		Obligor	Guarantor(s)	Bank Party	Security	Maturity	Security
DOP 245,000,000 Promissory Note Banco Leon, dated 17 December 2008	Bilateral Bank Facility	DOP	245,000,000	CEMEX Dominicana, S.A.	N/A	Banco Múltiple León, S.A.	No	July 31, 2009	
DOP 250,000,000 Promissory Note BHD, dated 12 February 2009	Bilateral Bank Facility	DOP	250,000,000	CEMEX Dominicana, S.A.	N/A	Banco BHD, S.A. Banco Multiple	No	February 17, 2010 February 18, 2010	
COP 20,000,000,000 Promissory Note - BBVA, dated 4 November 2008	Bilateral Bank Facility	COP	18,000,000,000	CEMEX Colombia, S.A.	N/A	Banco Bilbao Vizcaya Argentaria, S.A.	No	July 29, 2009	
COP 25,000,000,000 Promissory Note Banco de Bogota, dated May 11, 2009	Bilateral Bank Facility	COP	25,000,000,000	CEMEX Colombia, S.A.	N/A	Banco de Bogotá	No	August 10, 2009	
COP 15,000,000,000 Promissory Note Banco de Occidente, dated 31 October 2008	Bilateral Bank Facility	COP	15,000,000,000	CEMEX Colombia, S.A.	N/A	Banco de Occidente	No	July 21, 2009	
COP 15,000,000,000 Promissory Note Banco de Occidente, dated 31 October 2008	Bilateral Bank Facility	COP	15,000,000,000	CEMEX Colombia, S.A.	N/A	Banco de Occidente	No	July 28, 2009	
COP 10,350,000,000 Promissory Note Banco de Credito, dated 17 July 2007	Bilateral Bank Facility	COP	10,350,000,000	CEMEX Colombia, S.A.	N/A	Banco de Crédito	No	July 27, 2009	
COP 10,350,000,000 Promissory Note Banco de Credito, dated 17 July 2007	Bilateral Bank Facility	COP	10,350,000,000	CEMEX Colombia, S.A.	N/A	Banco de Crédito	No	July 27, 2009	
US$4,000,000 Promissory Note Philippines Banco de Oro, dated 24 March 2008	Bilateral Bank Facility	$	4,000,000	APO Cement Corporation	N/A	Banco de Oro Unibank, Inc.	No	August 18, 2009	
US$4,000,000 Promissory Note Philippines Banco de Oro, dated 24 March 2008	Bilateral Bank Facility	$	4,000,000	Solid Cement Corporation	N/A	Banco de Oro Unibank, Inc.	No	August 18, 2009	

Obligation	Type	Outstanding Principal Amounts (Notional for Equity Derivatives)		Obligor	Guarantor(s)	Bank Party	Security	Maturity	Security
Part II.C	**Overdrafts**								
£30,000,000 Overdraft UK - RBS	Overdraft	£	26,589,774	CEMEX Investments Limited	N/A	National Westminster Bank plc	No	September 3, 2009	
€20,000,000 Credit Line France - BNP Paribas, dated 13 March 2009	Overdraft	€	20,000,000	CEMEX France Services (GIE)	N/A	BNP Paribas	No	July 31, 2009	
€3,000,000 BNP Paribas	Overdraft	€	1,965,000	CEMEX France Services (GIE)	N/A	BNP Paribas		Overdraft	
€16,000,000 Credit Line France - Societe Generale, dated 2 March 2009	Overdraft	€	16,000,000	CEMEX France Services (GIE)	N/A	Société Générale	No	August 6, 2009	
€8,000,000 Societe Generale Overdraft	Overdraft	€	967,000	CEMEX France Services (GIE)	N/A	Société Générale	No	Overdraft	
Mex$ 170,000,000 Overdraft (CEMEX México)	Overdraft	Mex$	0	CEMEX México, S.A. de C.V.	N/A	HSBC México, S.A., Institución de Banca Multiple, Grupo Financiero HSBC	No	Overdraft	
Mex$ 5,000,000 Overdraft (Empresas Tolteca)	Overdraft	Mex$	0	Empresas Toltecas de México, S.A. de C.V.	N/A	HSBC México, S.A., Institución de Banca Multiple, Grupo Financiero HSBC	No	Overdraft	
Mex$ 5,000,000 Overdraft (Petrocemex)	Overdraft	Mex$	0	Petrocemex, S.A. de C.V.	N/A	HSBC México, S.A., Institución de Banca Multiple, Grupo Financiero HSBC	No	Overdraft	
HUF 1,000,000,000 Overdraft line Hungary with Raiffeisen Bank	Overdraft	HUF	357,295,913	CEMEX Hungaria Epitoanyagok Kft	N/A	Raiffeisen Bank Zrt.	No	Overdraft	
€2,000,000 BRED (France)	Overdraft	€	933,000	CEMEX France Services (GIE)	N/A	BRED Banque Populaire	No	Overdraft	
ISL 50,000,000 (Israel)	Overdraft	ISL	0	ReadyMix Industries (Israel) LTD	N/A	First International Bank of Israel, Ltd.	No	Overdraft	
PLN 5,000,000 (Poland)	Overdraft	PLN	0	CEMEX Polska Sp. Z.o.o.	N/A	ING Bank Slaski S.A.	No	Overdraft	

Obligation	Type	Outstanding Principal Amounts (Notional for Equity Derivatives)		Obligor	Guarantor(s)	Bank Party	Security	Maturity	Security
AED 7,346,000 (UAE)	Overdraft	AED	0	CEMEX Topmix LLC	N/A	Standard Chartered Bank Dubai	No	Overdraft	
AED 17,000,000 (UAE)	Overdraft	AED	2,932,843.44	CEMEX Topmix LLC	N/A	HSBC Bank Middle East Limited	No	Overdraft	
EGP 13,155,443 (Egypt)	Overdraft	EGP	2,488,576	Assuit Cement Co. And CEMEX Ready Mix Co.	N/A	Citibank Egypt N.A.	No	Overdraft	
EGP 25,000,000 (Egypt)	Overdraft	EGP	11,825,439	Assiut Cement Co.	N/A	MISR Bank	No	Overdraft	
EGP 22,828,525 (Egypt)	Overdraft	EGP	0	Assuit Cement Co. And CEMEX Ready Mix Co.	N/A	HSBC Bank Egypt S.A.E	No	Overdraft	
€5,000,000 (Austria)	Overdraft	€	0	CEMEX Austria AG	N/A	Investkredit ank AG	No	Overdraft	
CZK 15,000,000	Overdraft	CZK	0	CEMEX Czech Republic k.s.	N/A	UniCredit Bank Czech Republic, a.s.	No	Overdraft	
$500,000 (CEMEX NI Ltd)	Overdraft	$	0	CEMEX (NI) Ltd	N/A	Ulster Bank plc (RBS)	No	September 4, 2009	
£500,000 (CEMEX Island Aggs)	Overdraft	£	0	CEMEX Island Aggregates Ltd	N/A	Natwest Offshore Bank plc (RBS)	No	September 3, 2009	
£500,000 (Island Barn Aggs)	Overdraft	£	0	Island Barn Aggregates Limited	N/A	National Westminster Bank plc (RBS)	No	July 31, 2009	
£125,000 (Mersey Sand)	Overdraft	£	0	Mersey Sand Suppliers Limited	N/A	National Westminster Bank plc (RBS)	No	July 31, 2009	
£250,000 (Brett Hall Aggs)	Overdraft	£	0	Brett Hall Aggregates Limited	N/A	National Westminster Bank plc (RBS)	No	September 4, 2009	
£250,000 (Humber Sand)	Overdraft	£	0	Humber Sand and Gravel Limited	N/A	National Westminster Bank plc (RBS)	No	July 31, 2009	
£250,000 (CEMEX Readymix East Anglia)	Overdraft	£	0	CEMEX Readymix East Anglia Limited	N/A	National Westminster Bank plc (RBS)	No	September 4, 2009	
Part III	Capital Leases								
£5,502,047 ING Lease Agreement, dated 21 December 1998	Capital Lease	£	4,584,786	CEMEX Investments Limited	N/A	ING Bank. N.V	No	December 31, 2009	

Obligation	Type	Outstanding Principal Amounts (Notional for Equity Derivatives)		Obligor	Guarantor(s)	Bank Party	Security	Maturity	Security
£2,839,850 ING Lease Agreement, dated 21 December 1998	Capital Lease	£	1,986,986	CEMEX Investments Limited	N/A	ING Bank. N.V	No	December 1, 2010	
£1,588,896 Lloyds Lease Agreement, dated 26 June 2006	Capital Lease	£	1,588,896	CEMEX Investments Limited	N/A	Lloyds TSB	No	December 31, 2014	
Leasing Agreement by and between Slibail Immobilier and Morrillon Corvol Rhone Mediterranee dated July 24, 2000.	Capital Lease	€	557,590	CEMEX Granulats Rhone-Mediterranee	N/A	Slibail Immobilier	No		
Asset Finance Leasing	Capital Lease	£	10,645,528	CEMEX UK	N/A	HSBC Bank plc	No		
Equipment leasing	Capital Lease	PLN	4,817,253	RMC Beton Slask Sp. Z.o.o.	N/A	SG Equipment Leasing Polska Sp. z o.o	No		
Bankowy Funduzs Leasingowy S.A.	Capital Lease	PLN	40,774	RMC Beton Slask Sp. Z.o.o.	N/A	Bankowy Funduzs Leasingowy S.A.	No		
Financial Leasing between CEMEX Sand, s.r.o. and Impulse Leasing Austria dated March 2008	Capital Lease	CZK	1,104,000	CEMEX Sand, s.r.o	N/A	Impulse Leasing Austria s.r.o.	No		
Leasing agreement on movables entered by and between Raiffeisen-Leasing Mobilien und KFZ GmbH and Trans-Beton Ges.m.b.H. dated March 31, 2004.	Capital Lease	€	2,287,699	Transbeton Lieferbeton Gesellschaft m.b.H.	N/A	Raiffeisenbank Bruck an der Mur eg. Gen.	No		
Financial Leases	Capital Lease	€	540,258	Denis Tarrant and Sons Limited	N/A	National Irish Asset Finance Limited	No		
Financial Leases	Capital Lease	$	7,365,755	CEMEX Construction Materials Pacific LLC	N/A	Wells Fargo Leasing Corporation	No		

Obligation	Type	Outstanding Principal Amounts (Notional for Equity Derivatives)		Obligor	Guarantor(s)	Bank Party	Security	Maturity	Security
Part IV	**Inventory financing and factoring arrangements**								
Part IV.A	Inventory Financing								
Mex$ 327,724,470 AFIRME Servicio de Comercialización 45,000 toneladas, dated 11 March 2009	Inventory Financing	Mex$	305,876,172	CEMEX México, S.A. de C.V.	N/A	Almacenadora Afirme, S.A. de C.V.	No	November 18, 2010	
Part IV.B	**Factoring arrangements**								
€ 20,000,000 Contrato de Factoring (non-recourse factoring agreement)	Factoring arrangement	€	9,626,000	CEMEX España, S.A., Hormicemex, S.A. & Aricemex, S.A.	N/A	BBVA Factoring E.F.C. , S.A.	No		
€ 21,530,000 Contrato de Factoring (non-recourse factoring agreement)	Factoring arrangement	€	4,411,000	CEMEX España, S.A., Hormicemex, S.A. & Aricemex, S.A.	N/A	Banco de Sabadell, S.A.	No		

SCHEDULE 11

Part I

Form of Resignation Letter

To: [•] as Administrative Agent

And to: [•] as Security Agent

From: [resigning Obligor] and [Parent]

Dated:

Dear Sirs

[Parent] - Financing Agreement
dated [•] (the "Financing Agreement")

1. We refer to the Financing Agreement. This is a Resignation Letter. Terms defined in the Financing Agreement have the same meaning in this Resignation Letter unless given a different meaning in this Resignation Letter.

2. Pursuant to [Clause 28.2 (*Resignation of a Borrower*)]/[Clause 28.4 (*Resignation of a Guarantor*)]/[Clause 28.6 (*Resignation of a Security Provider*)] of the Financing Agreement, we request that [resigning Obligor] be released from its obligations and liabilities as a [Borrower]/[Guarantor]/[Security Provider] under the Financing Agreement and the Finance Documents and shall have no further rights, liabilities or obligations under the Finance Documents as a [Borrower]/[Guarantor]/[Security Provider] [except that the resignation shall not take effect (and the Borrower will continue to have rights and obligations under the Finance Documents) until the later of (i) the date on which the Third Party Disposal takes effect; and (ii) the date on which the Borrower ceases to be a borrower and/or guarantor under the Existing Finance Documents.]

3. We confirm that:

   (a) no Default is continuing or would result from the acceptance of this request; and

   (b) *[this request is given in relation to a Third Party Disposal of [*resigning Obligor*];]

   (c) [the Disposal Proceeds have been or will be applied in accordance with Clause 13 (*Mandatory prepayment*) of the Financing Agreement.

   (d) [•]**

4. This Resignation Letter and any non-contractual obligations arising out of or in connection with it are governed by English law.

5. The Parent agrees to indemnify the Finance Parties and Secured Parties for any costs, expenses, or liabilities which are reasonably incurred and which would have been payable by [resigning Obligor] in connection with the Finance Documents but for the release set out in paragraph 2 above.

[Parent]	[resigning Obligor]
By:	By:

NOTES:

* Insert where resignation only permitted in case of a Third Party Disposal.

** Insert any other conditions required by the Financing Agreement.

Part II

Form of Resignation Letter (Australia)

To: [•] as Administrative Agent

From: [resigning Obligor] and [Parent]

Dated:

Dear Sirs

[Parent]—Financing Agreement
dated [•] (the "Financing Agreement")

1. We refer to the Financing Agreement. This is a Resignation Letter (Australia). Terms defined in the Financing Agreement have the same meaning in this Resignation Letter (Australia) unless given a different meaning in this Resignation Letter (Australia).

2. Pursuant to Clause 28.5 (*Release of CEMEX Australia Holdings*) of the Financing Agreement, we request that CEMEX Australia Holdings be released from its obligations and liabilities as a Guarantor under the Financing Agreement and the Finance Documents and shall have no further rights, liabilities or obligations under the Finance Documents as an Obligor.

3. We confirm that:

   (a) pursuant to the terms of a share purchase agreement dated on or about 15 June 2009 under which CEMEX España agreed to transfer all the issued share capital it holds in CEMEX Australia Holdings to Vennor Investments Pty Ltd (the "**SPA**"), all of the conditions precedent referred to in the SPA, other than the release of CEMEX Australia Holdings as a Guarantor under this Agreement, have been satisfied or waived and the SPA shall promptly after the release of CEMEX Australia Holdings, complete in accordance with the terms of the SPA on or before 31 December 2009; and

   (b) the Parent shall procure that, if so required, the Disposal Proceeds from the sale of all the issued share capital in CEMEX Australia Holdings will be applied in accordance with Clause 13 (*Mandatory prepayment*).

4. This Resignation Letter (Australia) and any non-contractual obligations arising out of or in connection with it are governed by English law.

5. The Parent agrees to indemnify the Finance Parties and Secured Parties for any costs, expenses, or liabilities which are reasonably incurred and which would have been payable by CEMEX Australia Holdings in connection with the Finance Documents but for the release set out in paragraph 2 above.

[Parent]	CEMEX Australia Holdings Pty Limited
By:	By:

SCHEDULE 12

PERMITTED JOINT VENTURES

Name	Investment (U.S. Dollars)	Country
Cement Australia Pty Ltd	$ 184,153,486	Australia
Ready Mix USA LLC	$179,639,365	USA
CEMEX Southeast LLC	$ 353,695,464	USA
Control Administrativo Mexicano, S.A. de C.V.	$ 339,336,648	México

SCHEDULE 13

CONFIDENTIALITY UNDERTAKING

[Letterhead of Potential Purchaser]

To: [*Insert name of Seller*]

From: [*Insert name of Potential Purchaser*]

Dated:

Dear Sirs

CEMEX – Financing Agreement
dated [•] 2009 ("Financing Agreement")

We are considering acquiring an interest in the Financing Agreement which, subject to the terms of the Financing Agreement, may be by way of novation, assignment, the entering into, whether directly or indirectly, of a sub-participation or any other similar transaction under which payments are to be made or may be made by reference to one or more relevant Finance Documents and/or one or more relevant Obligors or by way of investing in or otherwise financing, directly or indirectly, any such novation, assignment, sub-participation or other similar transaction (each, an " **Acquisition**"). In consideration of you agreeing to make available to us certain information in relation to each Acquisition, by our signature of this letter we agree as follows (acknowledged and agreed by you by your signature of a copy of this letter):

1. **Confidentiality Undertaking**

   We undertake in relation to each Acquisition whether completed or not, (a) to keep all Confidential Information confidential and not to disclose it to anyone, save to the extent permitted by paragraph 2 below and to ensure that all Confidential Information is protected with security measures and a degree of care that would apply to our own confidential information, (b) until that Acquisition is completed, to use the Confidential Information only for the Permitted Purpose, (c) to keep confidential and not disclose to anyone except as provided for by paragraph 2 below the fact that the Confidential Information has been made available or that discussions or negotiations are taking place or have taken place between us in connection with the Facilities, and (d) to use all reasonable endeavours to ensure that any person to whom we pass any Confidential Information (unless disclosed under paragraph 2 below) acknowledges and complies with the provisions of this letter as if that person were also a party to it.

2. **Permitted Disclosure**

You agree that we may disclose:

2.1 to any of our Affiliates and any of our or their officers, directors, employees, professional advisers and auditors such Confidential Information as we shall consider appropriate if any person to whom the Confidential Information is to be given pursuant to this paragraph 2.1 is informed in writing of its confidential nature and that some or all of such Confidential Information may be price-sensitive information, except that there shall be no such requirement to so inform if the recipient is subject to professional obligations to maintain the confidentiality of the information or is otherwise bound by requirements of confidentiality in relation to the Confidential Information;

2.2 subject to the requirements of the Financing Agreement, to any person:

(a) to (or through) whom we assign or transfer (or may potentially assign or transfer) all or any of our rights and/or obligations which we may acquire under the Financing Agreement such Confidential Information as we shall consider appropriate if the person to whom the Confidential Information is to be given pursuant to this sub-paragraph (a) of paragraph 2.2 has delivered a letter to you materially in equivalent form to this letter;

(b) with (or through) whom we enter into (or may potentially enter into) any sub-participation in relation to, or any other transaction under which payments are to be made or may be made by reference to the Financing Agreement in relation to that Acquisition or any Obligor such Confidential Information as we shall consider appropriate if the person to whom the Confidential Information is to be given pursuant to this sub-paragraph (b) of paragraph 2.2 has delivered a letter to you in materially equivalent form to this letter;

(c) to whom information is required or requested to be disclosed by any governmental, banking, taxation or other regulatory authority or similar body, the rules of any recognised stock exchange or pursuant to any applicable law or regulation such Confidential Information as we shall consider appropriate; and

2.3 notwithstanding paragraphs 2.1 and 2.2. above, Confidential Information to such persons to whom, and on the same terms as, a Finance Party is permitted to disclose Confidential Information under the Financing Agreement to which that Acquisition relates, as if such permissions were set out in full in this letter and as if references in those permissions to Finance Party were references to us for the purposes of that Acquisition.

3. **Notification of Disclosure**

We agree in relation to each Acquisition (whether completed or not), (to the extent permitted by law and regulation) to inform you:

3.1 of the circumstances of any disclosure of Confidential Information made pursuant to sub-paragraph (c) of paragraph 2.2 above except where such disclosure is made to any of the persons referred to in that paragraph during the ordinary course of its supervisory or regulatory function; and

3.2 upon becoming aware that Confidential Information has been disclosed in breach of this letter.

4. **Return of Copies**

If we do not enter into or complete the Acquisition and you so request in writing, we shall return all Confidential Information supplied by you to us in relation to that Acquisition and destroy or permanently erase (to the extent technically practicable) all copies of Confidential Information made by us and use all reasonable endeavours to ensure that anyone to whom we have supplied any Confidential Information destroys or permanently erases (to the extent technically practicable) such Confidential Information and any copies made by them, in each case save to the extent that we or the recipients are required to retain any such Confidential Information by any applicable law, rule or regulation or by any competent judicial, governmental, supervisory or regulatory body or in accordance with internal policy, or where the Confidential Information has been disclosed under sub-paragraph (c) of paragraph 2.2 above.

5. **Continuing Obligations**

The obligations in this letter are continuing and, in particular, shall survive and remain binding on us in relation to each Acquisition (whether completed or not) until (a) if we acquire an interest in the Financing Agreement by way of novation, the date on which we acquire such an interest; (b) if we enter into the Acquisition other than by way of novation, the date falling twelve months after termination of that Acquisition; or in any other case twelve months after the date at which we have returned all Confidential Information supplied by you to us and destroyed or permanently erased (to the extent technically practicable) all copies of Confidential Information made by us (other than any such Confidential Information or copies which have been disclosed under paragraph 2 above (other than paragraph 2(a) or which, pursuant to paragraph 4 above, are not required to be returned or destroyed).

6. **No Representation; Consequences of Breach, etc**

We acknowledge and agree that:

6.1 neither you, nor any member of the Group nor any of your or their respective officers, employees or advisers (each a " **Relevant Person**") (i) make any representation or warranty, express or implied, as to, or assume any responsibility for, the accuracy, reliability or completeness of any of the Confidential Information or any other information supplied by you in relation to the Acquisition or the assumptions on which it is based or (ii) shall be under any obligation to update or correct any inaccuracy in the Confidential Information or any other information supplied by you in relation to the Acquisition or be otherwise liable to us or any other person in respect of the Confidential Information or any such information; and

6.2 you or members of the Group may be irreparably harmed by the breach of the terms of this letter and damages may not be an adequate remedy; each Relevant Person may be granted an injunction or specific performance for any threatened or actual breach of the provisions of this letter by us.

7. **Entire Agreement: No Waiver; Amendments, etc.**

7.1 This letter constitutes the entire agreement between us in relation to our obligations regarding Confidential Information and supersedes any previous agreement, whether express or implied, regarding Confidential Information.

7.2 No failure or delay in exercising any right or remedy under this letter will operate as a waiver thereof nor will any single or partial exercise of any right or remedy preclude any further exercise thereof or the exercise of any other right or remedy under this letter.

7.3 The terms of this letter and our obligations under this letter may only be amended or modified by written agreement between the parties and the Parent.

8. **Inside Information**

We acknowledge that some or all of the Confidential Information is or may be price-sensitive information and that the use of such information may be regulated or prohibited by applicable legislation including securities law relating to insider dealing and market abuse and we undertake not to use any Confidential Information for any unlawful purpose.

9. **Nature of Undertakings**

The undertakings given by us under this letter are given to you and are also given for the benefit of the Parent and each other member of the Group.

10. **Third Party Rights**

10.1 Subject to this paragraph 10 and to paragraphs 6 and 9, a person who is not a party to this letter has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Act**") to enforce or to enjoy the benefit of any term of this letter.

10.2 The Relevant Persons may enjoy the benefit of the terms of paragraphs 6 and 9 subject to and in accordance with this paragraph 10 and the provisions of the Third Parties Act.

10.3 Notwithstanding any provisions of this letter, the parties to this letter do not require the consent of any Relevant Person (other than the Parent) to rescind or vary this letter at any time.

11. **Governing Law and Jurisdiction**

11.1 This letter (including the agreement constituted by your acknowledgement of its terms) (the " **Letter**") and any non-contractual obligations arising out of or in connection with it (including any non-contractual obligations arising out of the negotiation of the transaction contemplated by this Letter) are governed by English law.

11.2 The courts of England have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Letter (including a dispute relating to any non-contractual obligation arising out of or in connection with either this Letter or the negotiation of the transaction contemplated by this Letter).

12. **Definitions**

In this letter (including the acknowledgement set out below) terms defined in the Agreement shall, unless the context otherwise requires, have the same meaning and:

"**Confidential Information**" means in relation to each Acquisition, all information relating to the Parent, any Obligor, the Group, the Finance Documents, the Facilities and/or the Acquisition which is provided to us in relation to the Finance Documents or the Facilities by you or any of your affiliates or advisers, in whatever form, and includes information given orally and any document, electronic file or any other way of representing or recording information which contains or is derived or copied from such information but excludes information that:

(a) is or becomes public information other than as a direct or indirect result of any breach by us of this letter; or

(b) is identified in writing at the time of delivery as non-confidential by you or your advisers; or

(c) is known by us before the date the information is disclosed to us by you or any of your affiliates or advisers or is lawfully obtained by us after that date, from a source which is, as far as we are aware, unconnected with the Group and which, in either case, as far as we are aware, has not been obtained in breach of, and is not otherwise subject to, any obligation of confidentiality.

"**Group**" means the Parent and each of its subsidiaries for the time being.

"**Permitted Purpose**" means considering and evaluating whether to enter into and complete the Acquisition.

Please acknowledge your agreement to the above by signing and returning the enclosed copy of this letter.

Yours faithfully

For and on behalf of
[Potential Purchaser]

To: *[Potential Purchaser]*

We acknowledge and agree to the above:

For and on behalf of

[Seller]

SCHEDULE 14

DISPOSALS

1. *Australia Piece of Land*. Sale of Land process agreement dated 18 June 2009 between Cockburn Cement Limited, Fifth Lettuce Pty Limited, Rugby Holdings Pty Limited, Adelaide Brighton Limited and CEMEX Australia Pty Limited, pursuant to which Fifth Lettuce Pty Limited (a CEMEX group company) has the rights to receive 90% of the net proceeds from the sale of a piece of land in Australia owned by Cockburn Cement Limited in exchange for Fifth Lettuce Pty Limited relinquishing its rights under a Development Deed signed in 1999 between Cockburn Cement Limited and Fifth Lettuce Pty Limited. The estimated sale price of the piece of land is between AUD60,000,000 and AUD80,000,000.

2. *UK Rail Business*. Confidentiality Agreement dated 24 June 2009, and Exclusivity Agreement to be dated either July or August 2009 (currently circulating for signature) entered into between Leonhard Moll Betonwerke and CEMEX UK Operations Limited pursuant to which Leonhard Moll Betonwerke is to purchase CEMEX UK Operation Limited's rail business in the form of an asset sale subject to the completion of a satisfactory due diligence by Leonhard Moll Betonwerke and a final agreement on the sale terms. The closing of the transaction could take place during the fourth quarter of 2009. The estimated sale price is between £20,000,000 and £25,000,000.

3. *Rugby and South Ferriby MBT Plants*. Memorandum of Understanding to be dated as of July or August 2009 (currently circulating for signature) pursuant to which, (i) in relation to the Rugby Plant, a Joint Venture between Waste Recycling Group Limited and CEMEX UK would be created under which CEMEX UK Operations Limited (or any affiliate) will sell property preliminary valued at £10,000,000 in exchange for £5,500,000 in cash and equity in the Joint Venture equivalent to £4,500,000. The Joint Venture is to build a MBT plant for an expected total invest of £65,000,000; and, (ii) in relation to the South Ferriby Plant, a Joint Venture between Waste Recycling Group Limited and CEMEX UK would also be created under which CEMEX UK Operations Limited (or any affiliate) will sell property at a value to be determined in exchange for cash and equity (also to be determined) in the Joint Venture. The Joint Venture is to build a MBT plant for a total investment of over US$10,000,000. The exact values are still unknown as site visits are still taking place and engineering plans are still being reviewed.

4. *Ready Mix USA*. Limited Liability Company Agreement and related asset contribution agreement dated approximately 1 July, 2005, between CEMEX, Inc. and Ready Mix USA pursuant to which two jointly-owned limited liability companies, CEMEX Southeast, LLC, a cement company, and Ready Mix USA, LLC, a ready-mix concrete company, were created to serve the construction materials market in the southeast region of the United States. CEMEX, Inc. (through its affiliates) owns a 50.01% interest, and Ready Mix USA

owns a 49.99% interest, in the profits and losses and voting rights of CEMEX Southeast, LLC, while Ready Mix USA owns a 50.01% interest, and CEMEX, Inc. (through its affiliates) owns a 49.99% interest, in the profits and losses and voting rights of Ready Mix USA, LLC. CEMEX Southeast, LLC is managed by CEMEX, Inc. (through its affiliates), and Ready Mix USA, LLC is managed by Ready Mix USA. Under the Ready Mix USA, LLC agreements, CEMEX, Inc. (through its affiliates) is required to contribute to the Ready Mix USA joint venture any ready-mix concrete and concrete block assets CEMEX, Inc. (through its affiliates) acquires inside the joint venture region, while any aggregates assets acquired inside the region may be added at the option of the non-acquiring member. The value of the contributed assets is to be determined by the board within 30 days of the asset acquisition, and is based on a formula based on the last fiscal year earnings of the assets. The non-acquiring member has 30 days to elect the financing method for the contributed assets following board approval of the valuation, and if no option is elected within 30 days the right to select the option is transferred to the contributing member. Following the financing election, the contribution or sale of the assets must be completed within 180 days. If not completed within that period, the non-acquiring member has the right for 365 days to require the ready-mix concrete and concrete block assets to be sold to a third party. Aggregates assets may be retained by the acquiring member if the non-acquiring member elects not to have the aggregates assets contributed. The expectation is that the value of this disposal will be more than US$10,000,000.

5. *CER's*. Disposal of Certificates of Emission Reductions ("**CERs**") by CEMEX International Finance Company ("**CIFCO**") under a Emission Reduction Purchase Agreement ("**ERPA**") entered by and between CIFCO and Gazprom Marketing & Trading Limited ("**Gazprom**") under the ERPA CIFCO agreed to sell and transfer 1 million CERs to Gazprom on or before 29 November 2012 at a value of Euros €19,7775 per CER.

6. *CEMEX Australia-HOLCIM*. Share purchase agreement dated on or about 15 June 2009 under which CEMEX España, S.A. agreed to transfer all the issued share capital it holds in CEMEX Australia Holdings Pty Limited to Vennor Investments Pty Limited (the "**SPA**") (a HOLCIM group company) for approximately AUD2.02 billion, subject to fulfillment of various closing conditions, including confirmatory due diligence, regulatory approvals and funds from buyer financing being disbursed, among others.

SCHEDULE 15

HEDGING PARAMETERS

1. No Obligor will (and the Parent will procure that no members of the Group will) engage in any Treasury Transaction, other than a Permitted Treasury Transaction in accordance with this Hedging Parameters Schedule. A "**Permitted Treasury Transaction**" means:

   (a) any Treasury Transaction that is an Excluded Position;

   (b) any Treasury Transaction entered into, sold or purchased at arm's length and in compliance with all applicable laws, rules and regulations, with respect to which all parties and credit support providers are members of the Group (each, a " **Permitted Intercompany Treasury Transaction**"); or

   (c) any Treasury Transaction entered into, sold or purchased at then prevailing market rates and not for speculative purposes that is solely an interest rate, currency or commodity derivative (or a combination thereof) entered into between members of the Group and Participating Creditors or that is a Permitted Non-Bank Commodity Contract or a Permitted Compensation Plan Hedging Transaction, in each case (i) for the purpose of managing a specific risk associated with an asset, liability, income or expense owned, incurred, earned or made or reasonably likely to be owned, incurred, earned or made by a member of the Group and (ii) in its ordinary course of business (each, a " **Permitted Exposure Hedge**").

   Where: "**Excluded Position**" means each of the positions set forth in Annex 1 hereto as in effect on March 24, 2009 and, with respect to the positions specified in paragraphs (c) and (d) of Annex 1, any replacements, amendments or renewals thereof that are entered into on then prevailing market terms with the underlying amounts not greater than the original underlying amounts. " **Permitted Non-Bank Commodity Contract** " means any commodity contract or agreement with respect to which all parties and credit support providers are not financial institutions and any agreement incidental thereto. "**Commodity**" means raw materials and other inputs used in the Group's operations, energy, water, electric power, electric power capacity, generation capacity, power, heat rate, congestion, diesel fuel, fuel oil, other petroleum-based liquids or fuels, coal, commodity transportation, urea, financial transmission rights, emissions and other environmental credits, allowances or offsets, renewable energy credits, Certified Emission Reductions, European Union Allowances, natural gas, nuclear fuel and waste products or by-products thereof or other such tangible or intangible commodity of similar type or description. "**Permitted Compensation Plan Hedging Transaction"** means (a) an equity forward purchase transaction entered into with a Participating Creditor or an equity call option purchased from a Participating Creditor that hedges the Parent or any Obligor's obligations under an Executive Compensation Plan permitted by this Agreement, or (b) an agreement that

requires a Participating Creditor to make payments or deliveries that are otherwise required to be made by the Parent or any Obligor under an Executive Compensation Plan permitted by this Agreement by exchange, repurchase or similar arrangements or a combination thereof.

2. The board of directors shall, from time to time, adopt policies governing the Group's entry into Permitted Treasury Transactions. The board of directors shall approve any Permitted Treasury Transactions that are required to be approved by the board of directors in accordance with applicable company regulations and by-laws. Management shall approve all other Permitted Treasury Transactions in accordance with such board of director policies.

3. The total amount of collateral or margin posted as of the date of this Agreement in respect of each Excluded Position or Permitted Non-Bank Commodity Contract is Permitted Security or Quasi-Security (as the case may be) as described in Schedule 6 (*Existing Security and Quasi-Security)* to this Agreement *provided* such collateral or margin was posted in accordance with the Derivatives Side Letter. No Obligor will (and the Parent will procure that no members of the Group will) post additional collateral or margin in respect of an Excluded Position or a Permitted Non-Bank Commodity Contract for which collateral or margin is already posted, or any collateral or margin in respect of any other Treasury Transaction, except as permitted under paragraphs (K) and (O) of the definition of Permitted Security set out in Clause 24.5 (*Negative pledge*) of this Agreement.

4. No Obligor will (and the Parent will procure that no members of the Group will) amend, modify or terminate a Permitted Treasury Transaction except in its ordinary course of business and not for speculative purposes.

ANNEX 1

EXCLUDED POSITIONS

The following are Excluded Positions:

(a) the IRT transactions that are governed by the ISDA Master Agreement dated as of 14 February 2003 between Banco Santander S.A., Institución de Banca Múltiple, Grupo Financiero Santander and Centro Distribuidor de Cemento, S.A. de C.V. (References: 6032 – 1000760 and 6032 – 1000761);

(b) the trust put options that are governed by the ISDA Master Agreement dated as 23 April 2008 between Citigroup Global Markets Inc, as agent for Citibank N.A., and Banco Nacional de Mexico, S. A., Integrante del Grupo Financiero Banamex, División Fiduciaria, acting solely as trustee under Trust No. 111339-7 (Reference: Trust Number 111339-7);

(c) the Axtel share forward transaction that is governed by a long form Confirmation dated 22 January 2009 between Credit Suisse International and Centro Distribuidor de Cemento S.A. de C.V. (References: External ID: 16059563 - Risk ID: 10008383);

(d) the Axtel share forward transaction that is governed by a long form Confirmation dated 1 April 2008 between BBVA Bancomer S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer and Centro Distribuidor de Cemento S.A. de C.V. (Reference: EQS- 1428-MX344247);

(e) the PEZ transactions that are governed by an ISDA Master Agreement dated as of 12 October 2000 between Banco Santander S.A., Institución de Banca Múltiple, Grupo Financiero Santander and Centro Distribuidor de Cemento, S.A. de C.V. (References: 4763217.25 - 4763238.25, 4763415.25 - 4763431.25, 4763342.25 - 4763323.25, 4763271.25 - 4763311.25, 4763438.25 - 4763454.25, 4763375.25 - 4763392.25);

(f) the interest rate swap governed by a Swap Agreement dated 24 September 2007 between Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, not in its individual capacity but acting solely as trustee on behalf of the Trust Number 111014-2 under the Restated Trust Agreement dated as of 26 March 1999, as amended, modified or supplemented from time to time and CEMEX, S.A.B. de C.V.;

(g) any forward transactions under the Electricity Sales and Purchase Agreement between Sempra Energy Solutions LLC and RMC Pacific Materials Inc. dated as of 31 October 2007; and

(h) all EU Emissions Allowance transactions under the "Contrato de Swap de CERs por EUAs", dated 23 September 2008 between Caleras de San Cucao, S. A. and CEMEX International Finance Company.

SCHEDULE 16

EXISTING GUARANTEES

Obligation	Outstanding Principal Amount	Usd Amount	Obligor	CEMEX Guarantor(s)	Security	Maturity	Security
US$200,000,000 9.625% Indenture dated October 1,1999 (Includes an US$65MM LC dated as of October 18, 2006, in favour of the bondholders)	$ 61,516,000	$ 61,516,000.00	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	October 1, 2009	
US$170,000,000 Loan Facility Agreement between JPMorgan Chase Bank, N.A. and CEMEX Materials LLC, dated 1 October 2007 (as amended)	$90,000,000 (Facility A Limit); $80,000,000 (Facility B Limit)	$ 170,000,000.00	CEMEX Materials LLC	CEMEX España, S.A.	No	Facility A: For amortization schedule, refer to Debt Maturities Document provided by CEMEX; Facility B: April 1, 2011	
€900,000,000 4.75% Eurobond dated 5 March 2007	€ 900,000,000	$1,272,780,000.00	CEMEX Finance Europe B.V.	CEMEX España, S.A.	No	March 5, 2014	
Certificado Bursátil CMX0001 05 Mex$ 1,500MM, dated 15 April 2005	Mex$ 1,500,000,000	$ 113,400,113.40	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	April 9, 2012	
CEMEX, S.A.B. de C.V. US$1,200,000,000 Credit Agreement dated 31 May 2005 (as amended)	$ 1,200,000,000	$ 1,200,000,000.00	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	June 7, 2011	
Certificado Bursátil CEMEX 06 Mex$ 1,750MM, dated 17 March 2006	Mex$ 1,750,000,000	$ 132,300,132.30	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	March 10, 2011	
Certificado Bursátil Mex$ 1,500MM CEMEX 06, dated 28 April 2006	Mex$ 1,500,000,000	$ 113,400,113.40	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	March 10, 2011	
Certificado Bursátil CMX0002 06 Mex$ 750MM, dated 17 March 2006	Mex$ 750,000,000	$ 56,700,056.70	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	March 10, 2011	
Certificado Bursátil Mex$ 2,500MM CEMEX 06-2, dated 29 September 2006	Mex$2,500,000,000	$ 189,000,189.00	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	September 22, 2011	

Obligation	Outstanding Principal Amount	Usd Amount	Obligor	CEMEX Guarantor(s)	Security	Maturity	Security
Certificado Bursátil Mex$ 1,500MM CEMEX 06-2, dated 13 October 2006	Mex$ 1,500,000,000	$ 113,400,113.40	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	September 22, 2011	
Certificado Bursátil Mex$ 2,950MM CEMEX 06-3, dated 15 December 2006	Mex$ 2,950,000,000	$223,020,223.02	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	March 8, 2012	
CEMEX, S.A.B. de C.V. US$437,500,000 & Mex$ 4,773,282,950 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009	$ 437,500,000 Mex$4,773,282,950	$ 798,360,552.56	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; CEMEX Concretos, S.A. de C.V.	No	February 28, 2011; For additional amortization, refer to Debt Maturities Document provided by CEMEX	
US$500,000,000 Pez Loan between Banco Bilbao Vizcaya Argentaria, S.A. and CEMEX, S.A.B. de C.V. dated 25 June 2008, as further amended	$ 500,000,000	$ 500,000,000.00	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.	No	April 29, 2011	
Certificado Bursátil Mex$ 3,000MM CEMEX 07, dated 2 February 2007	Mex$ 3,000,000,000	$226,800,226.80	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	January 26, 2012	
Certificado Bursátil Mex$ 3,000MM CEMEX 07-2, dated 28 September 2007	Mex$ 3,000,000,000	$226,800,226.80	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	September 21, 2012	
Certificado Bursátil UDI 511.5896MM CEMEX 07U, dated 30 November 2007	UDI 511,598,600	$ 164,634,537.37	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	November 26, 2010	
Certificado Bursátil UDI 116.5308MM CEMEX 07-2U, dated 30 November 2007	UDI 116,530,800	$ 37,500,091.57	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	November 17, 2017	
Certificado Bursátil Mex$ 1,000MM CEMEX 08, dated 25 April 2008	Mex$ 1,000,000,000	$ 75,600,075.60	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	November 5, 2010	

Obligation	Outstanding Principal Amount	Usd Amount	Obligor	CEMEX Guarantor(s)	Security	Maturity	Security
Certificado Bursátil Mex$ 450.0459MM CEMEX 08-2, dated 11 December 2008	Mex$ 450,045,900	$ 34,023,504.06	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	September 15, 2011	
Certificado Bursátil UDI 124.8171MM CEMEX 08U, dated 11 December 2008	UDI 124,817,100	$ 40,166,657.05	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	September 15, 2011	
US$250,000,000 Crédito Simple Bancomext, dated 14 October 2008[1] (as amended)	$ 250,000,000	$250,000,000.00	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.	YES	February 14, 2014	Stock pledge of Cementos Chihuahua, S.A.B. de C,V, shares and mortgage of cement plants in Merida, Yucatan and Ensenada Baja California
Mex$ 126,562,263.59 Crédito Santander Nota Estructurada, dated 17 April 2008*	Mex$ 126,562,264	$ 9,568,116.73	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.	No	April 16, 2013	
Certificado Bursátil Corto Plazo ABN, dated 8 July 2009	Mex$ 484,640,000	$ 36,638,820.64	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.; Nacional Financiera S.N.C. Institución de Banca de Desarrollo*****	No	August 6, 2009	
Certificado Bursátil Corto Plazo ABN, dated 23 July 2009	Mex$ 378,132,000	$28,586,807.79	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.; Nacional Financiera S.N.C. Institución de Banca de Desarrollo*****	No	August 20, 2009	
Mex$ 2,086,626,018 Crédito Banobras, dated 22 April 2009	Mex$2,086,626,018	$157,749,084.71	CEMEX Concretos, S.A. de C.V.	CEMEX México, S.A. de C.V.	YES	April 29, 2014	Mortgage of Planta Yaqui in Hemosillo Sonora

[1] Stock pledge in process of being cancelled.

Obligation	Outstanding Principal Amount	Usd Amount	Obligor	CEMEX Guarantor(s)	Security	Maturity	Security
CEMEX, S.A.B. de C.V. US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	$ 680,000,000	$ 680,000,000.00	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	June 23, 2010	
CEMEX, S.A.B. de C.V. US$700,000,000 (originally US$800,000,000) Credit Agreement dated 23 June, 2004	$ 20,000,000	$ 20,000,000.00	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; Empresas Tolteca de México, S.A. de C.V.	No	July 31, 2009	
US$29,000,000 Promissory Note Mercantil Commercebank, N.A., dated 30 June 2009	$ 15,000,000	$ 15,000,000.00	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.; CEMEX Concretos, S.A. de C.V.	No	August 20, 2009 and September 22, 2009	
Promissory Note US$45,434,817 JPMorgan Chase Bank, N.A., dated 17 March 2009	$ 45,434,817	$ 45,434,817.00	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.	No	July 31, 2009	
Promissory Note US$20,000,000 JPMorgan Chase Bank, N.A., dated 17 April 2009	$ 20,000,000	$ 20,000,000.00	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.	YES	July 31, 2009	CASH COLLATERAL (US$20mm)
Promissory Note US$34,072,566 Merrill Lynch International Bank Limited dated 6 April 2009	$ 34,072,566	$ 34,072,565.81	Escazu Investments#	CEMEX, S.A.B. de C.V.	No	June 30, 2009	
Promissory Note US$51,947,000 Citibank N.A. New York, dated 6 April 2009	$ 51,947,000	$ 51,947,000.00	Escazu Investments#	CEMEX, S.A.B. de C.V.	No	June 30, 2009	
New Sunward Holding B.V. US$1,050,000,000 Senior Unsecured Dutch Loan “A” Agreement dated 2 June, 2008 (Club Loan)	$525,000,000	$525,000,000.00	NEW SUNWARD HOLDING B.V.	CEMEX, S.A.B. de C.V.; CEMEX México, S.A. de C.V.	No	June 30, 2011	
New Sunward Holding B.V. US$1,050,000,000 Senior Unsecured Dutch Loan “B” Agreement dated 2 June, 2008 (Club Loan)	$525,000,000	$525,000,000.00	NEW SUNWARD HOLDING B.V.	CEMEX, S.A.B. de C.V.; CEMEX México, S.A. de C.V.	No	June 30, 2011	
New Sunward Holding B.V. US$700,000,000 Facilities Agreement dated 27 June 2005 (as amended)	$ 350,000,000	$ 350,000,000.00	NEW SUNWARD HOLDING B.V.	CEMEX, S.A.B. de C.V.; CEMEX México, S.A. de C.V.; Empresas Tolteca de México S.A. de C.V.	No	June 25, 2010	
US$170,000,000 Rinker 2025 Indenture, dated 1 April 2003	$ 166,762,053	$ 166,762,053.00	CEMEX Materials LLC	CEMEX Corp.	No	July 21, 2025	

Obligation	Outstanding Principal Amount	Usd Amount	Obligor	CEMEX Guarantor(s)	Security	Maturity	Security
US$37,500,000 Facility Agreement between CEMEX BNP Paribas (Sydney Branch) and CEMEX Materials LLC, dated 1 October 2007 (as amended)	$ 37,500,000 (Tranche 2)	$37,500,000.00	CEMEX Materials LLC	CEMEX España, S.A.	No	31-Jul-09	
US$150,000,000 Loan Facility Agreement between Australia and New Zealand Banking Group Limited and CEMEX Australia Pty Limited, dated 19 March, 2009 (as amended)	$ 150,000,000	$150,000,000.00	CEMEX Australia Pty Limited	CEMEX España, S.A., Rinker Group Pty Ltd (Cross-Guarantee, Corporate Guarantee and Indemnity dated as of March 17, 2009)	No	The earlier of (i) October 31, 2010 and (ii) the Holcim sale	
CEMEX España, S.A. US$2,300,000,000 RMC Revolving Facilities Agreement dated 24 September 2004 (as amended)	$1,050,000,000	$1,050,000,000.00	CEMEX España, S.A.	CEMEX España, S.A.	No	May 30, 2009 September 24,2009 July 1, 2011, July 1, 2012	
CEMEX España, S.A. US$617,500,000 & EUR 587,500,000 Joint Bilateral Financing Facilities Agreement dated 27 January, 2009 (as amended)	$ 617,500,000 € 587,500,000	$1,448,342,500.00	CEMEX España, S.A.	CEMEX Australia Holdings Pty Ltd.; CEMEX Inc.	No	February 28, 2011; For additional amortization, refer to Debt Maturities Document provided by CEMEX	
US$882,407,495.57 Note Purchase Agreement			CEMEX España Finance LLC	CEMEX España, S.A.	No	Tranche 1 Notes due and payable on June 15, 2010; Tranche 2 Notes due and payable on June 15, 2013; Tranche 3 Notes due and payable on June 13, 2015	
¥1,185,389,696.06 Note Purchase Agreement dated 15 April 2004 (as amended)		$116,542,065.92	CEMEX España Finance LLC	CEMEX España, S.A.	No	Tranche 1 Notes due and payable on April 15, 2010; Tranche 2 Notes due and payable on April 15, 2011	
US$325,000,000 Note Purchase Agreement dated 13 June 2005 (as amended)	$ 133,000,000 (Series A); $ 192,000,000 (Series B)	$325,000,000.00	CEMEX España Finance LLC	CEMEX España, S.A.	No	Series A Notes due and payable on June 13, 2010 and Series B Notes due and payable on June 13, 2015	

Obligation	Outstanding Principal Amount	Usd Amount	Obligor	CEMEX Guarantor(s)	Security	Maturity	Security
NAFINSA GUARANTE OF CBs dated 22 October 2008	Mex$ 431,386,000	$32,612,814.21	CEMEX, S.A.B. de C.V.	CEMEX México, S.A. de C.V.	YES	October 2009	CEMEX Mexico Headquarters Building
Mex$ 1,170,000,000 Contrato de Apertura de Crédito Simple dated 17 December 2001 (as amended)	$ 943,374,835	$ 71,319,208.81	ABC CAPITAL, S.A. DE C.V., Sociedad Financiera de Objeto Múltiple, Entidad No Regulada	CEMEX México, S.A. de C.V.	No		
Banco Santander, S.A., Institución de Banaca Multiple Grupo Financiero Sanander ISDA Master Agreement dated 7 April 2008*	Mex$86,036,080.25	$ 6,504,334.17	Banco Nacional de México, S. A. Integrante del Grupo Financiero Banamex, as Trustee at the Trust Number 110975-6	CEMEX, S.A.B de C.V.	No		
Banco Santander Mexicano, S.A., Institución de Banca Múltiple, Grupo Financiero Santander Serfin ISDA Mater Agreement dated 14 February 2003 ***	$ 71,170,259	$ 71,170,259.00	Centro Distribuidor de Cemento, S.A. de C.V.#	CEMEX, S.A.B de C.V.	No		
Banco Santander Mexicano, S.A., Institución de Banca Múltiple, Grupo Financiero Santander Serfin ISDA Mater Agreement dated 14 February 2003 ****	$ 3,366,506	$ 3,366,506	Centro Distribuidor de Cemento, S.A. de C.V.#	CEMEX, S.A.B de C.V.	No		

† This is just one part of the structure.

FX Rates (June 23, 2009)	
USD/Mex$	13.2275
USD/JPY	94.97
UDI/Mex$	4.256664
USD/GBP	1.6475
USD/EUR	1.4142

* Due to fluctuations amount exceeds USD$10 M on given dates
** Call Options for Nota Estructurada (MtM Figure is a liability, this figure varies according to the market's conditions)
*** Put Spread Derivative - PEZ (MtM Figure is a liability for Centro Distribuidor de Cemento, S.A. de C.V., this figure varies according to the market's conditions)
**** IRT Forwards (MtM Figures is positive for Centro Distribuidor de Cemento, S.A. de C.V., this figure varies according to the market's conditions)
***** Nacional Financiera S.N.C. Institución de Banca de Desarrollo is a Mexican governmental bank and its guarantee is limited to half of the outstanding amount of the Certificado Bursátil Corto Plazo

SIGNATURES

CEMEX, S.A.B. DE C.V.
as Original Borrower, Original Guarantor and Original Security Provider

By: /s/ HÉCTOR MEDINA AGUIAR
Print Name: HÉCTOR MEDINA AGUIAR
Address: Ricardo Margáin Zozaya No. 325,
Col. Valle del Campestre
San Pedro Garza Garcia
Nuevo León
Mexico
CP 66265
Fax:
Attention:

Financing Agreement

CEMEX ESPAÑA FINANCE LLC
as Original Borrower and Original Guarantor

By: /s/ ÁNGEL MÉNDEZ
Print Name: ÁNGEL MÉNDEZ
Address: Calle Hernandez de Tejada No. 1
Madrid 28027
Spain
Fax:
Attention:

Financing Agreement

CEMEX ESPAÑA, S.A.
as Original Borrower and Original Guarantor

By: /s/ JAVIER GARCIA
Print Name: JAVIER GARCIA
Address: Hernandez de Tejada 1
28027 Madrid
Spain
Fax:
Attention:

Financing Agreement

CEMEX MATERIALS LLC
as Original Borrower

By: /s/ ÁNGEL MÉNDEZ
Print Name: ÁNGEL MÉNDEZ
Address: 920 Memorial City Way
Suite 100
Houston
TX 77024
Fax:
Attention:

Financing Agreement

NEW SUNWARD HOLDING B.V.
as Original Borrower, Original Guarantor and Original Security Provider

By: /s/ ÁNGEL MÉNDEZ
Print Name: ÁNGEL MÉNDEZ
Address: Amsteldijk 166
1079 LH
Amsterdam
The Netherlands
Fax:
Attention:

Financing Agreement

CEMEX AUSTRALIA HOLDINGS PTY LTD
as Original Guarantor

By: /s/ ÁNGEL MÉNDEZ
as attorney for CEMEX AUSTRALIA HOLDINGS PTY LTD
Print Name: ÁNGEL MÉNDEZ
Address: Level 8, Tower B
799 Pacific Highway
Chatswood
NSW 2067
Fax:
Attention:

Financing Agreement

CEMEX CONCRETOS, S.A. DE C.V.
as Original Guarantor

By: /s/ ÁNGEL MÉNDEZ
Print Name: ÁNGEL MÉNDEZ
Address: Ricardo Margáin Zozaya No. 325
Col. Valle del Campestre
San Pedro Garza Garcia
Neuvo León
Mexico
CP 66265
Fax:
Attention:

Financing Agreement

CEMEX CORP.
as Original Guarantor

By: /s/ ÁNGEL MÉNDEZ
Print Name: ÁNGEL MÉNDEZ
Address: 920 Memorial City Way, Suite 100
Houston
Texas
77024, USA
Fax:
Attention:

Financing Agreement

CEMEX, INC.
as Original Guarantor

By: /s/ ÁNGEL MÉNDEZ
Print Name: ÁNGEL MÉNDEZ
Address: 920 Memorial City Way, Suite 100
Houston
Texas
77024, USA
Fax:
Attention:

Financing Agreement

CEMEX MÉXICO, S.A. DE C.V.
as Original Guarantor and Original Security Provider

By: /s/ ÁNGEL MÉNDEZ
Print Name: ÁNGEL MÉNDEZ
Address: Ricardo Margáin Zozaya No. 325
Col. Valle del Campestre
San Pedro Garza Garcia
Neuvo León
Mexico
CP 66265
Fax:
Attention:

Financing Agreement

EMPRESAS TOLTECA DE MEXICO, S.A. DE C.V.
as Original Guarantor and Original Security Provider

By: /s/ ÁNGEL MÉNDEZ
Print Name: ÁNGEL MÉNDEZ
Address: Ricardo Margáin Zozaya No. 325
Col. Valle del Campestre
San Pedro Garza Garcia
Neuvo León
Mexico
CP 66265
Fax:
Attention:

Financing Agreement

CEMEX DUTCH HOLDINGS B.V.
as Original Security Provider

By: /s/ ÁNGEL MÉNDEZ
Print Name: ÁNGEL MÉNDEZ
Address: Amsteldijk 166
1079 LH
Amsterdam
The Netherlands
Fax:
Attention:

Financing Agreement

CEMEX INTERNATIONAL FINANCE COMPANY
as Original Security Provider

Signed for and on behalf of
CEMEX INTERNATIONAL FINANCE COMPANY by
/s/ ÁNGEL MÉNDEZ

its lawfully appointed attorney in the presence of:
Witness Signature: /s/ MARIA SIGUENZA
Address: Block A1
East Point Business Park
Dublin 3
Ireland
Occupation:

Financing Agreement

CENTRO DISTRIBUIDOR DE CEMENTO, S.A. DE C.V.
as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA
Print Name: JUAN A. URIONABARRENECHEA
Address: Ricardo Margáin Zozaya No. 325
Col. Valle del Campestre
San Pedro Garza Garcia
Neuvo León
México
CP 66265
Fax:
Attention:

Financing Agreement

CORPORACIÓN GOUDA, S.A. DE C.V.
as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA
Print Name: JUAN A. URIONABARRENECHEA
Address: Ricardo Margáin Zozaya No. 325
Col. Valle del Campestre
San Pedro Garza Garcia
Neuvo León
México
CP 66265
Fax:
Attention:

Financing Agreement

IMPRA CAFÉ, S.A. DE C.V.
as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA
Print Name: JUAN A. URIONABARRENECHEA
Address: Ricardo Margáin Zozaya No. 325
Col. Valle del Campestre
San Pedro Garza Garcia
Neuvo León
México
CP 66265
Fax:
Attention:

Financing Agreement

INTERAMERICAN INVESTMENTS, INC.
as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA
Print Name: JUAN A. URIONABARRENECHEA
Address: 920 Memorial City Way, Suite 100
Houston
Texas 77024
USA
Fax:
Attention:

Financing Agreement

MEXCEMENT HOLDINGS, S.A. DE C.V.
as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA
Print Name: JUAN A. URIONABARRENECHEA
Address: Ricardo Margáin Zozaya No. 325
Col. Valle del Campestre
San Pedro Garza Garcia
Neuvo León
México
CP 66265
Fax:
Attention:

Financing Agreement

SUNWARD ACQUISITIONS N.V.
as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA
Print Name: JUAN A. URIONABARRENECHEA
Address: Amsteldijk 166
1079 LH
Amsterdam
The Netherlands
Fax:
Attention:

Financing Agreement

SUNWARD HOLDINGS B.V.
as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA
Print Name: JUAN A. URIONABARRENECHEA
Address: Amsteldijk 166
1079 LH
Amsterdam
The Netherlands
Fax:
Attention:

Financing Agreement

SUNWARD INVESTMENTS B.V.
as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA
Print Name: JUAN A. URIONABARRENECHEA
Address: Amsteldijk 166
1079 LH
Amsterdam
The Netherlands
Fax:
Attention:

Financing Agreement

THE ADMINISTRATIVE AGENT
CITIBANK INTERNATIONAL PLC

By: /s/ JANE HORNER
Print Name: JANE HORNER
Address:
Fax:
Attention:

Financing Agreement

THE SECURITY AGENT
WILMINGTON TRUST (LONDON) LIMITED

By: /s/ E K LOCKHART
Print Name: E K LOCKHART
Address: 6 Broad Street Place
Fax: +44(0)207 614 1122
Attention: E K LOCKHART

Financing Agreement

CREDITORS' REPRESENTATIVES

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.

By:	/s/ STÉPHANE POSSOT / FRANCISCO RODRIGUEZ TEJEDOR
Print Name:	STÉPHANE POSSOT / FRANCISCO RODRIGUEZ TEJEDOR
Address:	Via de los Poblados Madrid Spain
Fax:	91 374 7758
Attention:	Syndicated Loans

CITIBANK INTERNATIONAL PLC

By: /s/ TREVOR LAFLIN
Print Name: TREVOR LAFLIN
Address:
Fax:
Attention:

Financing Agreement

CITIBANK N.A., NEW YORK

By: /s/ MARIO ESPINOSA
Print Name: MARIO ESPINOSA
Address: 390 Greenwich Street
1st Floor
New York
NY 10013
Fax: 646 328 2866
Attention: BRENDAN HART

Financing Agreement

THE ROYAL BANK OF SCOTLAND PLC

By: /s/ NICK WATKINS
Print Name: NICK WATKINS
Address: Syndicated Loans Agency
The Royal Bank of Scotland plc
135 Bishopsgate
London
EC2M 3UR
Fax: 020 7085 4564
Attention:

Financing Agreement

BBVA BANCOMER, S.A.,
INSTITUCIÓN DE BANCA MÚLTIPLE,
GRUPO FINANCIERO BBVA BANCOMER

By: /s/ ALEJANDRO CARDENAS BORTONI / RICARDO CANO SWAIN

Print Name: ALEJANDRO CARDENAS BORTONI / RICARDO CANO SWAIN

Address: Montes Urales 620 Piso 2
Col. Lomas De Chapultepec
Mexico 11000

Fax: +52(55) 5201 2054

Attention:

Financing Agreement

ING CAPITAL LLC

By: /s/ CLARENCE W PLUMMER

Print Name: CLARENCE W PLUMMER

Address: 1325 Avenue of the Americas

Fax: 646 424 6284

Attention: CLARENCE PLUMMER

Financing Agreement

BARCLAYS BANK PLC

By: /s/ MARK MANSKI

Print Name: MARK MANSKI

Address: 200 Park Avenue
New York
NY 10166

Fax:

Attention:

Financing Agreement

THE PARTICIPATING CREDITORS
ABN AMRO BANK, N.V.

By: /s/ RAFAEL LULENA / ISABEL DIAZ

Print Name: RAFAEL LULENA / ISABEL DIAZ

Address: C/ José Ortega y Gasset, 29
5º PLTA
28006
Madrid

Fax: +34 91 423 69 48

Attention: MARIO GIL

Financing Agreement

ABN AMRO BANK N.V. SUCURSAL EN ESPAÑA

By: /s/ RAFAEL LULENA / ISABEL DIAZ

Print Name: RAFAEL LULENA / ISABEL DIAZ

Address: C/ José Ortega y Gasset, 29
5º PLTA
28006
Madrid

Fax: +34 91 423 69 48

Attention: MARIO GIL

Financing Agreement

ATLANTIC SECURITY BANK

By: /s/ ANDRÉ SCHOBER / ARCADIO CLEMENT

Print Name: ANDRÉ SCHOBER / ARCADIO CLEMENT

Address:

Fax:

Attention:

Financing Agreement

BANCA MONTE DEI PASCHI DI SIENA S.P.A.
NEW YORK BRANCH

By: /s/ RENATO BASSI / BRIAN R LANDY

Print Name: RENATO BASSI / BRIAN R LANDY

Address: 55 E. 59th Street
New York
NY 10022

Fax: (212) 891 3661

Attention:

Financing Agreement

BANCA MONTE DEI PASCHI DI SIENA S.P.A., LONDON BRANCH

By: /s/ ENRICO VIGNOLI / DUNCAN ROUSE

Print Name: ENRICO VIGNOLI / DUNCAN ROUSE

Address: 6TH Floor, Capital House
85 King William Street
London
EC4N 7BL

Fax: 020 7929 3343

Attention: MICHAEL GIVEN/WENDY JOHNSON

Financing Agreement

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.

By: /s/ FRANCISCO RODRIGUEZ TEJEDOR / STÉPHANE POSSOT

Print Name: FRANCISCO RODRIGUEZ TEJEDOR / STÉPHANE POSSOT

Address: Vía de los Poblados S/N, Madrid, Spain

Fax: 91 374 77 58

Attention: RIESGOS NEGOCIOS GLOBALES / SYNDICATED LOANS

Financing Agreement

BANCO BILBAO VIZCAYA ARGENTARIA, S.A., GRAND CAYMAN BRANCH

By: /s/ FRANCISCO RODRIGUEZ TEJEDOR / STÉPHANE POSSOT

Print Name: FRANCISCO RODRIGUEZ TEJEDOR / STÉPHANE POSSOT

Address: Vía de los Poblados S/N, Madrid, Spain

Fax: 91 374 77 58

Attention: RIESGOS NEGOCIOS GLOBALES / SYNDICATED LOANS

BANCO BILBAO VIZCAYA ARGENTARIA, S.A., NEW YORK BRANCH

By: /s/ FRANCISCO RODRIGUEZ TEJEDOR / STÉPHANE POSSOT

Print Name: FRANCISCO RODRIGUEZ TEJEDOR / STÉPHANE POSSOT

Address: Vía de los Poblados S/N Madrid, Spain

Fax: 91 374 77 58

Attention: RIESGOS NEGOCIOS GLOBALES / SYNDICATED LOANS

BANCO CAIXA GERAL, S.A.

By: /s/ FRANCISCO J PAREJA SANTANA / MIGUEL ARIAS NÚÑEZ

Print Name: FRANCISCO J PAREJA SANTANA / MIGUEL ARIAS NÚÑEZ

Address: C/Juan Ignacio Luca De Tena, 1
Madrid

Fax: 00 34 91 564 3837

Attention:

Financing Agreement

BANCO DE GALICIA

By: /s/ MIGUEL ANGEL PÉREZ JIMÉNEZ / EDUARDO MARTIN MARTINEZ

Print Name: MIGUEL ANGEL PÉREZ JIMÉNEZ / EDUARDO MARTIN MARTINEZ

Address: C/ Velazquez 34
28001 Madrid
España

Fax: +34 91 578 29 31

Attention: EDUARDO MARTIN MARTINEZ

Financing Agreement

BANCO DE SABADELL, S.A.

By: /s/ RICARDO PARDAVILA COCAÑA / DOMINGO JARABO DE LA TORRE

Print Name: RICARDO PARDAVILA COCAÑA / DOMINGO JARABO DE LA TORRE

Address:

Fax:

Attention:

Financing Agreement

BANCO ESPAÑOL DE CRÉDITO, S.A. MADRID

By: /s/ JAVIER RODRIGUES SANMARTIN / JAVIER GONZALEZ CANTERO

Print Name: JAVIER RODRIGUES SANMARTIN / JAVIER GONZALEZ CANTERO

Address:

Fax:

Attention:

Financing Agreement

BANCO NACIONAL DE COMERCIO EXTERIOR, S.N.C.

By: /s/ LIC. JORGE A. TOVAR CASTRO / LIC. LEONEL N. VÁSQUEZ GÓMEZ

Print Name: LIC. JORGE A. TOVAR CASTRO / LIC. LEONEL N. VÁSQUEZ GÓMEZ

Address: Ave. Gómez Morín No. 350
Local 402
Col. Valle del Campestre
San Pedro Garza García
N.L. México

Fax: 52 (81) 8369 2195

Attention:

Financing Agreement

BANCO NACIONAL DE MÉXICO, S.A. INTEGRANTE DEL GRUPO FINANCIERO BANAMEX

By: /s/ JULIO ALVAREZ / ANA E CALLES

Print Name: JULIO ALVAREZ / ANA E CALLES

Address:

Fax:

Attention:

Financing Agreement

BANCO SANTANDER, S.A.

By: /s/ JUAN ANDRES YANES LUCIANI

Print Name: JUAN ANDRES YANES LUCIANI

Address: Av. Cantabria S/N
Edificio Pampa – 2° Planta
Boadilla del Moute
Madrid

Fax: +34 91 531 1491

Attention: JUAN CARLOS DÍAZ ALONSO

ALACELI DIAZ LOZANO

Financing Agreement

BANCO SANTANDER S.A., NEW YORK BRANCH

By: /s/ JUAN ANDRES YANES LUCIANI

Print Name: JUAN ANDRES YANES LUCIANI

Address: 45 East 53rd Street
New York
USA

Fax: +1 (212) 350 3647

Attention: LIGIA CASTRO

Financing Agreement

BANCO SANTANDER (MEXICO), S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO SANTANDER

By: /s/ OCTAVIANO COUTTOLENC / MAURICIO REBOLLEDO

Print Name: OCTAVIANO COUTTOLENC / MAURICIO REBOLLEDO

Address: Pvol.Paseo da la Reforma 500

Fax: 5255 5269 2227

Attention:

Financing Agreement

BANK OF AMERICA, N.A.

By: /s/ BENITO RONCERO VIDAL

Print Name: BENITO RONCERO VIDAL

Address: Torre Picasso Planta 40
28020
Madrid

Fax: +34 915 143 369

Attention: FABRICIO PROTTI

Financing Agreement

BANK OF AMERICA N.A., SUCURSAL EN ESPAÑA

By: /s/ BENITO RONCERO VIDAL

Print Name: BENITO RONCERO VIDAL

Address: Torre Picasso Planta 40
28020
Madrid

Fax: +34 915 143 369

Attention: FABRICIO PROTTI

Financing Agreement

BARCLAYS BANK PLC

By: /s/ MARK MANSKI

Print Name: MARK MANSKI

Address: 200 Park Avenue
New York
NY 10166

Fax:

Attention:

Financing Agreement

BAYERISCHE HYPO- UND VEREINSBANK AG

By: /s/ MARIA DOLORES DEGNER PEREZ-CIERRA / ANA MARIA CHAVES LOPEZ

Print Name: MARIA DOLORES DEGNER PEREZ-CIERRA / ANA MARIA CHAVES LOPEZ

Address: C/Moutalban
No.7 – 53 & 2° Planta
E- 28014
Madrid

Fax: 00 34 91 531 3770

Attention: MR ALFONSO CERVERA / MS MARIA DOLORES DEGNER

Financing Agreement

BAYERISCHE LANDESBANK

By: /s/ DIETMAR LEIPOLED / JOSEF DIEPOLD

Print Name: DIETMAR LEIPOLED / JOSEF DIEPOLD

Address: Brienner Str 18
80333 München
Germany

Fax: +49 89 2171 22273

Attention: Dpt 2320 JOSEF DIEPOLD

Financing Agreement

BBVA BANCOMER, S.A., INSTITUCION DE BANCA MULTIPLE GRUPO FINANCIERO BBVA BANCOMER

By: /s/ ALEJANDRO CORDENAS BORLONI / RICARDO CANO SWAIN

Print Name: ALEJANDRO CORDENAS BORLONI / RICARDO CANO SWAIN

Address: Montes Urales 620, p2
Col. Lomas De Chapultepec
Mexico 11000

Fax: +52 (55) 5201 2054

Attention:

Financing Agreement

BNP PARIBAS

By: /s/ KATHRYN B QUINN / KRISTIE PELLECCHIA

Print Name: KATHRYN B QUINN / KRISTIE PELLECCHIA

Address:

Fax:

Attention:

Financing Agreement

BNP PARIBAS (SYDNEY BRANCH)

By: /s/ KATHRYN B QUINN / KRISTIE PELLECCHIA

Print Name: KATHRYN B QUINN / KRISTIE PELLECCHIA

Address:

Fax:

Attention:

Financing Agreement

BRED BANQUE POPULAIRE

By: /s/ ANDRÉ DELRUE

Print Name: ANDRÉ DELRUE

Address: BRED Banque Populaire
8898 L
18 Quai de la Rapeé
75012 Paris
France

Fax: +33 1 40 04 71 37

Attention: DIMITRI LASIES

Financing Agreement

CAISSE REGIONALE DE CREDIT AGRICOLE MUTUEL DE PARIS ET D'ILE-DE-FRANCE

By: /s/ MR JEAN-MICHEL BATTAGLINI

Print Name: MR JEAN-MICHEL BATTAGLINI

Address: 26 Quai de la Rapeé
75596
Paris
Cedex 12

Fax: +33 1 44 73 16 31

Attention: CLÉMENCE BUREAU SECTION INDUSTRIE

Financing Agreement

CAIXA D'ESTALVIS I PENSIONS DE BARCELONA

By: /s/ CARLOS DE PARIAS / JOSÉ IGNACIO ZAMACOIS

Print Name: CARLOS DE PARIAS / JOSE IGNACIO ZAMACOIS

Address:

Fax:

Attention:

Financing Agreement

BNP PARIBAS PANAMA BRANCH

By: /s/ KATHRYN B QUINN / KRISTIE PELLECCHIA

Print Name: KATHRYN B QUINN / KRISTIE PELLECCHIA

Address:

Fax:

Attention:

Financing Agreement

BNP PARIBAS SUCURSAL EN ESPAÑA

By: /s/ KATHRYN B QUINN / KRISTIE PELLECCHIA

Print Name: KATHRYN B QUINN / KRISTIE PELLECCHIA

Address:

Fax:

Attention:

Financing Agreement

CAJA DE AHORROS DE ASTURIAS

By: /s/ CRISTINA ROZA IGLESIAS
Print Name: CRISTINA ROZA IGLESIAS
Address: C/San Francisco 14
33003 Oviedo
Spain
Fax: (34) 98 5102196
Attention:

Financing Agreement

CAJA DE AHORROS DE GALICIA

By: /s/ JAVIER ESCRÍBANO MENA

Print Name: JAVIER ESCRÍBANO MENA

Address:

Fax:

Attention:

Financing Agreement

CAJA DE AHORROS Y MONTE DE PIEDAD MADRID

By: /s/ JORGE SALAMERO / JOSE NUÑO

Print Name: JORGE SALAMERO / JOSE NUÑO

Address: P Castellana 189
5º Planta
28046
Madrid
Spain

Fax: +34 91 423 9718

Attention: JORGE SALAMERO

Financing Agreement

CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID - MIAMI AGENCY

By: /s/ IGNACIO REGUERAS / J CUETO

Print Name: IGNACIO REGUERAS / J CUETO

Address: 701 Brickell Avenue
#2000
Miami
FL 33131
USA

Fax: +1 305 371 4243

Attention:

Financing Agreement

CALYON

By: /s/ PIERRE DEBRAY / KEVIN FLOOD

Print Name: PIERRE DEBRAY / KEVIN FLOOD

Address:

Fax:

Attention:

Financing Agreement

CALYON NEW YORK BRANCH

By: /s/ PIERRE DEBRAY / KEVIN FLOOD

Print Name: PIERRE DEBRAY / KEVIN FLOOD

Address:

Fax:

Attention:

Financing Agreement

CALYON SUCURSAL EN ESPAÑA

By: /s/ PIERRE DEBRAY / KEVIN FLOOD

Print Name: PIERRE DEBRAY / KEVIN FLOOD

Address:

Fax:

Attention:

Financing Agreement

CENTROBANCA - BANCA DI CREDITO FINANZIARIO E MOBILIARE S.P.A.

By: /s/ ALBERTO BERETTA

Print Name: ALBERTO BERETTA

Address:

Fax:

Attention:

Financing Agreement

CITIBANK (BANAMEX USA)

By: /s/ JEFF HEALY / CLAUDIO CARRASCO

Print Name: JEFF HEALY / CLAUDIO CARRASCO

Address: 2029 Century Park East

Los Angeles

CA 90067

USA

Fax: (310) 203-3761

Attention: JEFF HEALY

Financing Agreement

CITIBANK INTERNATIONAL PLC, SUCURSAL EN ESPAÑA

By: /s/ PEDRO LOPEZ QUESADA

Print Name: PEDRO LOPEZ QUESADA

Address:

Fax:

Attention:

Financing Agreement

CITIBANK N.A., NASSAU, BAHAMAS BRANCH

By: /s/ LESLIE MUNROE

Print Name: LESLIE MUNROE

Address: Citibank NA

Nassau

Bahamas

Fax:

Attention:

Financing Agreement

CITIBANK N.A., NEW YORK

By: /s/ MARIO ESPINOSA

Print Name: MARIO ESPINOSA

Address: 390 Greenwich Street

1st Floor

New York

NY 10013

Fax: 646 328 2866

Attention: BRENDAN HART

Financing Agreement

COMERICA BANK

By: /s/ MARK F LAYTON

Print Name: MARK F LAYTON

Address: 411 W Lafayette

Detroit

MI 48226

Fax: 313 222 3795

Attention:

Financing Agreement

COMMERZBANK AG LONDON BRANCH

By: /s/ PAUL ROBBINS / RUSSELL BATES

Print Name: PAUL ROBBINS / RUSSELL BATES

Address: 30 Gresham Street

London

EC2P 2XY

Fax: 0870 889 6579

Attention:

Financing Agreement

COMMERZBANK AG (FORMERLY DRESDNER BANK AG, ACTING THROUGH ITS LENDING OFFICE DRESDNER BANK AG, NEW YORK BRANCH)

By: /s/ BRIAN SMITH / THOMAS BRADY

Print Name: BRIAN SMITH / THOMAS BRADY

Address: 1301 Ave of the Americas

New York

NY 10019

Fax: 212 895 1560

Attention: BRIAN SMITH

Financing Agreement

CREDIT INDUSTRIEL ET COMMERCIAL LONDON BRANCH

By: /s/ T D PRESTWICH / STEVE FRANCIS

Print Name: T D PRESTWICH / STEVE FRANCIS

Address: Veritas House
125 Finsbury Pavement
London
EC2A 1HX

Fax: +44 207 454 5466

Attention: P KITCHING

Financing Agreement

DEUTSCHE BANK AG

By: /s/ J OTERO / V MARTIN

Print Name: J OTERO / V MARTIN

Address:

Fax:

Attention:

Financing Agreement

DEUTSCHE BANK AG NEW YORK BRANCH

By: /s/ J OTERO / V HOFMANN

Print Name: J OTERO / V HOFMANN

Address:

Fax:

Attention:

Financing Agreement

DEUTSCHE BANK LUXEMBOURG S.A.

By: /s/ ANKE BUDZISCH / KARLINA BELHOSTE

Print Name: ANKE BUDZISCH / KARLINA BELHOSTE

Address: 2 Boulevard Konrad Adenauer

L-1115

Luxembourg

Fax: +352 421 22 95 771

Attention: GWEN BLUMHOFF / KARLINA BELHOSTE

Financing Agreement

FORTIS BANK S.A./N.V.

By: /s/ NATALIE GILBERT / EVELYNE PETIT

Print Name: NATALIE GILBERT / EVELYNE PETIT

Address:

Fax:

Attention:

Financing Agreement

FORTIS BANK S.A. / N.V. Cayman Islands Branch

By: /s/ CHARLES COUROUBLE

Print Name: CHARLES COUROUBLE

Address: 520 Madison Ave
New York

Fax: 212 340 5560

Attention:

By: /s/ DIRAN CHOLAKIAN

Print Name: DIRAN CHOLAKIAN

Address:

Fax: 201 631 2221

Attention:

Financing Agreement

FORTIS, S.A., SUCURSAL EN ESPAÑA

By: /s/ ROGER RAMOS PUIG

Print Name: ROGER RAMOS PUIG

Address: C/Serrano 73

28006 Madrid

Fax:

Attention: Service Centre

902 343535

Financing Agreement

HSBC BANK, PLC SUCURSAL EN ESPAÑA

By: /s/ MARK J HALL

Print Name: MARK J HALL

Address: Pz Pablo Riuz Picasso, 1

Torre Picasso Pl 33

28020 Madrid

Fax: +34 91 456 61 13

Attention: ANTONIO VILELA

Financing Agreement

HSBC MEXICO, S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC

By: /s/ VICTOR MANUEL ELIZONDO ARIAS

Print Name: VICTOR MANUEL ELIZONDO ARIAS

Address:

Fax:

Attention:

Financing Agreement

HSBC MÉXICO, S.A., INSTITUCIÓN DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC, ACTING THROUGH ITS GRAND CAYMAN BRANCH

By: /s/ VICTOR MANUEL ELIZONDO AVIAS

Print Name: VICTOR MANUEL ELIZONDO AVIAS

Address:

Fax:

Attention:

Financing Agreement

IKB DEUTSCHE INDUSTRIEBANK AG, SUCURSAL EN ESPAÑA

By: /s/ ANA BOHORQUEZ RODRIGUEZ

Print Name: ANA BOHORQUEZ RODRIGUEZ

Address: Paseo de la Castellana 9-11

E- 28046

Madrid

Fax: +34 91 700 1463

Attention: MS MARIANA GONZÁLEZ

Financing Agreement

ING BANK N.V.

By: /s/ M.P.W. VAN KLINK / R.SPAA

Print Name: M.P.W. VAN KLINK / R.SPAA

Address: Bijlmerplein 888

1102 MG

Amsterdam

Fax: +31 20 652 3134

Attention: PIA GUTIERREZ UGARTE

Financing Agreement

ING BANK, N.V. (ACTING THROUGH ITS CURACAO BRANCH)

By: /s/ M.P.W. VAN KLINK / R.SPAA

Print Name: M.P.W. VAN KLINK / R.SPAA

Address: Bijlmerplein 888

1102 MG

Amsterdam

Fax: +31 20 652 3134

Attention: PIA GUTIERREZ UGARTE

Financing Agreement

ING BELGIUM S.A. SUCURSAL EN ESPAÑA

By: /s/ D GUSTAVO DE ROSA / MONICA MARTÍNEZ MENDIZABAL

Print Name: D GUSTAVO DE ROSA / MONICA MARTÍNEZ MENDIZABAL

Address: C/Génova 27
3° planta
28004 Madrid
Spain

Fax: 91 417 82 11

Attention: DÑA. MERCEDES MARTÍNEZ DE RUS/
DÑA. BUENSUCESO VERGEL FERNÁNDEZ

Financing Agreement

INSTITUTO DE CREDITO OFICIAL

By: /s/ SILVIA DÍEZ BARROSO

Print Name: SILVIA DÍEZ BARROSO

Address: Paseo del Prado 4

28014 Madrid

Fax: +34 91 592 1864

Attention: ICIAR ZARATE

Financing Agreement

INTESA SANPAOLO S.p.A., NEW YORK BRANCH

By: /s/ BARBARA J BASSI / FRANCESCO DI MARIO

Print Name: BARBARA J BASSI / FRANCESCO DI MARIO

Address: One William Street

NYC 10004

Fax: 1 212 607 3729

Attention: BARBARA BASSI

Financing Agreement

INTESA SANPAOLO S.P.A., SUCURSAL EN ESPAÑA

By: /s/ JUAN F PONTONI / MASIMO SUTTO

Print Name: JUAN F PONTONI / MASIMO SUTTO

Address: Plaza de Colón
2 Edificio Colón Torre II – Planta 10
28046 Madrid
Spain

Fax: +34 (91) 310 7445

Attention: JUAN F PONTONI

Financing Agreement

JP MORGAN CHASE BANK, N.A.

By: /s/ PABLO OGARRIO

Print Name: PABLO OGARRIO

Address: 270 Park Avenue

4th Fl New York

NY 10017

Fax: 212 270 5100

Attention:

Financing Agreement

JPMORGAN CHASE BANK N.A., SUCURSAL EN ESPAÑA

By: /s/ MYRIAM ALCAIDE / SANDRINE N LEHM VIDAZ

Print Name: MYRIAM ALCAIDE / SANDRINE N LEHM VIDAZ

Address: José Ortega y Gasset, 29

28006 Madrid

Fax: (34) 91 516 1490

Attention: MARISA LEÓN

Financing Agreement

LANDESBANK BADEN-WÜRTTEMBERG, LONDON BRANCH

By: /s/ STEPHEN HART / ALAIN J LAVIOLETTE

Print Name: STEPHEN HART / ALAIN J LAVIOLETTE

Address: 7th Floor

201 Bishopsgate

London

EC2M 3UN

Fax:

Attention:

Financing Agreement

LANDESBANK BADEN-WÜRTTEMBERG, STUTTGART BRANCH

By: /s/ STEPHEN HART / ALAIN J LAVIOLETTE

Print Name: STEPHEN HART / ALAIN J LAVIOLETTE

Address: Am Hauptbahnhof 2

70173 Stuttgart

Fax:

Attention:

Financing Agreement

LLOYDS TSB BANK, PLC

By: /s/ JONATHAN SMITH

Print Name: JONATHAN SMITH

Address: 48 Chiswell Street

London

EC1Y 4XX

Fax: 020 7522 6363

Attention: JONATHAN SMITH

Financing Agreement

LLOYDS TSB BANK PLC, SUCURSAL EN ESPAÑA

By: /s/ SUSANA MERODIO / ALBERTO MARTINEZ

Print Name: SUSANA MERODIO / ALBERTO MARTINEZ

Address: C/Serrano 90

28006 Madrid

Fax: +34 91 575 3681

Attention: GABRIEL GIL / SUSANA MERODIO

Financing Agreement

MEDIOBANCA - BANCA DI CREDITO FINANZIARIO S.P.A.

By: /s/ LORENZO REDIVO

Print Name: LORENZO REDIVO

Address: Piazzetta E Cuccia 1

Milano

Fax:

Attention:

Financing Agreement

MERRILL LYNCH INTERNATIONAL BANK LIMITED

By: /s/ BARRY RYAN / CONOR WALSH

Print Name: BARRY RYAN / CONOR WALSH

Address:

Fax:

Attention:

Financing Agreement

MIZUHO CORPORATE BANK, LTD.

By: /s/ DAVID COSTA

Print Name: DAVID COSTA

Address: 1251 Ave of the Americas

New York

NY 10020

Fax: (212) 282 4385

Attention: THOMAS MCCULLOUGH

Financing Agreement

MIZUHO CORPORATE BANK NEDERLAND, N.V.

By: /s/ T HISANO / L A M REYNDERS

Print Name: T HISANO / L A M REYNDERS

Address: Apollolaan 171

1077 AS

Amsterdam

Fax: +31 20 573 4376

Attention: A VAN VEEN

Financing Agreement

MORGAN STANLEY BANK INTERNATIONAL LIMITED

By: /s/ VINCENT VAN HEYSTE

Print Name: VINCENT VAN HEYSTE

Address: 20 Bank Street

London

E14 4AD

Fax: +44 207 056 4594

Attention:

Financing Agreement

MORGAN STANLEY BANK, N.A.

By: /s/ TODD VANNUCCI

Print Name: TODD VANNUCCI

Address: 1585 Broadway
New York
NY 10036

Fax: 212 507 2450

Attention:

Financing Agreement

SANTANDER OVERSEAS BANK INC

By: /s/ FABIO PELLIZER

Print Name: FABIO PELLIZER

Address:

Fax:

Attention:

Financing Agreement

SCOTIABANK EUROPE PLC

By: /s/ MARK SPARROW

Print Name: MARK SPARROW

Address: 33 Finsbury Square

London

Fax: +44 (0)20 7454 9019

Attention:

Financing Agreement

SCOTIABANK EUROPE, PLC, LONDON

By: /s/ MARK SPARROW

Print Name: MARK SPARROW

Address: 33 Finsbury Square

London

Fax: +44 (0)20 7454 9019

Attention:

Financing Agreement

SOCIÉTÉ GÉNÉRALE

By: /s/ MONICA MARTIN RICHARD / MARINA FELTRER BAUZÁ

Print Name: MONICA MARTIN RICHARD / MARINA FELTRER BAUZÁ

Address: 29 Boulevard Haussmann

75009 Paris

France

Fax: 00 34 91 589 3828

Attention: LIONEL LECRINIER/ BEATRIZ MELERO

Financing Agreement

SOCIÉTÉ GÉNÉRALE, NEW YORK

By: /s/ CAROL RADICE

Print Name: CAROL RADICE

Address: 1221 Avenue of the Americas

New York

NY 10020

Fax: 212 278 7462

Attention: CAROL RADICE

Financing Agreement

STANDARD CHARTERED BANK

By: /s/ MARC CHAIT / MARIA L GARCIA

Print Name: MARC CHAIT / MARIA L GARCIA

Address: 1 Madison Avenue

New York

NY 10010

Fax: 212 667 0797

Attention:

Financing Agreement

TAKAREKBANK (MAGYAR)

By: /s/ ERIK DRESEN / KRISZTIÁN BRAUN

Print Name: ERIK DRESEN / KRISZTIÁN BRAUN

Address: Magyar Takarékszövetkezeti Bank ZRT

H-1122 Budapest

Pethenyi koz 10

Hungary

Fax: +361 225 4280

Attention: MR KRISZTIÁN BRAUN

Financing Agreement

THE BANK OF NOVA SCOTIA

By: /s/ STEPHEN H COREY / DONNA SHAIN

Print Name: STEPHEN H COREY / DONNA SHAIN

Address:

Fax:

Attention:

Financing Agreement

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD., SUCURSAL EN ESPAÑA

By: /s/ DAVID NODA

Print Name: DAVID NODA

Address: Jose Ortega y Gasset 29

28006 Madrid

Spain

Fax: +34 91 432 85 97

Attention: CARMEN HERRERO / JOSE ANTONIO RODRIGUEZ

Financing Agreement

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.

By: /s/ DAVID NODA

Print Name: DAVID NODA

Address: 1251 Avenue of the Americas

New York

NY 10020-1104

Fax: 212 782 6400

Attention: EMI NAKANE

Financing Agreement

THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND

By: /s/ MAURICE HEALY / COLM HANNON

Print Name: MAURICE HEALY / COLM HANNON

Address: Bank of Ireland Head Office

Lower Baggot Street

Dublin 2

Ireland

Fax: +353 1 604 4025

Attention: COLM HANNON

Financing Agreement

THE ROYAL BANK OF SCOTLAND PLC

By: /s/ GUILLERMO POGGIO / JANIN CAMPOS

Print Name: GUILLERMO POGGIO / JANIN CAMPOS

Address:

Fax:

Attention:

Financing Agreement

UNICREDIT S.P.A. NEW YORK BRANCH

By: /s/ MICHAEL NOVELLINO / LORIANN CURNYN

Print Name: MICHAEL NOVELLINO / LORIANN CURNYN

Address: 150 East 42 Street

New York

NY 10017

Fax: 212 672 5515

Attention: SCOTT OBECK LORIANN CURNYN

Financing Agreement

UNICREDIT S.P.A., SUCURSAL EN ESPAÑA

By: /s/ MARIO CAMPANA / JOSE MARIA SANCHEZ GARCIA

Print Name: MARIO CAMPANA / JOSE MARIA SANCHEZ GARCIA

Address: Calle Montalban N7

5° Planta

28014 Madrid

Fax: +34 91 555 0503

Attention: MARIO CAMPANA / FEDERICO POZZOLO

Financing Agreement

WACHOVIA BANK, NATIONAL ASSOCIATION

By: /s/ THOMAS M CAMBERN

Print Name: THOMAS M CAMBERN

Address: 7711 Plantation Road

Roanoke

VA 24019

USA

Fax: 704 715 0099

Attention: SPECIALIZED LOANS

Financing Agreement

WESTLB AG, SUCURSAL EN ESPAÑA

By: /s/ BERTO NUVOLONI / SANTIAGO LARROGOLA

Print Name: BERTO NUVOLONI / SANTIAGO LARROGOLA

Address: C/Serrano 37, 5º

28001 Madrid

Fax: 91 4328054

Attention:

Financing Agreement

WESTPAC EUROPE LIMITED

By: /s/ MICHELLE MARCHHART

Print Name: MICHELLE MARCHHART

Address: 63 St Mary Axe

London

EC3A 8LE

Fax: +44 20 7621 7589

Attention: DIRECTOR LEGAL

Financing Agreement

US PRIVATE PLACEMENT HOLDERS

PRINCIPAL LIFE INSURANCE COMPANY

By: **PRINCIPAL GLOBAL INVESTORS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS AUTHORIZED SIGNATORY**

By: /s/ COLIN PENNYCOOKE
Name: COLIN PENNYCOOKE
Title: Counsel

By: /s/ ALAN P. KRESS
Name: ALAN P. KRESS
Title: Counsel

RGA REINSURANCE COMPANY, A MISSOURI CORPORATION

By: **PRINCIPAL GLOBAL INVESTORS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS AUTHORIZED SIGNATORY**

By: /s/ COLIN PENNYCOOKE
Name: COLIN PENNYCOOKE
Title: Counsel

By: /s/ ALAN P. KRESS
Name: ALAN P. KRESS
Title: Counsel

SYMETRA LIFE INSURANCE COMPANY, A WASHINGTON CORPORATION

By: **PRINCIPAL GLOBAL INVESTORS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS AUTHORIZED SIGNATORY**

By: /s/ COLIN PENNYCOOKE
Name: COLIN PENNYCOOKE
Title: Counsel

By: /s/ ALAN P. KRESS
Name: ALAN P. KRESS
Title: Counsel

THE BANK OF NEW YORK, AS TRUSTEE FOR THE SCOTTISH RE (U.S.), INC. AND SECURITY LIFE OF DENVER INSURANCE COMPANY SECURITY TRUST BY AGREEMENT DATED DECEMBER 31, 2004

By: **PRINCIPAL GLOBAL INVESTORS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS AUTHORIZED SIGNATORY**

By: /s/ COLIN PENNYCOOKE
Name: COLIN PENNYCOOKE
Title: Counsel

By: /s/ ALAN P. KRESS
Name: ALAN P. KRESS
Title: Counsel

Comerica Bank & Trust, National Association, Trustee to the Trust created by Trust Agreement dated October 1, 2002.

By: /s/ CELESTE LUDWIG
Name: CELESTE LUDWIG
Title: V.P. Wealth & Institutional Management
Comerica Bank

METROPOLITAN LIFE INSURANCE COMPANY

By: /s/ JUDITH A. GULOTTA
Name: JUDITH A. GULOTTA
Title: Managing Director

MET LIFE INSURANCE COMPANY OF CONNECTICUT
By Metropolitan Life Insurance Company, its investment manager
METROPOLITAN TOWER LIFE INSURANCE COMPANY
By Metropolitan Life Insurance Company, its investment manager
GENERAL AMERICAN LIFE INSURANCE COMPANY
By Metropolitan Life Insurance Company, its investment manager
NEW ENGLAND LIFE INSURANCE COMPANY
By Metropolitan Life Insurance Company, its investment manager

By: /s/ JUDITH A. GULOTTA
Name: JUDITH A. GULOTTA
Title: Managing Director

THE VARIABLE ANNUITY LIFE INSURANCE COMPANY
WESTERN NATIONAL LIFE INSURANCE COMPANY
(FORMERLY AIG ANNUITY INSURANCE COMPANY)
AMERICAN GENERAL LIFE AND ACCIDENT INSURANCE COMPANY
MERIT LIFE INSURANCE CO.

By: **AIG GLOBAL INVESTMENT CORP.,**
INVESTMENT ADVISER

By: /s/ PETER DEFAZIO
Name: PETER DEFAZIO
Title: Managing Director

THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY

By: /s/ TIMOTHY S. COLLINS
Name: TIMOTHY S. COLLINS
Title: Its Authorized Representative

ING LIFE INSURANCE AND ANNUITY COMPANY
ING USA ANNUITY AND LIFE INSURANCE COMPANY
SECURITY LIFE OF DENVER INSURANCE COMPANY
RELIASTAR LIFE INSURANCE COMPANY
USG ANNUITY & LIFE COMPANY
RELIASTAR LIFE INSURANCE COMPANY OF NEW YORK

By: **ING INVESTMENT MANAGEMENT LLC**, AS AGENT

By: /s/ CHRISTOPHER P. LYONS
Name: CHRISTOPHER P. LYONS
Title: Senior Vice President

JOHN HANCOCK LIFE INSURANCE COMPANY

By: /s/ MICHAEL L. SHORT
Name: MICHAEL L. SHORT
Title: Managing Director

JOHN HANCOCK VARIABLE LIFE INSURANCE COMPANY

By: /s/ MICHAEL L. SHORT
Name: MICHAEL L. SHORT
Title: Managing Director

MANULIFE LIFE INSURANCE COMPANY

By: /s/ TOSHIHIDE SUDO
Name: TOSHIHIDE SUDO
Title: Vice President & Managing Corporate Officer
Investment Operations

NEW YORK LIFE INSURANCE COMPANY

By: /s/ R. EDWARD FERGUSON
Name: R. EDWARD FERGUSON
Title: Vice President

NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION

By: **NEW YORK LIFE INVESTMENT MANAGEMENT LLC,**
ITS INVESTMENT MANAGER

By: /s/ R. EDWARD FERGUSON
Name: R. EDWARD FERGUSON
Title: Managing Director

NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION
INSTITUTIONALLY OWNED LIFE INSURANCE SEPARATE ACCOUNT

By: **NEW YORK LIFE INVESTMENT MANAGEMENT LLC,**
ITS INVESTMENT MANAGER

By: /s/ R. EDWARD FERGUSON
Name: R. EDWARD FERGUSON
Title: Managing Director

THRIVENT FINANCIAL FOR LUTHERANS

By: /s/ TIMOTHY WEGENER
Name: TIMOTHY WEGENER
Title: Managing Director

HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY
HARTFORD LIFE INSURANCE COMPANY
HARTFORD ACCIDENT AND INDEMNITY COMPANY

By: **Hartford Investment Management Company**
Their Agent And Attorney-In-Fact

By: /s/ ROBERT M. MILLS
Name: ROBERT M. MILLS
Title: Vice President

NATIONWIDE LIFE AND ANNUITY INSURANCE COMPANY

By: /s/ THOMAS A. SHANKLIN
Name: THOMAS A. SHANKLIN
Title: Authorized Signatory

NATIONWIDE LIFE INSURANCE COMPANY

By: /s/ THOMAS A. SHANKLIN
Name: THOMAS A. SHANKLIN
Title: Authorized Signatory

NATIONWIDE MULTIPLE MATURITY SEPARATE ACCOUNT

By: /s/ THOMAS A. SHANKLIN
Name: THOMAS A. SHANKLIN
Title: Authorized Signatory

NATIONWIDE MUTUAL INSURANCE COMPANY

By: /s/ THOMAS A. SHANKLIN
Name: THOMAS A. SHANKLIN
Title: Authorized Signatory

AMCO INSURANCE COMPANY

By: /s/ THOMAS A. SHANKLIN
Name: THOMAS A. SHANKLIN
Title: Authorized Signatory

THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA

By: /s/ BARRY SCHEINHOLTZ
Name: BARRY SCHEINHOLTZ
Title: Senior Director, Private Placements

BERKSHIRE LIFE INSURANCE COMPANY OF AMERICA

By: /s/ BARRY SCHEINHOLTZ
Name: BARRY SCHEINHOLTZ
Title: Senior Director, Private Placements

MONUMENTAL LIFE INSURANCE COMPANY

By: /s/ CHRISTOPHER D. PAHLKE
Name: CHRISTOPHER D. PAHLKE
Title: Vice President

PACIFIC LIFE INSURANCE COMPANY

By: /s/ DIANE W. DALES
Name: DIANE W. DALES
Title: Assistant Vice President

By: /s/ PETER S. FIEK
Name: PETER S. FIEK
Title: Assistant Secretary

WESTPORT INSURANCE COMPANY (FKA EMPLOYERS REINSURANCE CORPORATION)

By: **CONNING ASSET MANAGEMENT COMPANY, AS INVESTMENT MANAGER**

By: /s/ JOHN H. DEMALLIE
Name: JOHN H. DEMALLIE
Title: Director

PRIMERICA LIFE INSURANCE COMPANY

By: **Conning Asset Management Company,**
as Investment Manager

By: /s/ JOHN H. DEMALLIE
Name: JOHN H. DEMALLIE
Title: Director

NATIONAL BENEFIT LIFE INSURANCE COMPANY

By: **Conning Asset Management Company,**
as Investment Manager

By: /s/ JOHN H. DEMALLIE
Name: JOHN H. DEMALLIE
Title: Director

SWISS RE LIFE & HEALTH AMERICA INC.

By: **Conning Asset Management Company**
As Investment Manager

By: /s/ JOHN H. DEMALLIE
Name: JOHN H. DEMALLIE
Title: Director

ALLSTATE LIFE INSURANCE COMPANY

By: /s/ RICK FISCHER
Name: RICK FISCHER
Title: Authorized Signatory

By: /s/ CARRIE A. CAZOLAS
Name: CARRIE A. CAZOLAS
Title: Authorized Signatory

Authorized Signatories

Wire instructions for dollar denominated payments

Allstate Life Insurance Company
Bank: Citibank
ABA #: 021000089
Account Name: Allstate Life Insurance Company Bond Collection Account
Account #: 30547007
Reference:

Financing Agreement

ALLIED IRISH BANKS P.L.C.

By: /s/ MARTIN KELLY
Name: MARTIN KELLY
Title: Manager

Financing Agreement

BARCLAYS BANK PLC

By: /s/ MARK MANSKI
Name: MARK MANSKI
Title: Managing Director

GENWORTH LIFE INSURANCE COMPANY (F/K/A GENERAL ELECTRIC CAPITAL ASSURANCE COMPANY)

By: /s/ ESTELLE SIMSOLO
Name: ESTELLE SIMSOLO
Title: Investment Officer

ORIOLE CDO INC;

By: **GENWORTH FINANCIAL INVESTMENT MANAGEMENT, LLC, ITS INVESTMENT ADVISOR**

By: /s/ ESTELLE SIMSOLO
Name: ESTELLE SIMSOLO
Title: Investment Officer

GENWORTH LIFE INSURANCE COMPANY OF NEW YORK (AS SUCCESSOR BY MERGER TO AMERICAN MAYFLOWER LIFE INSURANCE COMPANY OF NEW YORK)

By: /s/ ESTELLE SIMSOLO
Name: ESTELLE SIMSOLO
Title: Investment Officer

PHL VARIABLE INSURANCE COMPANY

By: /s/ CHRISTOPHER WILKOS
Name: CHRISTOPHER WILKOS
Title: Executive Vice President

PHOENIX LIFE INSURANCE COMPANY

By: /s/ CHRISTOPHER WILKOS
Name: CHRISTOPHER WILKOS
Title: Executive Vice President

KNIGHTS OF COLUMBUS

By: /s/ RONALD J. TRACZ
Name: RONALD J. TRACZ
Title: Assistant Supreme Secretary

THE OHIO NATIONAL LIFE INSURANCE COMPANY

By: /s/ JED R. MARTIN
Name: JED R. MARTIN
Title: Vice President, Private Placements

AVIVA LIFE AND ANNUITY COMPANY

By: **Aviva Investors North America, Inc.**, its authority attorney-in-fact

By: /s/ ROGER D. FORS
Name: ROGER D. FORS
Title: Vice President, Private Placements

BENEFICIAL LIFE INSURANCE COMPANY

By: /s/ THOMAS KIRBY BROWN JR.,
Name: THOMAS KIRBY BROWN JR.,
Title: Senior Managing Director
& Chief Investment Officer

ENSURE INVESTMENT FUND

BY: **CNT (DIRECTORS) LTD.,** ITS DIRECTOR

By: /s/ IAN PHILLIPS
Name: IAN PHILLIPS
Title: Authorized Signatory

Financing Agreement

Exhibit 4.33.1

DATED 1st DECEMBER 2009

AMENDMENT AGREEMENT

between

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

acting for itself and as agent on behalf of each Obligor

and

CITIBANK INTERNATIONAL PLC

acting for itself and as Administrative Agent on behalf of the Finance Parties

---

RELATING TO THE FINANCING AGREEMENT
DATED 14 AUGUST 2009

Slaughter and May
One Bunhill Row
London EC1Y 8YY
(RWB/RYZS/VJ)

THIS AGREEMENT is dated 1st December 2009 and made between:

(1) **CEMEX, S.A.B. de C.V.** (the "**Parent**") (for itself, and in accordance with Clause 34.7 and 38.1(c) of the Financing Agreement, on behalf of each Obligor); and

(2) **CITIBANK INTERNATIONAL PLC**, for itself and as administrative agent of the Finance Parties under the Financing Agreement (the "**Administrative Agent**").

IT IS AGREED as follows:

1. Definitions and Interpretation

1.1 Definitions

In this Agreement:

"**Financing Agreement**" means the financing agreement dated 14 August 2009 and made between (amongst others) (1) CEMEX, S.A.B. de C.V.; (2) the financial institutions and noteholders named therein in their capacity as Participating Creditors; (3) Citibank International PLC, acting as Administrative Agent; and (4) Wilmington Trust (London) Limited, acting as Security Agent.

1.2 Incorporation of defined terms

(A) Unless a contrary indication appears, a term defined in the Financing Agreement has the same meaning in this Agreement.

(B) The principles of construction set out in the Financing Agreement shall have effect as if set out in this Agreement.

1.3 Clauses

In this Agreement any reference to a "Clause" or a "Schedule" is, unless the context otherwise requires, a reference to a Clause or a Schedule to this Agreement.

1.4 Third party rights

Except as otherwise expressly provided in a Finance Document, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

1.5 Designation

In accordance with the Financing Agreement, the Parent and the Administrative Agent designate this Agreement as a New Finance Document.

2. Amendment

With effect from the date of this Agreement, the Financing Agreement shall be amended as set out in Schedule 1 (*Amendments to Financing Agreement*) to this Agreement.

3. Representations

The Repeating Representations are deemed to be made by each Obligor (by reference to the facts and circumstances then existing) on the date of this Agreement.

4. Continuity, Guarantee confirmation, No novation and Further assurance

4.1 Continuing obligations

The provisions of the Financing Agreement and the other Finance Documents shall, save as amended by this Agreement, continue in full force and effect.

4.2 Guarantee confirmation

The Parent (acting on behalf of each of the Guarantors) hereby confirms for the benefit of the Finance Parties that, notwithstanding any amendments which may be made to the Financing Agreement pursuant to this Agreement, the guarantee and indemnity obligations undertaken by each of the Guarantors pursuant to Clause 20 (*Guarantee and indemnity*) of the Financing Agreement shall remain in full force and effect.

4.3 No novation

The amendment of the Financing Agreement does not constitute a novation of the obligations of the parties thereto.

4.4 Further assurance

The Parent shall, at the request of the Administrative Agent and at its own expense, do all such acts and things necessary or desirable to give effect to the amendments effected or to be effected pursuant to this Agreement.

5. Costs and Expenses

The Parent shall within fifteen days of receipt of demand pay (or procure to be paid) the Administrative Agent the amount of all legal fees reasonably incurred by the Administrative Agent in connection with the negotiation, preparation, printing and execution of this Agreement.

6. Consent of the Majority Participating Creditors

Pursuant to Clause 38.1 (*Amendments and waivers*) of the Financing Agreement, the Administrative Agent, by its signature to this Agreement, hereby confirms that it has received the consent of the Majority Participating Creditors to the amendments to the Financing Agreement as set out in Clause 2 (*Amendment*) and has been authorised by them to execute this Agreement on their behalf.

7. Miscellaneous

7.1 Incorporation of terms

The provisions of Clause 34 (*Notices*), Clause 36 (*Partial Invalidity*), Clause 37 (*Remedies and Waivers*) and Clause 41 (*Enforcement*) of the Financing Agreement shall be incorporated into this Agreement as if set out in full in this Agreement and as if references in those clauses to "this Agreement" or "the New Finance Documents" or "any New Finance Document" are references to this Agreement.

7.2 Counterparts

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

8. Governing Law

This Agreement and all non-contractual obligations arising from or connected with it are governed by English law.

Schedule 1
Amendments to Financing Agreement

1. Amendment to the Debt definition

(I) The definition of "**Debt**" contained in Clause 23.1 of the Financing Agreement shall be deleted in its entirety and replaced with the following definition:

""**Debt**" of any person means, without duplication, (i) all obligations of such person for borrowed money, (ii) all obligations of such person evidenced by bonds, debentures, notes or other similar instruments, including the perpetual bonds, (iii) the aggregate net mark-to-market of Treasury Transactions (except to the extent such exposure is cash collateralised to the extent permitted under the Finance Documents) of such person but excluding Treasury Transactions relating to the rate or price of energy or any commodity, (iv) all obligations of such person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of Trading, (v) all obligations of such person as lessee under Capital Leases, (vi) all Debt of others secured by Security on any asset of such person, up to the value of such asset, (vii) all obligations of such Person with respect to product invoices incurred in connection with export financing, (viii) all obligations of such person under repurchase agreements for the stock issued by such person or another person, (ix) all obligations of such person in respect of Inventory Financing permitted under paragraph (e) of the definition of Permitted Financial Indebtedness and (x) all guarantees of such person in respect of any of the foregoing **provided, however,** that for the purposes of calculating the Consolidated Funded Debt element of the Consolidated Leverage Ratio, Relevant Convertible/Exchangeable Obligations shall be excluded from each of the foregoing sub-paragraphs (i) to (x) (inclusive). For the avoidance of doubt, all letters of credit, banker's acceptances or similar credit transactions, including reimbursement obligations in respect thereof are not Debt until they are required to be funded.".

(II) The following new definition shall be added in alphabetical order in Clause 23.1 of the Financing Agreement:

""**Relevant Convertible/Exchangeable Obligations**" means any Financial Indebtedness incurred by any person the terms of which provide that satisfaction of the principal amount owing under such Financial Indebtedness (whether on or prior to its maturity and whether as a result of bankruptcy, liquidation or other default by such person or otherwise) shall occur solely by delivery of shares or common equity securities in the Parent.".

(III) The following additional sub-clause shall be added to Clause 24.23 of the Financing Agreement:

"(c) For the avoidance of doubt, any delivery of shares or common equity securities in the Parent pursuant to the operation of the terms of any Relevant Convertible/Exchangeable Obligations shall not be restricted by this Clause 24.23.".

2. Retention Threshold Amendment

(I) Sub-paragraph (B) of Clause 13.1(b)(i) of the Financing Agreement shall be deleted in its entirety and consequently the words "(A)" in the first line of Clause 13.1(b)(i) of the Financing Agreement shall be deleted and the word "and" appearing prior to the letter "(B)" also be deleted.

(II) the "." at the end of paragraph (iv) of Clause 13.1(b) of the Financing Agreement be replaced with a "," and the following paragraph shall be added at the end of Clause 13.1(b) of the Financing Agreement, as a separate paragraph following sub-paragraph (iv):

"**provided that**, in the case of sub-clauses (i) or (ii) above, the amount required to be prepaid under this paragraph (b) in relation to the relevant Disposal or Permitted Fundraising (as the case may be) will be reduced by the amount of any Shortfall.".

(III) The following definitions shall be added to Clause 13.1(a) of the Financing Agreement in alphabetical order:

""**Cash Maintenance Threshold**" means $650,000,000 minus unutilised commitments (if any) under any Permitted Liquidity Facilities in place as at the last Business Day of the month ending immediately prior to the day on which the last instalment of any Disposal Proceeds or Permitted Fundraising Proceeds (as the case may be) are prepaid.";

""**Month End Cash in Hand**" means the cash in hand of the Parent on a consolidated basis as at the last Business Day of the month ending immediately prior to the day on which the last instalment of any Disposal Proceeds or Permitted Fundraising Proceeds (as the case may be) are prepaid, with such amount being set out in a notice signed by an Authorised Signatory of the Parent and delivered to the Administrative Agent at the same time as the making of any final instalment of a prepayment amount required under Clauses 13.1(b)(i) or (ii).."; and

""**Shortfall**" means the amount by which the Month End Cash in Hand is less than the Cash Maintenance Threshold.".

(IV) The following additional minor amendments shall be made to Clause 1.1 of the Financing Agreement as a consequence of the above amendments:

(A) In the last paragraph of paragraph (f) of the definition of "Permitted Financial Indebtedness" in the Financing Agreement, sub-paragraph (3) shall be deleted in its entirety and replaced with the following:

"(3) if proceeds of such issuance or incurrence are, to the extent required under this Agreement, being used to replace or refinance Financial Indebtedness which shares in the Transaction Security, such Financial Indebtedness shall be entitled to share in the Transaction Security in accordance with (and on the terms of) the Intercreditor Agreement; and".

(B) In paragraph (f) of the definition of "Permitted Guarantee" in the Financing Agreement, the words ", to the extent required under this Agreement," shall be inserted after the word "used" in the last line of paragraph (f).

(C) In paragraph (M) of Clause 24.5 of the Financing Agreement, the words "including, for the avoidance of doubt, any sharing in the Transaction Security referred to in paragraph (f) of the definition of Permitted Financial Indebtedness; shall be added after the words "the Transaction Security".

3. Permitted Financial Indebtedness Amendment

In the definition of "**Permitted Financial Indebtedness**" in Clause 1.1 of the Financing Agreement, sub-paragraph (1) of the last paragraph of paragraph (f) will be deleted in its entirety and replaced with the following:

"(1) the terms applicable to such issuance under paragraph (f)(i) (excluding pricing, but including, without limitation, as to prepayments, representations, covenants, events of default, guarantees and security) taken as a whole are no more restrictive or onerous than the terms applicable to the Facilities, and the terms applicable to such incurrence under paragraph (f)(ii) (excluding pricing, but including, without limitation, as to prepayments, representations, covenants, events of default, guarantees and security) are no more restrictive or onerous than the terms applicable to the Facilities;".

4. CEMEX Corp. Amendment

Paragraph (b) of Clause 26.6 of the Financing Agreement will be deleted in its entirety and replaced with the following wording:

"(b) The value of the assets of any of the Obligors or Material Subsidiaries is less than its liabilities (taking into account contingent and prospective liabilities other than any such liabilities arising under Clause 20 (*Guarantee and indemnity*)) other than, in the case of CEMEX Corp., liabilities (including contingent and prospective liabilities) owed by CEMEX Corp. on and at any time after the date of this Agreement to another member of the Group **provided that** such liabilities of CEMEX Corp. are subordinated to the claims of the Participating Creditors in the event of the bankruptcy, winding up or liquidation of CEMEX Corp. or an acceleration under Clause 26.16 (*Acceleration*) of the Financing Agreement.".

SIGNATURES

The Parent

CEMEX, S.A.B. de C.V. (for itself and as agent on behalf of each Obligor)

By: /s/ Héctor Medina

The Administrative Agent

CITIBANK INTERNATIONAL PLC (for itself and as agent on behalf of the Finance Parties)

By: /s/ Trevor Laflin

Exhibit 4.33.2

DATED 18 March 2010

AMENDMENT AGREEMENT

between

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

acting for itself and as agent on behalf of each Obligor

and

CITIBANK INTERNATIONAL PLC

acting for itself and as Administrative Agent on behalf of the Finance Parties

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RELATING TO THE FINANCING AGREEMENT
DATED 14 AUGUST 2009
(AS AMENDED FROM TIME TO TIME)

Slaughter and May
One Bunhill Row
London EC1Y 8YY
(RWB/RYZS/LMK)

THIS AGREEMENT is dated [ ] March 2010 and made between:

(1) **CEMEX, S.A.B. de C.V.** (the "**Parent**") (for itself and, in accordance with Clause 34.7 and 38.1(c), on behalf of each Obligor); and

(2) **CITIBANK INTERNATIONAL PLC**, for itself and as administrative agent of the Finance Parties under the Financing Agreement (the "**Administrative Agent**").

IT IS AGREED as follows:

1. Definitions and Interpretation

1.1 Definitions

In this Agreement:

"**Financing Agreement**" means the financing agreement dated 14 August 2009 (as amended from time to time) and made between (amongst others) (1) CEMEX, S.A.B. de C.V.; (2) the financial institutions and noteholders named therein in their capacity as Participating Creditors; (3) Citibank International plc, acting as Administrative Agent; and (4) Wilmington Trust (London) Limited, acting as Security Agent.

1.2 Incorporation of defined terms

(A) Unless a contrary indication appears, a term defined in the Financing Agreement has the same meaning in this Agreement.

(B) The principles of construction set out in the Financing Agreement shall have effect as if set out in this Agreement.

1.3 Clauses

In this Agreement:

(A) any reference to a "Schedule" is, unless the context otherwise requires, a reference to a Schedule to the Financing Agreement; and

(B) any reference to a "Clause" is to a Clause of the Financing Agreement.

1.4 Third party rights

Except as otherwise expressly provided in a Finance Document, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

1.5 Designation

In accordance with the Financing Agreement, the Parent and the Administrative Agent designate this Agreement as a New Finance Document.

2. Amendment

The Financing Agreement shall be amended as set out in each Part of the Schedule (*Amendments to Financing Agreement*) to this Agreement. All such amendments will have effect from the date of this Agreement other than the provisions contained in Part 5 of the Schedule (*Permitted Joint Venture Amendment*) to this Agreement which shall have effect retroactively from 1 January, 2010.

3. Representations

The Repeating Representations are deemed to be made by each Obligor (by reference to the facts and circumstances then existing) on the date of this Agreement.

4. Continuity, Guarantee confirmation, No novation and Further assurance

4.1 Continuing obligations

The provisions of the Financing Agreement and the other Finance Documents shall, save as amended by this Agreement, continue in full force and effect.

4.2 Guarantee confirmation

The Parent (acting on behalf of each of the Guarantors) hereby confirms for the benefit of the Finance Parties that, notwithstanding any amendments which may be made to the Financing Agreement pursuant to this Agreement, the guarantee and indemnity obligations undertaken by each of the Guarantors pursuant to Clause 20 (*Guarantee and indemnity*) shall remain in full force and effect.

4.3 No novation

The amendment of the Financing Agreement does not constitute a novation of the obligations of the parties thereto.

4.4 Further assurance

The Parent shall, at the request of the Administrative Agent and at its own expense, do all such acts and things necessary or desirable to give effect to the amendments effected or to be effected pursuant to this Agreement.

5. Costs and Expenses

The Parent shall within fifteen days of receipt of demand pay (or procure to be paid) the Administrative Agent the amount of all legal fees reasonably incurred by the Administrative Agent in connection with the negotiation, preparation, printing and execution of this Agreement.

6. Consent of the Majority Participating Creditors

Pursuant to Clause 38.1 (*Amendments and waivers*), the Administrative Agent, by its signature to this Agreement, hereby confirms that it has received the consent of the Majority Participating Creditors to the amendments to the Financing Agreement as set out in clause 2 (*Amendment*) of this Agreement and has been authorised by them to execute this Agreement on their behalf.

7. Miscellaneous

7.1 Incorporation of terms

The provisions of Clause 34 (*Notices*), Clause 36 (*Partial Invalidity*), Clause 37 (*Remedies and Waivers*) and Clause 41 (*Enforcement*) shall be incorporated into this Agreement as if set out in full in this Agreement and as if references in those clauses to "this Agreement" or "the New Finance Documents" or "any New Finance Document" are references to this Agreement.

7.2 Counterparts

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

8. Governing Law

This Agreement and all non-contractual obligations arising from or connected with it are governed by English law.

Schedule
Amendments to Financing Agreement

Part 1
Timing of Application of Proceeds Amendment

The definition of "**Excluded Fundraising Proceeds**" in Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) shall be amended by deleting the word "upon" in each of paragraphs (i) and (ii) and replacing it with the words "as soon as reasonably practicable (and in any event within 90 days) following".

Part 2
Certificados Bursatiles Reserve Amendment

(I) The definition of "**Permitted Payment**" in Clause 1.1 (*Definitions*) shall be amended as follows:

(A) to amend paragraph (f) by deleting the current paragraph and replacing it with the following:

"(f) any prepayment of Existing Financial Indebtedness or Permitted Financial Indebtedness arising under paragraph (f)(i) or (f)(ii) of the definition thereof as a result of (x) a change of control or (y) unlawfulness affecting a Creditor, in each case in respect of such Existing Financial Indebtedness or such Permitted Financial Indebtedness; and"

(B) to insert the following new paragraph (g) in the definition:

"(g) a principal prepayment or early redemption in respect of any Relevant Existing Financial Indebtedness from the proceeds applied in accordance with paragraph (v) of the definition of Excluded Fundraising Proceeds,".

(II) The following new definitions shall be inserted in alphabetical order in paragraph (a) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*):

""**CB Reserve**" means the reserve created by the Parent or any of its Subsidiaries for the purposes of holding the proceeds of any Permitted Fundraising that, as set out in the relevant CB Reserve Certificate, are to be applied in accordance with Clause 13.3 (*Mandatory prepayments: Certificados Bursatiles Reserve*)."

""**CB Reserve Certificate**" means a certificate signed by a Responsible Officer of the Parent setting out, with respect to a Permitted Fundraising the net cash proceeds of which are to be applied in accordance with Clause 13.3 (*Mandatory prepayments: Certificados Bursatiles Reserve*):

(i) the amount of proceeds from the relevant Permitted Fundraising that the Parent wishes to be applied to the CB Reserve (such amount to not exceed the aggregate amount of the Relevant Existing Financial Indebtedness that is due to mature within the Relevant Prepayment Period to which it applies); and

(ii) specific details of the Relevant Existing Financial Indebtedness to which any amounts are designated by the Parent to be applied including the total aggregate amount of such Relevant Existing Financial Indebtedness and the date on which such Relevant Existing Financial Indebtedness matures."

""**Relevant Existing Financial Indebtedness**" means any Existing Financial Indebtedness set out in:

(i) paragraph (a) of the definition of Existing Financial Indebtedness to the extent that it relates to Part I.C (*Mexican Public Debt Instruments*) of Schedule 10 (*Existing Financial Indebtedness*); and/or

(ii) paragraph (b) of the definition of Existing Financial Indebtedness to the extent it relates to Part II.A (*Short Term Certificados Bursatiles*) of Schedule 10 (*Existing Financial Indebtedness*) and any Short-Term Certificados Bursatiles that replace or refinance such Existing Financial Indebtedness."

""**Relevant Prepayment Period**" means:

(i) where the proceeds of a Permitted Fundraising are received by a member of the Group before (and including) 30 September 2010, the period commencing on the date of receipt of such proceeds and ending on the date falling 364 days thereafter;

(ii) where the proceeds of a Permitted Fundraising are received by a member of the Group after (but not including) 30 September 2010 but before (and including) 31 March 2011, the period commencing on the date of receipt of such proceeds and ending on 30 September 2011; or

(iii) where the proceeds of a Permitted Fundraising are received by a member of the Group after (but not including) 31 March 2011, the period commencing on the date of receipt of such proceeds and ending on the date falling 180 days thereafter.".

(III) The definition of "**Excluded Fundraising Proceeds**" in paragraph (a) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) shall be amended by inserting the following new paragraph:

"(v) a Permitted Fundraising falling within paragraph (c) of that definition provided that any Relevant Existing Financial Indebtedness due to mature within the particular Relevant Prepayment Period and the proceeds of such Permitted Fundraising are to be applied in accordance with Clause 13.3 (*Mandatory prepayments: Certificados Bursatiles Reserve*);".

(IV) The definition of "**Cash Maintenance Threshold**" in paragraph (a) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) shall be amended by inserting after the words "are prepaid" the following:

"(or would have been required to be prepaid if such Permitted Fundraising Proceeds were not Excluded Fundraising Proceeds)".

(V) The definition of "**Month End Cash in Hand**" in paragraph (a) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) shall be amended as follows:

(A) by inserting after the words "are prepaid" the following:

"(or would have been required to be prepaid if such Permitted Fundraising Proceeds were not Excluded Fundraising Proceeds)"; and

(B) by inserting the following sentence at the end of the definition:

"For the avoidance of doubt, the cash in hand of the Parent shall not include any of the following amounts for the period in which they are being held by the Parent pending application in accordance with the terms of this Agreement: (a) Disposal Proceeds; (b) Permitted Fundraising Proceeds; and (c) Excluded Fundraising Proceeds falling within paragraphs (i), (ii), (v) and (vi) of the definition thereof.".

(VI) Sub-paragraph (b)(ii) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) shall be amended by inserting the following at the start of such sub-paragraph:

"subject to Clause 13.3 (*Mandatory prepayments: Certificados Bursatiles Reserve*) and Clause 13.4 (*Mandatory prepayments: Subordinated Optional Convertible Securities Issuance*),".

(VII) Paragraph (a) of Clause 13.2 (*Application of mandatory prepayments*) shall be amended by inserting the words ", Clause 13.3 (*Mandatory prepayments: Certificados Bursatiles Reserve*) or Clause 13.4 (*Mandatory prepayments: Subordinated Optional Convertible Securities Issuance*)" after the words "*Excess Cashflow*)".

(VIII) A new Clause 13.3 shall be inserted into the Financing Agreement as follows:

"**13.3 Mandatory prepayments: Certificados Bursatiles Reserve**

(a) In circumstances where a Permitted Fundraising falling within paragraph (c) of that definition occurs (which may, for the avoidance of doubt, include a fundraising the proceeds of which are applied in accordance with this Clause 13.3) and any Relevant Existing Financial Indebtedness is due to mature within the particular Relevant Prepayment Period, the Parent shall ensure that any Permitted Fundraising Proceeds (but not excluding, for the purposes of this Clause, Excluded Fundraising Proceeds falling within paragraphs (v) and (vi) (to the extent applicable) of the definition of Excluded Fundraising Proceeds) received by any member of the Group from such Permitted Fundraising, shall be applied as follows:

(i) first, to replenish the cash in hand position of the Parent by deducting and retaining from any such proceeds the amount equal to any Shortfall;

(ii) then, as to the remaining proceeds (if any):

(A) if, during the Relevant Prepayment Period, there is an outstanding Repayment Instalment scheduled to fall due prior to the maturity of any Relevant Existing Financial Indebtedness in that Relevant Prepayment Period, such proceeds shall first be applied in or towards prepayment of that Repayment Instalment to the Participating Creditors (in whole or in part), within 30 days of receipt of those proceeds. Any further remaining proceeds may then be

designated by the Parent, by the issue of a CB Reserve Certificate, to be held in the CB Reserve for the purposes of repaying, prepaying or early redeeming any Relevant Existing Financial Indebtedness due to mature within that Relevant Prepayment Period; or

(B) if, during the Relevant Prepayment Period, any Relevant Existing Financial Indebtedness is due to mature prior to the date of an outstanding Repayment Instalment in that Relevant Prepayment Period, an amount of the proceeds may be designated by the Parent, by the issue of a CB Reserve Certificate, to be held in the CB Reserve for the purposes of repaying, prepaying or early redeeming that Relevant Existing Financial Indebtedness. Any further remaining proceeds shall be applied in or towards prepayment of such outstanding Repayment Instalment scheduled to fall due during that Relevant Prepayment Period (in whole or in part), within 30 days of receipt of such proceeds. To the extent there is any additional Relevant Existing Financial Indebtedness due to mature after the date of such Repayment Instalment but before the end of the Relevant Prepayment Period, an amount of such proceeds following prepayment of that Repayment Instalment may be designated by the Parent, by the issue of a CB Reserve Certificate, to be held in the CB Reserve for the purposes of repaying, prepaying or early redeeming such additional Relevant Existing Financial Indebtedness due to mature within that Relevant Prepayment Period;

(iii) if any such Permitted Fundraising Proceeds remain following prepayment and/or designation in accordance with sub-paragraphs (ii)(A) or (ii)(B) above, such remaining proceeds shall be applied in or towards prepayment of the Exposures of the Participating Creditors within 30 days of receipt of such proceeds; and

(iv) if any such Permitted Fundraising Proceeds are not actually applied to repay, prepay or early redeem Relevant Existing Financial Indebtedness as set out in any CB Reserve Certificate, then those proceeds not so applied shall be applied in or towards prepayment of the Exposures of the Participating Creditors as soon as reasonably practicable (and, in any event, within 10 Business Days) from the originally scheduled maturity date of the Relevant Existing Financial Indebtedness as set out in the CB Reserve Certificate.

(b) The Parent shall, if any such Permitted Fundraising Proceeds are to be designated to repay, prepay or early redeem any Relevant Existing Financial Indebtedness in accordance with paragraph (a) above, provide the CB Reserve Certificate to the Administrative Agent (for distribution to the Participating Creditors) as soon as reasonably practicable following calculation of the Month End Cash in Hand and, in any event, within 30 days of receipt of such proceeds."

(IX) The definition of "**Debt**" contained in Clause 23.1 (*Financial definitions*) shall be amended by deleting the current paragraph and replacing it with the following:

""**Debt**" of any person means, without duplication, (i) all obligations of such person for borrowed money, (ii) all obligations of such person evidenced by bonds, debentures, notes or other similar instruments, including the perpetual bonds, (iii) the aggregate net mark-to-market of Treasury Transactions (except to the extent such exposure is cash collateralised to the extent permitted under the Finance Documents) of such person but excluding Treasury Transactions relating to the rate or price of energy or any commodity, (iv) all obligations of such person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of Trading, (v) all obligations of such person as lessee under Capital Leases, (vi) all Debt of others secured by Security on any asset of such person, up to the value of such asset, (vii) all obligations of such Person with respect to product invoices incurred in connection with export financing, (viii) all obligations of such person under repurchase agreements for the stock issued by such person or another person, (ix) all obligations of such person in respect of Inventory Financing permitted under paragraph (e) of the definition of Permitted Financial Indebtedness and (x) all guarantees of such person in respect of any of the foregoing **provided, however**, that for the purposes of calculating the Consolidated Funded Debt element of the Consolidated Leverage Ratio, (a) Relevant Convertible/Exchangeable Obligations shall be excluded from each of the foregoing paragraphs (i) to (x) inclusive (provided that, in the case of outstanding Financial Indebtedness under any Subordinated Optional Convertible Securities (1) only the principal amount thereof shall be excluded and (2) such exclusion shall apply only for so long as such amounts remain subordinated in accordance with the terms of that definition) and (b) amounts falling within paragraph (v) of the definition of Excluded Fundraising Proceeds, for the period in which they are held by the Parent or any member of the Group pending application in accordance with the terms of this Agreement, shall be deducted from the aggregate Debt calculation resulting from this definition. For the avoidance of doubt, all letters of credit, banker's acceptances or similar credit transactions, including reimbursement obligations in respect thereof are not Debt until they are required to be funded."

(X) The definition of "**Excess Cashflow**" in Clause 23.1 (*Financial definitions*) shall be amended by inserting the following sentence at the end of the definition:

"For the avoidance of doubt, the cash in hand of the Parent for the purposes of calculating Excess Cashflow shall not include any amounts falling within paragraphs (i), (ii), (v) and (vi) of the definition of Excluded Fundraising Proceeds."

Part 3
Chronological Application of Future Prepayments Amendment

(I) Clause 11.3 shall be deleted in its entirety and replaced with the following:

"**11.3 Effect of cancellation and prepayment on scheduled repayments and reductions**

(a) If any of the Exposures of Participating Creditors under the Facilities are prepaid in accordance with Clause 12.2 (*Voluntary prepayment of Exposures*), Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) (other than in relation to sub-paragraph (b)(iv) thereof), Clause 13.3 (*Mandatory prepayments: Certificados Bursatiles Reserve*) or Clause 13.4 (*Mandatory prepayments: Subordinated Optional Convertible Securities Issuance*), then such prepayment will be deemed to have been applied in reduction of the amount of the Repayment Instalment for the Repayment Dates falling after that prepayment in reduction of the Repayment Instalments in the chronological order of those Repayment Instalments.

(b) If any of the Exposures of Participating Creditors under the Facilities are prepaid in accordance with sub-paragraph (b)(iv) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*), then such prepayment will be deemed to have been applied in reduction of the amount of the Repayment Instalment for the Repayment Dates falling after that prepayment in the following order:

(i) **first**, in reduction of the Repayment Instalments falling due on or before 31 December 2011, in the chronological order of those Repayment Instalments; and

(ii) **secondly**, following the prepayment in full of all Repayment Instalments falling due on or before 31 December 2011, in the *pro rata* reduction of all remaining Repayment Instalments."

Part 4
Subordinated Optional Convertible Securities Amendment

(I) The following new definitions shall be inserted in alphabetical order in Clause 1.1 (*Definitions*):

""**Cash Collateral Release Amount**" means the amount of any cash collateral or margin posted by the Parent or any member of the Group as at the date of this Agreement in respect of an Excluded Position set forth in Annex 1 (*Excluded Positions*) of Schedule 15 (*Hedging Parameters*) which has been released to the Parent or any member of the Group upon the replacement of Permitted Security by a Permitted Call Transaction in accordance with paragraph 3 of Schedule 15 (*Hedging Parameters*) or any cash amounts transferred to any member of the Group in conjunction with the entry into a Permitted Call Transaction."

""**Permitted Call Transaction**" has the meaning given to it in sub-paragraph (d) of paragraph 1 of Schedule 15 (*Hedging Parameters*)."

""**Subordinated Optional Convertible Securities**" means any Financial Indebtedness incurred by any member of the Group meeting the requirements of paragraph (f)(i) of the definition of Permitted Financial Indebtedness (including that no principal repayments are scheduled (and no call options can be exercised) until after the Termination Date) (which may, for the avoidance of doubt, include a fundraising the proceeds of which are applied in accordance with Clause 13.4 (*Mandatory prepayments: Subordinated Optional Convertible Securities Issuance*)) the terms of which provide that such indebtedness is capable of optional conversion into equity securities of the Parent and that repayment of principal and accrued but unpaid interest thereon is subordinated (under terms customary for an issuance of such Financial Indebtedness) to all senior Financial Indebtedness of the Parent (including, but not limited to, all Exposures of Participating Creditors) except for: (i) indebtedness that states, or is issued under a deed, indenture, agreement or other instrument that states, that it is subordinated to or ranks equally with any Subordinated Optional Convertible Securities and (ii) indebtedness between or among members of the Group.".

(II) Paragraph (q) of the definition of "**Permitted Disposal**" in Clause 1.1 (*Definitions*) shall be amended by deleting the current paragraph and replacing it with the following:

"(q) of shares, common equity securities in the Parent or reference property in connection with the same to the extent that a member of the Group has an obligation to deliver such shares, common equity securities or reference property to any holder(s) of convertible or exchangeable securities falling within paragraph (f)(i) of the definition of Permitted Financial Indebtedness pursuant to the terms of such convertible or exchangeable securities;".

(III) Paragraph (d) of the definition of "**Permitted Share Issue**" in Clause 1.1 (*Definitions*) shall be amended by deleting the current paragraph and replacing it with the following:

"(d) an issue of common equity securities of the Parent either (i) by the Parent or (ii) to any member of the Group where the Parent or that member of the Group has an obligation to deliver such shares to the holder(s) of convertible or exchangeable securities falling within paragraph (f)(i) of the definition of Permitted Financial Indebtedness pursuant to the terms of such convertible or exchangeable securities.".

(IV) Paragraph (a) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) shall be amended by deleting the current paragraph and replacing it with the following:

"(a) For the purposes of this Clause 13 (*Mandatory Prepayment*):".

(V) The following new definition shall be inserted in alphabetical order in paragraph (a) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*):

""**Subordinated Optional Convertible Securities Proceeds** " means the cash proceeds received by any member of the Group from an issuance of Subordinated Optional Convertible Securities after deducting:

(i) any reasonable expenses which are incurred by the relevant member(s) of the Group with respect to that issuance of Subordinated Optional Convertible Securities (including with respect to any related Permitted Call Transaction) owing to persons who are not members of the Group; and

(ii) any Tax incurred and required to be paid by the relevant member(s) of the Group with respect to that issuance of Subordinated Optional Convertible Securities or with respect to any related Permitted Call Transaction (as reasonably determined by the relevant member(s) of the Group on the basis of rates existing at the time and taking account of any available credit, deduction or allowance).".

(VI) The definition of "**Excluded Fundraising Proceeds**" in paragraph (a) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) shall be amended by inserting the following new paragraphs (vi) and (vii):

"(vi) subject to Clause 13.4(ii), a Permitted Fundraising falling within paragraph (c) of that definition and applied or to be applied in accordance with Clause 13.4 (*Mandatory prepayments: Subordinated Optional Convertible Securities Issuance*); and

(vii) a Permitted Fundraising arising out of or in connection with any Permitted Call Transaction, including, but not limited to, any settlement, disposal, transfer, assignment, close-out or other termination of such Permitted Call Transaction.".

(VII) The definition of "**Excluded Disposal Proceeds**" in paragraph (a) of Clause 13.1 (*Disposal, Permitted Fundraising and Permitted Securitisation Proceeds and Excess Cashflow*) shall be amended by inserting the following new paragraph (vii):

"(vii) any cash or other assets arising out of or in connection with any Permitted Call Transaction, including, but not limited to, any settlement, disposal, transfer, assignment, close-out or other termination of such Permitted Call Transaction.".

(VIII) The following new Clause 13.4 shall be inserted into the Financing Agreement:

"**13.4 Mandatory prepayments: Subordinated Optional Convertible Securities Issuance**

The Parent shall ensure that the amount of any Subordinated Optional Convertible Securities Proceeds and the Cash Collateral Release Amount (if any) shall be applied as follows:

(i) first, the Subordinated Optional Convertible Securities Proceeds shall be applied in payment of any premiums arising under or related to any Permitted Call Transaction; and

(ii) second, the remaining Subordinated Optional Convertible Securities Proceeds, together with the Cash Collateral Release Amount (if any), shall be applied in accordance with the other provisions of Clause 13 (*Mandatory Prepayment*) (to the extent applicable) notwithstanding that such proceeds may constitute Excluded Fundraising Proceeds under paragraph (vi) of the definition thereof.".

(IX) The definition of "**Relevant Convertible/Exchangeable Obligations**" in Clause 23.1 (*Financial definitions*) shall be amended by deleting the current definition in its entirety and replacing it with the following:

""**Relevant Convertible/Exchangeable Obligations**" means:

(a) any Financial Indebtedness incurred by any person the terms of which provide that satisfaction of the principal amount owing under such Financial Indebtedness (whether on or prior to its maturity and whether as a result of bankruptcy, liquidation or other default by such person or otherwise) shall occur solely by delivery of shares or common equity securities in the Parent; and

(b) any Financial Indebtedness under any Subordinated Optional Convertible Securities.".

(X) The opening section of paragraph (F) of Clause 24.5 (*Negative pledge*) shall be amended by deleting the current paragraph and replacing it with the following:

"Security and Quasi-Security existing on the date of this Agreement as described in Schedule 6 (*Existing Security and Quasi-Security*) (or any replacement of Security or Quasi-Security in accordance with paragraph 3 of Schedule 15 (*Hedging Parameters*) or any equivalent Security or Quasi-Security for Existing Financial Indebtedness that is a refinancing or replacement of Existing Financial Indebtedness) **provided that** the principal amount secured thereby is not increased (save that principal amounts secured by Security or Quasi-Security in respect of: […]".

(XI) Paragraph (a) of Clause 24.22 (*Dividends and share redemption*) shall be amended by inserting the following new paragraph under sub-paragraph (iv):

"other than, in each case, in connection with the entry into or performance of obligations or distribution or settlement under any Permitted Call Transaction.".

(XII) Paragraph (c) of Clause 24.23 (*Existing Financial Indebtedness and Permitted Fundraisings*) shall be amended by deleting the current paragraph and replacing it with the following:

"(c) For the avoidance of doubt, any delivery of shares, common equity securities in the Parent or reference property in connection with the same pursuant to the operation of the terms of any Relevant Convertible/Exchangeable Obligations shall not be restricted by this Clause 24.23.".

(XIII) A new Clause 24.34 shall be inserted into the Financing Agreement as follows:

"**24.34 Subordinated Optional Convertible Securities Issuance**

The Parent shall (and shall ensure that all members of the Group shall) ensure that in relation to any issuance of Subordinated Optional Convertible Securities and any related Permitted Call Transaction, at the time of the issuance of the Subordinated Optional Convertible Securities, the aggregate of (i) the maximum applicable coupon (excluding any amounts payable as a result of or in relation to any withholding tax) on the Subordinated Optional Convertible Securities (expressed as a percentage on an annual basis) plus the premium associated with the Permitted Call Transaction related to those Subordinated Optional Convertible Securities (expressed as a percentage of the aggregate principal amount of such issuance of Subordinated Optional Convertible Securities) divided by (ii) the number of years for which those Subordinated Optional Convertible Securities are issued, will be less than or equal to 10 per cent. per annum.".

(XIV) The definition of "**Permitted Treasury Transaction**" in paragraph 1 of Schedule 15 (*Hedging Parameters*) shall be amended to include the following new sub-paragraph (d):

"(d) any call spread or capped call transaction entered into, sold or purchased in connection with any issuance of Subordinated Optional Convertible Securities (each, a "**Permitted Call Transaction**")."

(XV) Paragraph 3 of Schedule 15 (*Hedging Parameters*) shall be amended by deleting the current paragraph and replacing it with the following:

"3. The total amount of collateral or margin posted as of the date of this Agreement in respect of each Excluded Position or Permitted Non-Bank Commodity Contract is Permitted Security or Quasi-Security (as the case may be) as described in Schedule 6 (*Existing Security and Quasi-Security*) to this Agreement **provided that** such collateral or margin was posted in accordance with the Derivatives Side Letter. No Obligor will (and the Parent will procure that no members of the Group will) post additional collateral or margin in respect of an Excluded Position or a Permitted Non-Bank Commodity Contract for which collateral or margin is already posted, or any collateral or margin in respect of any other Treasury Transaction, except as permitted under paragraphs (K) and (O) of the definition of Permitted Security set out in Clause 24.5 (*Negative pledge*) of this Agreement. Notwithstanding the foregoing, members of the Group may replace collateral or margin posted as of the date of this Agreement in respect of an Excluded Position as described in Schedule 6 (*Existing Security and Quasi-Security*) with a Permitted Call Transaction for the purpose of obtaining a Cash Collateral Release Amount, provided any amount of collateral or margin posted at any time in connection with such Excluded Position in

excess of the amount described in Schedule 6 (*Existing Security and Quasi-Security*) in respect of such Excluded Position complies with paragraphs (K) and (O) of the definition of Permitted Security in Clause 24.5 (*Negative pledge*) of this Agreement.".

Part 5
Permitted Joint Venture Amendment

(I) Sub-paragraphs (b)(ii) and (b)(iii) of the definition of "**Permitted Joint Venture**" in Clause 1.1. (*Definitions*) shall be amended by deleting the current sub-paragraphs in their entirety and replacing them with the following, with such amendments to be effective from 1 January 2010:

"(ii) in any Financial Year of the Parent, the aggregate of:

(1) all amounts subscribed for shares in, lent to, or invested in all such Joint Ventures by any member of the Group;

(2) the contingent liabilities of any member of the Group under any guarantee given in respect of the liabilities of any such Joint Venture; and

(3) the market value of any assets transferred by any member of the Group to any such Joint Venture,

minus

(4) from and including 1 January 2010, an amount up to, but not exceeding, $100,000,000 (or its equivalent in other currencies) in any Financial Year that represents all cash amounts received by any member of the Group (i) relating to dividends, repayment of loans or distributions of any other nature in respect of any such Joint Ventures in that Financial Year and (ii) as a result of or in relation to any disposals of shares, interests or participations, divestments, capital reductions or any similar decreases of interest in any such Joint Ventures in that Financial Year,

does not exceed $100,000,000 (or its equivalent in other currencies) or such greater amount as the Administrative Agent (acting on the instructions of the Majority Participating Creditors) may agree (such amount being the "**Joint Venture Investment**"); and

(iii) the Parent has (by written notice to the Administrative Agent prior to the end of the Financial Year in which the investment is made) designated the Joint Venture Investment as counting against:

(1) paragraph (k) of the definition of Permitted Acquisition; or

(2) the maximum amount of Capital Expenditure permitted in that Financial Year under paragraph (c) of Clause 23.2 (*Financial condition*).".

(II) Paragraph (k) of the definition of "**Permitted Acquisition**" in Clause 1.1. (*Definitions*) shall be amended by deleting the first reference in such paragraph to "Permitted Joint Ventures" and replacing it with the words "Joint Venture Investment".

(III) The following new definition shall be inserted in alphabetical order in Clause 1.1 **(***Definitions*):

""**Joint Venture Investment**" has the meaning given to such term in sub-paragraph (b)(ii) of the definition of Permitted Joint Venture.".

Part 6
Miscellaneous amendments

In relation to the definition of "**Permitted Financial Indebtedness**" in Clause 1.1. (*Definitions*), the following paragraph, which immediately follows sub-paragraph (f)(ii)(B) of that definition, shall be indented so that such paragraph is moved to be aligned with sub-paragraphs (A) and (B) of sub-paragraph (f)(ii):

"**provided that** no principal repayments are scheduled (and no mandatory prepayment obligations arise save as a result of unlawfulness affecting a creditor in respect of such loan facility) in respect thereof until after the Termination Date,"

SIGNATURES

The Parent

CEMEX, S.A.B. de C.V. (for itself and as agent on behalf of each Obligor)

By: /s/ Rodrigo Treviño

The Administrative Agent

CITIBANK INTERNATIONAL PLC (for itself and as agent on behalf of the Finance Parties)

By: /s/ Trevor Laflin

Trevor Laflin

Exhibit 4.34
EXECUTION VERSION

OMNIBUS AMENDMENT AND WAIVER AGREEMENT

This omnibus amendment and waiver agreement (the "Omnibus Agreement"), dated as of August , 2009 is entered into by and among CEMEX, S.A.B. de C.V., a *sociedad anónima bursátil de capital variable* organized and existing pursuant to the laws of the United Mexican States (the "Parent"), the subsidiaries of the Parent listed in Exhibit B hereto (such subsidiaries together with the Parent, the "Guarantors"), the financial institutions listed in Exhibit C hereto in their capacities as lenders under certain Existing Agreements (as defined below) (the "Lenders") and the financial institutions listed in Exhibit D hereto in their capacity as administrative agents under certain Existing Agreements (as defined below) (the "Existing Administrative Agents").

RECITALS

WHEREAS, the Borrowers, the Guarantors, the Lenders and the Existing Administrative Agents are parties to the credit agreements and guarantees listed on Exhibit E hereto (collectively, the "Existing Agreements");

WHEREAS, the Borrowers, the Guarantors and the Lenders, together with the other parties thereto, have entered into a financing agreement dated as of August , 2009 as amended from time to time in accordance with its terms (the "Financing Agreement"), a copy of which as of the date hereof is attached as Exhibit F hereto. The Financing Agreement sets forth the terms on which during the Override Period, the Participating Creditors are willing to continue to make available the Facility Loans (as defined in Exhibit H hereto) and amend, vary, modify, waive, override, replace and supplement certain terms of the Existing Agreements; and

WHEREAS, for purposes of implementing certain amendments and waivers agreed to by the Borrowers, the Guarantors and the Lenders in the Financing Agreement, the Borrowers have requested that the Lenders consent to the amendments and waivers to the Existing Agreements as described below, and the Lenders wish to consent to such amendments and waivers, in each case with respect to the Existing Agreement(s) to which they are a party;

NOW THEREFORE, in consideration of the premises and the mutual covenants hereinafter contained and for other good and valuable consideration, the receipt of which is hereby acknowledged, the parties hereto each hereby agree as follows:

SECTION 1. Definitions; Cross-References. Capitalized terms set out in the first column of Exhibit H hereto refer to the terms/provisions of the Existing Agreements as specified on Exhibit H hereto. Except to the extent otherwise specified in this Omnibus Agreement or the exhibits hereto, capitalized terms used in this Omnibus Agreement shall have the same meanings ascribed to them in the Financing Agreement.

SECTION 2. Amendments. Each Existing Agreement is hereby amended as follows:

2.1. The Existing Definition Provisions set forth for such Existing Agreement on Exhibit H hereto shall be amended as follows:

(a) as set forth on row 1 (*Facility Applicable Margin*) of Exhibit G hereto;

(b) as set forth on row 2 (*Facility Termination Date*) of Exhibit G hereto; and

(c) the following definitions shall be added in alphabetical order to the Existing Definition Provisions of each Existing Agreement:

> ""Financing Agreement" means the financing agreement dated on or about August , 2009 between, among others, CEMEX, S.A.B. de C.V. and certain of its subsidiaries (including CEMEX España), Citibank International PLC as Administrative Agent, Wilmington Trust (London) Limited, as Security Agent and the Participating Creditors (as defined therein), as amended from time to time in accordance with its terms."
>
> ""Financing Agreement Agent" means the "Administrative Agent" as defined in the Financing Agreement."
>
> ""New Finance Document" shall have the meaning set forth in the Financing Agreement."
>
> ""Omnibus Agreement" means the omnibus amendment and waiver agreement dated on or about August , 2009 between, among others, CEMEX, S.A.B. de C.V. and certain of its subsidiaries, the Existing Administrative Agents and the Lenders (as each such term is defined therein)."
>
> ""Participating Creditor" shall have the meaning set forth in the Financing Agreement."

(d) the definition of "Business Day" shall be deleted and replaced in its entirety with the following language:

> ""Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Madrid, New York, Amsterdam and Mexico City (in the case of Mexico City, if applicable, as specified by a governmental authority), and (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, a currency other than euro) the principal financial centre of the country of that currency."

(e) with respect to the BNPP Bilateral and JPMC Bilateral (as defined on Exhibit E hereto), the following definitions shall be added in alphabetical order to Schedule 1 (General Terms) Clause 1.1 (Definitions) of each such Existing Agreement:

""Financing Agreement" has the meaning as defined in the Other Terms."

""Financing Agreement Agent" has the meaning as defined in the Other Terms."

""New Finance Document" has the meaning as defined in the Other Terms."

""Omnibus Agreement" has the meaning as defined in the Other Terms."

""Participating Creditor" has the meaning as defined in the Other Terms."

2.2. The Existing Representations and Warranties in each Existing Agreement shall be deleted and replaced in their entirety with the following language:

"[Intentionally Omitted]."

2.3. The Existing Information Undertakings in each Existing Agreement shall be deleted and replaced in their entirety with the following language:

"[Intentionally Omitted]."

2.4. The Existing Financial Covenants in each Existing Agreement shall be deleted and replaced in their entirety with the following language:

"[Intentionally Omitted]."

2.5. The Existing General Undertakings in each Existing Agreement shall be deleted and replaced in their entirety with the following language:

"[Intentionally Omitted]."

2.6. The Existing Notification Requirements in each Existing Agreement shall be deleted and replaced in their entirety with the following language:

"[Intentionally Omitted]."

2.7. The Existing Sharing Provisions in each Existing Agreement shall be deleted and replaced in their entirety with the following language:

"[Intentionally Omitted]."

2.8. The Existing Extension and Term Out Provisions in each Existing Agreement shall be deleted and replaced in their entirety with the following language:

"[Intentionally Omitted]."

2.9. The Existing Amortization Provisions set forth for such Existing Agreement on Exhibit H hereto shall be amended as set forth on row 3 (Existing Amortization Provisions) of Exhibit G hereto.

2.10. The Existing Mandatory Prepayment Provisions in each Existing Agreement shall be deleted and, if applicable, replaced in their entirety with the following language:

"[Intentionally Omitted]."

2.11. The Existing Change of Control Provisions in each Existing Agreement shall be deleted and replaced in their entirety with the following language:

"[Intentionally Omitted]."

2.12. The Existing Single Lender Repayment Clauses in each Existing Agreement shall be deleted and replaced in their entirety with the following language:

"[Intentionally Omitted]."

2.13. The Existing Taxes and Payment Provisions set forth for such Existing Agreement on Exhibit H hereto shall be supplemented and amended as set forth on row 4 (Existing Taxes and Payment Provisions) of Exhibit G hereto.

2.14. (a) The Existing Guarantor Release Restriction Clauses in each Existing Agreement shall be deleted and, if applicable, replaced in their entirety with the following language:

"[Intentionally Omitted]."

(b) The parties hereto agree that notwithstanding anything to the contrary set forth in an Existing Agreement, the Borrower and any Guarantor under such Existing Agreement shall be released from their obligations under such Existing Agreement pursuant to the following clauses of the Financing Agreement: Clause 28.2 (Resignation of a Borrower), Clause 28.4 (Resignation of Guarantor) and Clause 28.5 (Release of CEMEX Australia Holdings Pty Ltd).

2.15. The Existing Letter of Credit Provisions set forth for such Existing Agreement on Exhibit H hereto shall be deleted and replaced in their entirety with the following language:

"[Intentionally Omitted]."

2.16. The Existing Swing Line Loan Provisions set forth for such Existing Agreement on Exhibit H hereto shall be deleted and replaced in their entirety with the following language:

"[Intentionally Omitted]."

2.17. The Existing Facility Fee and Utilization Fee Provisions set forth for such Existing Agreement on Exhibit H hereto shall be deleted and replaced in their entirety with the following language:

"[Intentionally Omitted]."

2.18. The Existing Agency Provisions set forth for such Existing Agreement on Exhibit H hereto shall be amended as set forth on row 5 (Existing Agency Provisions) of Exhibit G hereto.

2.19. The Existing Successors and Assigns Provisions set forth for such Existing Agreement on Exhibit H hereto shall be amended as set forth on row 6 (Existing Successors and Assigns Provisions) of Exhibit G hereto.

2.20. The Existing Events of Default in each Existing Agreement shall be deleted and replaced in their entirety with the following language:

> "Events of Default. The following specified events shall constitute an "Event of Default" for purposes of this Agreement: Any Event of Default (as defined in the Financing Agreement) occurs under Clause 26.1 (Events of Default) through and including 26.15 (Events of Default) of the Financing Agreement."

2.21. The Existing Acceleration Clauses in each Existing Agreement shall be amended as set forth on row 7 (Existing Acceleration Clauses) of Exhibit G hereto.

2.22. The Facility Interest Payment Date set forth for such Existing Agreement on Exhibit H hereto shall be amended as set forth on row 8 (Facility Interest Payment Dates) of Exhibit G hereto.

2.23. The Facility Interest Period Provision set forth for such Existing Agreement on Exhibit H hereto shall be amended as set forth on row 9 (Facility Interest Period Provision) of Exhibit G hereto.

2.24. Each Facility Notes Exhibit set forth for such Existing Agreement on Exhibit H hereto shall be amended as set forth on row 10 (Facility Notes Exhibits) of Exhibit G hereto.

2.25. With respect to the NY Joint Bilateral Facility (as defined on Exhibit E hereto), Section 2.01(j) thereof shall be amended by deleting the phrase ", and specify the Applicable Margin applicable to such Loans".

SECTION 3. Financing Agreement Amendment or Waiver. If the Majority Participating Creditors consent to any amendment to or waiver of any provision of the Financing Agreement that requires a consent by the Lenders under any Existing Agreement, including without limitation an amendment or waiver relating to the payment of interest, interest periods,

other interest provisions or voluntary prepayments, the Lenders shall be deemed to have consented to such amendment to or waiver under such Existing Agreement. If requested by the Borrower in connection with an amendment or waiver to an Existing Agreement described in the preceding sentence, the Lenders shall execute a consent to implement such amendment or waiver.

SECTION 4. Consent; Direction to the Existing Administrative Agents . The Lenders party to each Existing Agreement hereby:

(a) confirm that they consent to the amendments, deletions, variations, modifications and waivers of such Existing Agreement provided for in the Financing Agreement and this Omnibus Agreement; and

(b) direct the Existing Administrative Agent in relation to any Syndicated Facility Credit Agreement (as defined in Exhibit E hereto) to act in accordance with such Syndicated Facility Credit Agreement as the same has been amended, varied, modified, overridden, replaced, supplemented and waived by the terms of the Financing Agreement and the other New Finance Documents, including but not limited to, this Omnibus Agreement.

SECTION 5. Waivers. Each party to this Omnibus Agreement hereby affirms in all respects each waiver set forth in Clause 8.1 (Waiver of defaults under Existing Finance Documents) of the Financing Agreement with respect to each Existing Agreement to which such party is a party.

SECTION 6. Representations and Warranties. Each Borrower and Guarantor hereby represents and warrants to the Lenders that:

6.1. The representations and warranties of each Borrower and Guarantor contained in Clause 21(Representations) of the Financing Agreement are true and correct as of the date of this Omnibus Agreement.

6.2. The execution, delivery and performance by each Borrower and Guarantor of this Omnibus Agreement have been (and any New Note (as defined below) that has been executed and delivered has been) duly authorized by all necessary corporate action, and this Omnibus Agreement constitutes (and any New Note that has been executed and delivered will constitute) the legal, valid and binding obligation of each Borrower and Guarantor enforceable against such Borrower and Guarantor in accordance with its terms, except as enforceability may be limited by applicable *concurso mercantil*, bankruptcy, insolvency, reorganization, moratorium or similar law affecting creditors' rights generally or general equity principles.

6.3. The execution, delivery and performance of this Omnibus Agreement by each Borrower and Guarantor do not, and will not, contravene or conflict with any provision of (i) applicable law, (ii) any judgment, decree or order, or (iii) the certificate or articles of incorporation or by-laws or other constituent documents of such Borrower and Guarantor, and do not, and will not, contravene or conflict with, or cause any Lien or Security Interest, as the case may be (as defined in each Existing Agreement) to arise under, any provision of any indenture, agreement, mortgage, lease, instrument or other document binding upon or otherwise affecting such Borrower or Guarantor or any property of such Borrower or Guarantor.

6.4. Each Facility Transaction Document (as defined in Exhibit H hereto), other than the Facility Notes (as defined in Exhibit H hereto), executed in connection with an Existing Agreement remains in full force and effect.

SECTION 7. Notes. On the Omnibus Agreement Effective Date (as defined below), each Lender shall deliver its outstanding Facility Note(s) representing its Facility Loan(s) to the Existing Administrative Agent (with respect to the Syndicated Facility Credit Agreements (as defined in Exhibit E hereto)) or the Borrower (with respect to the Bilateral Facility Credit Agreements (as defined in Exhibit E hereto)), whereupon such Facility Note shall be cancelled and a new note representing such Facility Loan shall be issued to the relevant Lender (such new note, a " New Note"); *provided* that such New Note shall also be issued with respect to a Facility Loan represented by an outstanding Facility Note that has not been delivered by the relevant Lender if such Lender executes a certificate in the form of Exhibit I hereto. With respect to each New Note that is in the form of Exhibit J hereto, the parties to such New Note agree to execute a side letter in the form of Exhibit L hereto that conforms the interest payment provisions in such New Note to those in the Existing Agreement to which such New Note relates.

SECTION 8. Conditions Precedent to Effectiveness. The effectiveness of the amendments set forth in Section 2 hereof are in each instance subject to the satisfaction (or waiver) of each of the following conditions precedent (the date on which all such conditions precedent are satisfied or waived being the "Omnibus Agreement Effective Date"):

8.1. Omnibus Agreement. This Omnibus Agreement shall have been duly executed and delivered by each Borrower, Guarantor, each Existing Administrative Agent and the Lenders.

8.2. Effectiveness of Financing Agreement. The "Effective Date" under the Financing Agreement shall have occurred.

SECTION 9. Agreement Prevails. To the maximum extent permitted by law:

(a) in the event of any inconsistency or conflict between the Intercreditor Agreement and the Financing Agreement, the Existing Agreements, this Omnibus Agreement or any other Facility Transaction Document, the Intercreditor Agreement will prevail;

(b) in the event of any inconsistency or conflict between the Financing Agreement and the Existing Agreements, this Omnibus Agreement or any other Facility Transaction Document except the Intercreditor Agreement, the terms of the Financing Agreement will prevail; and

(c) neither the entry into the New Finance Documents, nor any action required by any Borrower or any Guarantor pursuant to the New Finance Documents shall be regarded as a breach of any Existing Agreement or other Facility Transaction Document.

SECTION 10. Reference to and Effect Upon the Existing Agreements and other Facility Transaction Documents .

10.1. Full Force and Effect. Except as specifically provided herein, each Facility Transaction Document (other than the Facility Notes, if any) shall remain in full force and effect, and is hereby ratified and confirmed by the Borrower thereunder.

10.2. Limitation on Scope of the Parties' Agreements Set Forth Herein . The agreements consents and waivers of the parties hereto shall only have effect with respect to the Existing Agreement(s) to which such parties are a party and their signatures hereto shall not be interpreted as an accession of theirs as a party to any Existing Agreement other than the Existing Agreement(s) to which they were parties prior to the Omnibus Agreement Effective Date.

10.3. Certain Terms. Each reference in an Existing Agreement to "this Agreement", "hereunder", "hereof", "herein" or any other word or words of similar import shall mean and be a reference to such Existing Agreement as amended hereby, and each reference in any other Facility Transaction Document to the Existing Agreement or any word or words of similar import shall be and mean a reference to such Existing Agreement as amended hereby.

10.4. Reaffirmation of Guaranty. The Borrower and each Guarantor under each Existing Agreement or Rinker Bilateral Guarantee (as defined in Exhibit E hereto), as the case may be, hereby reaffirm that the guarantee of such Guarantor(s) contained in the Existing Agreement or Rinker Bilateral Guarantee, as the case may be, is in full force and effect as of the Omnibus Agreement Effective Date.

SECTION 11. Counterparts. This Omnibus Agreement may be executed in any number of counterparts, each of which when so executed shall be deemed an original but all such counterparts shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Omnibus Agreement by telecopier shall be as effective as delivery of a manually executed counterpart signature page to this Omnibus Agreement.

SECTION 12. Costs and Expenses. As provided in each Existing Agreement, the Borrower or Guarantor thereunder shall pay the reasonable fees, costs and expenses incurred by the Existing Administrative Agent (with respect to the Syndicated Facility Credit Agreements) or the Lender (with respect to the Bilateral Facility Credit Agreements (as defined in Exhibit E hereto)) under such Existing Agreement, as applicable, in connection with the preparation, execution and delivery of this Omnibus Agreement (including, without limitation, attorneys' fees).

SECTION 13. GOVERNING LAW. THIS OMNIBUS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK.

SECTION 14. Headings. Section headings in this Omnibus Agreement are included herein for convenience of reference only and shall not constitute a part of this Omnibus Agreement for any other purpose.

[Signature Pages Follow]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

CEMEX, S.A.B. de C.V.,
as Parent and as Guarantor
By: /s/ HÉCTOR MEDINA AGUIAR
Name: HÉCTOR MEDINA AGUIAR
Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

New Sunward Holding B.V.,

as Borrower

By: /s/ ÁNGEL MÉNDEZ

Name: ÁNGEL MÉNDEZ

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Cemex Materials, LLC,

as Borrower

By: /s/ ÁNGEL MÉNDEZ

Name: ÁNGEL MÉNDEZ

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Cemex México, S.A. de C.V.

as Guarantor

By: /s/ ÁNGEL MÉNDEZ

Name: ÁNGEL MÉNDEZ

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Empresas Tolteca de México, S.A. de C.V.

as Guarantor

By: /s/ ÁNGEL MÉNDEZ

Name: ÁNGEL MÉNDEZ

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Cemex Concretos, S.A. de C.V.

as Guarantor

By: /s/ ÁNGEL MÉNDEZ

Name: /s/ ÁNGEL MÉNDEZ

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Cemex España, S.A.,

as Guarantor

By: /s/ JAVIER GARCIA

Name: JAVIER GARCIA

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Barclays Bank PLC

as Existing Administrative Agent

By: /s/ Nicholas A. Bell

Name: Nicholas A. Bell

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer

as Existing Administrative Agent

By: /s/ ALEJANDRO CARDENAS BORTONI / RICARDO CANO SWAIN

Name: ALEJANDRO CARDENAS BORTONI / RICARDO CANO SWAIN

Title: Attorney-in-Fact

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

ING Capital LLC,

as Existing Administrative Agent

By: /s/ Clarence W. Plummer

Name: Clarence W. Plummer

Title: Managing Director

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Banca Monte Dei Paschi Di Siena S.P.A.,

as Lender

By: /s/ RENATO BASSI /
BRIAN R LANDY

Name: RENATO BASSI /
BRIAN R LANDY

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Banco Bilbao Vizcaya Argentaria, S.A., Grand Cayman Branch,

as Lender

By: /s/ FRANCISCO RODRIGUEZ TEJEDOR / STÉPHANE POSSOT

Name: FRANCISCO RODRIGUEZ TEJEDOR / STÉPHANE POSSOT

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Banco Bilbao Vizcaya Argentaria, S.A., Grand Cayman Branch,

as Lender

By: /s/ FRANCISCO RODRIGUEZ TEJEDOR / STÉPHANE POSSOT

Name: FRANCISCO RODRIGUEZ TEJEDOR / STÉPHANE POSSOT

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Banco Nacional de Comercio Exterior, S.N.C.,

as Lender

By: /s/ LIC. JORGE A. TOVAR CASTRO /
LIC. LEONEL N. VÁSQUEZ GÓMEZ

Name: LIC. JORGE A. TOVAR CASTRO /
LIC. LEONEL N. VÁSQUEZ GÓMEZ

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Banco Nacional de México, S.A. Integrante del Grupo Financiero Banamex,

as Lender

By: JULIO ALVAREZ / ANA E CALLES

Name: JULIO ALVAREZ / ANA E CALLES

Title: Vice President / Subdirector

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Banco Santander, S.A.,

as Lender

By: /s/ JUAN ANDRES YANES LUCIANI

Name: JUAN ANDRES YANES LUCIANI

Title: Attorney-in-Fact

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Banco Santander, S.A., New York Branch,

as Lender

By: /s/ JUAN ANDRES YANES LUCIANI

Name: JUAN ANDRES YANES LUCIANI

Title: Attorney-in-Fact

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander,

as Lender

By: /s/ OCTAVIANO COUTTOLENC / MAURICIO REBOLLEDO

Name: OCTAVIANO COUTTOLENC / MAURICIO REBOLLEDO

Title: Managing Director/Managing Director

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Bank of America, N.A.,

as Lender

By: /s/ BENITO RONCERO VIDAL

Name: BENITO RONCERO VIDAL

Title: Senior Vice President

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Barclays Bank PLC,

as Lender

By: /s/ MARK MANSKI

Name: MARK MANSKI

Title: Managing Director

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Bayerische Landesbank, New York Branch

as Lender

By: /s/ Nikolai von Mengden / Gina Hoey

Name: Nikolai von Mengden / Gina Hoey

Title: Senior Vice President / Vice President

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

BBVA Bancomer, S.A., Institución de Banca Múltiple Grupo Financiero BBVA Bancomer,

as Lender

By: /s/ ALEJANDRO CORDENAS BORLONI / RICARDO CANO SWAIN

Name: ALEJANDRO CORDENAS BORLONI / RICARDO CANO SWAIN

Title: Attorney-in-Fact

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

BNP Paribas (Sydney Branch),

as Lender

By: /s/ KATHRYN B QUINN /
KRISTIE PELLECCHIA

Name: KATHRYN B QUINN /
KRISTIE PELLECCHIA

Title: Managing Director / Vice President

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

BNP Paribas Panama Branch,

as Lender

By: /s/ KATHRYN B QUINN /
KRISTIE PELLECCHIA

Name: KATHRYN B QUINN /
KRISTIE PELLECCHIA

Title: Managing Director / Vice President

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Calyon New York Branch,

as Lender

By: /s/ PIERRE DEBRAY / KEVIN FLOOD

Name: PIERRE DEBRAY / KEVIN FLOOD

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Caja de Ahorros y Monte de Piedad de Madrid, Miami Agency, as Lender

By: /s/ IGNACIO REGUERAS / J CUETO

Name: IGNACIO REGUERAS / J CUETO

Title: Relationship Manager / Senior Vice President

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Citibank, N.A. Nassau Bahamas Branch,

as Lender

By: /s/ Leslie Munroe

Name: Leslie Munroe

Title: Attorney-in-Fact

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Citibank (Banamex USA),

as Lender

By: /s/ JEFF HEALY / CLAUDIO CARRASCO

Name: JEFF HEALY / CLAUDIO CARRASCO

Title: Senior Vice President / Relationship Manager

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Comerica Bank,

as Lender

By: /s/ MARK LAYTON

Name: MARK F LAYTON

Title: Vice President

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Commerzbank AG (formerly Dresdner Bank AG, acting through its lending office Dresdner Bank AG, New York Branch),

as Lender

By: /s/ BRIAN SMITH / THOMAS BRADY

Name: BRIAN SMITH / THOMAS BRADY

Title: MD / MD

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Deutsche Bank AG New York Branch,

as Lender

By: /s/ J. OTERO / V. HOFMAN

Name: J. OTERO / V. HOFMAN

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Fortis Bank SA/NV Cayman Islands Branch,

as Lender

By: /s/ CHARLES COUROUBLE /
DIRAN CHOLAKIAN

Name: CHARLES COUROUBLE /
DIRAN CHOLAKIAN

Title: Chief Risk Officer / Director

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

HSBC Bank plc, Sucursal en España,

as Lender

By: /s/ Mark J. Hall

Name: Mark J. Hall

Title: Managing Director

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

HSBC Mexico, S.A., Institución de Banca Múltiple, Grupo Financiero HSBC,

as Lender

By: /s/ VICTOR MANUEL ELIZONDO ARIAS

Name: VICTOR MANUEL ELIZONDO ARIAS

Title: Attorney-in-Fact

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

HSBC Mexico, S.A., Institución de Banca Múltiple, Grupo Financiero HSBC, acting through its Grand Cayman Branch,

as Lender

By: /s/ VICTOR MANUEL ELIZONDO ARIAS

Name: VICTOR MANUEL ELIZONDO ARIAS

Title: Attorney-in-Fact

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

ING Bank, N.V. (acting through its Curacao Branch),

as Lender

By: /s/ M.P.W. VAN KLINK

Name: M.P.W. VAN KLINK

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Intesa Sanpaolo S.p.A., New York Branch,

as Lender

By: /s/ BARBARA J BASSI /
FRANCESCO DI MARIO

Name: BARBARA J BASSI /
FRANCESCO DI MARIO

Title: Vice President / FVP, Credit Manager

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

JPMorgan Chase Bank, N.A.,

as Lender

By: /s/ PABLO OGARRIO

Name: PABLO OGARRIO

Title: Vice President

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Mizuho Corporate Bank, Ltd.,

as Lender

By: /s/ DAVID COSTA

Name: DAVID COSTA

Title: Deputy General Manager

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Morgan Stanley Bank, N.A.,

as Lender

By: /s/ TODD VANNUCCI

Name: TODD VANNUCCI

Title: Authorized Signatory

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Société Générale,

as Lender

By: /s/ CAROL RADICE

Name: CAROL RADICE

Title: Director

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Standard Chartered Bank,

as Lender

By: /s/ MARC CHAIT / MARIA L GARCIA

Name: MARC CHAIT / MARIA L GARCIA

Title: Director / Documentation Manager-A2710

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

The Bank of Nova Scotia,

as Lender

By: /s/ STEPHEN H COREY / DONNA SHAIN

Name: STEPHEN H COREY / DONNA SHAIN

Title: Director / Director

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

The Bank of Tokyo-Mitsubishi UFJ, Ltd.,

as Lender

By: /s/ David Noda

Name: David Noda

Title: Vice President and Manager

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

The Royal Bank of Scotland plc,

as Lender

By: /s/ GUILLERMO POGGIO / JANIN CAMPOS

Name: GUILLERMO POGGIO / JANIN CAMPOS

Title:

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

UniCredit S.p.A. New York Branch,

as Lender

By: /s/ MICHAEL NOVELLINO /
LORIANN CURNYN

Name: MICHAEL NOVELLINO /
LORIANN CURNYN

Title: Director / Managing Director

[Signature Page to Omnibus Amendment and Waiver Agreement]

IN WITNESS WHEREOF, this Omnibus Agreement has been duly executed as of the date first written above.

Wachovia Bank, National Association,

as Lender

By: /s/ THOMAS M CAMBERN

Name: THOMAS M CAMBERN

Title: Managing Director

[Signature Page to Omnibus Amendment and Waiver Agreement]

EXHIBIT A

Subsidiary Borrowers

New Sunward Holding B.V.
Cemex Materials, LLC

EXHIBIT B

Subsidiary Guarantors

Cemex México, S.A. de C.V.
Empresas Tolteca de México, S.A. de C.V.
Cemex Concretos, S.A. de C.V.
Cemex España, S.A.

EXHIBIT C

Lenders

Banca Monte Dei Paschi Di Siena S.P.A.
Banco Bilbao Vizcaya Argentaria, S.A., Grand Cayman Branch
Banco Bilbao Vizcaya Argentaria, S.A., New York Branch
Banco Nacional de Comercio Exterior, S.N.C.
Banco Nacional de México, S.A. Integrante del Grupo Financiero Banamex
Banco Santander, S.A.
Banco Santander, S.A., New York Branch
Banco Santander (México), S.A., Institución de Banca Múltiple, Grupo Financiero Santander
Bank of America, N.A.
Barclays Bank PLC
Bayerische Landesbank, New York Branch
BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer
BNP Paribas (Sydney Branch)
BNP Paribas, Panama Branch
Calyon, New York Branch
Caja de Ahorros y Monte de Piedad de Madrid, Miami Agency
Citibank, N.A. Nassau, Bahamas Branch
Citibank (Banamex USA)
Comerica Bank
Commerzbank AG (formerly Dresdner Bank AG, acting through its lending office Dresdner Bank AG, New York Branch)
Deutsche Bank AG, New York Branch
Fortis Bank SA/NV, Cayman Islands Branch
HSBC Bank plc, Sucursal en España
HSBC Mexico, S.A., Institución de Banca Múltiple, Grupo Financiero HSBC
HSBC Mexico, S.A., Institución de Banca Múltiple, Grupo Financiero HSBC, acting through its Grand Cayman Branch
ING Bank, N.V. (acting through its Curacao Branch)
Intesa Sanpaolo S.p.A., New York Branch
JPMorgan Chase Bank, N.A.
Mizuho Corporate Bank, Ltd.
Morgan Stanley Bank, N.A.
Société Générale
Standard Chartered Bank
The Bank of Nova Scotia
The Bank of Tokyo-Mitsubishi UFJ, Ltd.
The Royal Bank of Scotland plc
Unicredit S.p.A., New York Branch
Wachovia Bank, National Association

EXHIBIT D

Existing Administrative Agents

Barclays Bank plc, New York Branch
BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer
ING Capital LLC

Existing Agreements

Syndicated Facility Credit Agreements

NSH Dutch Loan Facilities	USD 525,000,000 Senior Unsecured Maturity Loan "A" Agreement and USD 525,000,000 and Senior Unsecured Maturity Loan "B" Agreement, each dated 31 December 2008 (as amended on 22 January 2009) between New Sunward Holding B.V., as borrower and, among others, ING Capital LLC, as agent.
$700mm Facility	USD 700,000,000 Amended and Restated Credit Agreement, dated 6 June 2005 (as amended on 21 June 2006, 1 December 2006, 9 May 2007, 19 December 2008 and 22 January 2009) between CEMEX, S.A.B. de C.V., as borrower and, among others, ING CAPITAL LLC, as administrative agent.
$1.2bn Facility	USD 1,200,000,000 Credit Agreement, dated 31 May 2005 (as amended on 19 June 2006, 30 November 2006, 9 May 2007, 19 December 2008 and 22 January 2009) between CEMEX, S.A.B. de C.V. as borrower and, among others, Barclays Bank plc as agent.
NY Joint Bilateral Facility	USD 437,500,000 and MXP 4,773,282,950 Joint Bilateral Facility, dated 27 January 2009, between CEMEX, S.A.B. de C.V., as borrower, and, among others, BBVA, Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, as administrative agent (the "NY Joint Bilateral Facility").

Bilateral Facility Credit Agreements

$500mm Credit Facility	Credit Agreement dated 25 June 2008 (as amended on 19 December 2008 and 22 January 2009), among CEMEX, S.A.B. de C.V. as Borrower and Banco Bilbao Vizcaya Argentaria, S.A. New York Branch, as Lender.
BNPP Bilateral	USD 37,500,000 First Amended and Restated Loan and Letter of Credit Facility Agreement (date not specified) (as amended on 22 December 2008) between Cemex Materials, LLC (f/k/a Rinker Materials LLC), as Borrower, and BNP Paribas (Sydney Branch), as Lender (the "BNPP Bilateral").
	Amended and Restated Guarantee dated 1 October 2007 (as amended on 22 December 2008) between CEMEX España, S.A., a Guarantor and BNP Paribas (Sydney Branch), as Lender (a "Rinker Bilateral Guarantee").
JPMC Bilateral	USD 90,000,000 – USD 80,000,000 First Amended and Restated Loan and Letter of Credit Facility Agreement, dated 1 October 2007 (as amended on 27 January 2009), among Cemex Materials, LLC (f/k/a Rinker Materials LLC), as Borrower, and JP Morgan Chase Bank, N.A., as Lender (the "JPMC Bilateral").
	Amended and Restated Guarantee (undated) (as amended on 27 January 2009) between CEMEX España, S.A., as Guarantor, and JP Morgan Chase Bank, N.A., as Lender (a "Rinker Bilateral Guarantee").

[Financing Agreement]

EXHIBIT G

Syndicated Bank Facilities Provisions

	NY Joint Bilateral Facility	$700mm Facility	$1.2bn Facility	Each NSH Dutch Loan Facility
1. Facility Applicable Margin	The definition of "Applicable Margin" shall be deleted and replaced in its entirety by: ""Applicable Margin" has the meaning ascribed to the term "Margin" in the Financing Agreement."	The definition of "Applicable Margin" shall be deleted and replaced in its entirety by: ""Applicable Margin" has the meaning ascribed to the term "Margin" in the Financing Agreement."	The definition of "Applicable Margin" shall be deleted and replaced in its entirety by: ""Applicable Margin" has the meaning ascribed to the term "Margin" in the Financing Agreement."	The definition of "Applicable Margin" shall be deleted and replaced in its entirety by: ""Applicable Margin" has the meaning ascribed to the term "Margin" in the Financing Agreement."
2. Facility Termination Date	The definition of "Termination Date" shall be deleted and replaced in its entirety by: ""Termination Date" means the earlier of (a) February 14, 2014, and (b) if no Loans are outstanding, the date the Commitments are terminated in accordance with this Agreement."	The definition of "Termination Date" shall be deleted and replaced in its entirety by: ""Termination Date" means the date which is the earliest of (a) February 14, 2014, or (b) if no Loans or Standby L/C's are outstanding, the date the Commitments are terminated in accordance with this Agreement."	The definition of "Termination Date" shall be deleted and replaced in its entirety by: ""Termination Date" means the date which is the earliest of (a) February 14, 2014 or (b) if no Loans are outstanding, the date the Commitments are terminated in accordance with this Agreement."	The definition of "Maturity Date" shall be deleted and replaced in its entirety by: ""Maturity Date" means the earlier of (a) February 14, 2014 or (b) the date on which all outstanding principal, accrued and unpaid interest with respect to the Loans are paid in full."
3. Existing Amortization Provisions	Section 2.01(f) (Amortization; Repayment) shall be deleted and replaced in its entirety with the following language: "(f) Repayment. (i) The Borrower shall repay the Loans in accordance with Clauses 11.1 (Repayment of Exposures and reduction of Facility Limits), 11.3 (Effect of cancellation and prepayment on scheduled repayments and reductions) and 11.4 (Automatic cancellation of unutilised commitments under Core Bank Facilities) of the Financing Agreement.	Section 2.01(f) (Repayment) shall be deleted and replaced in its entirety with the following language: "(f) Repayment. The Borrower shall repay the Loans in accordance with Clauses 11.1 (Repayment of Exposures and reduction of Facility Limits), 11.3 (Effect of cancellation and prepayment on scheduled repayments and reductions) and 11.4 (Automatic cancellation of unutilised commitments under Core Bank Facilities) of the Financing Agreement."	Section 2.01(f) (Repayment) shall be deleted and replaced in its entirety with the following language: "(f) Repayment. The Borrower shall repay the Loans in accordance with Clauses 11.1 (Repayment of Exposures and reduction of Facility Limits), 11.3 (Effect of cancellation and prepayment on scheduled repayments and reductions) and 11.4 (Automatic cancellation of unutilised commitments under Core Bank Facilities) of the Financing Agreement."	Section 2.01(b) (Repayment) shall be deleted and replaced in its entirety with the following language: "(b) Repayment. The Borrower shall repay the Loans in accordance with Clauses 11.1 (Repayment of Exposures and reduction of Facility Limits), 11.3 (Effect of cancellation and prepayment on scheduled repayments and reductions) and 11.4 (Automatic cancellation of unutilised commitments under Core Bank Facilities) of the Financing Agreement."

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	(ii) Notwithstanding any other provision herein, the Borrower shall repay the outstanding principal amount of the Loans on the Termination Date." Section 3.01 (Termination or Reduction of Commitments) shall be deleted and replaced in its entirety with the following language: "[Intentionally Omitted]."	Section 4.01 (Termination or Reduction of Commitments) shall be deleted and replaced in its entirety with the following language: "[Intentionally Omitted]."	Section 3.01 (Termination or Reduction of Commitments) shall be deleted and replaced in its entirety with the following language: "[Intentionally Omitted]."	
4. Existing Taxes and Payments Provisions	A new Section 3.14 shall be added to Article III (Termination and Reduction of Commitments; Fees, Taxes, Payment Provisions) to read as follows: "3.14 Mitigation of Indemnities. Each Lender shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Section 3.09 (Illegality) and Section 13.14 (Judgment Currency) including but not limited to transferring its rights and obligations under the Transaction Documents to another Affiliate or Lending Office; provided that this provision shall not in any way	A new Section 4.15 shall be added to Article IV (Termination and Reduction of Commitments; Fees, Taxes, Payment Provisions) to read as follows: "4.15 Mitigation of Indemnities. Each Lender shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Section 4.10 (Illegality) and Section 15.14 (Judgment Currency) including but not limited to transferring its rights and obligations under the Transaction Documents to another Affiliate or Lending Office; provided that this provision shall not in any way	A new Section 3.14 shall be added to Article III (Termination and Reduction of Commitments; Fees, Taxes, Payment Provisions) to read as follows: "3.14 Mitigation of Indemnities. Each Lender shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Section 3.09 (Illegality) and Section 13.14 (Judgment Currency) including but not limited to transferring its rights and obligations under the Transaction Documents to another Affiliate or Lending Office; provided that this provision shall not in any way	A new Section 3.10 shall be added to Article III (Taxes, Payment Provisions) to read as follows: "3.10 Mitigation of Inemnities. Each Lender shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Section 3.06 (Illegality) and Section 13.14 (Judgment Currency) including but not limited to transferring its rights and obligations under the Transaction Documents to another Affiliate or Lending Office; provided that this provision shall not in any way limit the obligations of any Obligor under the Transaction Documents."

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	limit the obligations of any Obligor under the Transaction Documents."	limit the obligations of any Obligor under the Transaction Documents."	limit the obligations of any Obligor under the Transaction Documents."	
5. Existing Agency Provisions	A new Section 11.10 shall be added to Article XI (The Administrative Agent) to read as follows:	A new Section 12.10 shall be added to Article XII (The Administrative Agent) to read as follows:	A new Section 11.10 shall be added to Article XI (The Administrative Agent) to read as follows:	A new Section 11.10 shall be added to Article XI (The Administrative Agent) to read as follows:
	"11.10. Additional Duties of the Administrative Agent. The Administrative Agent shall execute any Assignment and Assumption Agreement consistent with the Financing Agreement. Notwithstanding any provision to the contrary contained elsewhere in the Financing Agreement or the other New Finance Documents, including the Omnibus Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth in this Agreement, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Participating Creditor, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Transaction Document or otherwise exist against the Administrative Agent.	"12.10. Additional Duties of the Administrative Agent. The Administrative Agent shall execute any Assignment and Assumption Agreement consistent with the Financing Agreement. Notwithstanding any provision to the contrary contained elsewhere in the Financing Agreement or the other New Finance Documents, including the Omnibus Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth in this Agreement, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Participating Creditor, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Transaction Document or otherwise exist against the Administrative Agent.	"11.10. Additional Duties of the Administrative Agent. The Administrative Agent shall execute any Assignment and Assumption Agreement consistent with the Financing Agreement. Notwithstanding any provision to the contrary contained elsewhere in the Financing Agreement or the other New Finance Documents, including the Omnibus Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth in this Agreement, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Participating Creditor, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Transaction Document or otherwise exist against the Administrative Agent.	"11.10. Additional Duties of the Administrative Agent. The Administrative Agent shall execute any Assignment and Assumption Agreement consistent with the Financing Agreement. Notwithstanding any provision to the contrary contained elsewhere in the Financing Agreement or the other New Finance Documents, including the Omnibus Agreement, the Administrative Agent shall not have any duties or responsibilities, except those expressly set forth in this Agreement, nor shall the Administrative Agent have or be deemed to have any fiduciary relationship with any Participating Creditor, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any other Transaction Document or otherwise exist against the Administrative Agent.

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11.11. Liability of Administrative Agent to Participating Creditors. Neither the Administrative Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action taken or omitted to be taken by it or any such Person under or in connection with the Financing Agreement or the other New Finance Documents, including the Omnibus Agreement, or the transactions contemplated thereby, or (b) responsible in any manner to any of the Participating Creditors for any recital, statement, representation or warranty made by the Borrower, the Guarantors or any officer thereof contained in this Agreement, in any other Transaction Document, in the Financing Agreement or in any other New Finance Document, including the Omnibus Agreement, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement, any other Transaction Document, the Financing Agreement or any other New Finance Document, including the Omnibus Agreement, or for the validity, effectiveness, genuineness,	12.11. Liability of Administrative Agent to Participating Creditors. Neither the Administrative Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action taken or omitted to be taken by it or any such Person under or in connection with the Financing Agreement or the other New Finance Documents, including the Omnibus Agreement, or the transactions contemplated thereby, or (b) responsible in any manner to any of the Participating Creditors for any recital, statement, representation or warranty made by the Borrower, the Guarantors or any officer thereof contained in this Agreement, in any other Transaction Document, in the Financing Agreement or in any other New Finance Document, including the Omnibus Agreement, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement, any other Transaction Document, the Financing Agreement or any other New Finance Document, including the Omnibus Agreement, or for the validity, effectiveness, genuineness,	11.11. Liability of Administrative Agent to Participating Creditors. Neither the Administrative Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action taken or omitted to be taken by it or any such Person under or in connection with the Financing Agreement or the other New Finance Documents, including the Omnibus Agreement, or the transactions contemplated thereby, or (b) responsible in any manner to any of the Participating Creditors for any recital, statement, representation or warranty made by the Borrower, the Guarantors or any officer thereof contained in this Agreement, in any other Transaction Document, in the Financing Agreement or in any other New Finance Document, including the Omnibus Agreement, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement, any other Transaction Document, the Financing Agreement or any other New Finance Document, including the Omnibus Agreement, or for the validity, effectiveness, genuineness,	11.11. Liability of Administrative Agent to Participating Creditors. Neither the Administrative Agent nor any of its officers, directors, employees, agents, attorneys-in-fact or Affiliates shall be (a) liable for any action taken or omitted to be taken by it or any such Person under or in connection with the Financing Agreement or the other New Finance Documents, including the Omnibus Agreement, or the transactions contemplated thereby, or (b) responsible in any manner to any of the Participating Creditors for any recital, statement, representation or warranty made by the Borrower, the Guarantors or any officer thereof contained in this Agreement, in any other Transaction Document, in the Financing Agreement or in any other New Finance Document, including the Omnibus Agreement, or in any certificate, report, statement or other document referred to or provided for in, or received by the Administrative Agent under or in connection with, this Agreement, any other Transaction Document, the Financing Agreement or any other New Finance Document, including the Omnibus Agreement, or for the validity, effectiveness, genuineness,

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	enforceability or sufficiency of this Agreement, any other Transaction Document, the Financing Agreement or any other New Finance Document, including the Omnibus Agreement, or for any failure of the Borrower, the Guarantors or any other party to any Transaction Document or New Finance Document to perform its obligations hereunder or thereunder. Except as otherwise expressly stated herein, the Administrative Agent shall not be under any obligation to any Participating Creditor to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement, any other Transaction Document, the Financing Agreement or any other New Finance Documents, including the Omnibus Agreement, or to inspect the properties, books or records of the Borrower or the Guarantors."	enforceability or sufficiency of this Agreement, any other Transaction Document, the Financing Agreement or any other New Finance Document, including the Omnibus Agreement, or for any failure of the Borrower, the Guarantors or any other party to any Transaction Document or New Finance Document to perform its obligations hereunder or thereunder. Except as otherwise expressly stated herein, the Administrative Agent shall not be under any obligation to any Participating Creditor to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement, any other Transaction Document, the Financing Agreement or any other New Finance Documents, including the Omnibus Agreement, or to inspect the properties, books or records of the Borrower or the Guarantors."	enforceability or sufficiency of this Agreement, any other Transaction Document, the Financing Agreement or any other New Finance Document, including the Omnibus Agreement, or for any failure of the Borrower, the Guarantors or any other party to any Transaction Document or New Finance Document to perform its obligations hereunder or thereunder. Except as otherwise expressly stated herein, the Administrative Agent shall not be under any obligation to any Participating Creditor to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement, any other Transaction Document, the Financing Agreement or any other New Finance Documents, including the Omnibus Agreement, or to inspect the properties, books or records of the Borrower or the Guarantors."	enforceability or sufficiency of this Agreement, any other Transaction Document, the Financing Agreement or any other New Finance Document, including the Omnibus Agreement, or for any failure of the Borrower, the Guarantors or any other party to any Transaction Document or New Finance Document to perform its obligations hereunder or thereunder. Except as otherwise expressly stated herein, the Administrative Agent shall not be under any obligation to any Participating Creditor to ascertain or to inquire as to the observance or performance of any of the agreements contained in, or conditions of, this Agreement, any other Transaction Document, the Financing Agreement or any other New Finance Documents, including the Omnibus Agreement, or to inspect the properties, books or records of the Borrower or the Guarantors."
6. Existing Successors and Assigns Provisions	Paragraph (a) of Section 13.06 (Successors and Assigns) shall be amended by the deletion of ", except that the Borrower and the Guarantors may not assign or otherwise transfer any of their rights or obligations under this Agreement without the prior written consent of all Lenders	Paragraph (a) of Section 15.06 (Successors and Assigns) shall be amended by the deletion of ", except that the Borrower and the Guarantors may not assign or otherwise transfer any of their rights or obligations under this Agreement without the prior written consent of all Lenders	Paragraph (a) of Section 13.06 (Successors and Assigns) shall be amended by the deletion of ", except that the Borrower and the Guarantors may not assign or otherwise transfer any of their rights or obligations under this Agreement without the prior written consent of all Lenders	Paragraph (a) of Section 13.06 (Successors and Assigns) shall be amended by the deletion of ", except that the Credit Parties may not assign or otherwise transfer any of their rights or obligations under this Agreement without the prior written consent of all Lenders

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except pursuant to the terms of this Agreement" at the end thereof.	except pursuant to the terms of this Agreement" at the end thereof.	except pursuant to the terms of this Agreement" at the end thereof.	except pursuant to the terms of this Agreement" at the end thereof.
Paragraph (a) of Section 13.06 (Successors and Assigns) shall be further amended by the insertion of the following language at the end thereof:	Paragraph (a) of Section 15.06 (Successors and Assigns) shall be further amended by the insertion of the following language at the end thereof:	Paragraph (a) of Section 13.06 (Successors and Assigns) shall be further amended by the insertion of the following language at the end thereof:	Paragraph (a) of Section 13.06 (Successors and Assigns) shall be further amended by the insertion of the following language at the end thereof:
"Each of the Borrower and the Guarantors shall be permitted to assign or otherwise transfer or be released from its rights and obligations under this Agreement as permitted by the terms of the Financing Agreement."	"Each of the Borrower and the Guarantors shall be permitted to assign or otherwise transfer or be released from its rights and obligations under this Agreement as permitted by the terms of the Financing Agreement."	"Each of the Borrower and the Guarantors shall be permitted to assign or otherwise transfer or be released from its rights and obligations under this Agreement as permitted by the terms of the Financing Agreement."	"Each of the Credit Parties shall be permitted to assign or otherwise transfer or be released from its rights and obligations under this Agreement as permitted by the terms of the Financing Agreement."
Paragraph (b) of Section 13.06 (Successors and Assigns) shall be amended by the deletion of "one or more commercial banks …the Assignee shall acquire a Commitment or Loan of not less than U.S.$3,000,000 and integral multiples of U.S.$1,000,000 in excess thereof."	Paragraph (b) of Section 15.06 (Successors and Assigns) shall be amended by the deletion of "one or more commercial banks …the Assignee shall acquire a Commitment or Loan of not less than U.S.$3,000,000 and integral multiples of U.S.$1,000,000 in excess thereof."	Paragraph (b) of Section 13.06 (Successors and Assigns) shall be amended by the deletion of "one or more commercial banks …the Assignee shall acquire a Commitment or Loan of not less than U.S.$3,000,000 and integral multiples of U.S.$1,000,000 in excess thereof."	Paragraph (b) of Section 13.06 (Successors and Assigns) shall be amended by the deletion of subparagraph (iii) through and including "provided further that in the case of an assignment of only part of such rights and obligations under clause (iii), the Borrower shall be deemed to have consented to an assignment if it fails to respond to a written request for consent within ten (10) Business Days of such request; provided, further, that"
Such language shall be replaced in its entirety by the following language:	Such language shall be replaced in its entirety by the following language:	Such language shall be replaced in its entirety by the following language:	Such language shall be replaced in its entirety by the following language:
"one or more Persons (each such Person, an "Assignee") all, or a proportionate part of all, of its Commitment or Loan and its rights and obligations under this Agreement as permitted by the terms of the Financing	"one or more Persons (each such Person, an "Assignee") all, or a proportionate part of all, of its Commitment or Loan and its rights and obligations under this Agreement as permitted by the terms of the Financing	"one or more Persons (each such Person, an "Assignee") all, or a proportionate part of all, of its Commitment or Loan and its rights and obligations under this Agreement as permitted by the terms of the Financing	"(iii) assign all, or a proportionate part of all, of its Loan and its rights and

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	Agreement pursuant to an Assignment and Assumption Agreement (to be consistent with the terms of the Financing Agreement) which shall be executed by such Assignee and transferor Lender."	Agreement pursuant to an Assignment and Assumption Agreement (to be consistent with the terms of the Financing Agreement) which shall be executed by such Assignee and transferor Lender."	Agreement pursuant to an Assignment and Assumption Agreement (to be consistent with the terms of the Financing Agreement) which shall be executed by such Assignee and transferor Lender."	obligations under this Agreement to another Person or Persons (each such Person, an "Assignee") as permitted by the terms of the Financing Agreement pursuant to an Assignment and Assumption Agreement (to be consistent with the terms of the Financing Agreement) which shall be executed by such Assignee and transferor Lender; provided that"
7. Existing Acceleration Clauses	Section 10.02 ("Remedies") shall be deleted and replaced in its entirety with the following language:	Section 11.02 ("Remedies") shall be deleted and replaced in its entirety with the following language:	Section 10.02 ("Remedies") shall be deleted and replaced in its entirety with the following language:	Section 10.02 ("Remedies") shall be deleted and replaced in its entirety with the following language:
	"10.02 Remedies. If any Event of Default has occurred and is continuing, and the Majority Participating Creditors (as defined in the Financing Agreement) have authorized the taking of such action, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders:	"11.02 Remedies. If any Event of Default has occurred and is continuing, and the Majority Participating Creditors (as defined in the Financing Agreement) have authorized the taking of such action, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders:	"10.02 Remedies. If any Event of Default has occurred and is continuing, and the Majority Participating Creditors (as defined in the Financing Agreement) have authorized the taking of such action, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders:	"10.02 Remedies. (a) If an Event of Default due to an Event of Default (as defined in the Financing Agreement) under Clause 26.6 (Insolvency) or Clause 26.7 (Insolvency proceedings) of the Financing Agreement occurs with respect to any Credit Party, the outstanding principal amount of the Loans together with any accrued but unpaid interest (and all other amounts) thereon, in each case without notice or any other act by the Lenders, shall immediately become due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower. (b) If any Event of Default has occurred and is continuing, and
	terminate the Commitments and/or declare by notice to the Borrower the principal amount of all outstanding Loans to be forthwith due and payable, whereupon such principal amount, together with accrued interest thereon and any fees and all other Obligations accrued hereunder, shall become immediately due and payable,	terminate the Commitments and/or declare by notice to the Borrower the principal amount of all outstanding Loans to be forthwith due and payable, whereupon such principal amount, together with accrued interest thereon and any fees and all other Obligations accrued hereunder, shall become immediately due and payable,	terminate the Commitments and/or declare by notice to the Borrower the principal amount of all outstanding Loans to be forthwith due and payable, whereupon such principal amount, together with accrued interest thereon and any fees and all other Obligations accrued hereunder, shall become immediately due and payable,	

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	without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived; provided, however, that in the case of any Event of Default due to an Event of Default (as defined in the Financing Agreement) under Clause 26.6 (Insolvency) or Clause 26.7 (Insolvency proceedings) of the Financing Agreement with respect to the Borrower or a Guarantor, without notice or any other act by the Lenders, the Commitments shall be automatically and immediately terminated and the Loans (together with accrued interest and all other amounts thereon) and all other Obligations of the Borrower hereunder shall become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower;"	without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived; provided, however, that in the case of any Event of Default due to an Event of Default (as defined in the Financing Agreement) under Clause 26.6 (Insolvency) or Clause 26.7 (Insolvency proceedings) of the Financing Agreement with respect to the Borrower or a Guarantor, without notice or any other act by the Lenders, the Commitments shall be automatically and immediately terminated and the Loans (together with accrued interest and all other amounts thereon) and all other Obligations of the Borrower hereunder shall become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower;"	without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived; provided, however, that in the case of any Event of Default due to an Event of Default (as defined in the Financing Agreement) under Clause 26.6 (Insolvency) or Clause 26.7 (Insolvency proceedings) of the Financing Agreement with respect to the Borrower or a Guarantor, without notice or any other act by the Lenders, the Commitments shall be automatically and immediately terminated and the Loans (together with accrued interest and all other amounts thereon) and all other Obligations of the Borrower hereunder shall become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower;"	the Majority Participating Creditors (as defined in the Financing Agreement) have authorized the taking of such action, the Administrative Agent shall, at the request of, or may, with the consent of, the Required Lenders declare by written notice to the Borrower, the principal amount of the outstanding Loans to be forthwith due and payable, whereupon such principal amount, together with accrued interest thereon, including any fees due under this Agreement, shall become immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived."
8. Facility Interest Payment Date	The definition of "Interest Payment Date" shall be deleted and replaced in its entirety by: ""Interest Payment Date" means, (a) for the Interest Period applicable to any Loan as at the Omnibus Agreement Effective Date (as defined in the Omnibus Agreement): (i) with respect to a Base Rate Loan or a LIBOR	The definition of "Interest Payment Date" shall be deleted and replaced in its entirety by: ""Interest Payment Date" means, (a) for the Interest Period applicable to any Loan as at the Omnibus Agreement Effective Date (as defined in the Omnibus Agreement): (i) with respect to any Base Rate Loan, the last day	The definition of "Interest Payment Date" shall be deleted and replaced in its entirety by: ""Interest Payment Date" means, (a) for the Interest Period applicable to any Loan as at the Omnibus Agreement Effective Date (as defined in the Omnibus Agreement): (i) with respect to any Base Rate Loan, the last day	The definition of "Interest Payment Date" shall be deleted and replaced in its entirety by: ""Interest Payment Date" means (a) for the Interest Period applicable to any Loan as at the Omnibus Agreement Effective Date (as defined in the Omnibus Agreement), the last day of the applicable Interest Period for

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Loan, the last Business Day of August, and (ii) with respect to a Mexican-Rate Loan, the last Business Day of the applicable month; (b) for each Interest Period following the Interest Period under (a) above, with respect to any Loan: the 15th day of the last month of each calendar quarter, provided, however, that, in the event that, pursuant to Clause 15 of the Financing Agreement, the Borrower has provided written notice to the Financing Agreement Agent of its selection of Interest Periods of one month, the "Interest Payment Date" shall mean the 15th day of each calendar month until the end of the relevant calendar quarter; provided, further, however, that if the Borrower selects (and the Administrative Agent consents to, such consent not to be unreasonably withheld) a shorter or longer period in order to comply with its obligations and exercise its rights under Clauses 15.3(a) and (b) of the Financing Agreement, the "Interest Payment Date" shall mean such day as the Borrower shall select (but shall in no event be later than September 15, 2009); (c) the date of repayment of such Loan; (d) the Termination Date; and (e) with respect to a Base	of September, and (ii) with respect to any LIBOR Loan, the last day of the applicable Interest Period for such Loan; (b) for each Interest Period following the Interest Period under (a) above, with respect to any Loan: the 15th day of the last month of each calendar quarter, provided, however, that, in the event that, pursuant to Clause 15 of the Financing Agreement, the Borrower has provided written notice to the Financing Agreement Agent of its selection of Interest Periods of one month, the "Interest Payment Date" shall mean the 15th day of each calendar month until the end of the relevant calendar quarter; provided, further, however, that if the Borrower selects (and the Administrative Agent consents to, such consent not to be unreasonably withheld) a shorter or longer period in order to comply with its obligations and exercise its rights under Clauses 15.3(a) and (b) of the Financing Agreement, the "Interest Payment Date" shall mean such day as the Borrower shall select (but shall in no event be later than December 15, 2009); (c) the date of repayment of such Loan, and (d) the Termination Date. If an Interest Payment Date falls on a date that is not a Business Day,	of September, and (ii) with respect to any LIBOR Loan, and, if applicable, any Euribor Loan, the last day of the applicable Interest Period for such Loan; (b) for each Interest Period following the Interest Period under (a) above, with respect to any Loan: the 15th day of the last month of each calendar quarter, provided, however, that, in the event that, pursuant to Clause 15 of the Financing Agreement, the Borrower has provided written notice to the Financing Agreement Agent of its selection of Interest Periods of one month, the "Interest Payment Date" shall mean the 15th day of each calendar month until the end of the relevant calendar quarter; provided, further, however, that if the Borrower selects (and the Administrative Agent consents to, such consent not to be unreasonably withheld) a shorter or longer period in order to comply with its obligations and exercise its rights under Clauses 15.3(a) and (b) of the Financing Agreement, the "Interest Payment Date" shall mean such day as the Borrower shall select (but shall in no event be later than December 15, 2009); (c) the date of repayment of such Loan; and (d) the Termination Date. If	such Loan, (b) for each Interest Period following the Interest Period under (a) above, the 15th day of the last month of each calendar quarter, provided, however, that, in the event that, pursuant to Clause 15 of the Financing Agreement, the Borrower has provided written notice to the Financing Agreement Agent of its selection of Interest Periods of one (1) month, the "Interest Payment Date" shall mean the 15th day of each calendar month until the end of the relevant calendar quarter; provided, further, however, that if the Borrower selects (and the Administrative Agent consents to, such consent not to be unreasonably withheld) a shorter or longer period in order to comply with its obligations and exercise its rights under Clauses 15.3(a) and (b) of the Financing Agreement, the "Interest Payment Date" shall mean such day as the Borrower shall select (but shall in no event be later than December 15, 2009), (c) the date of repayment of the Loans and (d) the Maturity Date; provided, that if an Interest Payment Date falls on a date that is not a Business Day, such Interest Payment Date shall be deemed to be the next succeeding

	NY Joint Bilateral Facility	$700mm Facility	$1.2bn Facility	Each NSH Dutch Loan Facility
	Rate Loan or a LIBOR Loan only, in the case of a conversion of a Base Rate Loan into a LIBOR Loan, or vice versa, the date of such conversion."	such Interest Payment Date shall be deemed to be the next succeeding Business Day, except that in the case of LIBOR Loans where the next succeeding Business Day falls in the next succeeding calendar month, then on the immediately preceding Business Day."	an Interest Payment Date falls on a date that is not a Business Day, such Interest Payment Date shall be deemed to be the next succeeding Business Day, except that in the case of LIBOR Loans or, if applicable, Euribor Loans, where the next succeeding Business Day falls in the next succeeding calendar month, then on the immediately preceding Business Day."	Business Day, except that where the next succeeding Business Day falls in the next succeeding calendar month, then on the immediately preceding Business Day."
9. Facility Interest Period Provision	The definition of "Interest Period" shall be deleted and replaced in its entirety by: ""Interest Period" means, (a) for the Interest Period applicable to any Loan as at the Omnibus Agreement Effective Date (as defined in the Omnibus Agreement), with respect to a LIBOR Loan or Mexican-Rate Loan, (i) the period commencing on the date such Loan is made (or, in the case of a conversion of a Base Rate Loan into a LIBOR Loan, the date of conversion) and ending on the next succeeding Interest Payment Date for such Loan and (ii) each successive period thereafter commencing on the immediately preceding Interest Payment Date for such Loan and ending on the next succeeding Interest Payment Date for such Loan; and (b) for each Interest Period following the Interest	The definition of "Interest Period" shall be deleted and replaced in its entirety by: ""Interest Period" means, (a) for the Interest Period applicable to any Loan as at the Omnibus Agreement Effective Date (as defined in the Omnibus Agreement), with respect to each Borrowing of LIBOR Loans, the period (i) commencing (A) on the date of such Borrowing or conversion of Base Rate Loans into LIBOR Loans or (B) in the case of the continuation of LIBOR Loans for a further Interest Period, on the last day of the immediately preceding Interest Period and (ii) ending one (1), two (2), three (3) or six (6) months thereafter as stated by the Borrower in the applicable Notice of Borrowing or Notice of Continuation/Conversion; and (b) for each Interest Period	The definition of "Interest Period" shall be deleted and replaced in its entirety by: ""Interest Period" means, (a) for the Interest Period applicable to any Loan as at the Omnibus Agreement Effective Date (as defined in the Omnibus Agreement), with respect to each Borrowing of LIBOR Loans, and, if applicable, Euribor Loans, the period (i) commencing (A) on the date of such Borrowing or conversion of Base Rate Loans into LIBOR Loans and, if applicable, Euribor Loans, or (B) in the case of the continuation of LIBOR Loans and, if applicable, Euribor Loans, for a further Interest Period, on the last day of the immediately preceding Interest Period and (ii) ending one, two, three or six months thereafter as stated by the Borrower in the applicable Notice of Borrowing	The definition of "Interest Period" shall be deleted and replaced in its entirety by: ""Interest Period" means (a) for the Interest Period applicable to any Loan as at the Omnibus Agreement Effective Date (as defined in the Financing Agreement), the period (i) commencing on (a) the Conversion Date or (b) in the case of the continuation of LIBOR Loans for a further Interest Period, on the last day of the immediately preceding Interest Period and (ii) ending three (3) or six (6) months thereafter (or any other period that is shorter than three (3) months if requested by the Borrower and approved by all of the Lenders) as the Borrower may elect in the Conversion Notice or the applicable Notice of Continuation; and (b) for each Interest Period following the

NY Joint Bilateral Facility	$700mm Facility	$1.2bn Facility	Each NSH Dutch Loan Facility
Period under (a) above, with respect to any Loan: the period (i) commencing (A) on the date such Loan is made (or, in the case of a conversion of a Base Rate Loan into a LIBOR Loan, the date of conversion), or (B) each successive period thereafter commencing on the immediately preceding Interest Payment Date for such Loan and (ii) ending three (3) months, one (1) month (if the Borrower has provided written notice to the Financing Agreement Agent of its selection of Interest Periods of one (1) month) or such shorter or longer period as the Borrower may select (and the Administrative Agent shall consent to, such consent not to be unreasonably withheld) in order to comply with its obligations and exercise its rights under Clauses 15.3(a) and (b) of the Financing Agreement, but in no event longer than six months."	following the Interest Period under (a) above, with respect to any Loan: the period (i) commencing (A) on the date of such Borrowing or conversion of Base Rate Loans into LIBOR Loans, or (B) in the case of the continuation of LIBOR Loans for a further Interest Period, on the last day of the immediately preceding Interest Period and (ii) ending three (3) months, one (1) month (if the Borrower has provided written notice to the Financing Agreement Agent of its selection of Interest Periods of one (1) month) or such shorter or longer period as the Borrower may select (and the Administrative Agent shall consent to, such consent not to be unreasonably withheld) in order to comply with its obligations and exercise its rights under Clauses 15.3(a) and (b) of the Financing Agreement, but in no event longer than six months; provided, however, that: (A) any Interest Period which would otherwise end on a day which is not a Business Day shall, subject to paragraph (C) below, be extended to the next succeeding Business Day; (B) any Interest Period which would otherwise end after the last day of the Commitment Period shall end on the last day of the Commitment Period; and	or Notice of Continuation/Conversion; and (b) for each Interest Period following the Interest Period under (a) above, with respect to any Loan: the period (i) commencing (A) on the date of conversion of Base Rate Loans into LIBOR Loans and, if applicable, Euribor Loans, or (B) in the case of the continuation of LIBOR Loans and, if applicable, Euribor Loans, for a further Interest Period, on the last day of the immediately preceding Interest Period and (ii) ending three (3) months, one (1) month (if the Borrower has provided written notice to the Financing Agreement Agent of its selection of Interest Periods of one (1) month) or such shorter or longer period as the Borrower may select (and the Administrative Agent shall consent to, such consent not to be unreasonably withheld) in order to comply with its obligations and exercise its rights under Clauses 15.3(a) and (b) of the Financing Agreement, but in no event longer than six months; provided, however, that: (A) any Interest Period which would otherwise end on a day which is not a Business Day or, if applicable, a Euribor Business Day, shall, subject to	Interest Period under (a) above, the period (i) commencing (A) on the Conversion Date, or (B) in the case of the continuation of LIBOR Loans for a further Interest Period, on the last day of the immediately preceding Interest Period and (ii) ending three (3) months, one (1) month (if the Borrower has provided written notice to the Financing Agreement Agent of its selection of Interest Periods of one (1) month) or such shorter or longer period as the Borrower may select (and the Administrative Agent shall consent to, such consent not to be unreasonably withheld) in order to comply with its obligations and exercise its rights under Clauses 15.3(a) and (b) of the Financing Agreement, but in no event longer than six months; provided, however, that: (A) if any Interest Period would otherwise end on a day that is not a Business Day, such Interest Period shall be extended to the next succeeding Business Day; and (B) any Interest Period in respect of the Loans that would otherwise extend beyond the Maturity Date shall end on the Maturity Date."

	NY Joint Bilateral Facility	$700mm Facility	$1.2bn Facility	Each NSH Dutch Loan Facility
		(C) any Interest Period which would otherwise end after the Termination Date shall end on the Termination Date."	paragraph (C) below, be extended to the next succeeding Business Day or, if applicable, the next succeeding Euribor Business Day; (B) any Interest Period which would otherwise end after the last day of the Commitment Period shall end on the last day of the Commitment Period; and (C) any Interest Period which would otherwise end after the Termination Date shall end on the Termination Date."	
10. Facility Notes Exhibit	Exhibit A-1 and Exhibit A-2 shall be deleted and replaced in their entirety with Exhibit J hereto.	Exhibit A shall be deleted and replaced in its entirety with Exhibit J hereto.	Exhibit A shall be deleted and replaced in its entirety with Exhibit J hereto.	Exhibit A to each NSH Dutch Loan Facility shall be deleted and replaced in its entirety with Exhibit K.

Bilateral Facilities Provisions[1]

		$500mm Credit Facility	BNPP Bilateral	JPMC Bilateral
1.	Facility Applicable Margin	The definition of "Applicable Margin" shall be deleted and replaced in its entirety by: ""Applicable Margin" has the meaning assigned to the term "Margin" in the Financing Agreement."	The definition of "Margin" shall be deleted and replaced in its entirety by: ""Margin" has the meaning assigned to the term "Margin" in the Financing Agreement."	The definition of "Margin" shall be deleted and replaced in its entirety by: ""Margin" has the meaning assigned to the term "Margin" in the Financing Agreement."
2.	Facility Termination Date	The definition of "Maturity Date" shall be deleted and replaced in its entirety by: ""Maturity Date" means February 14, 2014."	The definition of "Repayment Date" shall be deleted and replaced in its entirety by: ""Repayment Date" means February 14, 2014."	The definition of "Repayment Date" shall be deleted and replaced in its entirety by: ""Repayment Date" means February 14, 2014."
3.	Existing Amortization Provisions	Section 2.01(c) (Repayment) shall be deleted and replaced in its entirety with the following language: "(c) Repayment. The Borrower shall repay the Loan in accordance with Clauses 11.1 (Repayment of Exposures and reduction of Facility Limits), 11.3 (Effect of cancellation and prepayment on scheduled repayments and reductions) and 11.4 (Automatic cancellation of unutilised commitments under Core Bank Facilities) of the Financing Agreement."	Clause 8.1 (Repayment on a Repayment Date) shall be deleted and replaced in its entirety with the following language: "8.1 Repayment. The Borrower shall repay the aggregate principal amount of all Segments and Swingline Segments outstanding under a Facility in accordance with Clauses 11.1 (Repayment of Exposures and reduction of Facility Limits), 11.3 (Effect of cancellation and prepayment on scheduled repayments and reductions) and 11.4 (Automatic cancellation of unutilised commitments under Core Bank Facilities) of the Financing Agreement. "	Clause 8.1 (Repayment of Facility B on Repayment Date for Facility B) shall be deleted and replaced in its entirety with the following language: "8.1 Repayment. The Borrower shall repay the Loans in accordance with Clauses 11.1 (Repayment of Exposures and reduction of Facility Limits), 11.3 (Effect of cancellation and prepayment on scheduled repayments and reductions) and 11.4 (Automatic cancellation of unutilised commitments under Core Bank Facilities) of the Financing Agreement. " Clause 8.4 (Repayment of Facilty A Loans) shall be deleted and replaced in its entirety with the following language: "[Intentionally Omitted]."

[1] Unless otherwise indicated, provisions listed for the BNPP and JPMC facilities are provisions in "Schedule 1 – General Terms" to the loan facility agreement for each facility.

		$500mm Credit Facility	BNPP Bilateral	JPMC Bilateral
4.	Existing Taxes and Payments Provisions	A new Section 3.08 shall be added to Article III (Taxes, Payment Provisions) to read as follows: "3.08 Mitigation of Indemnities. The Lender shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Section 3.06 (Illegality) and Section 11.14 (Judgment Currency) including but not limited to transferring its rights and obligations under the Transaction Documents to another Affiliate or Lending Office; provided that this provision shall not in any way limit the obligations of any Obligor under the Transaction Documents."	A new Clause 12.9 shall be added to Clause 12 (Changes in Law) to read as follows: "12.9 Mitigation of Indemnities. The Lender shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 12.6 (Lender Illegality), Clause 20 (Currency Indemnity) and Clause 6 (Currency Indemnity) of the CEMEX España Guarantee including but not limited to transferring its rights and obligations under this Loan Facility Agreement, the CEMEX España Guarantee, any Assignment and Assumption Agreement, Letter of Credit Facility Agreement and all other related agreements and documents issued or delivered hereunder or thereunder or pursuant hereto or thereto to another Affiliate or Lending Office; provided that this provision shall not in any way limit the obligations of the Borrower and Guarantor under this Loan Facility Agreement, the CEMEX España Guarantee, any Assignment and Assumption Agreement, Letter of Credit Facility Agreement and all other related agreements and documents issued or delivered hereunder or thereunder or pursuant hereto or thereto."	A new Clause 12.9 shall be added to Clause 12 (Changes in Law) to read as follows: "12.9 Mitigation of Indemnities. The Lender shall, in consultation with the Borrower, take all reasonable steps to mitigate any circumstances which arise and which would result in any amount becoming payable under or pursuant to, or cancelled pursuant to, any of Clause 12.6 (Lender Illegality), Clause 20 (Currency Indemnity) and Clause 6 (Currency Indemnity) of the CEMEX España Guarantee including but not limited to transferring its rights and obligations under this Loan Facility Agreement, the Original Loan Facility Agreement, the CEMEX España Guarantee, any Assignment and Assumption Agreement, Letter of Credit Facility Agreement and all other related agreements and documents issued or delivered hereunder or thereunder or pursuant hereto or thereto to another Affiliate or Lending Office; provided that this provision shall not in any way limit the obligations of the Borrower and Guarantor under this Loan Facility Agreement, the Original Loan Facility Agreement, the CEMEX España Guarantee, any Assignment and Assumption Agreement, Letter of Credit Facility Agreement and all other related agreements and documents issued or delivered hereunder or thereunder or pursuant hereto or thereto."
5.	Existing Agency Provisions	N/A	N/A	N/A
6.	Existing Successors and Assigns Provisions	Paragraph (a) of Section 11.06 (Successors and Assigns) shall be amended by the deletion of ", except that the Borrower and the Guarantor may	Clause 28.1 (Assignment by Borrower) shall be deleted and replaced in its entirety with the following language: "28.1 Assignment by the Borrower or Lender.	Clause 28.1 (Assignment by Borrower) shall be deleted and replaced in its entirety with the following language: "28.1 Assignment by the Borrower or

$500mm Credit Facility	BNPP Bilateral	JPMC Bilateral
not assign or otherwise transfer any of their rights or obligations under this Agreement without the prior written consent of all Lenders except pursuant to the terms of this Agreement" at the end thereof. Paragraph (a) of Section 11.06 (Successors and Assigns) shall be further amended by the insertion of the following language at the end thereof: "Each of the Borrower and the Guarantor shall be permitted to assign or otherwise transfer or be released from its rights and obligations under this Agreement as permitted by the terms of the Financing Agreement." Paragraph (b) of Section 11.06 (Successors and Assigns) shall be amended by the deletion of "one or more commercial banks the Assignee shall acquire a Commitment or Loan of not less than U.S.$3,000,000 and integral multiples of U.S.$1,000,000 in excess thereof; and provided, further that," Such language shall be replaced in its entirety by the following language: "one or more Persons (each such Person, an "Assignee") all, or a proportionate part of all, of its Commitment or Loan and its rights and obligations under this Agreement as permitted by the terms of the Financing Agreement; provided, however, that,"	Each of the Borrower or the Lender may transfer or assign any or all of its rights or obligations hereunder, or the Borrower may be released from any or all of its rights or obligations hereunder, pursuant to the terms of the Financing Agreement." Clause 28.2 (Assignment by Lender) shall be deleted and replaced in its entirety with the following language: "[Intentionally Omitted]." Clause 13.1 (Assignment by Guarantor) of the Guarantee shall be deleted and replaced in its entirety with the following language: "13.1 Assignment by the Guarantor or Lender. Each of the Guarantor or the Lender may transfer or assign any or all of its rights or obligations hereunder, or the Guarantor may be released from any or all of its rights or obligations hereunder, pursuant to the terms of the Financing Agreement. " Clause 13.2 (Assignment by Lender) of the Guarantee shall be deleted and replaced in its entirety with the following language: "[Intentionally Omitted]."	Lender. Each of the Borrower or the Lender may transfer or assign any or all of its rights or obligations hereunder, or the Borrower may be released from any or all of its rights or obligations hereunder, pursuant to the terms of the Financing Agreement. " Clause 28.2 (Assignment by Lender) shall be deleted and replaced in its entirety with the following language: "[Intentionally Omitted]." Clause 13.1 (Assignment by Guarantor) of the Guarantee shall be deleted and replaced in its entirety with the following language: "13.1 Assignment by the Guarantor or Lender. Each of the Guarantor or the Lender may transfer or assign any or all of its rights or obligations hereunder, or the Guarantor may be released from any or all of its rights or obligations hereunder, pursuant to the terms of the Financing Agreement. " Clause 13.2 (Assignment by Lender) of the Guarantee shall be deleted and replaced in its entirety with the following language: "[Intentionally Omitted]."

		$500mm Credit Facility	BNPP Bilateral	JPMC Bilateral
7.	Existing Acceleration Clauses	Section 10.02 (Remedies) shall be deleted and replaced in its entirety with the following language: "10.02 Remedies. If any Event of Default has occurred and is continuing, and the Majority Participation Creditors (as defined in the Financing Agreement) have authorized the taking of such action, the Lender may declare by notice to the Borrower the principal amount of all outstanding Loans to be forthwith due and payable, whereupon such principal amount, together with accrued interest thereon and any fees and all other Obligations accrued hereunder, shall become immediately due and payable, without presentment, demand, protest or other notice of any kind, all of which are hereby expressly waived; provided, however, that in the case of any Event of Default due to an Event of Default (as defined in the Financing Agreement) under Clause 26.6 (Insolvency) or Clause 26.7 (Insolvency proceedings) of the Financing Agreement with respect to the Borrower or the Guarantor, without notice or any other act by the Lender, the Commitment shall be automatically and immediately terminated and the Loan (together with accrued interest and all other amounts thereon) and all other Obligations of the Borrower hereunder shall become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower;"	The remainder of Clause 16 (Events of Default) immediately following Clause 16(p) shall be deleted and replaced in its entirety with the following language: "then, if the Majority Participating Creditors (as defined in the Financing Agreement) have authorized the taking of action with respect to an Event of Default (as defined in the Financing Agreement), in any such event, and at any time subsequently and while such event is subsisting, the Lender may by notice to the Borrower, declare all moneys owing under this Loan Facility Agreement to be immediately due and payable, in which case such moneys shall be deemed to be due and payable and the Borrower shall immediately repay the Principal Outstanding under each Facility together with accrued interest and fees and all such other moneys due under this Loan Facility Agreement. However, following the occurrence of any event due to an Event of Default (as defined in the Financing Agreement) under Clause 26.6 (Insolvency) or Clause 26.7 (Insolvency proceedings) of the Financing Agreement with respect to the Borrower or the Guarantor, all moneys owing under this Loan Facility Agreement shall automatically and immediately be due and payable, in which case the Borrower shall immediately repay the Principal Outstanding under each Loan Facility Agreement with accrued interest and fees and all such other moneys due under this Loan Facility Agreement without presentment, demand, protest or any other notice of any kind (all of which are hereby expressly waived by the Borrower)."	Clause 16(b) (Acceleration) shall be deleted and replaced in its entirety with the following language: "(b) (Acceleration): In the event that the Majority Participating Creditors (as defined in the Financing Agreement) exercise their rights and remedies pursuant to Clause 26.16 (Acceleration) of the Financing Agreement, on and at any time after the occurrence of an Event of Default (as defined in the Financing Agreement) which is continuing, (i) by notice to the Borrower the Lender may declare that all or part of the Loans, together with accrued interest, and all other amounts accrued under the Loan Facility Agreement be immediately due and payable; and/or (ii) declare that all or part of the Loans be payable on demand whereupon they shall immediately become payable on demand by the Lender; provided, however, that in the case of an Event of Default due to an Event of Default (as defined in the Financing Agreement) under Clause 26.6 (Insolvency) or Clause 26.7 (Insolvency proceedings) of the Financing Agreement with respect to the Borrower or the Guarantor, without notice or any other act by the Lender, the Loans, together with accrued interest, and all other amounts accrued under the Loan Facility Agreement shall become immediately due and payable without presentment, demand, protest or other notice of any kind, all of which are hereby waived by the Borrower."

		$500mm Credit Facility	BNPP Bilateral	JPMC Bilateral
8.	Facility Interest Payment Date	The definition of "Interest Payment Date" shall be deleted and replaced in its entirety by: ""Interest Payment Date" means, (a) for the Interest Period applicable as at the Omnibus Agreement Effective Date (as defined in the Omnibus Agreement), December 30, 2009; and (b) for each Interest Period thereafter, the 15th day of the last month of each calendar quarter, provided, however, that, in the event that, pursuant to Clause 15 of the Financing Agreement, the Borrower has provided written notice to the Financing Agreement Agent of its selection of Interest Periods of one month, the "Interest Payment Date" shall mean the 15th day of each calendar month until the end of the relevant calendar quarter; provided, further, however, that if the Borrower selects (and the Lender consents to, such consent not to be unreasonably withheld) a shorter or longer period in order to comply with its obligations and exercise its rights under Clauses 15.3(a) and (b) of the Financing Agreement, the "Interest Payment Date" shall mean such day as the Borrower shall select (but shall in no event be later than March 15, 2010). If such payment date falls on a date that is not a Business Day, such date shall be deemed to be the next succeeding Business Day, except that where the next succeeding Business Day falls in the next succeeding calendar month, then on the immediately preceding Business Day."	N/A	N/A

		$500mm Credit Facility	BNPP Bilateral	JPMC Bilateral
9.	Facility Interest Period Provision	The definition of "Interest Period" shall be deleted and replaced in its entirety by: ""Interest Period" means (i) for the first Interest Period applicable as at the Omnibus Agreement Effective Date (as defined in the Omnibus Agreement), the period commencing on June 30, 2009 and ending on December 30, 2009 and (ii) for each Interest Period thereafter, the period commencing on the last day of the immediately preceding Interest Period and ending three months, one month (if the Borrower has provided written notice to the Financing Agreement Agent of its selection of Interest Periods of one month), or such shorter or longer period as the Borrower may select (and the Lender shall consent to, such consent not to be unreasonably withheld) in order to comply with its obligations and exercise its rights under Clause 15.3(a) and (b) of the Financing Agreement but in no event longer than six months thereafter; provided, however, that: (A) any Interest Period which would otherwise end on a day which is not a Business Day shall, subject to paragraph (B) below, be extended to the next succeeding Business Day; and (B) any Interest Period which would otherwise end after the Maturity Date shall end on the Maturity Date."	Clause 7(a) (Selection of Funding periods) shall be deleted and replaced in its entirety with the following language: "Subject to the subsequent provisions of this Clause, Funding Periods selected by the Borrower shall be of one, two, three, four, five or six months or of such other term as may be selected by the Borrower (and consented to by the Lender, such consent not to be unreasonably withheld) in order to comply with its obligations and exercise its rights under Clause 15.3(a) and (b) of the Financing Agreement but in no event longer than six months."	Clause 7(a) (Selection of Funding periods) shall be deleted and replaced in its entirety with the following language: "Subject to the subsequent provisions of this Clause, Funding Periods selected by the Borrower shall be of one, two, three, four, five or six months or of such other term as may be selected by the Borrower (and consented to by the Lender, such consent not to be unreasonably withheld) in order to comply with its obligations and exercise its rights under Clause 15.3(a) and (b) of the Financing Agreement but in no event longer than six months."
10.	Facility Notes Exhibit	Exhibit A shall be deleted and replaced in its entirety with Exhibit J hereto.	N/A	N/A

EXHIBIT H

Defined Terms

Syndicated Bank Facility Credit Agreement Defined Terms

		NY Joint Bilateral Facility	$700mm Facility	$1.2bn Facility	Each NSH Dutch Loan Facility
1.	Facility Loan	"Loan"	"Loan"	"Loan"	"Loan"
2.	Facility Transaction Documents	"Transaction Documents"	"Transaction Documents"	"Transaction Documents"	"Transaction Documents"
3.	Existing Amortization Provisions	Section 2.01(f) Amortization; Repayment Section 3.01 Termination or Reduction of Commitments	Section 2.01(f) Repayment Section 4.01 Termination or Reduction of Commitments	Section 2.01(f) Repayments Section 3.01 Termination or Reduction of Commitments	Section 2.01(b) Repayment
4.	Existing Agency Provisions	Article XI The Administrative Agent	Article XII The Administrative Agent	Article XI The Administrative Agent	Article XI The Administrative Agent
5.	Existing Definition Provisions	Article I Definitions	Article I Definitions	Article I Definitions	Article I Definitions
6.	Facility Interest Payment Date	"Interest Payment Date"	"Interest Payment Date"	"Interest Payment Date"	"Interest Payment Date"
7.	Facility Interest Period Provisions	"Interest Period"	"Interest Period"	"Interest Period"	"Interest Period"
8.	Existing Facility Fee and Utilization Fee Provisions	Section 3.02(a)-(b) Facility Fee	Section 4.03(a) Commitment Fee Section 4.03(b) Standby L/C Fees Section 4.03(c) Letter of Credit Utilization Fees Fourth Amendment Section 4 Facility Fee	Section 3.02(a) Commitment Fee Fourth Amendment Section 4 Facility Fee	Section 2.03 Fees
9.	Existing Taxes and Payment Provisions	Article III Termination and Reduction of Commitments; Fees, Taxes, Payment Provisions	Article IV Termination and Reduction of Commitments; Fees, Taxes, Payment Provisions	Article III Termination and Reduction of Commitments; Fees, Taxes, Payment Provisions	Article III Taxes, Payment Provisions
10.	Existing Letter of Credit Provisions	N/A	Article III The Standby L/C	N/A	N/A
11.	Existing Swing Line Loan Provisions	N/A	Section 2.02 Swing Line Loans Section 2.03(c) Swing Line Loans	N/A	N/A
12.	Existing Successors and Assigns Provisions	Section 13.06 (Successors and Assigns)	Section 15.06 (Successors and Assigns)	Section 13.06 (Successors and Assigns)	Section 13.06 (Successors and Assigns)

		NY Joint Bilateral Facility	$700mm Facility	$1.2bn Facility	Each NSH Dutch Loan Facility
13.	Facility Note	"Note"	"Note"	"Note"	"Maturity "A" Note"; "Maturity "B" Note"
14.	Facility Notes Exhibit	Exhibit A-1 and Exhibit A-2	Exhibit A	Exhibit A	Exhibit A to each NSH Dutch Loan Facility

Bilateral Bank Facility Credit Agreement Defined Terms [1]

		$500mm Credit Facility	BNPP Bilateral	JPMC Bilateral
1.	Facility Loan	"Loan"	"Facility"	"Facility A Loan"; "Facility B Loan"
2.	Facility Transaction Documents	"Transaction Documents"	The collective reference to the Loan Facility Agreement, the CEMEX España Guarantee, any Assignment and Assumption Agreement, Letter of Credit Facility Agreement and all other related agreements and documents issued or delivered hereunder or thereunder or pursuant hereto or thereto.	The collective reference to the Loan Facility Agreement, Original Loan Facility Agreement, the CEMEX España Guarantee, any Assignment and Assumption Agreement, Letter of Credit Facility Agreement and all other related agreements and documents issued or delivered hereunder or thereunder or pursuant hereto or thereto.
3.	Existing Amortization Provisions	Section 2.01(c) Repayment	Clause 8.1 Repayment on a Repayment Date	Clause 8.1 Repayment on a Repayment Date Clause 8.4 Repayment of Facility A Loans
4.	Existing Agency Provisions	N/A	N/A	N/A
5.	Existing Definition Provisions	Article I Definitions	Other Terms	Other Terms
6.	Facility Interest Payment Date	"Interest Payment Date"	N/A	N/A
7.	Facility Interest Period Provisions	"Interest Period"	Clause 7(a) Selection of Funding Periods and Swingline Funding Period	Clause 7(a) Selection of Funding Periods
8.	Existing Facility Fee and Utilization Fee Provisions	First Amendment Section 4 Facility Fee	Clause 18 Fees Other Terms 4 Line Fee First Amendment Section 6 Amendment Fee	Clause 18 Fees Other Terms 4 Line Fee
9.	Existing Taxes and Payment Provisions	Article III Taxes, Payment Provisions	Clause 12 Changes in Law	Clause 12 Changes in Law
10.	Existing Letter of Credit Provisions	N/A	Other Terms 10 – Letter of Credit Other Terms 11 – Letter of Credit Address Schedule 2 – Letter of Credit Facility Agreement	N/A
11.	Existing Swing Line Loan Provisions	N/A	Clause 4 Drawdown Clause 6 Principal Amount of Segments and Swingline Segments	N/A
12.	Existing Successors and Assigns Provisions	Section 11.06 (Successors and Assigns)	Clause 28 (Assignments) Guarantee Clause 13 (Assignments)	Clause 28 (Assignments) Guarantee Clause 13 (Assignments)

[1] Unless otherwise indicated, provisions listed for the BNPP and JPMC facilities are provisions in "Schedule 1 – General Terms" to the loan facility agreement for each facility.

		$500mm Credit Facility	BNPP Bilateral	JPMC Bilateral
13.	Facility Note	"Note"	N/A	N/A
14.	Facility Notes Exhibit	Exhibit A-1 and Exhibit A-2	N/A	N/A

EXHIBIT I

FORM OF
CERTIFICATE REGARDING LOST PROMISSORY NOTE

The undersigned, [INSERT LENDER], (the "**Lender**") hereby certifies to [CEMEX, S.A.B. de C.V.] (the "**Borrower**") as follows:

1. The Borrower has delivered a Note, dated [ ], a copy of which is attached hereto (the " Promissory Note") to the Lender in connection with the [INSERT AGREEMENT] dated as of [INSERT DATE]) (as amended, restated, supplemented or otherwise modified from time to time), among the Borrower, [ ], and the other financial institutions that are or may from time to time become a party thereto).

2. The Lender has caused a diligent search of its files and vault to be made in order to find the Promissory Note and the Promissory Note has not been found. The Promissory Note has been inadvertently lost, misplaced or destroyed.

3. The Lender has taken no action to give or further pledge, sell, assign, transfer, endorse in blank or otherwise or in any other manner dispose of the Promissory Note to any person, firm or corporation, nor has any record or correspondence been found which indicates that the Lender has entrusted the possession of the Promissory Note to any person, firm or corporation for safekeeping or for any other purpose.

4. The Lender hereby agrees to indemnify and hold harmless the Borrower, its successors and assigns, of and from any loss, damage or claim resulting from the Lender's loss or misplacement of the Promissory Note.

5. Insofar as this Certificate is executed before a foreign notary public, the Lender hereby agrees to docket this Certificate with an "Apostille" pursuant to the Hague convention of 5 October 1961, if requested by the Borrower in connection with a judicial action undertaken by the Borrower to cancel or replace the Promissory Note.

6. The Lender hereby agrees that if the Promissory Note is subsequently found by the Lender or come into the Lender's possession, the Lender will immediately surrender the Promissory Note to the Borrower for cancellation.

Dated: August , 2009

[INSERT LENDER]

By: _____
Name:
Title:

By: _____
Name:
Title:

STATE OF)
)
COUNTY OF)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that , whose name as of , a , is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, s/he, as such and with full authority, executed the same voluntarily for and as the act of said .

Given under my hand and official seal this the day of , 2009.

Notary Public

My commission expires:

EXHIBIT J

NO NEGOCIABLE PAGARÉ/
NON-NEGOTIABLE PROMISSORY NOTE[1]

US$ / [Mexican pesos][2]

For value received, the undersigned, CEMEX, S.A.B. de C.V., by this Promissory Note unconditionally promises to pay to the order of (the "Creditor"), in dollars of the United States of America ("Dollars") [Mexican pesos], the following principal sums on the following dates (each a "Principal Payment Date" and the last of such dates the "Final Payment Date"):

Principal Payment Date	Amount
[•]	[•]

[**amortization schedule to be inserted**]

The undersigned also promises to pay interest on the outstanding and unpaid principal amounts of this Promissory Note from the date hereof, for each day during each Interest Period (as defined below), at a rate per annum equal to LIBOR (as defined below) plus the Margin (as defined below), payable in arrears, on each Interest Payment Date (as defined below), until payment in full of the principal amount hereof.

Any principal amount and (to the extent permitted by applicable law) interest not paid when due under this Promissory Note, shall bear interest for each day until paid, payable on demand, at a rate per annum equal to the sum of two percent (2%) plus the interest rate then applicable hereunder as provided in the preceding paragraph.

Interest hereunder shall be calculated on the basis of the actual number of days elapsed, divided by three hundred and sixty (360).

For purposes of this Promissory Note, the following terms shall have the following meaning:

["Administrative Agent" means .][3]

E.U.A.$ Dls. / [pesos]

Por valor recibido, la suscrita, CEMEX, S.A.B. de C.V., por este Pagaré promete incondicionalmente pagar a la orden de (el "Acreedor"), en dólares de los Estados Unidos de América ("Dólares") [pesos], las siguientes sumas de principal pagaderas en las siguientes fechas (cada una, una "Fecha de Pago de Principal" y la última de dichas fechas, la "Fecha de Vencimiento"):

Fecha de Pago de Principal	Monto
[•]	[•]

[**calendario de amortizaciones**]

La suscrita promete, así mismo, pagar intereses sobre el saldo insoluto de la sumas de principal de este Pagaré a partir de la fecha de suscripción del presente Pagaré, por cada día respecto de cada Período de Interés (según este término se define a continuación), a una tasa anual igual a LIBOR (según este término se define a continuación) más el Margen (según este término se define a continuación), pagaderos en forma vencida, en cada Fecha de Pago de Interés (según este término se define a continuación), hasta que se efectúe el pago de la totalidad del saldo insoluto del presente.

Cualquier monto de principal y (en la medida permitida por legislación aplicable) de intereses que no sea pagada cuando sea debida conforme a este Pagaré, devengará intereses por cada día hasta que sea pagado, pagaderos a la vista, a una tasa anual igual a la suma de dos por ciento (2%) más la tasa de interés aplicable conforme a lo revisto en el párrafo anterior.

Los intereses conforme al presente serán calculados sobre la base del número de días efectivamente transcurridos, divididos entre trescientos sesenta (360).

Para efectos de éste Pagaré, los siguientes términos tendrán los significados indicados a continuación:

["Agente Administrativo" significa .]

[1] The new promissory note is accompanied by a side letter that conforms the interest payment provisions to the provisions of the Financing Agreement.
[2] New promissory notes will be denominated in the same currency as the existing promissory note.
[3] Only applicable to syndicated facilities.

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in London, United Kingdom, Madrid, Spain, New York, United States of America, Amsterdam, The Netherlands and Mexico City, United Mexican States.

"Día Hábil" significa cualquier día (que no sea sábado o domingo), en el cual los bancos comerciales en las ciudades de Londres, Reino Unido, Madrid, España, Nueva York, Estados Unidos de América, Amsterdam, Holanda y México, Estados Unidos Mexicanos estén abiertos para celebrar operaciones en general.

"Interest Payment Date" means any of March 15, June 15, September 15 and December 15 occurring on or before the Final Payment Date.

"Fecha de Pago de Interés" significa cualesquiera del 15 de marzo, 15 de junio, 15 de septiembre y 15 de diciembre que ocurran en o antes de la Fecha de Vencimiento.

"Interest Period" means (a) initially, the period commencing on the date hereof and ending on September 15, 2009, and (b) thereafter, each period commencing on the last day of the next preceding Interest Period and ending on the next Interest Payment Date, provided, however, that any Interest Period which would otherwise end after the Final Payment Date shall end on the Final Payment Date.

"Período de Interés" significa (a) inicialmente, el período que inicie en la fecha del presente y que termine el 15 de septiembre de 2009, y (b) a continuación, cada período que inicie el último día del Período de Interés inmediato anterior y que termine en la siguiente Fecha de Pago de Interés, en el entendido, sin embargo, que cualquier Periodo de Interés que terminaría después de la Fecha de Vencimiento, terminará en la Fecha de Vencimiento.

["LIBOR" means:

(a) the applicable Screen Rate; or

(b) (if no Screen Rate is available for the currency or Interest Period) the arithmetic mean of the rates (rounded upwards to four (4) decimal places) as supplied to the Creditor at its request by the Reference Banks, as quoted to leading banks in the London interbank market,

as of approximately 11:00 a.m. (New York City time) on the Quotation Day for the offering of deposits in the currency of this Promissory Note and for a period comparable to the Interest Period.

["LIBOR" significa (a) la Tasa de Pantalla aplicable, o (b) el promedio aritmético de las tasas (redondeado hacia arriba, a cuatro (4) decimales) que proporcionen a petición del Acreedor, como cotización de los Bancos de Referencia a bancos líderes en el mercado interbancario de Londres (si dicha Tasa de Pantalla no estuviere disponible respecto de la divisa o por el Período de Interés de que se trate), en ambos casos aproximadamente a las 11:00 a.m. (hora de la ciudad de Nueva York) en la Fecha de Cotización respecto de la oferta de depósitos en la divisa de este Pagaré, por un período comparable al Período de Interés.

"Quotation Day" means, in relation to any period in which an interest rate for Dollars/Mexican pesos is to be determined, two (2) Business Days before the first day of that period.

"Fecha de Cotización" significa, respecto de cualquier período para el cual una tasa de interés en Dólares/pesos deba ser determinada, dos (2) Días Hábiles antes del primer día de tal período.

"Screen Rate" means the British Bankers' Association Interest Settlement Rate for the relevant currency and period, displayed on the appropriate page of the Reuters screen. If the agreed page is replaced or service ceases to be available, the Creditor may specify another page or service displaying the appropriate rate.

"Tasa de Pantalla" significa la Tasa de Interés de Liquidación de la Asociación de Banqueros Británicos para la divisa y período de que se trate, que aparezca revelada en la página correspondiente de la pantalla Reuters. Si la página acordada es reemplazada o el servicio deja de estar disponible, el Acreedor puede señalar otra página o servicio para que revele la tasa apropiada.]

"Reference Banks" means two (2) banks in the London interbank market.][4]

"Bancos de Referencia" significa dos (2) bancos en el mercado interbancario de Londres.]

["TIIE" means the tasa de interest interbancaria de equilibrio, for a period of [28][90] days, calculated and published by Banco de México in the Diario Oficial de la Federación, on the Business Day in Mexico City, United Mexican States, immediately preceding the applicable Interest Period.][5]

["TIIE" significa la tasa de interés interbancaria de equilibrio, por un período de [28][90] días, que calcule y publique Banco de México en el Diario Oficial de la Federación, el Día Hábil en la ciudad de México, Estados Unidos Mexicanos, inmediato anterior al Período de Interés de que se trate.]

"Margin" means four and one half percent (4.5%) per year.

"Margen" significa cuatro y medio por ciento (4.5%) anual.

[4] LIBOR will apply in the case of existing notes for which the interest rate is based on LIBOR.

[5] TIIE will apply in the case of existing notes for which the interest rate is based on TIIE.

All payments by the undersigned of principal, interest and other payments hereunder, shall be made without setoff, deduction or counterclaim not later than p.m., City time, on the due date for each such payment, in [Dollars] [Mexican pesos] and in immediately available funds, at the office of the [Administrative Agent][6] [Creditor][7] located at . The undersigned agrees to reimburse upon demand, in like manner and funds, all losses, costs and expenses of the holder hereof, incurred in connection with the enforcement of this Promissory Note.

Todos los pagos que deban hacerse conforme a este Pagaré por la suscrita, de principal, intereses y por otros conceptos, serán efectuados sin compensación, deducción o defensa, antes de las p.m., hora de la ciudad de , en la fecha en que el pago de que se trate venza, en [Dólares] [pesos] y en fondos disponibles inmediatamente, en la oficina del [Agente Administrativo] [Acreedor] localizada en . La suscrita conviene en reembolsar a la vista, en la misma forma y fondos, cualesquiera pérdidas, costos y gastos del tenedor del presente, incurridos en relación con el procedimiento de cobro del presente Pagaré.

If any payment hereunder becomes due and payable on a day other than a Business Day, the maturity thereof shall be extended to the next succeeding Business Day unless the result of such extension would be to extend such payment into another calendar month, in which event such payment shall be made on the immediately preceding Business Day. In the case of any extension of any payment of principal pursuant to the preceding sentence, interest thereon shall be payable at the then applicable rate during such extension.

Si cualquier pago conforme al presente es pagadero en un día que no sea un Día Hábil, el vencimiento de dicho pago será extendido al siguiente Día Hábil, salvo que el resultado de tal extensión, sería extender tal pago a otro mes calendario, en cuyo caso tal pago se efectuará el Día Hábil inmediato anterior. En caso de extensión de cualquier pago de principal de conformidad con la oración anterior, se pagarán intereses a la tasa de interés aplicable respecto de tal extensión.

All payments by the undersigned hereunder, shall be made free and clear of, and without deduction for, any present or future income, excise, stamp or franchise taxes and other taxes, fees, duties, withholdings or other charges, of any nature whatsoever, imposed by the United Mexican States or any other jurisdiction from which any amount payable hereunder is made, or any taxing authority thereof or therein, unless required by law. In the event that the undersigned shall be compelled by law to make any such deduction or withholding, in respect of any payments hereunder, then the undersigned shall pay such additional amounts as may be necessary so that the holder hereof would receive the full amounts it would have received if such deductions or withholdings would not have been made.

Todos los pagos que se efectúen por la suscrita de acuerdo al presente, deberán hacerse libres de y sin deducción por cualquier impuesto sobre ingresos, gravamen, impuesto sobre el timbre o impuesto sobre franquicias y otros impuestos, contribuciones, derechos, retenciones u otras cargas, presentes o futuros, de cualquier naturaleza, establecidos o determinados por los Estados Unidos Mexicanos o por cualquier otra jurisdicción de la que se paguen cantidades adeudadas conforme al presente, a menos que sea requerido por ley. En caso que la suscrita esté obligada legalmente a llevar a cabo cualquier retención o deducción, respecto de cualesquiera pagos conforme al presente, la suscrita pagará tales sumas adicionales que sean necesarias para asegurar que las sumas recibidas por el tenedor del presente, sean iguales a la suma que el tenedor hubiera recibido, si tales retenciones o deducciones no se hubieren realizado.

This Promissory Note shall be governed by, and construed in accordance with, the laws of [the United Mexican States][the State of New York, United States of America; provided, however that if any action or proceedings in connection with this Promissory Note were brought to any courts in the United Mexican States, this Promissory Note shall be deemed as governed under the laws of the United Mexican States.] [8]

Este Pagaré se regirá e interpretará de acuerdo con las leyes [de los Estados Unidos Mexicanos][del Estado de Nueva York, Estados Unidos de América; en el entendido, sin embargo que si cualquier acción o procedimiento en relación con este Pagaré se iniciara en los tribunales de los Estados Unidos Mexicanos, este Pagaré se considerará regido de acuerdo con las leyes de los Estados Unidos Mexicanos.]

[6] Only applicable to syndicated facilities.

[7] Only applicable to bilateral facilities.

[8] With respect to existing promissory notes governed exclusively by Mexican law only will, new notes will be governed by Mexican law.

Any legal action or proceeding arising out of or relating to this Promissory Note may be brought to the jurisdiction of [the United States District Court for the Southern District of New York and of any New York State court located in the Borough of Manhattan in New York City and any appellate court thereof, or][9] any federal court sitting in Mexico City, Federal District, United Mexican States; the undersigned waives the right to jurisdiction of any other courts.

Cualquier acción o procedimiento legal que derive o se relacione con este Pagaré podrá ser instituido en [los Tribunales de Distrito de los Estados Unidos del Distrito Sur de Nueva York, cualquier tribunal del Estado de Nueva York localizado en el Condado de Manhattan, en la ciudad de Nueva York, o en cualquier tribunal de apelación de los mismos, o] cualquier tribunal federal localizado en la ciudad de México, Distrito Federal, Estados Unidos Mexicanos, renunciando la suscrita a la jurisdicción de cualesquiera otros tribunales.

The undersigned hereby waives diligence, demand, protest, presentment, notice of dishonor or any other notice or demand whatsoever.

La suscrita en este acto renuncia a diligencia, demanda, protesto, presentación, notificación de no aceptación y a cualquier notificación o demanda de cualquier naturaleza.

This Promissory Note is executed in both English and Spanish versions. In the case of any conflict or doubt as to the proper construction of this Promissory Note, the English version shall govern; provided, however, that in any action or proceeding brought in any court in the United Mexican States, the Spanish version shall prevail.

El presente Pagaré se suscribe en versiones en inglés y español. En caso de conflicto o duda en relación con la debida interpretación de este Pagaré, la versión en inglés prevalecerá; en el entendido, sin embargo que en cualquier procedimiento iniciado en cualquier tribunal de los Estados Unidos Mexicanos, prevalecerá la versión en español.

If the laws of the United Mexican States apply, for the purposes of Article 128 of the General Law of Negotiable Instruments and Credit Transactions of the United Mexican States, the term of presentation of this Promissory Note is hereby irrevocably extended until the date that is six (6) months after the Final Payment Date, it being understood that such extension shall not be deemed to prevent presentation of this Promissory Note prior to such date.

Si la legislación de los Estados Unidos Mexicanos fuere aplicable, para los efectos del Artículo 128 de la Ley General de Títulos y Operaciones de Crédito de los Estados Unidos Mexicanos, por medio del presente se prorroga irrevocablemente el plazo de presentación de este Pagaré hasta la fecha que sea seis (6) meses después de la Fecha de Vencimiento, en el entendido de que dicha prórroga no impedirá la presentación de este Pagaré con anterioridad a dicha fecha.

IN WITNESS WHEREOF, the undersigned has duly executed this Promissory Note on the date indicated below.

EN VIRTUD DE LO CUAL, la suscrita ha firmado este Pagaré en la fecha abajo mencionada.

_____, a __ de _____ de 2009.
_____, _____, 2009.

[9] Not applicable to a new promissory note governed exclusively by Mexican law only.

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

By/Por _____

Name/Nombre:
Title/Cargo:

Guaranteed/Por Aval

_____, S.A. de C.V.

By/Por _____

Name/Nombre:
Title/Cargo:

EXHIBIT K

MATURITY "[A][B]" NOTE

U.S $[ ]

Date August , 2009
New York, New York

FOR VALUE RECEIVED, the undersigned, NEW SUNWARD HOLDING B.V., a private company with limited liability formed under the laws of The Netherlands with its corporate seat in Amsterdam, The Netherlands (the "Borrower"), unconditionally promises to pay, without setoff or counterclaim, to the order of [ ] (the "Lender"), at the office of the Administrative Agent, in lawful money of the United States of America and in immediately available funds, on the following dates, the following principal amounts of the Loan made by the Lender to the undersigned pursuant to the Loan Agreement:

[Principal Payment Date	Amount]
[•]	[•]

The undersigned further unconditionally agrees to pay, without setoff or counterclaim, interest in like money at such office from the date hereof until paid in full on the unpaid principal amount hereof from time to time outstanding at the interest rate per annum applicable at such time to the Loan made by the Lender to the undersigned pursuant to the Loan Agreement. Such interest and any default interest shall be payable in accordance with the Loan Agreement and shall be subject to adjustment for any withholding or deduction provided for in the Loan Agreement. The Lender is authorized to record the date and amount of the Loan made by the Lender pursuant to the Loan Agreement, the date and amount of each repayment of principal hereof, the date of each continuation pursuant to Section 2.01(e) of the Loan Agreement and the principal amount subject thereto and the interest rate and interest period in respect thereto on the schedules annexed hereto and made a part hereof or on any other record customarily maintained by the Lender with respect to this Maturity "[A][B]" Note and any such recordation shall constitute prima facie evidence of the accuracy of the information so recorded; provided, however, that the failure of the Lender to make such recordation (or any error in such recordation) shall not affect the obligations of the Borrower hereunder or under the Loan Agreement.

This Maturity "[A][B]" Note is one of the Maturity "[A][B]" Notes referred to in the Senior Unsecured Maturity Loan "[A][B]" Agreement, dated as of December 31, 2008, among the Borrower, the Guarantors, the several Lenders party thereto, HSBC Securities (USA) Inc., as Sole Structuring Agent, HSBC Securities (USA) Inc., Banco Santander, S.A., and The Royal Bank of Scotland PLC, as Joint Lead Arrangers and Joint Bookrunners, and ING Capital LLC as Administrative Agent (as the same may from time to time be amended, supplemented or otherwise modified, the " Loan Agreement"; terms defined therein being used herein as so defined), and is entitled to the benefits thereof and is subject to optional and mandatory prepayment in whole or in part as provided therein.

Upon the occurrence of an Event of Default specified in the Loan Agreement, all amounts remaining unpaid on this Maturity "[A][B]" Note may become, or may be declared to be, immediately due and payable, all as provided therein.

The Borrower agrees to pay all reasonable and documented out-of-pocket costs and expenses incurred by the Lender in connection with the enforcement of and/or preservation of any rights under the Loan Agreement, the other Transaction Documents and this Maturity "[A][B]" Note (whether through negotiations, legal proceedings or otherwise) including the reasonable fees and reasonable and documented out-of-pocket expenses of Special Dutch, Mexican, and New York counsel to the Lender.

Each Credit Party hereby irrevocably and unconditionally submits for itself and its property in any legal action or proceeding relating to this Maturity "[A][B]" Note and the Loan Agreement or for recognition and enforcement of any judgment in respect thereof, to the non-exclusive jurisdiction of the United States District Court for the Southern District New York and of any New York State court located in the Borough of Manhattan in New York City and any appellate court thereof, to the jurisdiction of any competent court in the place of its corporate domicile and any appellate courts thereof, and consents that any such suit, action or proceeding may be brought in such courts and waives any objection that it may now or hereinafter have to the laying of venue of any such suit, action or proceeding in any such court or that such action or proceeding was brought in an inconvenient court and agrees not to plead or claim the same. Each Credit Party hereby irrevocably agrees that service of all writs, process and summonses in any such suit, action or proceeding brought in the State of New York may be made upon CT Corporation System having offices on the date hereof at 111 Eighth Avenue, 13th Floor, New York, New York 10011, U.S.A. (the "Process Agent"), and each Credit Party hereby irrevocably appoints the Process Agent as its authorized agent to accept such service of any and all such writs, process and summonses, designates such domicile as the conventional domicile to receive notices and agrees that the failure of the Process Agent to give any notice of any such service of process to each Credit Party shall not impair or affect the validity of such service or of any judgment based thereon.

The obligation of the Borrower hereunder to make payments in Dollars shall not be discharged or satisfied by any tender or recovery pursuant to any judgment expressed in or converted into any other currency except to the extent that such tender or recovery results in the effective receipt by the Lender of the full amount of Dollars payable hereunder and the Borrower shall be obligated to indemnify the Lender (and the Lender shall have an additional legal claim) for any difference between such full amount and the amount effectively received by the Lender pursuant to any such tender or recovery. The Lender's determination of amounts effectively received by it shall be presumptively correct in the absence of manifest error.

To the extent that the Borrower has or hereafter may acquire any immunity from jurisdiction of any court or from any legal process (whether through service or notice, attachment prior to judgment, attachment in aid of execution, execution or otherwise) with respect to itself or its property, the Borrower hereby irrevocably waives such immunity in respect of its obligations under this Maturity "[A][B]" Note and the other Transaction Documents. The foregoing waiver and consent are intended to be effective to the fullest extent now or hereafter permitted by applicable law of any jurisdiction in which any suit, action or proceeding with respect to this Maturity "[A][B]" Note may be commenced.

THIS MATURITY "[A][B]" NOTE SHALL BE GOVERNED BY, AND CONSTRUED AND INTERPRETED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK.

NEW SUNWARD HOLDING B.V.

By: _____
Title: Attorney-in-fact

Guaranteed:

CEMEX, S.A.B. de C.V.
in its capacity as Guarantor
Under Article IX of the Loan Agreement

By: _____
Title: Attorney-in-fact

Guaranteed:

CEMEX MÉXICO, S.A. de C.V.,
in its capacity as Guarantor
Under Article IX of the Loan Agreement

By: _____
Title: Attorney-in-fact

EXHIBIT L

CEMEX, S.A.B. de C.V.
Av. Ricardo Margáin Zozaya # 325
Colonia Valle del Campestre
66265 San Pedro Garza García, Nuevo León
Mexico

August , 2009

RE: PROMISSORY NOTE

Dear Sirs :

Reference is made to the promissory note (*pagaré*) (the "Promissory Note") issued by CEMEX, S.A.B. de C.V. (the "Issuer"), dated [ ] for the amount of [USD [ ] ([ ] Dollars, currency of the United States of America 00/100)][MXN$[ ] ([ ]Pesos, currency of the United Mexican States 00/100)] in favor of [ ] (the "Holder").

The parties to this letter agree that notwithstanding anything to the contrary in the Promissory Note, (i) interest payments in respect of the Promissory Note shall be made at the times, on the dates, in the amounts and in the manner provided for in the [*insert reference to relevant Credit Agreement*] (as amended from time to time in accordance with its terms, the "Credit Agreement") and (ii) interest shall be calculated in the manner provided for in the Credit Agreement. Without limiting the generality of the above, the parties to this letter agree that notwithstanding anything else to the contrary in the Promissory Note, the Loan represented by the Promissory Note may bear interest at the rates provided for in the Credit Agreement. In the case of any inconsistency between the terms of the Credit Agreement and the Promissory Note, the Credit Agreement shall prevail.

Sincerely,
[ ]

By: _____
Name:
Title:

Accepted and agreed,
CEMEX, S.A.B. de C.V.

By: _____
Name:
Title:

Accepted and agreed,
[ ], as guarantor

By: _____
Name:
Title:

Exhibit 4.35

C L I F F O R D
C H A N C E L L P

CLEARY GOTTLIEB STEEN &
HAMILTON LLP

CONFORMED COPY

DATED 14 AUGUST 2009

CITIBANK INTERNATIONAL PLC
as Administrative Agent

The Participating Creditors
(as named herein)

CEMEX, S.A.B. DE C.V. AND CERTAIN OF ITS SUBSIDIARIES
as Original Borrowers, Original Guarantors and Original Security Providers

WILMINGTON TRUST (LONDON) LIMITED
acting as Security Agent

and others

INTERCREDITOR AGREEMENT

CONTENTS

THIS AGREEMENT is dated 14 August 2009 and made between:

(1) **CITIBANK INTERNATIONAL PLC** as Administrative Agent;

(2) **THE FINANCIAL INSTITUTIONS AND USPP NOTEHOLDERS** named on the signing pages as Participating Creditors (the "**Original Participating Creditors**");

(3) **THE FINANCIAL INSTITUTIONS** named on the signing pages as Participating Creditors' Representatives;

(4) **CEMEX, S.A.B. de C.V.** (the "**Parent**");

(5) **THE SUBSIDIARIES** of the Parent named on the signing pages as Original Borrowers (together with the Parent, the "**Original Borrowers**");

(6) **THE SUBSIDIARIES** of the Parent named on the signing pages as Original Guarantors (together with the Parent, the "**Original Guarantors**");

(7) **THE SUBSIDIARIES** of the Parent named on the signing pages as Original Security Providers (together with the Parent, the "**Original Security Providers**"); and

(8) **WILMINGTON TRUST (LONDON) LIMITED** as security trustee for the Secured Parties (the "**Security Agent**").

WHEREAS

(A) The Parent, the Original Debtors and the Original Security Providers are entering into this Agreement pursuant to the Financing Agreement, and in connection with the grant by the Original Guarantors of certain guarantees in favour of the Participating Creditors and the grant by the Original Security Providers of Security pursuant to the Transaction Security Documents in favour of the Participating Creditors.

(B) Under the Existing Notes Documents the Parent and the Original Debtors may not grant Security in favour of the Participating Creditors unless the Parent and the Original Debtors have made effective provision to secure, whether by direct or third party Security, the Existing Notes Liabilities equally and rateably with the Participating Creditor Liabilities.

IT IS AGREED as follows:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

In this Agreement:

"**Additional Guarantor**" means a company that becomes an Additional Guarantor as defined in the Financing Agreement in accordance with clause 28 (*Changes to the Obligors*) thereof.

"**Additional Notes**" means any notes, *certificados bursátiles* (including any further *certificados bursátiles* issued under and in accordance with any of the programmes under which *certificados bursátiles* listed at paragraphs (a) to (n) of the definition of "Certificados Bursátiles" below were issued), bonds or other debt securities, convertible or exchangeable securities or loan facility:

(a) the proceeds of which are applied to refinance Existing Notes or existing Additional Notes which are secured equally and rateably with other Financial Indebtedness of the Debtors on the terms provided for in this Agreement; and

(b) which are issued or, as the case may be, borrowed, after the date of this Agreement, by any Additional Notes Obligors, and which are permitted to be issued or, as the case may be, borrowed, in accordance with paragraph (f) of the definition of "Permitted Financial Indebtedness" in clause 1.1 (*Definitions*) of the Financing Agreement.

"**Additional Notes Creditor**" means each holder from time to time of Additional Notes.

"**Additional Notes Documents**" means any terms and conditions, indenture, loan agreement, *título único* or similar instrument entered into by any Additional Notes Obligor in relation to any Additional Notes and any other related documents.

"**Additional Notes Liabilities**" means the Liabilities owed by any Additional Notes Obligor (and, to the extent applicable in respect of the Transaction Security granted by it, any Security Provider) to the Additional Notes Creditors under or in connection with the Additional Notes Documents (or, in the case of a Security Provider, under or in connection with the Transaction Security Documents).

"**Additional Notes Obligor**" means any member of the Group or members of the Group (whether acting as co-issuers or guarantors or otherwise) which is, in accordance with paragraph (f) of the definition of "Permitted Financial Indebtedness" in clause 1.1 (*Definitions*) of the Financing Agreement, an issuer or a borrower or a guarantor under any Additional Notes Documents as permitted by the Financing Agreement and, if not a Debtor under this Agreement, which has acceded to this Agreement as a Debtor in accordance with Clause 13.7 (*New Debtor/Security Provider*).

"**Additional Notes Trustee**" means each noteholder trustee, *representante común*, indenture trustee, agent or any other entity which performs a similar role in relation to Additional Notes Creditors under any Additional Notes.

"**Additional Notes Trustee Liabilities**" means all present and future liabilities, actual and contingent, of any Additional Notes Obligor (and, to the extent applicable in respect of the Transaction Security granted by it, any Security Provider) to any Additional Notes Trustee under or in connection with any Additional Notes Documents (or, in the case of a Security Provider, under or in connection with the Transaction Security Documents).

"**Additional Security Provider**" means a company that becomes an Additional Security Provider as defined in the Financing Agreement in accordance with clause 28 (*Changes to the Obligors*) thereof.

"**Affiliate**" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

"**Agent**" means the Administrative Agent, each Participating Creditor's Representative and each Refinancing Creditor Representative.

"**Agent Liabilities**" means all present and future liabilities, actual and contingent, of any Debtor (and, to the extent applicable in relation to the Transaction Security granted by it, any Security Provider) to any Agent under the Debt Documents.

"**Base Currency**" means US dollars.

"**Base Currency Amount**" means, on any date:

(a) in relation to an amount or Exposure denominated in the Base Currency, that amount or the amount of that Exposure; and

(b) in relation to an amount or Exposure denominated in a currency other than the Base Currency, that amount or the amount of that Exposure converted into the Base Currency at:

  (i) for the purposes of determining the Instructing Group or the Super Majority Instructing Group, the exchange rate displayed on the appropriate Reuters screen at or about 11:00 a.m. on the date on which such determination is made (or if the agreed page is replaced or services cease to be available, the Security Agent may specify another page or service displaying the appropriate rate after consultation with the Parent, the Administrative Agent and each Refinancing Creditor Representative); and

  (ii) for all other purposes, the Security Agent's Spot Rate of Exchange on the date which is 5 Business Days before any payment is required to be made.

"**Bilateral Bank Facilities**" means the facilities described in Part IB of Part II of schedule 1 (*The Original Participating Creditors*) to the Financing Agreement.

"**Borrower**" means an Original Borrower unless it has ceased to be a Borrower in accordance with Clause 13.9 (*Resignation of a Debtor/Security Provider*) and, for the purposes of Clause 9.2 (*Order of Application – Debt Claim Recoveries*) only, shall be deemed to include a Refinancing Obligor to the extent of its Borrowing Liabilities.

"**Borrowing Liabilities**" means, in relation to a Debtor, the Liabilities (not being Existing Guarantee Liabilities or Guarantee Liabilities) it may have as a principal debtor to a Participating Creditor in respect of Financial Indebtedness arising under the Finance Documents or to a Refinancing Creditor in respect of Financial Indebtedness

arising under the Refinancing Documents (whether incurred solely or jointly) and including, without limitation, liabilities as a Borrower under and as defined in the Financing Agreement and liabilities as an issuer or as a borrower under any Refinancing Document.

"**Business Day**" means a day (other than a Saturday or Sunday) on which banks are open for general business in London, Madrid, New York, Amsterdam and Mexico City (in the case of Mexico City, if applicable, as specified by a governmental authority), and:

(a) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, a currency other than euro) the principal financial centre of the country of that currency; or

(b) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, euro) any TARGET Day.

"**CEMEX Australia Holdings**" means CEMEX Australia Holdings Pty Limited.

"**CEMEX España**" means CEMEX España, S.A.

"**CEMEX México**" means CEMEX México, S.A. de C.V.

"**Certificados Bursátiles**" means the following debt securities issued by the Parent guaranteed (*por aval*) by CEMEX México and Empresas Tolteca in the Mexican capital markets with the approval of the Mexican National Banking and Securities Banking and Securities Commission and listed on the Mexican Stock Exchange:

(a) *certificado bursátil* CMX0001 05 in an amount of Mex$1,500,000,000 dated 15 April 2005;

(b) *certificado bursátil* CEMEX 06 in an amount of Mex$1,750,000,000 dated 17 March 2006;

(c) *certificado bursátil* CMX0002 06 in an amount of Mex$750,000,000 dated 17 March 2006;

(d) *certificado bursátil* CEMEX 06 in an amount of Mex$1,500,000,000 dated 28 April 2006;

(e) *certificado bursátil* CEMEX 06-2 in an amount of Mex$2,500,000,000 dated 29 September 2006;

(f) *certificado bursátil* CEMEX 06-2 in an amount of Mex$1,500,000,000 dated 13 October 2006;

(g) *certificado bursátil* CEMEX 06-3 in an amount of Mex$2,950,000,000 dated 15 December 2006;

(h) *certificado bursátil* CEMEX 07 in an amount of Mex$3,000,000,000 dated 2 February 2007;

(i) *certificado bursátil* CEMEX 07-2 in an amount of Mex$3,000,000,000 dated 28 September 2007;

(j) *certificado bursátil* CEMEX 07U in an amount of UDI 511,598,600 dated 30 November 2007;

(k) *certificado bursátil* CEMEX 07-2U in an amount of UDI 116,530,800 dated 30 November 2007;

(l) *certificado bursátil* CEMEX 08 in an amount of Mex$1,000,000,000 dated 25 April 2008;

(m) *certificado bursátil* CEMEX 08-2 in an amount of Mex$450,045,900 dated 11 December 2008; and

(n) *certificado bursátil* CEMEX 08U in an amount of UDI 124,817,100 dated 11 December 2008.

"**Charged Property**" means all of the assets which from time to time are, or are expressed to be, the subject of the Transaction Security.

"**Common Assurance**" means any guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, the benefit of which (however conferred) is, to the extent legally possible, given to all the Secured Parties in respect of their Liabilities.

"**Compliance Certificate**" means a certificate substantially in the form of schedule 5 (*Form of Compliance Certificate*) of the Financing Agreement.

"**Consent**" means any consent, approval, release or waiver or agreement to any amendment.

"**Consolidated Leverage Ratio**" means, on any date of determination, the ratio of Consolidated Funded Debt on such date to EBITDA for the one (1) year period ending on such date (where "**Consolidated Funded Debt**" and "**EBITDA**" have the meaning given to such terms in the Financing Agreement).

"**Core Bank Facilities**" means the Syndicated Bank Facilities, the Bilateral Bank Facilities and the Promissory Notes.

"**Creditor**" means an Agent, a Participating Creditor or a Refinancing Creditor.

"**Creditor/Administrative Agent/Security Agent Accession Undertaking** " means:

(a) an undertaking substantially in the form set out in Schedule 2 (*Form of Creditor/Administrative Agent/Security Agent Accession Undertaking*); or

(b) in the case of a Participating Creditor only, a Participating Creditor/Administrative Agent/Security Agent Accession Undertaking (as defined in the Financing Agreement),

as the context may require.

"**Debt Claim Recoveries**" has the meaning given to such term in Clause 9.2 (*Order of application - Debt Claim Recoveries*).

"**Debt Documents**" means the Finance Documents, the Refinancing Documents and the Noteholder Documents.

"**Debtor**" means each Borrower and each Guarantor (where a Borrower or a Guarantor may also be an Existing Notes Obligor) and each Additional Notes Obligor and Refinancing Obligor which has acceded to this Agreement as a Debtor in accordance with Clause 13.7 (*New Debtor/Security Provider*).

"**Debtor/Security Provider Accession Deed**" means:

(a) a deed substantially in the form set out in Schedule 1 (*Form of Debtor/Security Provider Accession Deed*); or

(b) (only in the case of a member of the Group which is acceding as a Guarantor or a Security Provider) an Accession Letter (as defined in the Financing Agreement).

"**Debtor Liabilities**" means, in relation to a member of the Group, any liabilities owed to any Debtor (whether actual or contingent and whether incurred solely or jointly) by that member of the Group.

"**Default**" means an Event of Default or any event or circumstance specified in clause 26 (*Events of Default*) of the Financing Agreement which would (with the expiry of a grace period, the giving of notice, the making of any determination under the Finance Documents or any combination of any of the foregoing) be an Event of Default.

"**Delegate**" means any delegate, agent, representative, *comisionista mercantil*, attorney or co-trustee appointed by the Security Agent.

"**Disposal Proceeds**" has the meaning given to that term in Clause 7 (*Proceeds of Disposals of Charged Property*) of this Agreement.

"**Distressed Disposal**" means a disposal of an asset of a member of the Group which is:

(a) being effected at the request of the Instructing Group in circumstances where the Transaction Security is being enforced; or

(b) being effected, after the occurrence of a Participating Creditor Acceleration Event, by a Debtor or a Security Provider to a person or persons which is (or are) not a member (or members) of the Group.

"**Effective Date**" means the date on which the Financing Agreement becomes effective in accordance with its terms.

"**Empresas Tolteca**" means Empresas Tolteca de México, S.A. de C.V.

"**Enforcement Action**" means:

(a) in relation to any Liabilities:

(i) the acceleration of any Liabilities or the making of any declaration that any Liabilities are prematurely due and payable (other than as a result of it becoming unlawful for a Participating Creditor or a Refinancing Creditor to perform its obligations under, or of any voluntary or mandatory prepayment arising under, the Debt Documents);

(ii) the making of any declaration that any Liabilities are payable on demand;

(iii) the making of a demand in relation to a Liability that is payable on demand;

(iv) the making of any demand against any member of the Group in relation to any Guarantee Liabilities or Existing Guarantee Liabilities of that member of the Group;

(v) the exercise of any right to require any member of the Group to acquire any Liability (including exercising any put or call option against any member of the Group for the redemption or purchase of any Liability);

(vi) the exercise of any right of set-off, account combination or payment netting against any member of the Group in respect of any Liabilities; and

(vii) the suing for, commencing or joining of any legal or arbitration proceedings against any member of the Group to recover any Liabilities;

(b) the taking of any steps to enforce or require the enforcement of any Transaction Security;

(c) the entering into of any composition, compromise, assignment or arrangement with any member of the Group which owes any Liabilities, or has given any Security, guarantee or indemnity or other assurance against loss in respect of the Liabilities (other than any action permitted under Clause 13 (*Changes to the Parties*)); or

(d) the petitioning, applying or voting for, or the taking of any steps (including the appointment of any liquidator, receiver, administrator, Irish law examiner or similar officer) in relation to, the winding up, dissolution, bankruptcy (*faillissement*), administration, Irish law examinership, *onder bewindstelling* or reorganisation of any member of the Group which owes any Liabilities, or has given any Security, guarantee, indemnity or other assurance against loss in respect of any of the Liabilities, or any of such member of the Group's assets or any suspension of payments or moratorium of any indebtedness of any such member of the Group, or any analogous procedure or step in any jurisdiction,

except that the taking of any action falling within paragraphs (a)(vii) or (d) above which is necessary (but only to the extent necessary) to preserve the validity, existence or priority of claims in respect of Liabilities, including the registration of such claims before any court or governmental authority and the bringing, supporting or joining of proceedings to prevent any loss of the right to bring, support or join proceedings by reason of applicable limitation periods, shall not constitute Enforcement Action.

"**Enforcement Event**" means:

(a) the occurrence of a Participating Creditor Acceleration Event; and

(b) receipt by the Security Agent of the written consent of the Instructing Group to the enforcement of Transaction Security.

"**EUR730M Perpetuals**" means the EUR 730,000,000 Callable Perpetual Dual Currency Notes issued by NSHFV.

"**EUR730M Perpetuals Indenture**" means the indenture dated as of 9 May 2007 among NSHFV as issuer, the Parent, CEMEX México and NSH as guarantors and The Bank of New York as trustee pursuant to which the EUR730M Perpetuals were issued.

"**Event of Default**" means any event or circumstance specified as such in the Financing Agreement.

"**Existing Finance Documents**" means each of the facility agreements and other documents listed in schedule 9 (*The Facilities*) to the Financing Agreement and the "Finance Documents" as defined in any Existing Facility Agreement and "Facility Transaction Documents" as defined in Exhibit G to the NY Law Amendment Agreement (but in each case excluding any document that is designated a "Finance Document" or a "Facility Transaction Document" by a Debtor or a Security Provider and the relevant Participating Creditor's Representative under an Existing Facility Agreement after the date of the Financing Agreement), the USPP Note Agreement and the USPP Note Guarantee.

"**Existing Guaranteed Debt**" means each of the Facilities under which at the date of the Financing Agreement, an Original Debtor owes Guarantee Liabilities to a Finance Party.

"**Existing Guarantee Liabilities**" means, in relation to a member of the Group, the Liabilities it may have pursuant to a Guarantee Clause referred to in paragraph (a) of the definition thereof to any Finance Party.

"**Existing Notes**" means the Parent Notes, the US$350M Perpetuals, the EUR730M Perpetuals, the US$750M Perpetuals, the US$900M Perpetuals and the Certificados Bursátiles.

"**Existing Notes Creditor**" means each holder from time to time of Existing Notes.

"**Existing Notes Documents**" means the Parent Notes Indenture, the US$350M Perpetuals Indenture, the EUR730M Perpetuals Indenture, the US$750M Perpetuals Indenture, the US$900M Perpetuals Indenture and the *título únicos* pursuant to which the Certificados Bursátiles were issued and, in each case, any other related document.

"**Existing Notes Liabilities**" means the Liabilities owed by the Debtors (and, to the extent applicable in relation to the Transaction Security granted by it, any Security Provider) to the Existing Notes Creditors under or in connection with the Existing Notes Documents.

"**Existing Notes Obligor**" means any issuer or guarantor under any Existing Notes Documents.

"**Existing Notes Trustee**" means each trustee *or representante común* under any Existing Notes.

"**Existing Notes Trustee Liabilities**" means all present and future liabilities and obligations, actual and contingent, of any Debtor (and, to the extent applicable in relation to the Transaction Security granted by it, any Security Provider) to any Existing Notes Trustee under the Existing Notes Documents.

"**Exposure**" means, as appropriate, a Participating Creditor Exposure or a Refinancing Creditor Exposure.

"**Facility**" means a Core Bank Facility and each USPP Note.

"**Final Discharge Date**" means the first date on which all Participating Creditor Liabilities have been fully and finally discharged to the satisfaction of the Administrative Agent (acting reasonably), whether or not as the result of an enforcement, and none of the Participating Creditors are under any further obligation to provide financial accommodation to any of the Debtors under the Finance Documents.

"**Finance Document**" means each New Finance Document and each Existing Finance Document.

"**Finance Parallel Debt**" has the meaning given to such term in Clause 10.2 (*Finance Parallel Debt (Covenant to pay the Security Agent)*).

"**Finance Party**" means the Administrative Agent, the Security Agent, each Participating Creditor's Representative or a Participating Creditor.

"**Finance Secured Documents**" means each of the Finance Documents and the Refinancing Documents.

"**Finance Secured Parties**" means each of the Secured Parties other than the Noteholder Trustees and the Noteholders from time to time.

"**Financial Indebtedness**" has the meaning given to the term "Financial Indebtedness" in the Financing Agreement.

"**Financial Quarter**" means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

"**Financing Agreement**" means the financing agreement entered into between, amongst others, the Parent, the Original Obligors (as defined therein), the Original Participating Creditors and others dated on or about the date of this Agreement.

"**Group**" means the Parent and each of its Subsidiaries for the time being.

"**Guarantee Clause**" means:

(a) in relation to any Existing Guaranteed Debt, any clause contained in the Existing Finance Documents relating to that Existing Guaranteed Debt pursuant to which an Original Guarantor has liabilities under such Existing Finance Documents (present or future, actual or contingent and whether incurred solely or jointly) to any Finance Party as, or as a result of its being, a guarantor or surety (including, without limitation, liabilities arising by way of guarantee, indemnity, contribution or subrogation and in particular any guarantee or indemnity arising under or in respect of those Existing Finance Documents);

(b) in relation to the Financing Agreement, clause 20 (*Guarantee and Indemnity*) thereof; and

(c) in relation to any Guaranteed Refinancing Debt, any clause contained in the Refinancing Documents relating to that Guaranteed Refinancing Debt pursuant to which a Refinancing Guarantor has liabilities under such Refinancing Documents (present or future, actual or contingent and whether incurred solely or jointly) to any Refinancing Party as or as a result of its being a guarantor or surety (including, without limitation, liabilities arising by way of guarantee, indemnity, contribution or subrogation and in particular any guarantee or indemnity arising under or in respect of those Refinancing Documents).

"**Guarantee Liabilities**" means, in relation to a member of the Group, the Liabilities it may have pursuant to a Guarantee Clause referred to in paragraphs (b) or (c) of the definition thereof to any Finance Party or Refinancing Party.

"**Guaranteed Refinancing Debt**" means any bonds, notes or other debt securities, convertible or exchangeable securities issued, or loans borrowed under loan facilities, pursuant to a Refinancing in relation to which a Debtor owes Guarantee Liabilities to a Refinancing Creditor.

"**Guarantors**" means the Original Guarantors and any Additional Guarantor other than any Original Guarantor or Additional Guarantor which has ceased to be a Guarantor pursuant to Clause 13.9 (*Resignation of a Debtor/Security Provider*) and has not subsequently become an Additional Guarantor pursuant to Clause 13.7 (*New Debtor/Security Provider*) and "**Guarantor**" means any of them.

"**Holding Company**" means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

"**Insolvency Event**" means, in relation to any Debtor, Security Provider or Material Subsidiary:

(a) any resolution is passed or order made for the winding up, bankruptcy, dissolution, *concurso mercantil*, *quiebra*, *concurso*, administration, Irish law examinership or reorganisation (by way of voluntary arrangement, scheme of arrangement or otherwise but excluding a solvent liquidation or reorganisation of a Material Subsidiary) of that Debtor, Security Provider or Material Subsidiary, a moratorium is declared in relation to any indebtedness of that Debtor, Security Provider or Material Subsidiary;

(b) any composition, assignment or arrangement is made with any class of its creditors;

(c) the appointment of any liquidator (other than in respect of a solvent liquidation of a Material Subsidiary), receiver, administrator, Irish law examiner, *conciliador*, administrative receiver, compulsory manager or other similar officer in respect of that Debtor, Security Provider or Material Subsidiary or any of its assets; or

(d) any analogous procedure or step is taken in any jurisdiction,

provided that no winding-up petition (or equivalent procedure in any jurisdiction) which is frivolous or vexatious and is discharged, stayed or dismissed within 60 days of commencement shall constitute an Insolvency Event.

"**Insolvency Proceedings**" means any of the matters described in the definition of "**Insolvency Event**".

"**Intercreditor Amendment**" means any amendment or waiver which is subject to Clause 19 (*Consents, Amendments and Override*).

"**Instructing Group**" means, at any time:

(a) a Creditor or Creditors the Base Currency Amount of whose Exposures under the Facilities and/or, as the case may be, the Refinancing Debt, at that time represent, in aggregate, 75 per cent. or more of the Base Currency Amount of all the Exposures of the Creditors under all of the Facilities and all Refinancing Debt (when aggregated) at that time; and

(b) a Participating Creditor or Participating Creditors the Base Currency Amount of whose Exposures under the Facilities at that time represent, in aggregate, more than 66 2/3 per cent. of the Base Currency Amount of all the Exposures of the Participating Creditors under all of the Facilities at that time.

"**Liabilities**" means all present and future liabilities at any time of any Debtor (and, to the extent applicable in relation to the Transaction Security granted by it, any Security Provider) to any Secured Party under the Debt Documents, both actual and contingent and whether incurred solely or jointly or in any other capacity together with any of the following matters relating to or arising in respect of those liabilities:

(a) any refinancing, novation, deferral or extension;

(b) any claim for breach of representation, warranty or undertaking or on an event of default or under any indemnity given under or in connection with any Debt Document;

(c) any claim for damages or restitution; and

(d) any claim as a result of any recovery by any Debtor (or, as the case may be, any Security Provider) of a Payment on the grounds of preference or otherwise,

and any amounts which would be included in any of the above but for any discharge, non-provability, unenforceability or non-allowance of those amounts in any insolvency or other proceedings.

"**Loan**" means:

(a) in relation to a Syndicated Bank Facility or Bilateral Bank Facility, a loan made or to be made under such Facility or the principal amount outstanding for the time being of that loan; and

(b) in relation to a Promissory Note, the Exposure of the Participating Creditors for the time being under that Promissory Note.

"**Material Subsidiary**" means, as at the date of the Financing Agreement, those companies set out in schedule 7 (*Material Subsidiaries*) thereto and, after the date of the Financing Agreement, any other Subsidiary of the Parent which:

(a) has total gross assets representing 5 per cent. or more of the total consolidated assets of the Group;

(b) has revenues representing 5 per cent. or more of the consolidated turnover of the Group; and/or

(c) has earnings before interest, tax, depreciation and amortisation calculated on the same basis as EBITDA, representing 5 per cent. or more of the consolidated EBITDA of the Group (where "**EBITDA**" has the meaning given to such term in the Financing Agreement),

in each case calculated on a consolidated basis (without duplication) and any Holding Company of any such Subsidiary or of a Borrower, Guarantor or Security Provider (and compliance with the conditions set out in paragraphs (a) to (c) shall be determined as set out in the Financing Agreement).

"**Mexican Security Trust Agreement**" means the Transaction Security described at paragraph (a) of the definition of Transaction Security Documents.

"**Mexican Security Trustee**" means Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, a Mexican *institución de banca múltiple*.

"**New Finance Document**" means the Financing Agreement, the NY Law Amendment Agreement, this Agreement, each Transaction Security Document and any Accession Letter, Fee Letter, Resignation Letter or Resignation Letter (Australia) (as each such term is defined in the Financing Agreement) and any other document designated as a "**New Finance Document**" in accordance with the Financing Agreement.

"**Noteholder**" means an Existing Notes Creditor or an Additional Notes Creditor.

"**Noteholder Documents**" means the Existing Notes Document and any Additional Notes Documents.

"**Noteholder Liabilities**" means the Existing Notes Liabilities and any Additional Notes Liabilities.

"**Noteholder Trustee**" means each Existing Notes Trustee and each Additional Notes Trustee.

"**Noteholder Trustee Liabilities**" means the Existing Notes Trustee Liabilities and any Additional Notes Trustee Liabilities.

"**Notes**" means the Existing Notes and the Additional Notes.

"**Notes Parallel Debt**" has the meaning given to such term in paragraph (a) of Clause 10.3 (*Notes Parallel Debt (Covenant to pay the Security Agent)*).

"**Notes Parallel Debt Recoveries**" has the meaning given to such term in paragraph (e) of Clause 10.3 (*Notes Parallel Debt (Covenant to pay the Security Agent)*).

"**Notes Secured Documents**" means each of the Noteholder Documents and each of the Transaction Security Documents.

"**Notes Secured Parties**" means each of the Noteholder Trustees and each of the Noteholders from time to time.

"**NSH**" means New Sunward Holding B.V.

"**NSHFV**" means New Sunward Holding Financial Ventures B.V.

"**NY Law Amendment Agreement**" means the omnibus amendment agreement dated on or about the date of this Agreement between, amongst others, the Parent and the Participating Creditors with Participating Creditor Exposures under those Facilities that are governed by the laws of the State of New York.

"**Original Debtor**" means an Original Borrower or an Original Guarantor.

"**Parent Notes**" means the US$200,000,000 9.625% Notes due 2009 issued by the Parent.

"**Parent Notes Indenture**" means the indenture dated as of 1 October 1999 among the Parent as issuer, CEMEX México and Empresas Tolteca as guarantors and U.S. Bank Trust National Association as trustee pursuant to which the Parent Notes were issued.

"**Participating Creditor**" means:

(a) any Original Participating Creditor; and

(b) any person which becomes a party to the Financing Agreement in accordance with clause 27 (*Changes to the Participating Creditors*) thereof and which accedes to this Agreement in accordance with Clause 13.6 (*Creditor/Administrative Agent/Security Agent Accession Undertaking*),

which in each case has not ceased to be a party to the Financing Agreement in accordance with the terms thereof.

"**Participating Creditor Acceleration Event**" means, on or after the occurrence of an Event of Default which is continuing, and in respect of which a Participating Creditor or Participating Creditors the Base Currency Amount of whose Exposures under the Facilities at that time represent, in aggregate, 66 2/3 per cent. or more of the Base Currency Amount of all of the Exposures of the Participating Creditors under all of the Facilities at that time (the "**Majority Participating Creditors**") have authorised the taking of such action, the exercise by the Majority Participating Creditors of their rights under any of paragraphs (a) to (d) of clause 26.16 (*Acceleration*) of the Financing Agreement.

"**Participating Creditor Exposures**" means at any time:

(a) in relation to a Participating Creditor and a Syndicated Bank Facility or Bilateral Bank Facility, that Participating Creditor's participation in Loans made under the relevant Facility at that time;

(b) in relation to Participating Creditor and a Promissory Note, the principal amount owed to that Participating Creditor under that Promissory Note at that time; and

(c) in relation to a Participating Creditor which holds a USPP Note, the principal amount owed to that Participating Creditor under that USPP Note at that time.

"**Participating Creditor Liabilities**" means the Liabilities owed by the Debtors (and, to the extent applicable in relation to the Transaction Security granted by it, any Security Provider) to the Participating Creditors under the Finance Documents.

"**Participating Creditor's Representative**" means:

(a) with respect to each of the Syndicated Bank Facilities, the person appointed as the agent of the creditors in relation to such Facility under the Existing Finance Documents relating to such Facility;

(b) with respect to each other Core Bank Facility, the Participating Creditor with an Exposure under that Facility; and

(c) with respect to each USPP Note, the Participating Creditor with an Exposure under that USPP Note.

"**Party**" means a party to this Agreement.

"**Payment**" means, in respect of any Liabilities, a payment, prepayment, repayment, redemption, defeasance or discharge of those Liabilities.

"**Permitted Payments**" means any Payments (in the case of any Participating Creditor or any Participating Creditor Representative) permitted to be r e c e i v e d u n d e r c *Mechanics*) of the Financing Agreement or (in the case of any Refinancing Party) permitted in accordance with the terms and conditions relating to Payments as set out in the relevant Refinancing Documents.

"**Promissory Notes**" means the promissory notes described in Part IC of Part II to schedule 1 (*The Original Participating Creditors*) to the Financing Agreement.

"**Quarter Date**" means each of 31 March, 30 June, 30 September and 31 December.

"**Receiver**" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Property or its equivalent under any applicable law (not including a Dutch *curator* or *bewindvoerder*).

"**Reference Date**" means the date of the Financing Agreement.

"**Reference Period**" means a period of four consecutive Financial Quarters.

"**Refinancing**" means an issuance or incurrence by a member or members (whether acting as co-issuers or otherwise) of the Group of bonds, notes or other debt securities, convertible or exchangeable securities or loan facilities:

(a) where such issuance or incurrence by that member (or by those members) of the Group is permitted under the Financing Agreement;

(b) the proceeds of which are applied to refinance the Facilities; and

(c) the terms of which are in accordance with paragraph (f) of the definition of "Permitted Financial Indebtedness" in clause 1.1 (*Definitions*) of the Financing Agreement.

"**Refinancing Creditor**" means any creditor which enters into a Refinancing Document and which accedes to this Agreement in accordance with Clause 13.3 (*Refinancing Creditors and Refinancing Creditors' Representatives*).

"**Refinancing Creditor Exposures**" means, at any time:

(a) in relation to a Refinancing Creditor and a Refinancing by way of a loan facility, that Refinancing Creditor's participation in loans made under the relevant loan facility at that time; or

(b) in relation to Refinancing Creditor and a Refinancing by way of bonds, notes or other debt securities, or convertible or exchangeable securities, the principal amount owed to that Refinancing Creditor under such bonds, notes or other debt securities, or convertible or exchangeable securities, at that time.

"**Refinancing Creditor Liabilities**" means the Liabilities owed by the Debtors (and, to the extent applicable in relation to the Transaction Security granted by it, any Security Provider) to the Refinancing Creditors under the Refinancing Documents.

"**Refinancing Creditor Representative**" means, with respect to any Refinancing by way of:

(a) a syndicated loan facility, any person appointed under the relevant Refinancing Documents as the agent of the creditors in relation to that syndicated loan facility;

(b) a bilateral loan facility, the Refinancing Creditor which is a lender under that facility pursuant to the relevant Refinancing Documents; or

(c) bonds, notes or other debt securities, or convertible or exchangeable securities, any person appointed under the relevant Refinancing Documents as the trustee (or similar representative) of the creditors in relation thereto.

"**Refinancing Debt**" means any bonds, notes or other debt securities, convertible or exchangeable securities, or loan facilities issued or incurred pursuant to a Refinancing.

"**Refinancing Document**" means any document entered into by a Refinancing Obligor with a Refinancing Creditor in relation to a Refinancing.

"**Refinancing Guarantor**" means any member of the Group which has incurred Guarantee Liabilities to a Refinancing Creditor pursuant to a Refinancing.

"**Refinancing Obligor**" means any member of the Group which, as permitted by the Financing Agreement, enters into any Refinancing Documents as a borrower (in the case of a loan facility), an issuer (in the case of bonds, notes or other debt securities, or convertible or exchangeable securities) or as a Refinancing Guarantor (and, in each case, if not a Debtor under this Agreement, which accedes to this Agreement in accordance with Clause 13.7 (*New Debtor/Security Provider*)).

"**Refinancing Party**" means each Refinancing Creditor and each Refinancing Creditor Representative.

"**Relevant Liabilities**" means:

(a) in the case of a Participating Creditor:

(i) the Liabilities owed to Participating Creditors ranking (in accordance with the terms of this Agreement) *pari passu* with or in priority to that Participating Creditor (as the case may be) together with all Agent Liabilities owed to any Agent of those Participating Creditors; and

(ii) all present and future liabilities, actual and contingent, of the Debtors (and, to the extent applicable in relation to the Transaction Security granted by it, of any Security Provider) to the Security Agent; and

(b) in the case of a Noteholder:

(i) the Liabilities owed to Noteholders ranking (in accordance with the terms of this Agreement) *pari passu* with or in priority to that Noteholder (as the case may be) and, in the case of Noteholders represented by a Noteholder Trustee, together with all Noteholder Trustee Liabilities owed to the Noteholder Trustee of those Noteholders; and

(ii) all present and future liabilities, actual and contingent, of the Debtors (and, to the extent applicable in relation to the Transaction Security granted by it, of any Security Provider) to the Security Agent;

(c) in the case of a Refinancing Creditor:

(i) the Liabilities owed to Refinancing Creditors ranking (in accordance with the terms of this Agreement) *pari passu* with or in priority to that Refinancing Creditor (as the case may be) together with all Agent Liabilities owed to any Agent of those Refinancing Creditors; and

(ii) all present and future liabilities, actual and contingent, of the Debtors (and, to the extent applicable in relation to the Transaction Security granted by it, any Security Provider) to the Security Agent; and

(d) in the case of a Debtor (or, to the extent applicable in relation to the Transaction Security granted by it, any Security Provider), the Liabilities owed to the Participating Creditors or Refinancing Creditors together with the Agent Liabilities owed to any Agent of those Creditors, the Liabilities owed to the Noteholders together with, in the case of Noteholders represented by a Noteholder Trustee, the Noteholder Trustee Liabilities owed to the Noteholder Trustee of those Noteholders and all present and future liabilities and obligations, actual and contingent, of the Debtors (or, as the case may be, the Security Providers) to the Security Agent.

"**Retiring Security Agent**" has the meaning given to that term in Clause 11 (*Change of Security Agent and Delegation*).

"**Secured Obligations**" means all the Liabilities and all other present and future obligations at any time due, owing or incurred by any member of the Group and by each Debtor (and, to the extent applicable in relation to the Transaction Security granted by it, each Security Provider) to any Secured Party under the Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity including the obligations set out in Clause 10.2 (*Finance Parallel Debt (Covenant to pay the Security Agent)*) and Clause 10.3 (*Notes Parallel Debt (Covenant to pay the Security Agent)*).

"**Secured Parties**" means:

(a) the Security Agent, any Receiver or Delegate (including any party expressly designated as a Secured Party under any Security Document);

(b) the Agents, the Participating Creditors and Refinancing Creditors from time to time but, in the case of the Agents and each Participating Creditor or Refinancing Creditor, only if it is a party to this Agreement or has acceded to this Agreement, in the appropriate capacity, pursuant to Clause 13.6 (*Creditor/Administrative Agent/Security Agent Accession Undertaking*); and

(c) each of the Noteholder Trustees and the Noteholders from time to time.

"**Security**" means a mortgage, charge, pledge, lien, security trust agreement or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"**Security Agent's Spot Rate of Exchange**" means the spot rate of exchange obtained by the Security Agent from leading international banks for the purchase of the relevant currency with the Base Currency at or about 11:00 am (London time) on a particular day, which shall be notified by the Security Agent in accordance with paragraph (d) of Clause 10.9 (*Security Agent's obligations*).

"**Security Documents**" means:

(a) each of the Transaction Security Documents;

(b) any other document entered into at any time by any of the Debtors or Security Providers creating any Security or other assurance against financial loss in favour of any of the Secured Parties as security for any of the Secured Obligations owed to such Secured Parties; and

(c) any Security granted under any covenant for further assurance in any of the documents set out in paragraphs (a) and (b) above.

"**Security Property**" means:

(a) the Transaction Security expressed to be granted in favour of the Security Agent as trustee for the Secured Parties and all proceeds of that Transaction Security;

(b) all obligations expressed to be undertaken by a Debtor or a Security Provider to pay amounts in respect of the Liabilities to the Security Agent as trustee for the Secured Parties and secured by the Transaction Security together with all representations and warranties expressed to be given by a Debtor or Security Provider in favour of the Security Agent as trustee for the Secured Parties;

(c) the Security Agent's interest in any trust fund created pursuant to Clause 4 (*Turnover of Receipts*); and

(d) any other amounts or property, whether rights, entitlements, choses in action or otherwise, actual or contingent, which the Security Agent is required by the terms of the Debt Documents to hold as trustee on trust for the Secured Parties.

"**Security Providers**" means the Original Security Providers and any Additional Security Provider other than any Original Security Provider or Additional Security Provider which has ceased to be a Security Provider pursuant to Clause 13.9 (*Resignation of a Debtor/Security Provider*) and has not subsequently become an Additional Security Provider pursuant to Clause 13.7 (*New Debtor/Security Provider*), and "**Security Provider**" means any of them.

"**Super Majority Instructing Group**" means, at any time:

(a) a Creditor or Creditors the Base Currency Amount of whose Exposures under the Facilities and/or, as the case may be, the Refinancing Debt, at that time represent, in aggregate, 85 per cent. or more of the Base Currency Amount of all the Exposures of the Creditors under all of the Facilities and all Refinancing Debt (when aggregated) at that time; and

(b) a Participating Creditor or Participating Creditors the Base Currency Amount of whose Exposures under the Facilities at that time represent, in aggregate, more than 66 2/3 per cent. of the Base Currency Amount of all the Exposures of the Participating Creditors under all of the Facilities at that time.

"**Syndicated Bank Facilities**" means the facilities described in Part 1A of Part II of schedule 1 (*The Original Participating Creditors*) of the Financing Agreement.

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

"**TARGET Day**" means any day on which TARGET2 is open for the settlement of payments in euro.

"**Tax**" means any tax, levy, impost, duty or other charge, withholding or deduction of a similar nature (including any penalty, surcharge or interest payable in connection with any failure to pay or any delay in paying any of the same).

"**Termination Date**" means 14 February 2014.

"**Transaction Security**" means the Security created or evidenced or expressed to be created or evidenced under or pursuant to the Transaction Security Documents.

"**Transaction Security Documents**" means:

(a) a security trust agreement (*contrato de fideicomiso de garantía*) entered into among (i) the Parent, Empresas Tolteca, Impra Café, S.A. de C.V., Interamerican Investments, Inc. Cemex México and Centro Distribuidor de Cemento, S.A. de C.V. as settlors, (ii) Cemex México, Centro Distribuidor de Cemento, S.A. de C.V., Mexcement Holdings, S.A. de C.V. and Corporación Gouda, S.A. de C.V. as issuers, (iii) the Mexican Security Trustee and (iv) the Security Agent;

(b) pledge of shares in the capital of Sunward Investments B.V. between Corporacíon Gouda S.A. de C.V. as pledgor and the Security Agent as pledgee, governed by Dutch law;

(c) pledge of shares in the capital of Sunward Holdings B.V. between Sunward Investments B.V., Sunward Acquisitions N.V. and CEMEX International Finance Company as pledgors and the Security Agent as pledgee, governed by Dutch law;

(d) pledge of shares in the capital of CEMEX Dutch Holdings B.V. between Sunward Holdings B.V. and CEMEX International Finance Company as pledgors and the Security Agent as pledgee, governed by Dutch law;

(e) pledge of shares in the capital of NSH between CEMEX Dutch Holdings B.V., Sunward Holdings B.V., Sunward Acquisitions N.V., Corporación Gouda, S.A. de C.V., Mexcement Holdings, S.A. de C.V. and CEMEX International Finance Company as pledgors and the Security Agent as pledgee, governed by Dutch law;

(f) pledge of shares in the capital of NSH between CEMEX Trademarks Holding Ltd. as pledgor and the Security Agent as pledgee, governed by Dutch law;

(g) supplemental pledge of shares in the capital of NSH between, among others, Corporación Gouda, S.A. de C.V., CEMEX Trademarks Holding Ltd., CEMEX International Finance Company and Mexcement Holdings S.A. de C.V. as pledgors and the Security Agent as pledgee, governed by Dutch law;

(h) pledge of shares in the capital of Sunward Acquisitions N.V. between Mexcement Holdings S.A. de C.V., Corporación Gouda, S.A. de C.V. and CEMEX International Finance Company as pledgors and the Security Agent as pledgee, governed by Dutch law;

(i) pledge of shares in the capital of Sunward Acquisitions N.V. between CEMEX Trademarks Holding Ltd. as pledgor and the Security Agent as pledgee, governed by Dutch law;

(j) pledge of shares in 99.57 per cent. of the capital of CEMEX Trademarks Holdings, Ltd. between the Parent, CEMEX México Interamerican Investments, Inc. and Empresas Tolteca as pledgors and the Security Agent as pledgee, governed by Swiss law; and

(k) a notarial deed (*póliza*) of pledge agreement over 99.468 per cent. of the shares in CEMEX España granted by NSH, the Parent and Sunward Acquisitions N.V. before the notary of Madrid, Mr. Rafael Monjó Carrió,

together with any other document entered into by any Debtor or a Security Provider creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of the Debtors (and, to the extent applicable in relation to the Transaction Security granted by them, the Security Providers) under any of the Finance Documents.

"**Transaction Security Recoveries**" has the meaning given to such term in Clause 9.1 (*Order of application - Transaction Security Recoveries*).

"**US$350M Perpetuals**" means the US$350,000,000 Callable Perpetual Dual-Currency Notes issued by NSHFV.

"**US$350M Perpetuals Indenture**" means the indenture dated as of 18 December 2006 among NSHFV as issuer, the Parent, CEMEX México and NSH as guarantors and The Bank of New York as trustee pursuant to which the US$350M Perpetuals were issued.

"**US$750M Perpetuals**" means the US$750,000,000 Callable Perpetual Dual-Currency Notes issued by NSHFV.

"**US$750M Perpetuals Indenture**" means the indenture dated as of 12 February 2007 among NSHFV as issuer, the Parent, CEMEX México and NSH as guarantors and

The Bank of New York as trustee pursuant to which the US$750M Perpetuals were issued.

"**US$900M Perpetuals**" means the US$900,000,000 Callable Perpetual Dual-Currency Notes issued by NSHFV.

"**US$900M Perpetuals Indenture**" means the indenture dated as of 18 December 2006 among NSHFV as issuer, the Parent, CEMEX México and NSH as guarantors and The Bank of New York as trustee pursuant to which the US$900,000,000 Perpetuals were issued.

"**USPP Note**" means a note issued under the USPP Note Agreement.

"**USPP Note Agreement**" means the consolidated, amended and restated note purchase agreement described in Part II of schedule 1 (*The Original Participating Creditors*) to the Financing Agreement.

"**USPP Note Guarantee**" means the consolidated, amended and restated note guarantee granted in favour of the USPP Noteholders.

"**USPP Noteholders**" means the holders from time to time of the notes issued pursuant to the USPP Note Agreement.

"**VAT**" means value added tax as provided for in the Value Added Tax Act 1994 and any other tax of a similar nature.

1.2 **Construction**

(a) Unless a contrary indication appears, a reference in this Agreement to:

(i) any "**Agent**", "**Borrower**", "**Debtor**", "**Guarantor**", "**Noteholder**", "**Noteholder Trustee**", "**Parent**", "**Participating Creditor**", "**Party**", "**Refinancing Creditor**", "**Security Provider**" or "**Security Agent**" shall be construed to be a reference to it in its capacity as such and not in any other capacity;

(ii) any "**Agent**", "**Debtor**", "**Noteholder**", "**Noteholder Trustee**", "**Participating Creditor**", "**Refinancing Creditor**", any "**Party**" or the "**Security Agent**" or any other person shall be construed so as to include its successors in title, permitted assigns and permitted transferees and, in the case of the Security Agent, any person for the time being appointed as Security Agent or Security Agents in accordance with this Agreement;

(iii) "**assets**" includes present and future properties, revenues and rights of every description;

(iv) a "**Debt Document**" or any other agreement or instrument is (other than a reference to a " **Debt Document**" or any other agreement or instrument in "**original form**") a reference to that Debt Document or other agreement or instrument, as amended, novated, supplemented, extended, varied or restated as permitted by this Agreement;

(v) "**enforcing**" (or any derivation) the Transaction Security shall include (except in relation to a Debtor or Security Provider incorporated in Spain or Transaction Security granted over the shares of that Debtor or Security Provider) the appointment of an administrator or, under Irish law, a receiver or receiver and manager, of a Debtor or Security Provider by the Security Agent;

(vi) "**indebtedness**" includes any obligation (whether incurred as principal or as surety) for the payment or repayment of money, whether present or future, actual or contingent;

(vii) the "**original form**" of a "**Debt Document**" or any other agreement or instrument is a reference to that Debt Document, agreement or instrument as originally entered into;

(viii) a "**person**" includes any individual, firm, company, corporation, government, state or agency of a state or any association, trust, joint venture, consortium or partnership (whether or not having separate legal personality);

(ix) a "**regulation**" includes any regulation, rule, official directive, request or guideline (whether or not having the force of law) of any governmental, intergovernmental or supranational body, agency, department or of any regulatory, self-regulatory or other authority or organisation;

(x) a provision of law is a reference to that provision as amended or re-enacted; and

(xi) words importing the plural shall include the singular and vice versa.

(b) Section, Clause and Schedule headings are for ease of reference only.

(c) A Default (including an Event of Default) is "**continuing**" if it has not been remedied or waived but, for the avoidance of doubt, no breach of any of the financial covenants set out in clause 23 (*Financial Covenants*) of the Financing Agreement shall be capable of being or be deemed to be remedied by virtue of the fact that upon any subsequent testing of such covenants pursuant to clause 23 (*Financial Covenants*) of the Financing Agreement, there is no breach thereof.

1.3 **Currency Symbols and Definitions**

"**£**" and "**sterling**" denote lawful currency of the United Kingdom, "**●**", "**EUR**" and "**euro**" means the single currency unit of the Participating Member States and "**US$**", "**$**" and "**dollars**" denote lawful currency of the United States of America, "**¥**" and "**yen**" denote lawful currency of Japan, "**Mexican pesos**", "**Mex$**" and "**pesos**" denotes the lawful currency of Mexico and "**UDI**" denotes the Mexican *Unidad de Inversion*.

1.4 **Third Party Rights**

(a) Unless expressly provided to the contrary in this Agreement, a person who is not a Party has no right under the Contracts (Rights of Third Parties) Act 1999 (the "**Third Parties Rights Act**") to enforce or to enjoy the benefit of any term of this Agreement.

(b) Except as expressly provided in this Agreement, the consent of any person who is not a Party is not required to rescind or vary this Agreement at any time.

(c) In the context of any rights of the Noteholders under Section 2(1) (*Variation and rescission of contract)* of the Third Parties Rights Act, any amendments may be made to this Agreement, without the consent of the Noteholders, so long as such amendments are made in accordance with the provisions of this Agreement.

(d) Any Receiver, Delegate or any other person described in Clause 10.12 (*No Proceedings*) may, subject to this Clause 1.4 (*Third Party Rights*) and the Third Parties Rights Act, rely on any Clause of this Agreement which expressly confers rights on it.

(e) Each Noteholder Trustee (for itself and on behalf of the Noteholders which it represents) and each Noteholder are:

(i) in the case of Existing Notes Trustees and Existing Notes Creditors, from the Effective Date; and

(ii) in the case of any Additional Notes Trustee or Additional Notes Creditor, from the date on which the Liabilities under the Additional Notes to which it is a party are issued or incurred,

Secured Parties and therefore are intended to have the rights and benefits of Secured Parties in relation to the Transaction Security subject to Clause 12.1 (*Rights of the Noteholder Trustees and Noteholders*) and in accordance with the terms of this Agreement and, in the event that any of the Transaction Security is enforced, are entitled to receive payments from the realisation proceeds of the Transaction Security in accordance with Clause 9 (*Application of Proceeds*) notwithstanding that none of the Noteholder Trustees or Noteholders are party hereto at the date of this Agreement and will never accede to the terms hereof. Each of the Noteholder Trustees and the Noteholders (each in its capacity as a Secured Party) may enforce and take the benefit of this Agreement notwithstanding that the Noteholder Trustees and the Noteholders are not Parties hereto. The Third Parties Rights Act shall apply to this paragraph (e).

1.5 **Dutch Terms**

In this Agreement, where it relates to a Dutch entity, a reference to:

(a) a necessary action to authorise, where applicable, includes, without limitation:

(i) any action required to comply with the Dutch Works Council Act (*Wet op de ondernemingsraden*); and

(ii) obtaining unconditional positive advice (*advies*) from each competent works council;

(b) a winding-up, administration or dissolution includes a Dutch entity being:

(i) declared bankrupt (*failliet verklaard*);

(ii) dissolved (*ontbonden*);

(c) a moratorium includes *surseance van betaling* and granted a moratorium includes *surseance verleend*;

(d) a trustee in bankruptcy includes a *curator*;

(e) an administrator includes a *bewindvoerder*;

(f) a receiver or an administrative receiver does not include a *curator* or *bewindvoerder*; and

(g) an attachment includes a *beslag*.

2. **RANKING AND PRIORITY**

2.1 **Liabilities to Participating Creditors, Refinancing Creditors and Noteholders**

Each of the Parties agrees that the Liabilities owed by the Debtors (and, with respect to Liabilities arising under Transaction Security Documents, the Security Providers) to the Participating Creditors, the Refinancing Creditors and the Noteholders shall rank in right and priority of payment *pari passu* and, save as provided in this Agreement, without any preference between them.

2.2 **Transaction Security**

The Security Agent and each of the Participating Creditors, the Refinancing Creditors and the Agents (including for the benefit of the Secured Parties) agree that the Transaction Security shall be treated, as among the Secured Parties, as being for the equal and rateable benefit of all of the Secured Parties, *pari passu* and without any preference between them, and shall, whilst the Transaction Security remains in force under the terms of this Agreement, be shared by the Secured Parties.

3. **EFFECT OF INSOLVENCY EVENT**

3.1 **Payment of distributions**

(a) After the occurrence of an Insolvency Event, and until the Final Discharge Date, any Secured Party, Debtor or Security Provider entitled to receive a distribution out of the assets of the relevant Debtor, Security Provider or

Material Subsidiary (as the case may be) the subject of that Insolvency Event in respect of Liabilities owed to that Secured Party, Debtor or Security Provider shall, to the extent it is able to do so, direct the person responsible for the distribution of the assets of that Debtor, Security Provider or Material Subsidiary (as the case may be) to pay that distribution to the Security Agent until the Final Discharge Date.

(b) The Security Agent shall apply distributions paid to it under paragraph (a) above in accordance with Clause 9 (*Application of Proceeds*).

3.2 **Set-Off**

Prior to the Final Discharge Date, to the extent that any Debtor, Security Provider or Material Subsidiary's Liabilities are discharged by way of set-off (mandatory or otherwise) after the occurrence of an Insolvency Event in relation to that Debtor, Security Provider or Material Subsidiary, any Creditor which benefited from that set-off shall pay an amount equal to the amount of the Liabilities owed to it which are discharged by that set-off to the Security Agent for application in accordance with Clause 9 (*Application of Proceeds*).

3.3 **Non-cash distributions**

If the Security Agent or any Creditor receives a distribution in a form other than in cash in respect of any of the Liabilities, the Liabilities will not be reduced by that distribution until and except to the extent that the realisation proceeds are actually applied towards the Liabilities.

3.4 **Filing of claims**

After the occurrence of an Insolvency Event, each Creditor irrevocably authorises the Security Agent (acting in accordance with Clause 3.6 (*Security Agent instructions*)), on its behalf, to:

(a) take any Enforcement Action (in accordance with the terms of this Agreement) against the Debtor, Security Provider or Material Subsidiary the subject of that Insolvency Event (and for the avoidance of doubt, no Enforcement Action falling within paragraph (b) of the definition thereof may be taken against the Transaction Security except (i) for the actions required to be taken by a Creditor to give rise to an Enforcement Event and (ii) in accordance with Clause 6 (*Enforcement of Transaction Security*));

(b) demand, sue, prove and give receipt for any or all of that member of the Debtor's, Security Provider's or Material Subsidiary's Liabilities;

(c) collect and receive all distributions on, or on account of, any or all of that Debtor's, Security Provider's or Material Subsidiary's Liabilities; and

(d) file claims, take proceedings and do all other things the Security Agent considers reasonably necessary to recover that Debtor's, Security Provider's or Material Subsidiary's Liabilities.

3.5 **Actions of Creditors**

Each Creditor will:

(a) do all things that the Security Agent (acting in accordance with Clause 3.6 (*Security Agent instructions*)) reasonably requests in order to give effect to this Clause 3; and

(b) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 3 or is otherwise prevented from taking or, in respect of any Creditor, unable to take, the actions contemplated by this Clause 3 and (acting in accordance with Clause 3.6 (*Security Agent instructions*)) requests that a Creditor take that action, undertake that action itself in accordance with the instructions of the Security Agent (acting in accordance with Clause 3.6 (*Security Agent instructions*)) or grant a power of attorney to the Security Agent (on such terms as the Security Agent (acting in accordance with Clause 3.6 (*Security Agent instructions*)) may reasonably require) to enable the Security Agent to take such action under applicable law (any such power of attorney, with respect to any enforcement of Transaction Security governed by Spanish law or any claim against a Debtor or Security Provider incorporated in Spain, shall be notarised and apostilled).

3.6 **Security Agent instructions**

For the purposes of Clause 3.4 (*Filing of claims*) and Clause 3.5 (*Actions of Creditors*) the Security Agent shall act:

(a) on the instructions of the Instructing Group; or

(b) (other than with respect to the enforcement of Transaction Security which, for the avoidance of doubt, shall be conducted in the manner contemplated by Clause 6.2 (*Enforcement instructions*)) in the absence of any such instructions but subject to Clause 10.10 (*Excluded Obligations*), as the Security Agent sees fit.

4. **TURNOVER OF RECEIPTS**

4.1 **Turnover by the Creditors**

Subject to Clause 4.3 (*Permitted assurance and receipts*), if at any time prior to the Final Discharge Date, any Creditor receives or recovers:

(a) any Payment or distribution of, or on account of or in relation to, any of the Liabilities which is not either:

(i) a Permitted Payment; or

(ii) made in accordance with Clause 9 (*Application of Proceeds*);

(b) other than where Clause 3.2 (*Set-Off*) applies, any amount by way of set-off in respect of any of the Liabilities owed to it which does not give effect to a Permitted Payment;

(c) notwithstanding paragraphs (a) and (b) above, and other than where Clause 3.2 (*Set-Off*) applies, any amount:

(i) on account of, or in relation to, any of the Liabilities:

(A) after the occurrence of a Participating Creditor Acceleration Event; or

(B) as a result of any other litigation or proceedings against a Debtor or a Security Provider (other than after the occurrence of an Insolvency Event); or

(ii) by way of set-off in respect of any of the Liabilities owed to it after the occurrence of a Participating Creditor Acceleration Event;

(d) the proceeds of any enforcement of any Transaction Security except in accordance with Clause 9 (*Application of Proceeds*); or

(e) other than where Clause 3.2 (*Set-Off*) applies, any distribution in cash or in kind or Payment of, or on account of or in relation to, any of the Liabilities owed by any Debtor or Security Provider which is not in accordance with Clause 9 (*Application of Proceeds*) and which is made as a result of, or after, the occurrence of an Insolvency Event,

that Creditor will promptly after becoming aware of the same, notify the Security Agent in writing and:

(i) in relation to receipts and recoveries not received or recovered by way of set-off:

(A) to the fullest extent permitted by applicable law, hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement or, alternatively, promptly pay an amount equal to that receipt to the Security Agent for application in accordance with the terms of this Agreement; and

(B) promptly pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement; and

(ii) in relation to receipts and recoveries received or recovered by way of set-off, promptly pay an amount equal to that recovery to the Security Agent for application in accordance with the terms of this Agreement.

4.2 **Adjustments**

In the event that any Secured Party receives or recovers and retains any amount in satisfaction of any Liabilities other than as permitted by and under the terms of this Agreement the amounts to be received by it in accordance with Clause 9 (*Application of Proceeds*) will be reduced by an amount equal to the amount of such receipt or recovery.

4.3 **Permitted assurance and receipts**

Nothing in this Agreement shall restrict the ability of any Secured Party to:

(a) arrange with any person which is not a member of the Group any assurance against loss in respect of, or reduction of its credit exposure to, a Debtor (including assurance by way of credit based derivative or sub-participation); or

(b) make any assignment or transfer permitted by Clause 13 (*Changes to the Parties*),

which is permitted by the relevant Debt Documents and that Secured Party shall not be obliged to account to any other Secured Party, Debtor or Security Provider for any sum received by it as a result of that action.

4.4 **Sums received by Debtors or Security Providers**

If, prior to the Final Discharge Date, any of the Debtors or Security Providers receives or recovers any sum which, under the terms of any of the Debt Documents, should have been paid to the Security Agent, that Debtor or Security Provider will, promptly after becoming aware of the same, notify the Security Agent in writing and:

(a) to the fullest extent permitted by applicable law, hold an amount of that receipt or recovery equal to the Relevant Liabilities (or if less, the amount received or recovered) on trust for the Security Agent and promptly pay that amount to the Security Agent for application in accordance with the terms of this Agreement or, alternatively, promptly after becoming aware of such receipt or recovery, pay that amount to the Security Agent for application in accordance with this Agreement; and

(b) promptly after becoming aware of such receipt or recovery, pay an amount equal to the amount (if any) by which the receipt or recovery exceeds the Relevant Liabilities to the Security Agent for application in accordance with the terms of this Agreement.

4.5 **Saving provision**

If, for any reason, any of the trusts expressed to be created in this Clause 4 should fail or be unenforceable, the affected Creditor, Debtor or Security Provider will, promptly on becoming aware of such failure or unenforceability, notify the Security Agent in writing and pay an amount equal to that receipt or recovery to the Security Agent to be held on trust by the Security Agent for application in accordance with the terms of this Agreement.

5. REDISTRIBUTION

5.1 Recovering Creditor's rights

(a) Any amount paid by a Creditor (a "**Recovering Creditor**") to the Security Agent under Clause 3 (*Effect of Insolvency Event*) or Clause 4 (*Turnover of Receipts*) shall be treated as having been paid by the relevant Debtor (or, if applicable, the relevant Security Provider) and distributed to the Security Agent, Creditors, Noteholder Trustees and Noteholders (each a "**Sharing Creditor**") in accordance with the terms of this Agreement.

(b) On a distribution by the Security Agent under paragraph (a) above of a Payment received by a Recovering Creditor from a Debtor (or, if applicable, a Security Provider), as between the relevant Debtor and the Recovering Creditor an amount equal to the amount received or recovered by the Recovering Creditor and paid to the Security Agent (the "**Shared Amount**") will be treated as not having been paid by that Debtor (or, as the case may be, that Security Provider).

5.2 Reversal of redistribution

(a) If any part of the Shared Amount received or recovered by a Recovering Creditor becomes repayable to a Debtor (or, if applicable, a Security Provider) and is repaid by that Recovering Creditor to that Debtor (or, as the case may be, Security Provider), then:

(i) each Sharing Creditor (other than the Security Agent) shall, upon request of the Security Agent, pay to the Security Agent for the account of that Recovering Creditor an amount equal to the appropriate part of its share of the Shared Amount (together with an amount as is necessary to reimburse that Recovering Creditor for its proportion of any interest on the Shared Amount which that Recovering Creditor is required to pay) (the "**Redistributed Amount**"); and

(ii) as between the relevant Debtor (or, as the case may be, Security Provider) and each relevant Sharing Creditor, an amount equal to the relevant Redistributed Amount will be treated as not having been paid by that Debtor (or, as the case may be, Security Provider).

(b) The Security Agent shall not be obliged to pay any Redistributed Amount to a Recovering Creditor under paragraph (a)(i) above until it has been able to establish to its reasonable satisfaction that it has actually received that Redistributed Amount from the relevant Sharing Creditor.

6. ENFORCEMENT OF TRANSACTION SECURITY

6.1 Enforcement Event

The Transaction Security shall be immediately enforceable on the occurrence of an Enforcement Event.

6.2 **Enforcement instructions**

(a) Following an Enforcement Event, the Security Agent shall not take any Enforcement Action against the Transaction Security unless expressly instructed to do so in writing by the Instructing Group.

(b) Following an Enforcement Event, the Security Agent may instruct the Mexican Security Trustee to take Enforcement Action only in accordance with the terms of the Mexican Security Trust Agreement.

(c) Subject to the Transaction Security having become enforceable in accordance with Clause 6.1 (*Enforcement Event*) above, the Instructing Group may give or refrain from giving instructions to the Security Agent to enforce or refrain from enforcing the Transaction Security as they see fit and:

(i) no other Secured Party shall have a right to request the enforcement of the Transaction Security; and

(ii) if the Instructing Group determines to enforce the Transaction Security, it shall direct the Security Agent (in writing) as to the method of enforcement it may pursue in enforcing the Transaction Security, as to whether all or part of the Transaction Security is to be enforced and give all other directions in respect of the enforcement of the Transaction Security as the Instructing Group sees fit.

(d) Having received such directions referred to in sub-paragraph (c)(ii) above as to the method of enforcement and the identity of the Transaction Security to be enforced (and in the absence of further written instructions from the Instructing Group), the Security Agent may act as it sees fit (including, without limitation, the selection of any administrator of any Debtor or Security Provider to be appointed by the Security Agent) and in accordance with applicable law and pursuant to the specific terms of the relevant Transaction Security Documents.

(e) The Security Agent is entitled to conclusively rely on and comply with instructions given in accordance with this Clause 6.2 (*Enforcement instructions*).

6.3 **Exercise of voting rights**

(a) Each Creditor agrees with the Security Agent that it will cast its vote in any proposal put to the vote by or under the supervision of any judicial or supervisory authority in respect of any insolvency, pre-insolvency or rehabilitation or similar proceedings relating to any member of the Group insofar as such proceedings relate to the Transaction Security (or any enforcement or realisation thereof) as instructed by the Security Agent.

(b) The Security Agent shall give instructions for the purposes of paragraph (a) of this Clause 6.3 (*Exercise of voting rights*) as directed by the Instructing Group.

6.4 **Waiver of rights**

To the extent permitted under applicable law and subject to Clause 6.2 (*Enforcement instructions*), paragraph (c) of Clause 7.2 (*Distressed Disposals*) and Clause 9 (*Application of Proceeds*), each Creditor, each Debtor and Security Provider waives all rights it may otherwise have to require that the Transaction Security be enforced in any particular order or manner or at any particular time or that any sum received or recovered from any person, or by virtue of the enforcement of any of the Transaction Security, which is capable of being applied in or towards discharge of any of the Secured Obligations is so applied.

7. PROCEEDS OF DISPOSALS OF CHARGED PROPERTY

7.1 **Non-Distressed Disposals**

(a) In this Clause 7.1:

"**Disposal Proceeds**" means the proceeds of a Non-Distressed Disposal (as defined in paragraph (b) below).

(b) Where, in respect of a disposal of an asset which is subject to the Transaction Security to a person or persons outside the Group, the Security Agent receives, in writing, notice from the Administrative Agent that such disposal is permitted under the Financing Agreement and notice from the relevant Debtor or Security Provider making the disposal that such disposal is not a Distressed Disposal, (a " **Non-Distressed Disposal**"), the Security Agent is irrevocably authorised (at the cost of the relevant Debtor, Security Provider or the Parent and without any consent, sanction, authority or further confirmation from any Secured Party, Debtor or Security Provider) but subject to paragraph (c) below to (or, in the case of the Mexican Security Trust Agreement, to instruct the Mexican Security Trustee to) with effect on and from the date of completion of such disposal:

(i) release (or permit the release of) the Transaction Security or any other claim (relating to a Debt Document) over that asset;

(ii) where that asset consists of shares in the capital of a Debtor (or, if applicable, a Security Provider), to release the Transaction Security or any other claim (relating to a Debt Document) over the assets of that Debtor (or, as the case may be, that Security Provider);

(iii) execute and deliver or enter into (or cause the execution, delivery or entry into) any release of the Transaction Security or any claim described in paragraphs (i) and (ii) above that may, in the discretion of the Security Agent, be considered necessary or desirable.

(c) If that Non-Distressed Disposal is not completed, no release of Transaction Security or any claim described in paragraph (b) above shall take effect and, with respect to the relevant asset, the Transaction Security or claim referred to in paragraph (b) above shall continue in such force and effect.

(d) Where any Disposal Proceeds are required to be applied in mandatory prepayment of the Participating Creditor Liabilities, then the Disposal Proceeds shall be applied in or towards Payment of the Participating Creditor Liabilities in accordance with the terms of the Financing Agreement and the consent of any other Secured Party, Debtor or Security Provider shall not be required for that application.

7.2 **Distressed Disposals**

(a) Subject to paragraph (d) below, where a Distressed Disposal is being effected, (and following receipt by the Security Agent, in writing, of notice of the same from, in the case of a Distressed Disposal under paragraph (a) of the definition thereof, the Instructing Group in accordance with Clause 6.2 (*Enforcement Instructions*) or, in the case of a Distressed Disposal under paragraph (b) of the definition thereof, from the relevant Debtor or Security Provider making such disposal) the Security Agent is irrevocably authorised (at the cost of the relevant Debtor, Security Provider, or the Parent and without any consent, sanction, authority or further confirmation from any Secured Party, Debtor or Security Provider) to (or, in the case of the Mexican Security Trust Agreement, to instruct the Mexican Security Trustee to):

(i) *release of Transaction Security*: (other than where sub-paragraphs (ii) or (iii) below apply) release (or cause the release of) the Transaction Security or any other claim over that asset and execute and deliver or enter into any release of that Transaction Security or claim that may, in the discretion of the Security Agent (or, as the case may be, the Mexican Security Trustee), be considered necessary or desirable;

(ii) *release of liabilities and Transaction Security on a share sale (Debtor/Security Provider)* : if the asset which is disposed of consists of shares in the capital of a Debtor (or, if applicable, a Security Provider), release (or cause the release of) any Transaction Security granted by that Debtor (or, if applicable, a Security Provider) or any Subsidiary of that Debtor (or, if applicable, a Security Provider) over any of its assets and any other claim of another Debtor over assets of that Debtor or over the assets of any Subsidiary of that Debtor (or, if applicable, a Security Provider) (on behalf of the relevant Secured Parties and Debtors) and that Debtor (or, if applicable, a Security Provider) and any Subsidiary of that Debtor (or, if applicable, a Security Provider) shall be automatically released from all or any part of:

(A) its Borrowing Liabilities; and

(B) its Guarantee Liabilities and Existing Guarantee Liabilities;

(iii) *release of liabilities and Transaction Security on a share sale (Holding Company of a Debtor or a Security Provider which is not itself a Debtor or a Security Provider)* : if the asset which is disposed of consists of shares in the capital of any Holding Company of a Debtor or Security

Provider, release (or cause the release of) any Transaction Security granted by any Subsidiary of that Holding Company over any of its assets and any other claim of another Debtor over the assets of any Subsidiary of that Holding Company (on behalf of the relevant Secured Parties and Debtors) and that Holding Company and any Subsidiary of that Holding Company shall be automatically released from all or any part of:

(A) its Borrowing Liabilities; and

(B) its Guarantee Liabilities and Existing Guarantee Liabilities.

(b) The net proceeds of each Distressed Disposal shall be paid (including by the Mexican Security Trustee) to the Security Agent for application in accordance with Clause 9 (*Application of Proceeds*) as if those proceeds were the proceeds of an enforcement of the Transaction Security.

(c) In the case of a Distressed Disposal effected by or at the request of the Security Agent (acting in accordance with paragraph (d) below), the Security Agent shall take reasonable care to obtain a fair market price having regard to the prevailing market conditions (though each of the other Parties to this Agreement acknowledges and agrees that the Security Agent shall have no obligation to postpone any such Distressed Disposal in order to achieve a higher price) (or, in respect of a disposition under the Mexican Security Trust Agreement shall observe the provisions set forth in the Mexican Security Trust Agreement in respect of foreclosure by the Mexican Security Trustee thereunder).

(d) For the purposes of paragraphs (a) and (c) above, the Security Agent shall act:

(i) if the relevant Distressed Disposal is being effected by way of enforcement of the Transaction Security, in accordance with paragraph (c) of Clause 6.2 (*Enforcement instructions*); and

(ii) in any other case:

(A) on the instructions of the Instructing Group; or

(B) in the absence of any such instructions but subject to Clause 10.10 (*Excluded Obligations*), as the Security Agent sees fit.

(e) The Security Agent, directly or through any Delegate, shall have the right to instruct the Mexican Security Trustee (where the Security Agent itself is instructed as provided in this Agreement), to effect a Distressed Disposal as permitted under the terms of the Mexican Security Trust Agreement, and the Security Agent shall itself take any such action or execute and deliver or enter into any document that may, in the discretion of the Security Agent, be considered necessary or desirable to release the Transaction Security constituted by the Mexican Security Trust Agreement.

7.3 **Creditors', Debtors' and Security Providers' actions**

Each Creditor, Debtor and Security Provider will:

(a) do all things that:

(i) in the case of a Debtor or a Security Provider in relation to a Distressed Disposal under Clause 7.2, the Security Agent requests; or

(ii) in any other case, the Security Agent reasonably requests,

in order to give effect to this Clause 7 (which shall include, without limitation, the execution of any assignments, transfers, releases or other documents that the Security Agent may consider to be necessary to give effect to the releases or disposals contemplated by this Clause 7); and

(b) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 7 or is otherwise prevented from taking or, with respect to any Creditor, unable to take the actions contemplated by this Clause 7 and requests that a Creditor take that action, each Creditor will undertake that action itself in accordance with the instructions of the Security Agent or grant a power of attorney to the Security Agent (on such terms as the Security Agent may reasonably require) to enable the Security Agent to take such action under applicable law (any such power of attorney, with respect to any enforcement of Transaction Security governed by Spanish law or any claim against a Debtor or Security Provider incorporated in Spain, shall be notarised and apostilled);

(c) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 7 with respect to any Debtor or Security Provider or requests that any Debtor or Security Provider take any such action, such Debtor or Security Provider shall take that action itself in accordance with the instructions of the Security Agent,

provided that the proceeds of those disposals are applied in accordance with Clause 7.1 (*Non-Distressed Disposals)* or Clause 7.2 (*Distressed Disposals*) as the case may be.

8. **AUTOMATIC RELEASE OF TRANSACTION SECURITY**

8.1 **Release of Mexican Security Trust Agreement**

On the first Business Day falling after the Effective Date on which all of the following conditions are met:

(a) the Base Currency Amount of the Exposures of the Participating Creditors under the Facilities has, since the Reference Date, been reduced by an aggregate amount equal to at least 41.4 per cent. of the aggregate Exposures of the Participating Creditors under the Facilities as at the Reference Date;

(b) the Consolidated Leverage Ratio for any testing date falling during any Reference Period in respect of which a Compliance Certificate has been (or is required to have been) delivered under the Financing Agreement (as each such term is defined therein) was not greater than 3.50:1; and

(c) no Default is continuing,

(and subject to receipt of written notice from the Administrative Agent in accordance with Clause 8.3 (*Notification by Administrative Agent*)) the Security Agent is irrevocably authorised (at the cost of the relevant Debtor, Security Provider or the Parent and without any consent, sanction, authority or further confirmation from any Secured Party, Debtor or Security Provider) to promptly instruct (and the Security Agent shall so instruct) the Mexican Security Trustee to release the Security over the assets of the Mexican Security Trust Agreement and any of the assets subject to the Mexican Security Trust Agreement, and to execute and deliver or enter into any termination or release of that Transaction Security and any assets affected thereunder if approved in exchange for a release from the other parties to the Mexican Security Trust Agreement.

8.2 **Release of Transaction Security - other jurisdictions**

On the first Business Day falling after the Effective Date on which all of the following conditions are met:

(a) the Base Currency Amount of the Exposures of the Participating Creditors under the Facilities has, since the Reference Date, been reduced by an aggregate amount equal to at least 50.96 per cent. of the aggregate Exposure of the Participating Creditors under the Facilities as at the Reference Date;

(b) the Consolidated Leverage Ratio for two consecutive testing dates falling during any Reference Period in respect of which Compliance Certificates have been (or are required to have been) delivered under the Financing Agreement (as each such term is defined therein) was not greater than 3.50:1; and

(c) no Default is continuing,

(and subject to receipt of written notice from the Administrative Agent in accordance with Clause 8.3 (*Notification by Administrative Agent*)) the Security Agent is irrevocably authorised (at the cost of the relevant Debtor, Security Provider or the Parent and without any consent, sanction, authority or further confirmation from any Secured Party, Debtor or Security Provider) to promptly release (and the Security Agent shall so release) the Transaction Security not already released pursuant to Clause 8.1 (*Release of Mexican Security Trust Agreement*) and any other claim over the assets subject to that Transaction Security, and to execute and deliver or enter (and the Security Agent shall execute and deliver or enter into) into any release of that Transaction Security or claim that may, in the discretion of the Security Agent, be considered necessary or desirable.

8.3 **Notification by Administrative Agent**

The Administrative Agent shall promptly notify the Security Agent in writing on the date at which the conditions set out in Clause 8.1 (*Release of Mexican Security Trust Agreement*) have been satisfied and on the date at which the conditions set out in Clause 8.2 (*Release of Transaction Security - other jurisdictions*) have been satisfied.

8.4 **Creditors', Debtors' and Security Providers' actions**

Each Creditor, Debtor and Security Provider will:

(a) do all things that the Security Agent reasonably requests in order to give effect to this Clause 8 (which shall include, without limitation, the execution of any assignments, transfers, releases or other documents that the Security Agent may consider to be necessary to give effect to the releases contemplated by Clause 8.1 (*Release of Mexican Security Trust Agreement*) and Clause 8.2 (*Release of Transaction Security - other jurisdictions*));

(b) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 8 or is otherwise prevented from taking or, with respect to any Creditor, unable to take the actions contemplated by this Clause 8 and requests that a Creditor take that action, each Creditor will undertake that action itself in accordance with the instructions of the Security Agent or grant a power of attorney to the Security Agent (on such terms as the Security Agent may reasonably require) to enable the Security Agent to take such action under applicable law (any such power of attorney, with respect to any enforcement of Transaction Security governed by Spanish law or any claim against a Debtor or Security Provider incorporated in Spain, shall be notarised and apostilled); and

(c) if the Security Agent is not entitled to take any of the actions contemplated by this Clause 8 with respect to any Debtor or Security Provider or requests that any Debtor or Security Provider take any such action, such Debtor or Security Provider shall take that action itself in accordance with the instructions of the Security Agent.

9. **APPLICATION OF PROCEEDS**

9.1 **Order of application - Transaction Security Recoveries**

Subject to Clause 9.3 (*Prospective liabilities*), all amounts from time to time received or recovered by the Security Agent prior to the Final Discharge Date in connection with the realisation or enforcement of all or any part of the Transaction Security (including, amounts received or recovered as a result of realisation or enforcement of all or part of the Transaction Security pursuant to Clause 10.2 (*Finance Parallel Debt (Covenant to pay the Security Agent)*) or Clause 10.3 (*Notes Parallel Debt (Covenant to pay the Security Agent))* (for the purposes of this Clause 9.1, the "**Transaction Security Recoveries**") shall be held by the Security Agent on trust to apply them as soon as reasonably practicable after the Security Agent has made (to its sole satisfaction) the calculations necessary to perform the distributions required pursuant to this Clause 9.1, to the extent permitted by applicable law (and subject to the provisions of this Clause 9.1 (*Application of Proceeds - Transaction Security Recoveries*)), in the following order of priority:

(a) in discharging any sums owing to the Security Agent (including, for the avoidance of doubt, any legal or other professional advisers' fees and all related taxes incurred thereon by the Security Agent), any Receiver or any Delegate or the Mexican Security Trustee;

(b) in payment of all costs and expenses reasonably incurred by any Secured Party (without double-counting) in connection with any realisation or enforcement of the Transaction Security (including, without limitation, the reasonable fees of any adviser, trustee or agent) taken in accordance with the terms of this Agreement or any action taken at the request of the Security Agent under Clause 3.5 (*Actions of Creditors*) or Clause 7.3 (*Creditors', Debtors' and Security Providers' actions*);

(c) in payment to:

(i) the Administrative Agent on its own behalf and on behalf of the Participating Creditors;

(ii) each Refinancing Creditor Representative on its own behalf and on behalf of the Refinancing Creditors which it represents;

(iii) each Noteholder Trustee on its own behalf and on behalf of the relevant Noteholders which it represents; and

(iv) any Noteholder not represented by a Noteholder Trustee,

for application towards the discharge of the Agent Liabilities, the Participating Creditor Liabilities and the Refinancing Creditor Liabilities (in accordance with the terms of the Finance Documents or, as the case may be, the Refinancing Documents) and the Noteholder Trustee Liabilities and the Noteholder Liabilities (in accordance with the terms of the Noteholder Documents), on a *pro rata* and *pari passu* basis;

(d) if none of the Debtors is under any further actual or contingent liability under any Debt Document, in payment to any person to whom the Security Agent is obliged, as a matter of law, to pay in priority to any Debtor; and

(e) the balance, if any, in payment to the relevant Debtor.

9.2 **Order of application - Debt Claim Recoveries**

Subject to Clause 9.3 (*Prospective liabilities*), all amounts from time to time received or recovered by the Security Agent prior to the Final Discharge Date from a Borrower in respect of any Borrowing Liabilities or from a Guarantor pursuant to the terms of any Guarantee Clause, (including, in connection therewith, pursuant to Clause 10.2 (*Finance Parallel Debt (Covenant to pay the Security Agent)*) but excluding:

(a) any amounts received or recovered in connection with the realisation or enforcement of all or any part of the Transaction Security; and

(b) any amounts received from a Borrower which are required to be applied in repayment or prepayment of (i) the Facilities pursuant to clauses 11 (*Repayment*), 12 (*Illegality, Voluntary Prepayment and Cancellation*) or clause 13 (*Mandatory Prepayment*) of the Financing Agreement or, as the case may be, (ii) the Refinancing Debt in accordance with the repayment or prepayment provisions of the relevant Refinancing Documents,

(for the purposes of this Clause 9.2, the "**Debt Claim Recoveries**") shall be held by the Security Agent on trust to apply such Debt Claim Recoveries as soon as reasonably practicable after the Security Agent has made (to its sole satisfaction) the calculations necessary to perform the distributions required pursuant to this Clause 9.2, to the extent permitted by applicable law (and subject to the provisions of this Clause 9.2 (*Application of Proceeds - Debt Claim Recoveries)*), in the following order of priority:

(i) in the case of (x) a Borrower which owes Borrowing Liabilities only, or (y) a Guarantor which owes Guarantee Liabilities (but not Existing Guarantee Liabilities), or (z) a Debtor which is a Borrower and a Guarantor and owes Borrowing Liabilities and Guarantee Liabilities (but not Existing Guarantee Liabilities):

(A) in discharging any sums owing to the Security Agent (including, for the avoidance of doubt, any legal or other professional advisers' fees and all taxes incurred thereon by the Security Agent), any Receiver or any Delegate;

(B) in payment of all costs and expenses reasonably incurred by any Creditor (without double counting) in connection with any action taken at the request of the Security Agent under Clause 3.5 (*Actions of Creditors*), paragraph (a) of Clause 7.3 (*Creditors', Debtors' and Security Providers' actions*) or Clause 8.4 (*Creditors', Debtors' and Security Providers' actions*);

(C) in payment to the Administrative Agent (on its own behalf and on behalf of the Finance Parties) and to each Refinancing Creditor Representative (on its own behalf and on behalf of the Refinancing Creditors which it represents) for application towards the discharge of the Borrowing Liabilities owed to the Finance Parties or the Refinancing Parties by that Borrower (in accordance with the terms of the Finance Documents or, as the case may be, the Refinancing Documents) on a *pro rata* and *pari passu* basis;

(D) in payment to the Administrative Agent (on its own behalf and on behalf of the Finance Parties) and to each Refinancing Creditor Representative (on its own behalf and on behalf of the Refinancing

Creditors which it represents) for application towards the discharge of the Guarantee Liabilities (if any) owed to the Finance Parties or the Refinancing Parties by that Guarantor (in accordance with the terms of the Finance Documents or, as the case may be, the Refinancing Documents) on a *pro rata* and *pari passu* basis;

(E) if none of the Debtors is under any further actual or contingent liability under any Debt Document, in payment to any person to whom the Security Agent is obliged, as a matter of law, to pay in priority to any Debtor; and

(F) the balance, if any, in payment to the relevant Debtor; and

(ii) in the case of (x) a Debtor which is a Borrower and a Guarantor and owes Borrowing Liabilities and Existing Guarantee Liabilities (in addition to (or, as the case may be, instead of) Guarantee Liabilities), or (y) a Guarantor which owes Existing Guarantee Liabilities (in addition to (or, as the case may be, instead of) Guarantee Liabilities):

(A) in discharging any sums owing to the Security Agent (including, for the avoidance of doubt, any legal or other professional advisers' fees and all taxes incurred thereon by the Security Agent), any Receiver or any Delegate;

(B) in payment of all costs and expenses reasonably incurred by any Agent or any Participating Creditor (without double counting) in connection with any action taken at the request of the Security Agent under Clause 3.5 (*Actions of Creditors*), paragraph (a) of Clause 7.3 (*Creditors', Debtors' and Security Providers' actions*) or Clause 8.4 (*Creditors', Debtors' and Security Providers' actions*);

(C) in payment to:

(1) the Administrative Agent for application to those Finance Parties to which (in each case) such Borrower or Guarantor owes Borrowing Liabilities or Existing Guarantee Liabilities towards the discharge of such Liabilities in accordance with the terms of the relevant Existing Finance Documents under which such Borrowing Liabilities or Existing Guarantee Liabilities arose; and

(2) each Refinancing Creditor Representative on its own behalf and for application to the Refinancing Creditors which it represents to which such Borrower owes Borrowing Liabilities towards the discharge of such Liabilities in accordance with the terms of the relevant Refinancing Documents,

on a *pro rata* and *pari passu* basis between paragraphs (1) and (2) above (but not, for the avoidance of doubt, towards the discharge of any other Liabilities owed by that Borrower or Guarantor or any other Debtor to those Finance Parties under any of the other Finance Documents);

(D) following the discharge in full of all Borrowing Liabilities or, as the case may be, Existing Guarantee Liabilities of such Borrower or Guarantor pursuant to sub paragraph (C) above, in payment to:

(1) the Administrative Agent (on its own behalf and on behalf of the Finance Parties); and

(2) to each Refinancing Creditor Representative (on its own behalf and on behalf of the Refinancing Creditors which it represents),

for application towards the discharge of the Guarantee Liabilities, owed to the Finance Parties or the Refinancing Parties by that Guarantor (in accordance with the terms of the Finance Documents or, as the case may be, the Refinancing Documents) on a *pro rata* and *pari passu* basis between paragraphs (1) and (2) above;

(iii) if none of the Debtors is under any further actual or contingent liability under any Debt Document, in payment to any person to whom the Security Agent is obliged, as a matter of law, to pay in priority to any Debtor; and

(iv) the balance, if any, in payment to the relevant Debtor.

9.3 **Prospective liabilities**

Following a Participating Creditor Acceleration Event, the Security Agent may, in its sole discretion and to the fullest extent permitted by applicable law, hold any amount of the Debt Claim Recoveries in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with a financial institution (including itself) which has a rating for its long-term unsecured and non credit-enhanced debt obligations of A- or higher by S&P or A- or higher by Fitch or A3 or higher by Moody's or a comparable rating from an internationally recognised credit rating agency and for so long as the Security Agent shall think fit (but no later than 180 days) (the interest being credited to the relevant account) for later application under Clause 9.1 (*Order of Application – Transaction Security Recoveries*) or Clause 9.2 (*Order of Application – Debt Claim Recoveries*) in respect of:

(a) any sum to any Security Agent (including, for the avoidance of doubt, any legal or other professional advisers' fees and all taxes incurred thereon by the Security Agent), any Receiver or any Delegate; and

(b) any part of the Participating Creditor Liabilities, the Refinancing Creditor Liabilities, the Noteholder Liabilities, the Noteholder Trustee Liabilities or the Agent Liabilities,

that the Security Agent reasonably considers, in each case, might become due or owing at any time in the future.

9.4 **Investment of proceeds**

Prior to the application of the proceeds of the Security Property in accordance with Clause 9.1 (*Order of Application—Transaction Security Recoveries*) or Clause 9.2 (*Order of Application - Debt Claim Recoveries*) the Security Agent may, in its sole discretion, hold all or part of those proceeds in an interest bearing suspense or impersonal account(s) in the name of the Security Agent with a financial institution (including itself) which has a rating for its long-term unsecured and non credit-enhanced debt obligations of A- or higher by S&P or A- or higher by Fitch or A3 or higher by Moody's or a comparable rating from an internationally recognised credit rating agency and for so long as the Security Agent shall deem necessary (the interest being credited to the relevant account) pending the application from time to time of those monies in the Security Agent's discretion in accordance with the provisions of this Clause 9.4.

9.5 **Currency Conversion**

(a) For the purpose of, or pending the discharge of, any of the Secured Obligations the Security Agent may convert any monies received or recovered by the Security Agent into the Base Currency, at the Security Agent's Spot Rate of Exchange.

(b) The obligations of any Debtor (or, to the extent applicable in relation to Transaction Security granted by it, any Security Provider) to pay amounts due in the specified currency shall only be satisfied to the extent of the amount in the specified currency purchased after deducting the costs of conversion.

9.6 **Permitted Deductions**

The Security Agent shall be entitled, in its sole discretion (acting reasonably), (a) to set aside by way of reserve amounts required to meet and (b) to make and pay, any deductions and withholdings (on account of taxes or otherwise) which it is or shall be required by any applicable law to make from any distribution or payment made by it under this Agreement, and to pay all Taxes which are assessed against it in respect of any of the Charged Property, or as a consequence of performing its duties (save where such duties are performed in such a way that loss is suffered through gross negligence or wilful default), or by virtue of its capacity as Security Agent under any of the Debt Documents or otherwise (other than in connection with its remuneration for performing its duties under this Agreement).

9.7 **Good Discharge**

(a) Any payment to be made in respect of the Secured Obligations by the Security Agent:

(i) may be made to the Administrative Agent on behalf of the Participating Creditors and the Participating Creditors' Representatives;

(ii) may be made to the relevant Refinancing Creditors' Representative on behalf of its Refinancing Creditors;

(iii) may be made, in the case of Noteholders represented by a Noteholder Trustee, to the relevant Noteholder Trustee on behalf of its Noteholders, and to any Noteholder not so represented, directly,

and any payment made in that way shall be a good discharge, to the extent of that payment, by the Security Agent.

(b) The Security Agent is under no obligation to make the payments to any Agent or any Noteholder Trustee under paragraph (a) of this Clause 9.7 in the same currency as that in which the Liabilities owing to the relevant Creditor or Noteholder are denominated.

(c) The Security Agent is under no obligation to make payments to any Noteholder not represented by a Noteholder Trustee, as contemplated under paragraph (a) of this Clause 9.7, unless that Noteholder has provided evidence satisfactory to the Security Agent, in its sole discretion (but acting reasonably), of (i) its identity, (ii) its holding of, or entitlement under, the Notes and (iii) the amounts claimed to be owed to it under those Notes.

9.8 **Calculation of Amounts**

For the purpose of calculating any person's share of any sum payable to or by it, the Security Agent shall be entitled to:

(a) notionally convert the Liabilities owed to any person into the Base Currency (decided by the Security Agent in its discretion acting reasonably), that notional conversion to be made at the Security Agent's Spot Rate of Exchange; and

(b) assume that all moneys received or recovered as a result of the enforcement or realisation of the Security Property are applied in discharge of the Liabilities in accordance with the terms of the Debt Documents under which those Liabilities have arisen.

9.9 **Application and consideration**

In consideration for the covenants given to the Security Agent by each Debtor in Clause 10.2 (*Finance Parallel Debt (Covenant to pay the Security Agent)*) and Clause 10.3 (*Notes Parallel Debt (Covenant to pay the Security Agent)*), the Security Agent agrees with each Debtor to apply all moneys from time to time paid by such Debtor to the Security Agent in accordance with the provisions of Clause 9.1 (*Order of Application - Transaction Security Recoveries*).

10. **THE SECURITY AGENT**

10.1 **Trust**

(a) The Security Agent declares that it shall hold the Security Property (save as provided in paragraph (b) below) on trust (in the case of the Transaction Security affected under the Mexican Security Trust Agreement, through the Mexican Security Trustee) for (or, if required by any Security Document, as an agent acting in the name and on behalf of) the equal and rateable benefit of the Secured Parties on the terms contained in this Agreement.

(b) The Security Agent declares that it, in the circumstances described in paragraph (f) of Clause 10.3 (*Notes Parallel Debt (Covenant to pay the Security Agent)*) shall hold the Notes Parallel Debt Recoveries on trust for the Notes Secured Parties on the terms contained in this Agreement (and, with respect to such trust, as if references to "Secured Parties" in this Clause 10 were references to the Notes Secured Parties).

(c) By acceptance of the benefits of this Agreement, each Secured Party (whether or not a Party to this Agreement) (i) consents or, as the case may be, is deemed to consent, to the appointment of the Security Agent as trustee under this Agreement, (ii) confirms that the Security Agent shall have the authority to act as the exclusive agent of such Secured Party for the enforcement of any remedies under or with respect to any Transaction Security Document and the giving or withholding of any consent or approval relating to any Charged Property or the Liabilities of any Debtor or Security Provider relating thereto, and (iii) agrees that, except as provided in this Agreement, it shall not take any action to enforce any of such remedies or give any such consents or approvals.

(d) Each of the Parties to this Agreement agrees (and each Noteholder Trustee and Noteholder, by accepting the benefits of this Agreement, shall be deemed to agree) that the Security Agent shall have only those duties, obligations and responsibilities expressly specified in this Agreement or in the Security Documents to which the Security Agent is expressed to be a party (and no others shall be implied) subject at all times to the provisions of this Agreement limiting the responsibility or liability of the Security Agent.

(e) It is expressly understood and agreed by the Parties to this Agreement (and each Noteholder Trustee and Noteholder, by accepting the benefits of this Agreement, shall be deemed to agree) that:

(i) this Agreement is executed and delivered by the Security Agent not individually or personally but solely in its capacity as the Security Agent in the exercise of the powers and authority conferred and vested in it under this Agreement and the Debt Documents to which it is expressed to be a party;

(ii) in no case shall the Security Agent be (i) responsible or accountable in damages or otherwise to any other Secured Party, Debtor or Security Provider for any loss, damage or claim incurred by reason of any act or omission performed or omitted by the Security Agent in good faith in accordance with this Agreement and the Debt Documents in a manner within the scope of the authority conferred on it by this Agreement and the Debt Documents or by law (otherwise than as a result of its gross negligence or wilful misconduct), or (ii) personally liable for or on account of any of the statements, representations, warranties, covenants or obligations stated to be those of any other Secured Party, Debtor or Security Provider all such liability, if any, being expressly waived by the Secured Parties, Debtors and Security Providers and any person claiming by, through or under such Secured Party, Debtor or Security Provider,

and it is also acknowledged that the Security Agent shall have no responsibility for the actions of any Creditor.

10.2 **Finance Parallel Debt (Covenant to pay the Security Agent)**

(a) Notwithstanding any other provision of this Agreement, each Debtor hereby irrevocably and unconditionally undertakes to pay to the Security Agent, as creditor in its own right and not as representative of the other Finance Secured Parties, sums equal to and in the currency of each amount payable by such Debtor to each of the Finance Secured Parties under each of the Finance Secured Documents as and when that amount falls due for payment under the relevant Finance Secured Document or would have fallen due but for any discharge resulting from failure of another Finance Secured Party to take appropriate steps, in Insolvency Proceedings affecting that Debtor, to preserve its entitlement to be paid that amount (in respect of each Debtor, its "**Finance Parallel Debt**").

(b) The Security Agent shall have its own independent right to demand payment of the amounts payable by each Debtor under this Clause 10.2, irrespective of any discharge of such Debtor's obligation to pay those amounts to the other Finance Secured Parties resulting from failure by them to take appropriate steps, in Insolvency Proceedings affecting that Debtor, to preserve their entitlement to be paid those amounts.

(c) Any amount due and payable by a Debtor to the Security Agent under this Clause 10.2 shall be decreased to the extent that the other Finance Secured Parties have received (and are able to retain) payment in full of the corresponding amount under the other provisions of the Finance Secured Documents and any amount due and payable by a Debtor to the other Finance Secured Parties under those provisions shall be decreased to the extent that the Security Agent has received (and is able to retain) payment in full of the corresponding amount under this Clause 10.2.

(d) Each of the Parties to this Agreement accepts the provisions of this Clause 10.2.

10.3 **Notes Parallel Debt (Covenant to pay the Security Agent)**

(a) Notwithstanding any other provision of this Agreement, each Debtor hereby irrevocably and unconditionally undertakes to pay to the Security Agent, as creditor in its own right and not as representative of the Notes Secured Parties, sums equal to and in the currency of each amount payable by such Debtor to each of the Notes Secured Parties under each of the Notes Secured Documents as and when that amount falls due for payment under the relevant Notes Secured Document or would have fallen due but for any discharge resulting from failure of another Notes Secured Party to take appropriate steps, in Insolvency Proceedings affecting that Debtor, to preserve its entitlement to be paid that amount (in respect of each Debtor its "**Notes Parallel Debt**").

(b) The Security Agent shall have its own independent right to demand payment of the amounts payable by each Debtor under this Clause 10.3, irrespective of any discharge of such Debtor's obligation to pay those amounts to the Notes Secured Parties resulting from failure by them to take appropriate steps, in Insolvency Proceedings affecting that Debtor, to preserve their entitlement to be paid those amounts.

(c) Notwithstanding the foregoing, prior to an Enforcement Event, the Security Agent shall not demand payment of the amounts payable by each Debtor under this Clause 10.3 in connection with the realisation or enforcement of all or part of the Transaction Security.

(d) Each Notes Secured Party, by accepting the benefits of this Agreement, shall be deemed to accept the provisions of this Clause 10.3 and, where an amount is received by the Security Agent on its behalf under this Clause 10.3, to have waived its rights to seek payment of the corresponding amount under the other provisions of the Notes Secured Documents.

(e) The Security Agent shall notify the Notes Secured Parties (in the case of any Noteholder represented by a Noteholder Trustee, via that Noteholder Trustee, and in the case of any Noteholder not so represented, directly) that it has received amounts pursuant to this Clause 10.3 (the " **Notes Parallel Debt Recoveries**") which are due to the Notes Secured Parties, and shall apply such Notes Parallel Debt Recoveries (subject, in the case of any Noteholder not represented by a Noteholder Trustee, to paragraph (c) of Clause 9.7 (*Good Discharge*)) in accordance with Clause 9 (*Application of Proceeds*).

(f) Where, having given notice in accordance with paragraph (e) of this Clause 10.3, any amount of Notes Parallel Debt Recoveries has not been claimed by a Notes Secured Party, the Security Agent will hold such amounts on trust for the benefit of such Notes Secured Parties as set out in paragraph (b) of Clause 10.1 (*Trust*).

10.4 **Parallel debt recoveries**

Amounts received or recovered in connection with the realisation or enforcement of the Transaction Security pursuant to Clause 10.2 (*Finance Parallel Debt (Covenant to pay the Security Agent)*) and Clause 10.3 (*Notes Parallel Debt (Covenant to pay the Security Agent)*) shall be held *pari passu* by the Security Agent and shall be distributed to the Finance Secured Parties and Notes Secured Parties in accordance with Clause 9 (*Application of Proceeds*) (or, in the case of the Notes Secured Parties, held on trust as contemplated by paragraph (f) of Clause 10.3 (*Notes Parallel Debt (Covenant to pay the Security Agent)*) above).

10.5 **No independent power**

The Secured Parties shall not have any independent power to enforce, or have recourse to, any of the Transaction Security or to exercise any rights or powers arising under the Security Documents (other than in accordance with the terms of the Debt Documents) except through the Security Agent.

10.6 **Instructions to Security Agent and exercise of discretion**

(a) Subject to paragraphs (d) and (e) below, the Security Agent shall only act in accordance with any instructions given to it by the Instructing Group or, if so instructed by the Instructing Group, refrain from exercising any right, power, authority or discretion vested in it as Security Agent and shall be entitled, without further enquiry, to assume that (i) any instructions or directions received by it from the Instructing Group or, (to the extent that such Parties are entitled to give instructions or directions to the Security Agent under this Agreement) from the Administrative Agent, the Participating Creditors, the Refinancing Creditors or the Super Majority Instructing Group, are duly given in accordance with the terms of the relevant Finance Documents and (ii) unless it has received actual written notice of revocation, that those instructions or directions have not been revoked.

(b) The Security Agent shall be entitled to request instructions, or clarification of any direction, from the Instructing Group or, (to the extent that such Parties are entitled to give instructions or directions to the Security Agent under this Agreement) from the Administrative Agent, the Participating Creditors, the Refinancing Creditors or the Super Majority Instructing Group, and as to whether, and in what manner, it should exercise or refrain from exercising any rights, powers, authorities and discretions and the Security Agent may refrain from acting unless and until those instructions or clarification are received by it.

(c) Save as provided in Clause 6 (*Enforcement of Transaction Security*), any instructions given to the Security Agent by the Instructing Group shall override any conflicting instructions given by any other Parties.

(d) Paragraph (a) above shall not apply:

(i) where a contrary indication appears in this Agreement;

(ii) where this Agreement requires the Security Agent to act in a specified manner or to take a specified action;

(iii) in respect of any provision which protects the Security Agent's own position in its personal capacity as opposed to its role of Security Agent for the Secured Parties including, without limitation, the provisions set out in Clauses 10.8 (*Security Agent's discretions*) to Clause 10.25 (*Disapplication*);

(iv) in respect of the exercise of the Security Agent's discretion to exercise a right, power or authority under any of:

(A) Clause 7.1 (*Non-Distressed Disposals*);

(B) Clause 9.1 (*Order of application - Transaction Security Recoveries*);

(C) Clause 9.2 (*Order of application - Debt Claim Recoveries*);

(D) Clause 9.3 (*Prospective liabilities*);

(E) Clause 9.6 (*Permitted Deductions*);

(**provided that** the Security Agent may, if it so chooses, seek directions or instructions from, in respect of the discretions conferred on it under the clause referred to in paragraph (A) above, the Majority Participating Creditors (as defined in the Financing Agreement) via the Administrative Agent or, in respect of the discretions conferred on it under the clauses referred to in paragraphs (B) to (E) above, the Instructing Group).

(e) If giving effect to instructions given by an Instructing Group would (in the Security Agent's opinion (acting reasonably)) have an effect equivalent to an Intercreditor Amendment, the Security Agent shall not act in accordance with those instructions unless consent to it so acting is obtained from each Secured Party (other than the Security Agent) whose consent would have been required in respect of that Intercreditor Amendment.

(f) In exercising any discretion to exercise a right, power or authority under this Agreement where either:

(i) it has not received any instructions from an Instructing Group as to the exercise of that discretion; or

(ii) the exercise of that discretion is subject to paragraph (d)(iv) above,

the Security Agent shall do so having regard to the interests of all the Secured Parties as a group and not individually.

10.7 **Security Agent's actions**

Without prejudice to the provisions of Clause 6 (*Enforcement of Transaction Security*) and Clause 10.6 (*Instructions to Security Agent and exercise of discretion*), the Security Agent may (but shall not be obliged to), in the absence of any instructions to the contrary, take such action in the exercise of any of its powers and duties under the Debt Documents as it considers in its sole discretion to be appropriate.

10.8 **Security Agent's discretions**

The Security Agent may:

(a) assume, without enquiry (unless it has received actual written notice to the contrary from the Administrative Agent) that (i) no Default has occurred and no Debtor or Security Provider is in breach of or default under its obligations under any of the Finance Documents (except in relation to paragraph (c) of Clause 8.1 (*Release of Mexican Security Trust Agreement*) and paragraph (c) of Clause 8.2 (*Release of Transaction Security - other jurisdictions*), where the Security Agent shall be notified of the satisfaction of the condition set out in such paragraphs by the Administrative Agent in accordance with Clause 8.3 (*Notification by the Administrative Agent*)) and (ii) any right, power, authority or discretion vested by any Finance Document in any person has not been exercised;

(b) if it receives any instructions or directions under Clause 6 (*Enforcement of Transaction Security*) to take any action or to cause action to be taken in relation to the Transaction Security, assume, without enquiry, that all applicable conditions under the Finance Documents for taking that action have been satisfied;

(c) engage, pay for and rely on the advice or services of any legal advisers, accountants, tax advisers, financial advisers, surveyors or other experts (whether obtained by the Security Agent or by any other Secured Party and regardless of any limitation (by way of a monetary cap or otherwise) that may be imposed on such advice) and incur such advisers' reasonable cost and expenses whose advice or services may at any time seem necessary or expedient;

(d) rely upon any communication or document believed by it to be genuine and, as to any matters of fact which might reasonably be expected to be within the knowledge of a Secured Party, a Debtor or a Security Provider, upon a certificate signed by or on behalf of that person; and

(e) refrain from acting in accordance with the instructions of any Party (including, but not limited to, bringing any legal action or proceeding arising out of or in connection with the Finance Documents) until it has received any indemnification and/or security satisfactory to it (acting reasonably) (whether by way of payment in advance or otherwise) for all costs, expenses, losses and liabilities which it may incur reasonably in so acting.

10.9 **Security Agent's obligations**

The Security Agent shall promptly:

(a) copy to the Administrative Agent and each Refinancing Creditor Representative the contents of any notice or document received by it from any Debtor or Security Provider under any Debt Document and otherwise, directly or through any Delegate, give notice in respect of this Agreement or any Transaction Security Document, to any party it may deem appropriate;

(b) forward to a Secured Party, Debtor or Security Provider the original or a copy of any document which is delivered to the Security Agent for that Secured Party, Debtor or Security Provider by any other Party **provided that** such delivery by the Security Agent to the receiving party is expressly contemplated by the terms of this Agreement and **provided further that**, except where a Debt Document expressly provides otherwise, the Security Agent is not obliged to review or check the adequacy, accuracy or completeness of, or any mathematical calculations or other facts in, any document it forwards to another Secured Party or to a Debtor or Security Provider;

(c) inform the Administrative Agent and each Refinancing Creditor Representative of any event notified to the Security Agent under paragraph (b) of Clause 16.3 (*Notification of prescribed events*) and of any default by a Debtor or Security Provider in the due performance of or compliance with its obligations under any Debt Document of which the Security Agent has received written notice from any other Secured Party, Debtor or Security Provider;

(d) notify the Noteholder Trustees (and any Noteholder not represented by a Noteholder Trustee, directly) of any event that materially and adversely affects the Charged Property under any Transaction Security Document; and

(e) to the extent that a Party (other than the Security Agent) is required to calculate a Base Currency Amount, and upon a request by that Party, notify that Party of the Security Agent's Spot Rate of Exchange.

10.10 **Excluded obligations**

Notwithstanding anything to the contrary expressed or implied in the Debt Documents, the Security Agent shall not:

(a) be bound to enquire as to (i) whether or not any Default has occurred or (ii) the performance, default or any breach by a Debtor or Security Provider of its obligations under any of the Debt Documents;

(b) be bound to account to any other Secured Party, any Debtor or any Security Provider for any sum or the profit element of any sum received by it for its own account;

(c) be bound to disclose to any other person (including, but not limited to, any Secured Party) (i) any confidential information or (ii) any other information if disclosure would, or might in its reasonable opinion, constitute a breach of any law or be a breach of fiduciary duty;

(d) have or be deemed to have any relationship of trust or agency with, any Debtor or Security Provider;

(e) be liable for interest on any moneys received by it except as the Security Agent may agree in writing with the Party for whom it holds those moneys;

(f) be obliged to segregate money held on trust by the Security Agent from its other funds except to the extent required by law;

(g) be required to give any bond or surety or otherwise expend its own funds with respect to the performance of its duties or the exercise of its rights or powers under this Agreement or any of the other Debt Documents; or

(h) be under any obligation to take any action under this Agreement if it has sought, but not received, instructions from the Instructing Group, Administrative Agent, the other Agents, Super Majority Instructing Group, Noteholder Trustees (or Noteholder where such Noteholder is not represented by a Noteholder Trustee) or other Party from whom it seeks instructions,

and the permissive rights of the Security Agent to take the actions or exercise the rights and discretions permitted or conferred by this Agreement shall not be construed as an obligation or duty for it to take those actions or exercise those rights and discretions.

10.11 **Exclusion of liability**

None of the Security Agent, any Receiver nor any Delegate shall accept responsibility or be liable for:

(a) the adequacy, accuracy or completeness of any information (whether oral or written) supplied by the Security Agent or any other person in or in connection with any Debt Document or the transactions contemplated in the Debt Documents, or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document;

(b) the legality, validity, effectiveness, efficacy, adequacy or enforceability of any Debt Document, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;

(c) any losses to any person or any liability arising as a result of taking or refraining from taking any action in relation to any of the Debt Documents, the Security Property or otherwise, whether in accordance with an instruction from the Administrative Agent or otherwise unless directly caused by its gross negligence or wilful misconduct;

(d) the exercise of, or the failure to exercise, any judgment, discretion or power given to it by or in connection with any of the Debt Documents, the Security Property or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with, the Debt Documents or the Security Property unless directly caused by its gross negligence or wilful misconduct;

(e) any shortfall which arises on the enforcement or realisation of the Security Property; or

(f) any failure or delay in the performance of its obligations hereunder arising out of, or caused by, directly or indirectly, *force majeure* events, including, without limitation, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God; it being understood that the Security Agent, Receiver or Delegate shall use all commercially reasonable efforts that are consistent with accepted practices in the banking industry to resume performance as soon as practicable under the circumstances; it being understood and agreed by the other Parties that, in carrying out all commercially reasonable efforts, the Security Agent is not required (i) to risk or expend its own funds; (ii) to disregard or otherwise compromise its own commercial interests; (iii) to do anything which might result in a breach of law; or (iv) to do anything which would in the Security Agent's opinion (acting reasonably) be unreasonable.

10.12 **No proceedings**

No Secured Party (other than the Security Agent, that Receiver or that Delegate), Debtor or Security Provider may take any proceedings against any officer, employee or agent of the Security Agent, a Receiver or a Delegate in respect of any claim it might have against the Security Agent, a Receiver or a Delegate or in respect of any act or omission of any kind by that officer, employee or agent in relation to any Debt Document or any Security Property and any officer, employee or agent of the Security Agent, a Receiver or a Delegate may rely on this Clause subject to Clause 1.4 (*Third Party Rights*) and the provisions of the Third Parties Rights Act.

10.13 **Own responsibility**

Without affecting the responsibility of any Debtor or Security Provider for information supplied by it or on its behalf in connection with any Debt Document, each Creditor confirms (and each Noteholder Trustee and Noteholder, by accepting the benefits of this Agreement, shall be deemed to confirm) to the Security Agent that it has been, and will continue to be, solely responsible for making its own independent appraisal and investigation of all risks arising under or in connection with any Debt Document including but not limited to:

(a) the financial condition, status and nature of each Debtor or Security Provider;

(b) the legality, validity, effectiveness, efficacy, adequacy and enforceability of any Debt Document, the Security Property and any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;

(c) whether that Creditor has recourse, and the nature and extent of that recourse, against any Party or any of its respective assets under or in connection with any Debt Document, the Security Property, the transactions contemplated by the Debt Documents or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document or the Security Property;

(d) the adequacy, accuracy and/or completeness of any information provided by the Security Agent or by any other person under or in connection with any Debt Document, the transactions contemplated by any Debt Document or any other agreement, arrangement or document entered into, made or executed in anticipation of, under or in connection with any Debt Document; and

(e) the right or title of any person in or to, or the value or sufficiency of any part of the Charged Property, the priority of any of the Transaction Security or the existence of any Security affecting the Charged Property,

and each Creditor warrants to the Security Agent that it has not relied on and will not at any time rely on the Security Agent in respect of any of these matters.

10.14 **No responsibility to perfect Transaction Security**

The Security Agent shall not be liable for any failure to:

(a) require the deposit with it of any deed or document certifying, representing or constituting the title of any Security Provider to any of the Charged Property;

(b) obtain any licence, consent or other authority for the execution, delivery, legality, validity, enforceability or admissibility in evidence of any of the Debt Documents or the Transaction Security;

(c) register, file or record or otherwise protect any of the Transaction Security (or the priority of any of the Transaction Security) under any applicable laws in any jurisdiction or to give notice to any person of the execution of any of the Debt Documents or of the Transaction Security;

(d) take, or to require any of the Security Provider to take, any steps to perfect its title to any of the Charged Property or to render the Transaction Security effective or to secure the creation of any ancillary Security under the laws of any jurisdiction; or

(e) require any further assurances in relation to any of the Security Documents.

10.15 **Insurance by Security Agent**

(a) The Security Agent shall not be under any obligation to insure any of the Charged Property, to require any other person to maintain any insurance or to verify any obligation to arrange or maintain insurance contained in the Debt Documents. The Security Agent shall not be responsible for any loss which may be suffered by any person as a result of the lack of or inadequacy of any such insurance.

(b) Where the Security Agent is named on any insurance policy as an insured party, it shall not be responsible for any loss which may be suffered by reason of, directly or indirectly, its failure to notify the insurers of any material fact relating to the risk assumed by such insurers or any other information of any kind, unless the Administrative Agent shall have requested it to do so in writing and the Security Agent shall have failed to do so within fourteen days after receipt of that request.

10.16 **Custodians and nominees**

The Security Agent may (to the extent reasonably practicable, in consultation with the Parent) appoint and pay (or cause to be appointed and paid) any person to act as a custodian or nominee on any terms in relation to any assets of the trust as the Security Agent may determine, including for the purpose of depositing with a custodian this Agreement or any document relating to the trust created under this Agreement and the Security Agent shall, to the extent permitted by applicable law, not be responsible for any loss, liability, expense, demand, cost, claim or proceedings incurred by reason of the misconduct, omission or default on the part of any person appointed by it under this Agreement or be bound to supervise the proceedings or acts of any person.

10.17 **Acceptance of title**

The Security Agent shall be entitled to accept without enquiry, and shall not be obliged to investigate, any right and title that any of the Security Providers may have to any of the Charged Property and shall not be liable for or bound to require any Security Providers to remedy any defect in its right or title.

10.18 **Refrain from illegality**

Notwithstanding anything to the contrary expressed or implied in the Debt Documents, the Security Agent may refrain from doing anything which in its opinion will or may be contrary to any relevant law, directive or regulation of any jurisdiction or otherwise expose it to personal liability, and the Security Agent may do anything which is, in its opinion, necessary to comply with any such law, directive or regulation.

10.19 **Business with the Debtors and Security Providers**

The Security Agent may accept deposits from, lend money to, and generally engage in any kind of banking or other business with any of the Debtors or Security Providers and shall be under no obligation to account for any profit to any Secured Party.

10.20 **Winding up of trust**

If the Security Agent, having made enquiry of the Agents and the Noteholders Trustees, determines that (a) all of the Secured Obligations owed to the Secured Parties and all other obligations secured by the Security Documents have been fully, finally and irrevocably discharged and (b) none of the Secured Parties is under any commitment, obligation or liability (actual or contingent) to make advances or provide other financial accommodation to any Debtor pursuant to the Debt Documents:

(a) the trusts set out in this Agreement (with the exception of the trust created pursuant to paragraph (a) of Clause 10.1 (*Trust*)) shall be wound up and the Security Agent shall release, without representation, recourse or warranty, all of the Transaction Security and the rights of the Security Agent under each of the Security Documents (other than any provision expressed to survive termination or discharge); and

(b) any Retiring Security Agent shall release, without representation, recourse or warranty, all of its rights under each of the Security Documents (other than any provision expressed to survive termination or discharge).

10.21 **Winding up of trust - Notes Secured Creditors**

The trust created pursuant to paragraph (a) of Clause 10.1 (*Trust*)) shall be wound up at the date falling 5 years from the date of this Agreement, the Security Agent shall release from the terms of that trust, without representation, recourse or warranty, any amount of Notes Parallel Debt Recoveries held thereunder on such date, whereupon such amount shall be applied by the Security Agent in accordance with Clause 9 (*Application of proceeds*).

10.22 **Perpetuity period**

The perpetuity period under the rule against perpetuities, if applicable to this Agreement, shall be the period of eighty years from the date of this Agreement (save with respect to the trust created for the benefit of the Notes Secured Parties only pursuant to paragraph (b) of Clause 10.1 (*Trust*), where it shall be the period of 5 years from the date of this Agreement).

10.23 **Powers supplemental**

The rights, powers and discretions conferred upon the Security Agent by this Agreement shall be supplemental to the Trustee Act 1925 and the Trustee Act 2000 and in addition to any which may be vested in the Security Agent by general law or otherwise.

10.24 **Trustee division separate**

(a) In acting as trustee for the Secured Parties, the Security Agent shall be regarded as acting through its trustee division which shall be treated as a separate entity from any of its other divisions or departments.

(b) If information is received by another division or department of the Security Agent, it may be treated as confidential to that division or department and the Security Agent shall not be deemed to have notice of it.

10.25 **Disapplication**

Section 1 of the Trustee Act 2000 shall not apply to the duties of the Security Agent in relation to the trusts constituted by this Agreement. Where there are any inconsistencies between the Trustee Act 1925 or the Trustee Act 2000 and the provisions of this Agreement, the provisions of this Agreement shall, to the extent allowed by law, prevail and, in the case of any inconsistency with the Trustee Act 2000, the provisions of this Agreement shall constitute a restriction or exclusion for the purposes of that Act.

10.26 **Debtors and Security Providers: Power of Attorney**

(a) Each Debtor and each Security Provider by way of security for its obligations under this Agreement irrevocably appoints the Security Agent to be its attorney to do anything which that Debtor or, as the case may be, Security Provider, has authorised the Security Agent to do under this Agreement or is itself required to do under this Agreement but has failed to do (and the Security Agent may delegate that power on such terms as it sees fit), which authorisation permits the Security Agent to act as such Debtor or Security Provider's counterparty (*Selbsteintritt*).

(b) Each Debtor and Security Provider incorporated in Spain, and any Security Provider which has granted Transaction Security governed by Spanish law, shall, on the reasonable request of the Security Agent, promptly grant an irrevocable power of attorney (notarised and apostilled) to appoint the Security Agent in the manner described at paragraph (a) above.

10.27 **Consequential and Other Loss**

Notwithstanding anything to the contrary, the Security Agent shall under no circumstances be liable for any indirect or consequential losses (however described) to any Party or any liability or damages (including punitive damages) arising as a result of taking or refraining from taking any action in relation to any of the Debt Documents, even if advised of the possibility of such losses, liability or damages.

10.28 **Payments**

Nothing in this Agreement shall prevent (i) payment by the Parent or any Debtor of fees, costs and expenses of the Security Agent (including any amount payable to the Security Agent by way of indemnity, remuneration or reimbursement for expenses reasonably incurred, including legal and other professional advisory fees and all VAT thereon) payable to the Security Agent for its own account pursuant to this Agreement, any Debt Document or any fee letter between the Security Agent and the Parent, and the costs of any actual or attempted Enforcement Action which is permitted by this Agreement or any Debt Document (collectively, "**Security Agent Amounts**"); or (ii) the receipt and retention of such Security Agent Amounts by the Security Agent.

10.29 **Provisions survive termination**

The provisions of Clauses 10.6 to 10.8 (inclusive) and 10.10 to 10.28 (inclusive) shall survive any termination or discharge of this Agreement.

11. CHANGE OF SECURITY AGENT AND DELEGATION

11.1 Resignation of the Security Agent

(a) The Security Agent may, without ascribing a reason and without being responsible for any cost or liability arising therefrom, resign and appoint one of its Affiliates as successor by giving notice to the Parent, the Participating Creditors (via the Administrative Agent), the Refinancing Creditors (via the relevant Refinancing Creditor Representative and each Noteholder (via, for any Noteholder represented by a Noteholder Trustee, the relevant Noteholder Trustee).

(b) Alternatively the Security Agent may, without ascribing a reason and without being responsible for any cost or liability arising therefrom, resign by giving notice to the other Parties in which case the Instructing Group may (to the extent reasonably practicable, in consultation with the Parent), appoint a successor Security Agent.

(c) If the Instructing Group has not appointed a successor Security Agent in accordance with paragraph (b) above within 30 days after the notice of resignation was given, the Security Agent (after consultation with the Administrative Agent (and unless a Default has occurred and is continuing, the Parent)) may appoint a successor Security Agent (such successor Security Agent to be a financial institution or trustee company of good standing with (to the extent applicable, a credit rating at least equivalent to that of the Security Agent)).

(d) The retiring Security Agent (the "**Retiring Security Agent**") shall, at its own cost, make available to the successor Security Agent such documents and records and provide such assistance as the successor Security Agent may reasonably request for the purposes of performing its functions as Security Agent under the Debt Documents.

(e) The Security Agent's resignation notice and the appointment of a successor Security Agent shall become effective upon satisfaction of the following conditions: (i) the successor Security Agent notifying the Parent and the retiring Security Agent that it accepts its appointment, (ii) the successor Security Agent acceding to this Agreement in accordance with Clause 13.5 (*Change of Agent/Security Agent*), (iii) the Instructing Group confirming to the resigning Security Agent and the successor Security Agent that the credit rating of the successor Security Agent is satisfactory (such confirmation not to be unreasonably withheld or delayed and, where the credit rating of the successor Security Agent is at least equivalent to that of the retiring Security Agent, such confirmation shall, if it is not given to the retiring Security Agent and the successor Security Agent within ten Business Days, be deemed to have been given) and (iv) the making of any transfer of Transaction Security and/or amendments to Transaction Security Documents necessary to effect the change in Security Agent.

(f) Upon the appointment of a successor, the Retiring Security Agent shall be discharged from any further obligation in respect of the Debt Documents (other than its obligations under paragraph (b) of Clause 10.20 (*Winding up of trust*) and under paragraph (d) above) but shall, in respect of any act or omission by it whilst it was the Security Agent, remain entitled to the benefit of Clauses 10 (*The Security Agent*), 15.1 (*Debtors' indemnity*) and 15.3 (*Creditors' indemnity*). Its successor and each of the other Parties shall have the same rights and obligations amongst themselves as they would have had if that successor had been an original Party.

(g) The Instructing Group may, by written notice to the Security Agent, require it to resign in accordance with paragraph (b) above. In this event, the Security Agent shall resign in accordance with paragraph (b) above but the cost referred to in paragraph (d) above shall be for the account of the Parent.

11.2 **Delegation**

(a) Each of the Security Agent, any Receiver and any Delegate may (to the extent reasonably practicable, and except where a Default has occurred and is continuing, in consultation with the Parent), at any time, delegate by power of attorney or otherwise (including by providing an instruction in writing) and through a *comisión mercantil* under applicable law to any person for any period, all or any of the rights, powers and discretions vested in it by any of the Debt Documents, including the execution, performance or enforcement of any Debt Document.

(b) That delegation may be made upon any terms and conditions (including the power to sub-delegate) and subject to any restrictions that the Security Agent, that Receiver or that Delegate (as the case may be) may, in its discretion and after due consideration, think fit in the interests of the Secured Parties and it shall not be bound to supervise, or be in any way responsible for any loss incurred by reason of any misconduct or default on the part of any such delegate or sub-delegate.

11.3 **Additional Security Agents**

(a) The Security Agent may at any time appoint (and subsequently remove) any person to act as a separate trustee or as a co-trustee jointly with it (i) if it considers that appointment to be in the interests of the Secured Parties, (ii) if it considers that appointment to be in the interests of the Secured Parties for purposes of the execution, performance or enforcement of any Debt Document, (iii) for the purposes of conforming to any legal requirements, restrictions or conditions which the Security Agent deems to be relevant or (iv) for obtaining or enforcing any judgment in any jurisdiction, and the Security Agent shall give prior notice to the Parent and the Administrative Agent of that appointment.

(b) Any person so appointed shall have the rights, powers and discretions (not exceeding those conferred on the Security Agent by this Agreement) and the duties and obligations that are conferred or imposed by the instrument of appointment.

(c) The remuneration that the Security Agent may pay to that person, and any costs and expenses (together with any applicable VAT) reasonably incurred by that person in performing its functions pursuant to that appointment shall, for the purposes of this Agreement, be treated as costs and expenses incurred by the Security Agent.

12. NOTEHOLDER TRUSTEES AND NOTEHOLDERS

12.1 Rights of the Noteholder Trustees and Noteholders

(a) Notwithstanding anything in this Agreement to the contrary, it is expressly understood, and the availability of the benefits of this Agreement to the Noteholder Trustee and each Noteholder are conditioned upon the understanding, that the sole right of the Noteholders shall be to be equally and rateably secured by the Transaction Security to the extent required by the Noteholder Documents and subject to the provisions of this Agreement.

(b) Notwithstanding anything in this Agreement to the contrary, to the extent that the rights and benefits conferred in this Agreement on the Noteholders or Noteholder Trustees shall be held to exceed the rights and benefits required so to be conferred by the equal and rateable provisions of the Existing Notes Documents or any Additional Notes Documents, such rights and benefits shall be limited so as to provide to such Noteholders and such Noteholder Trustees only those rights and benefits that are required by such provisions.

(c) Any and all rights not herein expressly given to the Noteholder Trustees are expressly reserved to the Security Agent and the Participating Creditors, it being understood that in the absence of a requirement to provide equal and rateable security set forth in any Noteholder Document, the grant of rights and benefits in this Agreement to the Noteholders and Noteholder Trustees would not have been accepted by the Security Agent or the Participating Creditors.

(d) Subject to paragraph (b) to (e) of Clause 1.4 (*Third Party Rights*) and the Third Parties Rights Act, each of the Noteholders and Noteholder Trustee may enforce this Clause 12.1.

12.2 Determination under Noteholder Documents

(a) The Parent shall deliver to the Security Agent from time to time, upon request of the Security Agent, a list setting forth, by each Noteholder Document, (i) the aggregate principal amount outstanding thereunder, (ii) the interest rate or rates then in effect thereunder, and (iii) the name of the holders thereof (if known) and the unpaid principal amount thereof owing to each such holder and, in the absence of manifest error, the Security Agent shall be entitled to make such determination on the basis of such information **provided however that** if, notwithstanding such request being made by the Security Agent, the

Parent does not provide such information reasonably promptly, then the Security Agent shall in its discretion be entitled to determine such existence or amount of Noteholder Liabilities by such commercially reasonable method as the Security Agent may, in the exercise of its good faith judgment, determine (including by reliance upon a certificate of a Debtor).

(b) The Security Agent may rely conclusively, and shall be fully protected in so relying, on any determination made by it in accordance with the provisions of paragraph (a) above (or as otherwise directed by a court of competent jurisdiction) and shall have no liability to any Debtor, any Security Provider, any Secured Party or any other person as a result of such determination or any action taken pursuant thereto except to the extent such liability is determined by a court of competent jurisdiction by final and non-appealable judgment to have resulted from the gross negligence or wilful misconduct of the Security Agent.

13. CHANGES TO THE PARTIES

13.1 Assignments and transfers

(a) No Party may assign any of its rights and benefits or transfer any of its rights, benefits and obligations in respect of any Finance Documents or the Liabilities except as permitted by this Clause 13.

(b) Nothing in this Agreement shall restrict the ability of a Noteholder to assign its rights and benefits or transfer any of its rights, benefits and obligations as permitted by the Noteholder Documents to which it is a party.

13.2 No assignment by Debtors or Security Providers

No Debtor or Security Provider may assign any of its rights and benefits or transfer any of its rights, benefits and obligations under this Agreement.

13.3 Refinancing Creditors and Refinancing Creditor Representatives

On a Refinancing, each Refinancing Creditor and Refinancing Creditor Representative party to such Refinancing shall accede to this Agreement as a Refinancing Creditor or, as the case may be, a Refinancing Creditor Representative, pursuant to Clause 13.6 (*Creditor/Administrative Agent/Security Agent Accession Undertaking*).

13.4 Change of Participating Creditor or Refinancing Creditor

A Participating Creditor or Refinancing Creditor may assign any of its rights and benefits or transfer by novation any of its rights, benefits and obligations in respect of any Debt Documents or the Liabilities if:

(a) that assignment or transfer is in accordance with the terms of the relevant Debt Documents to which it is a party; and

(b) any assignee or transferee has (if not already party to this Agreement as a Participating Creditor or, as the case may be, Refinancing Creditor) acceded to this Agreement as a Creditor pursuant to Clause 13.6 (*Creditor/Administrative Agent/Security Agent Accession Undertaking*).

13.5 **Change of Agent/Security Agent**

No person shall become a successor Agent or a successor Security Agent unless at the same time, it accedes to this Agreement as an Agent or as a Security Agent (as the case may be), pursuant to Clause 13.6 (*Creditor/Administrative Agent/Security Agent Accession Undertaking*).

13.6 **Creditor/Administrative Agent/Security Agent Accession Undertaking**

With effect from the date of acceptance pursuant to Clause 13.8 (*Additional parties*) by (i) the Security Agent and (ii) (in the case of a Participating Creditor, a Participating Creditor's Representative or a successor Security Agent) the Administrative Agent or (iii) (in the case of a Refinancing Creditor) the relevant Refinancing Creditors Representative, of a Creditor/Administrative Agent/Security Agent Accession Undertaking duly executed and delivered to the Security Agent by the relevant acceding party or, if later, the date specified in that Creditor/Administrative Agent/Security Agent Accession Undertaking:

(a) any Party ceasing entirely to be a Creditor or Security Agent shall be discharged from further obligations towards (in the case of a Creditor) the Security Agent and (in the case of a Creditor or Retiring Security Agent (subject to paragraph (e) of Clause 11.1)) other Parties under this Agreement and their respective rights against one another shall be cancelled (except in each case for those rights which arose prior to that date); and

(b) as from that date, the replacement or new Participating Creditor, Refinancing Creditor, Agent or Security Agent shall assume the same obligations, and become entitled to the same rights, as if it had been an original Party to this Agreement in that capacity.

13.7 **New Debtor/Security Provider**

(a) If any member of the Group:

(i) accedes to the Financing Agreement as an Additional Guarantor or Additional Security Provider (in each case as defined therein) in accordance with clause 28.3 (*Additional Guarantors and Additional Security Providers*) thereof;

(ii) becomes a guarantor of any Existing Notes or becomes an issuer, borrower and/or guarantor of any Additional Notes; or

(iii) becomes an issuer, borrower and/or guarantor of Refinancing Debt,

the Parent will procure that such member of the Group accedes to this Agreement as a Debtor in accordance with paragraph (b) below, no later than, for an Additional Guarantor or Additional Security Provider contemporaneously with its accession to the Financing Agreement (or, in the case of an Additional Security Provider, if earlier, the date on which it grants Transaction Security) and, for any member of the Group referred to in sub-paragraphs (ii) or (iii) above, contemporaneously with its entry into Existing Notes Documents, Additional Notes Documents or Refinancing Documents (as the case may be).

(b) With effect from the date of acceptance pursuant to Clause 13.8 (*Additional parties*) by the Security Agent of a Debtor/Security Provider Accession Deed duly executed and delivered to the Security Agent by the new Debtor or, if later, the date specified in the Debtor/Security Provider Accession Deed, the new Debtor shall assume the same obligations and become entitled to the same rights as if it had been an original Party to this Agreement as a Debtor.

13.8 **Additional parties**

(a) Each of the Parties appoints the Security Agent to receive on its behalf each Debtor/Security Provider Accession Deed and Creditor/Administrative Agent/Security Agent Accession Undertaking delivered to the Security Agent and the Security Agent shall, subject to paragraph (c) below, as soon as reasonably practicable after receipt by it, sign and accept the same if it appears on its face to have been completed, executed and, where applicable, delivered in the form contemplated by this Agreement or, where applicable, by the relevant Debt Document.

(b) The Security Agent shall only be obliged to sign and accept a Debtor/Security Provider Accession Deed or Creditor/Administrative Agent/Security Agent Accession Undertaking received by it once it is satisfied that it has complied with all necessary "know your customer" or similar other checks under all applicable laws and regulations in relation to the accession by the prospective party to this Agreement.

(c) Each Party shall promptly upon the request of the Security Agent supply, or procure the supply of, such documentation and other evidence as is reasonably requested by the Security Agent (for itself) from time to time in order for the Security Agent to carry out and be satisfied with the results of all necessary "know your customer" or other similar checks under all applicable laws and regulations pursuant to the transactions contemplated in the Finance Documents and the Refinancing Documents.

13.9 **Resignation of a Debtor/Security Provider**

(a) Prior to the Final Discharge Date, if the Parent requests that a Debtor or a Security Provider cease to be a Borrower, Guarantor or Security Provider (as the case may be), in accordance with clause 28 (*Changes to the Obligors*) of the Financing Agreement, then in the Resignation Letter delivered by it to the Administrative Agent and the Security Agent pursuant to that clause, it may also request that such Debtor or Security Provider ceases to be a Debtor or Security Provider hereunder.

(b) Provided that a Resignation Letter is delivered in accordance with clause 28 (*Changes to the Obligors*) of the Financing Agreement, and is accepted by the Administrative Agent, the Security Agent shall accept a Resignation Letter and notify the Parent and each other Party of its acceptance.

(c) Upon notification by the Security Agent to the Parent of its acceptance of the resignation of a Debtor or a Security Provider, that member of the Group shall cease to be a Debtor (or, as the case may be, a Security Provider) and shall have no further rights or obligations under this Agreement as a Debtor (or, as the case may be, a Security Provider).

13.10 **Release of CEMEX Australia Holdings**

The Parties agree and acknowledge that CEMEX Australia Holdings shall be automatically released as a Guarantor (and shall have no further rights, liabilities or obligations under this Agreement as a Debtor) on the giving of a notice by the Parent to the Administrative Agent in accordance with clause 28.5 (*Release of CEMEX Australia Holdings)* of the Financing Agreement.

14. COSTS AND EXPENSES

14.1 Security Agent's Fees

The Parent shall pay to the Security Agent (for its own account) the security agent fee in the amount and at the times agreed in the letter dated on or about the date of this Agreement between the Security Agent and the Parent.

14.2 Security Agent's ongoing costs

(a) In the event of (i) a Default or (ii) the Security Agent considering it necessary or expedient or (iii) the Security Agent being requested by a Debtor, a Security Provider or the Instructing Group to undertake duties which the Security Agent and the Parent agree to be of an exceptional nature and/or outside the scope of the normal duties of the Security Agent under the Debt Documents, the Parent shall pay to the Security Agent any additional remuneration (together with any applicable VAT) that may be agreed between them.

(b) If the Security Agent and the Parent fail to agree upon the nature of those duties or upon any additional remuneration, that dispute shall be determined by an investment bank (acting as an expert and not as an arbitrator) selected by the Security Agent and approved by the Parent or, failing approval, nominated (on the application of the Security Agent) by the President for the time being of the Law Society of England and Wales (the costs of the nomination and of the investment bank being payable by the Parent) and the determination of any investment bank shall be final and binding upon the parties to this Agreement.

14.3 **Transaction expenses**

The Parent shall, promptly on demand, pay the Security Agent (or any party specified by the Security Agent to the Parent for this purpose) the amount of all costs and expenses (including legal fees) (together with any applicable VAT) reasonably incurred by the Security Agent, any Receiver or Delegate or the Mexican Security Trustee in connection with the negotiation, preparation, printing, execution, syndication and perfection of:

(a) this Agreement and any other documents referred to in this Agreement and the Transaction Security; and

(b) any other Debt Documents to which the Security Agent is party executed after the date of this Agreement.

14.4 **Stamp taxes**

The Parent shall pay and, within three Business Days of demand, indemnify the Security Agent against any cost, loss or liability the Security Agent incurs in relation to all stamp duty, registration and other similar Taxes payable in respect of any Debt Document.

14.5 **Interest on demand**

If any Secured Party or Debtor (or, to the extent applicable in relation to the Transaction Security granted by it, a Security Provider) fails to pay any amount payable by it under this Agreement on its due date, interest shall accrue on the overdue amount in accordance with the default interest provisions of the relevant Debt Document to which such amount relates.

14.6 **Enforcement and preservation costs**

The Parent shall, within three Business Days of demand, pay to the Security Agent (or any party specified by the Security Agent to the Parent for this purpose) the amount of all costs and expenses (including legal fees and together with any applicable VAT) incurred by it, any Receiver or Delegate or the Mexican Security Trustee in connection with the enforcement of or the preservation of any rights under any Debt Document and the Transaction Security and any proceedings instituted by or against the Security Agent as a consequence of taking or holding the Transaction Security or enforcing these rights.

15. **INDEMNITIES**

15.1 **Debtors' indemnity**

Each Debtor shall promptly indemnify the Security Agent, every Receiver and Delegate and the Mexican Security Trustee against:

(a) any cost, loss or liability incurred (together with any applicable VAT in each case) by any of them:

(i) in relation to or as a result of:

(A) any failure by the Parent to comply with obligations under Clause 14 (*Costs and Expenses*);

(B) the taking, holding, protection or enforcement of the Transaction Security;

(C) the exercise of any of the rights, powers, discretions and remedies vested in each Receiver by the Debt Documents or by law; or

(D) any default by any Debtor in the performance of any of the obligations expressed to be assumed by it in the Debt Documents; and

(b) any cost reasonably incurred or any loss or liability incurred (together with any applicable VAT in each case) by any of them:

(i) in relation to or as a result of the exercise of any of the rights, powers, discretions and remedies vested in the Security Agent, each Delegate and the Mexican Security Trustee by the Debt Documents or by law; or

(ii) which otherwise relates to the performance by the Security Agent, each Receiver and each Delegate or the Mexican Security Trustee of its duties in connection with the Security Property or of the terms of this Agreement (otherwise than as a result of its gross negligence or wilful misconduct).

Each Debtor expressly acknowledges and agrees that the continuation of its indemnity obligations under this Clause 15.1 (*Debtors' indemnity*) will not be prejudiced by any release or disposal under Clause 7.2 (*Distressed Disposals*) taking into account the operation of that Clause 7.2, Clause 10.20 (*Winding up of trust*) or Clause 10.21 (*Winding up of trust - Notes Secured Creditors*). To the extent that the Security Agent, a Receiver or a Delegate recovers any amount pursuant to an indemnity contained in any other Finance Document, there shall be no double recovery under this Clause 15.1 of such amount.

15.2 **Priority of indemnity**

The Security Agent and every Receiver and Delegate may, in priority to any payment to the Secured Parties, indemnify itself out of the Charged Property in respect of, and pay and retain, all sums necessary to give effect to the indemnity in Clause 15.1 (*Debtors' indemnity*) and shall have a lien on the Transaction Security and the proceeds of the enforcement of the Transaction Security for all moneys payable to it.

15.3 **Creditors' indemnity**

Each Creditor shall (in the proportion that the Liabilities due to it bears to the aggregate of the Liabilities due to all the Secured Parties for the time being (or, if the Liabilities due to each of those Secured Parties is zero, immediately prior to their being reduced to zero)), indemnify the Security Agent and every Receiver and every Delegate, within three Business Days of demand, against any cost reasonably incurred including legal fees and VAT thereon or any loss or liability incurred by any of them

(otherwise than by reason of the relevant Security Agent's, Receiver's or Delegate's gross negligence or wilful misconduct) in acting as Security Agent, Receiver or Delegate under the Debt Documents (unless the relevant Security Agent, Receiver or Delegate has been reimbursed by a Debtor or a Security Provider pursuant to a Debt Document) and the Debtors shall jointly and severally indemnify each Creditor against any payment made by it under this Clause 15.

15.4 **Parent's indemnity to Secured Parties**

The Parent shall promptly and as principal obligor indemnify each Secured Party against any cost, loss or liability (together with any applicable VAT), whether or not reasonably foreseeable, incurred by any of them in relation to or arising out of the operation of Clause 7.2 (*Distressed Disposals*).

15.5 **No financial assistance**

No indemnity given by any Debtor pursuant to this Clause 15 shall extend to obligations the indemnification of which would cause the relevant Debtor to act in breach of financial assistance legislation applicable to it under the laws of its jurisdiction of incorporation.

16. **INFORMATION**

16.1 **Information and dealing**

(a) The Creditors shall provide to the Security Agent from time to time (through (i) the Administrative Agent in the case of a Participating Creditor or (ii) the relevant Refinancing Creditor Representative in the case of a Refinancing Creditor) any information that the Security Agent may reasonably specify as being necessary or desirable to enable the Security Agent to perform its functions as trustee.

(b) Each Participating Creditor shall deal with the Security Agent exclusively through the Administrative Agent and each Refinancing Creditor shall deal with the Security Agent exclusively through the relevant Refinancing Creditor Representative.

(c) Prior to a Refinancing, the Instructing Group and the Super Majority Instructing Group shall deal with the Security Agent exclusively through the Administrative Agent (and the Administrative Agent shall, on request, provide the Security Agent with the aggregate amount of the Participating Creditor Exposures and details of Participating Creditor Exposures on an individual basis by Participating Creditor to enable the Security Agent to calculate whether an Instructing Group or Super Majority Instructing Group has been formed).

(d) Following a Refinancing, the Administrative Agent and each Refinancing Creditor Representative shall, on request, provide the Security Agent with details of the Exposures of the Creditors represented by it (on an aggregate basis under the Facilities or, as the case may be, each Refinancing Document and on an individual basis by Participating Creditor or, as the case may be, Refinancing Creditor) to enable the Security Agent to calculate whether an Instructing Group or a Super Majority Instructing Group has been formed.

16.2 **Disclosure**

Notwithstanding any agreement to the contrary, each of the Debtors and each of the Security Providers consents, until the Final Discharge Date, to the disclosure by any of the Secured Parties to each other (whether or not through an Agent, a Noteholder Trustee or the Security Agent) of such information concerning the Debtors or the Security Providers as any Secured Party shall see fit.

16.3 **Notification of prescribed events**

(a) If a Participating Creditors Acceleration Event occurs the Administrative Agent shall notify the Security Agent in writing and the Security Agent shall, upon receiving that notification, notify each other Party.

(b) If, following an Enforcement Event, the Security Agent enforces, or takes formal steps to enforce, any of the Transaction Security it shall notify each Party and the Noteholders (via the relevant Noteholder Trustee or, in the case of any Noteholders not represented by a Noteholder Trustee, directly) of that action.

(c) If any Creditor exercises any right it may have, following an Enforcement Event, to enforce, or to take formal steps to enforce, any of the Transaction Security it shall notify the Security Agent in writing and the Security Agent shall, upon receiving that notification, notify each Party and the Noteholders (via the relevant Noteholder Trustee or, in the case of any Noteholders not represented by a Noteholder Trustee, directly) of that action.

17. **NOTICES**

17.1 **Communications in writing**

Any communication to be made under or in connection with this Agreement shall be made in writing and, unless otherwise stated, may be made by fax or letter.

17.2 **Security Agent's communications with Creditors and Noteholders**

The Security Agent shall be entitled to carry out all dealings:

(a) with the Participating Creditors and the Participating Creditors' Representatives through the Administrative Agent and may give to the Administrative Agent, as applicable, any notice or other communication required to be given by the Security Agent to a Participating Creditor or a Participating Creditor's Representative;

(b) with the Refinancing Creditors through the relevant Refinancing Creditor Representative and may give to such Refinancing Creditor Representative, as applicable, any notice or other communication required to be given by the Security Agent to a Refinancing Creditor; and

(c) with each Noteholder represented by a Noteholder Trustee, through that Noteholder Trustee and, with each Noteholder not so represented, directly.

17.3 **Addresses**

The address and fax number (and the department or officer, if any, for whose attention the communication is to be made) of each Party, each Noteholder Trustee and each Noteholder not represented by a Noteholder Trustee for any communication or document to be made or delivered under or in connection with this Agreement is:

(a) in the case of the Parent and any Debtor incorporated in the Netherlands, that identified with its name below;

(b) in the case of the Security Agent, that identified with its name below;

(c) in the case of each other Party, that notified in writing to the Security Agent on or prior to the date on which it becomes a Party; and

(d) in the case of any Noteholder Trustee or any Noteholder not represented by a Noteholder Trustee, that notified in writing to the Security Agent by the Parent, in the case of an Existing Notes Trustee or Existing Notes Creditor, on or prior to the date of this Agreement or, in the case of an Additional Notes Trustee or Additional Notes Creditor, on or following the issue of the Additional Notes to which it is a party,

or any substitute address, fax number or department or officer which that Party or, in the case of a Noteholder Trustee or Noteholder, the Parent, may notify to the Security Agent (or the Security Agent may notify to the other Parties and the Noteholders (via the relevant Noteholder Trustee or, in the case of any Noteholders not represented by a Noteholder Trustee, directly), if a change is made by the Security Agent) by not less than five Business Days' notice. The Parent shall furnish to the Security Agent within 30 days of a request therefor a list setting forth the name and address of each party to whom notices must be sent under the Noteholder Documents, and the Parent agrees to furnish promptly to the Security Agent any changes or additions to such list if requested.

17.4 **Delivery**

(a) Except as otherwise provided in Clause 17.6 (*Electronic communication*), any communication or document made or delivered by one person to another under or in connection with this Agreement will only be effective:

(i) if by way of fax, when received in legible form; or

(ii) if by way of letter, when it has been left at the relevant address or five Business Days after being deposited in the post postage prepaid in an envelope addressed to it at that address,

and, if a particular department or officer is specified as part of its address details provided under Clause 17.3 (*Addresses*), if addressed to that department or officer.

(b) Any communication or document to be made or delivered to the Security Agent will be effective only when actually received by the Security Agent and then only if it is expressly marked for the attention of the department or officer identified with the Security Agent's signature below (or any substitute department or officer as the Security Agent shall specify for this purpose).

(c) Any communication or document made or delivered to the Parent in accordance with this Clause 17.4 will be deemed to have been made or delivered to each of the Debtors and the Security Providers (save that any Debtor incorporated in the Netherlands shall receive any communication or document directly).

17.5 **Notification of address and fax number**

Promptly upon receipt of notification of an address and fax number or change of address or fax number pursuant to Clause 17.3 (*Addresses*) or changing its own address or fax number, the Security Agent shall notify the other Parties.

17.6 **Electronic communication**

(a) Any communication to be made between the Security Agent and a Creditor, a Noteholder or a Noteholder Trustee under or in connection with this Agreement may be made by electronic mail or other electronic means, if the Security Agent and the relevant Creditor, Noteholder or Noteholder Trustee:

(i) agree that, unless and until notified to the contrary, this is to be an accepted form of communication;

(ii) notify each other in writing of their electronic mail address and/or any other information required to enable the sending and receipt of information by that means; and

(iii) notify each other of any change to their address or any other such information supplied by them.

(b) Any electronic communication made between the Security Agent and a Creditor, a Noteholder or an Noteholder Trustee will be effective only when actually received in readable form and in the case of any electronic communication made by a Creditor, Noteholder or Noteholder Trustee to the Security Agent only if it is addressed in such a manner as the Security Agent shall specify for this purpose.

(c) As at the date of this Agreement, the Security Agent has not agreed that electronic communication as contemplated by this Clause 17.6 is an accepted form of communication unless any communication from a Creditor, Noteholder or Noteholder Trustee to the Security Agent by electronic means is also made by fax, and such communication shall only be effective when such fax is received in legible form.

17.7 **English language**

(a) Any notice given under or in connection with this Agreement must be in English.

(b) All other documents provided under or in connection with this Agreement must be:

(i) in English; or

(ii) if not in English, accompanied by an English translation (and if so required by the Security Agent, by a certified English translation and, in this case, the English translation will prevail unless the document is a constitutional, statutory or other official document).

17.8 **Notice to Noteholder Trustees**

The Parent agrees to notify in writing, within ten Business Days of:

(a) the date of this Agreement, each Existing Notes Trustee of the entry into of the Transaction Security Documents and the rights arising from the Transaction Security Documents to each such Existing Notes Trustee and the Existing Notes Creditors which it represents; and

(b) the date of issue or incurrence of any Additional Notes, each Additional Notes Trustee of the entry into of the Transaction Security Documents and the rights arising from the Transaction Security Documents to each such Additional Notes Trustee and the Additional Notes Creditors which it represents,

by providing to each such Existing Notes Trustee a copy of this Agreement and of each of the Transaction Security Documents (and the Security Agent agrees, on the reasonable request of the Parent, to (subject to Clause 10 (*The Security Agent*) and otherwise in accordance with, the terms of this Agreement) confirm, without representation, recourse or warranty, that any Transaction Security Document to which it is a party has been executed by the other parties thereto, and to certify, as a true and complete copy of the original, a copy of any Transaction Security Document of which the Security Agent holds an original copy.

18. **PRESERVATION**

18.1 **Partial invalidity**

If, at any time, any provision of this Agreement is or becomes illegal, invalid or unenforceable in any respect under any law of any jurisdiction, neither the legality, validity or enforceability of the remaining provisions nor the legality, validity or enforceability of that provision under the law of any other jurisdiction will in any way be affected or impaired.

18.2 **No impairment**

If, at any time after its date, any provision of a Debt Document (including this Agreement) is not binding on or enforceable in accordance with its terms against a person expressed to be a party to that Debt Document, neither the binding nature nor the enforceability of that provision or any other provision of that Debt Document will be impaired as against the other party(ies) to that Debt Document.

18.3 **Remedies and waivers**

No failure to exercise, nor any delay in exercising, on the part of any Secured Party, Debtor or Security Provider, any right or remedy under this Agreement shall operate as a waiver, nor shall any single or partial exercise of any right or remedy prevent any further or other exercise or the exercise of any other right or remedy. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights or remedies provided by law.

18.4 **Waiver of defences**

The provisions of this Agreement will not be affected by an act, omission, matter or thing which, but for this Clause 18.4, would reduce, release or prejudice the subordination and priorities expressed to be created by this Agreement including (without limitation and whether or not known to any Secured Party, Debtor or Security Provider):

(a) any time, waiver or consent granted to, or composition with, any Debtor, Security Provider or other person;

(b) the release of any Debtor, Security Provider or any other person under the terms of any composition or arrangement with any creditor of any member of the Group;

(c) the taking, variation, compromise, exchange, renewal or release of, or refusal or neglect to perfect, take up or enforce, any rights against, or security over assets of, any Debtor, Security Provider or other person or any non-presentation or non-observance of any formality or other requirement in respect of any instrument or any failure to realise the full value of any Security;

(d) any incapacity or lack of power, authority or legal personality of or dissolution or change in the members or status of any Debtor, Security Provider or other person;

(e) any amendment, novation, supplement, extension (whether of maturity or otherwise) or restatement (in each case, however fundamental and of whatsoever nature, and whether or not more onerous) or replacement of a Debt Document or any other document or security;

(f) any unenforceability, illegality or invalidity of any obligation of any person under any Debt Document or any other document or security;

(g) any intermediate Payment of any of the Liabilities owing to the Secured Parties in whole or in part; or

(h) any insolvency or similar proceedings.

18.5 **Priorities not affected**

Except as otherwise provided in this Agreement the priorities referred to in Clause 2 (*Ranking and Priority*) will, to the fullest extent permitted by mandatory provisions of applicable law:

(a) not be affected by any reduction or increase in the principal amount secured by the Transaction Security in respect of the Liabilities owing to the Secured Parties or by any intermediate reduction or increase in, amendment or variation to any of the Debt Documents, or by any variation or satisfaction of, any of the Liabilities or any other circumstances;

(b) apply regardless of the order in which or dates upon which this Agreement and the other Debt Documents are executed or registered or notice of them is given to any person; and

(c) secure the Liabilities owing to the Secured Parties in the order specified, regardless of the date upon which any of the Liabilities arise or of any fluctuations in the amount of any of the Liabilities outstanding.

19. CONSENTS, AMENDMENTS AND OVERRIDE

19.1 **Required consents**

(a) Subject to paragraphs (b) and (c) below and to Clause 19.4 (*Exceptions*), this Agreement may be amended or waived only with the consent of the Instructing Group and the Security Agent.

(b) An amendment or waiver that has the effect of changing or which relates to the order of priority or subordination under this Agreement, the allocation of any payment as among the Participating Creditors or the manner in which the proceeds of enforcement of the Transaction Security are distributed or which relates to the definition of "Instructing Group" or "Super Majority Instructing Group" in Clause 1.1 (*Definitions*), Clause 3.1 (*Payment of distributions*), Clause 3.4 (*Filing of claims*), Clause 3.6 (*Security Agent instructions*), Clause 4.1 (*Turnover by the Creditors*), Clause 4.2 (*Adjustments*), Clause 5 (*Redistribution*), Clause 9 (*Application of Proceeds*), paragraphs (d)(iii), (e) or (f) of Clause 10.6 (*Instructions to Security Agent and exercise of discretion*) or this Clause 19 (*Consents, Amendments and Override*) shall not be made without the consent of the Participating Creditors, the Refinancing Creditors and the Security Agent.

(c) Any amendment or waiver that has the effect of changing or that relates to:

(i) the nature or scope of the Charged Property or the manner in which the proceeds of enforcement of the Transaction Security are distributed (except insofar as it relates to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under the Finance Agreement); or

(ii) the release of any guarantee and indemnity granted under the Financing Agreement or of any Transaction Security unless permitted under the Financing Agreement or relating to a sale or disposal of an asset which is the subject of the Transaction Security where such sale or disposal is expressly permitted under the Financing Agreement,

may only be made with the consent of the Super Majority Instructing Group (and, if any amendment or waiver referred to in sub paragraph (i) above involves an amendment or waiver of a Transaction Security Document, the consent of the Parent or the relevant Security Provider as set out in Clause 19.2 (*Amendments and waivers: Transaction Security Documents*)).

(d) Any amendment or waiver under this Agreement that has the effect of changing or that relates to any matter set out in paragraph (a) of clause 38.2 (*Exceptions*) of the Financing Agreement shall not be made without the consent of the Participating Creditors.

19.2 **Amendments and waivers: Transaction Security Documents**

(a) Subject to paragraph (b) below and to Clause 19.4 (*Exceptions*) and unless the provisions of any Debt Document expressly provide otherwise, the Security Agent may, if authorised by an Instructing Group, and if the Parent consents, amend the terms of, waive any of the requirements of or grant consents under, any of the Transaction Security Documents which shall be binding on each Secured Party and each other party thereto.

(b) Subject to paragraph (c) of Clause 19.4 (*Exceptions*), the prior consent of the Super Majority Instructing Group and the Parent or the relevant Security Provider is required to authorise any amendment or waiver of, or consent under, any Transaction Security Document which would affect the nature or scope of the Charged Property.

19.3 **Effectiveness**

Any amendment, waiver or consent given in accordance with this Clause 19 will be binding on all Parties and on each Noteholder and Noteholder Trustee and the Security Agent may effect, on behalf of any Creditor, Noteholder Trustee or Noteholder any amendment, waiver or consent permitted by this Clause 19 (and where necessary under any relevant applicable law in order to give effect to any such amendment, waiver or consent, the Security Agent will be entitled to request that each Creditor take that action or grant a power of attorney in favour of the Security Agent to authorise it to do so on that Creditor's behalf).

19.4 **Exceptions**

(a) Subject to paragraphs (c) and (d) below, if the amendment, waiver or consent may impose new or additional obligations on or withdraw or reduce the rights of any Party other than:

(i) in the case of a Creditor, in a way which affects or would affect Creditors generally; or

(ii) in the case of a Debtor or a Security Provider, to the extent consented to by the Parent under paragraph (a) of Clause 19.2 (*Amendments and waivers: Transaction Security Documents*),

the consent of that Party is required.

(b) Subject to paragraphs (c) and (d) below, an amendment, waiver or consent which relates to the rights, obligations, protections, immunities or indemnities of an Agent or the Security Agent (including, without limitation, any ability of the Security Agent to act in its discretion under this Agreement) may not be effected without the consent of that Agent or, as the case may be, the Security Agent.

(c) Neither paragraph (a) nor (b) above, nor paragraph (b) of Clause 19.2 (*Amendments and waivers: Transaction Security Documents*) shall apply:

(i) to any release of Transaction Security, claim or Liabilities (unless they are claims or Liabilities owed to the Security Agent in its capacity as such); or

(ii) to any consent,

which, in each case, the Security Agent gives in accordance with Clause 7 (*Proceeds of Disposals of Charged Property)*.

(d) Paragraphs (a) and (b) above shall apply to a Participating Creditor's Representative and to a Refinancing Creditor Representative only to the extent that Agent Liabilities, are then owed to that Participating Creditor's Representative or Refinancing Creditor Representative.

(e) After the occurrence of an Enforcement Event, no amendment, supplement or waiver shall, without the written consent of each Noteholder Trustee (or, in the case of any Noteholder not represented by a Noteholder Trustee, that Noteholder) adversely affect the rights of the Noteholders to equal and rateable security to the extent and for the periods contemplated by this Agreement.

19.5 **Calculation of Exposures**

(a) For the purpose of ascertaining whether any relevant percentage of Participating Creditor Exposures has been obtained under this Agreement, the Administrative Agent shall provide the Security Agent, promptly on request, with a list of the Participating Creditor Exposures notionally converted into their Base Currency Amounts.

(b) For the purpose of ascertaining whether any relevant percentage of Refinancing Creditor Exposures has been obtained under this Agreement, each Refinancing Creditor Representative shall provide the Security Agent, promptly on request, with a list of the Refinancing Creditor Exposures notionally converted into their Base Currency Amounts.

19.6 **Deemed consent**

If, at any time prior to the Final Discharge Date, the Participating Creditors give a Consent in respect of the Finance Documents then, if that action was permitted by the terms of this Agreement, the Debtors and Security Providers will (or will be deemed to):

(a) give a corresponding Consent in equivalent terms in relation to each of the Debt Documents to which they are a party; and

(b) do anything (including executing any document) that the Participating Creditors may reasonably require to give effect to paragraph (a) of this Clause 19.6.

19.7 **Excluded consents**

Clause 19.6 (*Deemed consent*) does not apply to any Consent which has the effect of:

(a) increasing or decreasing the Liabilities;

(b) changing the basis upon which any Permitted Payments are calculated (including the timing, currency or amount of such Payments); or

(c) changing the terms of this Agreement or of any Security Document.

19.8 **No liability**

None of the Participating Creditors or the Administrative Agent will be liable to any other Agent, Secured Party, Debtor or Security Provider for any Consent given or deemed to be given under this Clause 19.

19.9 **Agreement to override**

Unless expressly stated otherwise in this Agreement, this Agreement overrides anything in the Debt Documents to the contrary (except for any Transaction Security Documents governed by Dutch law).

20. **COUNTERPARTS**

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

21. **GOVERNING LAW**

This Agreement and any non-contractual obligations arising out of or in connection with it are governed by English law.

If any of the Original Debtors or Original Security Providers is represented by an attorney or attorneys in connection with the signing and/or execution and/or delivery of this Agreement or any agreement or document referred to herein or made pursuant hereto and the relevant power or powers of attorney is or are expressed to be governed by the laws and regulations of a particular jurisdiction, it is hereby expressly acknowledged and accepted by the other parties hereto that such laws and regulations shall govern the existence and extent of such attorney's or attorney's authority and the effects of the exercise thereof.

22. **ENFORCEMENT**

22.1 **Jurisdiction in relation to actions brought against parties organised or incorporated in Mexico**

In relation to actions brought by or against any Party organised or incorporated in Mexico:

(a) the courts of England and the courts of each Party's corporate domicile, have jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute regarding the existence, validity or termination of this Agreement or any non-contractual obligations arising from or connected with this Agreement (a "**Dispute**"); and

(b) the Parties agree that the courts of England and such courts of each Party's corporate domicile are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary and hereby waive any right to which any of them may be entitled on account of place of residence or domicile.

22.2 **Jurisdiction of English Courts in other cases**

Subject to Clause 22.1 above:

(a) the courts of England have jurisdiction to settle any Dispute;

(b) the Parties agree that the courts of England are the most appropriate and convenient courts to settle Disputes and accordingly no Party will argue to the contrary and hereby waive any right to which any of them may be entitled on account of place of residence or domicile; and

(c) this Clause 22.2 is for the benefit of the Finance Parties and Secured Parties only. As a result, no Finance Party or Secured Party shall be prevented from taking proceedings relating to a Dispute in any other courts with jurisdiction. To the extent allowed by law or regulation, the Finance Parties and Secured Parties may take concurrent proceedings in any number of jurisdictions.

22.3 **Service of process**

(a) Without prejudice to any other mode of service allowed under any relevant law each Debtor and each Security Provider (unless incorporated in England and Wales):

(i) shall irrevocably appoint the Process Agent as its agent for service of process in relation to any proceedings before the English courts in connection with this Agreement and shall procure that the Process Agent confirms its acceptance of that appointment in writing on or before the date of this Agreement; and

(ii) agrees that failure by the Process Agent to notify the relevant Debtor or Security Provider of the process will not invalidate the proceedings concerned.

(b) If any person appointed as an agent for service of process is unable for any reason to act as agent for service of process, the Parent (in the case of an agent for service of process for a Debtor or a Security Provider), must immediately (and in any event within (5) Business Days of such event taking place) appoint another agent on terms acceptable to the Administrative Agent. Failing this, the Administrative Agent (as the case may be) may appoint another agent for this purpose.

(c) Each Debtor and each Security Provider (unless incorporated in England and Wales) expressly agrees and consents to the provisions of Clause 21 (*Governing Law*) and this Clause 22.

22.4 **Waiver of right to trial by jury**

To the extent permitted by applicable law, each party to this Agreement hereby expressly and irrevocably waives any right to trial by jury of any claim, demand, action or cause of action arising under any Debt Document or in any way connected with or related or incidental to the dealings of the Parties hereto or any of them with respect to any Debt Document, or the transactions related thereto, in each case whether now existing or hereafter arising, and whether founded in contract or tort or otherwise; and each party hereby agrees and consents that any such claim, demand, action or cause of action shall be decided by court trial without a jury, and that any Party to this Agreement may file an original counterpart or a copy of this Clause 22.4 with any court as written evidence of the consent of the signatories hereto to the waiver of their right to trial by jury.

This Agreement has been entered into on the date stated at the beginning of this Agreement and executed as a deed by the Original Debtors and the Original Security Providers and is intended to be and is delivered by them as a deed on the date specified above.

SCHEDULE 1

FORM OF DEBTOR/SECURITY PROVIDER ACCESSION DEED

THIS AGREEMENT is made on [ ] and made between:

(1) [*Insert full name of new Debtor/Security Provider*] (registration number [●] (if applicable)) (the "**Acceding [Debtor/Security Provider]**"); and

(2) [*Insert full name of current Security Agent*] (the "**Security Agent**"), for itself and each of the other parties to the Intercreditor Agreement referred to below.

This deed is made on [date] by the Acceding [Debtor/Security Provider] in relation to an intercreditor agreement (the " **Intercreditor Agreement**") dated [●] between, amongst others, Wilmington Trust (London) Limited as security agent, Citibank International PLC as Administrative Agent, the Participating Creditors, the Original Debtors and Original Security Providers (each as defined in the Intercreditor Agreement).

[The Acceding Debtor intends to [incur Liabilities under the following documents]/[give a guarantee, indemnity or other assurance against loss in respect of Liabilities under the following documents]] [The Acceding Security Provider intends to grant Transaction Security under the following documents]:

[*Insert details (date, parties and description) of relevant documents*]

the "**Relevant Documents**".

IT IS AGREED as follows:

1. Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Agreement, bear the same meaning when used in this Agreement.
2. The Acceding [Debtor/Security Provider] and the Security Agent agree that the Security Agent shall hold:
   (a) [any Transaction Security in respect of Liabilities created or expressed to be created pursuant to the Relevant Documents;
   (b) all proceeds received following an Enforcement Event in respect of the shares and related rights the subject of that Transaction Security; and]
   (c) [all Liabilities expressed to be incurred by the Acceding [Debtor/ Security Provider (in relation to the Transaction Security granted by it pursuant to the Relevant Documents)] to pay amounts in respect of the Liabilities to the Security Agent as trustee for the Secured Parties (in the Relevant Documents or otherwise) and secured by the Transaction Security together with all representations and warranties expressed to be given by the Acceding [Debtor/Security Provider] (in the Relevant Documents or otherwise) in favour of the Security Agent as trustee for the Secured Parties,] on trust for the Secured Parties on the terms and conditions contained in the Intercreditor Agreement.

3. The Acceding [Debtor/Security Provider] confirms that it intends to be party to the Intercreditor Agreement as a [Debtor/Security Provider], undertakes to perform all the obligations expressed to be assumed by a [Debtor/Security Provider] under the Intercreditor Agreement and agrees that it shall be bound by all the provisions of the Intercreditor Agreement as if it had been an original party to the Intercreditor Agreement.

4. This deed and any non-contractual obligations arising out of or in connection with it are is governed by, English law.

THIS DEED has been signed on behalf of the Security Agent and executed as a deed by the Acceding [Debtor/Security Provider] and is delivered on the date stated above.

The Acceding [Debtor/Security Provider]

EXECUTED AS A DEED)
By: [*Full Name of Acceding* [*Debtor/Security Provider*]])

_____

_____

Address for notices:

Address:

Fax:

The Security Agent

[*Full Name of Current Security Agent*]

By:

Date:

SCHEDULE 2

FORM OF CREDITOR/ADMINISTRATIVE AGENT/SECURITY AGENT ACCESSION UNDERTAKING

To: [*Insert full name of current Security Agent*] for itself and each of the other parties to the Intercreditor Agreement referred to below.

From: [*Acceding Participating Creditor/Agent/Security Agent/Refinancing Party*]]

THIS UNDERTAKING is made on [*date*] by [*insert full name of new Participating Creditor/ Administrative Agent*] (the "**Acceding [Participating Creditor/Administrative Agent/Participating Creditor's Representative/Administrative Agent/Security Agent/Refinancing Creditor/Refinancing Creditor Representative**]") in relation to the intercreditor agreement (the "I**ntercreditor Agreement**") dated [•] between, among others, Wilmington Trust (London) Limited as security agent, Citibank International PLC as Administrative Agent, the Participating Creditors the Original Borrowers, Original Guarantors and Original Security Providers (each as defined in the Intercreditor Agreement). Terms defined in the Intercreditor Agreement shall, unless otherwise defined in this Undertaking, bear the same meanings when used in this Undertaking.

In consideration of the Acceding [Participating Creditor/Administrative Agent/Participating Creditor's Representative/Security Agent/Refinancing Creditor/Refinancing Creditor Representative] being accepted as a [Participating Creditor/Administrative Agent/Security Agent/Refinancing Creditor/Refinancing Creditor Representative] for the purposes of the Intercreditor Agreement, the Acceding [Participating Creditor/Administrative Agent/Security Agent/Refinancing Creditor/Refinancing Creditor Representative] confirms that, as from [date], it intends to be party to the Intercreditor Agreement as a [Participating Creditor/Administrative Agent/Participating Creditor's Representative/Security Agent/Refinancing Creditor/Refinancing Creditor Representative] and undertakes to perform all the obligations expressed in the Intercreditor Agreement to be assumed by a [Participating Creditor/Administrative Agent/Participating Creditor's Representative/Security Agent/Refinancing Creditor/Refinancing Creditor Representative] and agrees that it shall be bound by all the provisions of the Intercreditor Agreement, as if it had been an original party to the Intercreditor Agreement.

This Undertaking and any non-contractual obligations arising out of or in connection with it are governed by English law.

THIS UNDERTAKING has been entered into on the date stated above.

Acceding [Participating Creditor/Agent/Security Agent/Refinancing Creditor/Refinancing Creditor Representative]

[**EXECUTED** as a **DEED**]
[*insert full name of Acceding Creditor*]

By:

Address:

Fax:

Accepted by the Security Agent

for and on behalf of

[*Insert full name of current Security Agent*]

Date:

[Accepted by the Administrative Agent*

for and on behalf of

[*Insert full name of Administrative Agent*]]

[Accepted by the Refinancing Creditor Representative †

for and on behalf of

[*Insert full name of Refinancing Creditor Representative*]]

* For change of Participating Creditor, Participating Creditor's Representative and Security Agent.
† For change of Refinancing Creditor.

SIGNATURES

EXECUTED AS A DEED

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

as Parent, Original Guarantor and Original Security Provider

By: /s/ HÉCTOR MEDINA AGUIAR

Print Name: HÉCTOR MEDINA AGUIAR

Address: Ricardo Margáin Zozaya No. 325,
Col. Valle del Campestre
San Pedro Garza Garcia
Nuevo León
Mexico
CP 66265

Fax:

Attention:

Intercreditor Agreement

EXECUTED AS A DEED

CEMEX ESPAÑA FINANCE LLC

as Original Borrower and Original Guarantor

By: /s/ ÁNGEL MÉNDEZ

Print Name: ÁNGEL MÉNDEZ

Address: Calle Hernandez de Tejada No. 1
Madrid 28027
Spain

Fax:

Attention:

EXECUTED AS A DEED

CEMEX ESPAÑA, S.A.

as Original Borrower and Original Guarantor

By: /s/ JAVIER GARCIA

Print Name: JAVIER GARCIA

Address: Hernandez de Tejada 1
28027 Madrid
Spain

Fax:

Attention:

EXECUTED AS A DEED

CEMEX MATERIALS LLC

as Original Borrower

By: /s/ ÁNGEL MÉNDEZ

Print Name: ÁNGEL MÉNDEZ

Address: 920 Memorial City Way
Suite 100
Houston
TX 77024

Fax:

Attention:

EXECUTED AS A DEED

NEW SUNWARD HOLDING B.V.

as Original Borrower, Original Guarantor and Original Security Provider

By: /s/ ÁNGEL MÉNDEZ

Print Name: ÁNGEL MÉNDEZ

Address: Amsteldijk 166
1079 LH
Amsterdam
The Netherlands

Fax:

Attention:

EXECUTED AS A DEED

CEMEX AUSTRALIA HOLDINGS PTY LTD

as Original Guarantor

By: /s/ ÁNGEL MÉNDEZ

as attorney for CEMEX AUSTRALIA HOLDINGS PTY LTD

Print Name: ÁNGEL MÉNDEZ

Address: Level 8, Tower B
799 Pacific Highway
Chatswood
NSW 2067

Fax:

Attention:

EXECUTED AS A DEED

CEMEX CONCRETOS, S.A. DE C.V.

as Original Guarantor

By: /s/ ÁNGEL MÉNDEZ

Print Name: ÁNGEL MÉNDEZ

Address: Ricardo Margáin Zozaya No. 325
Col. Valle del Campestre
San Pedro Garza Garcia
Neuvo León
Mexico
CP 66265

Fax:

Attention:

EXECUTED AS A DEED

CEMEX CORP.

as Original Guarantor

By: /s/ ÁNGEL MÉNDEZ

Print Name: ÁNGEL MÉNDEZ

Address: 920 Memorial City Way, Suite 100
Houston
Texas
77024, USA

Fax:

Attention:

EXECUTED AS A DEED

CEMEX, INC.

as Original Guarantor

By: /s/ ÁNGEL MÉNDEZ

Print Name: ÁNGEL MÉNDEZ

Address: 920 Memorial City Way, Suite 100
Houston
Texas
77024, USA

Fax:

Attention:

EXECUTED AS A DEED

CEMEX MÉXICO, S.A. DE C.V.

as Original Guarantor and Original Security Provider

By: /s/ ÁNGEL MÉNDEZ

Print Name: ÁNGEL MÉNDEZ

Address: Ricardo Margáin Zozaya No. 325
Col. Valle del Campestre
San Pedro Garza Garcia
Neuvo León
Mexico
CP 66265

Fax:

Attention:

EXECUTED AS A DEED

EMPRESAS TOLTECA DE MEXICO, S.A. DE C.V.

as Original Guarantor and Original Security Provider

By: /s/ ÁNGEL MÉNDEZ

Print Name: ÁNGEL MÉNDEZ

Address: Ricardo Margáin Zozaya No. 325
Col. Valle del Campestre
San Pedro Garza Garcia
Neuvo León
Mexico
CP 66265

Fax:

Attention:

Intercreditor Agreement

EXECUTED AS A DEED

CEMEX DUTCH HOLDINGS B.V.

as Original Security Provider

By: /s/ ÁNGEL MÉNDEZ

Print Name: ÁNGEL MÉNDEZ

Address: Amsteldijk 166
1079 LH
Amsterdam
The Netherlands

Fax:

Attention:

SIGNED, SEALED and **DELIVERED** as a **DEED**

CEMEX INTERNATIONAL FINANCE COMPANY

as Original Security Provider

Signed for and on behalf of
CEMEX INTERNATIONAL FINANCE COMPANY by /s/ ÁNGEL MÉNDEZ

its lawfully appointed attorney

in the presence of:

Witness Signature: /s/ MARIA SIGUENZA

Address: Block A1
East Point Business Park
Dublin 3
Ireland

Occupation:

EXECUTED AS A DEED

CENTRO DISTRIBUIDOR DE CEMENTO, S.A. DE C.V.

as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA

Print Name: JUAN A. URIONABARRENECHEA

Address: Ricardo Margáin Zozaya No. 325
Col. Valle del Campestre
San Pedro Garza Garcia
Neuvo León
México
CP 66265

Fax:

Attention:

Intercreditor Agreement

EXECUTED AS A DEED

CORPORACIÓN GOUDA, S.A. DE C.V.

as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA

Print Name: JUAN A. URIONABARRENECHEA

Address: Ricardo Margáin Zozaya No. 325
Col. Valle del Campestre
San Pedro Garza Garcia
Neuvo León
México
CP 66265

Fax:

Attention:

Intercreditor Agreement

EXECUTED AS A DEED

IMPRA CAFÉ, S.A. DE C.V.

as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA

Print Name: JUAN A. URIONABARRENECHEA

Address: Ricardo Margáin Zozaya No. 325
Col. Valle del Campestre
San Pedro Garza Garcia
Neuvo León
México
CP 66265

Fax:

Attention:

Intercreditor Agreement

EXECUTED AS A DEED

INTERAMERICAN INVESTMENTS, INC.

as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA

Print Name: JUAN A. URIONABARRENECHEA

Address: 920 Memorial City Way, Suite 100
Houston
Texas 77024
USA

Fax:

Attention:

EXECUTED AS A DEED

MEXCEMENT HOLDINGS, S.A. DE C.V.

as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA

Print Name: JUAN A. URIONABARRENECHEA

Address: Ricardo Margáin Zozaya No. 325
Col. Valle del Campestre
San Pedro Garza Garcia
Neuvo León
México
CP 66265

Fax:

Attention:

Intercreditor Agreement

EXECUTED AS A DEED

SUNWARD ACQUISITIONS N.V.

as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA

Print Name: JUAN A. URIONABARRENECHEA

Address: Amsteldijk 166
1079 LH
Amsterdam
The Netherlands

Fax:

Attention:

EXECUTED AS A DEED

SUNWARD HOLDINGS B.V.

as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA

Print Name: JUAN A. URIONABARRENECHEA

Address: Amsteldijk 166
1079 LH
Amsterdam
The Netherlands

Fax:

Attention:

EXECUTED AS A DEED

SUNWARD INVESTMENTS B.V.

as Original Security Provider

By: /s/ JUAN A. URIONABARRENECHEA

Print Name: JUAN A. URIONABARRENECHEA

Address: Amsteldijk 166
1079 LH
Amsterdam
The Netherlands

Fax:

Attention:

The Security Agent

WILMINGTON TRUST (LONDON) LIMITED

By: /s/ ELAINE LOCKHART

Print Name: ELAINE LOCKHART

Address: Fifth Floor, 6 Broad Street Place, London EC2M 7JH

Fax: +44 (0) 20 7614 1122

Attention: Elaine K. Lockhart

The Administrative Agent

CITIBANK INTERNATIONAL PLC

By: /s/ JANE HORNER

Print Name: JANE HORNER

Address:

Fax:

Attention:

The Participating Creditors

ABN AMRO BANK, N.V.

By: /s/ RAFAEL LULENA / ISABEL DIAZ

Print Name: RAFAEL LULENA / ISABEL DIAZ

Address: C/ José Ortega y Gasset, 29
5° PLTA
28006
Madrid

Fax: +34 91 423 69 48

Attention: MARIO GIL

ABN AMRO BANK N.V. SUCURSAL EN ESPAÑA

By: /s/ RAFAEL LULENA / ISABEL DIAZ

Print Name: RAFAEL LULENA / ISABEL DIAZ

Address: C/ José Ortega y Gasset, 29
5° PLTA
28006
Madrid

Fax: +34 91 423 69 48

Attention: MARIO GIL

Intercreditor Agreement

ATLANTIC SECURITY BANK

By: /s/ ANDRÉ SCHOBER / ARCADIO CLEMENT

Print Name: ANDRÉ SCHOBER / ARCADIO CLEMENT

Address:

Fax:

Attention:

BANCA MONTE DEI PASCHI DI SIENA S.P.A.
NEW YORK BRANCH

By: /s/ RENATO BASSI / BRIAN R LANDY

Print Name: RENATO BASSI / BRIAN R LANDY

Address: 55 E. 59th Street
55 East Street
New York
NY 10022

Fax: (212) 891 3661

Attention:

Intercreditor Agreement

BANCA MONTE DEI PASCHI DI SIENA S.P.A., LONDON BRANCH

By: /s/ ENRICO VIGNOLI / DUNCAN ROUSE

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Attention: MICHAEL GIVEN/WENDY JOHNSON

Intercreditor Agreement

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.

By: /s/ FRANCISCO RODRIGUEZ TEJEDOR / STÉPHANE POSSOT

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Attention: SYNDICATED LOANS

BANCO BILBAO VIZCAYA ARGENTARIA, S.A., GRAND CAYMAN BRANCH

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Attention: SYNDICATED LOANS

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Attention:

Intercreditor Agreement

BANCO DE GALICIA

By: /s/ MIGUEL ANGEL PÉREZ JIMÉNEZ / EDUARDO MARTIN MARTINEZ

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Attention: EDUARDO MARTIN MARTINEZ

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Address:

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Attention:

BANCO ESPAÑOL DE CRÉDITO, S.A. MADRID

By: /s/ JAVIER RODRIGUES SANMARTIN /JAVIER GONZALEZ CANTERO

Print Name: JAVIER RODRIGUES SANMARTIN /JAVIER GONZALEZ CANTERO

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Fax:

Attention:

BANCO NACIONAL DE COMERCIO EXTERIOR, S.N.C.

By: /s/ LIC. JORGE A. TOVAR CASTRO / LIC. LEONEL N. VÁSQUEZ GÓMEZ

Print Name: LIC. JORGE A. TOVAR CASTRO / LIC. LEONEL N. VÁSQUEZ GÓMEZ

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Attention:

Intercreditor Agreement

BANCO NACIONAL DE MÉXICO, S.A. INTEGRANTE DEL GRUPO FINANCIERO BANAMEX

By: /s/ JULIO ALVAREZ / ANA E CALLES

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Attention:

Intercreditor Agreement

BANCO SANTANDER, S.A.

By: /s/ JUAN ANDRES YANES LUCIANI

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Intercreditor Agreement

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By: /s/ OCTAVIANO COUTTOLENC / MAURICIO REBOLLEDO

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Attention:

Intercreditor Agreement

BANK OF AMERICA, N.A.

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Intercreditor Agreement

BARCLAYS BANK PLC

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Fax:

Attention:

Intercreditor Agreement

BAYERISCHE HYPO- UND VEREINSBANK AG

By: /s/ MS DOLORES DEGNER PEREZ-CIERRA / ANA MARIA CHAVES LOPEZ

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Attention: MR ALFONSO CERVERA / MS MARIA DOLORES DEGNER

Intercreditor Agreement

BAYERISCHE LANDESBANK

By: /s/ DIETMAR LEIPOLED / JOSEF DIEPOLD

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Intercreditor Agreement

BBVA BANCOMER, S.A., INSTITUCION DE BANCA MULTIPLE GRUPO FINANCIERO BBVA BANCOMER

By: /s/ ALEJANDRO CORDENAS BORLONI / RICARDO CANO SWAIN

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Intercreditor Agreement

BNP PARIBAS

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Attention:

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Intercreditor Agreement

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Intercreditor Agreement

CAIXA D'ESTALVIS I PENSIONS DE BARCELONA

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Attention:

CAJA DE AHORROS Y MONTE DE PIEDAD MADRID

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Attention: JORGE SALAMERO

Intercreditor Agreement

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Attention:

Intercreditor Agreement

CALYON

By: /s/ PIERRE DEBRAY / KEVIN FLOOD

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Attention:

CALYON NEW YORK BRANCH

By: /s/ PIERRE DEBRAY / KEVIN FLOOD

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Fax:

Attention:

Intercreditor Agreement

CALYON SUCURSAL EN ESPAÑA

By: /s/ PIERRE DEBRAY / KEVIN FLOOD

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Address:

Fax:

Attention:

Intercreditor Agreement

CENTROBANCA - BANCA DI CREDITO FINANZIARIO E MOBILIARE S.P.A.

By: /s/ ALBERTO BERETTA

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Address:

Fax:

Attention:

Intercreditor Agreement

CITIBANK (BANAMEX USA)

By: /s/ JEFF HEALY / CLAUDIO CARRASCO

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Attention: JEFF HEALY

CITIBANK INTERNATIONAL PLC, SUCURSAL EN ESPAÑA

By: /s/ PEDRO LOPEZ QUESADA

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Address:

Fax:

Attention:

CITIBANK N.A., NASSAU, BAHAMAS BRANCH

By: /s/ LESLIE MUNROE

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Attention:

Intercreditor Agreement

CITIBANK N.A., NEW YORK

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Attention: BRENDAN HART

Intercreditor Agreement

COMERICA BANK

By: /s/ MARK F LAYTON

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MI 48226

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Attention:

Intercreditor Agreement

COMMERZBANK AG LONDON BRANCH

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Attention:

Intercreditor Agreement

COMMERZBANK AG (FORMERLY DRESDNER BANK AG, ACTING THROUGH ITS LENDING OFFICE DRESDNER BANK AG, NEW YORK BRANCH)

By: /s/ BRIAN SMITH / THOMAS BRADY

Print Name: BRIAN SMITH / THOMAS BRADY

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Attention: BRIAN SMITH

Intercreditor Agreement

CREDIT INDUSTRIEL ET COMMERCIAL LONDON BRANCH

By: /s/ T D PRESTWICH / STEVE FRANCIS

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Attention: P KITCHING

Intercreditor Agreement

DEUTSCHE BANK AG

By: /s/ J OTERO / V MARTIN

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Attention:

Intercreditor Agreement

DEUTSCHE BANK AG NEW YORK BRANCH

By: /s/ J OTERO / V HOFMANN

Print Name: J OTERO / V HOFMANN

Address:

Fax:

Attention:

Intercreditor Agreement

DEUTSCHE BANK LUXEMBOURG S.A.

By: /s/ ANKE BUDZISCH / KARLINA BELHOSTE

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Attention: GWEN BLUMHOFF / KARLINA BELHOSTE

Intercreditor Agreement

FORTIS BANK S.A./N.V.

By: /s/ NATALIE GILBERT / EVELYNE PETIT

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Address:

Fax:

Attention:

FORTIS BANK S.A. / N.V. Cayman Islands Branch

By: /s/ CHARLES COUROUBLE

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Attention:

By: /s/ DIRAN CHOLAKIAN

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Attention:

FORTIS, S.A., SUCURSAL EN ESPAÑA

By: /s/ ROGER RAMOS PUIG

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Attention: Service Centre
902 343535

Intercreditor Agreement

HSBC BANK, PLC SUCURSAL EN ESPAÑA

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Intercreditor Agreement

HSBC MEXICO, S.A., INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC

By: /s/ VICTOR MANUEL ELIZONDO ARIAS

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Address:

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Attention:

HSBC MÉXICO, S.A., INSTITUCIÓN DE BANCA MULTIPLE, GRUPO FINANCIERO HSBC, ACTING THROUGH ITS GRAND CAYMAN BRANCH

By: /s/ VICTOR MANUEL ELIZONDO ARIAS

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Attention:

Intercreditor Agreement

IKB DEUTSCHE INDUSTRIEBANK AG, SUCURSAL EN ESPAÑA

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Intercreditor Agreement

ING BELGIUM S.A. SUCURSAL EN ESPAÑA

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DÑA. BUENSUCESO VERGEL FERNÁNDEZ

Intercreditor Agreement

INSTITUTO DE CREDITO OFICIAL

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JPMORGAN CHASE BANK N.A., SUCURSAL EN ESPAÑA

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Attention: MARISA LEÓN

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LLOYDS TSB BANK, PLC

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MEDIOBANCA - BANCA DI CREDITO FINANZIARIO S.P.A.

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Attention:

Intercreditor Agreement

MERRILL LYNCH INTERNATIONAL BANK LIMITED

By: /s/ BARRY RYAN / CONOR WALSH

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Fax:

Attention:

MIZUHO CORPORATE BANK, LTD.

By: /s/ DAVID COSTA

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Attention: THOMAS MCCULLOUGH

Intercreditor Agreement

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Attention:

Intercreditor Agreement

SANTANDER OVERSEAS BANK INC

By: /s/ FABIO PELLIZER

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Attention:

Intercreditor Agreement

SCOTIABANK EUROPE PLC

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Intercreditor Agreement

SOCIÉTÉ GÉNÉRALE

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Intercreditor Agreement

STANDARD CHARTERED BANK

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Attention:

Intercreditor Agreement

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Intercreditor Agreement

THE BANK OF NOVA SCOTIA

By: /s/ STEPHEN H COREY / DONNA SHAIN

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Attention:

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD., SUCURSAL EN ESPAÑA

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Attention: CARMEN HERRERO / JOSE ANTONIO RODRIGUEZ

Intercreditor Agreement

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Attention: EMI NAKANE

Intercreditor Agreement

THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND

By: /s/ MAURICE HEALY / COLM HANNON

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Attention: COLM HANNON

Intercreditor Agreement

THE ROYAL BANK OF SCOTLAND PLC

By: /s/ NICK WATKINS

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Attention:

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UNICREDIT S.P.A. NEW YORK BRANCH

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Attention: SCOTT OBECK LORIANN CURNYN

Intercreditor Agreement

UNICREDIT S.P.A., SUCURSAL EN ESPAÑA

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28014 Madrid

Fax: +34 91 555 0503

Attention: MARIO CAMPANA / FEDERICO POZZOLO

WACHOVIA BANK, NATIONAL ASSOCIATION

By: /s/ THOMAS M CAMBERN

Print Name: THOMAS M CAMBERN

Address: 7711 Plantation Road
Roanoke
VA 24019
USA

Fax: 704 715 0099

Attention: SPECIALIZED LOANS

Intercreditor Agreement

WESTLB AG, SUCURSAL EN ESPAÑA

By: /s/ BERTO NUVOLONI / SANTIAGO LARROGOLA

Print Name: BERTO NUVOLONI / SANTIAGO LARROGOLA

Address: C/Serrano 37, 5°
28001 Madrid

Fax: 91 4328054

Attention:

Intercreditor Agreement

WESTPAC EUROPE LIMITED

By: /s/ MICHELLE MARCHHART

Print Name: MICHELLE MARCHHART

Address: 63 St Mary Axe
London
EC3A 8LE

Fax: +44 20 7621 7589

Attention: DIRECTOR LEGAL

US PRIVATE PLACEMENT HOLDERS

PRINCIPAL LIFE INSURANCE COMPANY

By: **PRINCIPAL GLOBAL INVESTORS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS AUTHORIZED SIGNATORY**

By: /s/ COLIN PENNYCOOKE
Name: COLIN PENNYCOOKE
Title: Counsel

By: /s/ ALAN P. KRESS
Name: ALAN P. KRESS
Title: Counsel

RGA REINSURANCE COMPANY, A MISSOURI CORPORATION

By: **PRINCIPAL GLOBAL INVESTORS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS AUTHORIZED SIGNATORY**

By: /s/ COLIN PENNYCOOKE
Name: COLIN PENNYCOOKE
Title: Counsel

By: /s/ ALAN P. KRESS
Name: ALAN P. KRESS
Title: Counsel

SYMETRA LIFE INSURANCE COMPANY, A WASHINGTON CORPORATION

By: **PRINCIPAL GLOBAL INVESTORS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS AUTHORIZED SIGNATORY**

By: /s/ COLIN PENNYCOOKE
Name: COLIN PENNYCOOKE
Title: Counsel

By: /s/ ALAN P. KRESS
Name: ALAN P. KRESS
Title: Counsel

THE BANK OF NEW YORK, AS TRUSTEE FOR THE SCOTTISH RE (U.S.), INC. AND SECURITY LIFE OF DENVER INSURANCE COMPANY SECURITY TRUST BY AGREEMENT DATED DECEMBER 31, 2004

By: **PRINCIPAL GLOBAL INVESTORS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS AUTHORIZED SIGNATORY**

By: /s/ COLIN PENNYCOOKE
Name: COLIN PENNYCOOKE
Title: Counsel

By: /s/ ALAN P. KRESS
Name: ALAN P. KRESS
Title: Counsel

Comerica Bank & Trust, National Association, Trustee to the Trust created by Trust Agreement dated October 1, 2002.

By: /s/ CELESTE LUDWIG
Name: CELESTE LUDWIG
Title: V.P. Wealth & Institutional Management
Comerica Bank

METROPOLITAN LIFE INSURANCE COMPANY

By: /s/ JUDITH A. GULOTTA
Name: JUDITH A. GULOTTA
Title: Managing Director

MET LIFE INSURANCE COMPANY OF CONNECTICUT
By Metropolitan Life Insurance Company, its investment manager
METROPOLITAN TOWER LIFE INSURANCE COMPANY
By Metropolitan Life Insurance Company, its investment manager
GENERAL AMERICAN LIFE INSURANCE COMPANY
By Metropolitan Life Insurance Company, its investment manager
NEW ENGLAND LIFE INSURANCE COMPANY
By Metropolitan Life Insurance Company, its investment manager

By: /s/ JUDITH A. GULOTTA
Name: JUDITH A. GULOTTA
Title: Managing Director

THE VARIABLE ANNUITY LIFE INSURANCE COMPANY
WESTERN NATIONAL LIFE INSURANCE COMPANY
(FORMERLY AIG ANNUITY INSURANCE COMPANY)
AMERICAN GENERAL LIFE AND ACCIDENT INSURANCE COMPANY
MERIT LIFE INSURANCE CO.

By: **AIG GLOBAL INVESTMENT CORP.,**
INVESTMENT ADVISER

By: /s/ PETER DEFAZIO
Name: PETER DEFAZIO
Title: Managing Director

THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY

By: /s/ TIMOTHY S. COLLINS
Name: TIMOTHY S. COLLINS
Title: Its Authorized Representative

ING LIFE INSURANCE AND ANNUITY COMPANY
ING USA ANNUITY AND LIFE INSURANCE COMPANY
SECURITY LIFE OF DENVER INSURANCE COMPANY
RELIASTAR LIFE INSURANCE COMPANY
USG ANNUITY & LIFE COMPANY
RELIASTAR LIFE INSURANCE COMPANY OF NEW YORK

By: **ING INVESTMENT MANAGEMENT LLC**, AS AGENT

By: /s/ CHRISTOPHER P. LYONS
Name: CHRISTOPHER P. LYONS
Title: Senior Vice President

JOHN HANCOCK LIFE INSURANCE COMPANY

By: /s/ MICHAEL L. SHORT
Name: MICHAEL L. SHORT
Title: Managing Director

JOHN HANCOCK VARIABLE LIFE INSURANCE COMPANY

By: /s/ MICHAEL L. SHORT
Name: MICHAEL L. SHORT
Title: Managing Director

MANULIFE LIFE INSURANCE COMPANY

By: /s/ TOSHIHIDE SUDO
Name: TOSHIHIDE SUDO
Title: Vice President & Managing Corporate Officer
Investment Operations

NEW YORK LIFE INSURANCE COMPANY

By: /s/ R. EDWARD FERGUSON
Name: R. EDWARD FERGUSON
Title: Vice President

NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION

By: **NEW YORK LIFE INVESTMENT MANAGEMENT LLC, ITS INVESTMENT MANAGER**

By: /s/ R. EDWARD FERGUSON
Name: R. EDWARD FERGUSON
Title: Managing Director

NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION
INSTITUTIONALLY OWNED LIFE INSURANCE SEPARATE ACCOUNT

By: **NEW YORK LIFE INVESTMENT MANAGEMENT LLC,**
ITS INVESTMENT MANAGER

By: /s/ R. EDWARD FERGUSON
Name: R. EDWARD FERGUSON
Title: Managing Director

THRIVENT FINANCIAL FOR LUTHERANS

By: /s/ TIMOTHY WEGENER
Name: TIMOTHY WEGENER
Title: Managing Director

HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY
HARTFORD LIFE INSURANCE COMPANY
HARTFORD ACCIDENT AND INDEMNITY COMPANY

By: **Hartford Investment Management Company**
Their Agent And Attorney-In-Fact

By: /s/ ROBERT M. MILLS
Name: ROBERT M. MILLS
Title: Vice President

NATIONWIDE LIFE AND ANNUITY INSURANCE COMPANY

By: /s/ THOMAS A. SHANKLIN
Name: THOMAS A. SHANKLIN
Title: Authorized Signatory

NATIONWIDE LIFE INSURANCE COMPANY

By: /s/ THOMAS A. SHANKLIN
Name: THOMAS A. SHANKLIN
Title: Authorized Signatory

NATIONWIDE MULTIPLE MATURITY SEPARATE ACCOUNT

By: /s/ THOMAS A. SHANKLIN
Name: THOMAS A. SHANKLIN
Title: Authorized Signatory

NATIONWIDE MUTUAL INSURANCE COMPANY

By: /s/ THOMAS A. SHANKLIN
Name: THOMAS A. SHANKLIN
Title: Authorized Signatory

AMCO INSURANCE COMPANY

By: /s/ THOMAS A. SHANKLIN
Name: THOMAS A. SHANKLIN
Title: Authorized Signatory

THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA

By: /s/ BARRY SCHEINHOLTZ
Name: BARRY SCHEINHOLTZ
Title: Senior Director, Private Placements

BERKSHIRE LIFE INSURANCE COMPANY OF AMERICA

By: /s/ BARRY SCHEINHOLTZ
Name: BARRY SCHEINHOLTZ
Title: Senior Director, Private Placements

MONUMENTAL LIFE INSURANCE COMPANY

By: /s/ CHRISTOPHER D. PAHLKE
Name: CHRISTOPHER D. PAHLKE
Title: Vice President

PACIFIC LIFE INSURANCE COMPANY

By: /s/ DIANE W. DALES
Name: DIANE W. DALES
Title: Assistant Vice President

By: /s/ PETER S. FIEK
Name: PETER S. FIEK
Title: Assistant Secretary

WESTPORT INSURANCE COMPANY (FKA EMPLOYERS REINSURANCE CORPORATION)

By: **CONNING ASSET MANAGEMENT COMPANY,**
AS INVESTMENT MANAGER

By: /s/ JOHN H. DEMALLIE
Name: JOHN H. DEMALLIE
Title: Director

PRIMERICA LIFE INSURANCE COMPANY

By: **Conning Asset Management Company,**
as Investment Manager

By: /s/ JOHN H. DEMALLIE
Name: JOHN H. DEMALLIE
Title: Director

NATIONAL BENEFIT LIFE INSURANCE COMPANY

By: **Conning Asset Management Company,**
as Investment Manager

By: /s/ JOHN H. DEMALLIE
Name: JOHN H. DEMALLIE
Title: Director

SWISS RE LIFE & HEALTH AMERICA INC.

By: **Conning Asset Management Company**
As Investment Manager

By: /s/ JOHN H. DEMALLIE
Name: JOHN H. DEMALLIE
Title: Director

ALLSTATE LIFE INSURANCE COMPANY

By: /s/ RICK FISCHER
Name: RICK FISCHER
Title: Authorized Signatory

By: /s/ CARRIE A.CAZOLAS
Name: CARRIE A.CAZOLAS
Title: Authorized Signatory

Authorized Signatories

Wire instructions for dollar denominated payments

Allstate Life Insurance Company

Bank:	Citibank
ABA #:	021000089
Account Name:	Allstate Life Insurance Company Bond Collection Account
Account #:	30547007
Reference:	

Intercreditor Agreement

ALLIED IRISH BANKS P.L.C.

By: /s/ MARTIN KELLY
Name: MARTIN KELLY
Title: Manager

BARCLAYS BANK PLC

By: /s/ MARK MANSKI
Name: MARK MANSKI
Title: Managing Director

GENWORTH LIFE INSURANCE COMPANY (F/K/A GENERAL ELECTRIC CAPITAL ASSURANCE COMPANY)

By: /s/ ESTELLE SIMSOLO
Name: ESTELLE SIMSOLO
Title: Investment Officer

ORIOLE CDO INC;

By: **GENWORTH FINANCIAL INVESTMENT MANAGEMENT, LLC, ITS INVESTMENT ADVISOR**

By: /s/ ESTELLE SIMSOLO
Name: ESTELLE SIMSOLO
Title: Investment Officer

GENWORTH LIFE INSURANCE COMPANY OF NEW YORK (AS SUCCESSOR BY MERGER TO AMERICAN MAYFLOWER LIFE INSURANCE COMPANY OF NEW YORK)

By: /s/ ESTELLE SIMSOLO
Name: ESTELLE SIMSOLO
Title: Investment Officer

PHL VARIABLE INSURANCE COMPANY

By: /s/ CHRISTOPHER WILKOS
Name: CHRISTOPHER WILKOS
Title: Executive Vice President

PHOENIX LIFE INSURANCE COMPANY

By: /s/ CHRISTOPHER WILKOS
Name: CHRISTOPHER WILKOS
Title: Executive Vice President

KNIGHTS OF COLUMBUS

By: /s/ RONALD J. TRACZ
Name: RONALD J. TRACZ
Title: Assistant Supreme Secretary

THE OHIO NATIONAL LIFE INSURANCE COMPANY

By: /s/ JED R. MARTIN
Name: JED R. MARTIN
Title: Vice President, Private Placements

AVIVA LIFE AND ANNUITY COMPANY

By: **Aviva Investors North America, Inc.**,
its authority attorney-in-fact

By: /s/ ROGER D. FORS
Name: ROGER D. FORS
Title: Vice President, Private Placements

BENEFICIAL LIFE INSURANCE COMPANY

By: /s/ THOMAS KIRBY BROWN JR.,
Name: THOMAS KIRBY BROWN JR.,
Title: Senior Managing Director & Chief Investment Officer

ENSURE INVESTMENT FUND

BY: **CNT (DIRECTORS) LTD.,**
ITS DIRECTOR

By: /s/ IAN PHILLIPS
Name: IAN PHILLIPS
Title: Authorized Signatory

The Participating Creditors' Representatives

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.

as Original Security Provider

By:	/s/ STÉPHANE POSSOT / FRANCISCO RODRIGUEZ TEJEDOR
Print Name:	STÉPHANE POSSOT / FRANCISCO RODRIGUEZ TEJEDOR
Address:	Via de los Poblados Madrid Spain
Fax:	91 374 7758
Attention:	Syndicated Loans

CITIBANK INTERNATIONAL PLC

By: /s/ TREVOR LAFLIN

Print Name: TREVOR LAFLIN

Address:

Fax:

Attention:

CITIBANK N.A., NEW YORK

By: /s/ MARIO ESPINOSA

Print Name: MARIO ESPINOSA

Address: 390 Greenwich Street
1st Floor
New York
NY 10013

Fax: 646 328 2866

Attention: BRENDAN HART

THE ROYAL BANK OF SCOTLAND PLC

By: /s/ GUILLERMO POGGIO / JANIN CAMPOS

Print Name: GUILLERMO POGGIO / JANIN CAMPOS

Address:

Fax:

Attention:

Intercreditor Agreement

BBVA BANCOMER, S.A.,
INSTITUCIÓN DE BANCA MÚLTIPLE,
GRUPO FINANCIERO BBVA BANCOMER

By: /s/ ALEJANDRO CARDENAS BORTONI / RICARDO CANO SWAIN

Print Name: ALEJANDRO CARDENAS BORTONI / RICARDO CANO SWAIN

Address: Montes Urales 620 Piso 2
Col. Lomas De Chapultepec
Mexico 11000

Fax: +52(55) 5201 2054

Attention:

Intercreditor Agreement

ING CAPITAL LLC

By: /s/ CLARENCE W PLUMMER

Print Name: CLARENCE W PLUMMER

Address: 1325 Avenue of the Americas

Fax: 646 424 6284

Attention: CLARENCE PLUMMER

Intercreditor Agreement

BARCLAYS BANK PLC

By: /s/ MARK MANSKI

Print Name: MARK MANSKI

Address: 200 Park Avenue
New York
NY 10166

Fax:

Attention:

Intercreditor Agreement

Exhibit 4.35.1

DATED 1st DECEMBER 2009

AMENDMENT AGREEMENT

between

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

acting for itself and as agent on behalf of each Obligor

and

CITIBANK INTERNATIONAL PLC

acting for itself and as Administrative Agent on behalf of the Finance Parties

and

WILMINGTON TRUST (LONDON) LIMITED

acting as Security Agent

RELATING TO THE INTERCREDITOR
AGREEMENT DATED 14 AUGUST 2009

Slaughter and May
One Bunhill Row
London EC1Y 8YY
(RWB/RYZS/VJ)

Exhibit 4.35.1

THIS AGREEMENT is dated 1st December 2009 and made between:

(1) **CEMEX, S.A.B. de C.V.** (the "**Parent**") (for itself, and in accordance with Clause 34.7 and 38.1(c) of the Financing Agreement, on behalf of each Obligor);

(2) **CITIBANK INTERNATIONAL PLC**, for itself and as administrative agent of the Finance Parties under the Intercreditor Agreement (the "**Administrative Agent**"); and

(3) **WILMINGTON TRUST (LONDON) LIMITED** (the "**Security Agent**").

IT IS AGREED as follows:

1. Definitions and Interpretation

1.1 Definitions

In this Agreement:

"**Financing Agreement**" means the financing agreement dated 14 August 2009 and made between (amongst others) (1) CEMEX, S.A.B. de C.V.; (2) the financial institutions and noteholders named therein in their capacity as Participating Creditors; (3) Citibank International PLC, acting as Administrative Agent; and (4) Wilmington Trust (London) Limited, acting as Security Agent.

"**Intercreditor Agreement**" means the intercreditor agreement dated 14 August 2009 and made between (amongst others) (1) CEMEX, S.A.B. de C.V.; (2) the financial institutions and USPP Noteholders named therein in their capacity as Participating Creditors; (3) Citibank International PLC, acting as Administrative Agent; and (4) Wilmington Trust (London) Limited, acting as Security Agent.

1.2 Incorporation of defined terms

(A) Unless a contrary indication appears, a term defined in the Intercreditor Agreement has the same meaning in this Agreement.

(B) The principles of construction set out in the Intercreditor Agreement shall have effect as if set out in this Agreement.

1.3 Clauses

In this Agreement any reference to a "Clause" or a "Schedule" is, unless the context otherwise requires, a reference to a Clause or a Schedule to this Agreement.

1.4 Third party rights

Except as otherwise expressly provided in a Finance Document, a person who is not a party to this Agreement has no right under the Contracts (Rights of Third Parties) Act 1999 to enforce or to enjoy the benefit of any term of this Agreement.

1.5 Designation

In accordance with the Intercreditor Agreement, the Parent and the Administrative Agent designate this Agreement as a New Finance Document.

2. Amendment

With effect from the date of this Agreement, the Intercreditor Agreement shall be amended as set out in Schedule 1 (*Amendments to Intercreditor Agreement*) to this Agreement.

3. Continuity, No novation and Further assurance

3.1 Continuing obligations

The provisions of the Intercreditor Agreement and the other Finance Documents shall, save as amended by this Agreement, continue in full force and effect.

3.2 No novation

The amendment of the Intercreditor Agreement does not constitute a novation of the obligations of the parties thereto.

3.3 Further assurance

The Parent shall, at the request of the Administrative Agent or of the Security Agent and at its own expense, do all such acts and things necessary or desirable to give effect to the amendments effected or to be effected pursuant to this Agreement.

4. Costs and Expenses

The Parent shall within fifteen days of receipt of demand pay (or procure to be paid) the Administrative Agent and the Security Agent the amount of all legal fees reasonably incurred by any of them in connection with the negotiation, preparation, printing and execution of this Agreement.

5. Consent of the Instructing Group

Pursuant to Clause 19.1 (*Required consents*) of the Intercreditor Agreement, by signing this Agreement:

(a) the Administrative Agent hereby confirms that it has received the consent of the Instructing Group to the amendments to the Intercreditor Agreement as set out in Clause 2 (*Amendment*); and

(b) the Security Agent hereby consents to the Amendments to the Intercreditor Agreement as set out in Clause 2 (*Amendment*) pursuant to Clause 19.1(a).

6. Miscellaneous

6.1 Incorporation of terms

The provisions of Clause 17 (*Notices*), Clause 18.1 (*Partial invalidity*), Clause 18.3 (*Remedies and waivers*) and Clause 22 (*Enforcement*) of the Intercreditor Agreement shall be incorporated into this Agreement as if set out in full in this Agreement and as if references in those clauses to "this Agreement" are references to this Agreement.

6.2 Counterparts

This Agreement may be executed in any number of counterparts, and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.

7. Governing Law

This Agreement and all non-contractual obligations arising from or connected with it are governed by English law.

Schedule 1

Amendments to Intercreditor Agreement

1. Consequential amendment to the Retention Threshold Amendment

In paragraph (b) of the definition of "**Refinancing**" in Clause 1.1 (*Definitions*) of the Intercreditor Agreement, the words "to the extent required under the Financing Agreement" shall be added after the words "the Facilities" and before the words "; and".

2. Intercreditor Amendment

Paragraph (a) of the definition of "**Additional Notes**" in Clause 1.1 (*Definitions*) shall be deleted in its entirety and replaced with the following:

"(a) the proceeds of which are applied:

(i) to refinance Existing Notes or existing Additional Notes which are secured equally and rateably with other Financial Indebtedness of the Debtors on the terms provided for in this Agreement; or

(ii) to refinance the Facilities, to the extent required under the Financing Agreement; and".

SIGNATURES

EXECUTED AS A DEED

The Parent

CEMEX, S.A.B. de C.V. (for itself and as agent on behalf of each Obligor)

By: /s/ Héctor Medina

Address: Ricardo Margain Zozaya
325, Col. Valle Del
Caypestre, San Pedro
Garca Garcia, Nuevo León
México CP. 66265

Witness: /s/ Roger Saldána

The Administrative Agent

CITIBANK INTERNATIONAL PLC

By: /s/ Trevor Laflin

The Security Agent

WILMINGTON TRUST (LONDON) LIMITED (for itself and as agent on behalf of the Instructing Group pursuant to Clause 19.3 of the Intercreditor Agreement)

By: /s/ Elaine Lockhart

Exhibit 4.36
EXECUTION VERSION

CEMEX ESPAÑA FINANCE LLC

$882,407,495.57 8.91% Senior Notes, Series A, due 2014

¥1,185,389,696.06 6.625% Senior Notes, Series B, due 2014

CONSOLIDATED AMENDED AND RESTATED NOTE PURCHASE AGREEMENT

Dated as of August 14, 2009

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CEMEX ESPAÑA FINANCE LLC
c/o Cemex España, S.A.
Hernandez de Tajada No. 1
28027 Madrid, Spain

$882,407,495.57 8.91% Senior Notes, Series A, due 2014

¥1,185,389,696.06 6.625% Senior Notes, Series B, due 2014

as of August 14, 2009

TO EACH OF THE PURCHASERS LISTED ON THE ATTACHED SCHEDULE A:

Ladies and Gentlemen:

CEMEX ESPAÑA, S.A., a corporation organized under the laws of the Kingdom of Spain ("Cemex España"), and its wholly owned indirect Subsidiary CEMEX ESPAÑA FINANCE LLC, a limited liability company organized under the laws of Delaware (the "Company"), agree with the Purchasers listed on the attached Schedule A (the "Purchasers") to this Consolidated Amended and Restated Note Purchase Agreement (as amended, modified or supplemented, this "Agreement") as follows:

Recitals

WHEREAS, pursuant to a Note Purchase Agreement dated as of June 23, 2003 (as amended, the "2003 Note Purchase Agreement"), the Company issued $103,000,000 aggregate principal amount of its 4.77% Senior Notes, Series 2003, Tranche 1, due 2010 (the "2003 Tranche 1 Notes"), $96,000,000 aggregate principal amount of its 5.36% Senior Notes, Series 2003, Tranche 2, due 2013 (the "2003 Tranche 2 Notes"), and $201,000,000 aggregate principal amount of its 5.51% Senior Notes, Series 2003, Tranche 3, due 2015 (the "2003 Tranche 3 Notes" and together with the 2003 Tranche 1 Notes and 2003 Tranche 2 Notes, the "2003 Notes"), to the purchasers named on Schedule A thereto;

WHEREAS, pursuant to a Note Purchase Agreement dated as of April 15, 2004 (as amended, the "2004 Note Purchase Agreement"), the Company issued ¥4,980,600,000 aggregate principal amount of its 1.79% Senior Notes, Series 2004, Tranche 1, due 2010 (the "2004 Tranche 1 Notes"), and ¥6,087,400,000 aggregate principal amount of its 1.99% Senior Notes, Series 2004, Tranche 2, due 2011 (the "2004 Tranche 2 Notes" and together with the 2004 Tranche 1 Notes, the "2004 Notes"), to the purchasers named on Schedule A thereto;

WHEREAS, pursuant to a Note Purchase Agreement dated as of June 13, 2005 (as amended, the "2005 Note Purchase Agreement" and together with the 2003 Note Purchase Agreement and the 2004 Note Purchase Agreement, the "Old Note Purchase Agreements"), the Company issued $133,000,000 aggregate principal amount of its 5.18% Senior Notes, Series A, due 2010 (the "2005 Series A Notes"), and $192,000,000 aggregate principal amount of its

5.62% Senior Notes, Series B, due 2015 (the "2005 Series B Notes" and together with the 2005 Series A Notes, the "2005 Notes", and together with the 2003 Notes and the 2004 Notes, the "Old Notes"), to the purchasers named on Schedule A thereto;

WHEREAS, the Purchasers are entering into that certain Financing Agreement dated on or about the date hereof among CEMEX, S.A.B. de C.V. (the "Parent"), each of the borrowers, guarantors and security providers listed in Part I of Schedule 1 thereto, the financial institutions listed in Part II of Schedule 1 thereto, the creditors' representatives listed in Part III of Schedule 1 thereto, the administrative agent named therein and the security agent named therein (the "Financing Agreement"), pursuant to which the parties thereto have agreed to amend, vary, modify, waive, override, replace and supplement certain terms of the outstanding indebtedness of the Parent and its subsidiaries, including the Old Notes;

WHEREAS, in accordance with the Financing Agreement, the Purchasers have agreed to amend the maturity dates and interest rates relating to their respective Old Notes, as well as certain other provisions contained in the Old Note Purchase Agreements; and

WHEREAS, the Purchasers desire to amend and restate the Old Note Purchase Agreements and consolidate the terms and provisions thereof into this Agreement to provide for the return and cancellation of the Old Notes and the issuance of the New Notes (as defined herein) with terms and conditions consistent with those specified for such New Notes in the Financing Agreement;

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

1. AUTHORIZATION OF NEW NOTES.

The Company will authorize the issuance of (i) $882,407,495.57 aggregate principal amount of its 8.91% Senior Notes, Series A, due February 14, 2014, (the "Series A Notes") upon the return and cancellation of the 2003 Notes, the 2005 Notes and ¥9,961,200,000 aggregate principal amount of 2004 Notes, and (ii) ¥1,185,389,696.06 aggregate principal amount of its 6.625% Senior Notes, Series B, due February 14, 2014 (the "Series B Notes" and together with the Series A Notes, the "New Notes", such term to include any such notes issued in substitution therefor pursuant to Section 13 of this Agreement), upon the return and cancellation of ¥1,106,800,000 aggregate principal amount of 2004 Notes. The New Notes shall be substantially in the forms set out in Exhibit 1(a) and Exhibit 1(b), respectively, with such changes therefrom, if any, as may be approved by the Purchasers and the Company. Certain capitalized terms used in this Agreement are defined in Schedule B; references to a "Schedule" or an "Exhibit" are, unless otherwise specified, to a Schedule or an Exhibit attached to this Agreement. Capitalized terms used in this Agreement but not defined in Schedule B have the meanings ascribed to them in the Financing Agreement.

2. RETURN OF OLD NOTES; ISSUANCE OF NEW NOTES.

Subject to the terms and conditions of this Agreement and the Financing Agreement, upon delivery of the Old Notes by each Purchaser to the Company in accordance with the

provisions of Section 3, each Purchaser shall receive from the Company New Notes in the principal amount and of the series specified opposite such Purchaser's name on Schedule A. The obligations of each Purchaser hereunder are several and not joint obligations and no Purchaser shall have any liability to any other Person for the performance or non-performance by any other Purchaser hereunder. Upon the issuance of New Notes following the delivery of Old Notes or an executed Certificate Regarding Lost Note in the form attached hereto as Exhibit 4 (the "Lost Note Certificate") to the Company in accordance with the provisions of Section 3, the Old Notes shall be cancelled and this Agreement shall thenceforth govern the terms of the New Notes.

3. CLOSING.

The return of the Old Notes to the Company and the issuance of the New Notes to the Purchasers shall occur at the offices of Skadden, Arps, Slate, Meagher & Flom, LLP, Four Times Square, New York, New York, at_____, New York time, at a closing (the "Closing") on August __, 2009. At the Closing, each Purchaser shall deliver its Old Note(s) or Lost Note Certificate to the Company. Upon the delivery of the Old Notes to the Company by each Purchaser, the Company will deliver to each Purchaser New Notes in the form of a single New Note (or such greater number of New Notes in denominations of at least $500,000, with respect to Series A Notes, or ¥50,000,000, with respect to any Series B Notes, as such Purchaser may request) in the principal amount and of the series specified opposite such Purchaser's name on Schedule A, dated the date of the Closing and registered in the name of such Purchaser (or in the name of such Purchaser's nominee). If at the Closing the Company shall fail to tender such New Notes to any Purchaser as provided above in this Section 3, and such Purchaser shall have delivered its Old Notes or Lost Note Certificate to the Company, or any of the conditions specified in Section 4 shall not have been fulfilled to any Purchaser's reasonable satisfaction, such Purchaser shall, at such Purchaser's election, be relieved of all further obligations under this Agreement, without thereby waiving any rights such Purchaser may have by reason of such failure or such nonfulfillment.

4. CONDITIONS TO CLOSING.

The obligation of each Purchaser to deliver Old Notes to the Company and accept the delivery of New Notes at the Closing is subject to the fulfillment to such Purchaser's satisfaction, prior to or at the Closing, of the following conditions. If any Purchaser does not deliver its Old Note, the Company will require a Lost Note Certificate, a form of which is attached as Exhibit 4.

4.1. Representations and Warranties.

The representations and warranties of Cemex España and the Company in the Financing Agreement shall be correct when made and at the time of the Closing (except for such representations and warranties made as of a specific earlier date).

4.2. Performance.

Cemex España and the Company shall have performed and complied with all agreements and conditions contained in this Agreement required to be performed or complied with by them prior to or at the Closing.

4.3. Compliance Certificates.

(a) *Officer's Certificate*. Each of Cemex España and the Company shall have delivered to such Purchaser an Officer's Certificate, dated the date of the Closing, certifying that the conditions specified in Sections 4.1 and 4.2 have been fulfilled.

(b) *Secretary's Certificate.* Each of the Company and Cemex España shall have delivered to such Purchaser a certificate, signed by the Secretary of the manager of the Company and the Secretary of Cemex España, respectively, certifying as to the resolutions attached thereto and other corporate proceedings taken by it relating to the authorization, execution and delivery of the Financing Documents to which it is a party.

4.4. Opinions of Counsel.

Such Purchaser shall have received opinions in form and substance satisfactory to it, dated the date of the Closing (a) from Uría Menéndez Abogados, S.L.P., counsel for Cemex España, covering such matters related to the transactions contemplated hereby as such Purchaser or such Purchaser's counsel may reasonably request (and Cemex España and the Company hereby instruct such counsel to deliver such opinion to such Purchaser) and (b) from Skadden, Arps, Slate, Meagher & Flom LLP, special New York and Delaware counsel to the Obligors, covering such matters related to the transactions contemplated hereby as such Purchaser or such Purchaser's counsel may reasonably request (and Cemex España and the Company hereby instruct such special counsel to deliver such opinion to such Purchaser).

4.5. Issuance of New Notes Permitted By Applicable Law, etc .

On the date of the Closing, the return and cancellation of the Old Notes and the issuance of the New Notes to the Purchasers shall (a) be permitted by the laws and regulations of each jurisdiction to which each Purchaser is subject, without recourse to provisions (such as Section 1405(a)(8) of the New York Insurance Law) permitting limited investments by insurance companies without restriction as to the character of the particular investment and (b) not violate any applicable law or regulation (including, without limitation, Regulation T, U or X of the Board of Governors of the Federal Reserve System). If requested by any Purchaser, such Purchaser shall have received an Officer's Certificate certifying as to such matters of fact as such Purchaser may reasonably specify to enable such Purchaser to determine whether such return, cancellation and issuance is so permitted.

4.6. Financing Agreement.

Parent and Cemex España, and all other parties to the Financing Agreement, shall have executed and delivered the Financing Agreement, and the conditions precedent to the effectiveness of the Financing Agreement as set forth therein under the definition of "Effective Date" shall have occurred or been waived in accordance with the provisions of the Financing Agreement.

4.7. Payment of Special Counsel Fees.

Without limiting the provisions of Section 15.1, the Company shall have paid on or before the Closing the fees, charges and disbursements of the Purchasers' special counsel to the extent reflected in a statement of such counsel rendered to the Company at least three Business Days prior to the Closing.

4.8. Private Placement Number.

A Private Placement number issued by Standard & Poor's CUSIP Service Bureau (in cooperation with the SVO) shall have been obtained for each series of the New Notes.

4.9. New Note Guarantee.

Cemex España shall have executed and delivered to each Purchaser a counterpart of the New Note Guarantee and the New Note Guarantee shall be in full force and effect as of the Effective Date.

4.10. Agent for Service of Process.

CT Corporation System shall have accepted its appointment by the Company and Guarantor as the agent for service of process for the Company and the Guarantor in the City of New York, State of New York, from the date of the Closing to and including February 14, 2014, and the Purchasers shall have received evidence of such acceptance.

5. THE FINANCING AGREEMENT; WAIVER.

(a) *Incorporation of the Financing Agreement*. To the extent any term or provision of this Agreement or the New Note Guarantee conflicts with any term or provision of the Financing Agreement, the terms and provisions of the Financing Agreement shall prevail. The Financing Agreement in effect on the date hereof is attached hereto as Exhibit 5.

(b) *Waiver by the Purchasers.* Each Purchaser hereby waives any default or Event of Default (as defined in each Old Note Purchase Agreement) of which such Purchaser has knowledge prior to the date of this Agreement that may exist on the date hereof under such Old Note Purchase Agreement to which such Purchaser was a party.

6. REPRESENTATIONS AND WARRANTIES OF CEMEX ESPAÑA AND THE COMPANY; REPRESENTATIONS OF THE PURCHASERS.

6.1. Representations and Warranties of Cemex España and the Company.

Cemex España and the Company represent and warrant to the Purchasers that:

(a) *Private Offering by the Company.* Neither the Company nor anyone acting on its behalf has offered the New Notes or any similar securities for sale to, or solicited any offer to buy any of the same from, or otherwise approached or negotiated in respect thereof with, any Person other than the Purchasers and not more than 40 other Institutional Investors (as defined in clause (c) of the definition of such term), each of which has been offered the New Notes at a private sale for investment. Neither the Company nor anyone acting on its behalf has taken, or will take, any action that would subject the issuance of the New Notes to the registration requirements of Section 5 of the Securities Act.

(b) *Foreign Assets Control Regulations, etc.* The issuance of the New Notes by the Company hereunder will not violate the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto. Without limiting the foregoing, neither Cemex España nor any Subsidiary (i) is or will become a blocked person described in the Anti-Terrorism Order or the Department of the Treasury Rule or (ii) knowingly engages or will engage in any dealings or transactions with any such person.

(c) *Foreign Corrupt Practices Act.* The issuance of the New Notes by the Company hereunder will not cause any Purchaser to be in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977 or other applicable national or local law regulating the payments of bribes to government officials or employees.

6.2. Representations of the Purchasers.

(a) *Purchase for Investment*. Each Purchaser represents that it is acquiring the New Notes for its own account or for one or more separate accounts maintained by it or for the account of one or more pension or trust funds and not with a view to the distribution thereof; provided that the disposition of such Purchaser's or such pension or trust funds' property shall at all times be within such Purchaser's or such pension or trust funds' control. Each Purchaser understands that the New Notes have not been registered under the Securities Act and may be resold only if registered pursuant to the provisions of the Securities Act or if an exemption from registration is available, except under circumstances where neither such registration nor such an exemption is required by law, and that the Company is not required to register the New Notes.

(b) *Accredited Investor.* Each Purchaser represents that it is an "accredited investor" within the meaning of Rule 501(a)(1), (2) or (3) under the Securities Act or an entity in which all of the equity owners are accredited investors within the meaning of Rule 501(a)(1), (2) or (3) under the Securities Act.

7. CONSULTATION WITH NOTEHOLDERS.

Each of Cemex España and the Company agrees that if it solicits, participates in or initiates discussion of a substantive nature with any Participating Creditor in its capacity as a Participating Creditor concerning any matter that, if pursued, in substantial likelihood would result in an amendment, variation, modification, waiver, override, replacement or supplement of any terms of the Financing Agreement or other New Finance Documents (as defined in the Financing Agreement), this Agreement, the New Note Guarantee or the New Notes and such amendment, variation, modification, waiver, override, replacement or supplement would require a consent by either Majority Participating Creditors, Supermajority Participating Creditors or all Participating Creditors (each as defined in the Financing Agreement), in each case directly affecting the Purchasers in a substantive manner, then it shall also promptly consult on such matter in good faith with the representative or representatives of the Purchasers that the Purchasers may designate from time to time.

8. MATURITY; PREPAYMENT OF THE NEW NOTES; INCREASE IN INTEREST RATE.

8.1. Stated Maturity.

The entire principal amount of the New Notes shall become due and payable on February 14, 2014.

8.2. Scheduled Amortization.

Repayment of the New Notes shall be made in accordance with Clause 11 (*Repayment*) and Clause 13 (*Mandatory Prepayment*) of the Financing Agreement.

8.3. Optional Prepayments.

Subject to and in accordance with Clause 12.2 (*Voluntary Prepayment and Exposures*) of the Financing Agreement, the Company may, at its option, upon notice as provided below, prepay at any time all, or from time to time any part of:

(a) the Series A Notes, in an amount not less than 5% of the aggregate principal amount of the Series A Notes then outstanding in the case of a partial prepayment, or

(b) the Series B Notes, in a minimum amount of ¥100,000,000 and otherwise in multiples of ¥10,000,000,

in each case at 100% of the principal amount so prepaid, together with interest accrued but unpaid thereon to the date of such prepayment. The Company will give each holder of New Notes written notice of each optional prepayment under this Section 8.3 in accordance with Clause 12.2 of the Financing Agreement.

8.4. Replacement of Affected Holder for Tax Reasons.

If the Company or Cemex España (assuming that Cemex España is required to make a payment) shall deliver to each holder (each, an "Affected Holder") to which an Additional Payment would be payable by the Company or Cemex España on the occasion of the next payment by the Company or Cemex España in respect of such New Notes (in the case of Cemex España, in an amount greater than 10% of the amount which Cemex España would have been obligated to pay exclusive of the requirements of Section 14.3) (the date of such next payment in respect of which such Additional Payment will be due is herein referred to as the "Affected Payment Date") written notice of a Responsible Officer (with respect to each incident in which a Related Tax is initially levied by a Taxing Jurisdiction that would result in the payment of an Additional Payment, a "Tax Prepayment Notice") setting forth in reasonable detail the nature of the Related Tax in respect of such Additional Payment and confirming that

(a) such Related Tax is required, under the laws of such Taxing Jurisdiction, to be withheld or deducted from the payment due to such Affected Holders on such Affected Payment Date and that such payment is the first payment in respect of which such particular Related Tax must be withheld (it being understood that the payment immediately following and reflecting a change in a pre-existing Related Tax shall be deemed the first payment with respect to such Related Tax), provided that if the enactment of the statute or regulation, the amendment of an existing statute or regulation or the adoption or amendment of a treaty giving rise to a Related Tax occurs less than 180 days prior to the due date of a payment in respect of the New Notes that is subject to such Related Tax, then, at the election of the Company, the first payment in respect of the New Notes, the due date of which is more than 180 days after such enactment, shall be deemed to be such first payment and

(b) as of the date of such opinion, such Related Tax would be required to be withheld from similar future payments to such Affected Holders,

then, in accordance with Clause 17.10 *(Replacement of Participating Creditor)* of the Financing Agreement, the Company may replace such Affected Holder.

8.5. Allocation of Partial Prepayments.

In the case of each partial prepayment of the New Notes pursuant to Section 8.3, the principal amount of the New Notes to be prepaid shall be allocated among all of the New Notes at the time outstanding in proportion, as nearly as practicable, to the respective unpaid principal amounts thereof not theretofore called for prepayment.

8.6. Mandatory Prepayment upon Disposal of Cemex España or the Company

In the case of a Disposal (as defined in the Financing Agreement) of all of the shares in Cemex España or in the Company, each of Cemex España and the Company shall ensure that upon completion of the Disposal the New Notes are prepaid in full.

8.7. Maturity; Surrender, etc.

In the case of each prepayment of New Notes pursuant to this Section 8, the principal amount of each New Note to be prepaid shall mature and become due and payable on the date fixed for such prepayment, together with interest on such principal amount accrued to such date. From and after such date, unless the Company shall fail to pay such principal amount when so due and payable as aforesaid, interest on such principal amount shall cease to accrue. Any New Note paid or prepaid in full shall be surrendered to the Company and cancelled and shall not be reissued, and no New Note shall be issued in lieu of any prepaid principal amount of any New Note.

8.8. Purchase of New Notes.

Subject to Clause 14.3 and Clause 27.1(b)(ii) of the Financing Agreement, Cemex España and the Company will not, nor will Cemex España or the Company permit any Affiliate (to the extent that the Company or Cemex España controls such Affiliate), to purchase, redeem, prepay or otherwise acquire, directly or indirectly, any of the outstanding New Notes except (a) upon the payment or prepayment of the New Notes in accordance with the terms of this Agreement and the New Notes or (b) pursuant to an offer to purchase made by any Obligor or an Affiliate pro rata to the holders of all New Notes at the time outstanding upon the same terms and conditions. Any such offer pursuant to the preceding clause (b) shall provide each holder with sufficient information to enable it to make an informed decision with respect to such offer, and shall remain open for at least 30 Business Days. If the Required Holders accept such offer, the Company shall promptly notify the remaining holders of such fact and the expiration date for the acceptance by holders of New Notes of such offer shall be extended by the number of days necessary to give each such remaining holder at least five Business Days from its receipt of such notice to accept such offer. The Company will promptly cancel all New Notes acquired by it or any Affiliate pursuant to any payment, prepayment or purchase of New Notes pursuant to any provision of this Agreement, and no New Notes may be issued in substitution or exchange for any such New Notes.

9. FEES.

The Parent shall pay to each Purchaser the fees described in Clause 16 (*Fees*) of the Financing Agreement, in the amounts specified therein and in accordance with the provisions thereof.

10. INTEREST.

10.1. Interest Rate.

Interest on the unpaid balance of each (a) Series A Note shall be at the rate of 8.91% per annum from the Effective Date and (b) Series B Note shall be at the rate of 6.625% per annum from the Effective Date. Such interest shall be computed on the basis of a 360-day year of twelve 30-day months.

10.2. Adjustments to Interest Rate.

Interest payable on the New Notes shall be adjusted in accordance with the terms and provisions of the Financing Agreement, including but not limited to Clause 15 (*Interest and Fees*) and Clause 25 (*Covenant Reset Date)* of the Financing Agreement and as provided in the definition of "Margin" in Clause 1 (*Interpretation*) of the Financing Agreement. Notwithstanding the foregoing, in no event shall the interest rate on the Series A Notes be less than 8.91% and the Series B Notes be less than 6.625%.

11. EVENTS OF DEFAULT.

An "Event of Default" shall exist if any Event of Default (as defined in the Financing Agreement) occurs under any of Clauses 26.1 (*Non-Payment*) to 26.15 (*Failure to Perform Payment Obligations*) of the Financing Agreement.

12. REMEDIES ON DEFAULT, ETC.

12.1. Acceleration.

If an Event of Default described in Section 11 has occurred and is continuing, any holders of the New Notes at the time outstanding may at any time at their option, by notice or notices to the Company, declare their New Notes then outstanding to be immediately due and payable, subject to the prior authorization of the Majority Participating Creditors (as defined in the Financing Agreement) of the taking of such action.

Upon any New Notes becoming due and payable under this Section 12.1, whether automatically or by declaration, such New Notes will forthwith mature and the entire unpaid principal amount of such New Notes, plus all accrued and unpaid interest thereon, shall be immediately due and payable, in each and every case without presentment, demand, protest or further notice, all of which are hereby waived. The Company acknowledges, and the parties hereto agree, that each holder of a New Note has the right to maintain its investment in the New Notes free from repayment by the Company (except as herein specifically provided for).

12.2. Other Remedies.

If the Company defaults in the payment of any principal or any interest on any New Note when the same becomes due and payable, whether at maturity or at a date fixed for prepayment or by declaration or otherwise, any holder or holders of New Notes at the time outstanding affected by such default may at any time, at its or their option, take action available

to it to recover any amount due to it under the New Notes and this Agreement, other than the taking of the actions under Clause 26.16 (*Acceleration*) of the Financing Agreement except as contemplated by that clause. If any Default or Event of Default has occurred and is continuing, and irrespective of whether any New Notes have become or have been declared immediately due and payable under Section 12.1, the holder of any New Note at the time outstanding may proceed, subject to the prior authorization of the Majority Participating Creditors of the taking of such action, to protect and enforce the rights of such holder by an action at law, suit in equity or other appropriate proceeding, whether for the specific performance of any agreement contained herein or in any New Note, or for an injunction against a violation of any of the terms hereof or thereof, or in aid of the exercise of any power granted hereby or thereby or by law or otherwise.

12.3. Rescission.

At any time after any New Notes have been declared due and payable pursuant to Section 12.1, the Required Holders by written notice to the Company may rescind and annul any such declaration and its consequences if (a) the Company has paid all overdue interest on the New Notes, all principal of any New Notes that are due and payable and are unpaid other than by reason of such declaration, and all interest on such overdue principal and (to the extent permitted by applicable law) any overdue interest in respect of the New Notes, at the Default Rate, (b) all Events of Default and Defaults, other than non-payment of amounts that have become due solely by reason of such declaration, have been cured or have been waived pursuant to Section 17 and (c) no judgment or decree has been entered for the payment of any monies due pursuant hereto or to the New Notes. No rescission and annulment under this Section 12.3 will extend to or affect any subsequent Event of Default or Default or impair any right consequent thereon.

12.4. No Waivers or Election of Remedies, Expenses, etc.

No course of dealing and no delay on the part of any holder of any New Note in exercising any right, power or remedy shall operate as a waiver thereof or otherwise prejudice such holder's rights, powers or remedies. No right, power or remedy conferred by this Agreement or by any New Note upon any holder thereof shall be exclusive of any other right, power or remedy referred to herein or therein or now or hereafter available at law, in equity, by statute or otherwise. Without limiting the obligations of the Company under Section 15, the Company will pay to the holder of each New Note on demand such further amount as shall be sufficient to cover all costs and expenses of such holder incurred in any enforcement or collection under this Section 12, including, without limitation, reasonable attorneys' fees, expenses and disbursements.

13. REGISTRATION; EXCHANGE; SUBSTITUTION OF NEW NOTES.

13.1. Registration of New Notes.

The Company shall keep at its principal executive office a register for the registration and registration of transfers of New Notes. The name and address of each holder of one or more New Notes, each transfer thereof and the name and address of each transferee of one or more New Notes shall be registered in such register. Prior to due presentment for registration of transfer, the Person in whose name any New Note shall be registered shall be deemed and treated as the owner and holder thereof for all purposes hereof, and the Company shall not be

affected by any notice or knowledge to the contrary. The Company shall give to any holder of a New Note that is an Institutional Investor promptly upon request therefor a complete and correct copy of the names and addresses of all registered holders of New Notes.

13.2. Transfer and Exchange of New Notes.

Upon surrender of any New Note at the principal executive office of the Company for registration of transfer or exchange (and in the case of a surrender for registration of transfer, duly endorsed or accompanied by a written instrument of transfer duly executed by the registered holder of such New Note or his attorney duly authorized in writing and accompanied by the address for notices of each transferee of such New Note or part thereof), and the satisfaction of the requirements of Clause 27.1 (*Assignments and transfers by the Participating Creditors*) of the Financing Agreement, the Company shall execute and deliver, at the Company's expense (except as provided below), one or more new New Notes (as requested by the holder thereof) of the same series in exchange therefor, in an aggregate principal amount equal to the unpaid principal amount of the surrendered New Note. Each such new New Note shall be payable to such Person as such holder may request and shall be substantially in the form of the New Note of such series originally issued hereunder. Each such new New Note shall be dated and bear interest from the date to which interest shall have been paid on the surrendered New Note or dated the date of the surrendered New Note if no interest shall have been paid thereon. The Company may require payment of a sum sufficient to cover any stamp tax or governmental charge imposed in respect of any such transfer of New Notes. New Notes shall not be transferred in denominations of less than $500,000 with respect to any Series A Notes, or ¥100,000,000, with respect to any Series B Notes, provided that if necessary to enable the registration of transfer by a holder of its entire holding of New Notes, one New Note of such series may be in a denomination of less than $500,000 with respect to any Series A Notes, or ¥50,000,000, with respect to any Series B Notes. Any transferee, by its acceptance of a New Note registered in its name (or the name of its nominee), shall be deemed to have made the representations set forth in Section 6.2 and shall be deemed to be a Participating Creditor under the Financing Agreement.

13.3. Replacement of New Notes.

Upon receipt by the Company of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction or mutilation of any New Note (which evidence shall be, in the case of an Institutional Investor, notice from such Institutional Investor of such ownership and such loss, theft, destruction or mutilation), and

(a) in the case of loss, theft or destruction, of indemnity reasonably satisfactory to it (provided that if the holder of such New Note is, or is a nominee for, an original Purchaser or another holder of a New Note with a minimum net worth of at least $50,000,000, such Person's own unsecured agreement of indemnity shall be deemed to be satisfactory), or

(b) in the case of mutilation, upon surrender and cancellation thereof,

the Company at its own expense shall execute and deliver, in lieu thereof, a new New Note of the same series, dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed or mutilated New Note or dated the date of such lost, stolen, destroyed or mutilated New Note if no interest shall have been paid thereon.

14. PAYMENTS ON NEW NOTES.

14.1. Place of Payment.

Subject to Section 14.2, payments of principal and interest becoming due and payable on the New Notes shall be made in New York, New York at Citibank, N.A, 111 Wall Street, 14th Floor, New York, New York 10043, Corporate Agency and Trust Department. The Company may at any time, by notice to each holder of a New Note, change the place of payment of the New Notes so long as such place of payment shall be either the principal office of the Company in the United States or the principal office of a bank or trust company in the United States.

14.2. Home Office Payment.

So long as any Purchaser or a nominee of such Purchaser shall be the holder of any New Note, and notwithstanding anything contained in Section 14.1 or in such New Note to the contrary, the Company will pay all sums becoming due on such New Note for principal and interest by the method and at the address specified for such purpose below such Purchaser's name on Schedule A, or by such other method or at such other address as such Purchaser shall have from time to time specified to the Company in writing for such purpose, without the presentation or surrender of such New Note or the making of any notation thereon, except that upon written request of the Company made concurrently with or reasonably promptly after payment or prepayment in full of any New Note, such Purchaser shall surrender such New Note for cancellation, reasonably promptly after any such request, to the Company at its principal executive office or at the place of payment most recently designated by the Company pursuant to Section 14.1. Prior to any sale or other disposition of any New Note held by any Purchaser or its nominee, such Purchaser will, at its election, either endorse thereon the amount of principal paid thereon and the last date to which interest has been paid thereon or surrender such New Note to the Company in exchange for a new New Note or New Notes pursuant to Section 13.2. The Company will afford the benefits of this Section 14.2 to any Institutional Investor that is the direct or indirect transferee of any New Note purchased by any Purchaser under this Agreement and that has made the same agreement relating to such New Note as such Purchaser has made in this Section 14.2.

14.3. Tax Indemnification.

(a) *Payments Free and Clear*. All payments to be made by the Company under this Agreement and the New Notes will be made free and clear of, and without withholding or deduction for or on account of, any present or future taxes, levies, imposts, duties, charges, assessments or fees of whatever nature, but excluding franchise taxes and taxes imposed on or measured by any holder's net income or receipts (such non-excluded items, "Related Taxes") imposed or levied by or on behalf of Spain, the United States or any jurisdiction from or through which any amount is paid by the Company pursuant to the terms of this Agreement or the New Notes (or any political subdivision or taxing authority of or in any such jurisdiction) (a "Taxing Jurisdiction"), unless the withholding or deduction of any such Related Tax is required by law.

(b) *Gross-Up, etc*. If any deduction or withholding for any present or future Related Tax of a Taxing Jurisdiction shall at any time be required in respect of any amount to be paid by the Company under this Agreement or the New Notes, the Company will promptly (i) pay over to the government or taxing authority of the Taxing Jurisdiction imposing such Related Tax the full amount required to be deducted or withheld by the Company (including the full amount required to be deducted or withheld from or otherwise paid by the Company in respect of any Additional Payment required to be made pursuant to clause (ii) of this Section 14.3(b)) and (ii) except as expressly provided below, pay to each holder entitled under this Agreement to receive the payment from which the amount referred to in the foregoing clause (i) has been so deducted or withheld such additional amount as is necessary in order that the amount received by such holder after any required deduction or withholding of Related Tax (including, without limitation, any required deduction, withholding or other payment of Related Tax on or with respect to such additional amount) shall equal the amount such holder would have received had no such deduction, withholding or other payment of Related Tax been paid (the "Additional Payment"), and if any holder pays any amount in respect of any Related Tax on any payment due from the Company hereunder or under the New Notes, or penalties or interest thereon, then the Company shall reimburse such holder for that payment upon demand, provided that no payment of any Additional Payment, or of any such reimbursement in respect of any such payment made by any such holder, shall be required to be made for or on account of:

(A) any Related Tax that would not have been imposed but for the existence of any present or former connection between such holder and the Taxing Jurisdiction or any territory or possession or area subject to the jurisdiction of the Taxing Jurisdiction, other than the mere holding of the relevant New Note, including, without limitation, such holder's being or having been a citizen or resident thereof, or being or having been present or engaged in a trade or business therein or having an establishment therein;

(B) any such holder that is not a resident of the United States of America or, with respect to any payment hereunder or under the New Notes owing to such holder, all or any part of which represents income that is not subject to United States tax as income of a resident of the United States of America to the extent that, had such holder been a resident of the United States of America or had the payment been so subject to United States tax, or had the payment been made to a location within the United States of America, the provisions of a statute, treaty or regulation of the Taxing Jurisdiction would have enabled an exemption to be claimed from the Related Tax in respect of which an Additional Payment would otherwise have been payable; or

(C) any combination of the items or conditions described in clause (A) or clause (B) of this Section 14.3(b); and

provided further that the Company shall not be obliged to pay any Additional Payment to any holder of a New Note in respect of Related Taxes to the extent such Related Taxes exceed the

Related Taxes that would have been payable but for the delay or failure by such holder (after receiving a written request from Cemex España or the Company to make such filing and including copies (together with instructions in English) of forms, certificates, documents, applications or other reasonably required evidence (collectively, "Forms") to be filed) in the filing with an appropriate Governmental Authority or otherwise of Forms required to be filed by such holder to avoid or reduce such Related Taxes and that in the case of any of the foregoing would not result in any confidential income tax return information being revealed, either directly or indirectly, to any Person and such delay or failure could have been lawfully avoided by such holder, provided that such holder shall be deemed to have satisfied the requirements of this proviso upon the good faith completion and submission of such Forms as may be specified in a written request of the Company no later than 45 days after receipt by such holder of such written request.

(c) *Official Receipt*. If the Company shall make any such Additional Payment, it will promptly furnish each holder receiving such Additional Payment under this Section 14.3 an official receipt issued by the relevant taxation or other authorities involved for all amounts deducted or withheld as aforesaid.

(d) *Other*. Each holder agrees to use its best efforts to comply (after a reasonable period to respond) with a written request of the Company delivered to such holder to provide information (other than any confidential or proprietary information) concerning the nationality, residence or identity of such holder, and to make such declaration or other similar claim or reporting requirement regarding such information (copies of the forms of which declaration, claim or reporting requirement shall have been provided to such holder by the Company), that is required by a statute, treaty or regulation of the Taxing Jurisdiction as a precondition to exemption from all or part of any Related Tax. The Company agrees to reimburse each holder for such holder's reasonable out-of-pocket expenses, if any, incurred in complying with any such request of such Person.

(e) *Tax Refund.* If the Company makes an Additional Payment under this Section 14.3 for the account of any Person and such Person is entitled to a refund of any portion of the tax (a "Tax Refund"), to which such payment is attributable, and such Tax Refund may be obtained by filing one or more Forms, then such Person shall after receiving a written request therefor from the Company (which request shall specify in reasonable detail the Forms to be filed), file such Forms. If such Person subsequently receives such a Tax Refund, and such Person is readily able to identify the Tax Refund as being attributable to the tax with respect to which an Additional Payment was made, then such Person shall reimburse the Company such amount as such Person shall determine acting in good faith to be the proportion of the Tax Refund, together with any interest received thereon, attributable to such Additional Payment as will leave such Person after the reimbursement (including such interest) in no better or worse position than it would have been if the Additional Payment had not been required. Nothing in this clause (e) shall obligate any holder to disclose any information regarding its tax affairs or computations to the Company.

(f) *Survival*. The obligations of the Company and the holders under this Section 14.3 shall survive the payment in full of the New Notes and the termination of this Agreement.

14.4. Currency of Payment—Series A Notes.

(a) *Payment in Dollars.* All payments under the Series A Notes shall be made in Dollars.

(b) *Certain Expenses.* If any expense required to be reimbursed pursuant to this Agreement or the New Notes is originally incurred in a currency other than Dollars, the Company shall nonetheless make reimbursement of that expense in Dollars, in an amount equal to the amount in Dollars that would have been required for the Person that incurred such expense to have purchased, in accordance with normal banking procedures, the sum paid in such other currency (after any premium and costs of exchange) on the day that expense was originally incurred.

(c) *Payments Not in Dollars.* To the fullest extent permitted by applicable law, the obligations of the Company in respect of any amount due under or in respect of this Agreement and the Series A Notes shall (notwithstanding any payment in any other currency, whether as a result of any judgment or order or the enforcement thereof, the realization of any security, the liquidation of any Obligor, any voluntary payment by any Obligor or otherwise) be discharged only to the extent of the amount in Dollars that each holder entitled to receive such payment may, in accordance with normal banking procedures, purchase with the sum paid in such other currency (after any premium and costs of exchange) on the Business Day immediately following the day on which such holder receives such payment. If the amount in Dollars that may be so purchased for any reason falls short of the amount originally due, the Company shall indemnify and save harmless such holder from and against all loss or damage arising out of or as a result of such deficiency. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Agreement and the Series A Notes, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by such holder from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due under this Agreement or the Series A Notes or under any judgment or order.

14.5. Currency of Payment—Series B Notes.

(a) *Payment in Japanese Yen*. All payments under the Series B Notes shall be made in Japanese yen.

(b) *Certain Expenses*. If any expense required to be reimbursed pursuant to this Agreement or the Series B Notes is originally incurred in a currency other than Dollars, the Company shall nonetheless make reimbursement of that expense in Dollars in an amount equal to the amount in Dollars that would have been required for the Person that incurred such expense to have purchased, in accordance with normal banking procedures, the sum paid in such other currency (after any premium and costs of exchange) on the day that expense was originally incurred.

(c) *Payments Not in Japanese Yen*. To the fullest extent permitted by applicable law, the obligations of the Company in respect of any amount due under or in respect of this Agreement (other than amounts due under Section 15.1) and the Series B Notes shall

(notwithstanding any payment in any other currency, whether as a result of any judgment or order or the enforcement thereof, the realization of any security, the liquidation of any Obligor, any voluntary payment by any Obligor or otherwise) be discharged only to the extent of the amount in Japanese yen that each holder entitled to receive such payment may, in accordance with normal banking procedures, purchase with the sum paid in such other currency (after any premium and costs of exchange) on the Business Day immediately following the day on which such holder receives such payment. If the amount in Japanese yen that may be so purchased for any reason falls short of the amount originally due, the Company shall indemnify and save harmless such holder from and against all loss or damage arising out of or as a result of such deficiency. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Agreement and the Series B Notes, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by such holder from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due under this Agreement or the Series B Notes or under any judgment or order.

15. EXPENSES, ETC.

15.1. Transaction Expenses.

Whether or not the transactions contemplated hereby are consummated, the Company and Cemex España will pay all reasonable costs and expenses (including reasonable attorneys' fees of one special U.S. counsel) incurred by the Purchasers in connection with such transactions and in connection with any amendments, waivers or consents under or in respect of this Agreement, the New Finance Documents (as defined in the Financing Agreement), the New Note Guarantee or the New Notes (whether or not such amendment, waiver or consent becomes effective), including, without limitation: (a) the costs and expenses incurred in enforcing or defending (or determining whether or how to enforce or defend) any rights under this Agreement, the New Finance Documents (as defined in the Financing Agreement), the New Note Guarantee or the New Notes or in responding to any subpoena or other legal process or informal investigative demand issued in connection with this Agreement, the New Finance Documents (as defined in the Financing Agreement), the New Note Guarantee or the New Notes, or by reason of being a holder of any New Note; (b) the costs and expenses, including financial advisors' fees, incurred in connection with the insolvency or bankruptcy of the Company, Cemex España or any Subsidiary, the Parent or any subsidiary of the Parent or in connection with any work-out or restructuring of the transactions contemplated hereby, by the New Note Guarantee and by the New Notes; and (c) the fees and costs incurred in connection with the initial filing of this Agreement and all related documents and financial information, and all subsequent annual and interim filings of documents and financial information related to this Agreement (provided the Company shall not be required to pay more than $2,500 per year in respect of subsequent annual and interim filings), with the SVO. The Company and Cemex España will pay, and will save each Purchaser and each other holder of a New Note harmless from, all claims in respect of the fees, costs or expenses, if any, of brokers and finders (other than those retained by any Purchaser). Amounts payable pursuant to this Section 15.1 shall be payable in Dollars.

15.2. Survival.

The obligations of the Company and Cemex España under this Section 15 will survive the payment or transfer of any New Note, the enforcement, amendment or waiver of any provision of this Agreement, the New Note Guarantee or the New Notes, the termination of this Agreement and the termination of the Financing Agreement.

16. SURVIVAL OF REPRESENTATIONS AND WARRANTIES; ENTIRE AGREEMENT.

All representations and warranties contained herein shall survive the execution and delivery of this Agreement and the related New Notes, the purchase or transfer by any Purchaser of any such New Note or portion thereof or interest therein and may be relied upon by any subsequent holder of any such New Note, regardless of any investigation made at any time by or on behalf of any Purchaser or any other holder of any such New Note. All statements contained in any certificate or other instrument delivered by or on behalf of the Company or Cemex España pursuant to this Agreement shall be deemed representations and warranties of the Company and Cemex España under this Agreement. Subject to the preceding sentence, this Agreement, the New Notes, the New Note Guarantee and the New Finance Documents (as defined in the Financing Agreement and to the extent applicable) embody the entire agreement and understanding between the Purchasers and the Company and Cemex España and supersede all prior agreements and understandings relating to the subject matter hereof.

17. AMENDMENT AND WAIVER.

17.1. Requirements. Subject to the provisions of Clause 38 (*Amendments and Waivers*) of the Financing Agreement, this Agreement, the New Note Guarantee and the New Notes may be amended, and the observance of any term hereof or of the New Notes may be waived (either retroactively or prospectively), with (and only with) the written consent of Cemex España, the Company and the Required Holders, except that (a) no amendment or waiver of any of the provisions of Section 1, 2, 3, 4, 5, 6, 10 or 21 hereof, or any defined term (as it is used in any such Section), will be effective as to any holder unless consented to by such holder in writing and (b) no such amendment or waiver may, without the written consent of the holder of each New Note at the time outstanding affected thereby, (i) subject to the provisions of Section 12 relating to acceleration or rescission, change the amount or time of any prepayment or payment of principal of, or reduce the rate or change the time of payment or method of computation of interest on, the New Notes, (ii) change the percentage of the principal amount of the New Notes the holders of which are required to consent to any such amendment or waiver or (iii) amend Section 8, 11, 12, 14.4, 14.5, 17 or 20.

17.2. Solicitation of Holders of New Notes.

(a) *Solicitation*. The Company will provide each holder of the New Notes (irrespective of the amount of New Notes then owned by it) with sufficient information, sufficiently far in advance of the date a decision is required, to enable such holder to make an informed and considered decision with respect to any proposed amendment, waiver or consent in respect of any of the provisions hereof, of the New Note Guarantee or of the New Notes. The

Company will deliver executed or true and correct copies of each amendment, waiver or consent effected pursuant to the provisions of this Section 17 to each holder of outstanding New Notes promptly following the date on which it is executed and delivered by, or receives the consent or approval of, the requisite holders of New Notes.

(b) *Payment*. The Company, Cemex España or any of its Affiliates will not directly or indirectly pay or cause to be paid any remuneration, whether by way of supplemental or additional interest, fee or otherwise, or grant any security, to any holder as consideration for or as an inducement to the entering into by any holder of any waiver or amendment of any of the terms and provisions hereof or of the New Note Guarantee or of the New Finance Documents (as defined in the Financing Agreement and to the extent applicable) unless such remuneration is concurrently paid, or security is concurrently granted, on the same terms, ratably to each holder then outstanding even if such holder did not consent to such waiver or amendment.

17.3. Binding Effect, etc.

Any amendment or waiver consented to as provided in this Section 17 applies equally to all holders of New Notes and is binding upon them and upon each future holder of any New Note and upon Cemex España and the Company without regard to whether such New Note has been marked to indicate such amendment or waiver. No such amendment or waiver will extend to or affect any obligation, covenant, agreement, Default or Event of Default not expressly amended or waived or impair any right consequent thereon. No course of dealing between the Company, Cemex España or any of its Affiliates and the holder of any New Note nor any delay in exercising any rights hereunder, under the New Note Guarantee or under any New Note or under the New Finance Documents (as defined in the Financing Agreement and to the extent applicable) shall operate as a waiver of any rights of any holder of such New Note. As used herein, the term "this Agreement" and references thereto shall mean this Agreement as it may from time to time be amended or supplemented.

17.4. New Notes held by Company, etc.

Solely for the purpose of determining whether the holders of the requisite percentage of the aggregate principal amount of New Notes then outstanding approved or consented to any amendment, waiver or consent to be given under this Agreement, the New Note Guarantee or the New Notes, or have directed the taking of any action provided herein, in the New Note Guarantee or in the New Notes to be taken upon the direction of the holders of a specified percentage of the aggregate principal amount of New Notes then outstanding, New Notes directly or indirectly owned by the Company, Cemex España or any of its Affiliates shall be deemed not to be outstanding.

18. NOTICES.

All notices and communications shall be provided as set forth in Clause 34 (*Notices*) of the Financing Agreement, with a copy to (which such copy shall not constitute notice):

Bracewell & Giuliani LLP
Goodwin Square
225 Asylum Street
Suite 2600
Hartford, Connecticut 06013
Attention: Evan D. Flaschen
Facsimile: (860) 760-6310

19. REPRODUCTION OF DOCUMENTS.

This Agreement and all documents relating thereto, including, without limitation, (a) consents, waivers and modifications that may hereafter be executed, (b) documents received by any Purchaser at the Closing (except the New Notes themselves) and (c) financial statements, certificates and other information previously or hereafter furnished to any Purchaser, may be reproduced by such Purchaser by any photographic, photostatic, microfilm, microcard, miniature photographic or other similar process and such Purchaser may destroy any original document so reproduced. Each of Cemex España and the Company agrees and stipulates that, to the extent permitted by applicable law, any such reproduction shall be admissible in evidence as the original itself in any judicial or administrative proceeding (whether or not the original is in existence and whether or not such reproduction was made by such Purchaser in the regular course of business) and any enlargement, facsimile or further reproduction of such reproduction shall likewise be admissible in evidence. This Section 19 shall not prohibit Cemex España, the Company or any other holder from contesting any such reproduction to the same extent that it could contest the original, or from introducing evidence to demonstrate the inaccuracy of any such reproduction.

20. CONFIDENTIAL INFORMATION.

For the purposes of this Section 20, "Confidential Information" means information delivered to any Purchaser by or on behalf of Cemex España or any Subsidiary in connection with the transactions contemplated by or otherwise pursuant to this Agreement that is proprietary in nature and that was clearly marked or labeled or otherwise adequately identified when received by such Purchaser as being confidential information of Cemex España or any Subsidiary; provided that such term does not include information that (a) was publicly known or otherwise known to such Purchaser prior to the time of such disclosure, (b) subsequently becomes publicly known through no act or omission by such Purchaser or any Person acting on the behalf of such Purchaser, (c) otherwise becomes known to such Purchaser other than through disclosure by Cemex España or any Subsidiary or (d) constitutes financial statements delivered to such Purchaser under Section 7.1 that are otherwise publicly available. Each Purchaser will maintain the confidentiality of such Confidential Information in accordance with procedures adopted by such Purchaser in good faith to protect confidential information of third parties delivered to such Purchaser; provided that such Purchaser may deliver or disclose Confidential Information to (i) such Purchaser's directors, trustees, officers, employees, agents, attorneys and affiliates (to the extent such disclosure reasonably relates to the administration of the investment represented by such Purchaser's New Notes), (ii) such Purchaser's financial advisors and other professional advisors who agree to hold confidential the Confidential Information substantially in accordance with the terms of this Section 20, (iii) any other holder of any New Note, (iv) any Institutional Investor to which such Purchaser sells or offers to sell such New Note or any part thereof or any participation therein (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 20), (v) any Person

from which such Purchaser offers to purchase any security of the Company or Cemex España (if such Person has agreed in writing prior to its receipt of such Confidential Information to be bound by the provisions of this Section 20), (vi) any federal or state regulatory authority having jurisdiction over such Purchaser, (vii) the National Association of Insurance Commissioners or any similar organization, or any nationally recognized rating agency that requires access to information about such Purchaser's investment portfolio or (viii) any other Person to which such delivery or disclosure may be necessary or appropriate (w) to effect compliance with any law, rule, regulation or order applicable to such Purchaser, (x) in response to any subpoena or other legal process, (y) in connection with any litigation to which such Purchaser is a party or (z) if an Event of Default has occurred and is continuing, to the extent such Purchaser may reasonably determine such delivery and disclosure to be necessary or appropriate in the enforcement or for the protection of the rights and remedies under such Purchaser's New Notes, the New Note Guarantee, the New Financing Documents (as defined in the Financing Agreement) and this Agreement. Each holder of a New Note, by its acceptance of a New Note, will be deemed to have agreed to be bound by and to be entitled to the benefits of this Section 20 as though it were a party to this Agreement. On reasonable request by Cemex España in connection with the delivery to any holder of a New Note of information required to be delivered to such holder under this Agreement or requested by such holder (other than a holder that is a party to this Agreement or its nominee), such holder will enter into an agreement with Cemex España embodying the provisions of this Section 20.

21. SUBSTITUTION OF PURCHASER.

Each Purchaser shall have the right to substitute any one of such Purchaser's Affiliates as the acquirer of the New Notes that such Purchaser has agreed to acquire upon delivery of Old Notes to the Company hereunder, by written notice to the Company, which notice shall be signed by both such Purchaser and such Affiliate, shall contain such Affiliate's agreement to be bound by this Agreement and shall contain a confirmation by such Affiliate of the accuracy with respect to it of the representations set forth in Section 6.2. Upon receipt of such notice, wherever the word "Purchaser" is used in this Agreement (other than in this Section 21), such words shall be deemed to refer to such Affiliate in lieu of such Purchaser. In the event that such Affiliate is so substituted as a purchaser hereunder and such Affiliate thereafter transfers to such Purchaser all of the New Notes then held by such Affiliate, upon receipt by the Company of notice of such transfer, wherever the word "Purchaser" is used in this Agreement (other than in this Section 21), such words shall no longer be deemed to refer to such Affiliate, but shall refer to such Purchaser, and such Purchaser shall have all the rights of an original holder of the New Notes under this Agreement.

22. MISCELLANEOUS.

22.1. Successors and Assigns.

All covenants and other agreements contained in this Agreement by or on behalf of any of the parties hereto bind and inure to the benefit of their respective successors and assigns (including, without limitation, any subsequent holder of a New Note) whether so expressed or not.

22.2. Payments Due on Non-Business Days.

Anything in this Agreement or the New Notes to the contrary notwithstanding, any payment of principal of or interest on any New Note that is due on a date other than a Business Day shall be made on the next succeeding Business Day without including the additional days elapsed in the computation of the interest payable on such next succeeding Business Day.

22.3. Severability.

Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof, and any such prohibition or unenforceability in any jurisdiction shall (to the full extent permitted by law) not invalidate or render unenforceable such provision in any other jurisdiction.

22.4. Construction.

Each covenant contained herein shall be construed (absent express provision to the contrary) as being independent of each other covenant contained herein, so that compliance with any one covenant shall not (absent such an express contrary provision) be deemed to excuse compliance with any other covenant. Where any provision herein refers to action to be taken by any Person, or that such Person is prohibited from taking, such provision shall be applicable whether such action is taken directly or indirectly by such Person.

22.5. Counterparts.

This Agreement may be executed in any number of counterparts, each of which shall be an original but all of which together shall constitute one instrument. Each counterpart may consist of a number of copies hereof, each signed by less than all, but together signed by all, of the parties hereto.

22.6. Governing Law.

This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the law of the State of New York excluding choice-of-law principles of the law of such State that would require the application of the laws of a jurisdiction other than such State.

22.7. Jurisdiction; Service of Process.

EACH OF CEMEX ESPAÑA AND THE COMPANY HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ANY SUIT ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND/OR ANY OTHER FINANCING DOCUMENT, OR ANY ACTION OR PROCEEDING TO EXECUTE OR OTHERWISE ENFORCE ANY JUDGMENT IN RESPECT OF ANY BREACH HEREUNDER OR UNDER ANY OTHER FINANCING DOCUMENT, BROUGHT BY ANY HOLDER OF A NEW NOTE AGAINST CEMEX ESPAÑA OR THE COMPANY OR ANY

OF THEIR RESPECTIVE PROPERTIES, MAY BE BROUGHT BY SUCH HOLDER OF A NEW NOTE IN THE COURTS OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK OR ANY NEW YORK STATE COURT SITTING IN NEW YORK CITY, AS SUCH HOLDER OF A NEW NOTE MAY IN ITS SOLE DISCRETION ELECT, AND BY THE EXECUTION AND DELIVERY OF THIS AGREEMENT EACH OF CEMEX ESPAÑA AND THE COMPANY IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF EACH SUCH COURT AND AGREES THAT PROCESS SERVED EITHER PERSONALLY OR BY REGISTERED MAIL ON CEMEX ESPAÑA, THE COMPANY OR A DESIGNATED AGENT SHALL CONSTITUTE, TO THE EXTENT PERMITTED BY LAW ADEQUATE SERVICE OF PROCESS IN ANY SUCH SUIT, AND EACH OF CEMEX ESPAÑA AND THE COMPANY IRREVOCABLY WAIVES AND AGREES NOT TO ASSERT, BY WAY OF MOTION, AS A DEFENSE OR OTHERWISE, ANY CLAIM THAT IT IS NOT SUBJECT TO THE JURISDICTION OF ANY SUCH COURT. RECEIPT OF PROCESS SO SERVED SHALL BE CONCLUSIVELY PRESUMED AS EVIDENCED BY A DELIVERY RECEIPT FURNISHED BY THE UNITED STATES POSTAL SERVICE OR ANY COMMERCIAL DELIVERY SERVICE. WITHOUT LIMITING THE FOREGOING, EACH OF CEMEX ESPAÑA AND THE COMPANY HEREBY APPOINTS, IN THE CASE OF ANY SUCH ACTION OR PROCEEDING BROUGHT IN THE COURTS OF OR IN THE STATE OF NEW YORK, CT CORPORATION SYSTEM, 111 EIGHTH AVENUE, NEW YORK, NEW YORK 10011, TO RECEIVE, FOR IT AND ON ITS BEHALF, SERVICE OF PROCESS IN THE STATE OF NEW YORK WITH RESPECT THERETO AT ANY AND ALL TIMES. EACH OF CEMEX ESPAÑA AND THE COMPANY WILL TAKE ANY AND ALL ACTION INCLUDING THE EXECUTION AND FILING OF ALL SUCH DOCUMENTS AND INSTRUMENTS AND TIMELY PAYMENTS OF FEES AND EXPENSES, AS MAY BE NECESSARY TO EFFECT AND CONTINUE THE APPOINTMENT OF SUCH AGENT IN FULL FORCE AND EFFECT, OR IF NECESSARY BY REASON OF ANY FACT OR CONDITION RELATING TO SUCH AGENT, TO REPLACE SUCH AGENT (BUT ONLY AFTER HAVING GIVEN NOTICE THEREOF TO EACH HOLDER OF NEW NOTES AND ANY SUCCESSOR AGENT IS REASONABLY ACCEPTABLE TO REQUIRED HOLDERS). EACH OF CEMEX ESPAÑA AND THE COMPANY AGREES THAT SERVICE OF PROCESS UPON SUCH AGENT SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON EACH OF CEMEX ESPAÑA AND THE COMPANY IN ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY SUCH COURT. EACH OF CEMEX ESPAÑA AND THE COMPANY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL CLAIM OR ERROR BY REASON OF ANY SUCH SERVICE IN SUCH MANNER AND AGREES THAT SUCH SERVICE SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON EACH OF CEMEX ESPAÑA AND THE COMPANY IN ANY SUCH SUIT, ACTION OR PROCEEDING AND SHALL, TO THE FULLEST EXTENT PERMITTED BY LAW, BE TAKEN AND HELD TO BE VALID AND PERSONAL SERVICE UPON AND PERSONAL DELIVERY TO EACH OF CEMEX ESPAÑA AND THE COMPANY. IN ADDITION, EACH OF CEMEX ESPAÑA AND THE COMPANY HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE IN ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND/OR ANY

OTHER FINANCING DOCUMENT BROUGHT IN SUCH COURTS, AND HEREBY IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. NOTHING HEREIN SHALL IN ANY WAY BE DEEMED TO LIMIT THE ABILITY OF ANY HOLDER OF A NEW NOTE TO SERVE ANY SUCH WRITS PROCESS OR SUMMONSES IN ANY MANNER PERMITTED BY APPLICABLE LAW OR TO OBTAIN JURISDICTION OVER CEMEX ESPAÑA OR THE COMPANY IN SUCH OTHER JURISDICTION, AND IN SUCH MANNER, AS MAY BE PERMITTED BY APPLICABLE LAW. NOTHING IN THIS SECTION 22.7 SHALL BE DEEMED TO LIMIT ANY OTHER SUBMISSION TO JURISDICTION, WAIVER OR OTHER AGREEMENT BY CEMEX ESPAÑA OR THE COMPANY CONTAINED IN ANY OTHER FINANCING DOCUMENT. TO THE EXTENT THAT CEMEX ESPAÑA OR THE COMPANY HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, EACH OF CEMEX ESPAÑA AND THE COMPANY HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS AGREEMENT AND THE OTHER FINANCING DOCUMENTS.

22.8. Judgment Currency.

Each of Cemex España and the Company agrees that if, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder or under the New Notes in any currency into another currency, to the fullest extent permitted by law, the rate of exchange used shall be that at which in accordance with normal banking procedures a holder could purchase such first currency with such other currency on the Business Day preceding that on which final judgment is given.

* * * * *

The execution hereof by the Purchasers shall constitute a contract among Cemex España, the Company and the Purchasers for the uses and purposes hereinabove set forth.

Very truly yours,

CEMEX ESPAÑA, S.A.

By: /s/ Colin Pennycooke
Name: Colin Pennycooke
Title: Counsel

CEMEX ESPAÑA FINANCE LLC

By: /s/ Alan P. Kress
Name: Alan P. Kress
Title: Counsel

[Signature Page to Consolidated Note Purchase Agreement]

PRINCIPAL LIFE INSURANCE COMPANY

By: PRINCIPAL GLOBAL INVESTORS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS AUTHORIZED SIGNATORY

By: /s/ Colin Pennycooke
Name: Colin Pennycooke
Title: Counsel

By: /s/ Alan P. Kress
Name: Alan P. Kress
Title: Counsel

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RGA REINSURANCE COMPANY, A MISSOURI CORPORATION

By: PRINCIPAL GLOBAL INVESTORS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS AUTHORIZED SIGNATORY

By: /s/ Colin Pennycooke
Name: Colin Pennycooke
Title: Counsel

By: /s/ Alan P. Kress
Name: Alan P. Kress
Title: Counsel

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SYMETRA LIFE INSURANCE COMPANY,
A WASHINGTON CORPORATION

By: PRINCIPAL GLOBAL INVESTORS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS AUTHORIZED SIGNATORY

By: /s/ Colin Pennycooke
Name: Colin Pennycooke
Title: Counsel

By: /s/ Alan P. Kress
Name: Alan P. Kress
Title: Counsel

[Signature Page to Consolidated Note Purchase Agreement]

THE BANK OF NEW YORK, AS TRUSTEE FOR THE SCOTTISH RE (U.S.), INC. AND SECURITY LIFE OF DENVER INSURANCE COMPANY SECURITY TRUST BY AGREEMENT DATED DECEMBER 31, 2004

By: PRINCIPAL GLOBAL INVESTORS, LLC, A DELAWARE LIMITED LIABILITY COMPANY, ITS AUTHORIZED SIGNATORY

By: /s/ Colin Pennycooke
Name: Colin Pennycooke
Title: Counsel

By: /s/ Alan P. Kress
Name: Alan P. Kress
Title: Counsel

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Comerica Bank & Trust, National Association, Trustee to the Trust created by Trust Agreement dated October 1, 2002.

By: /s/ Celeste Ludwig V.P.
Name: Celeste Ludwig V.P.
Title: Wealth & Institutional Management
Comerica Bank

[Signature Page to Consolidated Note Purchase Agreement]

METROPOLITAN LIFE INSURANCE COMPANY

By: /s/ Judith A. Gulotta
Name: Judith A. Gulotta
Title: Managing Director

MET LIFE INSURANCE COMPANY OF CONNECTICUT
By Metropolitan Life Insurance Company, its investment manager
METROPOLITAN TOWER LIFE INSURANCE COMPANY
By Metropolitan Life Insurance Company, its investment manager
GENERAL AMERICAN LIFE INSURANCE COMPANY
By Metropolitan Life Insurance Company, its investment manager
NEW ENGLAND LIFE INSURANCE COMPANY
By Metropolitan Life Insurance Company, its investment manager

By: /s/ Judith A. Gulotta
Name: Judith A. Gulotta
Title: Managing Director

THE VARIABLE ANNUITY LIFE INSURANCE COMPANY
WESTERN NATIONAL LIFE INSURANCE COMPANY
(FORMERLY AIG ANNUITY INSURANCE COMPANY)
AMERICAN INTERNATIONAL LIFE ASSURANCE COMPANY OF NEW YORK
AMERICAN GENERAL LIFE AND ACCIDENT INSURANCE COMPANY
MERIT LIFE INSURANCE CO.

By: AIG GLOBAL INVESTMENT CORP.,
INVESTMENT ADVISER

By: /s/ Peter DeFazio
Name: Peter DeFazio
Title: Managing Director

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THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY

By: /s/ Timothy S. Collins
Name: Timothy S. Collins
Title: Its Authorized Representative

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ING LIFE INSURANCE AND ANNUITY COMPANY
ING USA ANNUITY AND LIFE INSURANCE COMPANY
SECURITY LIFE OF DENVER INSURANCE COMPANY
RELIASTAR LIFE INSURANCE COMPANY
USG ANNUITY & LIFE COMPANY
RELIASTAR LIFE INSURANCE COMPANY OF NEW YORK

By: ING INVESTMENT MANAGEMENT LLC, AS AGENT

By: /s/ Christopher P. Lyons
Name: Christopher P. Lyons
Title: Senior Vice President

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JOHN HANCOCK LIFE INSURANCE COMPANY

By: /s/ Michael L. Short
Name: Michael L. Short
Title: Managing Director

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JOHN HANCOCK VARIABLE LIFE INSURANCE COMPANY

By: /s/ Michael L. Short
Name: Michael L. Short
Title: Authorized Signatory

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MANULIFE LIFE INSURANCE COMPANY

By: /s/ Toshihide Sudo
Name: Toshihide Sudo
Title: Vice President & Managing Corporate Officer
Investment Operations

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NEW YORK LIFE INSURANCE COMPANY

By: /s/ R. Edward Ferguson
Name: R. Edward Ferguson
Title: Vice President

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NEW YORK LIFE INSURANCE AND
ANNUITY CORPORATION

By: NEW YORK LIFE INVESTMENT
MANAGEMENT LLC, ITS INVESTMENT
MANAGER

By: /s/ R. Edward Ferguson
Name: R. Edward Ferguson
Title: Managing Director

[Signature Page to Consolidated Note Purchase Agreement]

NEW YORK LIFE INSURANCE AND ANNUITY
CORPORATION INSTITUTIONALLY OWNED LIFE
INSURANCE SEPARATE ACCOUNT

By: NEW YORK LIFE INVESTMENT MANAGEMENT LLC,
ITS INVESTMENT MANAGER

By: /s/ R. Edward Ferguson
Name: R. Edward Ferguson
Title: Managing Director

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THRIVENT FINANCIAL FOR LUTHERANS

By: /s/ Timothy Wegener
Name: Timothy Wegener
Title: Managing Director

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HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY
HARTFORD LIFE INSURANCE COMPANY
HARTFORD ACCIDENT AND INDEMNITY COMPANY

By: Hartford Investment Management Company
Their Agent And Attorney-In-Fact

By: /s/ Robert M. Mills
Name: Robert M. Mills
Title: Vice President

[Signature Page to Consolidated Note Purchase Agreement]

NATIONWIDE LIFE AND ANNUITY INSURANCE COMPANY

By: /s/ Thomas A. Shanklin
Name: Thomas A. Shanklin
Title: Authorized Signatory

[Signature Page to Consolidated Note Purchase Agreement]

NATIONWIDE LIFE INSURANCE COMPANY

By: /s/ Thomas A. Shanklin
Name: Thomas A. Shanklin
Title: Authorized Signatory

[Signature Page to Consolidated Note Purchase Agreement]

NATIONWIDE MULTIPLE MATURITY SEPARATE ACCOUNT

By: /s/ Thomas A. Shanklin
Name: Thomas A. Shanklin
Title: Authorized Signatory

[Signature Page to Consolidated Note Purchase Agreement]

NATIONWIDE MUTUAL INSURANCE COMPANY

By: /s/ Thomas A. Shanklin
Name: Thomas A. Shanklin
Title: Authorized Signatory

[Signature Page to Consolidated Note Purchase Agreement]

AMCO INSURANCE COMPANY

By: /s/ Thomas A. Shanklin
Name: Thomas A. Shanklin
Title: Authorized Signatory

[Signature Page to Consolidated Note Purchase Agreement]

THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA

By: /s/ Barry Scheinholtz
Name: Barry Scheinholtz
Title: Senior Director, Private Placements

[Signature Page to Consolidated Note Purchase Agreement]

BERKSHIRE LIFE INSURANCE COMPANY OF AMERICA

By: /s/ Barry Scheinholtz
Name: Barry Scheinholtz
Title: Senior Director, Private Placements

[Signature Page to Consolidated Note Purchase Agreement]

MONUMENTAL LIFE INSURANCE COMPANY

By: /s/ Christopher D. Pahlke
Name: Christopher D. Pahlke
Title: Vice President

[Signature Page to Consolidated Note Purchase Agreement]

PACIFIC LIFE INSURANCE COMPANY

By: /s/ Diane W. Dales
Name: Diane W. Dales
Title: Assistant Vice President

By: /s/ Peter S. Fiek
Name: Peter S. Fiek
Title: Assistant Secretary

[Signature Page to Consolidated Note Purchase Agreement]

WESTPORT INSURANCE COMPANY (FKA
EMPLOYERS REINSURANCE CORPORATION)

By: CONNING ASSET MANAGEMENT COMPANY,
AS INVESTMENT MANAGER

By: /s/ John H. DeMallie
Name: John H. DeMallie
Title: Director

[Signature Page to Consolidated Note Purchase Agreement]

PRIMERICA LIFE INSURANCE COMPANY

By: Conning Asset Management Company,
as Investment Manager

By: /s/ John H. DeMallie
Name: John H. DeMallie
Title: Director

[Signature Page to Consolidated Note Purchase Agreement]

SWISS RE LIFE & HEALTH AMERICA INC.

By: Conning Asset Management Company
As Investment Manager

By: /s/ John H. DeMallie
Name: John H. DeMallie
Title: Director

[Signature Page to Consolidated Note Purchase Agreement]

NATIONAL BENEFIT LIFE INSURANCE COMPANY

By: Conning Asset Management Company,
as Investment Manager

By: /s/ John H. DeMallie
Name: John H. DeMallie
Title: Director

[Signature Page to Consolidated Note Purchase Agreement]

ALLSTATE LIFE INSURANCE COMPANY

By: /s/ Rick Fischer
Name: Rick Fischer
Title: Authorized Signatory

By: /s/ Carrie A.Cazolas
Name: Carrie A.Cazolas
Title: Authorized Signatory

Authorized Signatories

Wire instructions for dollar denominated payments

Allstate Life Insurance Company
Bank: Citibank
ABA#: 021000089
Account Name: Allstate Life Insurance Company Bond Collection Account
Account #: 30547007
Reference:

ALLIED IRISH BANKS P.L.C.

By: /s/ Martin Kelly
Name: Martin Kelly
Title: Manager

[Signature Page to Consolidated Note Purchase Agreement]

BARCLAYS BANK PLC

By: /s/ Mark Manski
Name: Mark Manski
Title: Managing Director

[Signature Page to Consolidated Note Purchase Agreement]

GENWORTH LIFE INSURANCE COMPANY (F/K/A
GENERAL ELECTRIC CAPITAL ASSURANCE
COMPANY)

By: /s/ Estelle Simsolo
Name: Estelle Simsolo
Title: Investment Officer

[Signature Page to Consolidated Note Purchase Agreement]

ORIOLE CDO INC;

By: GENWORTH FINANCIAL INVESTMENT MANAGEMENT, LLC, ITS INVESTMENT ADVISOR

By: /s/ Estelle Simsolo
Name: Estelle Simsolo
Title: Investment Officer

[Signature Page to Consolidated Note Purchase Agreement]

GENWORTH LIFE INSURANCE COMPANY OF NEW YORK
(AS SUCCESSOR BY MERGER TO AMERICAN MAYFLOWER
LIFE INSURANCE COMPANY OF NEW YORK)

By: /s/ Estelle Simsolo
Name: Estelle Simsolo
Title: Investment Officer

[Signature Page to Consolidated Note Purchase Agreement]

PHL VARIABLE INSURANCE COMPANY

By: /s/ Christopher Wilkos
Name: Christopher Wilkos
Title: Executive Vice President

[Signature Page to Consolidated Note Purchase Agreement]

PHOENIX LIFE INSURANCE COMPANY

By: /s/ Christopher Wilkos
Name: Christopher Wilkos
Title: Executive Vice President

[Signature Page to Consolidated Note Purchase Agreement]

KNIGHTS OF COLUMBUS

By: /s/ Ronald J. Tracz
Name: Ronald J. Tracz
Title: Assistant Supreme Secretary

[Signature Page to Consolidated Note Purchase Agreement]

THE OHIO NATIONAL LIFE INSURANCE COMPANY

By: /s/ Jed R. Martin

Name: Jed R. Martin

Title: Vice President, Private Placements

[Signature Page to Consolidated Note Purchase Agreement]

AVIVA LIFE AND ANNUITY COMPANY

By: Aviva Investors North America, Inc., its authority attorney-in-fact

By: /s/ Roger D. Fors

Name: Roger D. Fors

Title: Vice President, Private Placements

[Signature Page to Consolidated Note Purchase Agreement]

BENEFICIAL LIFE INSURANCE COMPANY

By: /s/ Thomas Kirby Brown Jr.
Name: Thomas Kirby Brown Jr., CFA
Title: Senior Managing Director
& Chief Investment Officer

[Signature Page to Consolidated Note Purchase Agreement]

ENSURE INVESTMENT FUND

BY: CNT (DIRECTORS) LTD., ITS DIRECTOR

By: /s/ Ian Phillips
Name: Ian Phillips
Title: Director

[Signature Page to Consolidated Note Purchase Agreement]

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
PRINCIPAL LIFE INSURANCE COMPANY TAX ID NO. 42-0127290	A-1A $29,774,486.05 A-1B $5,413,542.92 A-1C $2,706,771.46 A-1D $13,371,451.01 A-1E $6,685,725.50 A-1F $514,286.58 A-1G $2,706,771.46 A-1H $2,165,417.17 A-1I $541,354.29

Payment Instructions:

All payments on account of the Notes to be made by 12:00 noon (New York City time) by wire transfer of immediately available funds to:

ABA No.: 121000248
Wells Fargo Bank, N.A.
San Francisco, CA
For credit to Principal Life Insurance Company
Account No.: REDACTED
Attn: Cusip Number 15128@AH6 - CEMEX ESPAÑA FINANCE LLC

With sufficient information (including Cusip number, interest rate, maturity date, interest amount, principal amount and premium amount, if applicable) to identify the source and application of such funds.

In case of all notices with respect to payments:

Principal Global Investors, LLC
Attn: Investment Accounting Fixed Income Securities
711 High Street
Des Moines, IA 50392-0960

Notices and communications:

Principal Global Investors, LLC
Attn: Fixed Income Private Placements
711 High Street, G-26
Des Moines, IA 50392-0800
and via Email: Privateplacements2@exchange.principal.com

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
SCOTTISH RE (US)/NATIONWIDE LIFE INSURANCE CO 1 YR TRUST ("SCOTTISH—1 YR") TAX ID NO. 23-2038295 C/O COMERICA BANK & TRUST, NATIONAL ASSOCIATION, TRUSTEE TO THE TRUST CREATED BY TRUST AGREEMENT DATED OCTOBER 1, 2002	A-2A $1,082,708.58

Payment Instructions:

All payments in account of the Note to be made by 12:00 noon (New York City time) by wire transfer of immediately available funds to:

Comerica Bank/Trust Operations
AC: REDACTED
BNF: Scottish Annuity & Life Holdings, Ltd.
AC: REDACTED
BBI: Trade Settlement (313) 222-3111
Bank Routing Number: REDACTED
Attn: Cusip Number 15128@AH6—CEMEX ESPAÑA FINANCE LLC

With sufficient information (including interest rate, maturity date, interest amount, principal amount and premium amount, if applicable) to identify the source and application of such funds.

In case of all notices with respect to payments:

Scottish—1YR
Principal Global Investors, LLC
Attn: Investment Accounting Fixed Income Securities
711 High Street
Des Moines, IA 50392-0960

Notices and communications:

Scottish—1YR
Principal Global Investors, LLC
Attn: Fixed Income Private Placements
711 High street, G-26
Des Moines, IA 50392-0800
And via Email: Privateplacements2@exchange.principal.com

Signature Block Format:

_____
Comerica Bank & Trust, National Association, Trustee to the Trust Created by Trust Agreement Dated October 1, 2002

Nominee:

Calhoun & Co.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
SCOTTISH RE (US)/NATIONWIDE LIFE INSURANCE CO 5 YR TRUST ("SCOTTISH—5 YR") TAX ID NO. 23-2038295 C/O COMERICA BANK & TRUST, NATIONAL ASSOCIATION, TRUSTEE TO THE TRUST CREATED BY AGREEMENT DATED OCTOBER 1, 2002	A-2B $1,082,708.58

Payment Instructions:

All payments in account of the Note to be made by 12:00 noon (New York City time) by wire transfer of immediately available funds to:

Comerica Bank/Trust Operations
AC: REDACTED
BNF: Scottish Annuity & Life Holdings, Ltd.
AC: REDACTED
BBI: Trade Settlement (313) 222-3111
Bank Routing Number: REDACTED
Attn: Cusip Number 15128@AH6—CEMEX ESPAÑA FINANCE LLC

With sufficient information (including interest rate, maturity date, interest amount, principal amount and premium amount, if applicable) to identify the source and application of such funds.

In case of all notices with respect to payments:

Scottish—5YR
Principal Global Investors, LLC
Attn: Investment Accounting Fixed Income Securities
711 High Street
Des Moines, IA 50392-0960

Notices and communications:

Scottish—5YR
Principal Global Investors, LLC
Attn: Fixed Income Private Placements
711 High street, G-26
Des Moines, IA 50392-0800
And via Email: Privateplacements2@exchange.principal.com

Signature Block Format:

_____
Comerica Bank & Trust, National Association, Trustee to the Trust Created by Trust Agreement Dated October 1, 2002

Nominee:

Calhoun & Co.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	**PRINCIPAL AMOUNT**
SCOTTISH RE (U.S.)/LINCOLN NATIONAL, LTD. ("SCOTTISH—LINCOLN") TAX ID NO. 23-2038295 C/O COMERICA BANK & TRUST, NATIONAL ASSOCIATION, TRUSTEE TO THE TRUST CREATED BY TRUST AGREEMENT DATED OCTOBER 1, 2002	A-2C $1,082,708.58

Payment Instructions:

All payments on account of the Note to be made by 12:00 noon (New York City time) by wire transfer of immediately available funds to:

Comerica Bank/Trust Operations
AC: REDACTED
BNF: Scottish Annuity & Life holdings LTD
AC: REDACTED
BBI: Trade Settlement 313-222-3111
Bank Routing: REDACTED
Attn: Cusip Number 15128@AH6—CEMEX ESPAÑA FINANCE LLC

With sufficient information (including interest rate, maturity date, interest amount, principal amount and premium amount, if applicable) to identify the source and application of such funds..

In case of all notices with respect to payments:

Scottish-Lincoln
Principal Global Investors, LLC
Attn: Investment Accounting Fixed Income Securities
711 High Street
Des Moines, IA 50392-0960

Notices and communications:

Scottish-Lincoln
Principal Global Investors, LLC
Attn: Fixed Income Private Placements
711 High Street, G-26
Des Moines, IA 50392-0800
And via Email: Privateplacements2@exchange.principal.com

Signature Block Format:

_____
Comerica Bank & Trust, National Association, Trustee to the Trust Created by Trust Agreement Dated October 1, 2002

Nominee:

Calhoun & Co.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
RGA REINSURANCE COMPANY TAX ID NO. 43-1235868	A-3 $8,120,314.38

Payment Instructions:

All payments on account of the Notes to be made by 12:00 noon (New York City time) by wire transfer of immediately available funds to:

The Bank of New York
ABA #021-000-018
Beneficiary Account: REDACTED
Cusip 15128@AH6, CEMEX ESPAÑA FINANCE LLC

With sufficient information (including interest rate, maturity date, interest amount, principal amount and premium amount, if applicable) to identify the source and application of such funds.

In case of all notices with respect to payments:

RGA Reinsurance Company
c/o Principal Global Investors, LLC
Attn: Investment Accounting Fixed Income Securities
711 High Street
Des Moines, IA 50392-0960

Notices and communications:

RGA Reinsurance Company
Principal Global Investors, LLC
Attn: Fixed Income Private Placements
711 High Street, G-26
Des Moines, IA 50392-0800
and via Email: Privateplacements2@exchange.principal.com

Nominee:

HARE & CO.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	**PRINCIPAL AMOUNT**
SYMETRA LIFE INSURANCE COMPANY	A-4A $10,827,085.84
TAX ID NO. 91-0742147	A-4B $8,661,668.67

Payment Instructions:

All payments on account of the Notes to be made by 12:00 noon (New York City time) by wire transfer of immediately available funds to:

ABA No. 021000021
JPMorgan Chase Bank
For Acct: Funds Clearance
Account: REDACTED
Attn: Cusip Number15128@AH6—CEMEX ESPAÑA FINANCE LLC
Symetra Life—LMT Mat Fnd Agree -#P64472

With sufficient information (including interest rate, maturity date, interest amount, principal amount and premium amount, if applicable) to identify the source and application of such funds.

In case of all notices with respect to payments:

Symetra Life Insurance Company
c/o Principal Global Investors, LLC
Attn: Investment Accounting Fixed Income Securities
711 High Street
Des Moines, IA 50392-0960

Notices and communications:

Symetra Life Insurance Company
Principal Global Investors, LLC
Attn: Fixed Income Private Placements
711 High Street, G-26
Des Moines, IA 50392-0800
and via Email: Privateplacements2@exchange.principal.com

Nominee:

Cudd & Co.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	**PRINCIPAL AMOUNT**
SYMETRA LIFE INSURANCE COMPANY TAX ID NO. 91-0742147	A-4C $5,413,542.92

Payment Instructions:

All payment sin account of the Notes to be made by 12:00 noon (New York City time) by wire transfer of immediately available funds to:

ABA No. 021000021
JPMorgan Chase Bank
For Acct: Funds Clearance
Account: REDACTED
Attn: Cusip Number15128@AH6—CEMEX ESPAÑA FINANCE LLC
Symetra Life—BOLI U-LIFE #P63871

With sufficient information (including interest rate, maturity date, interest amount, principal amount and premium amount, if applicable) to identify the source and application of such funds.

In case of all notices with respect to payments:

Symetra Life Insurance Company
c/o Principal Global Investors, LLC
Attn: Investment Accounting Fixed Income Securities
711 High Street
Des Moines, IA 50392-0960

Notices and communications:

Symetra Life Insurance Company
Principal Global Investors, LLC
Attn: Fixed Income Private Placements
711 High Street, G-26
Des Moines, IA 50392-0800
and via Email: Privateplacements2@exchange.principal.com

Nominee:

Cudd & Co.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
THE BANK OF NEW YORK, AS TRUSTEE FOR THE SCOTTISH RE (U.S.), INC. AND SECURITY LIFE OF DENVER INSURANCE COMPANY SECURITY TRUST BY AGREEMENT DATED DECEMBER 31, 2004 TAX ID NO. 23-2038295	A-5 $1,082,708.58

Payment Instructions:

All payments in account of the Note to be made by 12:00 noon (New York City time) by wire transfer of immediately available funds to:

Bank of NYC
New York, NY
ABA #021000018
ACCOUNT: REDACTED
Account # REDACTED
Account name: Scottish RE US/SLD Sec TR Principal
Attn: Cusip Number 15128@AH6—CEMEX ESPAÑA FINANCE LLC

With sufficient information (including interest rate, maturity date, interest amount, principal amount and premium amount, if applicable) to identify the source and application of such funds.

In case of all notices with respect to payments:

Scottish RE US—Security Life of Denver
Principal Global Investors, LLC
Attn: Investment Accounting Fixed Income Securities
711 High Street
Des Moines, IA 50392-0960

Notices and communications:

Scottish RE US—Security Life of Denver
Principal Global Investors, LLC
Attn: Fixed Income Private Placements
711 High Street, G-26
Des Moines, IA 50392-0800
And via Email: Privateplacements2@axchange.principal.com

Nominee:

HARE & CO

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
METROPOLITAN LIFE INSURANCE COMPANY 1095 AVENUE OF THE AMERICAS NEW YORK, NY 10036 TAX ID NO. 13-5581829	A-6 $76,872,309.43

Payment Instructions:

All scheduled payments of principal and interest by wire transfer of immediately available funds to:

Bank Name: JPMorgan Chase Bank
ABA Routing No.: 021-000-021
Account No.: REDACTED
Account Name: Metropolitan Life Insurance Company
Ref: Cemex España Finance LLC 8.91% Series A Notes due February 14, 2014

with sufficient information to identify the source and application of such funds, including issuer, PPN#, interest rate, maturity and whether payment is of principal, interest, make whole amount or otherwise. For all payments other than scheduled payments of principal and interest, the Company shall seek instructions from the holder, and in the absence of instructions to the contrary, will make such payments to the account and in the manner set forth above

In case of all notices with respect to payments:

Delivery of Notes after Closing:

Metropolitan Life Insurance Company
Securities Investments, Law Department
P.O. Box 1902
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Karen G. Crockett, Esq.

Notices and communications:

Metropolitan Life Insurance Company
Investments, Private Placements
P.O. Box 1902
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Director
Facsimile (973) 355-4250

With a copy OTHER than with respect to deliveries of financial statements to:

Metropolitan Life Insurance Company
P.O. Box 1902
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Chief Counsel-Securities Investments (PRIV)
Facsimile (973) 355-4338

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER.	PRINCIPAL AMOUNT
METROPOLITAN TOWER LIFE INSURANCE COMPANY C/O METROPOLITAN LIFE INSURANCE COMPANY 1095 AVENUE OF THE AMERICAS NEW YORK, NY 10036 TAX ID NO. 13-3114906	A-7 $1,082,708.58

Payment Instructions:

All scheduled payments of principal and interest by wire transfer of immediately available funds to:

Bank Name: JPMorgan Chase Bank
ABA Routing No. 021-000-021
Account No.: REDACTED
Account Name: Metropolitan Tower Life Insurance Company
Ref: Cemex España Finance LLC 8.91% Series A Notes due February 14, 2014

with sufficient information to identify the source and application of such funds, including issuer, PPN#, interest rate, maturity and whether payment is of principal, interest, make whole amount or otherwise. For all payments other than scheduled payments of principal and interest, the Company shall seek instructions from the holder, and in the absence of instructions to the contrary, will make such payments to the account and in the manner set forth above

In case of all notices with respect to payments:

Delivery of Notes after Closing:

METROPOLITAN TOWER LIFE INSURANCE COMPANY
c/o Metropolitan Life Insurance Company
Securities Investments, Law Department
P.O. Box 1902
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Karen G. Crockett, Esq.

Notices and communications:

METROPOLITAN TOWER LIFE INSURANCE COMPANY
c/o Metropolitan Life Insurance Company
Investments, Private Placements
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Director
Facsimile (973) 355-4250

With a copy OTHER than with respect to deliveries of financial statements to:

METROPOLITAN TOWER LIFE INSURANCE COMPANY
c/o Metropolitan Life Insurance Company
P.O. Box 1902
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Chief Counsel-Securities Investments (PRIV)
Facsimile (973) 355-4338

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
GENERAL AMERICAN LIFE INSURANCE COMPANY C/O METROPOLITAN LIFE INSURANCE COMPANY 1095 AVENUE OF THE AMERICAS NEW YORK, NY 10036 TAX ID NO. 43-0285930	A-8 $5,413,542.92

Payment Instructions:

All scheduled payments of principal and interest by wire transfer of immediately available funds to:

Bank Name: JPMorgan Chase Bank
ABA Routing No.: 021-000-021
Account No.: REDACTED
Account Name: General American Life Insurance Company
Ref: Cemex España Finance LLC 8.91% Series A Notes due February 14, 2014

with sufficient information to identify the source and application of such funds, including issuer, PPN#, interest rate, maturity and whether payment is of principal, interest, make whole amount or otherwise. For all payments other than scheduled payments of principal and interest, the Company shall seek instructions from the holder, and in the absence of instructions to the contrary, will make such payments to the account and in the manner set forth above.

In case of all notices with respect to payments:

Delivery of Notes after Closing:

GENERAL AMERICAN LIFE INSURANCE COMPANY
c/o Metropolitan Life Insurance Company
Securities Investments, Law Department
P.O. Box 1902
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Karen G. Crockett, Esq.

Notices and communications:

GENERAL AMERICAN LIFE INSURANCE COMPANY
c/o Metropolitan Life Insurance Company
Investments, Private Placements
P.O. Box 1902
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Director
Facsimile (973) 355-4250

With a copy OTHER than with respect to deliveries of financial statements to:

GENERAL AMERICAN LIFE INSURANCE COMPANY
c/o Metropolitan Life Insurance Company
P.O. Box 1902
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Chief Counsel-Securities Investments (PRIV)
Facsimile (973) 355-4338

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER.	**PRINCIPAL AMOUNT**
NEW ENGLAND LIFE INSURANCE COMPANY C/O METROPOLITAN LIFE INSURANCE COMPANY 1095 AVENUE OF THE AMERICAS NEW YORK, NY 10036 TAX ID NO. 04-2708937	A-9 $8,661,668.67

Payment Instructions:

All scheduled payments of principal and interest by wire transfer of immediately available funds to:

Bank Name: JPMorgan Chase Bank
ABA Routing No.: 021-000-021
Account No.: REDACTED
Account Name: New England Life Insurance Company
Ref: Cemex España Finance LLC 8.91% Series A Notes due February 14, 2014

with sufficient information to identify the source and application of such funds, including issuer, PPN#, interest rate, maturity and whether payment is of principal, interest, make whole amount or otherwise. For all payments other than scheduled payments of principal and interest, the Company shall seek instructions from the holder, and in the absence of instructions to the contrary, will make such payments to the account and in the manner set forth above.

In case of all notices with respect to payments:

Delivery of Notes after Closing:

NEW ENGLAND LIFE INSURANCE COMPANY
c/o Metropolitan Life Insurance Company
Securities Investments, Law Department
P.O. Box 1902
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Karen G. Crockett, Esq.

Notices and communications:

NEW ENGLAND LIFE INSURANCE COMPANY
c/o Metropolitan Life Insurance Company
Investments, Private Placements
P.O. Box 1902
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Director
Facsimile (973) 355-4250

With a copy OTHER than with respect to deliveries of financial statements to:

NEW ENGLAND LIFE INSURANCE COMPANY
c/o Metropolitan Life Insurance Company
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Chief Counsel-Securities Investments (PRIV)
Facsimile (973) 355-4338

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
METLIFE INSURANCE COMPANY OF CONNECTICUT— SEPARATE ACCOUNT MGA II C/O METROPOLITAN LIFE INSURANCE COMPANY 1095 AVENUE OF THE AMERICAS NEW YORK, NY 10036 TAX ID NO. 06-0566090	A-10 $4,763,917.77

Payment Instructions:

All scheduled payments of principal and interest by wire transfer of immediately available funds to:

Bank Name: State Street Bank
ABA Routing No.: 011000028
Account No.: REDACTED
Ref: Cemex España Finance LLC 8.91% Series A Notes due February 14, 2014

with sufficient information to identify the source and application of such funds, including issuer, PPN#, interest rate, maturity and whether payment is of principal, interest, make whole amount or otherwise. For all payments other than scheduled payments of principal and interest, the Company shall seek instructions from the holder, and in the absence of instructions to the contrary, will make such payments to the account and in the manner set forth above..

In case of all notices with respect to payments:

Delivery of Notes after Closing:

MetLife Insurance Company of Connecticut
c/o Metropolitan Life Insurance Company
Securities Investments, Law Department
P.O. Box 1902
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Karen G. Crockett, Esq.

Notices and communications:

MetLife Insurance Company of Connecticut
c/o Metropolitan Life Insurance Company
Investments, Private Placements
P.O. Box 1902
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Director
Facsimile (973) 355-4250

With a copy OTHER than with respect to deliveries of financial statements to:

MetLife Insurance Company of Connecticut
c/o Metropolitan Life Insurance Company
P.O. Box 1902
10 Park Avenue
Morristown, New Jersey 07962-1902
Attention: Chief Counsel-Securities Investments (PRIV)
Facsimile (973) 355-4338

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
WESTERN NATIONAL LIFE INSURANCE COMPANY TAX ID NO. 75-0770838	A-11 $16,240,628.75

Payment Instructions:

All payments to be by wire transfer of immediately available funds, with sufficient information (including PPN, interest rate, maturity date, interest amount, principal amount and premium amount, if applicable) to identify the source and application of such funds, to:

The Bank of New York
ABA # 021-000-018
Account Number: REDACTED
For Further Credit to: WESTERN NATIONAL LIFE INSURANCE CO.; Account No. 260638
Reference: PPN 15128@AH6 and Prin.: $____; Int.: $____

In case of all notices with respect to payments:

Payment notices, audit confirmations and related correspondence to:
Western National Life Insurance Company (260638)
c/o AIG Investments
2929 Allen Parkway, A36-04
Houston, Texas 77019-2155
Attn: Private Placements—Portfolio Operations
Fax: (713) 831-1072
Email: AIGGIGPVTPLACEMENTOPERATIONS@aig.com

Duplicate payment notices (only) to:

Western National Life Insurance Company (260638)
c/o The Bank of New York
Attn: P & I Department
Fax: (718) 315-3076

Delivery of Notes after Closing:

The Bank of New York
One Wall Street—3rd Floor Window—A
New York, N.Y. 10286
Attention: Arnold Musella or Ada Casiano, Phone: (212) 635-1917
Account Name: WESTERN NATIONAL LIFE INSURANCE COMPANY
Account Number: REDACTED

Notices and communications:

*Compliance reporting information to:

AIG Investments
2929 Allen Parkway, A36-04
Houston, Texas 77019-2155
Attn: Private Placements—Compliance
Email: Compliance-AIGGIG@aig.com

* Note: Only two (2) complete sets of compliance information are required for all companies for which AIG Global Investment Corp. serves as investment advisor.

Depository Trust Company (DTC) Instructions:

Alert Code: AGAIC
DTC Participant # 901
Institutional ID # 30012
Agent Bank ID # 26500
Account Name: WESTERN NATIONAL LIFE INSURANCE COMPANY
Account Number: REDACTED

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
AMERICAN GENERAL LIFE AND ACCIDENT INSURANCE COMPANY TAX ID NO. 62-0306330	A-12 $10,827,085.84

Payment Instructions:

All payments to be by wire transfer of immediately available funds, with sufficient information (including PPN, interest rate, maturity date, interest amount, principal amount and premium amount, if applicable) to identify the source and application of such funds, to:

State Street Bank & Trust Company
ABA # 011-000-028
Account Name: AMERICAN GENERAL LIFE AND ACCIDENT INS. CO.
Fund Number PA 10
Account Number: REDACTED
Reference: PPN 15128@AH6 and Prin.: $; Int.: $____

In case of all notices with respect to payments:

Payment notices, audit confirmations and related correspondence to:

American General Life and Accident Insurance Company (PA 10)
c/o AIG Investments
2929 Allen Parkway, A36-04
Houston, Texas 77019-2155
Attn: Private Placements—Portfolio Operations
Fax: (713) 831-1072 or
Email: AIGGIGPVTPLACEMENTOPERATIONS@aig.com

Duplicate payment notices (only) to:

American General Life and Accident Insurance Company (PA 10)
c/o State Street Bank Corporation, Insurance Services
Fax: (816) 871-5539

Delivery of Notes after Closing:

DTC / New York Window
55 Water Street
New York, N.Y. 10041
Attention: Robert Mendez for the account of State Street
Account Name: AMERICAN GENERAL LIFE AND ACCIDENT INSURANCE COMPANY
Fund Number: REDACTED
Contact: Karen Tompkins, Phone: (816) 871-9708

Notices and communications:

*Compliance reporting information to:

AIG Global Investment Corporation
2929 Allen Parkway, A36-04
Houston, Texas 77019-2155
Attn: Private Placements—Compliance
Email: Compliance-AIGGIG@aig.com

* Note: Only two (2) complete sets of compliance information are required for all companies for which AIG Global Investment Corp. serves as investment advisor.

Depository Trust Company (DTC) Instructions:

Alert Code: AGLA
DTC Participant # 0997
Institutional ID # 30012
Agent Bank ID # 20997
Account Name: AMERICAN GENERAL LIFE AND ACCIDENT INSURANCE COMPANY
Fund Number: **REDACTED**

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASE	PRINCIPAL AMOUNT
AMERICAN INTERNATIONAL LIFE ASSURANCE COMPANY OF NEW YORK TAX ID NO. 13-6101875	A-13 $12,992,503.00

Payment Instructions:

All payments to be by wire transfer of immediately available funds, with sufficient information (including PPN #, interest rate, maturity date, interest amount, principal amount and premium amount, if applicable) to identify the source and application of such funds, to:

Mellon Trust of New England
ABA # 011-001-234
DDA # REDACTED
For Further Credit to: AI LIFE ASSURANCE COMPANY PP; Account No.
Reference: PPN 15128@AH6 and Prin.: $; Int.: $ ____

In case of all notices with respect to payments:

Payment notices, audit confirmations and related correspondence to:

American International Life Assurance Company of New York (AGIFLNY0372)
c/o AIG Investments
2929 Allen Parkway, A36-04
Houston, Texas 77019-2155
Attn: Private Placements—Portfolio Operations
Fax: (713) 831-1072 or
Email: AIGGIGPVTPLACEMENTOPERATIONS@aig.com

Duplicate payment notices (only) to:

American International Life Assurance Company of New York (AGIFLNY0372)
c/o Mellon Trust of New England
Fax: (412) 208-2782

Delivery of Notes after Closing:

Mellon Securities Trust Company
One Wall Street; 3rd Floor—Receive Window C
New York, N.Y. 10286
Attention: Mike Visone
Account Name: AMERICAN INTERNATIONAL LIFE ASSURANCE COMPANY OF NEW YORK
Account Number: REDACTED
Contact: Scott Fath, Phone: (412) 234-6279

Notices and communications:

*Compliance reporting information to:

AIG Global Investment Corporation
2929 Allen Parkway, A36-04
Houston, Texas 77019-2155
Attn: Private Placements—Compliance
Email: Compliance-AIGGIG@aig.com

* Note: Only two (2) complete sets of compliance information are required for all companies for which AIG Global Investment Corp. serves as investment advisor.

Depository Trust Company (DTC) Instructions:

Alert Code: AILPVTPL
DTC Participation # 0954
Institutional ID # 30012
Agent Bank ID # 26017
Account Name: AMERICAN INTERNATIONAL LIFE ASSURANCE COMPANY OF NEW YORK
Account Number: REDACTED

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
MERIT LIFE INSURANCE CO. TAX ID NO. 35-1005090	A-14 $3,248,125.75

Payment Instructions:

All payments to be by wire transfer of immediately available funds, with sufficient information (including PPN #, interest rate, maturity date, interest amount, principal amount and premium amount, if applicable) to identify the source and application of such funds, to:

State Street Bank & Trust Company
ABA # 011-000-028
Account Name: MERIT LIFE INSURANCE CO.; Fund Number PA 20
Account Number: REDACTED
Reference: PPN 15128@AH6 and Prin.: $____; Int.: $____

In case of all notices with respect to payments:

Payment notices, audit confirmations and related correspondence to:

Merit Life Insurance Co. (PA 20)
c/o AIG Investments
2929 Allen Parkway, A36-04
Houston, Texas 77019-2155
Attn: Private Placements—Portfolio Operations
Fax: (713) 831-1072 or
Email: AIGGIGPVTPLACEMENTOPERATIONS@aig.com

Duplicate payment notices (only) to:

Merit Life Insurance Co. (PA 20)
c/o State Street Bank Corporation, Insurance Services
Fax: (816) 871-5539

Delivery of Notes after Closing:

DTC / New York Window
55 Water Street
New York, N.Y. 10041
Attention: Robert Mendez for the account of State Street
Account Name: MERIT LIFE INSURANCE CO.
Fund Number: PA 20
Contact: Karen Tompkins, Phone: (816) 871-9708

Notices and communications:

*Compliance reporting information to:

AIG Global Investment Corporation
2929 Allen Parkway, A36-04
Houston, Texas 77019-2155
Attn: Private Placements—Compliance
Email: Compliance-AIGGIG@aig.com

* Note: Only two (2) complete sets of compliance information are required for all companies for which AIG Global Investment Corp. serves as investment advisor.

Depository Trust Company (DTC) Instructions:

Alert Code: MLIC
DTC Participant # 0997
Institutional ID # 30012
Agent Bank ID # 20997
Account Name: MERIT LIFE INSURANCE CO.
Fund Number: REDACTED

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
THE VARIABLE ANNUITY LIFE INSURANCE COMPANY TAX ID NO. 74-1625348	A-15 $37,894,800.42

Payment Instructions:

All payments to be by wire transfer of immediately available funds, with sufficient information (including PPN #, interest rate, maturity date, interest amount, principal amount and premium amount, if applicable) to identify the source and application of such funds, to:

The Bank of New York
ABA # 021-000-018
Account Number: REDACTED
For Further Credit to: VARIABLE ANNUITY LIFE INSURANCE CO.; Account No. 260735
Reference: PPN 15128@AH6 and Prin.: $; Int.: $ _____

In case of all notices with respect to payments:

Payment notices, audit confirmations and related correspondence to:
The Variable Annuity Life Insurance Company (260735)
c/o AIG Investments
2929 Allen Parkway, A36-04
Houston, Texas 77019-2155
Attn: Private Placements—Portfolio Operations
Fax: (713) 831-1072 or
Email: AIGGIGPVTPLACEMENTOPERATIONS@aig.com

Duplicate payment notices (only) to:

The Variable Annuity Life Insurance Company (260735)
c/o The Bank of New York
Attn: P & I Department
Fax: (718) 315-3076

Delivery of Notes after Closing:

The Bank of New York
One Wall Street—3rd Floor Window—A
New York, N.Y. 10286
Attn: Arnold Musella or Ada Casiano, Phone: (212) 635-1917
Account Name: THE VARIABLE ANNUITY LIFE INSURANCE COMPANY
Account Number: REDACTED

Notices and communications:

*Compliance reporting information to:

AIG Global Investment Corporation
2929 Allen Parkway, A36-04
Houston, Texas 77019-2155
Attn: Private Placements—Compliance
Email: Compliance-AIGGIG@aig.com

* **Note:** Only two (2) complete sets of compliance information are required for all companies for which AIG Global Investment Corp. serves as investment advisor.

Depository Trust Company (DTC) Instructions:

Alert Code: VALIC
DTC Participant # 901
Institutional ID # 30012
Agent Bank ID # 26500
Account Name: THE VARIABLE ANNUITY LIFE INSURANCE COMPANY
Account Number: REDACTED

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY TAX ID NO. 39-0509570	A-16 $62,797,097.84

Payment Instructions:

All payments by wire transfer of immediately available funds to:

US Bank
777 East Wisconsin Avenue
Milwaukee, WI 53202
ABA #075000022

For the account of
NM Private Placement
Account No. REDACTED

With sufficient information to identify the source of the transfer, the amount of interest, principal or premium, the series of Notes and the PPN (15128@AH6, Cemex Espana Finance LLC 8.91% Series A Notes, due February 14,2014)

In case of all notices with respect to payments:

All notice of payments and written confirmations of such wire transfers:

The Northwestern mutual Life Insurance Company
720 East Wisconsin Avenue
Milwaukee, WI 53202
Attention: Investment Operations
Facsimile: (414) 625-6998

Delivery of Notes after Closing:

The Northwestern mutual Life Insurance Company
720 East Wisconsin Avenue
Milwaukee, WI 53202
Attention: Douglas Timmer

Notices and communications:

The Northwestern mutual Life Insurance Company
720 East Wisconsin Avenue
Milwaukee, WI 53202
Attention: Securities Department
Facsimile: (414) 665-7124

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
RELIASTAR LIFE INSURANCE COMPANY TAX ID NO. 41-0451140	A-17 $10,827,085.84

Payment Instructions:

All payments on account of Notes held by such purchaser should be made by wire transfer of immediately available funds for credit to:

The Bank of New York Mellon
ABA#: 021000018
Account: REDACTED (for scheduled principal and interest payments) or REDACTED (for all payments other than scheduled principal and interest)

For further credit to: REDACTED 5

Reference: Ref: PPN 15128@AH6; Cemex Espana Finance LLC 8.91% Series A Notes, due February 14, 2014

Each such wire transfer should set forth the name of the issuer, the full title (including the coupon rate, issuance date, and final maturity date) of the Notes on account of which such payment is made, and the due date and application (as among principal, premium and interest) of the payment being made.

In case of all notices with respect to payments:

ING Investment Management LLC
5780 Powers Ferry Road NW, Suite 300
Atlanta, GA 30327-4347
Attn: Operations/Settlements
Fax: (770) 690-4886

Notices and communications:

ING Investment Management LLC
5780 Powers Ferry Road NW, Suite 300
Atlanta, GA 30327-4347
Attn: Private Placements
Fax: (770) 690-5057

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
ING LIFE INSURANCE AND ANNUITY COMPANY TAX ID NO. 71-0294708	A-19 $12,992,503.00

Payment Instructions:

All payments on account of Notes held by such purchaser should be made by wire transfer of immediately available funds for credit to:

The Bank of New York Mellon
ABA#: 021000018
Account: REDACTED (for scheduled principal and interest payments) or REDACTED (for all payments other than scheduled principal and interest)

For further credit to: REDACTED

Ref: PPN 15128@AH6; Cemex Espana Finance LLC 8.91% Series A Notes, due February 14, 2014

Each such wire transfer should set forth the name of the issuer, the full title (including the coupon rate, issuance date, and final maturity date) of the Notes on account of which such payment is made, and the due date and application (as among principal, premium and interest) of the payment being made.

In case of all notices with respect to payments:

ING Investment Management LLC
5780 Powers Ferry Road NW, Suite 300
Atlanta, GA 30327-4347
Attn: Operations/Settlements
Fax: (770) 690-4886

Notices and communications:

ING Investment Management LLC
5780 Powers Ferry Road NW, Suite 300
Atlanta, GA 30327-4347
Attn: Private Placements
Fax: (770) 690-5057

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
ING USA ANNUITY AND LIFE INSURANCE COMPANY TAX ID NO. 41-0991508	A-20 $27,067,714.59

Payment Instructions:

All payments on account of Notes held by such purchaser should be made by wire transfer of immediately available funds for credit to:

The Bank of New York Mellon
ABA#: 021000018
Account: REDACTED (for scheduled principal and interest payments) or REDACTED (for all payments other than scheduled principal and interest)

For further credit to: REDACTED

Ref: PPN 15128@AH6; Cemex Espana Finance LLC 8.91% Series A Notes, due February 14, 2014

Each such wire transfer should set forth the name of the issuer, the full title (including the coupon rate, issuance date, and final maturity date) of the Notes on account of which such payment is made, and the due date and application (as among principal, premium and interest) of the payment being made.

In case of all notices with respect to payments:

ING Investment Management LLC
5780 Powers Ferry Road NW, Suite 300
Atlanta, GA 30327-4347
Attn: Operations/Settlements
Fax: (770) 690-4886

Notices and communications:

ING Investment Management LLC
5780 Powers Ferry Road NW, Suite 300
Atlanta, GA 30327-4347
Attn: Private Placements
Fax: (770) 690-5057

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
SECURITY LIFE OF DENVER INSURANCE COMPANY TAX ID NO. 84-0499703	A-21 $8,661,668.67

Payment Instructions:

All payments on account of Notes held by such purchaser should be made by wire transfer of immediately available funds for credit to:

The Bank of New York Mellon
ABA#: 021000018
Account: REDACTED (for scheduled principal and interest payments) or REDACTED (for all payments other than scheduled principal and interest)

For further credit to: REDACTED.

Ref: PPN 15128@AH6; Cemex Espana Finance LLC 8.91% Series A Notes, due February 14, 2014

Each such wire transfer should set forth the name of the issuer, the full title (including the coupon rate, issuance date, and final maturity date) of the Notes on account of which such payment is made, and the due date and application (as among principal, premium and interest) of the payment being made.

In case of all notices with respect to payments:

ING Investment Management LLC
5780 Powers Ferry Road NW, Suite 300
Atlanta, GA 30327-4347
Attn: Operations/Settlements
Fax: (770) 690-4886

Notices and communications:

ING Investment Management LLC
5780 Powers Ferry Road NW, Suite 300
Atlanta, GA 30327-4347
Attn: Private Placements
Fax: (770) 690-5057

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	**PRINCIPAL AMOUNT**
JOHN HANCOCK LIFE INSURANCE COMPANY TAX ID NO. 04-1414660	A-22 $46,015,114.80

Payment Instructions:

All payments to be by bank wire transfer of immediately available funds to:

Bank Name: Bank of New York Mellon
Intermediary Bank: Federal Reserve Bank of Boston
ABA Number: 011001234
Account Name: F008 US PP Collector
DDA Number: REDACTED
Account Number: REDACTED
On Order of: CEMEX ESPAÑA FINANCE LLC, Cusip Number 15128@AH6

P&I Breakdown
Full name, interest rate and maturity date of Notes or other obligations

In case of all notices with respect to payments:

All notices with respect to payments, prepayments (scheduled and unscheduled, whether partial or in full) and maturity shall be sent to:

John Hancock Financial Services and
200 Berkley Street
Boston, MA 02116
Attention: Investment Accounting, B-3
Administration, C-2
Fax Number: (617) 572-0628

John Hancock Financial Services
197 Clarendon Street
Boston, MA 02116
Attention: Investment
Fax Number: (617) 572-5495

Notices and communications:

All notices and communication with respect to compliance reporting, financial statements and related certifications shall be sent to:

John Hancock Financial Services
197 Clarendon Street
Boston, MA 02116
Attention: Bond and Corporate Finance, C-2
Fax Number: (617) 572-1165

All other notices shall be sent to:

John Hancock Financial Services
197 Clarendon Street
Boston, MA 02116
Attention: Investment Law, C-3
Corporate Finance, C-2
Fax Number: (617) 572-9269

and

John Hancock Financial Services
197 Clarendon Street
Boston, MA 02116
Attention: Bond and
Fax Number: (617) 572-1165

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
JOHN HANCOCK VARIABLE LIFE INSURANCE COMPANY TAX ID NO. 04-2664016	A-23 $2,706,771.46

Payment Instructions:

All payments to be by bank wire transfer of immediately available funds to:

Bank Name: Bank of New York Mellon
Intermediary Bank: Federal Reserve Bank of Boston
ABA Number: 011001234
Account Name: F008 US PP Collector
DDA Number: REDACTED
Account Number: REDACTED
On Order of: CEMEX ESPAÑA FINANCE LLC, Cusip Number 15128@AH6

P&I Breakdown
Full name, interest rate and maturity date of Notes or other obligations

In case of all notices with respect to payments:

All notices with respect to payments, prepayments (scheduled and unscheduled, whether partial or in full) and maturity shall be sent to:

John Hancock Financial Services
200 Berkley Street
Boston, MA 02116
Attention: Investment Accounting, B-3
Fax Number: (617) 572-0628

and

John Hancock Financial Services
197 Clarendon Street
Boston, MA 02116
Attention: Investment Administration, C-2
Fax Number: (617) 572-5495

Delivery of Notes after Closing:

Notices and communications:

All notices and communication with respect to compliance reporting, financial statements and related certifications shall be sent to:

John Hancock Financial Services
197 Clarendon Street
Boston, MA 02116
Attention: Bond and Corporate Finance, C-2
Fax Number: (617) 572-1165

All other notices shall be sent to:

John Hancock Financial Services
197 Clarendon Street
Boston, MA 02116
Attention: Investment Law, C-3
Corporate Finance, C-2
Fax Number: (617) 572-9269

and

John Hancock Financial Services
197 Clarendon Street
Boston, MA 02116
Attention: Bond and
Fax Number: (617) 572-1165

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
Manulife Life Insurance Company TAX ID NO. 98-0427213	B-1 ¥1,185,389,696.06

Payment Instructions:

All payments to be by bank wire transfer of immediately available funds to:

Correspondent Bank:	Bank of Tokyo-Mitsubshi
Correspondent Bank Swift:	BOTKJPJTXXX
Beneficiary Bank:	State Street Bank and Trust Company (Hong Kong Branch)
Beneficiary Bank Swift:	SBOSHKHXXXX
Beneficiary Account:	REDACTED
Beneficiary Name:	Manulife Life Insurance Company
Reference:	AMN6

On Order of: Cemex Espana Finance LLC, Cusip Number 15128@AH6, 8.91% Series A Notes due February 14, 2014 and P&I Breakdown

In case of all notices with respect to payments:

All notices with respect to payments, prepayments (scheduled and unscheduled, whether partial or in full) and maturity shall be sent to:

MFC Global Investment Management (Japan) Limited
Kyobashi TD Building 7F
1-2-5, Kyobashi, Chuo-ku, Tokyo,
Japan 104-0031
Attention: Ms. Wakako Matsumura
Telephone: 81-3-5204-5504
Fax: 81-3-5204-5546
Email: mlj_mfcj-operation@mfcglobal.com

Notices and communications:

All notices and communication with respect to compliance reporting, financial statements and related certifications shall be sent to:

MFC Global Investment Management (Japan) Limited
Kyobashi TD Building 7F
1-2-5, Kyobashi, Chuo-ku, Tokyo, Japan 104-0031
Attention: Ms. Wakako Matsumura
Telephone: 81-3-5204-5504
Fax: 81-3-5204-5546
Email: mlj_mfcj-operation@mfcglobal.com

All other notices shall be sent to:

MFC Global Investment Management (Japan) Limited
Kyobashi TD Building 7F
1-2-5, Kyobashi, Chuo-ku, Tokyo,
Japan 104-0031
Attention: Ms. Wakako Matsumura
Telephone: 81-3-5204-5504
Fax: 81-3-5204-5546
Email: mlj_mfcj-operation@mfcglobal.com

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION TAX ID NO. 13-3044743	A-24 $18,947,400.21

Payment Instructions:

All payments by wire or intrabank transfer of immediately available funds to:
JP Morgan Chase Bank
New York, NY 10019
ABA No. 021-000-021
Credit: New York Life Insurance and Annuity Corporation
General Account No. REDACTED
Ref: PPN 15128@AH6; Cemex Espana Finance LLC 8.91% Series A Notes, due February 14, 2014

With sufficient information (including issuer, PPN number, interest rate, maturity and whether payment is of principal, premium, or interest) to identify the source and application of such funds

In case of all notices with respect to payments:

New York Life Insurance and Annuity Corporation
c/o New York Life Investment Management LLC
51 Madison Avenue
New York, NY 10010-1603
Attention: Financial Management
Securities Operations
2nd Floor
Fax (212) 447-4132
With a copy sent electronically to:
FIIGLibrary@nylim.com

Notices and communications:

New York Life Insurance and Annuity Corporation
c/o New York Life Investment Management LLC
51 Madison Avenue
New York, NY 10010
Attention: Fixed Income Investors Group
Private Finance
2nd Floor
Fax (212)447-4122

With a copy sent electronically to:

FIIGLibrary@nylim.com

And with a copy of any notice regarding defaults or Events of Default under the operative documents to:

Attention: Office of the General Counsel
Investment Section, Room 1016
Fax (212) 576-8340

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION INSTITUTIONALLY OWNED LIFE INSURANCE SEPARATE ACCOUNT TAX ID NO. 13-3044743	A-25 $541,354.29

Payment Instructions:

All payments by wire or intrabank transfer of immediately available funds to:

JP Morgan Chase Bank
New York, NY 10019
ABA No. 021-000-021
Credit: NYLIAC SEPARATE BOLI 3 BROAD FIXED
General Account No. REDACTED
Ref: PPN 15128@AH6; Cemex Espana Finance LLC 8.91% Series A Notes, due February 14, 2014

With sufficient information (including issuer, PPN number, interest rate, maturity and whether payment is of principal, premium, or interest) to identify the source and application of such funds

In case of all notices with respect to payments:

New York Life Insurance and Annuity Corporation
Institutionally Owned Life Insurance Separate Account
c/o New York Life Investment Management LLC
51 Madison Avenue
New York, NY 10010-1603
Attention: Financial Management
Securities Operations
2nd Floor
Fax (212) 447-4132
With a copy sent electronically to:
FIIGLibrary@nylim.com

Notices and communications:

New York Life Insurance and Annuity Corporation
Institutionally Owned Life Insurance Separate Account
c/o New York Life Investment Management LLC
51 Madison Avenue
New York, NY 10010
Attention: Fixed Income Investors Group
Private Finance, 2nd Floor
Fax (212)447-4122

With a copy sent electronically to:

FIIGLibrary@nylim.com

And with a copy of any notice regarding defaults or Events of Default under the operative documents to:
Attention: Office of the General Counsel
Investment Section, Room 1016
Fax (212) 576-8340

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
NEW YORK LIFE INSURANCE COMPANY TAX ID NO. 13-5582869	A-26 $34,646,674.67

Payment Instructions:

All payments by wire or intrabank transfer of immediately available funds to:

JP Morgan Chase Bank
New York, NY 10019
ABA No. 021-000-021
Credit: New York Life Insurance Company
General Account No. REDACTED
Ref: PPN 15128@AH6; Cemex Espana Finance LLC 8.91% Series A Notes, due February 14, 2014

With sufficient information (including issuer, PPN number, interest rate, maturity and whether payment is of principal, premium, or interest) to identify the source and application of such funds.

In case of all notices with respect to payments:

New York Life Insurance Company
c/o New York Life Investment Management LLC
51 Madison Avenue
New York, NY 10010-1603
Attention: Financial Management
Securities Operations
2nd Floor
Fax (212) 447-4132
With a copy sent electronically to:
FIIGLibrary@nylim.com

Notices and communications:

New York Life insurance Company
c/o New York Life Investment Management LLC
51 Madison Avenue
New York, NY 10010
Attention: Fixed Income Investors Group
Private Finance
2nd Floor
Fax (212)447-4122

With a copy sent electronically to:

FIIGLibrary@nylim.com

And with a copy of any notice regarding defaults or Events of Default under the operative documents to:
Attention: Office of the General Counsel
Investment Section, Room 1016
Fax (212) 576-8340

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
THRIVENT FINANCIAL FOR LUTHERANS TAX ID NO. 04-3475606	A-27 $44,282,781.07

Payment Instructions:

ABA#: 011000028
State Street Bank & Trust Co.
DDA # A/C- REDACTED
Fund Number: REDACTED
Fund Name: Thrivent Financial for Lutherans

In case of all notices with respect to payments:

Investment Division-Private Placements
Thrivent Financial for Lutherans
625 Fourth Avenue South
Minneapolis, MN 55415
Fax: 612.844.4027

With a Copy to:
Thrivent Accounts
State Street Kansas City
801 Pennsylvania Ave
Kansas City, MO 64105
Fax: 816.691.3610
Att: Bart Woodson

Delivery of Notes after Closing:

DTC/New York Window
55 Water Street
Plaza Level-3rd Floor
New York, NY 10041
Attention: Robert Mendez
Account: REDACTED
Fund Name: Thrivent Financial for Lutherans
Fund Number: NCE1
Nominee Name: Swanbird & Co.
Nominee Tax ID: 04-3475606

With a Copy to:
Thrivent In House Counsel

Ref: PPN 15128@AH6; Cemex Espana Finance LLC 8.91% Series A Notes, due February 14, 2014

Notices and communications:

Investment Division-Private Placements
Thrivent Financial for Lutherans
625 Fourth Avenue South
Minneapolis, MN 55415
Fax: 612.844.4027

Signature Block Format:

Thrivent Financial for Lutherans
By: _____
Name:
Title:

Nominee: Swanbird & Co.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY TAX ID NO. 06-0838648	A-28 $21,654,171.67

Payment Instructions:

JP Morgan Chase
4 New York Plaza
New York New York 10004

Bank ABA No. 021000021
Chase NYC/Cust
A/C # REDACTED
Attn: Bond Interest/Principal - Cemex Espana Finance LLC
PPN 15128@AH6 Prin $_____ Int $_____

In case of all notices with respect to payments:

Hartford Investment Management Company
c/o Portfolio Support

Regular Mailing Address:

P.O. Box 1744
Hartford, CT 06144-1744

Overnight Mailing Address:

55 Farmington Avenue
Hartford, Connecticut 06105
Telefacsimile: (860)297-8875/8876

Delivery of Notes after Closing:

JPMorgan Chase
4 New York Plaza
New York, New York 10004
Attn: Brian Cavanaugh
Phy/Rec - 11th Floor
Phone: 212-623-2721
Custody Account Number: must appear on outside of envelope

Notices and communications:

Hartford Investment Management Company
c/o Investment Department-Private Placements

E-mail Address:

Robert.Mills@himco.com and PrivatePlacements.Himco@Himco.com
subject to confirming copy of notice being sent same day by recognized international commercial delivery service (charges prepaid) to the following addresses:

Regular Mailing Address:

P.O. Box 1744
Hartford, CT 06144-1744

Overnight Mailing Address:

55 Farmington Avenue
Hartford, Connecticut 06105
Telefacsimile: (860) 297-8884

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
HARTFORD LIFE INSURANCE COMPANY TAX ID NO. 06-0974148	A-29 $10,827,085.84

Payment Instructions:

JP Morgan Chase
4 New York Plaza
New York New York 10004

Bank ABA No. 021000021
Chase NYC/Cust
A/C # REDACTED Attn: Bond Interest/Principal - Cemex Espana Finance LLC
PPN 15128@AH6 Prin $_____ Int $_____

In case of all notices with respect to payments:

Hartford Investment Management Company
c/o Portfolio Support

Regular Mailing Address:

P.O. Box 1744
Hartford, CT 06144-1744

Overnight Mailing Address:

55 Farmington Avenue
Hartford, Connecticut 06105
Telefacsimile: (860)297-8875/8876

Delivery of Notes after Closing:

JPMorgan Chase
4 New York Plaza
New York, New York 10004
Attn: Brian Cavanaugh
Phy/Rec—11th Floor
Phone: 212-623-2721
Custody Account Number: **G06641—CRC** must appear on outside of envelope

Notices and communications:

Hartford Investment Management Company
c/o Investment Department-Private Placements

E-mail Address:

Robert.Mills@himco.com and PrivatePlacements.Himco@Himco.com
subject to confirming copy of notice being sent same day by recognized international commercial delivery service (charges prepaid) to the following addresses:

Regular Mailing Address:

P.O. Box 1744
Hartford, CT 06144-1744

Overnight Mailing Address:

55 Farmington Avenue
Hartford, Connecticut 06105
Telefacsimile: (860) 297-8884

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
HARTFORD ACCIDENT AND INDEMNITY COMPANY TAX ID NO. 06-0383030	A-30 $10,827,085.84

Payment Instructions:

JP Morgan Chase
4 New York Plaza
New York New York 10004

Bank ABA No. 021000021
Chase NYC/Cust
A/C # REDACTED
Attn: Bond Interest/Principal - Cemex Espana Finance LLC
PPN 15128@AH6 Prin $_____ Int $_____

In case of all notices with respect to payments:

Hartford Investment Management Company
c/o Portfolio Support

Regular Mailing Address:

P.O. Box 1744
Hartford, CT 06144-1744

Overnight Mailing Address:

55 Farmington Avenue
Hartford, Connecticut 06105
Telefacsimile: (860)297-8875/8876

Delivery of Notes after Closing:

JPMorgan Chase
4 New York Plaza
New York, New York 10004
Attn: Brian Cavanaugh
Phy/Rec—11th Floor
Phone: 212-623-2721
Custody Account Number: **G06239—HAI** must appear on outside of envelope

Notices and communications:

Hartford Investment Management Company
c/o Investment Department-Private Placements

E-mail Address:

Robert.Mills@himco.com and PrivatePlacements.Himco@Himco.com
subject to confirming copy of notice being sent same day by recognized international commercial delivery service (charges prepaid) to the following addresses:

Regular Mailing Address:

P.O. Box 1744
Hartford, CT 06144-1744

Overnight Mailing Address:

55 Farmington Avenue
Hartford, Connecticut 06105
Telefacsimile: (860)297-8884

Signature Block Format:

HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY
HARTFORD LIFE INSURANCE COMPANY
HARTFORD ACCIDENT AND INDEMNITY COMPANY

By: Hartford Investment Management Company
Their Agent and Attorney-In-Fact

By: _____
Name:
Title:

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
NATIONWIDE LIFE AND ANNUITY INSURANCE COMPANY TAX ID NO. 31-1000740	A-31 $6,496,251.50

Payment Instructions:

The Bank of New York Mellon
ABA # 021-000-018
BNF: REDACTED
F/A/O Nationwide Life and Annuity Insurance Company
Attn: P&I Department
PPN# 15128@AH6
Security Description: CEMEX ESPAÑA FINANCE LLC 8.91% SENIOR NOTE, SERIES A, DUE FEBRUARY 14, 2014

In case of all notices with respect to payments:

Nationwide Life and Annuity Insurance Company
c/o The Bank of New York
PO Box 19266
Attn: P&I Department
Newark, NJ 07195
With a copy to:
Nationwide Life and Annuity Insurance Company
Nationwide Investments – Investment Operations
One Nationwide Plaza (1-05-401)
Columbus, Ohio 43215-2220

Delivery of Notes after Closing:

The Bank of New York Mellon
One Wall Street
3rd Floor – Window A
New York, NY 10286
F/A/O Nationwide Life and Annuity Insurance Company
Account # 267961

Notices and communications:

Nationwide Life and Annuity Insurance Company
Nationwide Investments – Private Placements
One Nationwide Plaza (1-05-801)
Columbus, Ohio 43215-2220

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
NATIONWIDE LIFE INSURANCE COMPANY TAX ID NO. 31-4156830	A-32 $16,240,628.75

Payment Instructions:

The Bank of New York Mellon
ABA # 021-000-018
BNF: REDACTED
F/A/O Nationwide Life Insurance Company
Attn: P&I Department
PPN 15128@AH6
Security Description: CEMEX ESPAÑA FINANCE LLC 8.91% SENIOR NOTE, SERIES A, DUE FEBRUARY 14, 2014

In case of all notices with respect to payments:

Nationwide Life Insurance Company
c/o The Bank of New York
PO Box 19266
Attn: P&I Department
Newark, NJ 07195
With a copy to:
Nationwide Life Insurance Company
Nationwide Investments – Investment Operations
One Nationwide Plaza (1-05-401)
Columbus, Ohio 43215-2220

Delivery of Notes after Closing:

The Bank of New York Mellon
One Wall Street
3rd Floor – Window A
New York, NY 10286
F/A/O Nationwide Life Insurance Company Account # 267829

Notices and communications:

Nationwide Life Insurance Company
Nationwide Investments – Private Placements
One Nationwide Plaza (1-05-801)
Columbus, Ohio 43215-2220

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
NATIONWIDE MULTIPLE MATURITY SEPARATE ACCOUNT TAX ID NO. 31-4156830	A-33 $4,330,834.33.33

Payment Instructions:

The Bank of New York Mellon
ABA # 021-000-018
BNF: REDACTED
F/A/O Nationwide Multiple Maturity Separate Account
Attn: P&I Department
PPN 15128@AH6
Security Description: CEMEX ESPAÑA FINANCE LLC 8.91% SENIOR NOTE, SERIES A, DUE FEBRUARY 14, 2014

In case of all notices with respect to payments:

Nationwide Multiple Maturity Separate Account
c/o The Bank of New York
PO Box 19266
Attn: P&I Department
Newark, NJ 07195
With a copy to:
Nationwide Multiple Maturity Separate Account
Nationwide Investments – Investment Operations
One Nationwide Plaza (1-05-401)
Columbus, Ohio 43215-2220

Delivery of Notes after Closing:

The Bank of New York Mellon
One Wall Street
3rd Floor – Window A
New York, NY 10286
F/A/O Nationwide Multiple Maturity Separate Account
Account # 267919

Notices and communications:

Nationwide Multiple Maturity Separate Account
Nationwide Investments – Private Placements
One Nationwide Plaza (1-05-801)
Columbus, OH 43215-2220

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
NATIONWIDE MUTUAL INSURANCE COMPANY TAX ID NO. 31-4177100	A-34 $12,992,503.00

Payment Instructions:

The Bank of New York Mellon
ABA # 021-000-018
BNF: REDACTED
F/A/O Nationwide Mutual Insurance Company
Attn: P&I Department
PPN 15128@AH6
Security Description: CEMEX ESPAÑA FINANCE LLC 8.91% SENIOR NOTE, SERIES A, DUE FEBRUARY 14, 2014

In case of all notices with respect to payments:

Nationwide Mutual Insurance Company
c/o The Bank of New York
PO Box 19266
Attn: P&I Department
Newark, NJ 07195
With a copy to:
Nationwide Mutual Insurance Company
Nationwide Investments – Investment Operations
One Nationwide Plaza (1-05-401)
Columbus, Ohio 43215-2220

Delivery of Notes after Closing:

The Bank of New York Mellon
One Wall Street
3rd Floor – Window A
New York, NY 10286
F/A/O Nationwide Mutual Insurance Company
Account # 264232

Notices and communications:

Nationwide Mutual Insurance Company
Nationwide Investments – Private Placements
One Nationwide Plaza (1-05-801)
Columbus, Ohio 43215-2220

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
AMCO INSURANCE COMPANY TAX ID NO. 42-6054959	A-35 $1,082,708.58

Payment Instructions:

The Bank of New York Mellon
ABA # 021-000-018
BNF: REDACTED
F/A/O AMCO Insurance Company
Attn: P&I Department
PPN 15128@AH6
Security Description: CEMEX ESPAÑA FINANCE LLC 8.91% SENIOR NOTE, SERIES A, DUE FEBRUARY 14, 2014

In case of all notices with respect to payments:

AMCO Insurance Company
c/o The Bank of New York
PO Box 19266
Attn: P&I Department
Newark, NJ 07195
With a copy to:
AMCO Insurance Company
Nationwide Investments – Investment Operations
One Nationwide Plaza (1-05-401)
Columbus, Ohio 43215-2220

Delivery of Notes after Closing:

The Bank of New York Mellon
One Wall Street
3rd Floor – Window A
New York, NY 10286
F/A/O AMCO Insurance Company
Account # 000611

Notices and communications:

AMCO Insurance Company
Nationwide Investments – Private Placements
One Nationwide Plaza (1-05-801)
Columbus, Ohio 43215-2220

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
The Guardian Life Insurance Company of America Tax ID No. 13-5123390	A-37 $27,067,714.59

Payment Instructions:

JP Morgan Chase
FED ABA #021000021
Chase/NYC/CTR/BNF
A/C REDACTED
Reference A/C #, Guardian Life, CUSIP 15128@AH6

In case of all notices with respect to payments:

Delivery of Notes after Closing:

JP Morgan Chase
4 New York Plaza – Ground Floor Receive Window
New York, NY 10004

Notices and communications:

The Guardian Life Insurance Company of America
7 Hanover Square
New York, NY 10004-2616
Attn: Barry Scheinholtz
Investment Department 20-D
Fax (212) 919-2658

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
Berkshire Life Insurance Company of America Tax Id. No. 75-1277524	A-36 $2,165,417.17

Payment Instructions:

JP Morgan Chase
FED ABA #021000021
Chase/NYC/CTR/BNF
A/C REDACTED
Reference A/C # REDACTED, Berkshire Life Insurance, CUSIP 15128@AH6

In case of all notices with respect to payments:

Delivery of Notes after Closing:

JP Morgan Chase
4 New York Plaza – Ground Floor Receive Window
New York, NY 10004
Reference A/C # REDACTED, Berkshire Life Insurance

Notices and communications:

Berkshire Life Insurance Company of America
c/o The Guardian Life Insurance Company of America
7 Hanover Square
New York, NY 10004-2616
Attn: Barry Scheinholtz
Investment Department 20-D
Fax #(212) 919-2658

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
Monumental Life Insurance Company Tax Id No. 52-0419790	A-38 $27,067,714.59

Payment Instructions:

All payments on account of the Monumental Life Insurance Company shall be made by wire transfer to:
Bank of New York Mellon
ABA #021000018
IOC566
FFC: Acct # MLIC_DFP7 26 1-251750
Ref: CUSIP/PPN 15128@AH6
Please provide CUSIP and P&I Breakdown

In case of all notices with respect to payments:

Email paymentnotifications@aegonusa.com
AEGON USA Investment Management, LLC
Attn: Custody Operations – Privates
4333 Edgewood Road NE
Cedar Rapids, IA 52499-7013

Delivery of Notes after Closing:

AEGON USA Investment Management, LLC
Attn: Director of Private Placements
4333 Edgewood Road N.E.
Cedar Rapids, IA 52499-5335 AEGON USA Investment Management LLC
Attn: Paul Houk, Esquire
Investment Legal Department
400 West Market Street, 10th Floor
Louisville, KY 40202

Notices and communications:

AEGON USA Investment Management, LLC
Attn: Director of Private Placements
4333 Edgewood Road N.E.
Cedar Rapids, IA 52499-5335
Phone: 319-355-2432
Fax: 319-355-2666

AEGON USA Investment Management, LLC
Attn: Director of Private Placements
400 West Market Street
Louisville, KY 40202
Phone: 502-560-2769
Fax: 502-560-2030

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
PACIFIC LIFE INSURANCE COMPANY TAX ID NO. 95-1079000	A-39 $27,067,714.59

Payment Instructions:

Mellon Trust of New England
ABA# 0110-0123-4
DDA REDACTED
Attn: MBS Income CC: 1253
A/C Name: Pacific Life Insurance Co—General Account/REDACTED
Regarding:PPN 15128@AH6
CEMEX ESPAÑA FINANCE LLC
8.91% SENIOR NOTE, SERIES A, DUE FEBRUARY 14, 2014

In case of all notices with respect to payments:

Mellon Trust
Attn: Pacific Life Accounting Team
One Mellon Bank Center
Room 0930
Pittsburgh, PA 15259

Pacific Life Insurance Company
Attn: IMD—Cash Team
700 Newport Center Drive
Newport Beach, CA 92660-6397
Fax #949-718-5845

Delivery of Notes after Closing:

Mellon Securities Trust Company
One Wall Street
3rd Floor–Receive Window C
New York, NY 10286
Contact: Robert Ferraro (212) 635-1299
A/C Name: Pacific Life Insurance Co – General Acct
A/C #: PLCF1810132

Notices and communications:

Pacific Life Insurance Company
Attn: IMD—Portfolio Management
700 Newport Center Drive
Newport Beach, CA 92660-6397
Fax #949-720-1963

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
PRIMERICA LIFE INSURANCE COMPANY TAX ID NO. 04-1590590	A-41 $6,063,168.07

Payment Instructions:

All payments to be made by crediting (in the form of federal funds bank wire transfer, with sufficient information to identify the source and application of funds) the following account:

Primerica Life Insurance Company
Account No. REDACTED
Account Name: Trust Other Demand IT SSG Custody
FFC Acct Name: Primerica Life Insurance Company
FFC Acct# REDACTED
JPMorgan Chase Bank
One Chase Manhattan Plaza
New York, New York 10081
ABA No. 021000021
Reference: CUSIP 15128@AH6 & Description and Breakdown
(principal/income) _____

Delivery of Notes after Closing

Primerica Life Insurance Company
C\O Conning Asset Management Company
One Financial Plaza 13th Floor
Hartford, CT 06103-2627
Attention: Vi R. Smalley
Phone: 860-299-2054
Facsimile: 860-299-0054
Email: Vi_Smalley@Conning.com

Notices and communications:

Primerica Life Insurance Company
C\O Conning Asset Management Company
55 East 52nd Street
New York, NY 10055
Attention: John H. DeMallie
Phone: 212-317-5528
Facsimile: 212-317-5179
Email: John_ DeMallie@Conning.com

With a copy of all notices and communication directed to:

Primerica Life Insurance Company
C\O Conning Asset Management Company
One Financial Plaza 13th Floor
Hartford, CT 06103-2627
Attention: Private Placement Unit
Phone: 860-299-2173
Facsimile: 860-299-2442
Email: Conning_Documents@Conning.com

Signature Block Format:

PRIMERICA LIFE INSURANCE COMPANY

By: Conning Asset Management Company
as Investment Manager

By: _____
Name: John H. DeMallie
Title: Director

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
NATIONAL BENEFIT LIFE INSURANCE COMPANY TAX ID NO. 23-1618791	A-42 $1,190,979.44

Payment Instructions:

All payments to be made by crediting (in the form of federal funds bank wire transfer, with sufficient information to identify the source and application of funds) the following account:

National Benefit Life Insurance Company
Account No. REDACTED
Account Name: Trust Other Demand IT SSG Custody
FFC Acct Name: National Benefit Life Insurance Company
FFC Acct# REDACTED
JPMorgan Chase Bank
One Chase Manhattan Plaza
New York, New York 10081
ABA No. 021000021
Reference: CUSIP 15128@AH6 & Description and Breakdown (principal/income) _____

Delivery of Notes after Closing:

National Benefit Life Insurance Company
C\O Conning Asset Management Company
One Financial Plaza 13th Floor
Hartford, CT 06103-2627
Attention: Vi R. Smalley
Phone: 860-299-2054
Facsimile: 860-299-0054
Email: Vi_Smalley@Conning.com

Notices and communications:

National Benefit Life Insurance Company
C\O Conning Asset Management Company
55 East 52nd Street
New York, NY 10055
Attention: John H. DeMallie
Phone: 212-317-5528
Facsimile: 212-317-5179
Email: John_ DeMallie@Conning.com

With a copy of all notices and communication directed to:

National Benefit Life Insurance Company
C\O Conning Asset Management Company
One Financial Plaza 13th Floor
Hartford, CT 06103-2627
Attention: Private Placement Unit
Phone: 860-299-2173
Facsimile: 860-299-2442
Email: Conning_Documents@Conning.com

Signature Block Format:

NATIONAL BENEFIT LIFE INSURANCE COMPANY

By: Conning Asset Management Company,
as Investment Manager

By: _____
Name: John H. DeMallie
Title: Director

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
SWISS RE LIFE & HEALTH AMERICA INC. TAX ID NO. 06-0839705	A-43 $8,661,668.67

Payment Instructions:

All payments to be made by crediting (in the form of federal funds bank wire transfer, with sufficient information to identify the source and application of funds) the following account:

The Bank of New York
ABA #021000018
For credit to: Account No. REDACTED
Acct Name: BNY Income Collection
FFC Acct# REDACTED
FFC Acct Name: Swiss Re Life & Health America Inc. Liability Privates
Reference: CUSIP 15128@AH6 and Description and Breakdown (principal/income)

Delivery of Notes after Closing:

Swiss Re Life & Health America Inc.
C\O Conning Asset Management Company
One Financial Plaza 13th Floor
Hartford, CT 06103-2627
Attention: Vi R. Smalley
Facsimile: 860-299-0054
Phone: 860-299-2054
Email: Vi_Smalley@Conning.com

Notices and communications:

Swiss Re Life & Health America Inc.
C\O Conning Asset Management Company
55 East 52nd Street
New York, NY 10055
Attention: John H. DeMallie
Phone: 212-317-5528
Facsimile: 212-317-5179
Email: John_DeMaillie@Conning.com

With a copy of all notices and communication directed to:

Swiss Re Life & Health America Inc.
C\O Conning Asset Management Company
One Financial Plaza 13th Floor
Hartford, CT 06103-2627
Attention: Private Placement Unit
Phone: 860-299-2173
Facsimile: 860-299-2442
Email: Conning_Documents@Conning.com

Signature Block Format:

SWISS RE LIFE & HEALTH AMERICA INC.

By: Conning Asset Management Company,
as Investment Manager

By: _____
Name: John H. DeMallie
Title: Director

Nominee: HARE & CO.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
WESTPORT INSURANCE CORPORATION (FKA EMPLOYERS REINSURANCE CORPORATION TAX ID NO. 48-0921045	A-40 $10,827,085.84

Payment Instructions:

All payments to be made by crediting (in the form of federal funds bank wire transfer, with sufficient information to identify the source and application of funds) the following account:

JPMorgan Chase Bank
One Chase Manhattan Plaza
New York, New York 10081
ABA No. 021-000-021
Account: Bond Interest
Account No. REDACTED
FFC Acct Name: ERC Total Return PP (TRPP)
FFC Account # REDACTED
Reference: CUSIP & DESCRIPTION, And Breakdown (principal/income)

In case of all notices with respect to payments:

Delivery of Notes after Closing:

Westport Insurance Corporation (FKA Employers Reinsurance Corporation)
C\O Conning Asset Management Company
One Financial Plaza 13th Floor
Hartford, CT 06103-2627
Attention: Vi R. Smalley
Phone: 860-299-2054
Facsimile: 860-299-0054
Email: Vi_Smalley@Conning.com

Notices and communications:

Westport Insurance Corporation (FKA Employers Reinsurance Corporation)
C\O Conning Asset Management Company
55 East 52nd Street
New York, NY 10055
Attention: John H. DeMallie
Phone: 212-317-5528
Facsimile: 212-317-5179
Email: John_ DeMallie@Conning.com

With a copy of all notices and communication directed to:

Westport Insurance Corporation (FKA Employers Reinsurance Corporation)
C\O Conning Asset Management Company
One Financial Plaza 13th Floor
Hartford, CT 06103-2627
Attention: Private Placement Unit
Phone: 860-299-2173
Facsimile: 860-299-2442
Email: Conning_Documents@Conning.com

Signature Block Format:

WESTPORT INSURANCE COPORATION (FKA EMPLOYERS REINSURANCE CORPORATION)

By: Conning Asset Management Company, as Investment Manager

By: _____
Name: John H. DeMallie
Title: Director

Nominee: HARE & CO.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
ALLSTATE LIFE INSURANCE COMPANY TAX ID NO. 36-2554642	A-44 $21,654,171.67

Payment Instructions:

All payments by Fedwire transfer of immediately available funds of ACH Payment, identifying the name of the Issuer, the Private Placement Number and the payment as principal, interest or premium, in the format as follows:

Bank: Citibank
ABA #: 021000089
Account Name: Allstate Life Insurance Company Collection Account – PP
Account #: REDACTED
Reference:
OBI (15128@ AH6, Cemex Espana Finance LLC, 8.91% Series A, February 14, 2014)
Payment Due Date (MM/DD/YY) and the type and amount of payment being made
For Example:
P _____ (Enter "P" and the amount of Principal being remitted, for example, P5000000.00)
I _____ (Enter "I" and the amount of interest being remitted, for example I225000.00)
For Overseas Wires: SWIFT Code: CITIUS33, SWIFT Line 71A: OUR

In case of all notices with respect to payments:

All notice of scheduled payments and written confirmations of such wire transfer to be sent to:
Allstate Investments LLC
Investment Operations—Private Placements
3075 Sanders Road, STE G4A
Northbrook, IL 60062-7127
Telephone: (847) 402-6672 Private Placements
Telecopy: (847) 326-7032
Email: PrivateIOD@allstate.com

Delivery of Notes after Closing:

Citibank, N.A.
399 Park Avenue, Level B Vault
New York, NY 10022
Attn: Danny Reyes
For Allstate Life Insurance Company/Safekeeping Account No. REDACTED

Notices and communications:

All financial reports, compliance certificates and all other written communications, including notice of prepayments to be sent by email (PrivateCompliance@allstate.com) or hard copy to:

Allstate Investments LLC
Private Placements Department
3075 Sanders road, STE G3A
Northbrook, IL 60062-7127
Telephone: (847) 402-7117
Telecopy: (847) 402-3092

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
ALLIED IRISH BANKS P.L.C. TAX ID NO. 13-2774656 Bankcentre, Ballsbridge, Dublin 4 Ireland	A-45 $21,654,171.67

Payment Instructions:

For payment of consent fee only:

Bank:	JP Morgan Chase Bank
Address:	New York
Swift code:	CHAS US 33
A/c:	AIB DUBLIN BSU
A/c Number:	REDACTED
Ref:	Cemex consent fee

For payments of principal, interest and other obligations:

Swift Code:	IRVTUS3N
Bank:	The Bank of New York Mellon SA- ABA # 021 000 018 F/C account No: REDACTED For further credit to GSP account: REDACTED

In case of all notices with respect to payments:

Bank of New York Mellon Global Corporate Actions Dept 1 Wall St, 6th Floor, New York, NY 10286 Attn: Regina Harris	Allied Irish Bank Corporate Banking International AIB International Centre IFSC Dublin 1, Ireland Attn: Martin Kelly

Delivery of Notes after Closing:

Bank of New York Mellon
Global Corporate Actions Dept
1 Wall St, 6th Floor,
New York,
NY 10286
Attn: Regina Harris

Notices and communications:

Bank of New York Mellon
Global Corporate Actions Dept.
1 Wall St, 6th Floor,
New York,
NY 10286
Attn: Regina Harris

Allied Irish Bank
Corporate Banking International
AIB International Centre
IFSC
Dublin 1, Ireland
Attn: Martin Kelly

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
BARCLAYS BANK PLC TX ID NO. 13-4942190	A-46 $21,654,171.67

Payment Instructions:

Physical Settlement—Cash Wire Instructions

The Bank of New York (ABA 021000018)
Attn: Barclays Capital Inc
Account # REDACTED

Principal & Interest—Cash Wire Instructions (For certificates registered in Barclays Bank PLC)

Bank of New York (ABA 021000018)
Account # REDACTED
Attn: Pia Llena
Ref: CUSIP# 15128@AH6, Cemex Espana Finance LLC 8.91% Series A Notes, due February 14, 2014

In case of all notices with respect to payments:

Barclays Capital Inc.
70 Hudson Street
Jersey City, NJ 07302
Attn: Principal & Interest
nycouponclaim@barcap.com

Delivery of Notes after Closing:

Settlements and return of transfers
The Bank of New York
1 Wall Street
3rd Floor, Window B
New York, NY 10286
Attention: Margaret Duffy (212-635-7017)
Reference: Barclays Account # REDACTED a/c of BARCLAYS BZW DEALER DP4-26946

Notices and communications:

Address for All Other Notices

Barclays Capital Inc.
745 Seventh Avenue
New York, NY 10019
Attn: US FI Credit—High Grade Hybrids

Trading Desk Contacts

212-412-6980 Desk
917-265-0737 Fax
Matthew Faranda matthew.faranda@barcap.com
Ryan Johnstin ryan.johnstin@barcap.com

Settlement Contacts

201-499-8517 Desk
646-758-3925 Fax
Sam DeAllie Sampson.deallie@barcap.com
Janet Lee janelee@barcap.com

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
GENWORTH LIFE INSURANCE COMPANY TAX ID NO. 91-6027719	A-47 $6,496,251.50

Payment Instructions:

All payments on or in respect of the Notes to be by bank wire transfer of Federal or other immediately available funds to:

The Bank of New York
ABA #: 021000018
Account #: REDACTED
SWIFT Code: IRVTUS3N
Acct Name: Private Placement Income Collection Account
Reference: GLIC/LISPIA CUSIP/PPN & Security Description, and Identify Principal & Interest Amounts
And by Email: treasppbkoffice@genworth.com
Fax: (804) 662-777

In case of all notices with respect to payments:

The Bank of New York
Income Collection Department
P.O. Box 19266
Newark, NJ 07195
Attn: PP P&I Department
Ref: GLIC 15128@AH6; Cemex Espana Finance LLC 8.91% Series A Notes due February 14, 2014
P&I Contact: Purisima Teylan—(718) 315-3035

Delivery of Notes after Closing:

The Bank of New York
One Wall Street
Window A, 3rd Floor
New York, NY 10286
Ref: GLIC/LISPIA
Account #: REDACTED

DTC Securities:

DTC #: 901
Agent ID #: 26500
Institutional ID: 26662
Account Name: GLIC/LISPIA
Account #: REDACTED

Notices and communications:

All notices and communications including original note agreement, conformed copy of the note agreement, amendment requests, financial statements and other general information to be addressed as follows:

Genworth Financial, Inc.
Account: Genworth Life Insurance Company
3001 Summer Street, 2nd Floor
Stamford, CT 06905
Attn: Dorothy Michalowski
Telephone No. (212) 895-4031
Fax No. (866) 745-0947

If available, an electronic copy is additionally requested. Please send to the following e-mail address:

GNW.privateplacements@genworth.com

All corporate actions, including payments and prepayments, should be sent to the above address with copies to:

Genworth Financial, Inc.
Account: Genworth Life Insurance Company
3001 Summer Street
Stamford, CT 06905
Attn: Trade Operations
Telephone No.: (203) 708-3368
Fax No.: (866) 745-3305

If available, an electronic copy is additionally requested. Please send to the following email address:

GNWInvestmentsOperations@genworth.com

Nominee:

HARE & CO.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
GENWORTH LIFE INSURANCE COMPANY OF NEW YORK TAX ID NO. 22-2882416	A-48 $2,165,417.17

Payment Instructions:

All payments on or in respect of the Notes to be by bank wire transfer of Federal or other immediately available funds to:

The Bank of New York
ABA #: 021000018
Account #: REDACTED
SWIFT Code: IRVTUS3N
Acct Name: Private Placement Income Collection Account
Reference: GLICNY/LNYSPDA CUSIP/PPN & Security Description, and Identify Principal & Interest Amounts
And by Email: treasppbkoffice@genworth.com
Fax: (804) 662-777

In case of all notices with respect to payments:

The Bank of New York
Income Collection Department
P.O. Box 19266
Newark, NJ 07195
Attn: PP P&I Department
Ref: GLICNY 15128@AH6; Cemex Espana Finance LLC 8.91% Series A Notes due February 14, 2014
P&I Contact: Purisima Teylan—(718) 315-3035

Delivery of Notes after Closing:

The Bank of New York
One Wall Street
Window A, 3rd Floor
New York, NY 10286
Ref: GLICNY/LNYSPDA
Account #: REDACTED

DTC Securities

DTC #: 901
Agent ID #: 26500
Institutional ID: 26662
Account Name: GLICNY/LNYSPDA
Account #; REDACTED

Notices and communications:

All notices and communications including original note agreement, conformed copy of the note agreement, amendment requests, financial statements and other general information to be addressed as follows:

Genworth Financial, Inc.
Account: Genworth Life Insurance Company of New York
3001 Summer Street, 2nd Floor
Stamford, CT 06905
Attn: Dorothy Michalowski
Telephone No. (212) 895-4031
Fax No. (866) 745-0947

If available, an electronic copy is additionally requested. Please send to the following e-mail address:

GNW.privateplacements@genworth.com

All corporate actions, including payments and prepayments, should be sent to the above address with copies to:

Genworth Financial, Inc.
Account: Genworth Life Insurance Company of New York
3001 Summer Street
Stamford, CT 06905
Attn: Trade Operations
Telephone No.: (203) 708-3368
Fax No.: (866) 745-3305

If available, an electronic copy is additionally requested. Please send to the following email address:

GNWInvestmentsOperations@genworth.com

Signature Block Format:

Nominee:

HARE & CO.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
ORIOLSPV TAX ID NO. 20-3075075	A-49 $9,744,377.25

Payment Instructions:

All payments on or in respect of the Notes to be by bank wire transfer of Federal or other immediately available funds to:

The Bank of New York
ABA #: 021000018
Account #: REDACTED
SWIFT Code: IRVTUS3N
Acct Name: Private Placement Income Collection Account
Reference: ORIOLE/ODA ORIOLE/OMDIS
15128@AH6; Cemex Espana Finance LLC 8.91% Series A Notes due February 14, 2014 , and Identify Principal & Interest Amounts
And by Email: treasppbkoffice@genworth.com
Fax: (804) 662-777

In case of all notices with respect to payments:

The Bank of New York
Income Collection Department
P.O. Box 19266
Newark, NJ 07195
Attn: PP P&I Department
Ref: ORIOLE15128@AH6; Cemex Espana Finance LLC 8.91% Series A Notes due February 14, 2014
P&I Contact: Purisima Teylan—(718) 315-3035

Delivery of Notes after Closing:

The Bank of New York
One Wall Street
Window A, 3rd Floor
New York, NY 10286
Ref: ORIOLE/ODA ORIOLE/OMDIS
Account #: REDACTED

DTC Securities:

DTC #: 901
Agent ID #: 26500
Institutional ID: 26662
Account Name: ORIOLE/ODA
Account #: REDACTED

Notices and communications:

All notices and communications including original note agreement, conformed copy of the note agreement, amendment requests, financial statements and other general information to be addressed as follows:

Genworth Financial, Inc.
Account: ORIOLSPV
3001 Summer Street, 2nd Floor
Stamford, CT 06905
Attn: Dorothy Michalowski
Telephone No. (212) 895-4031
Fax No. (866) 745-0947

If available, an electronic copy is additionally requested. Please send to the following e-mail address:

GNW.privateplacements@genworth.com

All corporate actions, including payments and prepayments, should be sent to the above address with copies to:

Genworth Financial, Inc.
Account: ORIOLSPV
3001 Summer Street
Stamford, CT 06905
Attn: Trade Operations
Telephone No.: (203) 708-3368
Fax No.: (866) 745-3305

If available, an electronic copy is additionally requested. Please send to the following email address:

GNWInvestmentsOperations@genworth.com

Signature Block Format:

Nominee:

HARE & CO.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
PHL VARIABLE INSURANCE COMPANY TAX ID NO. 06-1045829	A-50 $3,248,125.75 A-51 $2,165,417.17 A-52 $3,248,125.75 A-53 $2,165,417.17

Payment Instructions:

Wire to:

JP Morgan Chase
New York, NY
ABA 021 000 021
Account Name: Income Processing
Account Number: REDACTED
Reference: Phoenix Life Insurance, G09767, Cemex; A-50 $3,248,125.75
Phoenix Life Insurance, G09390, Cemex; A-51 $2,165,417.17
Phoenix Life Insurance, G09388, Cemex; A-52 $3,248,125.75
Phoenix Life Insurance, G09389, Cemex; A-53 $2,165,417.17

In case of all notices with respect to payments:

Delivery of Notes after Closing:

Phoenix Life Insurance Company
One American Row
Hartford, CT 06102
Attn: Brad Buck, Law Department

Notices and communications:

Phoenix Life Insurance Company
c/o Goodwin Capital Advisers
One American Row H-GW-1
Hartford, CT 06102
Attn: Private Placement Dept.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
PHOENIX LIFE INSURANCE COMPANY TAX ID NO. 06-0493340	A-54 $5,413,542.92

Payment Instructions:

Wire to:

JP Morgan Chase
New York, NY
ABA 021 000 021
Account Name: Income Processing
Account Number: REDACTED
Reference: Phoenix, Cemex, G05123

In case of all notices with respect to payments:

Delivery of Notes after Closing:

Phoenix Life Insurance Company
One American Row
Hartford, CT 06102
Attn: Brad Buck, Law Department

Notices and communications:

Phoenix Life Insurance company
c/o Goodwin Capital Advisers
One American Row H-GW-1
Hartford, CT 06102
Attn: Private Placement Dept.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	**PRINCIPAL AMOUNT**
KNIGHTS OF COLUMBUS TAX ID NO. 06-0416470 ONE COLUMBUS PLAZA NEW HAVEN, CT 06510-3326 ATTN: INVESTMENT ACCOUNTING DEPT., 14TH FLOOR	A-55 $10,827,085.84

Payment Instructions:

All payments on account of Notes held by such purchaser shall be made by wire transfer of immediately available funds to:

Bank of New York
ABA #021000018
CREDIT A/C: GLA111566
ATTN: P&I Dept
A/C Name: Knights of Columbus FPA Account
Account#: REDACTED
RE: PPN # 15128@AH6, Cemex Espana Finance LLC 8.91% Series A Notes, due February 14, 2014

In case of all notices with respect to payments:

All notices with respect to prepayments, both scheduled and unscheduled, whether partial or in full, and notice of maturity shall also be faxed and mailed to:

Knights of Columbus
FPA Account # REDACTED
Attn: Investment Accounting Department, 14th Floor
One Columbus Plaza, New Haven, CT 06510-3326 USA

Delivery of Notes after Closing:

Mary Wong, Assistant Treasurer
Tel. 212-635-1003
Physical Delivery
The Bank of New York Mellon
One Wall Street, 3rd Floor, Window "A"
New York, NY 10286 USA

KNIGHTS OF COLUMBUS FPA ACCOUNT # 201047

Email: **marywong@bankofny.com**
Mary Wong reports to Daniel Sterling—OIC
Supervisor: Michelle Pahng,
Tel. 212-635-4933;Fax 212-635-1199
Email: **mpahng@bankofny.com**
Fazal Mirjah, Tel. 212-635-6125

Notices and communications:

All notices and communications with respect to compliance reporting, financial statements and related certifications shall be sent to:

Knights of Columbus
Attn: Investment Department, 19th Floor
One Columbus Plaza, New Haven, CT 06510-3326 USA

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
KNIGHTS OF COLUMBUS TAX ID NO. 06-0416470 ONE COLUMBUS PLAZA NEW HAVEN, CT 06510-3326 ATTN: INVESTMENT ACCOUNTING DEPT., 14TH FLOOR	A-56 $5,413,542.92

Payment Instructions:

All payments on account of Notes held by such purchaser shall be made by wire transfer of immediately available funds to:

Bank of New York
ABA #021000018
CREDIT A/C: GLA111566
ATTN: P&I Dept
A/C Name: Knights of Columbus FPA Account
Account#: REDACTED
RE: PPN #15128@AH6, Cemex Espana Finance LLC 8.91% Series A Notes, due February 14, 2014

In case of all notices with respect to payments:

All notices with respect to prepayments, both scheduled and unscheduled, whether partial or in full, and notice of maturity shall also be faxed and mailed to:

Knights of Columbus
Life Account # REDACTED
Attn: Investment Accounting Department, 14th Floor
One Columbus Plaza, New Haven, CT 06510-3326 USA

Delivery of Notes after Closing:

Mary Wong, Assistant Treasurer
Tel. 212-635-1003
Physical Delivery
The Bank of New York Mellon
One Wall Street, 3rd Floor, Window "A"
New York, NY 10286 USA

KNIGHTS OF COLUMBUS FPA ACCOUNT # 201047

Email: **marywong@bankofny.com**
Mary Wong reports to Daniel Sterling—OIC
Supervisor: Michelle Pahng,
Tel. 212-635-4933;Fax 212-635-1199
Email: **mpahng@bankofny.com**
Fazal Mirjah, Tel. 212-635-6125

Notices and communications:

All notices and communications with respect to compliance reporting, financial statements and related certifications shall be sent to:

Knights of Columbus
Attn: Investment Department, 19th Floor
One Columbus Plaza, New Haven, CT 06510-3326 USA

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
THE OHIO NATIONAL LIFE INSURANCE COMPANY Tax Id No.: 31-0397080	A-57 $10,827,085.84

Payment Instructions:

By bank wire transfer of Federal or other immediately available funds (identifying each payment as to issuer, security (including interest rate and maturity date), and principal or interest) to:

U.S. Bank N.A. (ABA #042-000013)
5th & Walnut Streets
Cincinnati, OH 45202
For credit to The Ohio National Life Insurance Company's Account No. REDACTED

In case of all notices with respect to payments:

The Ohio National Life Insurance Company
1 Financial Way
Cincinnati, OH 45242
Attention: Investment Department

Delivery of Notes after Closing:

Jed R. Martin
The Ohio National Life Insurance Company
1 Financial Way
Cincinnati, OH 45242

Notices and communications:

The Ohio National Life Insurance Company
1 Financial Way
Cincinnati, OH 45242
Attention: Investment Department

Signature Block Format:

Set up for one signature

Nominee: None

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
AVIVALIFE AND ANNUITY COMPANY TAX ID NO. 42-0175020	A-59 $2,706,771.46

Payment Instructions:

Federal Funds Wire Transfer
Federal Reserve Bank of Boston ABA# 011001234
DDA# 125261
CC: 1253
Custody Account Name: ALAC—EG Convertible Securities PGI Privates
Custody Account Number: REDACTED
Reference: PPN 15128@AH6, Cemex Espana Finance LLC 8.91% Series A Notes, due February 14, 2014

Please reference the Name of Company, Description of Security, PPN, Due Date and Application (as among principal, make-whole and interest) of the payment being made.

Delivery of Notes after Closing:

Mellon Securities Trust Company
One Wall Street 3rd Floor—Receive Window C
New York, NY 10286
For Credit to: ALAC—EG Convertible Securities PGI Privates
A/C # REDACTED

Notices and communications:

PREFERRED REMITTANCE: privateplacements@avivainvestors.com
Aviva Life and Annuity Company
c/o Aviva Investors North America, Inc.
Attn: Private Placements
699 Walnut Street, Suite 1800
Des Moines, IA 50309

Signature Block Format:

AVIVA LIFE AND ANNUITY COMPANY
By: Aviva Investors North America, Inc., its authorized attorney in-fact

By: _____
Name: Roger D. Fors
Title: VP-Private Placements

Nominee:

MAC & CO.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	**PRINCIPAL AMOUNT**
AVIVALIFE AND ANNUITY COMPANY TAX ID NO. 42-0175020	A-58 $3,248,125.75

Payment Instructions:

Federal Funds Wire Transfer
Federal Reserve Bank of Boston ABA# 011001234
DDA# 125261
CC: 1253
Custody Account Name: ALAC TSA Products STM
Custody Account Number: REDACTED
Reference: PPN 15128@AH6, Cemex Espana Finance LLC 8.91% Series A Notes, due February 14, 2014

Please reference the Name of Company, Description of Security, PPN, Due Date and Application (as among principal, make-whole and interest) of the payment being made.

Delivery of Notes after Closing:

Mellon Securities Trust Company
One Wall Street 3rd Floor—Receive Window C
New York, NY 10286
For Credit to: ALAC TSA Products STM
A/C # REDACTED

Notices and communications:

PREFERRED REMITTANCE: privateplacements@avivainvestors.com
Aviva Life and Annuity Company
c/o Aviva Investors North America, Inc.
Attn: Private Placements
699 Walnut Street, Suite 1800
Des Moines, IA 50309

Signature Block Format:

AVIVA LIFE AND ANNUITY COMPANY
By: Aviva Investors North America, Inc., its authorized attorney in-fact

By: _____
Name: Roger D. Fors
Title: VP-Private Placements

Nominee:

MAC & CO.

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
BENEFICIAL LIFE INSURANCE COMPANY REGISTERED IN TFINN TAX ID NO. 87-0115120	A-60 $3,248,125.75

Payment Instructions:

021000021 JP Morgan Chase
FBO Zions First National Bank
REDACTED G70990
Reference CUSIP# 15128@AH6

In case of all notices with respect to payments:

JP Morgan Chase
4 New York Plaza
Attn: Cheryl Brown 212-623-3082
Ground Floor, Outsourcing Services
New York, New York 10004

Delivery of Notes after Closing:

JP Morgan Chase
#4 New York Plaza
Attn: Cheryl Brown 212-623-3082
Ground Floor, Outsourcing Services
New York, New York 10004

Notices and communications:

Kirby Brown
150 Social Hall Ave Suite 500
Salt Lake City, Utah 84145
Investment.group@benfinancial.com

And

Daniel Anderson
801-933-1328
150 Social Hall Ave Suite 500
Salt Lake City, Utah 84145
Daniel.anderson@benfinancial.com

Signature Block Format:

Thomas Kirby Brown
Chief Investment Officer

Seth Vance
Portfolio Manager, SVP

Nominee:

TFINN (Nominee for JP Morgan Chase)

SCHEDULE A

INFORMATION RELATING TO PURCHASERS

NAME OF PURCHASER	PRINCIPAL AMOUNT
ENSURE INVESTMENT FUND	A-61 $3,248,125.75

Payment Instructions:

Citibank, N.A.A
111 Wall Street
New York, NY 10043
ABA 021000089
For Credit to: Cayman National Bank LTD. REDACTED
For Further Credit to: Cayman National Securities A/C: REDACTED
FFC: Ensure Investments Fund, Account #: REDACTED

In case of all notices with respect to payments:

Carlos Guzman
Ocean Business Plaza
Officina 1502. Piso 15, Calle 47 y Aquilino de la Guardia Marbella
Panama, Republica de Panama
Tel: 011 (507) 340-6282
Fax: 011 (507) 340-6283
Email: carlos.guzman@cnfis.com

Delivery of Notes after Closing:

Ian Phillips
62 Forum Lane, suite 6201, Camana Bay, P.O. Box 30239
Grand Cayman, KY1-1201, Cayman Islands

Notices and communications:

Carlos Guzman
Ocean Business Plaza
Officina 1502. Piso 15, Calle 47 y Aquilino de la Guardia Marbella
Panama, Republica de Panama
Tel: 011 (507) 340-6282
Fax: 011 (507) 340-6283
Email: carlos.guzman@cnfis.com

SCHEDULE B

DEFINED TERMS

As used herein, the following terms have the respective meanings set forth below or set forth in the Section hereof following such term:

"2003 Notes" is defined in the Recitals.

"2003 Tranche 1 Notes" is defined in the Recitals.

"2003 Tranche 2 Notes" is defined in the Recitals.

"2003 Tranche 3 Notes" is defined in the Recitals.

"2004 Notes" is defined in the Recitals.

"2004 Tranche 1 Notes" is defined in the Recitals.

"2004 Tranche 2 Notes" is defined in the Recitals.

"2005 Notes" is defined in the Recitals.

"2005 Series A Notes" is defined in the Recitals.

"2005 Series B Notes" is defined in the Recitals.

"Additional Payment" is defined in Section 14.3(b); when used herein with respect to any Guarantor, such term shall have the meaning assigned thereto in the New Note Guarantee.

"Affected Holder" is defined in Section 8.4.

"Affected Payment Date" is defined in Section 8.4.

"Affiliate" means, at any time, and with respect to any Person, (a) any other Person that at such time directly or indirectly through one or more intermediaries Controls, or is Controlled by, or is under common Control with, such first Person and (b) any Person beneficially owning or holding, directly or indirectly, 10% or more of any class of voting or equity interests of Cemex España or any Subsidiary or any corporation of which Cemex España and its Subsidiaries beneficially own or hold, in the aggregate, directly or indirectly, 10% or more of any class of voting or equity interests. As used in this definition, "Control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. Unless the context otherwise clearly requires, any reference to an "Affiliate" is a reference to an Affiliate of Cemex España.

"Agreement" is defined in the introduction hereto.

"Business Day" means any day other than a Saturday, a Sunday or a day on which commercial banks in Madrid, Spain, New York City or Tokyo, Japan are required or authorized to be closed.

"Cemex" means Cemex, S.A.B. de C.V., a stock corporation organized under the laws of the United Mexican States.

"Cemex España" means (a) Cemex España, S.A., a corporation organized under the laws of the Kingdom of Spain, and (b) any Person that, as a result of a combination, merger or asset transfer permitted by Clause 24.8 (*Merger*) of the Financing Agreement, assumes the obligations of Cemex España under the New Note Guarantee, the Financing Agreement and this Agreement. As of Closing, Cemex España has a Rating (as defined in Clause 1 (*Interpretation*) of the Financing Agreement) that is separate from the Rating of the Parent.

"Closing" is defined in Section 3.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and the rules and regulations promulgated thereunder from time to time.

"Company" means Cemex España Finance LLC, a limited liability company organized under the laws of Delaware.

"Confidential Information" is defined in Section 20.

"Default" means an event or condition the occurrence or existence of which if it continues uncured would, with the lapse of time or the giving of notice or both, become an Event of Default.

"Default Rate" means, with respect to any New Note, that rate of interest that is set forth in Clause 15.2 (*Default interest*) in the Financing Agreement.

"Department of the Treasury Rule" means Blocked Persons, Specially Designated Nationals, Specifically Designated Terrorists, Foreign Terrorist Organizations, and Specially Designated Narcotics Traffickers: Additional Designations of Terrorism-Related Blocked Persons, 66 Fed. Reg. 54,404 (2001).

"Dollar" and the sign "$" mean lawful currency of the United States of America.

"EU" means the European Union.

"euro" or "€" means the single currency of participating member states of the EU.

"Event of Default" is defined in Section 11.

"Financing Agreement" is defined in the Recitals.

"Financing Documents" mean this Agreement, the New Notes, the New Note Guarantee and any other agreement or fee letter related thereto.

"Forms" is defined in Section 14.3(b).

"Governmental Authority" means

(a) the government of

(i) the Kingdom of Spain, the United States of America or any State or other political subdivision thereof, or

(ii) any jurisdiction in which Cemex España or any Subsidiary conducts all or any part of its business, or that asserts jurisdiction over any properties of Cemex España or any Subsidiary or

(b) any entity exercising executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, any such government.

"Guarantor" means Cemex España.

"holder" means, with respect to any New Note, the Person in whose name such New Note is registered in the register maintained by the Company pursuant to Section 13.1.

"Indemnified Person" is defined in Section 22.

"Institutional Investor" means (a) any original purchaser of a New Note, (b) any holder of a New Note holding more than $5,000,000 of the aggregate principal amount of the Series A Notes then outstanding or ¥500,000,000 of the aggregate principal amount of the Series B Notes then outstanding and (c) any bank, trust company, savings and loan association or other financial institution, any pension plan, any investment company, any insurance company, any broker or dealer, or any other similar financial institution or entity, regardless of legal form.

"Japanese yen" and the sign "¥" mean lawful currency of Japan.

"Losses" is defined in Section 22.

"New Note Guarantee" means a New Note Guarantee to be entered into by Cemex España in favor of the holders of New Notes, as amended, modified or supplemented from time to time.

"New Notes" is defined in Section 1.

"Obligor" means the Company and Cemex España.

"Officer's Certificate" means a certificate of a Senior Financial Officer or of any other officer of Cemex España or of an officer of the manager of the Company whose responsibilities extend to the subject matter of such certificate.

"Old Notes" is defined in the Recitals.

"Old Note Purchase Agreements" is defined in the Recitals.

"Parent" is defined in the Recitals.

"Person" means an individual, partnership, corporation, limited liability company, association, trust, unincorporated organization, or a government or agency or political subdivision thereof.

"property" or "properties" means, unless otherwise specifically limited, real or personal property of any kind, tangible or intangible, choate or inchoate.

"Purchasers" means the purchasers of the New Notes named on Schedule A to the Agreement.

"Related Taxes" is defined in Section 14.3(a).

"Required Holders" means, at any time, the holders of more than 50% of the aggregate principal amount of the New Notes at the time outstanding (exclusive of New Notes then owned by the Company or any of its Affiliates).

"Responsible Officer" means any Senior Financial Officer and any other officer of Cemex España with responsibility for the administration of the relevant portion of this Agreement.

"Securities Act" means the Securities Act of 1933, as amended from time to time.

"Senior Financial Officer" means the Financing Director or the Treasurer of Cemex España or any other person authorized by the Board of Directors of Cemex España to act on behalf of Cemex España.

"Series A Notes" is defined in Section 1.

"Series B Notes" is defined in Section 1.

"Subsidiary" means, as to any Person, any corporation, association or other business entity in which such Person or one or more of its Subsidiaries or such Person and one or more of its Subsidiaries owns sufficient equity or voting interests to enable it or them (as a group) ordinarily, in the absence of contingencies, to elect a majority of the directors (or Persons performing similar functions) of such entity, and any partnership or joint venture if more than a 50% interest in the profits or capital thereof is owned by such Person or one or more of its Subsidiaries or such Person and one or more of its Subsidiaries (unless such partnership can and does ordinarily take major business actions without the prior approval of such Person or one or more of its Subsidiaries). Unless the context otherwise clearly requires, any reference to a "Subsidiary" is a reference to a Subsidiary of Cemex España.

"SVO" means the Securities Valuation Office of the National Association of Insurance Commissioners, or any successor thereto.

"Tax Prepayment Date" is defined in Section 8.4.

"Tax Prepayment Notice" is defined in Section 8.4.

"Taxing Jurisdiction" is defined in Section 14.3(a).

EXHIBIT 1(a)

[FORM OF SERIES A NOTE]

CEMEX ESPAÑA FINANCE LLC

8.91% SENIOR NOTE, SERIES A, DUE FEBRUARY 14, 2014

No.[____] August __, 2009
$[_____] PPN _____

FOR VALUE RECEIVED, the undersigned, CEMEX ESPAÑA FINANCE LLC (herein called the "Company"), a limited liability company organized and existing under the laws of Delaware, hereby promises to pay to [_____], or registered assigns, the principal sum of [_____] DOLLARS ($_____) on February 14, 2014, with interest (computed on the basis of a 360-day year of twelve 30-day months) (a) on the unpaid balance thereof at the rate of 8.91% per annum from the date hereof, payable quarterly, on the 15 th day of March, June, September and December in each year, commencing with the March 15th, June 15th, September 15th or December 15th next succeeding the date hereof, or monthly, if CEMEX, S.A.B. de C.V. (the "Parent") shall have chosen such option, pursuant to Clause 15.3(c) of the Financing Agreement dated on or about the date hereof among the Parent, each of the borrowers, guarantors and security providers listed in Part I of Schedule I thereto, the financial institutions listed in Part II of Schedule I thereto, the creditors' representatives listed in Part III of Schedule I thereto, the administrative agent named therein and the security agent named therein, until the principal hereof shall have become due and payable, and (b) to the extent permitted by law on any overdue payment (including any overdue prepayment) of principal, any overdue payment of interest, payable quarterly as aforesaid (or, at the option of the registered holder hereof, on demand), at a rate per annum from time to time equal to the greater of (i) 10.91% or (ii) 2% over the rate of interest publicly announced by Citibank, N.A. from time to time in New York, New York as its "base" or "prime" rate.

Payments of principal of and interest on this Note are to be made in U.S. dollars at Citibank, N.A, 111 Wall Street, 14th Floor, New York, New York 10043, Corporate Agency and Trust Department or at such other place as the Company shall have designated by written notice to the holder of this Note as provided in the Note Purchase Agreement referred to below.

This Note is one of a series of Senior Notes (herein called the "Notes") issued pursuant to the Consolidated Amended and Restated Note Purchase Agreement, dated as of August __, 2009 (as from time to time amended, supplemented or modified, the "Note Purchase Agreement"), among the Company, Cemex España, S.A. and the respective Purchasers named therein and is entitled to the benefits thereof. Each holder of this Note will be deemed, by its acceptance hereof, (i) to have agreed to the confidentiality provisions set forth in Section 20 of the Note Purchase Agreement and (ii) to have made the representations set forth in Section 6.2 of the Note Purchase Agreement.

This Note is a registered Note and, as provided in the Note Purchase Agreement, upon surrender of this Note for registration of transfer, duly endorsed, or accompanied by a written

instrument of transfer duly executed by the registered holder hereof or such holder's attorney duly authorized in writing, and upon the satisfaction of the other provisions of the Note Purchase Agreement, a new Note for a like principal amount will be issued to, and registered in the name of, the transferee. Prior to due presentment for registration of transfer, the Company may treat the Person in whose name this Note is registered as the owner hereof for the purpose of receiving payment and for all other purposes, and the Company will not be affected by any notice to the contrary.

The Company will make required prepayments of principal on the dates and in the amounts required by the Note Purchase Agreement. This Note is also subject to optional prepayment, in whole or from time to time in part, at the times and on the terms specified in the Note Purchase Agreement, but not otherwise.

If an Event of Default, as defined in the Note Purchase Agreement, occurs and is continuing, the principal of this Note may be declared or otherwise become due and payable in the manner, at the price and with the effect provided in the Note Purchase Agreement.

This Note shall be construed and enforced in accordance with, and the rights of the issuer and holder hereof shall be governed by, the law of the State of New York excluding choice-of-law principles of the law of such State that would require the application of the laws of a jurisdiction other than such State.

CEMEX ESPAÑA FINANCE LLC

By: _____

Name: _____

Title: _____

EXHIBIT 1(b)

[FORM OF SERIES B NOTE]

CEMEX ESPAÑA FINANCE LLC

6.625% SENIOR NOTE, SERIES B, DUE FEBRUARY 14, 2014

No.[____] August __, 2009
$[_____] PPN _____

FOR VALUE RECEIVED, the undersigned, CEMEX ESPAÑA FINANCE LLC (herein called the "Company"), a limited liability company organized and existing under the laws of Delaware, hereby promises to pay to [_____], or registered assigns, the principal sum of [_____] JAPANESE YEN ¥(_____) on February 14, 2014, with interest (computed on the basis of a 360-day year of twelve 30-day months) (a) on the unpaid balance thereof at the rate of 6.625% per annum from the date hereof, payable quarterly, on the 15 th day of March, June, September and December in each year, commencing with the March 15th, June 15th, September 15th or December 15th next succeeding the date hereof, or monthly, if CEMEX, S.A.B. de C.V. (the "Parent") shall have chosen such option pursuant to Clause 15.3(c) of the Financing Agreement dated on or about the date hereof among the Parent, each of the borrowers, guarantors and security providers listed in Part I of Schedule I thereto, the financial institutions listed in Part II of Schedule I thereto, the creditors' representatives listed in Part III of Schedule I thereto, the administrative agent named therein and the security agent named therein, until the principal hereof shall have become due and payable, and (b) to the extent permitted by law on any overdue payment (including any overdue prepayment) of principal, any overdue payment of interest, payable quarterly as aforesaid (or, at the option of the registered holder hereof, on demand), at a rate per annum from time to time equal to the greater of (i) 8.625% or (ii) 2% over the rate of interest publicly announced by Citibank, N.A. from time to time in New York, New York as its "base" or "prime" rate.

Payments of principal of and interest on this Note are to be made in Japanese yen at Citibank, N.A, 111 Wall Street, 14th Floor, New York, New York 10043, Corporate Agency and Trust Department or at such other place as the Company shall have designated by written notice to the holder of this Note as provided in the Note Purchase Agreement referred to below.

This Note is one of a series of Senior Notes (herein called the "Notes") issued pursuant to the Consolidated Amended and Restated Note Purchase Agreement, dated as of August __, 2009 (as from time to time amended, supplemented or modified, the "Note Purchase Agreement"), among the Company, Cemex España, S.A. and the respective Purchasers named therein and is entitled to the benefits thereof. Each holder of this Note will be deemed, by its acceptance hereof, (i) to have agreed to the confidentiality provisions set forth in Section 20 of the Note Purchase Agreement and (ii) to have made the representations set forth in Section 6.2 of the Note Purchase Agreement.

This Note is a registered Note and, as provided in the Note Purchase Agreement, upon surrender of this Note for registration of transfer, duly endorsed, or accompanied by a written

instrument of transfer duly executed by the registered holder hereof or such holder's attorney duly authorized in writing, and upon the satisfaction of the other provisions of the Note Purchase Agreement, a new Note for a like principal amount will be issued to, and registered in the name of, the transferee. Prior to due presentment for registration of transfer, the Company may treat the Person in whose name this Note is registered as the owner hereof for the purpose of receiving payment and for all other purposes, and the Company will not be affected by any notice to the contrary.

The Company will make required prepayments of principal on the dates and in the amounts required by the Note Purchase Agreement. This Note is also subject to optional prepayment, in whole or from time to time in part, at the times and on the terms specified in the Note Purchase Agreement, but not otherwise.

If an Event of Default, as defined in the Note Purchase Agreement, occurs and is continuing, the principal of this Note may be declared or otherwise become due and payable in the manner, at the price and with the effect provided in the Note Purchase Agreement.

This Note shall be construed and enforced in accordance with, and the rights of the issuer and holder hereof shall be governed by, the law of the State of New York excluding choice-of-law principles of the law of such State that would require the application of the laws of a jurisdiction other than such State.

CEMEX ESPAÑA FINANCE LLC

By: _____

Name: _____

Title: _____

EXHIBIT 4

FORM OF CERTIFICATE REGARDING LOST NOTE

The undersigned, [INSERT PURCHASER], (the "Purchaser") hereby certifies to CEMEX España Finance LLC (the "Issuer") and to CEMEX España, S.A. (the "Guarantor") as follows:

1. The Issuer has delivered a Note, dated [ ], [a copy of which is attached hereto] (the " Note") to the Purchaser in connection with the Note Purchase Agreement, dated as of [ ] (as amended, restated, supplemented or otherwise modified from time to time), among the Issuer, CEMEX España, S.A. and the other purchasers that are or may from time to time become a party thereto.

2. The Purchaser has caused a diligent search of its files and vault to be made in order to find the Note and the Note has not been found. The Note has been inadvertently lost, misplaced or destroyed.

3. The Purchaser has taken no action to give or further pledge, sell, assign, transfer, endorse in blank or otherwise or in any other manner dispose of the Note to any person, firm or corporation, nor has any record or correspondence been found which indicates that the Purchaser has entrusted the possession of the Note to any person, firm or corporation for safekeeping or for any other purpose.

4. The Purchaser hereby agrees to indemnify and hold harmless the Issuer and the Guarantor and their respective successors and assigns, of and from any loss, damage or claim resulting from the Purchaser's loss or misplacement of the Note.

5. The Purchaser hereby agrees that if the Note is subsequently found by the Purchaser or comes into the Purchaser's possession, the Purchaser will immediately surrender the Note to the Issuer for cancellation.

Dated: August __, 2009

[INSERT PURCHASER]

By: _____
Name:
Title:

By: _____
Name:
Title:

STATE OF _____)
)
COUNTY OF _____)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that _____, whose name as _____ of _____, a _____, is signed to the foregoing instrument, and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, s/he, as such _____ and with full authority, executed the same voluntarily for and as the act of said _____.

Given under my hand and official seal this the __ day of _____, 2009.

_____
Notary Public

My commission expires:_____

Exhibit 4.37
EXECUTION VERSION

AMENDED AND RESTATED CONSOLIDATED
NOTE GUARANTEE

THIS AMENDED AND RESTATED CONSOLIDATED NOTE GUARANTEE dated as of August 14, 2009 (this **"Guarantee")** is executed in favor of the holders (as defined below).

W I T N E S S E T H:

WHEREAS, the undersigned previously has executed Note Guarantees (the " **Old Note Guarantees**") with respect to (1) $103,000,000 aggregate principal amount of the Issuer's 4.77% Senior Notes, Series 2003, Tranche 1, due 2010 (the " **2003 Tranche 1 Notes**"), (2) $96,000,000 aggregate principal amount of the Issuer's 5.36% Senior Notes, Series 2003, Tranche 2, due 2013 (the " **2003 Tranche 2 Notes**"), (3) $201,000,000 aggregate principal amount of the Issuer's 5.51% Senior Notes, Series 2003, Tranche 3, due 2015 (the " **2003 Tranche 3 Notes**" and together with the 2003 Tranche 1 Notes and 2003 Tranche 2 Notes, the "**2003 Notes**"), (4) ¥4,980,600,000 aggregate principal amount of the Issuer's 1.79% Senior Notes, Series 2004, Tranche 1, due 2010 (the "**2004 Tranche 1 Notes**"), (5) ¥6,087,400,000 aggregate principal amount of the Issuer's 1.99% Senior Notes, Series 2004, Tranche 2, due 2011 (the "**2004 Tranche 2 Notes**" and together with the 2004 Tranche 1 Notes, the "**2004 Notes**"), (6) $133,000,000 aggregate principal amount of the Issuer's 5.18% Senior Notes, Series A, due 2010 (the "**2005 Series A Notes**"), and (7) $192,000,000 aggregate principal amount of the Issuer's 5.62% Senior Notes, Series B, due 2015 (the "**2005 Series B Notes**" and together with the 2005 Series A Notes, the " **2005 Notes**", and together with the 2003 Notes and the 2004 Notes, the "**Old Notes**");

WHEREAS, Cemex España Finance LLC, a Delaware limited liability company (the " **Issuer**"), and Cemex España, S.A., a corporation organized under the laws of the Kingdom of Spain ("**Cemex España**"), and the holders (as defined below) have entered into that certain Financing Agreement dated the date hereof among CEMEX, S.A.B. de C.V. (the "**Parent**"), each of the borrowers, guarantors and security providers listed in Part I of Schedule 1 thereto, the financial institutions listed in Part II of Schedule 1 thereto, the creditor's representatives listed in Part III of Schedule 1 thereto, the administrative agent named therein and the security agent named therein (the " **Financing Agreement**"), pursuant to which the parties thereto have agreed to amend, vary, modify, waive, override, replace and supplement certain terms of outstanding indebtedness of the Parent and its subsidiaries, including the Old Notes;

WHEREAS, pursuant to the Financing Agreement, the Issuer and Cemex España have entered into a Consolidated Amended and Restated Note Purchase Agreement (as amended, supplemented or otherwise modified from time to time, the " **Consolidated Note Purchase Agreement**") dated as of August , 2009 with various purchasers pursuant to which the Issuer has issued (a) its $882,407,495.57 aggregate principal amount 8.91% Senior Notes, Series A, due February 14, 2014 (the "**Series A Notes**"), upon the return and cancellation of the 2003 Notes, the 2005 Notes, and ¥9,961,200,000 aggregate principal amount of 2004 Notes and (ii) ¥1,185,389,696.06 aggregate principal amount of its 6.625% Senior Notes, Series B, due February 14, 2014 (the " **Series B Notes**" and together with the Series A Notes, the "**New Notes**"; the registered holders from time to time of the New Notes are collectively referred to herein as the "**holders**" and individually each as a "**holder**") upon the return and cancellation of ¥1,106,800,000 aggregate principal amount of the 2004 Notes;

WHEREAS, in connection with the entry into the Consolidated Note Purchase Agreement and the issuance of the New Notes, the undersigned desires to amend and restate the Old Note Guarantees and to consolidate the terms and provisions of such amended and restated Old Note Guarantees into this Guarantee with respect to the New Notes; and

WHEREAS, the undersigned will benefit from the issuance of New Notes in exchange for the Old Notes pursuant to the Consolidated Note Purchase Agreement and is willing to guarantee the Liabilities (as defined below) as hereinafter set forth;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the undersigned agrees as follows:

1. Definitions. Capitalized terms used but not defined herein have the respective meanings assigned to such terms in the Consolidated Note Purchase Agreement.

2. Guarantee. Effective as of the Effective Date (as defined in the Financing Agreement), the undersigned hereby, unconditionally and irrevocably, as primary obligor and not merely as surety, guarantees the full and prompt payment when due, whether by acceleration or otherwise, and at all times thereafter, of all obligations of the Issuer, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent, now or hereafter existing, or due or to become due, under the Consolidated Note Purchase Agreement, the New Notes or any other New Finance Document (as defined in the Financing Agreement), as the same may be amended, modified, extended or renewed from time to time, and the undersigned further agrees to pay all costs and expenses (including reasonable attorneys' fees and expenses) paid or incurred by the holders in enforcing this Guarantee or any other applicable Financing Document against the undersigned (all of the foregoing obligations, collectively, the "**Liabilities**"*)*; provided that the liability of the undersigned hereunder shall be limited to the maximum amount of the Liabilities which the undersigned may guarantee without rendering this Guarantee void or voidable under any applicable fraudulent conveyance or fraudulent transfer law.

This Guarantee shall in all respects be a continuing, irrevocable, absolute and unconditional guarantee of payment and performance and not only collectibility, and shall remain in full force and effect (notwithstanding, without limitation, the dissolution of the undersigned or any other circumstance) until all Liabilities have been paid in full.

3. Reinstatement. The undersigned further agrees that if at any time all or any part of any payment theretofore applied by any holder to any of the Liabilities is or must be rescinded or returned by such holder for any reason whatsoever (including, without limitation, the insolvency, bankruptcy or reorganization of the Issuer or the undersigned), such Liabilities shall, for purposes of this Guarantee, to the extent that such payment is or must be rescinded or returned, be deemed to have continued in existence, notwithstanding such application by such holder, and this Guarantee shall continue to be effective or be reinstated, as the case may be, as to such Liabilities, all as though such application by such holder had not been made.

4. Representations and Warranties. The representations and warranties of Cemex España in the Financing Agreement shall be correct when made and at the time of effectiveness of this Guarantee (except for such representations and warranties made as of a specific earlier date).

5. Permitted Actions. Any holder may, from time to time, at its sole discretion and without notice to the undersigned, take any or all of the following actions: (a) retain or obtain a security interest in any property to secure any of the Liabilities or any obligation hereunder, (b) retain or obtain the primary or secondary obligation of any obligor or obligors, in addition to the undersigned, with respect to any of the Liabilities, (c) amend, modify or waive any provision of the Consolidated Note Purchase Agreement, its New Notes or any other New Finance Document (as defined in the Financing Agreement), (d) extend or renew any of the Liabilities for one or more periods (whether or not longer than the original period), alter or exchange any of the Liabilities, or release or compromise any obligation of the undersigned hereunder or any obligation of any nature of any other obligor with respect to any of the Liabilities, (e) release any security interest in, or surrender, release or permit any substitution or exchange for, all or any part of any property securing any of the Liabilities or any obligation hereunder, or extend or renew for one or more periods (whether or not longer than the original period) or release, compromise, alter or exchange any obligations of any nature of any obligor with respect to any such property and (f) resort to the undersigned for payment of any of the Liabilities when due, whether or not such holder shall have resorted to any property securing any of the Liabilities or any obligation hereunder or shall have proceeded against any other obligor primarily or secondarily obligated with respect to any of the Liabilities.

6. Subrogation. Notwithstanding any payment made by or for the account of the undersigned pursuant to this Guarantee, the undersigned shall not be subrogated to any right of any holder until such time as this Guarantee shall have been discontinued as to the undersigned and the holders shall have received payment of the full amount of all Liabilities.

7. Waivers. The undersigned hereby expressly waives (a) notice of the acceptance by any holder of this Guarantee, (b) notice of the existence or creation or non-payment of all or any of the Liabilities, (c) presentment, demand, notice of dishonor, protest, and all other notices whatsoever and (d) all diligence in collection or protection of or realization upon any Liabilities or any security for or guarantee of any Liabilities.

8. Assignments. Any holder may from time to time, without notice to the undersigned, assign any New Note in accordance with the Consolidated Note Purchase Agreement; and, notwithstanding any such assignment or any subsequent assignment thereof, such Liabilities shall be and remain Liabilities for purposes of this Guarantee, and each and every immediate and successive assignee of any of the Liabilities or of any interest therein shall, to the extent of the interest of such assignee in the Liabilities, be entitled to the benefits of this Guarantee to the same extent as if such assignee were an original holder.

9. Delay not Waiver, etc. No delay on the part of any holder in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by any holder of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy; nor shall any modification or waiver of any provision of this Guarantee be

binding upon any holder except as expressly set forth in a writing duly signed and delivered on behalf of such holder. No action of any holder permitted hereunder shall in any way affect or impair the rights of any other holder or the obligations of the undersigned under this Guarantee. For purposes of this Guarantee, Liabilities shall include all obligations of the Issuer to any holder arising under or in connection with any Financing Document, notwithstanding any right or power of the Issuer or anyone else to assert any claim or defense as to the invalidity or unenforceability of any obligation, and no such claim or defense shall affect or impair the obligations of the undersigned hereunder.

10. Currency of Payments, etc.

(a) Payment in Dollars – Series A Notes

All payments under the Series A Notes by the undersigned pursuant to this Guarantee shall be made in Dollars to the holders for their ratable benefit by the method and at the address specified in the Consolidated Note Purchase Agreement.

To the fullest extent permitted by applicable law, the obligations of the undersigned in respect of any amount due under or in respect of this Guarantee with respect to the Series A Notes shall (notwithstanding any payment in any other currency, whether as a result of any judgment or order or the enforcement thereof or otherwise) be discharged only to the extent of the amount in Dollars that each holder entitled to receive such payment may, in accordance with normal banking procedures, purchase with the sum paid in such other currency (after any premium and costs of exchange) on the Business Day immediately following the day on which such holder receives such payment. If the amount in Dollars that may be so purchased for any reason falls short of the amount originally due, the undersigned shall indemnify and save harmless such holder from and against all loss or damage arising out of or as a result of such deficiency; if the amount in Dollars that may be so purchased exceeds the amount originally due, such holder shall remit to the undersigned for their ratable benefit such excess. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Guarantee, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by such holder from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due under this Guarantee or under any judgment or order.

(b) Payment in Japanese Yen – Series B Notes

All payments under the Series B Notes by the undersigned pursuant to this Guarantee shall be made in Japanese Yen to the holders for their ratable benefit by the method and at the address specified in the Consolidated Note Purchase Agreement.

To the fullest extent permitted by applicable law, the obligations of the undersigned in respect of any amount due under or in respect of this Guarantee with respect to the Series B Notes shall (notwithstanding any payment in any other currency, whether as a result of any judgment or order or the enforcement thereof or otherwise) be

discharged only to the extent of the amount in Japanese yen that each holder entitled to receive such payment may, in accordance with normal banking procedures, purchase with the sum paid in such other currency (after any premium and costs of exchange) on the Business Day immediately following the day on which such holder receives such payment. If the amount in Japanese yen that may be so purchased for any reason falls short of the amount originally due, the undersigned shall indemnify and save harmless such holder from and against all loss or damage arising out of or as a result of such deficiency; if the amount in Japanese yen that may be so purchased exceeds the amount originally due, such holder shall remit to the undersigned for their ratable benefit such excess. This indemnity shall constitute an obligation separate and independent from the other obligations contained in this Guarantee, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by such holder from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due under this Guarantee or under any judgment or order.

(c) If any expense required to be reimbursed pursuant to this Guarantee is originally incurred in a currency other than Dollars, the undersigned shall nonetheless make reimbursement of that expense in Dollars, in an amount equal to the amount in Dollars that would have been required for the Person that incurred such expense to have purchased, in accordance with normal banking procedures, the sum paid in such other currency (after any premium and costs of exchange) on the day that expense was originally incurred.

11. Successors and Assigns. This Guarantee shall be binding upon the undersigned and the successors and assigns of the undersigned; and to the extent that the Issuer or the undersigned is a partnership, corporation, limited liability company or other entity, all references herein to such entity shall be deemed to include any successor or successors, whether immediate or remote, to such entity. The term “undersigned” as used herein shall mean all parties executing this Guarantee and each of them, and all such parties shall be jointly and severally obligated hereunder.

12. Governing Law; Severability. This Guarantee shall be construed in accordance with and governed by the laws of the State of New York applicable to contracts made and to be performed entirely within such state. Wherever possible each provision of this Guarantee shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Guarantee shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Guarantee.

13. Counterparts; Additional Guarantors; Release; Amendments. This Guarantee may be executed in any number of counterparts and by the different parties hereto on separate counterparts, and each such counterpart shall be deemed to be an original but all such counterparts shall together constitute one and the same Guarantee. At any time after the date of this Guarantee, one or more additional Persons may become parties hereto by executing and delivering to the holders a counterpart of this Guarantee. Immediately upon such execution and delivery (and without any further action), each such additional Person will become a party to, and will be bound by all of the terms of, this Guarantee. This Guarantee may be amended pursuant to Section 17 of the Consolidated Note Purchase Agreement.

14. Notices. All notices and communications provided for hereunder shall be in writing and sent to the undersigned at its facsimile number or address, as applicable, specified on Schedule I (a) by telecopy if the sender on the same day sends a confirming copy of such notice by a recognized overnight delivery service (charges prepaid), (b) by registered or certified mail with return receipt requested (postage prepaid) or (c) by a recognized overnight delivery service (with charges prepaid).

15. Judgment Currency. The undersigned agrees that if, for the purposes of obtaining judgment in any court, it is necessary to convert a sum due hereunder in Dollars into another currency, to the fullest extent permitted by law, the rate of exchange used shall be that at which in accordance with normal banking procedures a holder could purchase Dollars with such other currency on the Business Day preceding that on which final judgment is given.

16. Tax Indemnification. All payments by the undersigned hereunder shall be made free and clear of, and without any withholding or deduction for or on account of, any present or future Related Taxes imposed or levied by or on behalf of Spain, the United States or any jurisdiction from or through which any amount is paid by the undersigned pursuant to the terms of this Guarantee (or any political subdivision or taxing authority of or in any such jurisdiction) (a "**Taxing Jurisdiction**"), unless the withholding or deduction of any Related Tax is required by law. If any deduction or withholding for any present or future Related Tax of a Taxing Jurisdiction shall at any time be required in respect of any amount to be paid by the undersigned under this Guarantee, the undersigned will promptly (i) pay over to the government or taxing authority of the Taxing Jurisdiction imposing such Related Tax the full amount required to be deducted or withheld by the undersigned (including the full amount required to be deducted or withheld from or otherwise paid by the undersigned in respect of any Additional Payment required to be made pursuant to clause (ii) below) and (ii) except as expressly provided below, pay to each holder entitled to receive the payment from which the amount referred to in the foregoing clause (i) has been so deducted or withheld such additional amount as is necessary in order that the amount received by such holder after any required deduction or withholding of Related Tax (including, without limitation, any required deduction, withholding or other payment of Related Tax on or with respect to such additional amount) shall equal the amount such holder would have received hereunder had no such deduction, withholding or other payment of Related Tax been paid (the " **Additional Payment**"), and if any holder pays any amount in respect of any Related Tax on any payment due from the undersigned hereunder, or penalties or interest thereon, then the undersigned shall reimburse such holder for that payment upon demand, provided that no payment of any Additional Payment, or of any such reimbursement in respect of any such payment made by any such holder, shall be required to be made for or on account of:

(a) any Related Tax that would not have been imposed but for the existence of any present or former connection between such holder and the Taxing Jurisdiction or any territory or possession or area subject to the jurisdiction of the Taxing Jurisdiction, other than the mere holding of the relevant New Note, including, without limitation, such holder's being or having been a citizen or resident thereof, or being or having been present or engaged in a trade or business therein or having an establishment therein;

(b) any such holder that is not a resident of the United States of America or, with respect to any payment hereunder owing to such holder, all or any part of which represents income that is not subject to United States tax as income of a resident of the United States of America to the extent that, had such holder been a resident of the United States of America or had the payment been so subject to United States tax, or had the payment been made to a location within the United States of America, the provisions of a statute, treaty or regulation of the Taxing Jurisdiction would have enabled an exemption to be claimed from the Related Tax in respect of which an Additional Payment would otherwise have been payable; or

(c) any combination of the items or conditions described in clause (a) or clause (b) above; and

provided further that the undersigned shall not be obliged to pay any Additional Payment to any holder in respect of Related Taxes to the extent such Related Taxes exceed the Related Taxes that would have been payable but for the delay or failure by such holder (after receiving a written request from the undersigned to make such filing and including copies (together with instructions in English) of any forms, certificates, documents, applications or other reasonably required evidence (collectively, "**Forms**"), to be filed) in the filing with an appropriate Governmental Authority or otherwise of Forms required to be filed by such holder to avoid or reduce such Related Taxes and that in the case of any of the foregoing would not result in any confidential income tax return information being revealed, either directly or indirectly, to any Person and such delay or failure could have been lawfully avoided by such holder, provided that such holder shall be deemed to have satisfied the requirements of this proviso upon the good faith completion and submission of such Forms as may be specified in a written request of the undersigned no later than 45 days after receipt by such holder of such written request.

If the undersigned shall make any such Additional Payment, the undersigned will promptly furnish each holder receiving such Additional Payment an official receipt issued by the relevant taxation or other authorities involved for all amounts deducted or withheld as aforesaid.

By acceptance of the benefits hereof, each holder agrees to use its best efforts to comply (after a reasonable period to respond) with a written request of the undersigned delivered to such holder to provide information (other than any confidential or proprietary information) concerning the nationality, residence or identity of such holder, and to make such declaration or other similar claim or reporting requirement regarding such information (copies of the forms of which declaration, claim or reporting requirement shall have been provided to such holder by the undersigned), that is required by a statute, treaty or regulation of the Taxing Jurisdiction as a precondition to exemption from all or part of any Related Tax. The undersigned agrees to reimburse each holder for such holder's reasonable out-of-pocket expenses, if any, incurred in complying with any such request of such Person.

If the undersigned makes an Additional Payment under this Section 16 for the account of any Person and such Person is entitled to a refund of any portion of the tax (a "**Tax Refund**"), to

which such payment is attributable, and such Tax Refund may be obtained by filing one or more Forms, then such Person shall after receiving a written request therefore from the Issuer or the undersigned (which request shall specify in reasonable detail the Forms to be flied), file such Forms. If such Person subsequently receives such a Tax Refund, and such Person is readily able to identify the Tax Refund as being attributable to the tax with respect to which an Additional Payment was made, then such Person shall reimburse the undersigned such amount as such Person shall determine acting in good faith to be the proportion of the Tax Refund, together with any interest received thereon, attributable to such Additional Payment as will leave such Person after the reimbursement (including such interest) in no better or worse position than it would have been if the Additional Payment had not been required. Nothing in this paragraph shall obligate any holder to disclose any information regarding its tax affairs or computations to the undersigned.

17. Jurisdiction; Service of Process. THE UNDERSIGNED HEREBY IRREVOCABLY AND UNCONDITIONALLY AGREES THAT ANY SUIT ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTEE, OR ANY ACTION OR PROCEEDING TO EXECUTE OR OTHERWISE ENFORCE ANY JUDGMENT IN RESPECT OF ANY BREACH HEREUNDER, BROUGHT BY ANY HOLDER AGAINST THE UNDERSIGNED OR ANY OF ITS PROPERTIES, MAY BE BROUGHT BY SUCH HOLDER IN THE COURTS OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK OR ANY NEW YORK STATE COURT SITTING IN NEW YORK CITY, AS SUCH HOLDER MAY IN ITS SOLE DISCRETION ELECT, AND BY THE EXECUTION AND DELIVERY OF THIS GUARANTEE THE UNDERSIGNED IRREVOCABLY AND UNCONDITIONALLY SUBMITS TO THE NON-EXCLUSIVE JURISDICTION OF EACH SUCH COURT AND AGREES THAT PROCESS SERVED EITHER PERSONALLY OR BY REGISTERED MAIL ON THE UNDERSIGNED OR A DESIGNATED AGENT OF THE UNDERSIGNED SHALL CONSTITUTE, TO THE EXTENT PERMITTED BY LAW, ADEQUATE SERVICE OF PROCESS IN ANY SUCH SUIT, AND THE UNDERSIGNED IRREVOCABLY WAIVES AND AGREES NOT TO ASSERT, BY WAY OF MOTION, AS A DEFENSE OR OTHERWISE, ANY CLAIM THAT IT IS NOT SUBJECT TO THE JURISDICTION OF ANY SUCH COURT. RECEIPT OF PROCESS SO SERVED SHALL BE CONCLUSIVELY PRESUMED AS EVIDENCED BY A DELIVERY RECEIPT FURNISHED BY THE UNITED STATES POSTAL SERVICE OR ANY COMMERCIAL DELIVERY SERVICE. WITHOUT LIMITING THE FOREGOING, THE UNDERSIGNED HEREBY APPOINTS, IN THE CASE OF ANY SUCH ACTION OR PROCEEDING BROUGHT IN THE COURTS OF OR IN THE STATE OF NEW YORK, CT CORPORATION SYSTEM, 111 EIGHTH AVENUE, NEW YORK, NEW YORK 10011, TO RECEIVE, FOR IT AND ON ITS BEHALF, SERVICE OF PROCESS IN THE STATE OF NEW YORK WITH RESPECT THERETO AT ANY AND ALL TIMES. THE UNDERSIGNED WILL TAKE ANY AND ALL ACTION, INCLUDING THE EXECUTION AND FILING OF ALL SUCH DOCUMENTS AND INSTRUMENTS AND TIMELY PAYMENTS OF FEES AND EXPENSES, AS MAY BE NECESSARY TO EFFECT AND CONTINUE THE APPOINTMENT OF SUCH AGENT IN FULL FORCE AND EFFECT, OR NECESSARY BY REASON OF ANY FACT OR CONDITION RELATING TO SUCH AGENT, TO REPLACE SUCH AGENT (BUT ONLY AFTER HAVING GIVEN NOTICE THEREOF TO EACH HOLDER OF NEW NOTES AND ANY SUCCESSOR AGENT IS REASONABLY ACCEPTABLE TO REQUIRED HOLDERS). THE UNDERSIGNED

AGREES THAT SERVICE OF PROCESS UPON SUCH AGENT SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON THE UNDERSIGNED IN ANY SUCH SUIT, ACTION OR PROCEEDING IN ANY SUCH COURT. THE UNDERSIGNED IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ALL CLAIM OR ERROR BY REASON OF ANY SUCH SERVICE IN SUCH MANNER AND AGREES THAT SUCH SERVICE SHALL BE DEEMED IN EVERY RESPECT EFFECTIVE SERVICE OF PROCESS UPON THE UNDERSIGNED IN ANY SUCH SUIT, ACTION OR PROCEEDING AND SHALL, TO THE FULLEST EXTENT PERMITTED BY LAW, BE TAKEN AND HELD TO BE VALID AND PERSONAL SERVICE UPON AND PERSONAL DELIVERY TO THE UNDERSIGNED. IN ADDITION, THE UNDERSIGNED HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY OBJECTION THAT IT MAY NOW OR HEREAFTER HAVE TO THE LAYING OF VENUE IN ANY SUIT, ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTEE BROUGHT IN SUCH COURTS, AND HEREBY IRREVOCABLY WAIVES ANY CLAIM THAT ANY SUCH SUIT ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM. NOTHING HEREIN SHALL IN ANY WAY BE DEEMED TO LIMIT THE ABILITY OF ANY HOLDER TO SERVE ANY SUCH WRITS, PROCESS OR SUMMONSES IN ANY MANNER PERMITTED BY APPLICABLE LAW OR TO OBTAIN JURISDICTION OVER THE UNDERSIGNED IN SUCH OTHER JURISDICTION, AND IN SUCH MANNER, AS MAY BE PERMITTED BY APPLICABLE LAW. NOTHING IN THIS PARAGRAPH SHALL BE DEEMED TO LIMIT ANY OTHER SUBMISSION TO JURISDICTION, WAIVER OR OTHER AGREEMENT. BY THE UNDERSIGNED CONTAINED IN ANY OTHER FINANCING DOCUMENT. TO THE EXTENT THAT THE UNDERSIGNED HAS OR HEREAFTER MAY ACQUIRE ANY IMMUNITY FROM JURISDICTION OF ANY COURT OR FROM ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION OR OTHERWISE) WITH RESPECT TO ITSELF OR ITS PROPERTY, THE UNDERSIGNED HEREBY IRREVOCABLY WAIVES SUCH IMMUNITY IN RESPECT OF ITS OBLIGATIONS UNDER THIS GUARANTEE.

IN WITNESS WHEREOF, this Guarantee has been duly executed and delivered as of the day and year first above written.

CEMEX ESPAÑA, S.A.

By: /s/ Humberto Francisco Lozano Vargas
Name: Humberto Francisco Lozano Vargas
Title: Attorney-In-Fact

SCHEDULE I
ADDRESSES FOR NOTICES

c/o Cemex España, S.A.
Hernández de Tejada No. 1
28027 Madrid, Spain
Facsimile number:+ 3491 377-6500
Phone number: + 3491 377-6505
Attention: Francisco Lopez and Francisco Javier Garcia Ruiz de Morales

with a copy to

CEMEX, S.A.B. de C.V.
Ave. Ricardo Margáin Zozaya, n° 325
Col. Valle del Campestre
Garza García NL, 66265
Mexico
Facsimile number: +52 81 8888-4519
Attention: Francisco Contreras

Exhibit 4.38
Conformed Copy

DEED OF PLEDGE OF REGISTERED SHARES

On the fourteenth day of August two thousand nine, appeared before me, Krishna van Zundert, *kandidaat-notaris*, hereinafter: "civil law notary", deputising for dr. Thomas Pieter van Duuren, civil law notary (*notaris*) in Amsterdam, The Netherlands:

1. (a) Ms Dorien Christianne de Voogd, in this matter with residence at the offices of Warendorf, Koningslaan 42, 1075 AE Amsterdam, The Netherlands, born in Amsterdam, The Netherlands, on the fifth day of November nineteen hundred seventy-seven, holder of a passport with number NH2502629; and

   (b) Ms Alycke Berber Deirdre Kootstra, in this matter with residence at the offices of Warendorf, Koningslaan 42, 1075 AE Amsterdam, The Netherlands, born in Achtkarspelen, The Netherlands, on the third day of July nineteen hundred eighty-four, holder of a passport with number NH9797017,

   both acting in this respect as attorneys-in-fact, duly authorised in writing, of:

   (i) **CEMEX DUTCH HOLDINGS B.V.**, private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*), incorporated under Dutch law, having its seat (*statutaire zetel*) at Amsterdam, The Netherlands, and its registered office at Amsteldijk 166, 1079 LH Amsterdam, The Netherlands and registered with the Dutch Commercial Register (*Handelsregister*) under number 34218087 ("**Cemex Dutch Holdings B.V.**");

   (ii) **SUNWARD HOLDINGS B.V.**, a private company with limited liability **(***besloten vennootschap met beperkte aansprakelijkheid*), incorporated under Dutch law, having its seat (*statutaire zetel*) at Amsterdam, The Netherlands, and its registered office at Amsteldijk 166, 1079 LH Amsterdam, The Netherlands and registered with the Dutch Commercial Register (*Handelsregister*) under number 34169530 ("**Sunward Holdings B.V.**");

   (iii) **SUNWARD ACQUISITIONS N.V.**, a public company with limited liability **(***naamloze vennootschap*), incorporated under Dutch law, having its seat (*statutaire zetel*) at Amsterdam, The Netherlands, and its registered office at Amsteldijk 166, 1079 LH Amsterdam, The Netherlands and registered with the Dutch Commercial Register (*Handelsregister*) under number 33235711 ("**Sunwards Acquisitions N.V.**");

(iv) **CEMEX INTERNATIONAL FINANCE COMPANY**, a company incorporated under the laws of the Republic of Ireland, having its registered office at 70 Sir John Rogerson's Quay, Dublin 2, The Republic of Ireland, registered with Companies Registration Office under number 226652 ("**Cemex International Finance Company**");

(v) **CORPORACION GOUDA S.A. DE C.V.,** a company incorporated under the laws of Mexico, having its registered office at Avenida Constitución 444 pte, CP 64000 Monterrey, N.León, Mexico, registered with the Registro Publico de la Propiedad y de comercio del estado de Nuevo León te Monterray in Mexico under number 25012002-113 (" **Corporación Gouda S.A. de C.V.**");

(vi) **MEXCEMENT HOLDINGS S.A. DE C.V.,** a company incorporated under the laws of Mexico, having its registered office at Avenida Constitución 444 Pte, C.P. 64000, Monterrey, Nuevo León, México, registered at the Registro Público de la Propiedad y del Comercio del Estado de Nuevo León in México under the number 5457, Volume 2, Book First ("**Mexcement Holdings S.A. de C.V.")**;

(vii) **NEW SUNWARD HOLDING B.V.,** a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*), incorporated under Dutch law, having its seat (*statutaire zetel*) at Amsterdam, The Netherlands, and its registered office at Amsteldijk 166, 1079 LH Amsterdam, The Netherlands and registered with the Dutch Commercial Register (*Handelsregister*) under number 34133556 (the "**Company**");

2. Mr Harmen Jacobus Keuning, in this matter with residence at the offices of Clifford Chance LLP, Droogbak 1a, 1013 GE Amsterdam, The Netherlands, born in Amstelveen, The Netherlands, on the twenty-first day of April nineteen hundred eighty, in this respect acting as attorney-in-fact, duly authorised in writing, of:

WILMINGTON TRUST (LONDON) LIMITED, a company with limited liability, incorporated under the laws of England and Wales, having its registered office at Fifth Floor, 6 Broad Street Place, London EC2M 7JH, United Kingdom and registered with Companies House under number 05650152, except as expressly provided herein acting in its capacity of Security Agent (and where acting in such capacity acting on behalf of the Secured Parties) (all as defined below) (the "**Pledgee**").

The authorisation of the persons appearing before me appears from eight (8) written powers of attorney, (photo copies of) which shall be attached to this Deed.

The persons appearing, acting as stated, declared that:

IT IS HEREBY AGREED AS FOLLOWS:

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

1.1.1 Unless a contrary indication appears, capitalised terms not defined in this Deed (as defined below) shall have the same meaning given to such terms in the Intercreditor Agreement (as defined below).

1.1.2 In addition the following terms shall have the following meaning:

"**Articles of Association**" means the articles of association (*statuten*) of the Company as they currently stand and/or, as the case may be, as they may be amended from time to time.

"**Debt Documents**" has the meaning given to it in the Intercreditor Agreement.

"**Deed**" means this deed of pledge.

"**Depository Receipts**" means depository receipts of shares in the capital of the Company issued with the co-operation of the Company (*met medewerking van de vennootschap uitgegeven certificaten van aandelen*).

"**Dividends**" means cash dividends, distribution of reserves, repayments of capital and all other distributions and payments in any form which at any time during the existence of the right of pledge created hereby, become payable in respect of any one of the Shares.

"**Enforcement Event**" has the meaning given to it in the Intercreditor Agreement.

"**Existing Deed of Pledge I**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Existing Deed of Pledge II**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Existing Deed of Pledge III**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Existing Deed of Pledge IV**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Financing Agreement**" means the financing agreement dated the fourteenth day of August two thousand nine entered into among, *inter alios*, CEMEX S.A.B. de C.V. as the Parent, the Original Borrowers, the Original Guarantors, the Original Security Providers, the Original Participating Creditors, the Administrative Agent and the Security Agent (all as defined therein).

"**Future Shares**" means all shares in the capital of the Company acquired by a Pledgor after the date of this Deed.

"**Intercreditor Agreement**" means the intercreditor agreement dated on or about the date of the Financing Agreement and made between, *inter alios*, CEMEX S.A.B. de C.V. as the Parent, the Original Borrowers, the Original Guarantors, the Original Security Providers, the Security Agent and the Participating Creditors (all as defined therein).

"**Merger I**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Merger II**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Merger III**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Merger IV**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Newly Issued Shares I**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Newly Issued Shares II**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Newly Issued Shares III**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Parallel Debts**" means a collective reference to the Finance Parallel Debt and the Notes Parallel Debt (each as defined in the Intercreditor Agreement).

"**Pledgors**" means a collective reference to (i) Cemex Dutch Holdings B.V. being the only entity holding Present Shares on the date of this Deed and (ii) Sunward Holdings B.V., Sunwards Acquisitions N.V., Cemex International Finance Company, Corporación Gouda S.A. de C.V. and Mexcement Holdings S.A. de C.V., which entities will be acquiring Shares after the date of this Deed, and "**Pledgor**" means, individually, any one of them.

"**Present Shares**" means all of the shares issued and paid-up in the capital of the Company and registered in the name of Cemex Dutch Holdings B.V., being three hundred eighty-five thousand two hundred eighty (385,280) ordinary shares, numbered 1 through 385,280, with a nominal value of ten eurocent (EUR 0.10) each.

"**Principal Obligations**" means a collective reference to all present and future obligations owed by any Debtor to (a) any of the Finance Secured Parties under or in connection with the Finance Secured Documents and (b) any of the Notes Secured Parties under or in connection with the Notes Secured Documents, in each case other than the obligations pursuant to the Parallel Debts.

"**Related Rights**" means the Dividends, all present and future rights of the Pledgors to acquire shares in the capital of the Company and all other present and future rights arising out of or in connection with the Shares, other than the Voting Rights.

"**Release Date**" means the date on which the Transaction Security (as defined in the Intercreditor Agreement) shall be released pursuant to and in accordance with clause 8.2 of the Intercreditor Agreement.

"**Secured Obligations**" means all present and future obligations owed by the Debtors to the Pledgee pursuant to the Parallel Debts and all Principal Obligations that are secured obligations pursuant to paragraph 3.1.3.

"**Security Assets**" means the Shares and the Related Rights.

"**Shares**" means the Present Shares and the Future Shares.

"**Voting Rights**" means the voting rights in respect of any of the Shares.

1.2 **Interpretation**

Subject to any contrary indication, any reference in this Deed to a " **Clause**", "**Sub-clause**" or "**paragraph**" shall be interpreted as a reference to a clause, sub-clause or paragraph hereof.

1.3 **Continuing security**

Any reference made in this Deed to any Finance Secured Document and/or any Notes Secured Document or to any agreement or document (under whatever name), where applicable, shall be deemed to be a reference to such Finance Secured Document and/or Notes Secured Document or such other agreement or document as the same may have been, or at any time may be, extended, prolonged, amended, restated, supplemented, renewed or novated, as persons may accede thereto as a party or withdraw therefrom as a party in part or in whole or be released thereunder in part or in whole, and/or as facilities and/or amounts and/or financial services are or at any time may be granted, extended, prolonged, increased, reduced, cancelled, withdrawn, amended, restated, supplemented, renewed or novated thereunder including, without limitation:

(a) any:

(i) increase or reduction in any amount available thereunder or any alteration of or addition to the purpose for which any such amount, or increased or reduced amount may be used,

(ii) facility or note provided in substitution of, or in addition to, the facilities originally made available thereunder or notes originally issued thereunder,

(iii) rescheduling of the indebtedness incurred thereunder whether in isolation or in connection with any of the foregoing, and

(iv) combination of the foregoing, and/or

(b) any document designated as a Finance Secured Document or Notes Secured Document by the Administrative Agent and the Parent.

1.4 **Unlawful financial assistance**

No obligations shall be included in the definition of "Secured Obligations" to the extent that, if they were included, the security interest granted pursuant to this Deed or any part thereof would be void as a result of violation of the prohibition on financial assistance contained in Articles 2:98c and/or 2:207c of the Dutch Civil Code or any other applicable financial assistance rules under any relevant jurisdiction (the " **Prohibition**") and all provisions hereof shall be interpreted accordingly. For the avoidance of doubt, this Deed shall continue to secure those obligations which, if included in the definition of "Secured Obligations", shall not constitute a violation of the Prohibition.

1.5 **Separate agreements**

1.5.1 For the purpose of efficiency this Deed is entered into between the Pledgee of the one part and each of the individual entities defined as a "Pledgor" of the other part.

1.5.2 This Deed shall be interpreted so as to constitute a separate pledge agreement between each of the individual entities defined as a "Pledgor" of the one part and the Pledgee of the other part, and if any of the separate pledge agreements of any of such entities become(s) invalid or unenforceable, is terminated, rescinded, released, void, voidable, amended, restated, renewed, novated, supplemented or otherwise affected, the Secured Obligations of any of such entities are satisfied or any of the rights of pledge created hereby is or are ineffective, to the fullest extent permitted by law the foregoing shall not affect the validity or enforceability of the other agreement between the Pledgee of the one part and such other entity of the other part.

1.6 **Pledgee Provisions**

1.6.1 Subject to the mandatory provisions of Dutch law the Pledgee shall not, whether by virtue of this Deed or by exercising any of its rights thereunder, owe any duty of care to the Pledgors or the Company.

1.6.2 The permissive rights of the Pledgee to take action under this Deed shall not be construed as an obligation or duty for it to do so.

1.6.3 In acting as Pledgee, the Pledgee shall be treated as acting through its agency division which shall be treated as a separate entity from its other divisions and departments. Any information received or acquired by the Pledgee which is received or acquired by some other division or department or otherwise than in its capacity as Pledgee may be treated as

confidential by the Pledgee and will not be treated as information possessed by the Pledgee in its capacity as such.

1.6.4 In acting or otherwise exercising its rights or performing its duties under any provision of this Deed, the Pledgee shall act in accordance with the provisions of the Intercreditor Agreement and parties to this Deed acknowledge and agree that in so acting the Pledgee shall have the rights, benefits, protections, indemnities and immunities set out in the Intercreditor Agreement and shall not incur any liability to the Pledgor or the Company, other than as expressly provided for in the Intercreditor Agreement.

2. UNDERTAKING TO PLEDGE AND PARALLEL DEBTS

2.1 Undertaking to pledge

Each Pledgor has agreed, or, as the case may be, hereby agrees with the Pledgee that it shall grant to the Pledgee a right of pledge over its Security Assets as security for the payment of the Secured Obligations.

2.2 Parallel Debts

Pursuant to the Parallel Debts the Pledgee has its own claim in respect of the payment obligations of the Debtors to the Finance Secured Parties and the Notes Secured Parties. In connection with the creation of the rights of pledge pursuant hereto each Pledgor and the Pledgee acknowledge that, with respect to this claim, the Pledgee acts in its own name and not as representative (*vertegenwoordiger*) of the Finance Secured Parties and the Notes Secured Parties or any of them and consequently the Pledgee is the sole pledgee under this Deed.

3. PLEDGE

3.1 Pledge of Security Assets

3.1.1 To secure the payment of the Secured Obligations, each Pledgor hereby grants to the Pledgee a right of pledge over its Present Shares and the Related Rights pertaining thereto (where applicable) and grants in advance (*bij voorbaat*) to the Pledgee a right of pledge over its Future Shares and the Related Rights pertaining thereto, which rights of pledge are hereby accepted by the Pledgee.

3.1.2 To the extent the pledge in advance referred to in paragraph 3.1.1 is not effective under Dutch law, each Pledgor will forthwith grant a supplemental right of pledge by executing, before a Dutch civil law notary, a deed of pledge substantially in the form of this Deed or such other form as the Pledgee may reasonably require in order to perfect the pledge over the relevant Future Shares and the Related Rights pertaining thereto.

3.1.3 If and to the extent that at the time of creation of this right of pledge, or at any time hereafter, a Principal Obligation owed to the Pledgee cannot be validly secured through the Parallel Debts, such Principal Obligation itself shall be a Secured Obligation.

3.2 **Registration**

The Pledgee shall be entitled to present this Deed and any other document in connection herewith for registration to any office, registrar or governmental body in any jurisdiction the Pledgee deems necessary or useful to protect its interests.

3.3 **Related Rights**

3.3.1 Subject to Sub-clause 3.3.2 below, only the Pledgee is entitled to receive and exercise the Related Rights pledged pursuant hereto or, as applicable, pursuant to the relevant Existing Deed of Pledge (as defined and referred to in Clause 3.5 (*Mergers*) of this Deed.

3.3.2 The Pledgee hereby authorises each Pledgor (as envisaged by Article 3:246 paragraph 4 of the Dutch Civil Code) to receive Dividends in accordance with the terms of the Financing Agreement. The authorisation shall automatically cease to exist upon the occurrence of an Enforcement Event.

3.4 **Voting Rights**

3.4.1 In accordance with Article 2:198 paragraph 3 of the Dutch Civil Code, in conjunction with the relevant provisions of the Articles of Association, the general meeting of shareholders of the Company, has approved on the thirty-first day of July two thousand nine by means of a written resolution adopted outside a meeting in accordance with Article 2:238 of the Dutch Civil Code and Article 21 of the Articles of Association, the granting of a right of pledge in respect of the Shares with the conditional transfer to the Pledgee of the Voting Rights and other rights and powers attached to the Shares. A copy of said written resolution by the general meeting of shareholders shall be attached to this Deed (Annex).

3.4.2 The Voting Rights are hereby transferred to the Pledgee, subject to the cumulative conditions precedent (*opschortende voorwaarden*) of:

(a) the occurrence of an Enforcement Event, and

(b) the delivery of a notice by the Pledgee to the Company that it, the Pledgee, will exercise the Voting Rights (whereby it is agreed and acknowledged by the parties to this Deed that such notice may only be given by the Pledgee upon receipt by the Pledgee of express written instructions to this effect from the Instructing Group or otherwise in accordance with the Intercreditor Agreement).

The Pledgee shall send to each Pledgor, for information purposes only, a copy of any notice to the Company as referred to in paragraph 3.4.2 sub (b) above.

3.4.3 Prior to receipt by the Company of a notice as referred to in paragraph 3.4.2(b) above:

(a) each Pledgor shall have the right to exercise its Voting Rights; and

(b) the Pledgee shall not have the rights attributed by law to the holders of Depository Receipts.

3.4.4 Forthwith upon receipt by the Company of a notice as referred to in paragraph 3.4.2(b) above no Pledgor shall be entitled any longer to exercise its Voting Rights.

3.5 **Mergers**

3.5.1 **General**

It is the intention that after the date of this Deed the following mergers will be effected:

(a) a merger (*fusie*) ("**Merger I**") between Sunward Acquisitions N.V. (as acquiring entity (*verkrijgende rechtspersoon*)) and Sunward Investments B.V., a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*) incorporated under Dutch law, having its seat (*statutaire zetel*) at Amsterdam, The Netherlands, and its registered office at Amsteldijk 166, 1079 LH Amsterdam, The Netherlands and registered with the Dutch Commercial Register (*Handelsregister*) under number 34169379 (as disappearing entity (*verdwijnende rechtspersoon*)) ("**Sunward Investments B.V.**");

(b) a merger (*fusie*) ("**Merger II**") between Sunward Holdings B.V. (as acquiring entity (*verkrijgende rechtspersoon*)) and Cemex Dutch Holdings B.V. (as disappearing entity (*verdwijnende rechtspersoon*));

(c) a merger (*fusie*) ("**Merger III**") between Sunward Acquisitions N.V. (as acquiring entity (*verkrijgende rechtspersoon*)) and Sunward Holdings B.V. (as disappearing entity (*verdwijnende rechtspersoon*)); and

(d) a merger (*fusie*) ("**Merger IV**") between the Company (as acquiring entity (*verkrijgende rechtspersoon*)) and Sunward Acquisitions N.V. (as disappearing entity (*verdwijnende rechtspersoon*)).

By:

(a) notarial deed dated the fourteenth day of August two thousand nine executed before a deputy of dr. T.P. van Duuren, civil law notary (*notaris*) in Amsterdam, The Netherlands, with Corporación Gouda S.A. de C.V., as pledgor, the Pledgee as pledgee and Sunward Investments B.V. as company (the "**Existing Deed of Pledge I**"), amongst others, the shares in the capital of Sunward Investments B.V. (the "**Shares Sunward Investments B.V.**") (together with Related Rights as defined therein) were pledged in favour of the Pledgee;

(b) notarial deed dated the fourteenth day of August two thousand nine executed before a deputy of dr. T.P. van Duuren, civil law notary (*notaris*) in Amsterdam, The Netherlands, with, amongst others, Cemex International Finance Company as pledgor, the Pledgee as pledgee and Cemex Dutch Holdings B.V. as company (the "**Existing Deed of Pledge II**"), amongst others, the shares in the capital of the Cemex Dutch Holdings B.V. (the "**Shares Cemex Dutch Holdings B.V.**") (together with Related Rights as defined therein) were pledged in favour of the Pledgee;

(c) notarial deed dated the fourteenth day of August two thousand nine executed before a deputy of dr. T.P. van Duuren, civil law notary (*notaris*) in Amsterdam, The Netherlands, with, amongst others, Cemex International Finance Company as pledgor, the Pledgee as pledgee and Sunward Holdings B.V. as company (the "**Existing Deed of Pledge III**"), amongst others, the shares in the capital of the Sunward Holdings B.V. (the "**Shares Sunward Holdings B.V.**") (together with Related Rights as defined therein) were pledged in favour of the Pledgee; and

(d) notarial deed dated the fourteenth day of August two thousand nine executed before a deputy of dr. T.P. van Duuren, civil law notary *(notaris*) in Amsterdam, The Netherlands, with Mexcement Holdings S.A. de C.V., Corporación Gouda S.A. de C.V., Cemex International Finance Company as pledgors, the Pledgee as pledgee and Sunward Acquisitions N.V. as company (the "**Existing Deed of Pledge IV**"), amongst others, the shares in the capital of Sunward Acquisitions N.V. (the "**Shares Sunward Acquisitions N.V.**") (together with Related Rights as defined therein) were pledged in favour of the Pledgee.

As a consequence of:

(a) Merger I (i) Corporación Gouda S.A. de C.V. will acquire shares in Sunward Acquisitions N.V. (the "**Newly Issued Shares I**") and (ii) Sunward Acquisitions N.V. will acquire shares in Sunward Holdings B.V. in addition to the shares already held by it, which shares are held by Sunward Holdings B.V. (the "**Additional Shares Sunward Holdings B.V.**");

(b) Merger II (i) Cemex International Finance Company will acquire shares in Sunward Holdings B.V. (the "**Newly Issued Shares II**") and (ii) Sunward Holdings B.V. will acquire shares in New Sunward Holding B.V. (the "**Additional Shares II Sunward Holdings B.V.**");

(c) Merger III (i) Cemex International Finance Company will acquire shares in Sunward Acquisitions N.V. (the " **Newly Issued Shares III**") and (ii) Sunward Acquisitions N.V. will acquire shares in New Sunward Holding B.V. (the "**Additional Shares New Sunward Holdings B.V.**"); and

(d) Merger IV, Corporación Gouda S.A. de C.V. , Mexcement Holdings S.A. de C.V., Cemex Trademarks Holding Ltd., a company incorporated under the laws of Switzerland, having its registered office at Römerstrasse 13, 2555 Brügg bei Biel, Switzerland, registered with Berne under number CH-035.3.029.636-0 ("**Cemex Trademarks Holding Ltd.**") and Cemex International Finance Company will acquire shares in the Company (the "**Newly Issued Shares IV**").

3.5.2 **Merger I**

Upon the Merger I having been effected, Corporación Gouda S.A. de C.V. will become a shareholder of Sunward Acquisitions N.V. The parties acknowledge that pursuant to Article 2:319 paragraph 1 of the Dutch Civil Code the rights vested in favour of the Pledgee pursuant to the Existing Deed of Pledge I will by operation of law be vested in respect of the shares in Sunward Acquisitions N.V. (together with the related rights) acquired by Corporación Gouda S.A. de C.V. (from time to time). Furthermore the Shares Sunward Acquisitions N.V. (together with the related rights) have been pledged in advance in the Existing Deed of Pledge IV.

The parties furthermore acknowledge that, upon Merger I having been effected, the Additional Shares Sunward Holdings B.V. acquired by Sunward Acquisitions N.V. (together with the related rights) are

automatically pledged in favour of the Pledgee pursuant to the Existing Deed of Pledge III.

To the extent not already pledged by operation of law pursuant to Article 2:319 paragraph 1 of the Dutch Civil Code, to secure the payment of the Secured Obligations, Corporación Gouda S.A. de C.V. has granted in advance (*bij voorbaat*) a right of pledge over the Newly Issued Shares I and the related rights pertaining thereto, as well as all other future shares in Sunward Acquisitions N.V. and the related rights pertaining thereto, which rights of pledge have been accepted by the Pledgee. Corporación Gouda S.A. de C.V. has agreed and confirmed to be bound as a pledgor to the Existing Deed of Pledge IV as if it had been a holder of (present) shares in Sunward Acquisitions N.V. on the day of the execution of the Existing Deed of Pledge IV (thus, amongst others, on such date agreeing to the transfer of the voting rights attached to its shares and granting any and all powers of attorney on the terms and conditions set out in the Existing Deed of Pledge IV).

3.5.3 **Merger II**

Upon the Merger II having been effected, Cemex International Finance Company will become a shareholder of Sunward Holdings B.V. The parties acknowledge that pursuant to Article 2:319 paragraph 1 of the Dutch Civil Code the rights vested in favour of the Pledgee pursuant to the Existing Deed of Pledge II will by operation of law be vested in respect of the shares in Sunward Holdings B.V. (together with the related rights) acquired by Cemex International Finance Company (from time to time). Furthermore the Shares Sunward Holdings B.V. (together with the related rights) have been pledged in advance in the Existing Deed of Pledge III.

The parties furthermore acknowledge that, upon Merger II having been effected, the Additional Shares II Sunward Holdings B.V. acquired by Sunward Acquisitions N.V. (together with the related rights) are automatically pledged in favour of the Pledgee pursuant to the Existing Deed of Pledge III.

To the extent not already pledged by operation of law pursuant to Article 2:319 paragraph 1 of the Dutch Civil Code, to secure the payment of the secured obligations, Cemex International Finance Company has granted in advance (*bij voorbaat*) a right of pledge over the Newly Issued Shares II and the related rights pertaining thereto, as well as all other future shares in Sunward Holdings B.V. and the related rights pertaining thereto, which rights of pledge have been accepted by the Pledgee. Cemex International

Finance Company has agreed and confirmed to be bound as a pledgor to the Existing Deed of Pledge III as if it had been a holder of (present) shares in Sunward Holdings B.V. on the day of the execution of the Existing Deed of Pledge III (thus, amongst others, on such date agreeing to the transfer of the voting rights attached to its shares and granting any and all powers of attorney on the terms and conditions set out in the Existing Deed of Pledge III).

3.5.4 **Merger III**

Upon the Merger III having been effected, Cemex International Finance Company will become a shareholder of Sunward Acquisitions N.V. The parties acknowledge that pursuant to Article 2:319 paragraph 1 of the Dutch Civil Code the rights vested in favour of the Pledgee pursuant to the Existing Deed of Pledge III will by operation of law be vested in respect of the shares in Sunwards Acquisitions N.V. (together with the related rights). Furthermore the Newly Issued Shares III (together with the related rights) acquired by Cemex International Finance Company (from time to time) have been pledged in advance in the Deed of Existing Pledge IV.

The parties furthermore acknowledge that, upon Merger III having been effected, the Additional Shares New Sunward Holdings B.V. acquired by Sunward Acquisitions N.V. (together with the related rights) are automatically pledged in favour of the Pledgee pursuant to the Existing Deed of Pledge III.

To the extent not already pledged by operation of law pursuant to Article 2:319 paragraph 1 of the Dutch Civil Code, to secure the payment of the secured obligations, Cemex International Finance Company has granted in advance (*bij voorbaat*) a right of pledge over the Newly Issued Shares III and the related rights pertaining thereto, as well as all other future shares in Sunward Acquisitions N.V. and the related rights pertaining thereto, which rights of pledge have been accepted by the Pledgee. Cemex International Finance Company has agreed and confirmed to be bound as a pledgor to the Existing Deed of Pledge IV as if it had been a holder of (present) shares in Sunward Acquisitions N.V. on the day of the execution of the Existing Deed of Pledge IV (thus, amongst others, on such date agreeing to the transfer of the voting rights attached to its shares and granting any and all powers of attorney on the terms and conditions set out in the Existing Deed of Pledge IV).

3.5.5 **Merger IV**

Upon the Merger IV having been effected, Corporación Gouda S.A. de C.V., Mexcement Holdings S.A. de C.V., Cemex Trademarks Holding Ltd. and Cemex International Finance Company will become shareholders of the Company.

The parties acknowledge that pursuant to Article 2:319 paragraph 1 of the Dutch Civil Code the rights vested in favour of the Pledgee pursuant to the Existing Deed of Pledge IV will by operation of law be vested in respect of the Newly Issued Shares IV and the Related Rights pertaining thereto as well as in respect of any (other) Future Shares acquired by Corporación Gouda S.A. de C.V., Mexcement Holdings S.A. de C.V. and Cemex International Finance Company (from time to time) and the Related Rights Pertaining thereto.

To the extent not already pledged by operation of law pursuant to Article 2:319 paragraph 1 of the Dutch Civil Code, Corporación Gouda S.A. de C.V., Mexcement Holdings S.A. de C.V. and Cemex International Finance Company hereby grant in advance (*bij voorbaat*) a right of pledge over the Newly Issued Shares IV and the Related Rights pertaining thereto, as well as all other Future Shares and the Related Rights pertaining thereto, which rights of pledge are hereby accepted by the Pledgee. Each of Corporación Gouda S.A. de C.V., Mexcement Holdings S.A. de C.V. and Cemex International Finance Company hereby agrees and confirms to be bound as a Pledgor to this Deed as if it had been a holder of (Present) Shares in the Company on the day of the execution of this Deed (thus, amongst others, on such date agreeing to the transfer of the Voting Rights attached to its shares and granting any and all powers of attorney on the terms and conditions set out in this Deed).

4. REPRESENTATIONS, WARRANTIES AND COVENANTS

4.1 Representations and warranties

4.1.1 Each Pledgor hereby represents and warrants to the Pledgee that the following are true and correct on the date hereof and on each date on which Security Assets are acquired by the relevant Pledgor:

(a) it is entitled to pledge the Security Assets as envisaged hereby;

(b) the right of pledge created hereby over its Security Assets is a first ranking right of pledge (*pandrecht eerste in rang*), its Security Assets have not been encumbered with limited rights (*beperkte rechten*) or otherwise and no attachment (*beslag*) on its Security Assets has been made;

(c) its Security Assets have not been transferred, encumbered or attached in advance, nor has it agreed to such a transfer or encumbrance in advance; and

(d) no depository receipts have been issued with respect to its Present Shares.

4.1.2 Furthermore, Cemex Dutch Holdings B.V., hereby represents and warrants to the Pledgee that the following are true and correct on the date hereof:

(a) its Present Shares have been validly issued and fully paid and constitute one hundred percent (100%) of the share capital of the Company; and

(b) it has acquired the relevant Present Shares as follows:

thirty-eight thousand five hundred twenty-eight (38,528) ordinary shares, numbered 1 through 38,528, with a nominal value of one euro (EUR 1.00) each, by notarial deed of contribution and transfer of shares, executed on the twenty-second day of December two thousand four, before a deputy of K. Stelling, civil law notary (*notaris*) in Amsterdam, The Netherlands;

the aforementioned thirty-eight thousand five hundred twenty-eight (38,528) ordinary shares were converted into the Present Shares by notarial deed of amendment of the articles of association, executed on the twenty-ninth day of July two thousand nine, before K. Stelling, civil law notary (*notaris*) in Amsterdam, The Netherlands.

4.2 **Covenants**

Each Pledgor hereby covenants that it will:

(a) other than as explicitly permitted under the terms of the other Finance Secured Documents, not release, settle or subordinate any Related Rights without the Pledgee's prior written consent;

(b) at its own expense execute all such documents, exercise any right power or discretion exercisable, and perform and do all such acts and things as the Pledgee may request (acting reasonably) for creating, perfecting, protecting and/or enforcing the rights of pledge envisaged hereby;

(c) not pledge, otherwise encumber or transfer any of its Security Assets, whether or not in advance, or permit to subsist any kind of encumbrance other than as envisaged hereby or as explicitly permitted under the terms of the other Finance Secured Documents, or perform any act that may harm the rights of the Pledgee, or permit to subsist any kind of attachment over its Security Assets;

(d) immediately inform the Pledgee in writing of any event or circumstance which may be of importance to the Pledgee for the preservation or exercise of the Pledgee's rights pursuant hereto and provide the Pledgee, upon its written request, with any other information in relation to its Security Assets or the pledge thereof as the Pledgee may request from time to time;

(e) immediately inform in writing persons such as a liquidator (*curator*) in bankruptcy (*faillissement*), an administrator (*bewindvoerder*) in a suspension of payment (*surseance van betaling*) or preliminary suspension of payment (*voorlopige surseance van betaling*) or a person making an attachment (*beslaglegger*) or an Irish law examiner, of the existence of the rights of the Pledgee pursuant hereto;

(f) not procure the issue of any shares in the capital of the Company or any Depository Receipts or rights to acquire the same, except to the extent explicitly permitted under the terms of the other Finance Secured Documents; and

(g) except as explicitly permitted under the terms of the other Finance Secured Documents, not vote on any of its Shares without the prior written consent of the Pledgee in favour of a proposal to (i) amend the Articles of Association, (ii) dissolve the Company (other than as a consequence of a Permitted Reorganisation (as defined in the Financing Agreement)), (iii) apply for the bankruptcy (*faillissement*) or a suspension of payments (*surseance van betaling*) or preliminary suspension of payments (*voorlopige surseance van betaling*) of the Company, (iv) convert (*omzetten*), merge (*fuseren*) or demerge (*splitsen*) the Company (other than as part of a Permitted Reorganisation (as defined in the Financing Agreement)) or (v) distribute Related Rights.

5. ENFORCEMENT

5.1 Without prejudice to the provision of Sub-clause 5.2 below, any failure to satisfy the Secured Obligations when due shall constitute a default (*verzuim*) in the performance of the Secured Obligations, without any reminder letter (*sommatie*) or notice of default (*ingebrekestelling*) being required.

5.2 Following, cumulatively:

(a) the occurrence of an Enforcement Event; and

(b) the Pledgee having been expressly instructed to take such enforcement action in writing by the Instructing Group or otherwise in accordance with the Intercreditor Agreement,

the Pledgee may enforce its rights of pledge and take recourse against the proceeds of enforcement.

5.3 None of the Pledgors shall be entitled to request the court to determine that the Security Assets pledged pursuant hereto shall be sold in a manner deviating from the provisions of Article 3:250 of the Dutch Civil Code.

5.4 The Pledgee shall not be obliged to give notice to any Pledgor of any intention to sell the relevant pledged Security Assets (as provided in Article 3:249 of the Dutch Civil Code) or, if applicable, of the fact that it has sold the same Security Assets (as provided in Article 3:252 of the Dutch Civil Code).

5.5 All monies received or realised by the Pledgee in connection with the Security Assets shall be applied by the Pledgee in accordance with the relevant provisions of the Intercreditor Agreement, subject to the mandatory provisions of Dutch law on enforcement (*uitwinning*).

6. MISCELLANEOUS PROVISIONS

6.1 Waivers

6.1.1 To the fullest extent allowed by applicable law, each Pledgor waives (*doet afstand van*) any right it may have of first requiring the Pledgee to proceed against or claim payment from any other person or enforce any guarantee or security granted by any other person before exercising its rights pursuant hereto.

6.1.2 Each Pledgor hereby irrevocably and unconditionally waives (*doet afstand van*) any rights it has under or pursuant to any Dutch law provisions for the protection of grantors of security for the debts of third parties, including, to the extent relevant, any rights it may have pursuant to Articles 3:233, 3:234 and 6:139 of the Dutch Civil Code, which waiver is hereby accepted by the Pledgee.

6.1.3 Each Pledgor hereby irrevocably and unconditionally waives (*doet afstand van*), to the extent necessary in advance, any and all rights of recourse (*regres*) or subrogation (*subrogatie*) vis-à-vis any Debtor that it has or may obtain or acquire after the date of this Deed as a result of any enforcement action in respect of the rights of pledge granted under or in connection with this Deed (and, to the extent such waiver is not enforceable in whole or in part, any rights of recourse or subrogation to which it is or may become entitled under or pursuant to enforcement of any rights of pledge created under or pursuant to this Deed and hereby pledged to the Pledgee by way of a non disclosed pledge governed by the terms of this Deed), which waiver is hereby accepted by the Pledgee.

6.2 Evidence of indebtedness

An excerpt from the records of the Pledgee and/or Administrative Agent shall serve as conclusive evidence (*dwingend bewijs*) of the existence and the amounts of the Secured Obligations.

6.3 **Unenforceability**

Each Pledgor and the Pledgee hereby agree that they will negotiate in good faith to replace any provision hereof that may be held unenforceable with a provision that is enforceable and which is as similar as possible in substance to the unenforceable provision.

6.4 **Power of attorney**

Each Pledgor hereby grants an irrevocable power of attorney to the Pledgee to – following the occurrence of an Enforcement Event – act in such Pledgor's name and on its behalf, authorising the Pledgee to – following the occurrence of an Enforcement Event – execute all such documents and to perform and do all such acts and things as the Pledgee may deem necessary or useful in order to have the full benefit of the rights granted or to be granted to the Pledgee pursuant hereto, including (i) the exercise of any ancillary rights (*nevenrechten*) as well as any other rights it has in relation to the relevant Security Assets and (ii) the performance of any obligations of the relevant Pledgor hereunder, which authorisation permits the Pledgee to act or also act as the relevant Pledgor's counterparty within the meaning of Article 3:68 of the Dutch Civil Code.

6.5 **Costs**

With respect to costs and expenses, Clause 19 (*Costs and Expenses*) of the Financing Agreement shall apply and the provisions thereof are incorporated herein by reference.

7. **TRANSFER**

7.1 **Power to transfer**

The Pledgee is entitled to transfer all or part of its rights and/or obligations pursuant hereto to any transferee and each Pledgor hereby in advance give its irrevocable consent to, and hereby in advance irrevocably co-operate with, any such transfer (within the meaning of Articles 6:156 and 6:159 of the Dutch Civil Code).

7.2 **Transfer of information**

Subject to the terms of the Financing Agreement and the Intercreditor Agreement, the Pledgee is entitled to impart any information concerning the Pledgors and/or the Security Assets to any transferee or proposed transferee.

8. **TERMINATION**

8.1 **Termination of pledge**

Unless terminated by operation of law, the Pledgee's rights of pledge created pursuant hereto shall be in full force and effect vis-à-vis each Pledgor until they shall have terminated, in part or in whole, as described in Sub-clause 8.2 (*Termination by notice* (*opzegging*) *and waiver* (*afstand*)) below.

8.2 **Termination by notice (*opzegging*) and waiver (*afstand*)**

The Pledgee will be entitled to terminate by notice (*opzegging*), in part or in whole, the rights of pledge created pursuant hereto in respect of all or part of the Security Assets and/or all or part of the Secured Obligations. If and insofar as the purported effect of any such termination requires a waiver (*afstand van recht*) by the Pledgee, each Pledgor hereby in advance agree to such waiver. The Pledgee shall furthermore terminate by notice (*opzegging*) the rights of pledge created pursuant hereto in respect of all of the Security Assets on the Release Date.

9. GOVERNING LAW AND JURISDICTION

9.1 Governing law

This Deed is governed by and shall be interpreted in accordance with Dutch law.

9.2 Jurisdiction

Any disputes arising from or in connection with this Deed shall be submitted in first instance to the competent court in Amsterdam, The Netherlands, without prejudice to the Pledgee's right to submit any disputes to any other competent court in The Netherlands or in any other jurisdiction.

9.3 Domicile (*woonplaats*)

9.3.1 Pursuant to Article 1:15 of the Dutch Civil Code each Pledgor hereby designates the offices of the Company as its domicile (*woonplaats*) for service of process in any proceedings in connection with this Deed.

9.3.2 The designation provided for in paragraph 9.3.1 above shall be without prejudice to any other method of service of process permitted by law.

9.4 Power of attorney

If a party to this Deed is represented by an attorney or attorneys in connection with the execution of this Deed or any agreement or document pursuant hereto and the relevant power of attorney is expressed to be governed by Dutch law, such choice of law is hereby accepted by each other party, in accordance with Article 14 Hague Convention on the Law Applicable to Agency of the fourteenth day of March nineteen hundred and seventy-eight.

10. THE COMPANY

The Company:

(a) acknowledges the right of pledge created over the Security Assets;

(b) confirms that it has been notified of the right of pledge created over the Related Rights;

(c) undertakes to register in its shareholders' register:

(i) the right of pledge over the Shares;

(ii) the conditional transfer of Voting Rights to the Pledgee; and

(iii) that, upon the occurrence of an Enforcement Event and notice to the Company, as set out in more detail in this Deed, the Pledgee shall have the rights attributed by law to the holders of depository

receipts issued with the company's co-operation (*rechten die door de wet zijn toegekend aan de houders van met medewerking ener vennootschap uitgegeven certificaten van aandelen*),

and to provide the Pledgee, as soon as practicable, with a copy of the relevant entries in its shareholders' register;

(d) represents and warrants that no Depository Receipts have been issued with respect to the Present Shares; and

(e) covenants that it shall not co-operate in the issue of any Depository Receipts or issue any shares, or rights to acquire shares, in the capital of the Company, except to the extent explicitly permitted under the terms of the other Finance Secured Documents.

11. **CIVIL LAW NOTARY**

Each of the parties to this Deed acknowledges that:

(a) Dr. T.P. van Duuren, civil law notary (*notaris*) in Amsterdam, The Netherlands, is a partner of Clifford Chance LLP; and

(b) Clifford Chance LLP acts as the Dutch legal adviser to the Pledgee and that Warendorf in Amsterdam, The Netherlands, acts as the Dutch legal adviser to the Pledgors and the Company in this transaction; and,

having consulted its legal advisers, confirms its agreement and accepts that dr. T.P. van Duuren, aforementioned, or one of his deputies (*kandidaat-notarissen*) shall execute this Deed and that this shall not prevent Clifford Chance LLP from continuing to act as Dutch legal adviser to the Pledgee.

Each person appearing before me is known to me, civil law notary and the identity of the person appearing under 1 has been established by me, civil law notary, by means of a document intended for that purpose.

This deed, drawn up to be kept in the civil law notary's custody was executed in Amsterdam, The Netherlands, on the date first above written.

The contents of this deed were given and explained to the persons appearing before me, who then declared to have noted and approved the contents and not to require a full reading thereof. Thereupon, after limited reading, this deed was signed by the persons appearing before me and by me, civil law notary.
Signed.

/s/ Krishna van Zundert

ISSUED AS A TRUE COPY
by Krishna van Zundert, *kandidaat-notaris*,
deputising for dr. Thomas Pieter van Duuren,
civil law notary (*notaris*) in Amsterdam,
on 14 August 2009.

Exhibit 4.38.1

DEED OF SUPPLEMENTAL PLEDGE OF REGISTERED SHARES

On the twenty-third day of October two thousand nine, appeared before me, Gijsbertus Cornelis Kikkert, *kandidaat-notaris*, hereinafter: "civil law notary", deputising for dr. Thomas Pieter van Duuren, civil law notary (*notaris*) in Amsterdam, The Netherlands:

1. (a) Ms Dorien Christianne de Voogd, in this matter with residence at the offices of Warendorf, Koningslaan 42, 1075 AE Amsterdam, The Netherlands, born in Amsterdam, The Netherlands, on the fifth day of November nineteen hundred seventy-seven, holder of a passport with number NY62LHJH7; and

   (b) Ms Alycke Berber Deirdre Kootstra, in this matter with residence at the offices of Warendorf, Koningslaan 42, 1075 AE Amsterdam, The Netherlands, born in Achtkarspelen, The Netherlands, on the third day of July nineteen hundred eighty-four, holder of a passport with number NH9797017,

   both acting in this respect as attorneys-in-fact, duly authorised in writing, of:

   (i) **CEMEX INTERNATIONAL FINANCE COMPANY**, a company incorporated under the laws of the Republic of Ireland, having its registered office at 70 Sir John Rogerson's Quay, Dublin 2, The Republic of Ireland, registered with Companies Registration Office under number 226652 ("**Cemex International Finance Company**");

   (ii) **CORPORACIÓN GOUDA, S.A. DE C.V.,** a company incorporated under the laws of the United Mexican States (" **Mexico**"), having its registered office at Avenida Constitución 444 Pte, CP 64000 Monterrey, Nuevo León, Mexico, registered with the Registro Público de la Propiedad y del Comercio de Monterrey, Estado de Nuevo León in Mexico under number 25012002-113 (" **Corporación Gouda S.A. de C.V.**");

   (iii) **MEXCEMENT HOLDINGS**, **S.A. DE C.V.,** a company incorporated under the laws of Mexico, having its registered office at Avenida Constitución 444 Pte, C.P. 64000, Monterrey, Nuevo León, México, registered at the Registro Público de la Propiedad y del Comercio de Monterrey, Estado de Nuevo León in México under the number 5457, Volume 2, Book First ("**Mexcement Holdings S.A. de C.V.**");

(iv) **CEMEX TRADEMARKS HOLDING LTD.,** a company incorporated under the laws of Switzerland, having its registered office at Römerstrasse 13, 2555 Brügg bei Biel, Switzerland registered with the commercial register of Berne under number CH-035.3.029.636-0 (the "**Swiss Pledgor**"); and

(v) **NEW SUNWARD HOLDING B.V.,** a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*), incorporated under Dutch law, having its seat (*statutaire zetel*) at Amsterdam, The Netherlands, and its registered office at Amsteldijk 166, 1079 LH Amsterdam, The Netherlands and registered with the Dutch Commercial Register (*Handelsregister*) under number 34133556 (the "**Company**");

2. Mr Krishna van Zundert, in this matter with residence at the offices of Clifford Chance LLP, Droogbak 1a, 1013 GE Amsterdam, The Netherlands, born in Amravati, India, on the twenty-ninth day of September nineteen hundred seventy-five, in this respect acting as attorney-in-fact, duly authorised in writing, of:

   WILMINGTON TRUST (LONDON) LIMITED, a company with limited liability, incorporated under the laws of England and Wales, having its registered office at Fifth Floor, 6 Broad Street Place, London EC2M 7JH, United Kingdom and registered with Companies House under number 05650152, except as expressly provided herein acting in its capacity of Security Agent (and where acting in such capacity acting on behalf of the Secured Parties) (all as defined below) (the "**Pledgee**").

The authorisation of the persons appearing before me appears from six (6) written powers of attorney, (photo copies of) which shall be attached to this Deed.

The persons appearing, acting as stated, declared that:

IT IS HEREBY AGREED AS FOLLOWS:

WHEREAS

(A) In connection with the Financing Agreement, the following deeds of pledge were entered into:

(a) on the fourteenth day of August two thousand nine a notarial deed of registered shares with Corporación Gouda S.A. de C.V., as pledgor, the Pledgee as pledgee and Sunward Investments B.V. as company (the "**Existing Deed of Pledge I**"), amongst others, in respect of the shares in the capital of Sunward Investments B.V. (together with Related Rights as defined therein) which shares were pledged in favour of the Pledgee;

(b) on the fourteenth day of August two thousand nine a notarial deed of registered shares, with, amongst others, Cemex International Finance Company as pledgor, the Pledgee as pledgee and Cemex Dutch Holdings

B.V. as company (the "**Existing Deed of Pledge II**"), amongst others, in respect of the shares in the capital of Cemex Dutch Holdings B.V. (together with Related Rights as defined therein) which shares were pledged in favour of the Pledgee;

(c) on the fourteenth day of August two thousand nine a notarial deed of registered shares, with, amongst others, Cemex International Finance Company as pledgor, the Pledgee as pledgee and Sunward Holdings B.V. as company (the "**Existing Deed of Pledge III**"), amongst others, in respect of the shares in the capital of Sunward Holdings B.V. (together with Related Rights as defined therein) which shares were pledged in favour of the Pledgee;

(d) on the fourteenth day of August two thousand nine a notarial deed of bearer shares, with Mexcement Holdings S.A. de C.V., Corporación Gouda S.A. de C.V., Cemex International Finance Company as pledgors, the Pledgee as pledgee and Sunward Acquisitions N.V. as company (the "**Existing Deed of Pledge IV**"), amongst others, in respect of the shares in the capital of Sunward Acquisitions N.V. (together with Related Rights as defined therein) which shares were pledged in favour of the Pledgee;

(e) on the fourth day of September two thousand nine a notarial deed of bearer shares, with the Swiss Pledgor as pledgor, the Pledgee as pledgee and Sunward Acquisitions N.V. as company (the "**Existing Deed of Pledge V**"), amongst others, in respect of the shares in the capital of Sunward Acquisitions N.V. (together with Related Rights as defined therein) which shares were pledged in favour of the Pledgee;

(f) on the fourteenth day of August two thousand nine a notarial deed of registered shares, with, amongst others, Mexcement Holdings S.A. de C.V., Corporación Gouda S.A. de C.V., Cemex International Finance Company as pledgors, the Pledgee as pledgee and New Sunward Holding B.V. as company (the "**Deed of Pledge I**"), amongst others, in respect of the shares in the capital of New Sunward Holding B.V. (together with Related Rights as defined therein) which shares were pledged in favour of the Pledgee;

(g) on the fourth day of September two thousand nine a notarial deed of registered shares, with, the Swiss Pledgor as pledgor, the Pledgee as pledgee and New Sunward Holding B.V. as company (the "**Deed of Pledge II**"), amongst others, in respect of the shares in the capital of New Sunward Holding B.V (together with Related Rights as defined therein) which shares were pledged in favour of the Pledgee (The Deed of Pledge I together with the Deed of Pledge II, the "**Deeds of Pledge**").

(B) In connection with a corporate restructuring of the group, which is described in the Deeds of Pledge, to which group the parties hereto (other than the Pledgee) belong, the shares in the capital of New Sunward Holding B.V. have been cancelled (*ingetrokken*) pursuant to a merger (*fusie*) (the "**Merger**"), executed by notarial deed (the "**Merger Deed**") on the twenty-second day of October two thousand nine before a deputy of K. Stelling, civil law notary (*notaris*) in Amsterdam, The Netherlands, between the Company (as acquiring entity (*verkrijgende rechtspersoon*)) and Sunward Acquisitions N.V. (as disappearing entity (*verdwijnende rechtspersoon*)) and the relevant Present Shares have been allotted (*toegekend*) as per the twenty-third day of October two thousand nine to each of the Pledgors.

(C) Parties acknowledge that pursuant to Article 2:319 paragraph 1 of the Dutch Civil Code the rights vested in favour of the Pledgee pursuant to the Existing Deed of Pledge I, Existing Deed of Pledge II and Existing Deed of Pledge III, Existing Deed of Pledge IV and the Existing Deed of Pledge V will by operation of law be vested in respect of the (Present) Shares and the Related Rights pertaining thereto. Pursuant to the Deeds of Pledge the (Present) Shares and the Related Rights pertaining thereto were also pledged as Future Shares (as defined in the Deeds of Pledge).

(D) To secure the obligations under or pursuant to the Financing Agreement, each Pledgor, will give a right of pledge on the Shares in favour of the Pledgee, pursuant to a shares pledge in accordance with this Deed.

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

1.1.1 Unless a contrary indication appears, capitalised terms not defined in this Deed (as defined below) shall have the same meaning given to such terms in the Intercreditor Agreement (as defined below).

1.1.2 In addition the following terms shall have the following meaning:

"**Articles of Association**" means the articles of association (*statuten*) of the Company as they currently stand and/or, as the case may be, as they may be amended from time to time.

"**Debt Documents**" has the meaning given to it in the Intercreditor Agreement.

"**Deed**" means this deed of pledge.

"**Deed of Pledge I**" has the meaning ascribed thereto in recital B.

"**Deed of Pledge II**" has the meaning ascribed thereto in recital B.

"**Deeds of Pledge**" has the meaning ascribed thereto in recital B.

"**Depository Receipts**" means depository receipts of shares in the capital of the Company issued with the co-operation of the Company (*met medewerking van de vennootschap uitgegeven certificaten van aandelen*).

"**Dividends**" means cash dividends, distribution of reserves, repayments of capital and all other distributions and payments in any form which at any time during the existence of the right of pledge created hereby, become payable in respect of any one of the Shares.

"**Enforcement Event**" has the meaning given to it in the Intercreditor Agreement.

"**Existing Deed of Pledge I**" has the meaning ascribed thereto in recital B.

"**Existing Deed of Pledge II**" has the meaning ascribed thereto in recital B.

"**Existing Deed of Pledge III**" has the meaning ascribed thereto in recital B.

"**Existing Deed of Pledge IV**" has the meaning ascribed thereto in recital B.

"**Existing Deed of Pledge V**" has the meaning ascribed thereto in recital B.

"**Financing Agreement**" means the financing agreement dated the fourteenth day of August two thousand nine entered into among, *inter alios*, CEMEX, S.A.B. de C.V. as the Parent, the Original Borrowers, the Original Guarantors, the Original Security Providers, the Original Participating Creditors, the Administrative Agent and the Security Agent (all as defined therein).

"**Free Reserves Available for Distribution**" has the meaning ascribed thereto in Clause 1.5.

"**Future Shares**" means all shares in the capital of the Company acquired by a Pledgor after the date of this Deed.

"**Intercreditor Agreement**" means the intercreditor agreement dated on or about the date of the Financing Agreement and made between, *inter alios*, CEMEX, S.A.B. de C.V. as the Parent, the Original Borrowers, the Original Guarantors, the Original Security Providers, the Security Agent and the Participating Creditors (all as defined therein).

"**Merger**" has the meaning ascribed thereto in recital B.

"**Merger Deed**" has the meaning ascribed thereto in recital B.

"**Parallel Debts**" means a collective reference to the Finance Parallel Debt and the Notes Parallel Debt (each as defined in the Intercreditor Agreement).

"**Pledgors**" means Cemex International Finance Company, Corporación Gouda S.A. de C.V., Mexcement Holdings S.A. de C.V. and the Swiss Pledgor and "**Pledgor**" means, individually, any one of them.

"**Present Shares**" means:

(a) in the case of Corporación Gouda S.A. de C.V., all of the shares issued and paid-up in the capital of the Company and registered in the name of Corporación Gouda S.A. de C.V., being one hundred twenty-eight thousand sixty-four (128,064) ordinary shares, numbered 884,873 through 1,012,936, with a nominal value of ten eurocent (EUR 0.10) each;

(b) in the case of Mexcement Holdings S.A. de C.V., all of the shares issued and paid-up in the capital of the Company and registered in the name of Mexcement Holdings S.A. de C.V., being four hundred fifty-three thousand seven hundred eighty (453,780) ordinary shares, numbered 431,093 through 884,872, with a nominal value of ten eurocent (EUR 0.10) each;

(c) in the case of the Swiss Pledgor, all of the shares issued and paid-up in the capital of the Company and registered in the name of the Swiss Pledgor, being four hundred thirty-one thousand ninety-two (431,092) ordinary shares, numbered 1 through 431,092, with a nominal value of ten eurocent (EUR 0.10) each; and

(d) in the case of Cemex International Finance Company, all of the shares issued and paid-up in the capital of the Company and registered in the name of Cemex International Finance Company, being one hundred ninety-nine thousand seven hundred sixty-two (199,762) ordinary shares, numbered 1,012,937 through 1,212,698, with a nominal value of ten eurocent (EUR 0.10) each.

"**Principal Obligations**" means a collective reference to all present and future obligations owed by any Debtor to (a) any of the Finance Secured Parties under or in connection with the Finance Secured Documents and (b) any of the Notes Secured Parties under or in connection with the Notes Secured Documents, in each case other than the obligations pursuant to the Parallel Debts.

"**Related Rights**" means the Dividends, all present and future rights of the Pledgors to acquire shares in the capital of the Company and all other present and future rights arising out of or in connection with the Shares, other than the Voting Rights.

"**Release Date**" means the date on which the Transaction Security (as defined in the Intercreditor Agreement) shall be released pursuant to and in accordance with clause 8.2 of the Intercreditor Agreement.

"**Restricted Obligations**" has the meaning ascribed thereto in Clause 1.5.

"**Secured Obligations**" means all present and future obligations owed by the Debtors to the Pledgee pursuant to the Parallel Debts and all Principal Obligations that are secured obligations pursuant to paragraph 3.1.3.

"**Security Assets**" means the Shares and the Related Rights.

"**Shares**" means the Present Shares and the Future Shares.

"**Voting Rights**" means the voting rights in respect of any of the Shares.

1.2 **Interpretation**

Subject to any contrary indication, any reference in this Deed to a " **Clause**", "**Sub-clause**" or "**paragraph**" shall be interpreted as a reference to a clause, sub-clause or paragraph hereof.

1.3 **Continuing security**

Any reference made in this Deed to any Finance Secured Document and/or any Notes Secured Document or to any agreement or document (under whatever name), where applicable, shall be deemed to be a reference to such Finance Secured Document and/or Notes Secured Document or such other agreement or document as the same may have been, or at any time may be, extended, prolonged, amended, restated, supplemented, renewed or novated, as persons may accede thereto as a party or withdraw therefrom as a party in part or in whole or be released thereunder in part or in whole, and/or as facilities and/or amounts and/or financial services are or at any time may be granted, extended, prolonged, increased, reduced, cancelled, withdrawn, amended, restated, supplemented, renewed or novated thereunder including, without limitation:

(a) any:

(i) increase or reduction in any amount available thereunder or any alteration of or addition to the purpose for which any such amount, or increased or reduced amount may be used,

(ii) facility or note provided in substitution of, or in addition to, the facilities originally made available thereunder or notes originally issued thereunder,

(iii) rescheduling of the indebtedness incurred thereunder whether in isolation or in connection with any of the foregoing, and

(iv) combination of the foregoing, and/or

(b) any document designated as a Finance Secured Document or Notes Secured Document by the Administrative Agent and the Parent.

1.4 **Unlawful financial assistance**

No obligations shall be included in the definition of "Secured Obligations" to the extent that, if they were included, the security interest granted pursuant to this Deed or any part thereof would be void as a result of violation of the prohibition on financial assistance contained in Articles 2:98c and/or 2:207c of the Dutch Civil Code or any other applicable financial assistance rules under any relevant jurisdiction (the " **Prohibition**") and all provisions hereof shall be interpreted accordingly. For the avoidance of doubt, this Deed shall continue to secure those obligations which, if included in the definition of "Secured Obligations", shall not constitute a violation of the Prohibition.

1.5 **Limitation of the Swiss Pledgor under Swiss law**

The obligations and liabilities of the Swiss Pledgor under this Deed in relation to the obligations, undertakings, indemnities or liabilities of an Obligor other than that Swiss Pledgor or any of its fully owned and controlled subsidiaries (the " **Restricted Obligations**") shall be limited to the amount of the Swiss Pledgor's Free Reserves Available for Distribution at the time payment is requested, provided that such limitation is a requirement under applicable law (including any case law) at that point in time and that such limitation shall not free the Swiss Pledgor from its obligations in excess thereof, but merely postpone the performance date until such time as performance is permitted notwithstanding such limitation.

For the purpose of this clause, "**Free Reserves Available for Distribution**" means an amount equal to the maximal amount in which the Swiss Pledgor can make a dividend payment to its shareholder(s) (being the balance sheet profit and any freely disposable reserves available for this purpose, in each case in accordance with applicable Swiss law).

As soon as possible after having been requested to discharge a Restricted Obligation, the Swiss Pledgor shall, if it cannot discharge the full amount of the Restricted Obligations, provide the Pledgee with an interim statutory balance sheet audited by the statutory auditors of the Swiss Pledgor setting out the Free Reserves Available for Distribution and, immediately thereafter, pay the amount corresponding to the Free Reserves Available for Distribution to the Pledgee (save to the extend provided below).

In respect of the Restricted Obligations, the Swiss Pledgor shall:

(a) if and to the extent required by applicable law in force at the relevant time:

(i) subject to any applicable double taxation treaties, deduct Swiss withholding tax at the rate of thirty-five percent (35%) (or such other rate as is in force at that time) from any payment made by it;

(ii) pay any such deduction to the Swiss Federal Tax Administration; and

(iii) notify and provide evidence to the Pledgee that the Swiss withholding tax has been paid to the Swiss Federal Tax Administration;

(b) to the extent such deduction is made, not be required to make a gross-up, indemnify or otherwise hold harmless the Secured Parties for the deduction of the Swiss withholding tax notwithstanding anything to the contrary contained in the Debt Documents, unless grossing up is permitted under the laws of Switzerland then in force and provided that this should not in any way limit any obligations of any non-Swiss Pledgors under the Debt Documents to indemnify the Secured Parties in respect of the deduction of the Swiss withholding tax, including, without limitation, in accordance with Clause 17 of the Financing Agreement (*Tax Gross-Up, Increased Costs and Indemnities*). The Swiss Pledgor shall use all reasonable efforts to procure that any person which is entitled to a full or partial refund of any Swiss withholding tax paid pursuant to paragraph (a) above will, as soon as possible after the deduction of the Swiss withholding tax, (y) request a refund of the Swiss withholding tax under any applicable law (including double taxation treaties) and (z) pay to the Pledgee upon receipt any amount so refunded.

The Swiss Pledgor will take, and cause to be taken, all and any other action, including, without limitation, the passing of any shareholders' resolutions to approve any payment or other performance under the Debt Documents and the receipt of any confirmations from the Swiss Pledgor's auditors, whether following a request to discharge a Restricted Obligation, or which may be required as a matter of mandatory Swiss law in force at the time it is required to make a payment or perform other obligations under the Debt Documents in order to allow a prompt payment or performance of other obligations under the Debt Documents.

If the enforcement of the Restricted Obligations would be limited due to the effects referred to in this Clause 1.5 and if any asset of the Swiss Pledgor has a book value that is less than its market value (an " **Undervalued Asset**"), the Swiss Pledgor shall, to the extent permitted by applicable law and its Accounting Standards (i) write up the book value of such Undervalued Asset such that its balance sheet reflects a book value that is equal to the market value of such Undervalued Asset, and (ii) make reasonable efforts to realise the Undervalued Asset for a sum which is at least equal to the market value of such asset. Without prejudice to the

rights of the Pledgee under the Debt Documents, the Swiss Pledgor will only be required to realise an Undervalued Asset if such asset is not necessary for the Swiss Pledgor's business (*nicht betriebsnotwendig*).

1.6 **Separate agreements**

1.6.1 For the purpose of efficiency this Deed is entered into between the Pledgee of the one part and each of the individual entities defined as a "Pledgor" of the other part.

1.6.2 This Deed shall be interpreted so as to constitute a separate pledge agreement between each of the individual entities defined as a "Pledgor" of the one part and the Pledgee of the other part, and if any of the separate pledge agreements of any of such entities become(s) invalid or unenforceable, is terminated, rescinded, released, void, voidable, amended, restated, renewed, novated, supplemented or otherwise affected, the Secured Obligations of any of such entities are satisfied or any of the rights of pledge created hereby is or are ineffective, to the fullest extent permitted by law the foregoing shall not affect the validity or enforceability of the other agreement between the Pledgee of the one part and such other entity of the other part.

1.7 **Pledgee Provisions**

1.7.1 Subject to the mandatory provisions of Dutch law the Pledgee shall not, whether by virtue of this Deed or by exercising any of its rights thereunder, owe any duty of care to the Pledgors or the Company.

1.7.2 The permissive rights of the Pledgee to take action under this Deed shall not be construed as an obligation or duty for it to do so.

1.7.3 In acting as Pledgee, the Pledgee shall be treated as acting through its agency division which shall be treated as a separate entity from its other divisions and departments. Any information received or acquired by the Pledgee which is received or acquired by some other division or department or otherwise than in its capacity as Pledgee may be treated as confidential by the Pledgee and will not be treated as information possessed by the Pledgee in its capacity as such.

1.7.4 In acting or otherwise exercising its rights or performing its duties under any provision of this Deed, the Pledgee shall act in accordance with the provisions of the Intercreditor Agreement and parties to this Deed acknowledge and agree that in so acting the Pledgee shall have the rights, benefits, protections, indemnities and immunities set out in the Intercreditor Agreement and shall not incur any liability to the Pledgor or the Company, other than as expressly provided for in the Intercreditor Agreement.

2. UNDERTAKING TO PLEDGE AND PARALLEL DEBTS

2.1 Undertaking to pledge

Each Pledgor has agreed, or, as the case may be, hereby agrees with the Pledgee that it shall grant to the Pledgee a right of pledge over its Security Assets as security for the payment of the Secured Obligations.

2.2 Parallel Debts

Pursuant to the Parallel Debts the Pledgee has its own claim in respect of the payment obligations of the Debtors to the Finance Secured Parties and the Notes Secured Parties. In connection with the creation of the rights of pledge pursuant hereto each Pledgor and the Pledgee acknowledge that, with respect to this claim, the Pledgee acts in its own name and not as representative (*vertegenwoordiger*) of the Finance Secured Parties and the Notes Secured Parties or any of them and consequently the Pledgee is the sole pledgee under this Deed.

3. PLEDGE

3.1 Pledge of Security Assets

3.1.1 To secure the payment of the Secured Obligations, each Pledgor hereby grants to the Pledgee a right of pledge over its Present Shares and the Related Rights pertaining thereto (where applicable) and grants in advance (*bij voorbaat*) to the Pledgee a right of pledge over its Future Shares and the Related Rights pertaining thereto, which rights of pledge are hereby accepted by the Pledgee.

3.1.2 To the extent the pledge in advance referred to in paragraph 3.1.1 is not effective under Dutch law, each Pledgor will forthwith grant a supplemental right of pledge by executing, before a Dutch civil law notary, a deed of pledge substantially in the form of this Deed or such other form as the Pledgee may reasonably require in order to perfect the pledge over the relevant Future Shares and the Related Rights pertaining thereto.

3.1.3 If and to the extent that at the time of creation of this right of pledge, or at any time hereafter, a Principal Obligation owed to the Pledgee cannot be validly secured through the Parallel Debts, such Principal Obligation itself shall be a Secured Obligation.

3.2 Registration

The Pledgee shall be entitled to present this Deed and any other document in connection herewith for registration to any office, registrar or governmental body in any jurisdiction the Pledgee deems necessary or useful to protect its interests.

3.3 Related Rights

3.3.1 Subject to Sub-clause 3.3.2 below, only the Pledgee is entitled to receive and exercise the Related Rights pledged pursuant hereto or, as applicable, pursuant to the relevant Existing Deed of Pledge and Deeds of Pledge.

3.3.2 The Pledgee hereby authorises each Pledgor (as envisaged by Article 3:246 paragraph 4 of the Dutch Civil Code) to receive Dividends in accordance with the terms of the Financing Agreement. The authorisation shall automatically cease to exist upon the occurrence of an Enforcement Event.

3.4 **Voting Rights**

3.4.1 In accordance with Article 2:198 paragraph 3 of the Dutch Civil Code, in conjunction with the relevant provisions of the Articles of Association, the Pledgors, the general meeting of shareholders of the Company, hereby approve by means of a written resolution adopted outside a meeting in accordance with Article 2:238 of the Dutch Civil Code and Article 21 of the Articles of Association, the granting of a right of pledge in respect of the Shares with the conditional transfer to the Pledgee of the Voting Rights and other rights and powers attached to the Shares.

3.4.2 The Voting Rights are hereby transferred to the Pledgee, subject to the cumulative conditions precedent *(opschortende voorwaarden*) of:

(a) the occurrence of an Enforcement Event; and

(b) the delivery of a notice by the Pledgee to the Company that it, the Pledgee, will exercise the Voting Rights (whereby it is agreed and acknowledged by the parties to this Deed that such notice may only be given by the Pledgee upon receipt by the Pledgee of express written instructions to this effect from the Instructing Group or otherwise in accordance with the Intercreditor Agreement).

The Pledgee shall send to each Pledgor, for information purposes only, a copy of any notice to the Company as referred to in paragraph 3.4.2 sub (b) above.

3.4.3 Prior to receipt by the Company of a notice as referred to in paragraph 3.4.2(b) above:

(a) each Pledgor shall have the right to exercise its Voting Rights; and

(b) the Pledgee shall not have the rights attributed by law to the holders of Depository Receipts.

3.4.4 Forthwith upon receipt by the Company of a notice as referred to in paragraph 3.4.2(b) above no Pledgor shall be entitled any longer to exercise its Voting Rights.

4. **DELIVERY OF DOCUMENTS**

On the date hereof, the Swiss Pledgor shall deliver to the Pledgee the following documents:

(a) an up-to-date excerpt of it from the Register of Commerce (*Handelsregister*);

(b) a certified copy of its current articles of incorporation (*Statuten*) evidencing in the object clause that it is empowered to enter into up-stream and cross-stream obligations;

(c) a photocopy of a unanimous resolution of its shareholders wherein the entry into this Deed and the granting of the Pledge as provided for hereunder is duly approved; and

(d) a photocopy of an unanimous resolution of its board of directors wherein the entry into this Deed and the granting of the Pledge as provided for hereunder is duly approved.

5. **REPRESENTATIONS, WARRANTIES AND COVENANTS**

5.1 **Representations and warranties**

5.1.1 Each Pledgor hereby represents and warrants to the Pledgee that the following are true and correct on the date hereof and on each date on which Security Assets are acquired by the relevant Pledgor. In each case subject to any prior ranking rights of pledge created on the Security Assets under the relevant Existing Deeds of Pledge and Deeds of Pledge on such date:

(a) it is entitled to pledge the Security Assets as envisaged hereby;

(b) the right of pledge created hereby over its Security Assets is a first ranking right of pledge (*pandrecht eerste in rang*), its Security Assets have not been encumbered with limited rights (*beperkte rechten*) or otherwise and no attachment (*beslag*) on its Security Assets has been made;

(c) its Security Assets have not been transferred, encumbered or attached in advance, nor has it agreed to such a transfer or encumbrance in advance; and

(d) no depository receipts have been issued with respect to its Present Shares.

5.1.2 Furthermore, each Pledgor, hereby represent and warrant to the Pledgee that the following are true and correct on the date hereof:

(a) its Present Shares have been validly issued and fully paid and, together with the Present Shares of the other Pledgors, constitute one hundred percent (100%) of the share capital of the Company; and

(b) it has acquired on the twenty-third day of October two thousand nine the relevant Present Shares as set out below:

(i) Corporación Gouda S.A. de C.V. has acquired its Present Shares pursuant to the Merger Deed;

(ii) Mexcement Holdings S.A. de C.V. has acquired its Present Shares pursuant to the Merger Deed;

(iii) the Swiss Pledgor has acquired its Present Shares pursuant the Merger Deed; and

(iv) Cemex International Finance Company has acquired its Present Shares pursuant to the Merger Deed.

5.2 **Covenants**

Each Pledgor hereby covenants that it will:

(a) other than as explicitly permitted under the terms of the other Finance Secured Documents, not release, settle or subordinate any Related Rights without the Pledgee's prior written consent;

(b) at its own expense execute all such documents, exercise any right power or discretion exercisable, and perform and do all such acts and things as the Pledgee may request (acting reasonably) for creating, perfecting, protecting and/or enforcing the rights of pledge envisaged hereby;

(c) not pledge, otherwise encumber or transfer any of its Security Assets, whether or not in advance, or permit to subsist any kind of encumbrance other than as envisaged hereby or as explicitly permitted under the terms of the other Finance Secured Documents, or perform any act that may harm the rights of the Pledgee, or permit to subsist any kind of attachment over its Security Assets;

(d) immediately inform the Pledgee in writing of any event or circumstance which may be of importance to the Pledgee for the preservation or exercise of the Pledgee's rights pursuant hereto and provide the Pledgee, upon its written request, with any other information in relation to its Security Assets or the pledge thereof as the Pledgee may request from time to time;

(e) immediately inform in writing persons such as a liquidator (*curator*) in bankruptcy (*faillissement*), an administrator (*bewindvoerder*) in a suspension of payment (*surseance van betaling*) or preliminary suspension of payment (*voorlopige surseance van betaling*) or a person making an attachment (*beslaglegger*) or an Irish law examiner, of the existence of the rights of the Pledgee pursuant hereto;

(f) not procure the issue of any shares in the capital of the Company or any Depository Receipts or rights to acquire the same, except to the extent

explicitly permitted under the terms of the other Finance Secured Documents; and

(g) except as explicitly permitted under the terms of the other Finance Secured Documents, not vote on any of its Shares without the prior written consent of the Pledgee in favour of a proposal to (i) amend the Articles of Association, (ii) dissolve the Company (other than as a consequence of a Permitted Reorganisation (as defined in the Financing Agreement)), (iii) apply for the bankruptcy (*faillissement*) or a suspension of payments (*surseance van betaling*) or preliminary suspension of payments (*voorlopige surseance van betaling*) of the Company, (iv) convert (*omzetten*), merge (*fuseren*) or demerge (*splitsen*) the Company (other than as part of a Permitted Reorganisation (as defined in the Financing Agreement)) or (v) distribute Related Rights.

6. ENFORCEMENT

6.1 Without prejudice to the provision of Sub-clause 6.2 below, any failure to satisfy the Secured Obligations when due shall constitute a default (*verzuim*) in the performance of the Secured Obligations, without any reminder letter (*sommatie*) or notice of default (*ingebrekestelling*) being required.

6.2 Following, cumulatively:

(a) the occurrence of an Enforcement Event; and

(b) the Pledgee having been expressly instructed to take such enforcement action in writing by the Instructing Group or otherwise in accordance with the Intercreditor Agreement,

the Pledgee may enforce its rights of pledge and take recourse against the proceeds of enforcement.

6.3 None of the Pledgors shall be entitled to request the court to determine that the Security Assets pledged pursuant hereto shall be sold in a manner deviating from the provisions of Article 3:250 of the Dutch Civil Code.

6.4 The Pledgee shall not be obliged to give notice to any Pledgor of any intention to sell the relevant pledged Security Assets (as provided in Article 3:249 of the Dutch Civil Code) or, if applicable, of the fact that it has sold the same Security Assets (as provided in Article 3:252 of the Dutch Civil Code).

6.5 All monies received or realised by the Pledgee in connection with the Security Assets shall be applied by the Pledgee in accordance with the relevant provisions of the Intercreditor Agreement, subject to the mandatory provisions of Dutch law on enforcement (*uitwinning*).

7. MISCELLANEOUS PROVISIONS

7.1 **Waivers**

7.1.1 To the fullest extent allowed by applicable law, each Pledgor waives (*doet afstand van*) any right it may have of first requiring the Pledgee to proceed against or claim payment from any other person or enforce any guarantee or security granted by any other person before exercising its rights pursuant hereto.

7.1.2 Each Pledgor hereby irrevocably and unconditionally waives (*doet afstand van*) any rights it has under or pursuant to any Dutch law provisions for the protection of grantors of security for the debts of third parties, including, to the extent relevant, any rights it may have pursuant to Articles 3:233, 3:234 and 6:139 of the Dutch Civil Code, which waiver is hereby accepted by the Pledgee.

7.1.3 Each Pledgor hereby irrevocably and unconditionally waives (*doet afstand van*), to the extent necessary in advance, any and all rights of recourse (*regres*) or subrogation (*subrogatie*) vis-à-vis any Debtor that it has or may obtain or acquire after the date of this Deed as a result of any enforcement action in respect of the rights of pledge granted under or in connection with this Deed (and, to the extent such waiver is not enforceable in whole or in part, any rights of recourse or subrogation to which it is or may become entitled under or pursuant to enforcement of any rights of pledge created under or pursuant to this Deed and hereby pledged to the Pledgee by way of a non disclosed pledge governed by the terms of this Deed), which waiver is hereby accepted by the Pledgee.

7.2 **Evidence of indebtedness**

An excerpt from the records of the Pledgee and/or Administrative Agent shall serve as conclusive evidence (*dwingend bewijs*) of the existence and the amounts of the Secured Obligations.

7.3 **Unenforceability**

Each Pledgor and the Pledgee hereby agree that they will negotiate in good faith to replace any provision hereof that may be held unenforceable with a provision that is enforceable and which is as similar as possible in substance to the unenforceable provision.

7.4 **Power of attorney**

Each Pledgor hereby grants an irrevocable power of attorney to the Pledgee to – following the occurrence of an Enforcement Event - act in such Pledgor's name and on its behalf, authorising the Pledgee to – following the occurrence of an Enforcement Event - execute all such documents and to perform and do all such acts and things as the Pledgee may deem necessary or useful in order to have the full benefit of the rights granted or to be granted to the Pledgee pursuant hereto, including (i) the exercise of any ancillary rights (*nevenrechten*) as well as any

other rights it has in relation to the relevant Security Assets and (ii) the performance of any obligations of the relevant Pledgor hereunder, which authorisation permits the Pledgee to act or also act as the relevant Pledgor's counterparty within the meaning of Article 3:68 of the Dutch Civil Code.

7.5 **Costs**

With respect to costs and expenses, Clause 19 (*Costs and Expenses*) of the Financing Agreement shall apply and the provisions thereof are incorporated herein by reference.

8. **TRANSFER**

8.1 **Power to transfer**

The Pledgee is entitled to transfer all or part of its rights and/or obligations pursuant hereto to any transferee and each Pledgor hereby in advance give its irrevocable consent to, and hereby in advance irrevocably co-operate with, any such transfer (within the meaning of Articles 6:156 and 6:159 of the Dutch Civil Code).

8.2 **Transfer of information**

Subject to the terms of the Financing Agreement and the Intercreditor Agreement, the Pledgee is entitled to impart any information concerning the Pledgors and/or the Security Assets to any transferee or proposed transferee.

9. **TERMINATION**

9.1 **Termination of pledge**

Unless terminated by operation of law, the Pledgee's rights of pledge created pursuant hereto shall be in full force and effect vis-à-vis each Pledgor until they shall have terminated, in part or in whole, as described in Sub-clause 9.2 (*Termination by notice* (*opzegging*) *and waiver* (*afstand*)) below.

9.2 **Termination by notice (*opzegging*) and waiver (*afstand*)**

The Pledgee will be entitled to terminate by notice (*opzegging*), in part or in whole, the rights of pledge created pursuant hereto in respect of all or part of the Security Assets and/or all or part of the Secured Obligations. If and insofar as the purported effect of any such termination requires a waiver (*afstand van recht*) by the Pledgee, each Pledgor hereby in advance agree to such waiver. The Pledgee shall furthermore terminate by notice (*opzegging*) the rights of pledge created pursuant hereto in respect of all of the Security Assets on the Release Date.

10. **GOVERNING LAW AND JURISDICTION**

10.1 **Governing law**

This Deed is governed by and shall be interpreted in accordance with Dutch law.

10.2 **Jurisdiction**

Each of the parties to this Deed agrees that any disputes arising from or in connection with this Deed shall be submitted to the competent court in Amsterdam, The Netherlands.

10.3 **Domicile** (***woonplaats***)

10.3.1 Pursuant to Article 1:15 of the Dutch Civil Code each Pledgor hereby designates the offices of the Company as its domicile (*woonplaats*) for service of process in any proceedings in connection with this Deed.

10.3.2 The designation provided for in paragraph 10.3.1 above shall be without prejudice to any other method of service of process permitted by law.

10.4 **Power of attorney**

If a party to this Deed is represented by an attorney or attorneys in connection with the execution of this Deed or any agreement or document pursuant hereto and the relevant power of attorney is expressed to be governed by Dutch law, such choice of law is hereby accepted by each other party, in accordance with Article 14 Hague Convention on the Law Applicable to Agency of the fourteenth day of March nineteen hundred and seventy-eight.

11. **THE COMPANY**

The Company:

(a) acknowledges the right of pledge created over the Security Assets;

(b) confirms that it has been notified of the right of pledge created over the Related Rights;

(c) undertakes to register in its shareholders' register:

(i) the right of pledge over the Shares;

(ii) the conditional transfer of Voting Rights to the Pledgee; and

(iii) that, upon the occurrence of an Enforcement Event and notice to the Company, as set out in more detail in this Deed, the Pledgee shall have the rights attributed by law to the holders of depository receipts issued with the company's co-operation (*rechten die door de wet zijn toegekend aan de houders van met medewerking ener vennootschap uitgegeven certificaten van aandelen*),

and to provide the Pledgee, as soon as practicable, with a copy of the relevant entries in its shareholders' register;

(d) represents and warrants that no Depository Receipts have been issued with respect to the Present Shares; and

(e) covenants that it shall not co-operate in the issue of any Depository Receipts or issue any shares, or rights to acquire shares, in the capital of the Company, except to the extent explicitly permitted under the terms of the other Finance Secured Documents.

12. **CIVIL LAW NOTARY**

Each of the parties to this Deed acknowledges that:

(a) Dr. T.P. van Duuren, civil law notary (*notaris*) in Amsterdam, The Netherlands, is a partner of Clifford Chance LLP; and

(b) Clifford Chance LLP acts as the Dutch legal adviser to the Pledgee and that Warendorf in Amsterdam, The Netherlands, acts as the Dutch legal adviser to the Pledgors and the Company in this transaction; and,

having consulted its legal advisers, confirms its agreement and accepts that dr. T.P. van Duuren, aforementioned, or one of his deputies (*kandidaat-notarissen*) shall execute this Deed and that this shall not prevent Clifford Chance LLP from continuing to act as Dutch legal adviser to the Pledgee.

Each person appearing before me is known to me, civil law notary and the identity of each of the persons appearing under 1 has been established by me, civil law notary, by means of a document intended for that purpose.

This deed, drawn up to be kept in the civil law notary's custody was executed in Amsterdam, The Netherlands, on the date first above written.

The contents of this deed were given and explained to the persons appearing before me, who then declared to have noted and approved the contents and not to require a full reading thereof. Thereupon, after limited reading, this deed was signed by the persons appearing before me and by me, civil law notary.
Signed.

/s/ Gijsbertus Cornelis Kikkert

ISSUED AS A TRUE COPY
by Gijsbertus Cornelis Kikkert, *kandiduat-notaris*,
deputising for dr. Thomas Pieter van Duuren,
civil law notary (*notaris*) in Amsterdam,
on 23 October 2009.

Exhibit 4.39
Confirmed Copy

Share Pledge Agreement

dated 14 August 2009

between **CEMEX S.A.B. de C.V.**

Av Constitution 444 Pte. Col. Centro, C.P. 64000, Monterrey, N.L. Mexico

hereinafter: "**CEMEX**"

and **CEMEX Mexico, S.A. de C.V.**

Av Constitution 444 Pte. Col. Centro, C.P. 64000, Monterrey, N.L. Mexico

hereinafter: "**CEMEX Mexico**"

and **Interamerican Investments Inc.**

1209 Orange Street, Wilmington, County of New Castle, 19801 Delaware USA

hereinafter: "**Interamerican**"

and **Empresas Tolteca de Mexico, S.A. de C.V.**

Av Constitution 444 Pte. Col. Centro, C.P. 64000, Monterrey, N.L., Mexico

hereinafter: "**Tolteca**"

(CEMEX, CEMEX Mexico, Interamerican and Tolteca collectively referred to as the "**Pledgors**")

on the one side

and **Wilmington Trust (London) Limited**

Fifth Floor
6 Broad Street Place
London EC2M 7JH
United Kingdom

hereinafter: the "**Security Agent**"

acting in its capacity as security agent and acting in the name and on behalf of the Pledgees (as defined herein)

on the other side

concerning 99.57% of the shares of CEMEX TRADEMARKS HOLDING Ltd.

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List of Annexes

This share pledge agreement (the "**Agreement**") is made as of 2009 by and between CEMEX, CEMEX Mexico, Interamerican and Tolteca (the " **Pledgors**") and Wilmington Trust (London) Limited (the "**Security Agent**"), acting in its capacity as security agent and acting in the name and on behalf of the Pledgees.

Whereas

A) Pursuant to a financing agreement (the "**Financing Agreement**"), dated on or about today's date and as further amended from time to time), made between, inter alia, CEMEX, as Original Borrower and Original Guarantor, and certain of its subsidiaries as Original Borrowers, Original Guarantors and Original Security Providers, Citibank International plc, as Administrative Agent, Wilmington Trust (London) Limited, as Security Agent, and the Participating Creditors (all as defined in the Financing Agreement), the Participating Creditors have agreed to continue to make available the Facilities (as defined in the Financing Agreement).

B) The Participating Creditors, the Original Debtors, Citibank International plc, as Administrative Agent, Wilmington Trust (London) Limited, as Security Agent, and others entered into an intercreditor agreement (the "**Intercreditor Agreement**") dated on or about today's date.

C) The Pledgors own 1'938'958'014 issued registered shares (*Namenaktien*) in CEMEX TRADEMARKS HOLDING Ltd. (the "**Company**") (representing 99.57% of the issued share capital of the Company a company incorporated under the laws of Switzerland, having its registered office at Römerstrasse 13, 2555 Brügg bei Biel, Switzerland.

D) As of the date hereof, the Company has an issued share capital of CHF 1'947'382'051.00, divided into 1'947'382'051 freely transferable registered shares (*Namenaktien*) with a par value of CHF 1 each.

E) In order to provide security in accordance with the Financing Agreement and the Intercreditor Agreement, each of the Pledgors wishes to pledge all of its shares in the Company in favor of each of the Pledgees.

F) The Security Agent has been duly appointed under the Financing Agreement and the Intercreditor Agreement, to act as security agent and shall act in its capacity as security agent and in the name and on behalf of the Pledgees in the execution, delivery and performance of this Agreement and shall exercise the rights of the Pledgees arising hereunder as their direct representative (*direkter Stellvertreter*).

Now, therefore, the Parties hereto agree as follows:

1. Definitions and Construction

Unless defined otherwise hereinafter and except to the extent that the context requires otherwise, capitalized terms used in this Agreement shall have the meanings assigned to them in the Financing Agreement.

Agreement	means this share pledge agreement.
Article	means any of the articles of this Agreement.
CO	means the Swiss Code of Obligations (*Schweizerisches Obligationenrecht, OR*).

Company	shall have the meaning set forth in Recital C of this Agreement.
DEBA	means the Swiss Federal Debt Enforcement and Bankruptcy Act (*Bundesgesetz über Schuldbetreibung und Konkurs, SchKG*).
Dividends	means all dividend payments by the Company in respect of the Shares whether in cash or in the form of Shares or Participation Rights or in any other form.
Enforcement Event	shall have the meaning set forth in the Intercreditor Agreement.
Event of Default	shall have the meaning set forth in the Financing Agreement.
Existing Shares	means 1'938'958'014 fully paid registered shares (*Namenaktien*) of the Company with a par value of CHF 1 each, all held by the Pledgors as of the date of this Agreement, together with all Related Rights.
Financing Agreement	shall have the meaning set forth in Recital A of this Agreement.
Future Shares	means any shares or Participation Rights Issued in addition to or in exchange for or as a surrogate for the Existing Shares by the Company in whatever nominal value, which the Pledgors may acquire by way of subscription or otherwise subsequent to the date of this Agreement, together with all Related Rights.
Instructing Group	shall have the meaning set forth in the Intercreditor Agreement.
Intercreditory Agreement	shall have the meaning set forth in Recital B of this Agreement.
Participation Rights	means participation certificates (*Partizipationsscheine*) and profit sharing certificates (*Genussscheine*) within the meaning of articles 656a et seq. and articles 657 CO of the Company to be issued in the future.
Party	means any party of this Agreement.
Permitted Reorganisation	has the meaning given to it in the Financing Agreement.
Pledge	shall have the meaning set forth in Article 2.1.
Pledgees	means the Secured Parties from time to time.
Related Rights	means, in relation to the Shares, all Dividends, interest and other distributions paid or payable after the date hereof, i.e., whether in cash or in kind and all shares, securities (including any convertible debt instruments,

	warrants and the dividends, interest and other distributions thereon), rights, money and property accruing or offered at any time by way of redemption, bonus, preference, option rights or otherwise to or in respect of any of the Shares, including any present or future right to purchase, subscribe or otherwise have shares issued in the Company, or in substitution or exchange for any of the Shares and any and all administrative and financial rights related to the Shares, including but not limited to, voting rights and rights to dividend in respect of the Shares.
Release Date	means the date on which the Transaction Security shall be automatically released pursuant to clause 8.2 of the Intercreditor Agreement.
Secured Documents	means each Debt Document as defined in the Intercreditor Agreement.
Secured Obligations	shall have the meaning set forth in the Intercreditor Agreement and, in addition, means amounts owed by any Obligor pursuant to the Financing Agreement to the Security Agent under clause 10.2 (*Finance Parallel Debt (Covenant to pay to the Security Agent*)) and clause 10.3 (*Notes Parallel Debt (Covenant to pay to the Security Agent*)) of the Intercreditor Agreement.
Secured Parties	shall have the meaning set forth in the Intercreditor Agreement.
Shares	means the Existing Shares and any Future Shares collectively.
Subscription Right	means the Pledgors' preemptive rights (*Bezugsrechte*) and the advance subscription rights (*Vorwegzeichnungsrechte*) in connection with the issuance of Shares or Participation Rights, or the creation of authorized or conditional share capital by the Company.

2. Pledge of Shares

2.1 Object of Pledge

The Pledgors hereby agree to pledge and hereby pledge to each Pledgee (for this purpose being represented by the Security Agent) individually all Shares, Subscription Rights and Related Rights (free and clear of any pledges, liens, rights of set-off or other third party rights of any nature) as a first ranking security (the "**Pledge**").

2.2 Secured Obligations

The Pledge shall serve as a first ranking security to each of the Pledgees for the Secured Obligations.

3. Delivery of Documents

On the date hereof, the Pledgor shall deliver to the Security Agent the following documents:

a) (i) a copy, certified by a Mexican notary public, of the by-laws (*estatutos sociales*) in effect of each of the Cemex, Cemex Mexico, Tolteca and (ii) copies of the articles of incorporation and the by-laws in effect for Interamerican, as well as the original certificate of good standing of Interamerican from the Secretary of State of the State of Delaware, dated the date hereof;

b) a photocopy of the resolution of the board of directors, or, in relation to each of CEMEX, CEMEX Mexico and Tolteca, of the powers-of-attorney, with authority for acts of domain (*actos de dominio*), for the officers, of each of the Pledgors wherein the entry into this Agreement and the granting of the Pledge as provided for hereunder is duly approved;

c) the original of the share certificates representing the Existing Shares as specified in Annex 1, duly endorsed in blank, with duly preceding endorsements (*vollständige Indossamentenkette*); and

d) a photocopy of the share register (*Aktienbuch*) of the Company evidencing that (i) the Pledgors are registered as shareholders with voting rights with respect to the Existing Shares and (ii) the Shares are pledged to the Pledgees according to this Agreement.

For so long as the Pledge shall remain in effect, each of the Pledgors shall continue to be registered as the shareholder with voting rights in the share register of the Company with respect to the Existing Shares. Upon the occurrence of an Enforcement Event, the Security Agent shall, following receipt of express written instructions from the Instructing Group or otherwise in accordance with the terms of the Intercreditor Agreement, be entitled, but not obligated, to exercise the voting rights in accordance with Article 5.3.

4. Transfer of Future Shares

Each of the Pledgors shall, and shall procure (or the Security Agent on its behalf) that the Company will, promptly upon the accrual, offer or issue of any Future Shares duly transfer to the Security Agent all share certificates and other documents representing such Future Shares, in the case of registered shares, by share certificates duly endorsed in blank.

5. Shareholder Rights

5.1 Subscription Rights

As long as no Enforcement Event has occurred, the right to exercise the pledged Subscription Rights shall remain with each Pledgor, provided, however, that all Shares, Participation Rights and other rights and interests acquired by the Pledgors upon exercise of Subscription Rights shall be pledged pursuant to Article 2.1 and all share certificates and other documents representing such Shares, Participation Rights and other rights and interests shall be transferred to the Security Agent pursuant to Article 4.

In case a Pledgor does not intend to exercise any Subscription Rights, each of the Pledgors herewith agrees to assign and herewith assigns such Subscription Rights free of charge to the Security Agent and the Security Agent shall be entitled, but not obliged, to exercise such Subscription Rights. For that purpose, the Pledgors shall promptly do all acts and things and permit all acts and things to be done which are necessary for the Security Agent to exercise such Subscription Rights (for the avoidance of doubt, not including the payment of the subscription price).

The Pledgors shall notify the Security Agent, in writing, promptly of any grant of Subscription Rights and each of the Pledgors undertakes to notify the Security Agent of any intention not to exercise Subscription Rights not less than 20 Business Days prior to expiration of the right to exercise such Subscription Rights.

Upon the occurrence of an Enforcement Event, the Security Agent shall be entitled, but not obligated, to exercise the Subscription Rights. For that purpose, each of the Pledgors shall promptly do all acts and things (for the avoidance of doubt, not including the payment of the subscription price) and permit all acts and things to be done which are necessary for the Security Agent to exercise the Subscription Rights.

5.2 Dividends

As long as no Enforcement Event has occurred, each Pledgor shall be entitled to receive and retain all Dividends.

Upon the occurrence of an Enforcement Event, the Security Agent shall be entitled to receive and retain all Dividends. For that purpose, each of the Pledgors shall promptly (i) pay any moneys subsequently distributed and received by the Pledgors as Dividends (net of any tax) in respect of the Shares to the Security Agent and (ii), to the extent permitted by law, do all acts and things and permit all acts and things to be done which are necessary to enable the Security Agent to collect such Dividends directly from the Company; dividends in the form of Shares or Participation Rights shall be deemed Future Shares and be subject to Article 4.

5.3 Voting Rights

As long as no Enforcement Event has occurred, all voting rights in the Shares shall remain with the Pledgors.

When exercising (or failing to exercise) the voting rights in the Shares, each of the Pledgors shall act:

a) in a manner that is not inconsistent with the Financing Agreement, the Intercreditor Agreement, this Agreement (in particular Article 7) and any other Secured Document; and

b) in a manner that would not intentionally be prejudicial to the validity and enforceability of the Pledge or cause an Event of Default or Enforcement Event to occur.

Upon the occurrence of an Enforcement Event, the Security Agent shall have the right (but not the obligation) to exercise the voting rights in the Shares after obtaining express written instructions from the Instructing Group or otherwise in accordance with the terms of the Intercreditor Agreement at its discretion. For that purpose, each of the Pledgors shall promptly (i) execute any and all proxies in favor of the Security Agent or any person designated by the Security Agent and (ii) do all

acts and things and permit all acts and things to be done which are necessary for the Security Agent or the person designated by the Security Agent to exercise its voting rights in the Shares.

6. Representations and Warranties

Each of the Pledgors hereby represents and warrants to the Pledgees that as of the date of this Agreement:

a) the documents referred to in Articles 3a), 3c) and 3d) are accurate, complete and up-to-date;

b) the resolutions referred to in Article 3b) have been duly passed in meetings duly convened or by circular resolutions duly taken, accurately reflect the resolutions and other matters reflected therein and are in full force and effect and have not been revoked or amended;

c) it is a company, duly formed and validly existing pursuant to the laws of the United Mexican States (in respect of CEMEX, CEMEX Mexico and Tolteca) and the State of Delaware (in respect of Interamerican);

d) its representative is duly authorized to enter into this Agreement, which authority has not been revoked or modified in any manner whatsoever;

e) the execution of, and performance of its obligations under, this Agreement by each Pledgor has been duly authorized by all necessary corporate action on behalf of the Pledgor;

f) the execution of, and performance of its obligations under, this Agreement by each Pledgor does not contravene or violate any Mexican or Swiss law, authorization or order applicable to that Pledgor in any material respect;

g) no shareholders' meeting or board meeting of the Company or any of the Pledgors has been held in which resolutions were passed or approved that could negatively affect the security interest created under this Agreement or any other right of the Pledgees under this Agreement;

h) no authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required (i) for the pledge of the Shares pursuant hereto or for the execution, delivery or performance of this Agreement by it, (ii) for the perfection or maintenance of the pledge created hereby (including the first priority nature of such pledge) or (iii) for the exercise by the Security Agent or the Pledgees of its/their rights provided for in this Agreement or the remedies in respect of the Shares pursuant to this Agreement;

i) the Existing Shares set forth in Annex 1 are duly and validly issued by the Company, are fully paid and constitute 99.57% of the issued and outstanding shares of the Company;

j) each Pledgor is the sole legal and beneficial owner of its portion of the Existing Shares as set forth in Annex 1, which are free and clear of any pledges, liens, encumbrances, or other interests or third party rights of any nature other than the Pledge created hereunder;

k) the Company has not created any authorized or conditional share capital or granted any options for the acquisition of Shares; and

l) this Agreement (i) constitutes legal and valid obligations binding on each of the Pledgors, (ii) is, subject to the transfer of the Existing Shares from the Pledgors to the Security Agent (which, for the avoidance of doubt, shall take place simultaneously with the signing of this Agreement), an effective and perfected first ranking security over the Existing Shares securing the Secured Obligations, and (iii) is enforceable against any of the Pledgors in accordance with its terms;

m) acknowledges and understands that the Security Agent appears in its capacity as security agent, on behalf and for the benefit of the Pledgees, in accordance with the terms of the Financing Agreement and the Intercreditor Agreement;

n) acknowledges and understands the terms of the Financing Agreement and the Intercreditor Agreement, as well as the amounts due and payable to the Secured Parties under the Debt Documents by it and the other Obligors (as such term is defined in the Financing Agreement), and agrees that the pledge created hereunder secures, among others, the payment of such amounts; and

o) each of CEMEX Mexico and Tolteca acknowledges that by virtue of the Financing Agreement and this Agreement it will obtain a direct benefit for its business and operations.

7. Undertakings

Each of the Pledgors hereby undertakes not to enter into any legal instrument relating to, or granting any pledge, lien, encumbrance, or other interest or third party right over the Shares.

In addition, except in accordance with the terms of the Financing Agreement and any other Secured Document and for as long as the Pledge remains in effect, each of the Pledgors hereby undertakes:

a) not to dispose of, transfer or assign the Shares or take any other action with respect to the Shares (other than in accordance with the Permitted Reorganisation) that would jeopardize (i) any rights of the Pledgees under this Agreement or any other Secured Document or (ii) the validity and enforceability of the Pledge;

b) not to revoke or amend the board resolution referred to in Article 3b);

c) not to vote in favor of any resolution with regard to the Company whereby:

(i) the Existing Shares would be modified or altered; or

(ii) the transferability of the Shares would be restricted in any way;

d) to promptly inform the Security Agent, in writing, (i) if a third party claims or pretends to own any of the Shares and (ii) of all circumstances concerning the Company which might materially adversely affect the validity or enforceability of the Pledge;

e) to enter into and to procure the perfection of additional pledge agreements (at its own cost and expense), if and to the extent that a pledge of certain Related Rights requires, as a matter of law, the execution and perfection of a specific pledge agreement for such Related Rights;

f) to do all acts and things necessary (at its own cost and expense) in case of a realization of the Pledge, and procure that any acts and things be done (at its own cost and expense) to properly effect any transfer of the Shares to a new owner, free of any pledge, lien, encumbrance, or other interest or third party right of any nature on any of the Shares so transferred and, in the case of registered shares, to procure that the board of directors of the respective Company register such new owner as new shareholder of the Company with voting rights;

g) to promptly execute such further documents and do such further acts (at its own cost and expense) which the Pledgees may reasonably require for the purpose of the creation, perfection, protection and realization of the Pledge.

8. Realization of Pledge

Upon the occurrence of an Enforcement Event and subject to the Intercreditor Agreement (in particular clauses 6 and 10 thereof), the Security Agent shall, after obtaining express written instructions from the Instructing Group or otherwise in accordance with the terms of the Intercreditor Agreement, have the right, but not the obligation, to enforce the Pledge created pursuant to this Agreement, by liquidation of the Shares in full or in part through an auction or a private sale (*Private Verwertung*) or acquisition of the Shares for the Security Agent's or any other Pledgee's account (*Selbsteintritt*), in each case without having to initiate proceedings under, and without regard to the formalities provided in, the DEBA and, to the extent legally permissible, without having to give prior notice to the Pledgors.

In case of an acquisition of the Shares for the Security Agent's or any other Pledgee's account (*Selbsteintritt*), such acquisition shall be done at the "intrinsic value" (*innerer Wert*) of the Shares (the "**Intrinsic Value**"). If the Pledgors and the Security Agent do not reach an agreement on the Intrinsic Value" within 10 Business Days from the date of the Security Agent's first proposal, the Intrinsic Value shall be determined by an independent expert (*Schiedsgutachter*) to be mutually appointed by the relevant parties. The expert's determination of the Intrinsic Value shall be final. If the relevant parties cannot, within 10 Business Days from the date of the Security Agent's first proposal, agree on the expert to be appointed, the independent expert shall be appointed by the president of the "*TREUHANDKAMMER Schweizerische Kammer der Wirtschaftsprüfer und Steuerexperten*" Zurich, Switzerland.

Upon the occurrence of an Enforcement Event, the Security Agent shall, after obtaining express written instructions from the Instructing Group or otherwise in accordance with the terms of the Intercreditor Agreement, have full discretion as to manner, time and place of enforcement of the Pledge. Each of the Pledgors shall cooperate and render (at its own cost and expense) all assistance, which the Security Agent considers necessary, in order to facilitate the enforcement of the Pledge.

Any money received or realized by the Security Agent from any enforcement of the Pledge shall be paid or applied in the order set out in clause 9 (Application of Proceeds) of the Intercreditor Agreement.

Notwithstanding the foregoing and notwithstanding the provision of article 41 DEBA, the Security Agent shall be entitled to institute or pursue the enforcement of the Secured Obligations pursuant to regular debt enforcement proceedings without having first to institute proceedings for the realization of any security interest created to secure the Secured Obligations (*Ausschluss des beneficium excussionis realis*). The Parties agree in advance that a sale according to article 130 DEBA (*Freihandverkauf*) shall be admissible.

9. Release of Pledge

The Pledge shall be automatically (a) terminated and cancelled and (b) the Shares or, in case of realization of the Shares, the remainder thereof, shall be released and returned to the Pledgors at their own cost and expense, at the earlier of (i) the day on which all Secured Obligations have been discharged in full and the Security Agent is satisfied (having made enquiries of and been informed by the Agents) that no further Secured Obligations are capable of arising and no amount paid to discharge the Secured Obligations is capable of being avoided or reduced in bankruptcy, insolvency or similar laws or (ii) the Release Date.

10. Position of the Security Agent

The Security Agent has been duly appointed by each of the Pledgees under the Financing Agreement and the Intercreditor Agreement (in particular clause 10) to act as security agent. The Security Agent shall act, for the purpose of this Agreement, in its capacity as security agent in the name and on behalf of the Pledgees and is authorised to exercise the rights, powers, authorities and discretions specifically given to the Security Agent under or in connection with this Agreement together with any other incidental rights, powers, authorities and discretions as direct representative (*direkter Stellvertreter*) of the Pledgees. The Pledgors acknowledge such rights and powers and acknowledge in particular clause 10.5 of the Intercreditor Agreement (*No independent power*).

The Security Agent performs this Agreement and exercises the rights of the Pledgees arising hereunder, as direct representative (
each of the Pledgees. Any action with respect to this Agreement taken by the Security Agent shall be construed as binding upon each of the Pledgees.

The Security Agent shall not, whether by virtue of this Agreement or by exercising any of its rights thereunder, owe any duty of care or fiduciary duty to the Pledgors or the Company.

The permissive rights of the Security Agent to take action under this Agreement shall not be construed an obligation or duty for it to do so.

Provided it complies with its obligations in this Agreement, the Security Agent is not required to have any regard to the interests of the Company.

In acting as Security Agent, the Security Agent shall be treated as acting through its agency division which shall be treated as a separate entity from its other divisions and departments. Any information received or acquired by the Security Agent which is received or acquired by some other division or department or otherwise than in its capacity as Security Agent may be treated as confidential by the Security Agent and will not be treated as information possessed by the Security Agent in its capacity as such.

In acting or otherwise exercising its rights or performing its duties under any of this Agreement, the Security Agent shall act in accordance with the provisions of the Intercreditor Agreement and shall, when required to grant a consent, exercise a discretion, take or omit to take any action, seek instruction or direction from the Instructing Group or Administrative Agent (as applicable and as provided in the Intercreditor Agreement). In so acting, the Security Agent shall have the rights, benefits, protections, indemnities and immunities set out in the Intercreditor Agreement as if those provisions were set out in this Agreement, mutatis mutandis, and shall not incur any liability to the Pledgors, the Company or to any other Person.

The provisions of this Clause 10 shall survive any termination of this Agreement.

11. Transfer of Rights and Obligations

The Pledgors may only transfer rights or obligations arising under this Agreement to third parties with the prior written consent of the Security Agent.

Each Finance Party and each Refinancing Party (as defined in the Intercreditor Agreement) which has become a party to a Secured Document after the date of this Agreement in accordance with the Secured Documents shall automatically become a party to this Agreement (*Vertragspartei*) (through the representation of the Security Agent), and thereby assume all rights and obligations of a Pledgee and each of the Pledgors explicitly consents to such Finance Party becoming a party to this Agreement (*Vertragspartei*), and thereby assuming all rights and obligations of a Pledgee.

Each Noteholder and Noteholder Trustee (as each such term is defined in the Intercreditor Agreement) shall have the benefit of the security created hereby in accordance with the terms of the Intercreditor Agreement.

12. Indemnification

The Security Agent and each Pledgee shall not be liable for any loss or damage suffered by any of the Pledgors save, in the case of a Pledgee (other than the Security Agent), in respect of such loss or damage which is suffered as a result of the wilful misconduct (*Absicht*) or gross negligence (*grobe Fahrlässigkeit*) of a Pledgee (other than the Security Agent). Notwithstanding anything to the contrary herein, any liability of each of the Pledgees towards each of the Pledgors under this Agreement shall not be joint and several (*nicht solidarisch*) but separate and independent.

13. General Provisions

13.1 Costs and Expenses

With respect to costs and expenses, Clause 19 (*Costs and Expenses*) of the Financing Agreement shall apply and the provisions thereof are incorporated herein by reference (with such conforming changes as necessary for interpretation being deemed to be made for the purposes of this Agreement).

13.2 Notices

All notices or other communications to be given under or in connection with the Agreement shall be made pursuant to, and in accordance with, the provisions of the Finance Documents, in particular clause 34 (Notices) of the Financing Agreement and clause 17 (Notices) of the Intercreditor Agreement.

13.3 Entire Agreement

This Agreement, including Annex 1 and any other documents referred to herein, constitutes the entire agreement and understanding among the Parties with respect to the subject matter hereof, and shall supersede all prior oral and written agreements or understandings of the parties relating hereto. All references to this Agreement shall be deemed to include Annex 1 hereto.

13.4 Amendments and Waivers

This Agreement may only be amended or any provision thereof waived in accordance with the provisions of clause 19.2 (*Amendments and Waivers: Transaction Security Documents*) of the Intercreditor Agreement and by a document signed by all Parties or, in case of a waiver of any provision, by a document signed by the Party waiving such provision.

13.5 Severability

Should any part or provision of this Agreement be held to be invalid or unenforceable by any competent arbitral tribunal, court, governmental or administrative authority having jurisdiction, the other provisions of this Agreement shall nonetheless remain valid. In this case, the Parties shall endeavor to negotiate a substitute provision that best reflects the economic intentions of the Parties without being unenforceable, and shall execute all agreements and documents required in this connection.

13.6 Remedies Cumulative

No failure or delay on the part of the Security Agent to exercise any power, right or remedy hereunder operates as a waiver thereof, nor shall any single or any partial exercise of any power, right or remedy preclude its further exercise or the exercise of any other power, right or remedy.

13.7 Continuing Security

This Agreement shall create a continuing security and no change or amendment whatsoever in any of the Secured Documents or any document or agreement relating thereto shall affect the validity of the Pledge or the obligations which are imposed on each of the Pledgors pursuant to it.

14. Governing Law and Jurisdiction

14.1 Governing Law

This Agreement (including matters as to the transfer of possession of any share certificates representing the Shares) shall be governed by and construed in accordance with the substantive laws of Switzerland.

14.2 Jurisdiction

All disputes arising out of or in connection with this Agreement, including disputes on its conclusion, binding effect, amendment and termination, shall be resolved exclusively by the Courts of the City of Zurich, Switzerland, and shall, if possible, be adjudicated by the Commercial Court of the Canton of Zurich (*Handelsgericht des Kantons Zürich*), Switzerland, venue being Zurich 1.

The Security Agent and the other Pledgees in addition have the right to institute legal proceedings against each of the Pledgors at any other competent court, in which case Swiss law shall nevertheless be applicable as provided in Article 14.1.

Signatures on next page

Signatures

Bern, this 14/8/09

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

/s/ Marc Grüninger
Name: Marc Grüninger
Title: Attorney in fact

Bern, this 14/8/09

CEMEX México, S.A. de C.V.

/s/ Marc Grüninger
Name: Marc Grüninger
Title: Attorney in fact

Name:
Title:

Bern, this 14/8/09

Interamerican Investments Inc.

/s/ Marc Grüninger
Name: Marc Grüninger
Title: Attorney in fact

Name:
Title:

Bern, this 14/8/09

Empresas Tolteca de Mexico, S. A. de C.V.

/s/ Marc Grüninger
Name: Marc Grüninger
Title: Attorney in fact

Name:
Title:

14/8/09, this _____

Wilmington Trust (London) Limited, acting in its capacity as Security Agent and acting in the name and on behalf of the Pledgees:

/s/ E. K. Lockhart

Name: E.K. Lockhart
Title:

Annex 1

Details of Existing Shares

Shareholder	Share Issuer	Type of Share	Number of Certificates	Number of Shares	Par value of each Share
CEMEX	CEMEX TRADEMARKS HOLDING Ltd.	Registered Shares	3	949’126’121	CHF 1
CEMEX Mexico	CEMEX TRADEMARKS HOLDING Ltd.	Registered Shares	5	217’865’866	CHF 1
Interamerican	CEMEX TRADEMARKS HOLDING Ltd.	Registered Shares	2	8’424’037	CHF 1
Tolteca	CEMEX TRADEMARKS HOLDING Ltd.	Registered Shares	4	763’541’990	CHF 1
Total				**1’938’958’014**	

CLIFFORD
CHANCE

Exhibit 4.40

DEED OF PLEDGE OF REGISTERED SHARES

On this fourth day of September two thousand nine, appeared before me, dr. Thomas Pieter van Duuren, civil law notary (*notaris*) in Amsterdam, The Netherlands:

1. (a) Ms Catelijne Schoenmaker, in this matter with residence at the offices of Warendorf, Koningslaan 42, 1075 AE Amsterdam, The Netherlands, born in Hoorn, The Netherlands, on the fifth day of June nineteen hundred seventy-nine, holder of a drivers license with number 4181165504; and

   (b) Ms Alycke Berber Deirdre Kootstra, in this matter with residence at the offices of Warendorf, Koningslaan 42, 1075 AE Amsterdam, The Netherlands, born in Achtkarspelen, The Netherlands, on the third day of July nineteen hundred eighty-four, holder of a passport with number NH9797017,

   in this respect both acting as attorneys-in-fact, duly authorised in writing, of:

   (i) **CEMEX TRADEMARKS HOLDING LTD.**, a company incorporated under the laws of Switzerland, having its registered office at Römerstrasse 13, 2555 Brügg bei Biel, Switzerland, registered with Berne under number CH-035.3.029.636-0 (the "**Pledgor**");

   (ii) **NEW SUNWARD HOLDING B.V.,** a private company with limited liability (*besloten vennootschap met beperkte aansprakelijkheid*), incorporated under Dutch law, having its seat (*statutaire zetel*) at Amsterdam, The Netherlands, and its registered office at Amsteldijk 166, 1079 LH Amsterdam, The Netherlands and registered with the Dutch Commercial Register (*Handelsregister*) under number 34133556 (the "**Company**");

2. Mr Krishna van Zundert, in this matter with residence at the offices of Clifford Chance LLP, Droogbak 1a, 1013 GE Amsterdam, The Netherlands, born in Amravati, India, on the twenty-ninth day of September nineteen hundred and seventy-five, in this respect acting as attorney-in-fact, duly authorised in writing, of, in this respect acting as attorney-in-fact, duly authorised in writing, of:

   WILMINGTON TRUST (LONDON) LIMITED, a company with limited liability, incorporated under the laws of England and Wales, having its registered office at Fifth Floor, 6 Broad Street Place, London EC2M 7JH, United Kingdom and registered with Companies House under number 05650152, except as expressly provided herein acting in its capacity of Security Agent (and where acting in such capacity acting on behalf of the Secured Parties) (all as defined below) (the "**Pledgee**").

The authorisation of the persons appearing before me appears from three (3) written powers of attorney, (photocopies of) which shall be attached to this Deed.

The persons appearing, acting as stated, declared that:

IT IS HEREBY AGREED AS FOLLOWS:

1. **DEFINITIONS AND INTERPRETATION**

1.1 **Definitions**

1.1.1 Unless a contrary indication appears, capitalised terms not defined in this Deed (as defined below) shall have the same meaning given to such terms in the Intercreditor Agreement (as defined below).

1.1.2 In addition the following terms shall have the following meaning:

"**Articles of Association**" means the articles of association (*statuten*) of the Company as they currently stand and/or, as the case may be, as they may be amended from time to time.

"**Debt Documents**" has the meaning given to it in the Intercreditor Agreement.

"**Deed**" means this deed of pledge.

"**Depository Receipts**" means depository receipts of shares in the capital of the Company issued with the co-operation of the Company (*met medewerking van de vennootschap uitgegeven certificaten van aandelen*).

"**Dividends**" means cash dividends, distribution of reserves, repayments of capital and all other distributions and payments in any form which at any time during the existence of the right of pledge created hereby, become payable in respect of any one of the Shares.

"**Enforcement Event**" has the meaning given to it in the Intercreditor Agreement.

"**Existing Deed of Pledge I**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Existing Deed of Pledge II**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Financing Agreement**" means the financing agreement dated the fourteenth day of August two thousand nine entered into among, *inter alios*, CEMEX S.A.B. de C.V. as the Parent, the Original Borrowers, the Original Guarantors, the Original Security Providers, the Original Participating Creditors, the Administrative Agent and the Security Agent (all as defined therein).

"**Free Reserves Available for Distribution**" has the meaning ascribed thereto in Clause 1.5.

"**Future Shares**" means all shares in the capital of the Company acquired by the Pledgor after the date of this Deed.

"**Intercreditor Agreement**" means the intercreditor agreement dated on or about the date of the Financing Agreement and made between, *inter alios*, CEMEX S.A.B. de C.V. as the Parent, the Original Borrowers, the Original Guarantors, the Original Security Providers, the Security Agent and the Participating Creditors (all as defined therein).

"**Merger**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Newly Issued Shares**" has the meaning ascribed thereto in Clause 3.5 (*Mergers*).

"**Parallel Debts**" means a collective reference to the Finance Parallel Debt and the Notes Parallel Debt (each as defined in the Intercreditor Agreement).

"**Present Shares**" means all of the shares issued and paid-up in the capital of the Company.

"**Principal Obligations**" means a collective reference to all present and future obligations owed by any Debtor to (a) any of the Finance Secured Parties under or in connection with the Finance Secured Documents and (b) any of the Notes Secured Parties under or in connection with the Notes Secured Documents, in each case other than the obligations pursuant to the Parallel Debts.

"**Related Rights**" means the Dividends, all present and future rights of the Pledgor to acquire shares in the capital of the Company and all other present and future rights arising out of or in connection with the Shares, other than the Voting Rights.

"**Release Date**" means the date on which the Transaction Security (as defined in the Intercreditor Agreement) shall be released pursuant to and in accordance with clause 8.2 of the Intercreditor Agreement.

"**Restricted Obligations**" has the meaning ascribed thereto in Clause 1.5.

"**Secured Obligations**" means all present and future obligations owed by the Debtors to the Pledgee pursuant to the Parallel Debts and all Principal Obligations that are secured obligations pursuant to paragraph 3.1.3.

"**Security Assets**" means the Shares and the Related Rights.

"**Shares**" means the Present Shares and the Future Shares.

"**Voting Rights**" means the voting rights in respect of any of the Shares.

1.2 **Interpretation**

Subject to any contrary indication, any reference in this Deed to a "**Clause**", "**Sub-clause**" or "**paragraph**" shall be interpreted as a reference to a clause, sub-clause or paragraph hereof.

1.3 **Continuing security**

Any reference made in this Deed to any Finance Secured Document and/or any Notes Secured Document or to any agreement or document (under whatever name), where applicable, shall be deemed to be a reference to such Finance Secured Document and/or Notes Secured Document or such other agreement or document as the same may have been, or at any time may be, extended, prolonged, amended, restated, supplemented, renewed or novated, as persons may accede thereto as a party or withdraw therefrom as a party in part or in whole or be released thereunder in part or in whole, and/or as facilities and/or amounts and/or financial services are or at any time may be granted, extended, prolonged, increased, reduced, cancelled, withdrawn, amended, restated, supplemented, renewed or novated thereunder including, without limitation:

(a) any:

(i) increase or reduction in any amount available thereunder or any alteration of or addition to the purpose for which any such amount, or increased or reduced amount may be used,

(ii) facility or note provided in substitution of, or in addition to, the facilities originally made available thereunder or notes originally issued thereunder,

(iii) rescheduling of the indebtedness incurred thereunder whether in isolation or in connection with any of the foregoing, and

(iv) combination of the foregoing, and/or

(b) any document designated as a Finance Secured Document or Notes Secured Document by the Administrative Agent and the Parent.

1.4 **Unlawful financial assistance**

No obligations shall be included in the definition of "Secured Obligations" to the extent that, if they were included, the security interest granted pursuant to this Deed or any part thereof would be void as a result of violation of the prohibition on financial assistance contained in Articles 2:98c and/or 2:207c of the Dutch Civil Code or any other applicable financial assistance rules under any relevant jurisdiction (the " **Prohibition**") and all provisions hereof shall be interpreted accordingly. For the avoidance of doubt, this Deed shall continue to secure those obligations which, if included in the definition of "Secured Obligations", shall not constitute a violation of the Prohibition.

1.5 **Limitation of the Pledgor under Swiss law**

The obligations and liabilities of the Pledgor under this Deed in relation to the obligations, undertakings, indemnities or liabilities of an Obligor other than that Pledgor or any of its fully owned and controlled subsidiaries (the " **Restricted Obligations**") shall be limited to the amount of the Pledgor's Free Reserves

Available for Distribution at the time payment is requested, provided that such limitation is a requirement under applicable law (including any case law) at that point in time and that such limitation shall not free the Pledgor from its obligations in excess thereof, but merely postpone the performance date until such time as performance is permitted notwithstanding such limitation.

For the purpose of this clause, "**Free Reserves Available for Distribution**" means an amount equal to the maximal amount in which the relevant Pledgor can make a dividend payment to its shareholder(s) (being the balance sheet profit and any freely disposable reserves available for this purpose, in each case in accordance with applicable Swiss law).

As soon as possible after having been requested to discharge a Restricted Obligation, the Pledgor shall, if it cannot discharge the full amount of the Restricted Obligations, provide the Pledgee with an interim statutory balance sheet audited by the statutory auditors of the Pledgor setting out the Free Reserves Available for Distribution and, immediately thereafter, pay the amount corresponding to the Free Reserves Available for Distribution to the Pledgee (save to the extend provided below).

In respect of the Restricted Obligations, the Pledgor shall:

(a) if and to the extent required by applicable law in force at the relevant time:

  (i) subject to any applicable double taxation treaties, deduct Swiss withholding tax at the rate of thirty-five percent (35%) (or such other rate as is in force at that time) from any payment made by it;

  (ii) pay any such deduction to the Swiss Federal Tax Administration; and

  (iii) notify and provide evidence to the Pledgee that the Swiss withholding tax has been paid to the Swiss Federal Tax Administration;

(b) to the extent such deduction is made, not be required to make a gross-up, indemnify or otherwise hold harmless the Secured Parties for the deduction of the Swiss withholding tax notwithstanding anything to the contrary contained in the Debt Documents, unless grossing up is permitted under the laws of Switzerland then in force and provided that this should not in any way limit any obligations of any non-Swiss Pledgors under the Debt Documents to indemnify the Secured Parties in respect of the deduction of the Swiss withholding tax, including, without limitation, in accordance with Clause 17 of the Financing Agreement (*Tax Gross-Up, Increased Costs and Indemnities*). The Pledgor shall use all reasonable efforts to procure that any person which is entitled to a full or partial

refund of any Swiss withholding tax paid pursuant to paragraph (a) above will, as soon as possible after the deduction of the Swiss withholding tax, (y) request a refund of the Swiss withholding tax under any applicable law (including double taxation treaties) and (z) pay to the Pledgee upon receipt any amount so refunded.

The Pledgor will take, and cause to be taken, all and any other action, including, without limitation, the passing of any shareholders' resolutions to approve any payment or other performance under the Debt Documents and the receipt of any confirmations from the Pledgor's auditors, whether following a request to discharge a Restricted Obligation, or which may be required as a matter of mandatory Swiss law in force at the time it is required to make a payment or perform other obligations under the Debt Documents in order to allow a prompt payment or performance of other obligations under the Debt Documents.

If the enforcement of the Restricted Obligations would be limited due to the effects referred to in this Clause 1.5 and if any asset of the Pledgor has a book value that is less than its market value (an "**Undervalued Asset**"), the Pledgor shall, to the extent permitted by applicable law and its Accounting Standards (i) write up the book value of such Undervalued Asset such that its balance sheet reflects a book value that is equal to the market value of such Undervalued Asset, and (ii) make reasonable efforts to realise the Undervalued Asset for a sum which is at least equal to the market value of such asset. Without prejudice to the rights of the Pledgee under the Debt Documents, the Pledgor will only be required to realise an Undervalued Asset if such asset is not necessary for the Pledgor's business (*nicht betriebsnotwendig*).

1.6 **Pledgee Provisions**

1.6.1 Subject to the mandatory provisions of Dutch law the Pledgee shall not, whether by virtue of this Deed or by exercising any of its rights thereunder, owe any duty of care to the Pledgor or the Company.

1.6.2 The permissive rights of the Pledgee to take action under this Deed shall not be construed as an obligation or duty for it to do so.

1.6.3 In acting as Pledgee, the Pledgee shall be treated as acting through its agency division which shall be treated as a separate entity from its other divisions and departments. Any information received or acquired by the Pledgee which is received or acquired by some other division or department or otherwise than in its capacity as Pledgee may be treated as confidential by the Pledgee and will not be treated as information possessed by the Pledgee in its capacity as such.

1.6.4 In acting or otherwise exercising its rights or performing its duties under any provision of this Deed, the Pledgee shall act in accordance with the provisions of the Intercreditor Agreement and parties to this Deed acknowledge and agree that in so acting the Pledgee shall have the rights, benefits, protections, indemnities and immunities set out in the Intercreditor Agreement and shall not incur any liability to the Pledgor or the Company, other than as expressly provided for in the Intercreditor Agreement.

2. UNDERTAKING TO PLEDGE AND PARALLEL DEBTS

2.1 Undertaking to pledge

The Pledgor has agreed, or, as the case may be, hereby agrees with the Pledgee that it shall grant to the Pledgee a right of pledge over the Security Assets as security for the payment of the Secured Obligations.

2.2 Parallel Debts

Pursuant to the Parallel Debts the Pledgee has its own claim in respect of the payment obligations of the Debtors to the Finance Secured Parties and the Notes Secured Parties. In connection with the creation of the rights of pledge pursuant hereto the Pledgor and the Pledgee acknowledge that, with respect to this claim, the Pledgee acts in its own name and not as representative (*vertegenwoordiger*) of the Finance Secured Parties and the Notes Secured Parties or any of them and consequently the Pledgee is the sole pledgee under this Deed.

3. PLEDGE

3.1 Pledge of Security Assets

3.1.1 To secure the payment of the Secured Obligations, the Pledgor grants in advance (*bij voorbaat*) to the Pledgee a right of pledge over its Future Shares and the Related Rights pertaining thereto, which rights of pledge are hereby accepted by the Pledgee.

3.1.2 To the extent the pledge in advance referred to in paragraph 3.1.1 is not effective under Dutch law, the Pledgor will forthwith grant a supplemental right of pledge by executing, before a Dutch civil law notary, a deed of pledge substantially in the form of this Deed or such other form as the Pledgee may reasonably require in order to perfect the pledge over the Future Shares and the Related Rights pertaining thereto.

3.1.3 If and to the extent that at the time of creation of this right of pledge, or at any time hereafter, a Principal Obligation owed to the Pledgee cannot be validly secured through the Parallel Debts, such Principal Obligation itself shall be a Secured Obligation.

3.2 **Registration**

The Pledgee shall be entitled to present this Deed and any other document in connection herewith for registration to any office, registrar or governmental body in any jurisdiction the Pledgee deems necessary or useful to protect its interests.

3.3 **Related Rights**

3.3.1 Subject to Sub-clause 3.3.2 below, only the Pledgee is entitled to receive and exercise the Related Rights pledged pursuant hereto or, as applicable, pursuant to the Existing Deed of Pledge II (as defined and referred to in Clause 3.5 (*Mergers*) of this Deed.

3.3.2 The Pledgee hereby authorises the Pledgor (as envisaged by Article 3:246 paragraph 4 of the Dutch Civil Code) to receive Dividends in accordance with the terms of the Financing Agreement. The authorisation shall automatically cease to exist upon the occurrence of an Enforcement Event.

3.4 **Voting Rights**

3.4.1 In accordance with Article 2:198 paragraph 3 of the Dutch Civil Code, in conjunction with the relevant provisions of the Articles of Association, the general meeting of shareholders of the Company, has approved on the seventh day of August two thousand nine by means of a written resolution adopted outside a meeting in accordance with Article 2:238 of the Dutch Civil Code and Article 21 of the Articles of Association, the granting of a right of pledge in respect of the Shares with the conditional transfer to the Pledgee of the Voting Rights and other rights and powers attached to the Shares. A copy of said written resolution by the general meeting of shareholders shall be attached to this Deed (Annex).

3.4.2 The Voting Rights are hereby transferred to the Pledgee, subject to the cumulative conditions precedent (*opschortende voorwaarden*) of:

(a) the occurrence of an Enforcement Event, and

(b) the delivery of a notice by the Pledgee to the Company that it, the Pledgee, will exercise the Voting Rights (whereby it is agreed and acknowledged by the parties to this Deed that such notice may only be given by the Pledgee upon receipt by the Pledgee of express written instructions to this effect from the Instructing Group or otherwise in accordance with the Intercreditor Agreement).

The Pledgee shall send to the Pledgor, for information purposes only, a copy of any notice to the Company as referred to in paragraph 3.4.2 sub (b) above.

3.4.3 Prior to receipt by the Company of a notice as referred to in paragraph 3.4.2(b) above:

(a) the Pledgor shall have the right to exercise its Voting Rights; and

(b) the Pledgee shall not have the rights attributed by law to the holders of Depository Receipts.

3.4.4 Forthwith upon receipt by the Company of a notice as referred to in paragraph 3.4.2(b) above the Pledgor shall be entitled no longer to exercise its Voting Rights.

3.5 **Mergers**

3.5.1 **General**

It is the intention that after the date of this Deed a merger (*fusie*) ("**Merger**") between the Company (as acquiring entity (*verkrijgende rechtspersoon*)) and Sunward Acquisitions N.V., a public company with limited liability (*naamloze vennootschap*), incorporated under Dutch law, having its seat (*statutaire zetel*) at Amsterdam, The Netherlands, and its registered office at Amsteldijk 166, 1079 LH Amsterdam, The Netherlands and registered with the Dutch Commercial Register (*Handelsregister*) under number 33235711 ("**Sunward Acquisitions N.V.**") (as disappearing entity (*verdwijnende rechtspersoon*)) will be effected.

By notarial deed dated the fourteenth day of August two thousand nine executed before a deputy of dr. T.P. van Duuren, civil law notary *(notaris*) in Amsterdam, The Netherlands, with Mexcement Holdings S.A. de C.V., a company incorporated under the laws of Mexico, having its registered office at Avenida Constitución 444 Pte, C.P. 64000, Monterrey, Nuevo León, México, registered at the Registro Público de la Propiedad y del Comercio del Estado de Nuevo León in México under the number 5457, Volume 2, Book First (" **Mexcement Holdings S.A. de C.V.")**, Corporación Gouda S.A. de C.V., a company incorporated under the laws of Mexico, having its registered office at Avenida Constitución 444 pte, CP 64000 Monterrey, N.León, Mexico, registered with the Registro Publico de la Propiedad y de comercio del estado de Nuevo León te Monterray in Mexico under number 25012002-113 (" **Corporación Gouda S.A. de C.V.**"), Cemex International Finance Company, a company incorporated under the laws of the Republic of Ireland, having its registered office at 70 Sir John Rogerson's Quay, Dublin 2, The Republic of Ireland, registered with Companies Registration Office under number 226652 (" **Cemex International Finance Company**"), as pledgors, the Pledgee as pledgee and Sunward Acquisitions N.V. as company (the " **Existing Deed of Pledge I**"), amongst others, the shares in the capital of Sunward Acquisitions N.V. (the "**Shares Sunward**

Acquisitions N.V.") (together with Related Rights as defined therein) were pledged in favour of the Pledgee.

By notarial deed dated the fourteenth day of August two thousand nine executed before a deputy of dr. T.P. van Duuren, civil law notary *(notaris*) in Amsterdam, The Netherlands, with the Pledgor as pledgor, the Pledgee as pledgee and Sunward Acquisitions N.V. as company (the "**Existing Deed of Pledge II**"), amongst others, the shares in the capital of Sunward Acquisitions N.V. (together with Related Rights as defined therein) were pledged in favour of the Pledgee.

As a consequence of the Merger, the Pledgor and Cemex International Finance Company will acquire shares in the Company (the " **Newly Issued Shares**").

3.5.2 **Merger**

Upon the Merger having been effected, Corporación Gouda S.A. de C.V., Mexcement Holdings S.A. de C.V., the Pledgor and Cemex International Finance Company will become shareholders of the Company.

The parties acknowledge that pursuant to Article 2:319 paragraph 1 of the Dutch Civil Code the rights vested in favour of the Pledgee pursuant to the Existing Deed of Pledge I and the Existing Deed of Pledge II will by operation of law be vested in respect of the Newly Issued Shares and the Related Rights pertaining thereto as well as in respect of any (other) Future Shares acquired by Corporación Gouda S.A. de C.V., Mexcement Holdings S.A. de C.V., the Pledgor and Cemex International Finance Company (from time to time) and the Related Rights Pertaining thereto.

To the extent not already pledged by operation of law pursuant to Article 2:319 paragraph 1 of the Dutch Civil Code, the Pledgor hereby grants in advance (*bij voorbaat*) a right of pledge over the Newly Issued Shares and the Related Rights pertaining thereto, as well as all other Future Shares and the Related Rights pertaining thereto, which rights of pledge are hereby accepted by the Pledgee. The Pledgor hereby agrees and confirms to be bound as a pledgor to this Deed as if it had been a holder of (Present) Shares in the Company on the day of the execution of this Deed (thus, amongst others, on such date agreeing to the transfer of the Voting Rights attached to its shares and granting any and all powers of attorney on the terms and conditions set out in this Deed).

4. **DELIVERY OF DOCUMENTS**

On the date hereof, the Pledgor shall deliver to the Pledgee the following documents:

(a) an up-to-date excerpt of it from the Register of Commerce (*Handelsregister*);

(b) a certified copy of its current articles of incorporation (*Statuten*) evidencing in the object clause that it is empowered to enter into up-stream and cross-stream obligations;

(c) a photocopy of a unanimous resolution of its shareholders wherein the entry into this Deed and the granting of the Pledge as provided for hereunder is duly approved; and

(d) a photocopy of an unanimous resolution of its board of directors wherein the entry into this Deed and the granting of the Pledge as provided for hereunder is duly approved.

5. REPRESENTATIONS, WARRANTIES AND COVENANTS

5.1 Representations and warranties

5.1.1 The Pledgor hereby represents and warrants to the Pledgee that the following are true and correct on the date hereof and on each date on which Security Assets are acquired by the Pledgor:

(a) it is entitled to pledge the Security Assets as envisaged hereby;

(b) the right of pledge created hereby over the Security Assets is a first ranking right of pledge (*pandrecht eerste in rang*), the Security Assets have not been encumbered with limited rights (*beperkte rechten*) or otherwise and no attachment (*beslag*) on the Security Assets has been made; and

(c) the Security Assets have not been transferred, encumbered or attached in advance, nor has it agreed to such a transfer or encumbrance in advance.

5.2 Covenants

The Pledgor hereby covenants that it will:

(a) other than as explicitly permitted under the terms of the other Finance Secured Documents, not release, settle or subordinate any Related Rights without the Pledgee's prior written consent;

(b) at its own expense execute all such documents, exercise any right power or discretion exercisable, and perform and do all such acts and things as the Pledgee may request (acting reasonably) for creating, perfecting, protecting and/or enforcing the rights of pledge envisaged hereby;

(c) not pledge, otherwise encumber or transfer any of the Security Assets, whether or not in advance, or permit to subsist any kind of encumbrance other than as envisaged hereby or as explicitly permitted under the terms of the other Finance Secured Documents, or perform any act that may

harm the rights of the Pledgee, or permit to subsist any kind of attachment over the Security Assets;

(d) immediately inform the Pledgee in writing of any event or circumstance which may be of importance to the Pledgee for the preservation or exercise of the Pledgee's rights pursuant hereto and provide the Pledgee, upon its written request, with any other information in relation to the Security Assets or the pledge thereof as the Pledgee may request from time to time;

(e) immediately inform in writing persons such as a liquidator (*curator*) in bankruptcy (*faillissement*), an administrator (*bewindvoerder*) in a suspension of payment (*surseance van betaling*) or preliminary suspension of payment (*voorlopige surseance van betaling*) or a person making an attachment (*beslaglegger*), of the existence of the rights of the Pledgee pursuant hereto;

(f) not procure the issue of any shares in the capital of the Company or any Depository Receipts or rights to acquire the same, except to the extent explicitly permitted under the terms of the other Finance Secured Documents; and

(g) except as explicitly permitted under the terms of the other Finance Secured Documents, not vote on any of its Shares without the prior written consent of the Pledgee in favour of a proposal to (i) amend the Articles of Association, (ii) dissolve the Company (other than as a consequence of a Permitted Reorganisation (as defined in the Financing Agreement)), (iii) apply for the bankruptcy (*faillissement*) or a suspension of payments (*surseance van betaling*) or preliminary suspension of payments (*voorlopige surseance van betaling*) of the Company, (iv) convert (*omzetten*), merge (*fuseren*) or demerge (*splitsen*) the Company (other than as part of a Permitted Reorganisation (as defined in the Financing Agreement)) or (v) distribute Related Rights.

6. ENFORCEMENT

6.1 Without prejudice to the provision of Sub-clause 6.2 below, any failure to satisfy the Secured Obligations when due shall constitute a default (*verzuim*) in the performance of the Secured Obligations, without any reminder letter (*sommatie*) or notice of default (*ingebrekestelling*) being required.

6.2 Following, cumulatively:

(a) the occurrence of an Enforcement Event; and

(b) the Pledgee having been expressly instructed to take such enforcement action in writing by the Instructing Group or otherwise in accordance with the Intercreditor Agreement,

the Pledgee may enforce its rights of pledge and take recourse against the proceeds of enforcement.

6.3 The Pledgor shall not be entitled to request the court to determine that the Security Assets pledged pursuant hereto shall be sold in a manner deviating from the provisions of Article 3:250 of the Dutch Civil Code.

6.4 The Pledgee shall not be obliged to give notice to the Pledgor of any intention to sell the relevant pledged Security Assets (as provided in Article 3:249 of the Dutch Civil Code) or, if applicable, of the fact that it has sold the same Security Assets (as provided in Article 3:252 of the Dutch Civil Code).

6.5 All monies received or realised by the Pledgee in connection with the Security Assets shall be applied by the Pledgee in accordance with the relevant provisions of the Intercreditor Agreement, subject to the mandatory provisions of Dutch law on enforcement (*uitwinning*).

7. MISCELLANEOUS PROVISIONS

7.1 Waivers

7.1.1 To the fullest extent allowed by applicable law, the Pledgor waives (*doet afstand van*) any right it may have of first requiring the Pledgee to proceed against or claim payment from any other person or enforce any guarantee or security granted by any other person before exercising its rights pursuant hereto.

7.1.2 The Pledgor hereby irrevocably and unconditionally waives (*doet afstand van*) any rights it has under or pursuant to any Dutch law provisions for the protection of grantors of security for the debts of third parties, including, to the extent relevant, any rights it may have pursuant to Articles 3:233, 3:234 and 6:139 of the Dutch Civil Code, which waiver is hereby accepted by the Pledgee.

7.1.3 The Pledgor hereby irrevocably and unconditionally waives (*doet afstand van*), to the extent necessary in advance, any and all rights of recourse (*regres*) or subrogation (*subrogatie*) vis-à-vis any Debtor that it has or may obtain or acquire after the date of this Deed as a result of any enforcement action in respect of the rights of pledge granted under or in connection with this Deed (and, to the extent such waiver is not enforceable in whole or in part, any rights of recourse or subrogation to which it is or may become entitled under or pursuant to enforcement of any rights of pledge created under or pursuant to this Deed and hereby pledged to the Pledgee by way of a non disclosed pledge governed by the terms of this Deed), which waiver is hereby accepted by the Pledgee.

7.2 Evidence of indebtedness

An excerpt from the records of the Pledgee and/or Administrative Agent shall serve as conclusive evidence (*dwingend bewijs*) of the existence and the amounts of the Secured Obligations.

7.3 **Unenforceability**

The Pledgor and the Pledgee hereby agree that they will negotiate in good faith to replace any provision hereof that may be held unenforceable with a provision that is enforceable and which is as similar as possible in substance to the unenforceable provision.

7.4 **Power of attorney**

The Pledgor hereby grants an irrevocable power of attorney to the Pledgee to – following the occurrence of an Enforcement Event – act in the Pledgor's name and on its behalf, authorising the Pledgee to – following the occurrence of an Enforcement Event – execute all such documents and to perform and do all such acts and things as the Pledgee may deem necessary or useful in order to have the full benefit of the rights granted or to be granted to the Pledgee pursuant hereto, including (i) the exercise of any ancillary rights (*nevenrechten*) as well as any other rights it has in relation to the Security Assets and (ii) the performance of any obligations of the Pledgor hereunder, which authorisation permits the Pledgee to act or also act as the Pledgor's counterparty within the meaning of Article 3:68 of the Dutch Civil Code.

7.5 **Costs**

With respect to costs and expenses, Clause 19 (*Costs and Expenses*) of the Financing Agreement shall apply and the provisions thereof are incorporated herein by reference.

8. **TRANSFER**

8.1 **Power to transfer**

The Pledgee is entitled to transfer all or part of its rights and/or obligations pursuant hereto to any transferee and the Pledgor hereby in advance give its irrevocable consent to, and hereby in advance irrevocably co-operate with, any such transfer (within the meaning of Articles 6:156 and 6:159 of the Dutch Civil Code).

8.2 **Transfer of information**

Subject to the terms of the Financing Agreement and the Intercreditor Agreement, the Pledgee is entitled to impart any information concerning the Pledgor and/or the Security Assets to any transferee or proposed transferee.

9. **TERMINATION**

9.1 **Termination of pledge**

Unless terminated by operation of law, the Pledgee's rights of pledge created pursuant hereto shall be in full force and effect vis-à-vis the Pledgor until they

shall have terminated, in part or in whole, as described in Sub-clause 9.2 (*Termination by notice* (*opzegging*) *and waiver* (*afstand*)) below.

9.2 **Termination by notice (*opzegging*) and waiver (*afstand*)**

The Pledgee will be entitled to terminate by notice (*opzegging*), in part or in whole, the rights of pledge created pursuant hereto in respect of all or part of the Security Assets and/or all or part of the Secured Obligations. If and insofar as the purported effect of any such termination requires a waiver (*afstand van recht*) by the Pledgee, the Pledgor hereby in advance agree to such waiver. The Pledgee shall furthermore terminate by notice (*opzegging*) the rights of pledge created pursuant hereto in respect of all of the Security Assets on the Release Date.

10. **GOVERNING LAW AND JURISDICTION**

10.1 **Governing law**

This Deed is governed by and shall be interpreted in accordance with Dutch law.

10.2 **Jurisdiction**

Any disputes arising from or in connection with this Deed shall be submitted in first instance to the competent court in Amsterdam, The Netherlands, without prejudice to the Pledgee's right to submit any disputes to any other competent court in The Netherlands or in any other jurisdiction.

10.3 **Domicile (*woonplaats*)**

10.3.1 Pursuant to Article 1:15 of the Dutch Civil Code the Pledgor hereby designates the offices of the Company as its domicile (*woonplaats*) for service of process in any proceedings in connection with this Deed.

10.3.2 The designation provided for in paragraph 10.3.1 above shall be without prejudice to any other method of service of process permitted by law.

10.4 **Power of attorney**

If a party to this Deed is represented by an attorney or attorneys in connection with the execution of this Deed or any agreement or document pursuant hereto and the relevant power of attorney is expressed to be governed by Dutch law, such choice of law is hereby accepted by each other party, in accordance with Article 14 Hague Convention on the Law Applicable to Agency of the fourteenth day of March nineteen hundred and seventy-eight.

11. **THE COMPANY**

The Company:

(a) acknowledges the right of pledge created over the Security Assets;

(b) confirms that it has been notified of the right of pledge created over the Related Rights;

(c) undertakes to register in its shareholders' register:

(i) the right of pledge over the Shares;

(ii) the conditional transfer of Voting Rights to the Pledgee; and

(iii) that, upon the occurrence of an Enforcement Event and notice to the Company, as set out in more detail in this Deed, the Pledgee shall have the rights attributed by law to the holders of depository receipts issued with the company's co-operation (*rechten die door de wet zijn toegekend aan de houders van met medewerking ener vennootschap uitgegeven certificaten van aandelen*),

and to provide the Pledgee, as soon as practicable, with a copy of the relevant entries in its shareholders' register;

(d) represents and warrants that no Depository Receipts have been issued with respect to the Present Shares; and

(e) covenants that it shall not co-operate in the issue of any Depository Receipts or issue any shares, or rights to acquire shares, in the capital of the Company, except to the extent explicitly permitted under the terms of the other Finance Secured Documents.

12. **CIVIL LAW NOTARY**

Each of the parties to this Deed acknowledges that:

(a) Dr. T.P. van Duuren, civil law notary (*notaris*) in Amsterdam, The Netherlands, is a partner of Clifford Chance LLP; and

(b) Clifford Chance LLP acts as the Dutch legal adviser to the Pledgee and that Warendorf in Amsterdam, The Netherlands, acts as the Dutch legal adviser to the Pledgor and the Company in this transaction; and,

having consulted its legal advisers, confirms its agreement and accepts that dr. T.P. van Duuren, aforementioned, or one of his deputies (*kandidaat-notarissen*) shall execute this Deed and that this shall not prevent Clifford Chance LLP from continuing to act as Dutch legal adviser to the Pledgee.

Each person appearing before me is known to me, civil law notary and the identity of the persons appearing under 1 has been established by me, civil law notary, by means of a document intended for that purpose.

This deed, drawn up to be kept in the civil law notary's custody was executed in Amsterdam, The Netherlands, on the date first above written.

The contents of this deed were given and explained to the persons appearing before me, who then declared to have noted and approved the contents and not to require a full reading thereof. Thereupon, after limited reading, this deed was signed by the persons appearing before me and by me, civil law notary.

Signed.

/s/ dr. Thomas Pieter van Duuren

ISSUED AS A TRUE COPY

by dr. Thomas Pieter van Duuren.
civil law notary (*notari*) in Amsterdam.
on 4 September 2009.

Exhibit 4.41

[*TRANSLATION FOR INFORMATION PURPOSES ONLY*]

IRREVOCABLE SECURITY TRUST AGREEMENT IN RESPECT OF STOCK No. F/111388-5 (the "Agreement"), dated September 3, 2009, entered into by and among:

(1) Cemex, S.A.B. de C.V. ("Cemex SAB"), Empresas Tolteca de México, S.A. de C.V. ("Tolteca"), Impra Café, S.A. de C.V. ("Impra Cafe"), Interamerican Investments, Inc. ("Interamerican"), Cemex México, S.A. de C.V. ("Cemex Mexico"), and Centro Distribuidor de Cemento, S.A. de C.V. ("Cedice"), as settlors (each of Cemex SAB, Tolteca, Impra Cafe, Interamerican, Cemex Mexico and Cedice, a " Settlor" and, together, the "Settlors");

(2) Cemex Mexico, Cedice, Mexcement Holdings, S.A. de C.V. ("Mexcement") and Corporación Gouda, S.A. de C.V. ("Gouda"), as issuers (each of Cemex Mexico, Cedice, Mexcement and Gouda, in their respective capacities as issuers, an " Issuer" and, together, the "Issuers");

(3) Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria (the " Trustee"), a banking institution duly organized and validly existing pursuant to the laws of the United Mexican States (" Mexico"); and

(4) Wilmington Trust (London) Limited, on its own behalf and in its capacity as Security Agent (the " Beneficiary"), for the benefit of the Participating Creditors and, if applicable, the Refinancing Creditors (and their respective successors and assigns) and the other Secured Parties, a private limited company duly incorporated and validly existing under the laws of England and Wales,

pursuant to the following Preliminary Statements, Representations and Clauses.

PRELIMINARY STATEMENTS

WHEREAS, on August 14, 2009, Cemex SAB, as principal borrower, several direct and indirect subsidiaries of Cemex SAB, as borrowers, guarantors or security providers (together, the "Obligors"), the financial institutions identified therein, as

creditors (jointly with their permitted successors and assigns, the "Participating Creditors"), Citibank International plc, as administrative agent (the "Administrative Agent"), and the Beneficiary, as security agent, among others, entered into a Financing Agreement for the purpose of refinancing certain indebtedness of Cemex SAB and certain of the Obligors (the "Financing Agreement"). Attached hereto, as **Exhibit A**, is a copy of the Financing Agreement.

WHEREAS, on August 14, 2009, Cemex SAB, the Obligors, the Participating Creditors, the Administrative Agent and the Beneficiary, entered into an Intercreditor Agreement providing, among other things, for the exercise of rights in respect of collateral, the release of collateral, and the distribution of proceeds arising from the exercise of rights in respect of collateral among different creditor constituencies (the "Intercreditor Agreement"). Attached hereto, as **Exhibit B**, is a copy of the Intercreditor Agreement.

WHEREAS, under each of the Financing Agreement and the Intercreditor Agreement, Cemex SAB and the Obligors may refinance each of the Core Bank Facilities and the USPP Note (as both terms are defined in the Intercreditor Agreement), through the issuance of bonds, notes or other debt securities, or convertible or exchangeable securities, or through the incurrence of indebtedness under loan facilities (together, the "Refinancing Indebtedness" and creditors, of any nature, under the Refinancing Indebtedness, the "Refinancing Creditors").

WHEREAS, Cemex SAB has issued, on different dates, several tranches of *certificados bursátiles*, guaranteed, on a *por aval* basis, by each of Cemex Mexico and Tolteca, that are registered with the Mexican National Securities Registry and listed on the Mexican Stock Exchange, which are identified in **Exhibit C** hereto, and that are required to be secured pursuant to the terms hereof (the "Certificados Bursatiles"). Attached hereto, as **Exhibit D**, are copies of each of the securities evidencing the Certificados Bursatiles.

WHEREAS, New Sunward Holding Financial Ventures B.V. ("NSHFV") issued, on December 18, 2006, February 12, 2007 and May 9, 2007, certain callable perpetual dual currency notes, guaranteed by each of Cemex SAB, Cemex Mexico and New Sunward Holding B.V. ("NSH"), that are required to be secured pursuant to the terms hereof (the "Perpetual Securities"). Attached hereto, as **Exhibit E**, is a copy of the securities evidencing the Perpetual Securities.

WHEREAS, Cemex SAB issued, on October 1, 1999, US$200,000,000 9.625% Notes due 2009, that are required to be secured pursuant to the terms hereof (the "Cemex SAB Bonds"). Attached hereto, as **Exhibit F**, is a copy of the securities evidencing the Cemex SAB Bonds.

WHEREAS, Cemex SAB or any of its subsidiaries (the "Additional Obligors") may, from time to time, issue additional notes, *certificados bursátiles* (under programs approved on the date hereof or in the future), bonds or other debt securities, convertible or exchangeable securities, or borrow under loan facilities, the proceeds of which are applied to refinance the Certificados Bursatiles, the Perpetual Securities, the Cemex SAB Bonds, or existing Additional Indebtedness (as defined below), which are secured equally and ratably with other indebtedness of the Obligors under the terms provided for in the Financing Agreement, which are issued or, as the case may be, borrowed, after the date of the Financing Agreement by the Additional Obligors, and which are permitted to be issued or, as the case may be, borrowed, under the Financing Agreement (the "Additional Indebtedness").

WHEREAS, the Settlors desire to create a first lien, pursuant to the terms of this Agreement, with respect to the shares transferred in trust hereunder, ratably and equally, in favor of (i) the Participating Creditors, acting through the Beneficiary, the Beneficiary, the Administrative Agent, the Refinancing Creditors, the representative of the Participating Creditors and the representative of the Refinancing Creditors, (ii) the holders of the Certificados Bursatiles, acting through the *representante común* for each tranche of Certificados Bursatiles, (iii) the holders of the Perpetual Securities, acting through the trustee thereof, (iv) the holders of the Cemex SAB Bonds, acting through the trustee thereof, and (v) the holders of or creditors under Additional Indebtedness, acting through the applicable *representante común*, trustee, agent or creditor (together, the parties specified in (i), (ii), (iii), (iv) and (v) above, and any successors or assignees thereof, the "Secured Parties"), under the terms set forth herein, to secure the due and timely payment of any and all amounts payable by Cemex SAB and the Obligors under the Financing Agreement and any Refinancing Indebtedness, Cemex SAB, Cemex Mexico and Tolteca under the Certificados Bursatiles, Cemex SAB, NSHFV, Cemex Mexico and NSH under the Perpetual Securities, Cemex SAB under the Cemex SAB Bonds and any Additional Obligor under any Additional Indebtedness (the "Obligations").

Based upon the foregoing Preliminary Statements, each of the parties hereto hereby represents and agrees as follows:

REPRESENTATIONS

I. Each of the Settlors represents, on its own behalf and only in respect of itself, as of the date hereof that:

(a) it is a corporation duly organized and existing under the laws of its jurisdiction of incorporation, authorized to enter into this Agreement and to perform its obligations hereunder;

(b) it is the owner of the shares specified in **Exhibit G**, representing capital stock of the relevant Issuer, which are transferred in trust on the date hereof (together, the "Transferred Shares");

(c) it wishes to transfer in trust to the Trustee, pursuant to the terms of this Agreement, its respective Transferred Shares, in favor of each of the Secured Parties, to secure the due and timely performance of the Secured Obligations (as defined below);

(d) its respective Transferred Shares have been duly issued by the relevant Issuer, are fully paid, and are free from any lien, security interest, option or encumbrance, of any nature, except for what is set forth in this Agreement;

(e) this Agreement constitutes a legal, valid and binding obligation of the Settlor, enforceable against such Settlor in accordance with its terms, and is sufficient to transfer ownership of the Transferred Shares to the Trustee pursuant to the terms hereof;

(f) it has obtained all internal authorizations necessary to enter into, and to perform its obligations under, this Agreement, including any required authorizations from its shareholders or its board of directors, as applicable;

(g) its representatives are duly authorized to enter into, and bind it under, this Agreement, and such authority has not been limited, revoked or modified in any manner, as evidenced by the public deeds or other evidence of authority attached hereto as **Exhibit H**;

(h) it does not require any approval from any third party, including any governmental authority, for the execution and performance of this Agreement, except that, in the event of foreclosure hereunder, the purchaser or purchasers of any Transferred Shares may require the approval of each of the Mexican Competition Commission (*Comisión Federal de Competencia)* and the Mexican Foreign Investment Commission (*Comisión Nacional de Inversiones Extranjeras*);

(i) the entering into this Agreement and the performance of its obligations hereunder, do not contravene or result in any

breach or violation of any applicable law, rule or regulation, of any agreement, of any nature, to which it may be a party or under which it may be bound, or its bylaws or other constitutive documents in effect;

(j) it has not initiated, nor does it have knowledge that it has been initiated against it, any bankruptcy, insolvency, *concurso mercantil*, *quiebra* or similar proceeding under any applicable law;

(k) no legal action or proceeding has been initiated to which it is a party or of which it has been notified, or to its knowledge is intended to be initiated, before any court, governmental authority or arbitrator, of any nature (whether in Mexico or outside of Mexico), that could have a material adverse effect on the business or financial condition of the Settlor, on the rights of the corresponding Settlor with respect to the Transferred Shares, or on the validity, effectiveness or enforceability of this Agreement;

(l) by entering into this Agreement, it acknowledges the existence of the Secured Parties and their agents, and the capacity of the Beneficiary to act on its own behalf and for the benefit of the Participating Creditors and the Refinancing Creditors (as set forth in the Intercreditor Agreement), and to exercise any rights arising under the terms of this Agreement.

II. Each of the Issuers represents, on its own behalf and only in respect of itself, as of the date hereof that:

(a) it is a corporation duly organized and existing under the laws of Mexico, authorized to enter into this Agreement and to perform its obligations hereunder;

(b) the Transferred Shares issued thereby have been duly issued, are fully paid, and are free from any lien, security interest, option or encumbrance, of any nature, except for what is set forth in this Agreement;

(c) this Agreement constitutes a legal, valid and binding obligation of the Issuer, enforceable against such Issuer in accordance with its terms;

(d) it has obtained all internal authorizations necessary to enter into, and to perform its obligations under, this Agreement;

(e) its representatives are duly authorized to enter into, and bind it under, this Agreement, and such authority has not been limited, revoked or modified in any manner, as evidenced by the public deeds attached hereto as **Exhibit I**;

(f) it does not require any approval from any third party, including any governmental authority, for the execution and performance of this Agreement, except that, in the event of foreclosure hereunder, the purchaser or purchasers of any Transferred Shares may require the approval of each of the Mexican Competition Commission (*Comisión Federal de Competencia)* and the Mexican Foreign Investment Commission (*Comisión Nacional de Inversiones Extranjeras*);

(g) the entering into this Agreement and the performance of its obligations hereunder, do not contravene or result in any breach or violation of any applicable law, rule or regulation, of any agreement, of any nature, to which it may be a party or under which it may be bound, or its bylaws or other constitutive documents in effect;

(h) no legal action or proceeding has been initiated to which it is a party or of which it has been notified, or to its knowledge is intended to be initiated, before any court, governmental authority or arbitrator, of any nature (whether in Mexico or outside of Mexico), that could have a material adverse effect on the business or financial condition of the Issuer, on the rights of the corresponding Settlor with respect to the Transferred Shares or on the validity, effectiveness or enforceability of this Agreement.

III. The Trustee represents as of the date hereof that:

(a) it is a multiple banking institution (*institución de banca múltiple*) duly organized and existing under the laws of Mexico, authorized to enter into this Agreement and to perform its obligations hereunder;

(b) this Agreement constitutes a legal, valid and binding obligation of the Trustee, enforceable against the Trustee in accordance with its terms;

(c) it has obtained all internal authorizations necessary to enter into, and to perform its obligations under, this Agreement;

(d) its representatives (*delegados fiduciarios*) are duly authorized to enter into, and bind it under, this Agreement, and such authority has not been limited, revoked or modified in any manner, as evidenced by the public deeds attached hereto as **Exhibit J**;

(e) it does not require any approval from any third party, including any governmental authority, for the execution and performance of this Agreement, except that, in the event of foreclosure hereunder, the purchaser or purchasers of any Transferred Shares may require the approval of each of the

Mexican Competition Commission (*Comisión Federal de Competencia)* and the Mexican Foreign Investment Commission (*Comisión Nacional de Inversiones Extranjeras*);

(f) the entering into this Agreement and the performance of its obligations hereunder, do not contravene or result in any breach or violation of any applicable law, rule or regulation, of any agreement, of any nature, to which it may be a party or under which it may be bound, or its bylaws or other constitutive documents in effect;

(g) it agrees to act as trustee under this Agreement.

IV. The Beneficiary represents as of the date hereof that:

(a) it is a private limited company duly incorporated and existing under the laws of England and Wales, authorized to enter into this Agreement and to perform its obligations hereunder;

(b) its representatives are duly authorized to enter into, and bind it under, this Agreement, and such authority has not been limited, revoked or modified in any manner, as evidenced by the public deeds or other evidence of authority attached hereto as **Exhibit K**;

(c) it does not require any approval from any third party, including any governmental authority, for the execution and performance of this Agreement, except that, in the event of foreclosure hereunder, the purchaser or purchasers of any Transferred Shares may require the approval of each of the Mexican Competition Commission (*Comisión Federal de Competencia)* and the Mexican Foreign Investment Commission (*Comisión Nacional de Inversiones Extranjeras*);

(d) it is entering into this Agreement on its own behalf and for the benefit of the Participating Creditors and, if applicable, the Refinancing Creditors (and their respective successors and assigns) and the other Secured Parties, pursuant to the Financing Agreement and the Intercreditor Agreement.

IN WITNESS WHEREOF, the parties hereto agree to the following:

CLAUSES

FIRST. Creation of the Trust; Subsequent Transfers. (a) Each of the Settlors hereby creates this irrevocable security trust with the Trustee, identified with number F/111388-5, by transferring to the Trustee ownership of the Transferred Shares, which shall be subject to the terms set forth in this Agreement

until the Termination Date (as defined below) or as otherwise provided herein, as security for the due, full and timely satisfaction of (i) any and all of the Obligations, (ii) any and all of the amounts payable by the Settlors pursuant to the terms of this Agreement, and (iii) any and all fees, costs and expenses incurred, paid or disbursed by the Beneficiary, the Secured Creditors or their respective agents, if any, upon exercise of their respective rights set forth herein ((i), (ii) and (iii), jointly, the "Secured Obligations"). The Trustee hereby acquires and receives the Transferred Shares and the execution of this Agreement constitutes evidence of receipt of such Transferred Shares by the Trustee.

(b) Each of the Settlors hereby agrees to transfer to the Trustee, and to cause any third party controlled by Cemex SAB, directly or indirectly, to transfer to the Trustee, within five (5) business days counted from the date of acquisition thereof, by any means, any additional shares issued by any Issuer that any of the Settlors or such controlled third party may acquire, by subscription and payment or otherwise (the " Additional Shares"), pursuant to the procedure specified in this Clause First. For purposes of this Agreement, the term "business days" shall mean any day which is not a Saturday or Sunday, on which banking institutions are authorized to open and carry out operations with the general public in Mexico, in conformity with the calendar issued and updated from time to time by the National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*).

(c) The representations made by each of the Settlors in this Agreement, shall be deemed repeated by the relevant Settlor or a third party on each of the dates on which such Settlor or any third party transfers Additional Shares in trust pursuant to the terms of this Agreement, *mutatis mutandi*, in respect of such Additional Shares.

(d) The transfer of ownership by each Settlor to the Trustee of the Transferred Shares it owns, shall be undertaken as follows:

(1) each Settlor shall transfer in trust the Transferred Shares by means of (i) delivering to the Trustee any and all certificates evidencing the Transferred Shares, duly endorsed in property (*endoso en propiedad*) to the Trustee, and (ii) causing the relevant Issuer's secretary of the board of directors, to make a notation in the stock registry book of the relevant Issuer, specifying that the relevant Transferred Shares have been transferred to the Trustee pursuant to the terms of this Agreement, and delivering a certificate of the relevant secretary of the board of directors of the relevant Issuer to such effect, issued in favor of the Trustee and for the benefit of the Secured Parties; and

(2) each of the Settlors shall transfer to the Trustee, and agrees to cause any applicable third party to transfer to the Trustee, pursuant to this Agreement (and in particular, this Clause First), any Additional Shares any of them may acquire.

(e) The Trustee hereby acknowledges the due receipt of the Transferred Shares, as set forth in Clause First, (d)(1) above, having received the relevant certificates to its satisfaction, and agrees to hold the Transferred Shares in trust, pursuant to the terms hereof, as part of the, and jointly with other, Trust Assets (as hereinafter defined), for the benefit of the Beneficiary and the Secured Parties, to secure performance of the Secured Obligations and, upon the occurrence of the Termination Date, to the extent any Trust Assets shall remain on such Date, for the benefit of, and the reversion to, the corresponding Settlor pursuant to the terms and conditions hereof and following the instructions of such Settlor, and at such Settlor's own expense.

(f) With respect to any Transferred Shares or Additional Shares transferred to the Trustee pursuant to this Agreement, the Settlor or third party transferring the applicable Transferred Shares or Additional Shares, shall be liable for (i) any claims of property rights made by any third party (*saneamiento para el caso de evicción*), and (ii) any hidden defects (*vicios ocultos*).

(g) Without any responsibility, of any nature whatsoever, arising to the Trustee, the Beneficiary or any of the Secured Parties, each of the Settlors hereby states, in its capacity as second beneficiary pursuant to this Agreement, that (i) such Settlor reserves, upon the occurrence of the Termination Date, to the extent any Trust Assets shall remain on such Date, the right to reacquire the Transferred Shares and any Additional Shares, for purposes of applicable tax law, and (ii) the transfer and delivery of the Transferred Shares and any Additional Shares to the Trustee does not result in the payment of any income taxes arising from the transfer of the Transferred Shares and any Additional Shares set forth in this Agreement, in accordance with Article 14 of the Mexican Federal Fiscal Code (*Código Fiscal de la Federación)*, because the corresponding Settlor has the right to reacquire the Transferred Shares and any Additional Shares (to the extent remaining), upon the occurrence of the Termination Date. Each Settlor agrees, for the benefit of the Secured Parties and with the Trustee's knowledge, that the provisions of this paragraph do not contravene the irrevocability provision set forth in Clause Fourteenth of this Agreement.

(h) Within ten (10) business days counted from the date hereof, the Trustee, pursuant to the instructions of the Beneficiary (which are hereby given, without any separate instruction being required), if necessary with the assistance of Cemex SAB, agrees to notify the *representante común* of each tranche of Certificados Bursatiles, the trustee acting for the holders of the Perpetual Securities and the trustee acting for the holders of the Cemex SAB Bonds, of the creation of the trust set forth in this Agreement and the rights arising therefrom for holders of Certificados Bursatiles, Perpetual Securities and Cemex SAB Bonds.

SECOND. Parties to the Agreement. (a) The parties to this Agreement are the following:

Settlors and second beneficiaries:	Cemex SAB, Tolteca, Impra Cafe, Interamerican, Cemex Mexico and Cedice, and any other party that transfers Transferred Shares or Additional Shares in trust pursuant to the terms of this Agreement;
Trustee:	Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria;
Beneficiary:	Wilmington Trust (London) Limited, on its own behalf and on behalf of the Participating Creditors and the Refinancing Creditors, for the benefit of the Participating Creditors and the Refinancing Creditors and, to the extent set forth herein, each of the other Secured Parties shall also be beneficiaries hereunder, provided that none of the Secured Parties different from the Beneficiary, acting for the Participating Creditors and, as specified in the Intercreditor Agreement, acting for the Refinancing Creditors, shall have the right to enforce any of its rights arising hereunder, but shall be entitled to receive its pro-rata portion of the proceeds from foreclosure, upon exercise of rights by the Beneficiary as set forth herein and pursuant to the terms of the Intercreditor Agreement.

(b) The Settlors shall be beneficiaries in second place and each of them shall be entitled, on the Termination Date, to all of a portion of the Trust Assets that shall remain on the Termination Date.

(c) The successors, assigns and/or the parties replacing the Trustee, any Settlor, the Beneficiary, the Participating Creditors, the Refinancing Creditors or any other of the Secured Parties, as the case may be, pursuant to the terms hereof and of the Financing Agreement, the Intercreditor Agreement, the Refinancing Indebtedness, the Certificados Bursatiles, the Perpetual Securities, the Cemex SAB Bonds and any Additional Indebtedness, shall be deemed as the "Trustee", a "Settlor", the "Beneficiary", the "Participating Creditors", the "Refinancing Creditors" and the "Secured Parties," respectively, for purposes of this Agreement.

(d) By entering into this Agreement, the Trustee (i) agrees to faithfully and loyally perform its obligations as trustee pursuant to the provisions set forth in this Agreement, and in accordance with applicable law, (ii) acknowledges and accepts title and ownership of the Transferred Shares and, if applicable, the Additional Shares, to satisfy the purposes of the trust created hereunder, and (iii) shall be deemed to have delivered to the Settlors an acknowledgement of receipt in respect to the Transferred Shares, that shall also serve as the inventory of the Trust Assets, pursuant to what is set forth in Rule 5.1 of Circular 1/2005, issued by the Mexican Central Bank (*Banco de México*), as modified from time to time (the "Circular 1/2005").

THIRD. Purposes of this Trust. The purposes of the trust created hereby and the Trustee's obligations are:

(a) that the Trustee receive in trust ownership and maintain as collateral the Trust Assets during the effectiveness of this Agreement, as provided hereunder and under the Financing Agreement and the Intercreditor Agreement, until the earlier to occur of (i) full and final discharge of the obligations of the Participating Creditors to the satisfaction of the Administrative Agent (acting reasonably) as set forth in the Financing Agreement, (ii) release of the Trust Assets, pursuant to the terms of the Intercreditor Agreement, on the Business Day following the date on which (1) the Base Currency Amount of the Exposures of the Participating Creditors under the Facilities has, since the Reference Date, been reduced by an aggregate amount equal to at least forty one point four percent (41.4%) of the aggregate Exposures of the Participating Creditors under the Facilities as at the Reference Date (as each capitalized term is defined in the Financing Agreement), (2) the Consolidated Leverage Ratio for any Reference Period in respect of which a Compliance Certificate has been (or is required to have been) delivered under the Financing Agreement (as each capitalized term is defined therein) was not greater than 3.50:1, and (3) no

Default is continuing (as the capitalized term is defined in the Financing Agreement), or (iii) other termination as permitted under Clause Fourteenth hereof (such earlier date, the "Termination Date");

(b) that the Trust Assets secure the Secured Obligations and, as set forth in this Agreement, that the Trustee, upon the occurrence of an Enforcement Event (as defined in the Intercreditor Agreement; hereinafter, an "Enforcement Event"), sell such Trust Assets, and the proceeds of such sale be applied to the payment of the Secured Obligations, as provided in this Agreement and the Intercreditor Agreement;

(c) that the Trustee re-convey the Trusts Assets that shall then remain under this Agreement to the Settlors as it may correspond, immediately after the Termination Date, by transferring the corresponding Transferred Shares or Additional Shares, as the case may be, according to the instructions and at the expense of the relevant Settlor, including by means of an endorsement in ownership and delivery of the necessary certificates;

(d) that the Trustee maintain the Trust Assets, exercise, or allow the exercise, of the rights pertaining thereto, as set forth in Clause Fifth, and act as a good *pater familias* (*buen padre de familia*) in respect of the Trust Assets; it being understood that, should the Trustee have any doubt regarding the exercise of such rights, it must request instructions from both the Settlors and the Beneficiary or from any of the Settlors or the Beneficiary, as may be applicable, as set forth in this Agreement (and, in particular, Clause Eighth) or, upon the occurrence of an Enforcement Event, solely from the Beneficiary (unless an emergency arises, in which case the Trustee shall act as a good *pater familias* (*buen padre de familia*) pursuant to its discretion, using its judgment and without any responsibility to the Trustee, except if the Trustee shall have acted with fraud, negligence or bad faith (*dolo, negligencia o mala fe*)).

(e) that, in the event the Trust Assets or a portion thereof be represented by cash, the Trustee invest such cash in Certificates of the Treasury of the Federation (*Certificados de la Tesorería de la Federación* or *Cetes*) (or if not available, any other instrument issued by the Mexican government), whether purchased in a primary offering or in the secondary market or, if so instructed by the Settlors and the Beneficiary, in any other instruments, as permitted under applicable law regulating the investment of trust assets (including Circular 1/2005), upon the occurrence of an Enforcement Event, in any instrument specified by the Beneficiary, and upon the occurrence of the Termination Date, in any instrument specified by the Settlors (to the extent any Trust Assets shall remain on such Date), it being understood that (i) the Trustee is authorized, for such purposes, to open

any necessary bank or investment accounts and undertake all action to enter into the necessary agreements, all as instructed by the Settlors and the Beneficiary, and (ii) if any dividends or other distributions shall be received by the Trustee pursuant to Clause Fifth (b) hereof, and the Settlors (as opposed to the Beneficiary) shall be entitled to receive such dividends or distributions as therein set forth, then the Trustee shall invest or deliver the applicable amounts received as distributions, solely as instructed by the Settlors;

(f) that the Trustee enter into the necessary agreements or instruments, and undertake any other action that may be deemed necessary, to create, maintain and manage the trust created pursuant to the terms of this Agreement and to manage the Trust Assets, as instructed by the Beneficiary or, when expressly agreed, the Settlors;

(g) that the Trustee perform its remaining obligations contemplated by this Agreement, duly and promptly;

(h) that the Trustee perform any and all action entrusted to it hereunder (including, without limitation, the execution of the necessary agreements or receiving or granting any power-of-attorney), pursuant to this Clause Third or any other Clause of this Agreement, implicitly arising from the terms hereof or resulting from applicable law.

FOURTH. Trust Assets. The Trust Assets shall be comprised of the following:

(a) the Transferred Shares transferred by each Settlor, as set forth in Clause First hereof;

(b) any Additional Shares or other assets, if applicable, transferred to the trust created hereunder by the Settlors or by any other third party controlled, directly or indirectly, by Cemex SAB;

(c) any ancillary rights related to the Transferred Shares, any Additional Shares and any other assets transferred in trust hereunder;

(d) except for dividends or other distributions to which the Settlors shall be entitled as provided in Clause Fifth (b) hereof, any income and proceeds relating to the Transferred Shares, the Additional Shares or any other assets transferred in trust hereunder;

(e) except for dividends and other distributions to which the Settlors shall be entitled as provided in Clause Fifth (b) hereof, any distributions or proceeds, of any nature, made or received with respect to the Transferred Shares, any Additional Shares and any other assets transferred in trust hereunder;

(f) any instruments or securities, of any nature, acquired with the Trust Assets and income or proceeds resulting from such Trust Assets;

(g) any certificates issued in substitution of, for any reason, the Transferred Shares or any Additional Shares;

(h) the rights pertaining to the Transferred Shares, any Additional Shares and any other assets transferred in trust hereunder, as set forth, and subject to the limitations specified, in Clause Fifth;

(i) any other assets, property or rights that, for any reason or under any legal circumstance, become a part of the Trust Assets.

FIFTH. Certain Rights and Obligations of the Settlors . The parties hereto hereby confirm that, so long no Enforcement Event has occurred, the Settlors are beneficially entitled to voting rights and to dividend rights, in accordance with the terms of paragraphs (a) and (b) below.

(a) Voting and Subscription Rights. (1) The parties agree that, so long as no Enforcement Event has occurred, each of the Settlors shall be entitled (i) to provide the Trustee with written instructions in respect of how to vote the Transferred Shares or the Additional Shares in terms of this Clause Fifth or (ii) to cause the Trustee to provide proxies permitting the voting of any such Transferred Shares or Additional Shares, except upon the occurrence of an Enforcement Event, in which case, each of the Settlors hereby agrees that the voting rights pertaining to the Transferred Shares and the Additional Shares, shall be exercised by the Trustee, as instructed by the Beneficiary.

(2) Should a Settlor exercise the option specified in paragraph (a)(1)(ii) above, for purposes of allowing the relevant Settlor to exercise the voting rights attributable to the Transferred Shares and the Additional Shares, the Trustee shall deliver to such Settlor, any certificates, proxies or documents that are reasonably requested in writing by such Settlor, and in the form and manner so requested, so long as (i) such certificates, proxies or documents have been requested in a timely manner with respect to shareholders' meetings and, in any case, at least three (3) business days in advance of the date on

which such meeting is scheduled to occur, (ii) no Enforcement Event has occurred, and (iii) all related expenses are covered by the relevant Settlor.

(3) In connection with the exercise of the voting rights corresponding to the Transferred Shares or the Additional Shares, as permitted under paragraph (a)(1)(ii) above, each of the Settlors hereby agrees that it may not exercise, and it shall cause any third party that is controlled, directly or indirectly, by Cemex SAB, not to exercise, such voting rights in any manner (i) that is contrary to the provisions of the Financing Agreement or the Intercreditor Agreement, or (ii) that is detrimental to, or otherwise affects, the rights of the Beneficiary or the Secured Parties set forth herein, in the Financing Agreement or in the Intercreditor Agreement.

(4) In the event that the Trustee, as holder of the Transferred Shares or the Additional Shares as set forth herein, shall be entitled to exercise preemptive rights attributable to the Transferred Shares and the Additional Shares, in connection with any new stock issued, or proposed to be issued, by the relevant Issuer, the Trustee shall exercise such rights, so long as (i) written instructions shall have been provided to the Trustee by the corresponding Settlor (who shall benefit from the relevant shares upon reversion hereunder), at least three (3) business days prior to the date on which the term to exercise the subscription rights shall expire, and (ii) the corresponding Settlor shall have provided the Trustee with the necessary immediately available funds, if funds are required for the exercise of the rights, at least two (2) business day before such date. The Trustee shall be released from any liability with respect to the corresponding Settlor, if written instructions or funds are not timely provided by such Settlor. The parties agree that any Additional Shares acquired by the Trustee under this paragraph (a)(3), shall be subject to the terms of this Agreement and shall be considered as Additional Shares for purposes hereof.

(b) Distributions. (1) The parties agree that, so long as no Enforcement Event has occurred, each of the Settlors shall be entitled to receive from the Trustee dividends or other distributions in cash, payable by the relevant Issuer with respect to the Transferred Shares and the Additional Shares, which shall be paid, upon effective receipt, by the Trustee to the relevant Settlor, by delivery of the applicable amount as it

may correspond; should an Enforcement Event occur, such cash distributions shall become part of the Trust Assets subject to the terms of this Agreement.

(2) All dividends or distributions made with respect to the Transferred Shares and the Additional Shares in kind (by means of Additional Shares or any other means) shall become part of the Trust Assets subject to the terms of this Agreement.

(c) Formalization. Each of the parties hereto hereby agrees that, no later than on the fifth business day following the date of execution hereof, each such party shall appear before a notary public or a commercial notary public (*corredor público*) selected by the Trustee, to formalize this Agreement.

SIXTH. Certain Obligations of the Settlors. Until the Termination Date, and except if expressly authorized in writing by the Beneficiary, each of the Settlors hereby agrees to:

(a) inform the Beneficiary and the Trustee immediately, of any development or event that has had or could reasonably be expected to have, a material adverse effect in respect of the Trust Assets, this Agreement or its obligations hereunder;

(b) execute and deliver all documents or instruments, and undertake any action, that may be necessary, based upon the reasonable judgment of the Trustee or the Beneficiary, to maintain in full force and effect the true transfer arising from this Agreement, or to permit the Trustee or the Beneficiary, as applicable, to exercise any of their respective rights pursuant to this Agreement;

(c) refrain from creating or permitting the creation of any liens or limitations of rights with respect to the Trust Assets; and

(d) immediately transfer in trust to the Trustee, any Additional Shares that it may own, from time to time, pursuant to the terms of this Agreement and, in particular, Clause First.

SEVENTH. Action Upon Occurrence of an Enforcement Event.

(a) Sale of Shares. If an Enforcement Event shall occur, the Beneficiary, if the requirements set forth in the Intercreditor Agreement shall have been satisfied, shall have the right to instruct the Trustee to start an extrajudicial foreclosure proceeding, to sell the Transferred Shares and any Additional Shares (and any other Trust Assets that may be sold),

in accordance with the following paragraphs, agreed upon by the Settlors and the Beneficiary, based upon Article 83 of the Law of Credit Institutions (*Ley de Instituciones de Crédito*) and Article 403 of the General Law of Negotiable Instruments and Credit Transactions (*Ley General de Títulos y Operaciones de Crédito*):

(1) if the Trustee receives a sale instruction from the Beneficiary (a copy of which shall be delivered to the representative of the Settlors appointed hereunder), in terms of the form of sale instruction attached hereto as **Exhibit L** (hereinafter, the "Sale Instruction"), by means of which the Beneficiary requests the Trustee to sell the Transferred Shares, any Additional Shares and other assets comprising the Trust Assets, to satisfy the Secured Obligations, because of the occurrence of an Enforcement Event, the Trustee shall proceed to sell such Trust Assets as provided below. The Sale Instruction shall include, as an attachment, a copy of this Agreement, certified by a notary public or a commercial notary public (*corredor público*), shall include the description supporting the occurrence of an Enforcement Event in accordance with the provisions of the Intercreditor Agreement, and shall include the amounts due and payable to the Secured Parties or a statement setting forth that the Settlors have not complied with their respective payment obligations hereunder;

(2) the Trustee shall give notice of the Sale Instruction to the representative of the Settlors, as instructed by the Beneficiary, to the address in Mexico indicated herein, by personal delivery, during business days and hours, through any of its officers or through a notary public or commercial notary public (*corredor público*), not later than three (3) Business Days after receipt of the Sale Instruction;

(3) the Settlors shall have ten (10) business days, counted from the date on which the notice from the Trustee specified in paragraph (a)(2) above shall have been received, to oppose the sale as set forth above;

(4) the Settlors may only oppose such sale if the Settlors deliver to the Trustee evidence of payment issued and duly executed by the Beneficiary, of the obligations of the Obligors under the Financing Agreement vis-à-vis the Participating Creditors or of the payment obligations of the Settlors hereunder; it being understood that the Trustee may request the Beneficiary to provide a written confirmation as to whether such obligations have been complied with;

(5) in the event that the Settlors fail to prove, pursuant to paragraph (a)(4) above, that the Settlors have complied with their obligations arising from the Financing Agreement or hereunder, as the case may be, the Trustee, upon written instructions given by the Beneficiary, shall immediately proceed to sell the Trust Assets as set forth in this Clause;

(6) the Beneficiary may, at any time, by notifying the Trustee in writing, instruct the Trustee to suspend, totally or partially, on the date and time on which such instructions are received by the Trustee, the extrajudicial foreclosure proceeding commenced in accordance with this Clause Seventh; provided that such notice shall cease to have effect, totally or partially, on the date and time on which the Trustee receives in writing from the Beneficiary, a new instruction by means of which the Beneficiary requests the Trustee to continue, totally or partially, with the extrajudicial foreclosure relating to the Trust Assets;

(7) the foreclosure shall be made by the Trustee, by means of an auction to be held in a location chosen by the Trustee. The Trustee with the aid of the Advisor (as such term is defined below), shall make a survey of potential bidders, and shall solicit potential bidders, whether arising from the survey or not, their participation in the auction. To the extent deemed necessary by the Beneficiary, the Advisor shall be in charge of preparing and distributing, or causing a third party to prepare and distribute, as instructed by the Beneficiary, at the Settlors' expense and as promptly as reasonably practicable, a confidential information memorandum (the " Information Memorandum"), to be delivered to such potential bidders that have expressed an interest in purchasing the Trust Assets. The Information Memorandum shall contain, among other things, a description of the business of the Issuers, and an analysis of the Issuers' financial condition and results of operations (including audited financial statements of each Issuer for the last three (3) fiscal years, if available). The Information Memorandum or any other necessary document shall advise potential bidders of the amount each such potential bidder shall post through a certificate of deposit or certified check issued in favor of the Trustee, to guarantee the seriousness of their potential proposal, should any such potential bidder seek to participate in the auction;

(8) each of the Settlors and the Issuers agree to produce and deliver to the Trustee, the Advisor and the Beneficiary, such information related to the Issuers (legal, financial or otherwise), reasonably requested by the Advisor or the Beneficiary, necessary or desirable to prepare the Information Memorandum or for the purposes of this Agreement and any other documentation related to the Issuers (legal, financial or otherwise) that the Advisor or the Beneficiary reasonably consider that a potential bidder may require to make an informed offer;

(9) after the Trustee has distributed the Information Memorandum to potential bidders, if necessary, or after the Trustee shall have delivered any information deemed necessary to potential bidders, the Trustee shall advise such bidders of the place, date and time selected for the auction (the "Auction Notice"), which date shall not exceed thirty (30) days counted from the date the Information Memorandum or other information was distributed to all prospective bidders, and such date in no event shall exceed forty five (45) days from the date the Information Memorandum or other information was distributed to the first prospective bidder;

(10) the participating bidders shall deliver their offers in writing and in a sealed envelope to the Trustee, no later than on the date and time established in the Auction Notice, together with a certificate of deposit issued by a banking institution or a certified check issued in favor of the Trustee in the amount determined by the Trustee (after consulting with the Beneficiary) to guarantee the seriousness of their proposal;

(11) the Trustee shall open the envelopes in the presence of the bidders, their representatives and a notary public or a commercial notary public (*corredor público*), on the date and time of the auction; the Trustee shall have ten (10) business days after such envelopes shall have been opened (or a longer period, if it was not possible to sell the Trust Assets within such period, as a result of any event, including failure to receive any necessary regulatory approvals), if so requested by the Beneficiary, to sell the Trust Assets to the bidder that submitted the highest offer;

(12) the winning bidder shall pay to the Trustee the offered price within the number of business days following the date of the auction indicated by the Trustee, after consulting with the Beneficiary;

(13) in the event that the bidder who made the highest bid fails to pay the price within the term specified, the deposit made or delivered certified check thereby shall inure to the benefit of the Beneficiary, who shall apply it to repay the amounts owed in respect of the Secured Obligations, as provided in this Clause;

(14) upon expiration of the term referred to in the preceding paragraph without the proposed purchase price being paid, the Trustee shall clearly notify the bidder who offered the second highest price (within the following twenty (20) business days); if such bidder maintains its initial offer, it shall be granted a period of time within which to pay the purchase price to the Trustee, if requested by the Beneficiary; if the second highest bidder does not maintain its offer, the Trustee may continue contacting all bidders in the order of higher to lower offers, following the procedure specified above, unless the Beneficiary shall object;

(15) if the sale may not be made to any of the bidders, the Trustee, with the consent of the Beneficiary, shall undertake a new auction following substantially the foregoing steps, until the sale of the Trust Assets is completed.

(b) Application of Sale Proceeds. The proceeds from any sale of the Trust Assets (including any Transferred Shares and Additional Shares), shall be delivered to the Trustee, who shall proceed as instructed by the Beneficiary pursuant to the Intercreditor Agreement, provided that the following order of application shall be followed:

(1) to the payment of any and all taxes due by any of the Settlors, as a result of the sale of the Trust Assets, if such taxes shall have not been paid by the corresponding Settlor;

(2) to the payment of expenses and fees incurred in connection with the sale of the Trust Assets, including, without limitation, any expenses or fees charged or incurred by the Trustee or the Beneficiary, if any such expenses or fees shall have not been paid by the Settlors;

(3) to the payment of the Trustee's fees, if such fees shall have not been paid by the Settlors;

(4) to the payment, on a pro-rata basis, of any and all outstanding Secured Obligations, for which purpose the amounts requested by the Beneficiary shall be delivered thereto, so that the Beneficiary may apply such amounts or cause such amounts to be applied, in the order specified in Clause 9.1 of the Intercreditor Agreement; and

(5) upon payment of the foregoing items, any remaining amounts shall be delivered pursuant to the instructions of the Settlors or, absent such instructions, as ordered by a court of competent jurisdiction.

(c) Conversion. As the Secured Obligations payable by the Settlors are mainly monetary obligations denominated in dollars of the United States of America, to the extent necessary to pay the applicable dollar-denominated Secured Obligations, the amounts received in pesos from the sale of the Trust Assets referred to in this Clause Seventh, shall be converted into dollars of the United States of America by the Trustee, to the extent necessary and as instructed by the Beneficiary, at the most favorable rate provided by Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, or BBVA Bancomer, S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer, or any successor thereof, and in case such rate is not provided to the Trustee by the aforementioned institutions, as it shall be obtained from an institution chosen by the Beneficiary, which amounts so converted shall be applied by the Trustee, up to the resulting converted amount, to the payment of the dollar-denominated Secured Obligations and other items (in such order) described above.

(d) Advisor. Upon agreement with the Beneficiary, the Trustee shall appoint a third party (the "Advisor"), which shall be a reputable credit institution or financial advisor institution, to organize and coordinate the bidding process contemplated herein and to prepare all relevant documentation, provided that (i) the Beneficiary may, at any time, remove or replace the Advisor (if appointed), with or without cause, and (ii) there shall not exist a labor relationship between the Trustee and the Beneficiary.

(e) Substitution of the Advisor. Should the Advisor, for any reason, not be able to perform its obligations under this Agreement, the parties hereto agree that the Trustee, after having so agreed with the Beneficiary and only in that case, shall appoint a new advisor, whom shall adhere to the terms of this Agreement, and whom shall be deemed as the "Advisor" starting from the date of the appointment; it being understood that (i) such appointment shall be made to a reputable institution capable of performing such duties, and (ii) the

Advisor shall not cease to perform its duties until a new advisor accepts its designation as such under the terms provided in this Agreement.

(f) Fees and expenses of the Advisor . The Settlors, on a joint and several basis, agree to pay the Advisor its reasonable fees.

As required under Article 403 of the General Law of Negotiable Instruments and Credit Transactions (*Ley General de Títulos y Operaciones de Crédito*), each of the Settlors expressly agrees the extrajudicial foreclosure proceeding set forth in this Clause Seventh, by signing below to so evidence:

The Settlors:

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

Por: Agustín de Jesús Blanco Garza
Cargo: Apoderado

Por: Roger Saldaña Madero
Cargo: Apoderado

Empresas Tolteca de México, S.A. de C.V.

Por: Agustín de Jesús Blanco Garza
Cargo: Apoderado

Por: Roger Saldaña Madero
Cargo: Apoderado

Impra Café, S.A. de C.V.

Por: Agustín de Jesús Blanco Garza
Cargo: Apoderado

Por: Roger Saldaña Madero
Cargo: Apoderado

Interamerican Investments, Inc.

Por: Agustín de Jesús Blanco Garza
Cargo: Apoderado

Por: Roger Saldaña Madero
Cargo: Apoderado

Cemex México, S.A. de C.V.

Por: Agustín de Jesús Blanco Garza
Cargo: Apoderado

Por: Roger Saldaña Madero
Cargo: Apoderado

Centro Distribuidor de Cemento, S.A. de C.V.

Por: Agustín de Jesús Blanco Garza
Cargo: Apoderado

Por: Roger Saldaña Madero
Cargo: Apoderado

EIGHTH. Obligations and Scope of Trustee's Liability; Protection of the Trust Assets. (a) The Trustee agrees to manage the Trust Assets, to comply with its obligations and to exercise its rights hereunder, pursuant to the terms hereof and according to applicable law, and using the highest standard of care contemplated under Mexican law, and agrees not to take any action and not to omit to take any action, that would result in the Trustee not complying with such obligations.

(b) The parties hereto hereby agree that the Trustee shall not be liable for any action or omission of the other parties to this Agreement or of any third party that may result in an impossibility to satisfy the purposes set forth in this Agreement.

(c) Any Secured Obligation (or other obligations applicable to the Trustee pursuant to the terms hereof) shall be satisfied up to the amount of the Trust Assets. Should the Trust Assets be insufficient to satisfy the Secured Obligations, the Trustee shall have no responsibility to make any contributions under this Agreement or to pay the Secured Obligations, but shall be obligated to notify each of the Beneficiary and the Settlors of the existence of any insufficiency.

(d) Each of the Settlors and the Issuers shall notify immediately, in writing, the Trustee and the Beneficiary, of any development or event that has had or could reasonably be expected to have a material adverse effect in respect of the Trust Assets, this Agreement or the respective obligations of the Settlors hereunder, so that the Trustee may defend the Trust Assets pursuant to paragraph (g) below.

(e) The Trustee shall inform each of the Settlors and the Beneficiary, of any threat to the Trust Assets or of any Enforcement Event it has knowledge of, it being understood that the Trustee shall not be required to investigate the existence thereof.

(f) The parties hereto hereby agree that any instructions or notices to be delivered to the Trustee hereunder, shall be in writing.

(g) The Trustee shall have the obligation to grant, to the persons or entities specified in writing by the Settlors and the Beneficiary, the necessary powers-of-attorney to defend the Trust Assets. In the event that the Settlors and the Beneficiary have not designated a person or entity to defend the Trust Assets pursuant to the foregoing terms, and it is likely that such lack of defense shall have a material adverse effect on the Trust Assets, the Trustee shall grant the requisite powers-of-attorney to the person or persons that the Trustee deems appropriate, using its discretion, and shall give the necessary instructions for the effective defense of the Trust Assets, until such time when the Settlors and the Beneficiary deliver the appropriate written instructions to the Trustee in connection with such defense, without the Trustee or the Beneficiary being liable, except in case of the Trustee, if actions of the Trustee arise from willful misconduct, bad faith or negligence (*dolo, negligencia o mala fe*). If (i) there shall be an Enforcement Event, or (ii) the Settlors and the Beneficiary do not reach an agreement as to the identity of the person or entity that shall defend the Trust Assets or in respect of the terms of the instructions to be given in connection therewith, the appointment of attorneys-in-fact shall be made solely by the Beneficiary, without the Beneficiary being liable. Neither the Trustee nor the Beneficiary shall be liable for the acts of the attorneys-in-fact, or for the payment of the relevant fees and expenses, which shall be paid by the Settlors, failing whom, with the Trust Assets. The Trustee shall in no case grant powers-of-attorney for acts of ownership, which shall always be exercised by the trust delegates (*delegados fiduciarios*) of the Trustee.

(h) Should an urgent action be necessary to protect and maintain the Trust Assets, the Trustee shall be obligated to take any immediate action required to maintain the Trust Assets. The Trustee shall not be liable for any action it takes for purposes of protecting the Trust Assets, provided that its actions comply with the terms set forth in this Agreement and applicable law.

(i) If the Trustee shall receive a judicial or other notice or claim with respect to this Agreement or the Trust Assets, it shall, no later than the day following the day it shall receive the notice (or the following business day), send a copy of such notice or claim to the Settlors and the Beneficiary.

NINTH. Mandatory Provision Regarding the Trustee's Liability. (a) Pursuant to Article 106, XIX, b) of the Law of Credit Institutions (*Ley de Instituciones de Crédito*), the Trustee represents that it has explained clearly and without

doubt to the parties hereto, the terms, legal meaning and consequences of such Article, which reads as follows:

"ARTICLE 106. It shall be prohibited to credit institutions:

XIX. When entering into the transactions referred to in Section XV of Article 46 of this Law:

[…]

b) To respond to the settlors, principals or agents, of any breach by the debtors, for loans granted thereto, or on behalf of issuers, for securities acquired, unless it is due to their fault, as set forth in the last paragraph of Article 391 [sic] of the General Law of Negotiable Instruments and Credit Transactions (*Ley General de Títulos y Operaciones de Crédito*), or to guarantee obtaining certain returns in connection with funds, the investment of which is requested therefrom.

If upon termination of the trust agreement, mandate or agency established to grant loans, any such loans shall have not been repaid by the debtors, the institution shall transfer the loans to the settlor or the beneficiary, as the case may be, or to the representative or agent, without repaying any outstanding amounts.

In any trust agreements, mandates or agencies, the prior paragraphs shall be inserted conspicuously as well as a representation from the trustee institution to the effect that it has, clearly and without doubt, made its meaning be known to the persons from whom it has received assets in trust.

c) To act as trustees, attorneys-in-fact or agents respectively regarding trusts, mandates or agencies, through which funds from the public may be obtained, directly or indirectly, by means of any actions causing direct or contingent liabilities, except in connection with trusts created by the Federal Government through the Ministry of Finance and Public Credit, and trusts through which securities registered at the Mexican Securities Registry are issued, according to the provisions of the Securities Market Law (*Ley del Mercado de Valores*);

d) To act under the trusts, mandates and agencies referred to in the second paragraph of Article 88 of the Investment Corporations Law (*Ley de Sociedades de Inversión*);

e) To act under trusts, mandates and agencies through which limitations or prohibitions specified by financial laws are avoided;

f) To use funds or securities of the trusts, mandates or agencies created for the purpose of making loans, in which the trustee has discretionary authority in providing such loans, to conduct transactions resulting in or that may result in any of their trustee delegates (*delegados fiduciaries*), board members and their alternates, whether or not acting, statutory supervisors (*comisarios*), whether regular or alternate, whether acting or not, the external auditors of the institution, the members of the technical committee of the relevant trust, the ascendants and descendants in first degree or spouses of such persons, the corporations in which a majority of the shares is controlled by such persons or their institutions, and such persons that the Central Bank (*Banco de México*) determines by general rules, becoming debtors,

g) To manage rural properties, unless they have received the management to distribute the assets among heirs, beneficiaries, associates or lenders, or to pay an obligation or to secured compliance therewith with the value of such rural property or its products, and without the management, in such case, exceeding the term of two years, except in the case of a trust to undertake production or security trusts;

h) To enter into trusts that manage sums of money contributed periodically by consumer groups organized as commercial associations, having as purpose the acquisition of certain assets or services that are regulated under the Federal Consumer Protection Law (*Ley Federal de Protección al Consumidor*).

Any agreement contrary to what is set forth in the preceding paragraphs shall be null and void."

(b) Pursuant to Rule 5.5 of Circular 1/2005, the parties executing this Agreement agree to incorporate the following provisions:

"6. Prohibitions.

6.1 In connection with trust agreements, trustees are not permitted to:

(a) charge or attribute to the trust assets, prices different from the prices agreed upon when the relevant transaction shall be entered into;

(b) guarantee the prices or gains applicable to the sums of money to be invested as agreed upon; and

(c) perform transactions under terms and conditions that shall contravene its internal policies and sound financial practices.

6.2 Trustees shall not perform transactions related to securities, negotiable instruments or any other financial instruments, which shall not satisfy the requirements agreed upon in the relevant trust agreement.

6.3 Trustees may not enter into trust agreements of the type that they shall not be permitted to enter into, in accordance with applicable laws and regulations.

6.4 In no event may trustees pay, with funds part of the trust estate, fines imposed on such trustees by any authority.

[…]

6.6 Trustees must comply with the provisions of Articles 106, section XIX, of the Credit Institutions Law (*Ley de Instituciones de Crédito*), 103, section IX, of the Securities Market Law (*Ley del Mercado de Valores*), 62, section VI, of the General Law of Insurance Companies (*Ley General de Instituciones y Sociedades Mutualistas de Seguros*), and 60, section VI Bis, of the Federal Bonding Companies Law (*Ley Federal de Instituciones de Fianzas*), as applicable to each entity."

(c) Pursuant to Circular 1/2005, the Trustee has advised the parties that the Trustee shall be liable, from a civil law perspective, for damages and losses caused as a result of the breach of the obligations assumed by it hereunder, as long as it is so determined by a competent judicial authority.

TENTH. Substitution of the Trustee. (a) Subject to paragraphs (c) and (d) below, the Trustee may resign its position a trustee hereunder, by giving written notice to the Settlors and the Beneficiary at least sixty (60) calendar days in advance (except as set forth in Clause Tenth (c) hereof), including upon the occurrence of the event set forth in Clause Fourteenth (a)(iv), provided that the Trustee may under no circumstances resign if an enforcement action pursuant to Clause Seventh hereof shall have been initiated. Subject to the provisions of paragraph (c) below, the appointment of the Trustee may also be terminated, by means of a notice in writing given by the Beneficiary, at least thirty (30) calendar days in advance.

(b) If the Trustee shall cease to act as trustee under this Agreement, due to an anticipated termination of its duties in accordance with paragraph (a) above or upon the occurrence of the Termination Date, the Trustee shall prepare account statements and accounts related to the Trust Assets, which shall be delivered within thirty (30) calendar days following such termination to the Settlors and the Beneficiary. The Settlors and the Beneficiary shall have thirty (30) calendar days to examine and object to such account statements and accounts, counted from the date of receipt thereof; after such period shall have expired, the financial statements and accounts shall be deemed as approved by the Settlors and the Beneficiary, unless mistakes or any errors or omissions shall not be evident.

(c) The Beneficiary shall be entitled to appoint any successor Trustee, provided that, so long as no Enforcement Event shall have occurred and be continuing, the Settlors shall have the right to consent to any such appointment, within fifteen (15) calendar days following the date the representative of the Settlors shall have received notice of such appointment, consent which may not be unreasonably withheld and which shall be deemed given if the Settlors do not object to such appointment in a timely manner.

(d) The Trustee shall not cease to be the trustee hereunder until the successor trustee is appointed pursuant to the terms set forth herein, such successor trustee has accepted its designation, and the Trust Assets have been duly transferred to the successor trustee.

(e) Any successor trustee shall have the same rights and obligations as the Trustee hereunder, and shall be deemed the " Trustee" for all purposes of this Agreement.

ELEVENTH. Fees and Expenses of the Trustee. (a) The Settlors, on a joint and several basis, agree to pay to the Trustee the fees specified **Exhibit M**, and any other fees and any and all reasonable and documented costs and expenses incurred or paid thereby, in connection with the management of the Trust Assets and the performance of its obligations hereunder.

(b) The parties agree that the Trustee shall not be obligated to perform the instructions provided by any of the parties hereto entitled to provide instructions, if it shall have not received sufficient funds to pay for any and all of its costs and expenses, and shall be required to inform the Settlors and the Beneficiary promptly, of the need of any such funds to satisfy its obligations hereunder. If the Trustee shall not have sufficient liquid funds in its possession, to reasonably perform its obligations hereunder, the parties agree that the Trustee shall not be liable for any damages or losses it may cause, as a result of its inability to perform hereunder.

TWELFTH. Taxes. (a) Any tax, duty, assessment or other similar obligation arising from the entering into this Agreement, the holding and management of the Trust Assets, the performance of the obligations of any of the Trustee or the Beneficiary, or the exercise of rights by any of the Trustee or the Beneficiary, on the date hereof or at any time in the future, shall be payable and paid by the Settlors, on a joint and several basis, and each of the Settlors hereby agrees to indemnify and hold harmless the Trustee, the Beneficiary and each of the Secured Parties for any liabilities arising therefrom or related thereto. Each of the Settlors agrees to provide to the Trustee and the Beneficiary, tax receipts, returns or any other evidence of payment, of the applicable taxes, duties, assessments and related obligations.

(b) If for any reason and at any time, the Trustee were notified by any tax or tax-like authorities, located in any jurisdiction, of any determination or interpretation setting forth that the activities contemplated herein or any other related elements, result in the trust created hereunder being deemed as a taxable entity and, therefore, the Trustee being obligated to withhold and pay, or solely to pay, any taxes in connection with the trust created hereunder or any action related hereto, the Trustee shall promptly provide written notice to the Settlors and the Beneficiary, so that the Settlors may take any and all necessary action, including the payment of any taxes, duties, assessments or related obligations.

(c) The obligations of the Settlors set forth in this Clause Twelfth, shall remain in full force and effect for the applicable statute of limitations and notwithstanding the occurrence of the Termination Date.

THIRTEENTH. Reports. (a) The Trustee hereby agrees to provide to the Beneficiary and the Settlors monthly statements with respect to the Transferred Shares, the Additional Shares and any other assets constituting the Trust Assets, including any investments with respect thereto. The Settlors and the Beneficiary shall each have thirty (30) calendar days counted from the date of receipt of the relevant statements, to review and approve the contents of the relevant statements. After such period shall have expired, the statements shall be deemed as approved by the Settlors and the Beneficiary, unless mistakes or any errors or omissions shall not be evident.

(b) In addition, the Trustee agrees to provide to the Settlors and the Beneficiary, any and all the information reasonably requested by any of them, in respect of the Trust Assets or this Agreement, within three (3) business days counted from the date of receipt of the relevant request.

FOURTEENTH. Duration and Irrevocability. (a) This Agreement may be terminated, as permitted under Article 392 of the General Law of Negotiable Instruments and Credit Transactions (*Ley General de Títulos y Operaciones de Crédito*), (i) if the satisfaction of the purposes of the trust created hereunder, shall become impossible, (ii) by agreement of any and all parties hereto (but not of any beneficiaries specified herein, that are not executing or otherwise adhering expressly to the terms of this Agreement), (iii) if the trust created hereunder shall be declared null and void by a competent judicial authority, as fraudulent to third parties, (iv) if the Trustee shall have terminated this Agreement, as a result of the fees specified herein as payable to the Trustee, not having been paid for a period equal to or greater than three (3) 360-day periods, counted from the date hereof, or (v) if the Trust Assets are sold pursuant to the non-judicial foreclosure procedure specified in Clause Seventh of this Agreement.

(b) This Agreement shall be irrevocable and shall remain in full force and effect until the Termination Date, except that the obligations of the Settlors set forth in Clauses Twelfth, Nineteenth and Twentieth hereof (and all related provisions hereunder) shall survive such Termination Date for the applicable statute of limitations.

FIFTEENTH. Notices. All notices or other communications relating to this Agreement shall be made in writing, and shall be delivered or sent to the domiciles specified below, or to any other domicile or telecopy number from time to time designated by the receiving party, by means of written notice to the other parties. All such notices and communications must be delivered personally or transmitted via telecopy, addressed as mentioned above, and shall be effective, if delivered by messenger, when received, or if transmitted by fax when transmitted, answerback received. The parties designate as their domiciles:

The Settlors:

Ave. Ricardo Margáin Zozaya # 325
Col. Valle del Campestre
Garza García, Nuevo León 66265
Mexico
Facsimile: 52(81)8888-4399
Attention: Vicepresidencia Jurídica

The Issuers:

Ave. Ricardo Margáin Zozaya # 325
Col. Valle del Campestre
Garza García, Nuevo León 66265
Mexico
Facsimile: 52(81)8888-4399
Attention: Vicepresidencia Jurídica

The Trustee:

Calzada del Valle No. 350 Oriente 1er. Piso
Col. Del Valle
San Pedro Garza García, Nuevo León 66220
Mexico
Facsimile: 52(81)1226-2097
Attention: Nelly Wing

The Beneficiary:

6 Broad Street Place
Fifth Floor
London EC2M 7JH
United Kingdom
Facsimile: (44) 207-614-1122
Attention: Elaine K. Lockhart

(b) Each of the Settlors and the Issuers hereby designates Ramiro G. Villarreal Morales, and in its absence Rodrigo Treviño Muguerza, as its respective representative (*comisionista mercantil*) for any and all purposes specified herein, and agrees that any action taken or omitted to be taken by any such representative or any notice received or given by such representative, shall bind any and all Settlors and Issuers, respectively, as if such action or omission shall have been taken directly by such Settlor or Issuer, without any further action being required.

SIXTEENTH. Amendments. This Agreement may not be amended, except by means of a written instrument signed by the Settlors, the Issuers, the Trustee and the Beneficiary and if in conformity with the terms of the Intercreditor Agreement.

SEVENTEENTH. Assignment. Neither the Trustee nor any of the Settlors or Issuers may assign or transfer its respective rights or delegate its respective obligations under this Agreement, except upon receiving the prior written consent of the Beneficiary or as otherwise set forth herein.

EIGHTEENTH. Trustee's Powers. (a) The Trustee shall have the authority necessary for the satisfaction of the purposes of this Agreement, with the power and authority set forth in Article 391 of the General Law of Negotiable Instruments and Credit Transactions (*Ley General de Títulos y Operaciones de Crédito*), and all other power and authority necessary, or deemed necessary, under the terms of this Agreement or under applicable law, subject to the instructions required under the terms hereof.

(b) The Trustee shall have, with respect to the Trust Assets and its rights and obligations under this Agreement, a power-of-attorney for lawsuits and collections, acts of administration and acts of ownership, as well as for the execution of negotiable instruments, including the authority required to receive and make payments, issue receipts and grant all types of special powers-of-attorney, to satisfy the purposes of the trust created under this Agreement, all in accordance with applicable law, provided that the Trustee shall not grant powers for acts of ownership nor perform any act with respect to the Trust Assets that is not contemplated under the terms of this Agreement or authorized as set forth herein.

(c) It is hereby agreed that Trustee shall not incur in any liability for acting upon any notice, certificate, consent or any other instrument or document, that appears to be genuine on its face and that is signed by the corresponding party or parties.

(d) The Trustee shall not be obligated to perform any act in contravention of the terms of this Agreement or in contravention of applicable law.

NINETEENTH. Indemnity. (a) To the extent not covered under Clause 15 of the Intercreditor Agreement, the Settlors, on a joint and several basis, agree to indemnify and hold harmless each of the Trustee (including without limitation, its trust delegates, employees and representatives), the Beneficiary and any and all Secured Parties, their respective directors, employees, advisors and affiliates, from and against any and any all claims, of any nature whatsoever, for damages, losses and any other responsibilities (except to the extent any such claim is determined to have resulted from such the Trustee's or Beneficiary's gross negligence or willful misconduct), that may be incurred by or asserted or awarded against, the Trustee, the Beneficiary or the Secured Parties, their respective directors, employees, advisors and affiliates, in each case arising out of or in connection with the defense of the Trust Assets, the exercise of their respective rights hereunder, this Agreement or the obligations of each such party hereunder, including, without limitation, from and against and any all claims, damages, losses, liabilities and expenses (including without limitation reasonable fees and expenses of counsel) that may be incurred by or asserted or awarded against the Trustee, the Beneficiary or the Secured Parties, their respective directors, employees, advisors and affiliates.

(b) The obligations of the Settlors set forth in this Clause Nineteenth, shall remain in full force and effect for the applicable statute of limitations and notwithstanding the occurrence of the Termination Date.

TWENTIETH. Expenses. (a) All reasonable and documented fees and expenses paid or payable in connection with this Agreement, shall be paid or payable, on a joint and several basis, by the Settlors. The Trustee shall not be obligated to use its own funds to pay any fees or expenses incurred or payable in connection with this Agreement or with the satisfaction of its obligations hereunder and, in that respect, the only obligation of the Trustee shall consist of sending to the Settlors and the Beneficiary (in this last case, for information purposes), a timely request for additional funds to be provided. The Beneficiary shall have the right, but not the obligation, if in possession of funds under the Financing Agreement, the Intercreditor Agreement and other related documents, to pay such fees and expenses, and, upon any such payment, the amounts so paid shall be considered part of the Secured Obligations, shall be secured as set forth herein, and shall bear interest, form the time of payment, pursuant to the terms of the Financing Agreement.

(b) The obligations of the Settlors set forth in this Clause Twentieth, shall remain in full force and effect for the applicable statute of limitations and notwithstanding the occurrence of the Termination Date.

TWENTY FIRST. Certain provisions for Beneficiary. (a) The Beneficiary shall not have any fiduciary duties to, nor shall it have any duty to protect the interests of, the Settlors, the Issuers or the Trustee.

(b) In acting as beneficiary hereunder, it shall be deemed that the Beneficiary is acting through its agency division, which shall be treated as a separate entity from its other divisions and departments thereof. Any information received or acquired by the Beneficiary, which is received or acquired by another division or department, or otherwise than in its capacity as Beneficiary hereunder, may be treated as confidential by the Beneficiary.

(c) In acting or exercising its rights under this Agreement, the Beneficiary shall act in accordance with the provisions of the Intercreditor Agreement and shall be required or entitled to seek instructions or directions thereunder. In so acting, the Beneficiary shall have the rights, benefits, protections, indemnities and immunities set forth in the Intercreditor Agreement.

(d) The provisions set forth in this Clause Twenty First shall remain in full force and effect for the applicable statute of limitations and notwithstanding the occurrence of the Termination Date.

TWENTY SECOND. Exhibits. All exhibits included in this Agreement shall be considered an integral part of this Agreement, as if their content was inserted in the body of this Agreement.

TWENTY THIRD. Conflicts. Should any conflict arise in connection with the interpretation of the provisions of this Agreement and the provisions of the Financing Agreement and the Intercreditor Agreement, the provisions contained herein shall prevail only with respect to (i) the conflicting provisions, and (ii) any other provisions that require that Mexican law be applicable, for this Agreement to be valid and binding pursuant to its terms.

TWENTY FOURTH. Independence of Provisions. Should any of the provisions of this Agreement be declared illegal or unenforceable by any competent judicial authority, such provision shall be considered independent and interpreted separately from the other provisions contained herein, and shall not affect, in any way, the validity and enforceability of the rest of the provisions of this Agreement.

TWENTY FIFTH. Governing Law and Jurisdiction. This Agreement shall be governed by, and construed in accordance with, the laws of Mexico. For any matter related to or in connection with this Agreement, each of the parties hereto hereby expressly and irrevocably submits to the jurisdiction of the courts of Mexico City, Federal District, and agrees that all claims related to an action or proceeding hereunder, may be heard and determined by such courts. Each of the parties hereto hereby waives any right or jurisdiction to which it may be entitled by reason of its present or future domicile or place of residence.

TWENTY SIXTH. Headings. The headings used in this Agreement are for convenience of reference only, and shall not be used to interpret any of the provisions of this Agreement.

TWENTY SEVENTH. Counterparts. This Agreement is executed in ten (10) counterparts, each of which shall be deemed as an original and all of which, when taken together, shall be deemed to constitute one and the same instrument.

[REMAINDER OF PAGE LEFT INTENTIONALLY IN BLANK]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year first written above.

SETTLORS

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

By: /s/ Agustín de Jesús Blanco Garza
Name: Agustín de Jesús Blanco Garza
Title: Legal Representative

By: /s/ Roger Saldaña Madero
Name: Roger Saldaña Madero
Title: Legal Representative

Cemex México, S.A. de C.V.

By: /s/ Agustín de Jesús Blanco Garza
Name: Agustín de Jesús Blanco Garza
Title: Legal Representative

By: /s/ Roger Saldaña Madero
Name: Roger Saldaña Madero
Title: Legal Representative

Empresas Tolteca de México, S.A. de C.V.

By: /s/ Agustín de Jesús Blanco Garza
Name: Agustín de Jesús Blanco Garza
Title: Legal Representative

By: /s/ Roger Saldaña Madero
Name: Roger Saldaña Madero
Title: Legal Representative

Impra Café, S.A. de C.V.

By: /s/ Agustín de Jesús Blanco Garza
Name: Agustín de Jesús Blanco Garza
Title: Legal Representative

By: /s/ Roger Saldaña Madero
Name: Roger Saldaña Madero
Title: Legal Representative

ISSUERS

Cemex México, S.A. de C.V.

By: /s/ Agustín de Jesús Blanco Garza
Name: Agustín de Jesús Blanco Garza
Title: Legal Representative

By: /s/ Roger Saldaña Madero
Name: Roger Saldaña Madero
Title: Legal Representative

Centro Distribuidor de Cemento, S.A. de C.V.

By: /s/ Agustín de Jesús Blanco Garza
Name: Agustín de Jesús Blanco Garza
Title: Legal Representative

By: /s/ Roger Saldaña Madero
Name: Roger Saldaña Madero
Title: Legal Representative

Mexcement Holdings, S.A. de C.V.

By: /s/ Agustín de Jesús Blanco Garza
Name: Agustín de Jesús Blanco Garza
Title: Legal Representative

By: /s/ Roger Saldaña Madero
Name: Roger Saldaña Madero
Title: Legal Representative

Corporación Gouda, S.A. de C.V.

By: /s/ Agustín de Jesús Blanco Garza
Name: Agustín de Jesús Blanco Garza
Title: Legal Representative

By: /s/ Roger Saldaña Madero
Name: Roger Saldaña Madero
Title: Legal Representative

TRUSTEE

Banco Nacional de México, S.A.,
Member of Grupo Financiero Banamex,
Fiduciary Division

By: /s/ Elva Nelly Wing Treviño
Name: Elva Nelly Wing Treviño
Title: Fiduciary Delegate

By: /s/ Maria de los Angeles Montemayor Garza
Name: Maria de los Angeles Montemayor Garza
Title: Fiduciary Delegate

BENEFICIARY

Wilmington Trust (London) Limited, by its own rights and as Security Agent, and for the benefit of the Participant Creditors and, in such case, the Refinancing Creditors (successors and assignees) and the other Guaranteed Shares.

By: /s/ Jorge Alberto Labastida Martínez
Name: Jorge Alberto Labastida Martínez
Title: Legal Representative

Exhibit A

Financing Agreement

Exhibit B

Intercreditor Agreement

Exhibit C

Issuances Certificados Bursátiles

Number of Issuance	Date of Issuance	Amount	Maturity Date	Listing Identification
Fifth Issuance under the CBs' program dated August 11, 2004, for an amount of up to $5,000,000,000.	April 15, 2005	$1,500,000,000.00 Pesos	April 9, 2012	"CMX0001 05"
First Issuance (Original CBs) under the CBs' Dual Revolving Program dated March 14, 2006 (as amended) for an amount up to $30,000,000,000,000 (with a sub limit amount up to $2,500,000,000 for short term issuances) (the "Dual Program")	March 17, 2006	$1,750,000,000.00 Pesos	March 10, 2011	"CEMEX 06"
First Issuance (Additional CBs) under the Dual Program	April 28, 2006	$1,500,000,000.00 Pesos	March 10, 2011	"CEMEX 06"
Second Issuance under the Dual Program	March 17, 2006	$750,000,000.00 Pesos	March 10, 2011	"CMX0002 06"
Third Issuance under the Dual Program	September 29, 2006	$2,500,000,000.00 Pesos	September 22, 2011	"CEMEX 06-2"
Fourth Issuance under the Dual Program	December 15, 2006	$2,950,000,000.00 Pesos	March 8, 2012	"CEMEX 06-3"
Fifth Issuance under the Dual Program	February 2, 2007	$3,000,000,000.00 Pesos	January 26, 2012	"CEMEX 07"
Sixth Issuance under the Dual Program	September 28, 2007	$3,000,000,000.00 Pesos	September 21, 2012	"CEMEX 07-2"
Seventh Issuance under the Dual Program	November 30, 2007	511,189,600 UDIs	November 26, 2010	"CEMEX 07U"

Eight Issuance under the Dual Program	November 30, 2007	116,530,800 UDIS	November 17, 2017	“CEMEX 07-2U”
Ninth Issuance under the Dual Program	April 25, 2008	$1,000,000,000.00 Pesos	November 5, 2010	“CEMEX 08”
Tenth Issuance under the Dual Program	December 11, 2008	$450,045,900.00 Pesos	September 15, 2011	“CEMEX 08-2”
Eleventh Issuance under the Dual Program	December 11, 2008	124,817,100 UDIS	September 15, 2011	“CEMEX 08U”

Exhibit D

Certificates evidencing the Certificados Bursátiles

Exhibit E

Certificates evidencing the Perpetual Securities

Exhibit F

Certificates evidencing the CEMEX SAB Bonds

Exhibit G

Transferred Shares

A. ISSUER: CEMEX MEXICO, S.A. DE C.V.

SETTLORS	**SHARES**	
	SERIES "A"	**SERIES "B"**
Cemex, S.A.B. de C.V.	459'007,650	441'001,800
Empresas Tolteca de México, S.A. de C.V.		5,550
SUB-TOTAL:	459'007,650	441'007,350
MINIMUM FIXED CAPITAL:	**900'015,000**	
	SERIES "A"	**SERIES "B"**
Cemex, S.A.B. de C.V.	28,439'796,997	26,717'096,696
Empresas Tolteca de México, S.A. de C.V.	2,546'970,837	2,871'727,406
Impra Café, S.A. de C.V.	415'858,950	399'550,755
Interamerican Investments Inc.		83'370,269
SUB-TOTAL:	31,402'626,784	30,071'745,126
TOTAL VARIABLE CAPITAL:	**61,474'371,910**	
TOTAL SHARES TRANSFERRED:	**62,374'386,891**	

B. ISSUER: CENTRO DISTRIBUIDOR DE CEMENTO, S.A. DE C.V.

SETTLORS	**SHARES**	
	SERIES "A"	SERIES "B"
Cemex México, S.A. de C.V.	4'131,734	3'969,705
SUB – TOTAL:	4'131,734	3'969,705
MINIMUM FIXED CAPITAL:	**8'101,439**	
	SERIES "A"	**SERIES "B"**
Cemex México, S.A. de C.V.	222'845,518	214'106,460
SUB – TOTAL:	222'845,518	214'106,460
TOTAL VARIABLE CAPITAL:	**436'951,978**	
TOTAL SHARES TRANSFERRED:	**445'053,417**	

C. ISSUER: CORPORACION GOUDA, S.A. DE C.V.

SETTLORS	**SHARES**
	SERIES "A"
Centro Distribuidor de Cemento, S.A. de C.V.	499
MINIMUM FIXED CAPITAL:	**499**
	SERIES "B"
Centro Distribuidor de Cemento, S.A. de C.V.	157'907,397
TOTAL VARIABLE CAPITAL:	**157'907,397**
TOTAL SHARES TRANSFERRED:	**157'907,896**

D. ISSUER: MEXCEMENT HOLDINGS, S.A. DE C.V.

SETTLORS		SHARES
		SERIES "A"
CENTRO DISTRIBUIDOR DE CEMENTO, S.A. DE C.V.		6,599
	MINIMUM FIXED CAPITAL:	**6,599**
		SERIES "B"
CENTRO DISTRIBUIDOR DE CEMENTO, S.A. DE C.V.		195'978,635
	TOTAL VARIABLE CAPITAL:	**195'978,635**
	TOTAL SHARES TRANSFERRED:	**195'985,234**

Exhibit H

Powers-of-Attorney of the Settlors' Representatives

Exhibit I

Powers-of-Attorney of the Issuers' Representatives

Exhibit J

Powers-of-Attorney of the Trustee's Representatives

Exhibit K

Powers-of-Attorney of the Beneficiary's Representatives

Exhibit L

Form of Sale Instruction

[date]

Banco Nacional de México, S.A.,
Integrante del Grupo Financiero Banamex,
División Fiduciaria
Calzada del Valle No. 350 Oriente
Primer Piso
Col. Del Valle
San Pedro Garza García, Nuevo León 66220
Mexico
Attention:_____
Fax:(81)1226-2097

Dear [Mr.] [Ms.]_____:

We refer to the Irrevocable Security Trust Agreement F/111388-5 (the "
de C.V. ("Cemex SAB"), Empresas Tolteca de México, S.A. de C.V. ("Tolteca"), Impra Café, S.A. de C.V. ("Impra Café"), Interamerican Investments, Inc. ("Interamerican"), Cemex México, S.A. de C.V. ("Cemex México"), and Centro Distribuidor de Cemento, S.A. de C.V. ("Cedice"), as settlors, (ii) Cemex México, Cedice, Mexcement Holdings, S.A. de C.V. ("Mexcement") and Corporación Gouda, S.A. de C.V. ("Gouda"), as issuers, (iii) Wilmington Trust (London) Limited, on its own behalf and in its capacity as Security Agent, for the benefit of the Participating Creditors and, if applicable, the Refinancing Creditors (and their respective successors and assigns) and the other Secured Parties, and (iv) Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, as trustee. Capitalized terms used in this Sale Instruction, unless otherwise defined, shall have the same meaning attributed to such terms in the Trust Agreement.

As set forth in Clause Seventh (a)(1) of the Trust Agreement, we hereby notify you that an Enforcement Event has occurred in accordance with the terms of the Intercreditor Agreement, consisting of _____ [description of the Enforcement Event]. As a result thereof, pursuant to this Sale Instruction we hereby request that you proceed with the sale of the Transferred Shares, any Additional Shares and other assets comprising the Trust Assets pursuant to the terms of the Trust Agreement.

For purposes of the foregoing, we request that you notify this Sale Instruction to the representative (*comisionista mercantil*) of the Settlors, appointed pursuant to the Trust Agreement, in accordance with Clause Seventh (a)(2) of the Trust Agreement.

The Settlors, acting through their representative appointed under the Trust Agreement, shall have a period of ten (10) business days, counted from the date such representative shall receive a copy of this Sale Instruction, to oppose the sale of the Trust Assets, by

submitting to the Trustee proof of payment issued and duly executed by the Beneficiary with respect to the Obligors' obligations with the Participating Creditors under the Financing Agreement or with respect to the payment of the Secured Obligations outstanding in such date. If the evidence necessary to oppose the sale shall have not been delivered within the aforementioned time period, we request that you proceed with the sale under the terms of Clause Seventh of the Trust Agreement.

We confirm that the amount of the Secured Obligations due and payable to the Secured Parties is _____. Furthermore, attached hereto, as **Exhibit 1**, is a copy of the Trust Agreement, certified by a [notary public] [commercial broker].

Very truly yours,

By _____
Name:
Title:

Exhibit M

Fees and Expenses of the Trustee

a) For the incorporation of the Trust pursuant to the Agreement and the acknowledgment of the position as Trustee, the amount in Mexican Pesos equivalent to US$10,000.00 Dollars (Ten thousand Dollars currency of the United States of America 00/100) plus the Value Added Tax ("VAT"); this amount shall be paid in one installment at the time of execution date of the Agreement;

b) For the management and operation of the Trust an annual fixed amount of US$30,000.00 Dollars (Thirty thousand Dollars currency of the United States of America 00/100) plus VAT, payable semi-annually in advance;

c) For amendments to the Agreement, the applicable rates at the time of such amendment, plus VAT;

d) For the participation in the extrajudicial foreclosure proceedings of the security, a fixed amount equivalent to US$15,000.00 Dollars (Fifteen thousand Dollars currency of the United States of America 00/100) plus VAT, per each foreclosure proceeding payable at the time such proceeding is undertaken;

e) For granting powers of attorney, amendments to the Agreement or any other act not otherwise contemplated, the amount equivalent to US$1,500.00 Dollars (One thousand five hundred Dollars currency of the United States of America 00/100) plus VAT, payable at the time of execution of the corresponding amendment agreement or document.

Exhibit 4.41.1

Translation into English for
the benefit of Wilmington Trust

Monterrey, Nuevo León, December 14, 2009.

Banco Nacional de México, S.A.,
Integrante del Grupo Financiero Banamex,
División Fiduciaria
Calzada del Valle No. 350 Oriente
1er. Piso
Col. Del Valle
San Pedro Garza García, Nuevo León 66220
Mexico
Attention: Nelly Wing

Wilmington Trust (London) Limited
6 Broad Street Place
Fifth Floor
London EC2M 7JH
United Kingdom
Attention: Elaine K. Lockhart

Reference is made to the Irrevocable Security Trust Agreement in Respect of Stock No. F/111388-5, dated September 3, 2009 (the " Agreement"), entered into among CEMEX, S.A.B. de C.V. ("CEMEX SAB"), Empresas Tolteca de México, S.A. de C.V. ("Tolteca"), Impra Café, S.A. de C.V. ("Impra Café"), Interamerican Investments, Inc. ("Interamerican"), CEMEX México, S.A. de C.V. ("CEMEX México"), and Centro Distribuidor de Cemento, S.A. de C.V. ("Cedice"), as settlors (CEMEX SAB, Tolteca, Impra Café, Interamerican, CEMEX México and Cedice, together, the " Settlors"); CEMEX México, Cedice, Mexcement Holdings, S.A. de C.V. ("Mexcement") and Corporación Gouda, S.A. de C.V. ("Gouda"), as issuers (CEMEX México, Cedice, Mexcement and Gouda, together, the "Issuers"); Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, in its capacity as trustee (the "Trustee"); and Wilmington Trust (London) Limited, on its own behalf and in its capacity as Security Agent, for the benefit of the Participating Creditors, the Refinancing Creditors (and their respective successors and assigns) and the other Secured Parties (the " Beneficiary"). Unless otherwise defined herein, capitalized terms defined in the Agreement, are used herein as therein defined.

On December 14, 2009, CEMEX Finance LLC issued U.S.$1,250,000,000 of 9.50% senior secured notes due December 14, 2016, and €350,000,000 of 9.625% senior secured notes due December 14, 2017, guaranteed by CEMEX SAB, CEMEX México, Tolteca, CEMEX Concretos, S.A. de C.V., CEMEX España, S.A., CEMEX Corp. and New Sunward Holding B.V. (together, the "Additional Notes"). Because the purpose of the Additional Notes is to refinance existing indebtedness and, as a consequence thereof, the Additional Notes will be part of the Refinancing Debt and the holders of the Additional Notes will be a Refinancing Party, in both cases pursuant to the Agreement, by means of this letter the Settlors and the Issuers hereby inform the Trustee and the Beneficiary, and confirm, that the Additional Notes are secured in accordance with the terms provided in the Agreement, and are part of the Secured Obligations and the holders of the Additional Notes are Secured Parties.

We appreciate you acknowledging receipt of this letter, by signing in the space provided below.

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

By /s/ Ramiro Villarreal
Name: Ramiro Villarreal
Title: Attorney-in-Fact

Empresas Tolteca de México, S.A. de C.V.

By /s/ Ramiro Villarreal
Name: Ramiro Villarreal
Title: Attorney-in-Fact

Impra Café, S.A. de C.V.

By /s/ Ramiro Villarreal
Name: Ramiro Villarreal
Title: Attorney-in-Fact

Interamerican Investments, Inc.

By /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-fact

Cemex México, S.A. de C.V.

By /s/ Ramiro Villarreal
Name: Ramiro Villarreal
Title: Attorney-in-Fact

Centro Distribuidor de Cemento, S.A. de C.V.

By /s/ Ramiro Villarreal
Name: Ramiro Villarreal
Title: Attorney-in-Fact

Mexcement Holdings, S.A. de C.V.

By /s/ Ramiro Villarreal
Name: Ramiro Villarreal
Title: Attorney-in-Fact

Corporación Gouda, S.A. de C.V.

By /s/ Ramiro Villarreal
Name: Ramiro Villarreal
Title: Attorney-in-Fact

Acknowledgment of receipt:

Banco Nacional de México, S.A.,
Integrante del Grupo Financiero Banamex,
División Fiduciaria

By /s/ Elva Nelly Wing
Name: Elva Nelly Wing
Title: Delegado Fiduciaria
Date: 14/12/09

Wilmington Trust (London) Limited

By /s/ Elaine Lockhart
Name: Elaine Lockhart
Title: Relationship manager
Date: 14/12/09

Exhibit 4.41.2

Translation into English for
the benefit of Wilmington Trust

Monterrey, Nuevo León, January 19, 2010.

Banco Nacional de México, S.A.,
Integrante del Grupo Financiero Banamex,
División Fiduciaria
Calzada del Valle No. 350 Oriente
1er. Piso
Col. Del Valle
San Pedro Garza García, Nuevo León 66220
Mexico
Attention: Nelly Wing

Wilmington Trust (London) Limited
6 Broad Street Place
Fifth Floor
London EC2M 7JH
United Kingdom
Attention: Elaine K. Lockhart

Reference is made to the Irrevocable Security Trust Agreement in Respect of Stock No. F/111388-5, dated September 3, 2009 (the " Agreement"), entered into among CEMEX, S.A.B. de C.V. ("CEMEX SAB"), Empresas Tolteca de México, S.A. de C.V. ("Tolteca"), Impra Café, S.A. de C.V. ("Impra Café"), Interamerican Investments, Inc. ("Interamerican"), CEMEX México, S.A. de C.V. ("CEMEX México"), and Centro Distribuidor de Cemento, S.A. de C.V. ("Cedice"), as settlors (CEMEX SAB, Tolteca, Impra Café, Interamerican, CEMEX México and Cedice, together, the " Settlors"); CEMEX México, Cedice, Mexcement Holdings, S.A. de C.V. ("Mexcement") and Corporación Gouda, S.A. de C.V. ("Gouda"), as issuers (CEMEX México, Cedice, Mexcement and Gouda, together, the "Issuers"); Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, in its capacity as trustee (the "Trustee"); and Wilmington Trust (London) Limited, on its own behalf and in its capacity as Security Agent, for the benefit of the Participating Creditors, the Refinancing Creditors (and their respective successors and assigns) and the other Secured Parties (the " Beneficiary"). Unless otherwise defined herein, capitalized terms defined in the Agreement, are used herein as therein defined.

On January 19, 2010, CEMEX Finance LLC issued US$500,000,000.00 of 9.50% senior secured notes due December 14, 2016, guaranteed by CEMEX SAB, CEMEX México, Tolteca, CEMEX Concretos, S.A. de C.V., CEMEX España, S.A., CEMEX Corp. and New Sunward Holding B.V. (together, the "Additional Notes"). Because the purpose of the Additional Notes is to refinance existing indebtedness and, as a consequence, the Additional Notes will be deemed as Refinancing Debt and the holders of the Additional Notes will be deemed a Refinancing Party, in both cases pursuant to the Agreement, by means of this letter the Settlors and the Issuers hereby inform the Trustee and the Beneficiary, and confirm, that the Additional Notes are secured in accordance with the terms set forth in the Agreement, and are Secured Obligations and the holders of the Additional Notes are Secured Parties.

We appreciate you acknowledging receipt of this letter, by signing in the space provided below.

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

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Empresas Tolteca de México, S.A. de C.V.

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Impra Café, S.A. de C.V.

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Interamerican Investments, Inc.

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Cemex México, S.A. de C.V.

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Centro Distribuidor de Cemento, S.A. de C.V.

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Mexcement Holdings, S.A. de C.V.

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Corporación Gouda, S.A. de C.V.

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Acknowledgment of receipt:

Banco Nacional de México, S.A.,
Integrante del Grupo Financiero Banamex,
División Fiduciaria

By /s/ Elva Nelly Wing
Name: Elva Nelly Wing
Title: Delegado Fiduciaria
Date:

Wilmington Trust (London) Limited

By /s/ Elaine Lockhart
Name: Elaine Lockhart
Title: Relationship manager
Date: 21-1-2010

Exhibit 4.41.3

Translation into English for
the benefit of Wilmington Trust

Monterrey, Nuevo León, May 12, 2010.

Banco Nacional de México, S.A.,
Integrante del Grupo Financiero Banamex,
División Fiduciaria
Calzada del Valle No. 350 Oriente
1er. Piso
Col. Del Valle
San Pedro Garza García, Nuevo León 66220
Mexico
Attention: Ms. Nelly Wing

Wilmington Trust (London) Limited
6 Broad Street Place
Fifth Floor
London EC2M 7JH
United Kingdom
Attention: Ms. Elaine K. Lockhart

Reference is made to the Irrevocable Security Trust Agreement in Respect of Stock No. F/111388-5, dated September 3, 2009 (the " Agreement"), entered into among CEMEX, S.A.B. de C.V. ("CEMEX SAB"), Empresas Tolteca de México, S.A. de C.V. ("Tolteca"), Impra Café, S.A. de C.V. ("Impra Café"), Interamerican Investments, Inc. ("Interamerican"), CEMEX México, S.A. de C.V. ("CEMEX México"), and Centro Distribuidor de Cemento, S.A. de C.V. ("Cedice"), as settlors (CEMEX SAB, Tolteca, Impra Café, Interamerican, CEMEX México and Cedice, together, the " Settlors"); CEMEX México, Cedice, Mexcement Holdings, S.A. de C.V. ("Mexcement") and Corporación Gouda, S.A. de C.V. ("Gouda"), as issuers (CEMEX México, Cedice, Mexcement and Gouda, together, the "Issuers"); Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, in its capacity as trustee (the "Trustee"); and Wilmington Trust (London) Limited, on its own behalf and in its capacity as Security Agent, for the benefit of the Participating Creditors, the Refinancing Creditors (and their respective successors and assigns) and the other Secured Parties (the " Beneficiary"). Unless otherwise defined herein, capitalized terms defined in the Agreement, are used herein as therein defined.

On May 12, 2010, CEMEX España, S.A., acting through its Luxembourg Branch, issued US$1,067,665,000 of 9.25% senior secured notes due 2020, and €115,346,000 of 8.875% senior secured notes due 2017, guaranteed by CEMEX SAB, CEMEX México and New Sunward Holding B.V. (together, the "Additional Notes"). Because the purpose of the Additional Notes is to refinance existing indebtedness and, as a consequence, the Additional Notes will be deemed as Refinancing Debt and the holders of the Additional Notes will be deemed a Refinancing Party, in both cases pursuant to the Agreement, by means of this letter the Settlors and the Issuers hereby inform the Trustee and the Beneficiary, and confirm, that the Additional Notes are secured in accordance with the terms set forth in the Agreement, and are Secured Obligations and the holders of the Additional Notes are Secured Parties.

We appreciate you acknowledging receipt of this letter, by signing in the space provided below.

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

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Empresas Tolteca de México, S.A. de C.V.

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Impra Café, S.A. de C.V.

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Interamerican Investments, Inc.

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Cemex México, S.A. de C.V.

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Centro Distribuidor de Cemento, S.A. de C.V.

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Mexcement Holdings, S.A. de C.V.

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Corporación Gouda, S.A. de C.V.

By /s/ Roger Saldaña
Name: Roger Saldaña
Title: Attorney-in-Fact

Acknowledgment of receipt:

Banco Nacional de México, S.A.,
Integrante del Grupo Financiero Banamex,
División Fiduciaria

By /s/ Elva Nelly Wing
Name: Elva Nelly Wing
Title: Delegado Fiduciaria
Date: 13-May-2010

Wilmington Trust (London) Limited

By /s/ Elaine Lockhart
Name: Elaine Lockhart
Title:
Date:

Exhibit 4.42

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

975,000,000 CPOs,
directly or in the form of ADSs

Underwriting Agreement

September 22, 2009

J.P. Morgan Securities Inc.
Citigroup Global Markets Inc.
Santander Investment Securities Inc.
As Representatives of the
several Underwriters listed
in Schedule 1 hereto

c/o J.P. Morgan Securities Inc.
383 Madison Avenue
New York, New York 10179

Citigroup Global Markets Inc.
388 Greenwich Street
New York, New York 10013

Santander Investment Securities Inc.
45 East 53rd Street
New York, New York 10022

Ladies and Gentlemen:

CEMEX, S.A.B. de C.V., a *sociedad anónima bursátil de capital variable* organized under the laws of Mexico (the "Company"), proposes to sell to the several underwriters listed in Schedule 1 hereto (the "Underwriters"), for whom you are acting as representatives (the "Representatives"), an aggregate of 975,000,000 Ordinary Participation Certificates of the Company (*certificados de participación ordinarios,* or "CPOs") (each CPO representing two Series A Shares (the "Series A Shares") and one Series B Share (the "Series B Shares"), each without par value, of the Company's common stock), directly or in the form of American Depositary Shares ("ADSs"), each ADS representing ten CPOs (collectively, the "Underwritten Shares"). In addition, the Company proposes to grant to the Underwriters an option to purchase up to an additional 146,250,000 CPOs, directly or in the form of ADSs (collectively, the "Option Shares"). The Underwritten Shares and the Option Shares are referred to herein as the "Shares."

The parties hereto agree that 446,250,000 of the Underwritten Shares are outstanding CPOs (the "Selling Subsidiary Shares") held and to be sold hereunder by certain wholly-owned subsidiaries of the Company listed on Schedule 2 hereto (the "Selling Subsidiaries").

The ADSs will be issued by the ADS Depositary (as defined below) pursuant to the Second Amended and Restated Deposit Agreement (the "ADS Deposit Agreement"), dated as of August 10, 1999, as amended by Amendment No. 1 thereto dated July 1, 2005, among the Company, Citibank, N.A., as depositary (the "ADS Depositary"), and holders and beneficial owners from time to time of ADSs evidenced by American Depositary Receipts ("ADRs") issued by the ADS Depositary thereunder.

The CPOs have been or will be issued by the CPO Trustee (as defined below) under the terms of the *Fideicomiso* No. 111033-9, dated September 6, 1999, as amended (the "CPO Trust Agreement"), entered into between the Company and Banco Nacional de México, S.A., integrante del Grupo Financiero Banamex, as trustee (the "CPO Trustee"), and other than the Selling Subsidiary Shares, pursuant to an *Acta de Emisión* dated September 7, 1999 in the case of the Selling Subsidiary Shares and a *Segunda Acta de Emisión* dated September September 7, 2009 in the case of the other Shares (together, the "CPO Deeds"), executed by the CPO Trustee with the acknowledgment and approval of the Mexican *Comisión Nacional Bancaria y de Valores* (the "CNBV") and after obtaining an independent appraisal from Nacional Financiera, S.N.C.

The Company and the Selling Subsidiaries are concurrently entering into a *Contrato de Colocación* (the "Mexican Underwriting Agreement"), dated the date hereof, providing for the sale by the Company to the Mexican underwriters identified therein (the "Mexican Underwriters") of an aggregate of 325,000,000 CPOs (the "Mexican Firm CPOs") and providing for the grant to the Mexican Underwriters, acting for this purpose through J.P. Morgan Casa de Bolsa, S.A. de C.V., J.P. Morgan Grupo Financiero, of an option to purchase from the Company up to 48,750,000 additional CPOs (the "Mexican Option CPOs"). In addition, each of the Mexican Underwriters is entering into one or several *contratos de sindicación*, dated the date hereof, with each of the Mexican *casas de bolsa* that are part of the Mexican underwriting syndicate. The Mexican Firm CPOs and the Mexican Option CPOs are referred to herein as the "Mexican CPOs." The Mexican CPOs will be offered and sold in Mexico (the "Mexican Offering") only pursuant to a Spanish-language prospectus (the "Mexican Prospectus"), which will be substantially similar, with respect to information disclosed, to the Prospectus (as defined below), with such differences as are appropriate to reflect Mexican law and market practices. The offering contemplated by this Agreement and the Mexican Offering are referred to herein as the "Global Offering."

The Underwriters and the Mexican Underwriters have entered into an Intersyndicate Agreement, dated the date hereof, which provides for, among other things, reallocation, responsibility for stabilization activities and offering restrictions.

The Company and the Selling Subsidiaries hereby confirm their agreement with the several Underwriters concerning the purchase and sale of the Shares, as follows:

1. Registration Statement. The Company has prepared and filed with the U.S. Securities and Exchange Commission (the "SEC") under the U.S. Securities Act of 1933, as amended, and the rules and regulations of the SEC thereunder (collectively, the "Securities Act") an "automatic shelf registration statement" (as defined pursuant to Rule 405 under the Securities Act) on Form F-3 (File No. 333-161787) relating to the Shares. Such registration statement, as amended at the time it became effective, including the information, if any, deemed pursuant to Rule 430A, 430B or 430C under the Securities Act to be part of the registration statement at the time of its effectiveness ("Rule 430 Information"), is referred to herein as the "Registration Statement"; the prospectus filed as part of the Registration Statement is referred to herein as "Base Prospectus"; the Base Prospectus, as supplemented by the preliminary prospectus supplement related to the Shares, as filed with the SEC pursuant to Rule 424(a) under the Securities Act, which omits Rule 430 Information, is referred to herein as the "Preliminary Prospectus"; and the Base Prospectus, as supplemented by the final prospectus supplement related to the Shares, as filed with the SEC pursuant to Rule 424(a) under the Securities Act, in the form first used (or made available upon request of purchasers pursuant to Rule 173 under the Securities Act) in connection with the confirmation of sales of the Shares, is referred to herein as the "Prospectus." Any reference in this Agreement to the Registration Statement, the Preliminary Prospectus or the Prospectus shall be deemed to refer to and include the documents incorporated by reference therein pursuant to Item 6 of Form F-3 under the

Securities Act, as of the effective date of the Registration Statement or the date of the Preliminary Prospectus or the Prospectus, as the case may be, and any reference to "amend," "amendment" or "supplement" with respect to the Registration Statement, the Preliminary Prospectus or the Prospectus shall be deemed to refer to and include any documents filed after such date under the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations of the SEC thereunder (collectively, the "Exchange Act") that are deemed to be incorporated by reference therein.

At or prior to the Applicable Time (as defined below), the Company had prepared the following information (collectively with the pricing information set forth on Annex A hereto, the "Pricing Disclosure Package"): the Preliminary Prospectus dated September 8, 2009 and each "free-writing prospectus" (as defined pursuant to Rule 405 under the Securities Act) listed on Annex A hereto.

"Applicable Time" means 5:30 P.M., New York City time, on September 22, 2009.

2. Purchase of the Shares by the Underwriters.

(a) The Company and the Selling Subsidiaries agree, severally and jointly, to sell the Underwritten Shares to the several Underwriters as provided in Schedule 2 hereto, and each Underwriter, on the basis of the representations, warranties and agreements set forth herein and subject to the conditions set forth herein, agrees, severally and not jointly, to purchase from the Company and the Selling Subsidiaries the respective number of Underwritten Shares set forth opposite such Underwriter's name in Schedule 1 hereto at a price per CPO of MXP 15.90 and per ADS of U.S.$ 11.93750.

In addition, the Company agrees to sell the Option Shares to the several Underwriters as provided in Schedule 2 hereto, and the Underwriters, on the basis of the representations, warranties and agreements set forth herein and subject to the conditions set forth herein, shall have the option to purchase, severally and not jointly, from the Company the Option Shares at the purchase price set forth in the preceding paragraph, less an amount per Option Share, as the case may be, equal to any dividends or distributions declared by the Company and payable on the Underwritten Shares but not payable on the Option Shares.

If any Option Shares are to be purchased, the number of Option Shares to be purchased by each Underwriter shall be the number of Option Shares which bears the same ratio to the aggregate number of Option Shares being purchased as the number of Underwritten Shares set forth opposite the name of such Underwriter in Schedule 1 hereto (or such number increased as set forth in Section 10 hereof) bears to the aggregate number of Underwritten Shares being purchased from the Company and the Selling Subsidiaries by the several Underwriters, subject, however, to such adjustments to eliminate any fractional Shares as the Representatives in their sole discretion shall make.

The Underwriters may exercise the option to purchase Option Shares for the sole purpose of covering sales of Shares in excess of the number of Underwritten Shares; it being understood that such option shall be exercised in a coordinated manner with, but may be exercised separately from, the option under the Mexican Underwriting Agreement to purchase Mexican Option CPOs. The Underwriters may exercise such option at any time in whole, or from time to time in part, on or before the thirtieth day following the date hereof, by written notice from the Representatives to the Company. Such notice shall set forth the aggregate number of Option Shares as to which the option is being exercised and the date and time when the Option Shares are to be delivered and paid for, which may be the same date and time as the Closing Date (as hereinafter defined) but shall not be earlier than the Closing Date or later than the tenth full business day (as hereinafter defined) after the date of such notice (unless such time and date are postponed in accordance with the provisions of Section 10 hereof). Any such notice shall be given at least two business days prior to the date and time of delivery specified therein.

(b) The Underwriters may elect to have ADSs, in lieu of CPOs, delivered and paid for under this Agreement. The Representatives on behalf of the Underwriters shall notify the Company, not less than two full business days prior to the Closing Date or the Additional Closing Date (as defined hereinafter), as the case may be, of the portion of Shares to be delivered in the form of ADSs. The Company and the Selling Subsidiaries shall deposit the CPOs underlying such Shares with the Mexican custodian for the ADS Depositary in accordance with the provisions of the ADS Deposit Agreement against the issuance of ADSs.

(c) The Company understands that the Underwriters intend to make a public offering of the Shares as soon after the effectiveness of this Agreement as in the judgment of the Representatives is advisable, and initially to offer the Shares outside of Mexico on the terms set forth in the Prospectus. The Company acknowledges and agrees that the Underwriters may offer and sell Shares to or through any broker-dealer affiliate of an Underwriter.

(d) Payment for the Shares shall be made by wire transfer in immediately available funds, in the case of Shares purchased in the form of ADSs hereunder, in U.S. dollars to the U.S. dollar account in New York City and, in the case of Shares purchased in the form of CPOs hereunder, in Mexican pesos to the Mexican peso account in Mexico, in each case specified by the Company and the Selling Subsidiaries to the Representatives, in the case of the Underwritten Shares, at 10:00 A.M., New York City time, on September 28, 2009, or at such other time or place on the same or such other date, not later than the fifth business day thereafter, as the Representatives and the Company may agree upon in writing or, in the case of the Option Shares, on the date and at the time specified by the Representatives in the written notice of the Underwriters' election to purchase such Option Shares, or at such other time and date as the Representatives and the Company may agree upon in writing. The date of such payment for the Underwritten Shares is referred to herein as the "Closing Date," and the date for such payment for the Option Shares, if other than the Closing Date, is herein referred to as the "Additional Closing Date."

Payment for the Shares to be purchased on the Closing Date or the Additional Closing Date, as the case may be, shall be made against delivery to the Representatives for the respective accounts of the several Underwriters of the Shares to be purchased on such date in definitive form registered in such names and in such denominations as the Representatives shall request in writing not later than two full business days prior to the Closing Date or the Additional Closing Date, as the case may be, with transfer taxes, if any, payable in connection with the sale of such Shares duly paid by the Company. Delivery of the ADSs shall be made through the facilities of The Depository Trust Company ("DTC") unless the Representatives shall otherwise instruct. Delivery of the CPOs shall be made through the facilities of S.D. Indeval, Institución para el Depósito de Valores, S.A. de C.V. ("Indeval") to the accounts of Mexican custodians maintained at Indeval as so requested by the Representatives. The forms of ADRs and CPOs will be made available for inspection by the Representatives at the offices of Simpson Thacher & Bartlett LLP not later than 1:00 P.M., New York City time, on the business day prior to the Closing Date or the Additional Closing Date, as the case may be.

(e) The Company acknowledges and agrees that the Underwriters are acting solely in the capacity of an arm's length contractual counterparty to the Company with respect to the offering of Shares contemplated hereby (including in connection with determining the terms of the offering) and not as a financial advisor or a fiduciary to, or an agent of, the Company or any other person. Additionally, neither the Representatives nor any other Underwriter is advising the Company or any other person as to any legal, tax, investment, accounting or regulatory matters in any jurisdiction. The Company shall consult with its own advisors concerning such matters and shall be responsible for making its own independent investigation and appraisal of the transactions contemplated hereby, and the Underwriters shall have no responsibility or liability to the Company with respect thereto. Any review by the Underwriters of the Company, the transactions contemplated hereby or other matters relating to such transactions will be performed solely for the benefit of the Underwriters and shall not be on behalf of the Company.

3. Representations and Warranties of the Company. The Company represents and warrants to each Underwriter that:

(a) *Preliminary Prospectus.* No order preventing or suspending the use of the Preliminary Prospectus has been issued by the SEC; the Preliminary Prospectus, at the time of filing thereof, complied in all material respects with the Securities Act; and the Preliminary Prospectus, at the time of filing thereof, did not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation and warranty with respect to any statements or omissions made in reliance upon and in conformity with information furnished to the Company in writing by any Underwriter through the Representatives expressly for use in the Preliminary Prospectus (it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in Section 7(b) hereof).

(b) *Pricing Disclosure Package*. The Pricing Disclosure Package as of the Applicable Time did not, and as of the Closing Date and as of the Additional Closing Date, as the case may be, will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation and warranty with respect to any statements or omissions made in reliance upon and in conformity with information furnished to the Company in writing by any Underwriter through the Representatives expressly for use in such Pricing Disclosure Package (it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in Section 7(b) hereof).

(c) *Issuer Free Writing Prospectus.* Other than the Registration Statement, the Preliminary Prospectus and the Prospectus, the Company (including its agents and representatives, other than the Underwriters in their capacity as such) has not prepared, used, authorized, approved or referred to and will not prepare, use, authorize, approve or refer to any "written communication" (as defined in Rule 405 under the Securities Act) that constitutes an offer to sell or solicitation of an offer to buy the Shares (each such communication by the Company or its agents and representatives (other than a communication referred to in clauses (i) or (iii) below) an "Issuer Free Writing Prospectus") other than (i) any document not constituting a prospectus pursuant to Section 2(a)(10)(a) of the Securities Act or Rule 134 under the Securities Act, (ii) the documents listed on Annex A, each electronic road show and any other written communications approved in writing in advance by the Representatives or (iii) for the avoidance of doubt, solely in connection with the Mexican CPOs in the Mexican Offering, the Mexican Prospectus and other offering documents contemplated in the Mexican Underwriting Agreement. Each such Issuer Free Writing Prospectus complied in all material respects with the Securities Act, has been or will be (within the time period specified in Rule 433) filed in accordance with the Securities Act (to the extent required thereby) and, when taken together with the Preliminary Prospectus filed prior to the first use of such Issuer Free Writing Prospectus, did not, and as of the Closing Date and as of the Additional Closing Date, as the case may be, will not, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation and warranty with respect to any statements or omissions made in each such Issuer Free Writing Prospectus or the Preliminary Prospectus in

reliance upon and in conformity with information furnished to the Company in writing by any Underwriter through the Representatives expressly for use in such Issuer Free Writing Prospectus or the Preliminary Prospectus (it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in Section 7(b) hereof).

(d) *Registration Statement and Prospectus.* The Registration Statement is an "automatic shelf registration statement" as defined under Rule 405 of the Securities Act that has been filed with the SEC not earlier than three years prior to the date hereof; at the time of filing the Registration Statement and any post-effective amendment thereto, at the earliest time thereafter that the Company or any offering participant made a *bona fide* offer (within the meaning of Rule 164(h)(2) under the Securities Act) of the Shares and at the date hereof, the Company was not and is not an "ineligible issuer," and was and is a "well-known seasoned issuer," in each case as defined in Rule 405 under the Securities Act; the Company has paid the registration fee for this offering pursuant to Rule 456(b)(1) under the Securities Act or will pay such fee within the time period required by such rule (without giving effect to the proviso therein) and in any event prior to the Closing Date; and no notice of objection of the SEC to the use of such registration statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Securities Act has been received by the Company. No order suspending the effectiveness of the Registration Statement has been issued by the SEC, and no proceeding for that purpose or pursuant to Section 8A of the Securities Act against the Company or related to the offering of the Shares has been initiated or threatened by the SEC. As of the effective date of the Registration Statement, the Registration Statement (considered together with the Preliminary Prospectus), and as of any post-effective amendment thereto, the Registration Statement and any such post-effective amendment, complied and will comply in all material respects with the Securities Act, and did not and will not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein not misleading; and as of the date of the Prospectus and any amendment or supplement thereto and as of the Closing Date and as of the Additional Closing Date, as the case may be, the Prospectus will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that the Company makes no representation and warranty with respect to any statements or omissions made in reliance upon and in conformity with information furnished to the Company in writing by any Underwriter through the Representatives expressly for use in the Registration Statement and the Prospectus and any amendment or supplement thereto (it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in Section 7(b) hereof).

(e) *Incorporated Documents.* The documents incorporated by reference in the Registration Statement, the Pricing Disclosure Package and the Prospectus, when they were filed with the SEC, conformed in all material respects to the requirements of the Securities Act and Exchange Act, as applicable, and none of such documents contained any untrue statement of a material fact or omitted to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; and any further documents so filed and incorporated by reference in the Registration Statement, the Pricing Disclosure Package or the Prospectus, when such documents are filed with the SEC, will conform in all material respects to the requirements of the Securities Act and Exchange Act, as applicable, and will not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that this representation and warranty shall not apply to

any statements or omissions made in reliance upon and in conformity with information furnished in writing to the Company by any Underwriter through the Representatives expressly for use therein and no such documents were filed with the SEC since the SEC's close of business on the business day immediately prior to the date of this Agreement and prior to the execution of this Agreement.

(f) *Financial Statements.* The financial statements (including the related notes thereto) of the Company and its consolidated subsidiaries included or incorporated by reference in the Registration Statement, the Pricing Disclosure Package and the Prospectus comply as to form in all material respects with the applicable accounting requirements of the Securities Act and the Exchange Act, as applicable, and present fairly in all material respects the financial position of the Company and its consolidated subsidiaries as of the dates indicated and the results of their operations and the changes in their cash flows for the periods specified; such financial statements have been prepared in conformity with the financial reporting standards (*normas de información financiera*) in Mexico applied on a consistent basis throughout the periods involved (except as otherwise noted therein) and have been reconciled to accounting principles generally accepted in the United States as required under the Securities Act, and any supporting schedules included or incorporated by reference in the Registration Statement present fairly the information required to be stated therein and the selected financial data set forth under the caption "Selected Consolidated Financial Information" in the Registration Statement, Pricing Disclosure Package and the Prospectus fairly present, on the basis stated in the Prospectus, the information included therein.

(f) *No Material Adverse Change.* Neither the Company nor any of its significant subsidiaries has sustained since the date of the latest audited financial statements included or incorporated by reference in the Registration Statement, the Pricing Disclosure Package and the Prospectus any material loss or interference with its business from fire, explosion, flood or other calamity, whether or not covered by insurance, or from any labor dispute or court or governmental action, order or decree, otherwise than as set forth or contemplated in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus; and, since the respective dates as of which information is given in the Registration Statement, the Pricing Disclosure Package and the Prospectus, there has not been any material change in the capital stock or long-term debt of the Company or any of its subsidiaries or any material adverse change, or any development involving a prospective material adverse change, in or affecting the general affairs, management, financial position, shareholders' equity, results of operation, business or properties of the Company and its subsidiaries, taken as a whole, except as set forth or contemplated in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus.

(g) *Organization and Valid Existence.* The Company has been duly incorporated and is validly existing as a *sociedad anónima bursátil de capital variable* under the laws of México, with power and authority (corporate and other) to own its properties and conduct its business as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus, and has been duly qualified as a foreign corporation for the transaction of business and, to the extent applicable, is in good standing under the laws of each other jurisdiction in which it owns or leases properties or conducts any business so as to require such qualification, except where the failure to be so qualified, in good standing or have such power or authority would not, individually or in the aggregate, have a material adverse effect on (A) the general affairs, business, properties, management, financial position or results of operation of the Company and its subsidiaries taken as a whole, or (B) the performance of the Transaction Documents or the consummation of any of the transactions contemplated thereby (a "Material Adverse Effect") and each subsidiary of the

Company (including the Selling Subsidiaries) has been duly organized and is validly existing and, to the extent applicable, in good standing under the laws of its jurisdiction of organization, and has been duly qualified as a foreign entity for the transaction of business and, to the extent applicable, is in good standing under the laws of each other jurisdiction in which it owns or leases properties, or conducts any business, so as to be required by applicable law to be so qualified, except where the failure to be so qualified, in good standing or have such power or authority would not, individually or in the aggregate, have a Material Adverse Effect.

(h) *Capitalization.* The Company has an authorized capitalization as set forth in the Registration Statement, Pricing Disclosure Package and the Prospectus, and all of the issued shares of capital stock of the Company (including, without limitation, the shares of capital stock underlying the Shares to be sold by the Selling Subsidiaries hereunder) have been duly and validly issued and are fully paid and non-assessable and conform to the description thereof contained in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus. All of the issued shares of capital stock of each significant subsidiary of the Company have been duly and validly authorized and issued, are fully paid and non-assessable and (except as set forth in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus) are owned directly or indirectly by the Company, free and clear of all liens, encumbrances, equities or claims. The holders of outstanding shares of capital stock of the Company are not entitled to preemptive or similar rights to acquire the Shares or to rights of first offer, first refusal or similar rights in respect of the Shares; and, except as set forth in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus, there are no outstanding securities convertible into or exchangeable for, or warrants, rights or options to purchase from the Company or any of its subsidiaries, or obligations of the Company or any of its subsidiaries to issue, any shares of capital stock or other equity interest in the Company or any of its subsidiaries. All the CPOs (including the underlying Series A Shares and Series B Shares) have been duly registered with the Mexican *Registro Nacional de Valores* (the "RNV"), and the CPOs are listed and admitted for trading on the Bolsa Mexicana de Valores, S.A. de C.V. (the "Mexican Stock Exchange") and deposited with Indeval; and there are no restrictions on subsequent transfers of the Shares under the laws of México and of the United States, other than as set forth in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus.

(i) *Due Authorization.* The Company has full right, power and authority to execute and deliver this Agreement, the certificates evidencing the CPOs and the underlying Series A and Series B shares (and, together with the ADS Deposit Agreement, the CPO Trust Agreement and the CPO Deeds, collectively referred to as, the "Transaction Documents") and to perform its obligations thereunder; the Selling Subsidiaries have full right, power and authority to execute and deliver this Agreement and to perform their obligations hereunder; and all action required to be taken for the due and proper authorization, execution and delivery by each of the Company and the Selling Subsidiaries of the Transaction Documents to which it is a party and the consummation by it of the transactions contemplated thereby has been duly and validly taken.

(j) *Underwriting Agreement.* This Agreement has been duly authorized, executed and delivered by the Company and the Selling Subsidiaries.

(k) *ADS Deposit Agreement*. The ADS Deposit Agreement has been duly authorized, executed and delivered by the Company, and constitutes a valid and legally binding agreement of the Company, enforceable in accordance with its terms, subject, as to enforceability, to bankruptcy, insolvency, *concurso mercantil*, *quiebra*, reorganization and similar laws of general applicability relating to or affecting creditors' rights and to general equity principles; the ADRs

evidencing ADSs to be sold hereunder, issued by the ADS Depositary against the deposit of CPOs in respect thereof in accordance with the provisions of the ADS Deposit Agreement, have been or will be duly and validly issued and the persons in whose names the ADRs will be registered will be entitled to the rights specified therein and in the ADS Deposit Agreement; upon the sale and delivery to the Underwriters, and payment therefor, pursuant to this Agreement, the Underwriters will acquire good, marketable and valid title to such ADSs, free and clear of all rights of any third party, pledges, liens, security interests, charges, claims or encumbrances of any kind; and the ADS Deposit Agreement and the ADRs conform in all material respects to the descriptions thereof contained in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus.

(l) *CPO Trust Agreement and CPO Deed.* Each of the CPO Trust Agreement and CPO Deeds has been duly authorized, executed and delivered by the Company, the CPO Trustee and the other parties thereto, as applicable, and constitutes a valid and legally binding agreement of the parties thereto, enforceable in accordance with its terms, subject, as to enforceability, to bankruptcy, insolvency, *concurso mercantil*, *quiebra*, reorganization and similar laws of general applicability relating to or affecting creditors' rights generally; the CPOs to be sold hereunder, issued by the CPO Trustee against the transfer of the underlying Series A shares and Series B shares in accordance with the provisions of the CPO Trust Agreement and the CPO Deeds, have been or will be duly and validly issued and the persons in whose names the CPOs will be registered will be entitled to the rights specified therein and in the CPO Trust Agreement and the CPO Deeds; upon the sale and delivery to the Underwriters, and payment therefor, pursuant to this Agreement, the Underwriters will acquire valid title to such CPOs, free and clear of all rights of any third party, pledges, liens, security interests, charges, claims or encumbrances of any kind; and the CPO Trust Agreement and the CPO Deeds conform in all material respects to the descriptions thereof contained in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus.

(m) *Underlying Shares*. The Series A Shares and the Series B Shares underlying the Shares to be sold hereunder have been duly or will be duly issued and, when the Shares are delivered and paid for as provided herein, will be fully paid and non-assessable; and the issuance and sale of the Series A Shares and Series B Shares is not subject to any preemptive or similar rights or rights of first offer, first refusal or similar rights.

(n) *Sales by Selling Subsidiaries*. Each of the Selling Subsidiaries has, and immediately prior to the Closing Date will have, good and valid title to the Shares to be sold at the Closing Date by such Selling Subsidiary hereunder, free and clear of all rights of any third party, pledges, liens, security interests, charges, claims or encumbrances of any kind; and upon the sale and delivery of such Shares (whether in the form of CPOs or ADSs), and payment therefor, pursuant to this Agreement, good, marketable and valid title to such Shares, free and clear of all rights of any third party, pledges, liens, security interests, charges, claims or encumbrances of any kind, will pass to the Underwriters.

(o) *Descriptions of Common Stock, CPOs and ADSs.* The statements set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus under the captions "Description of Common Stock," "Description of CPOs" and "Description of ADSs," insofar as they purport to constitute a summary of the terms of the Series A and Series B Shares, ADSs and CPOs, respectively, and the statements set forth in the Registration Statement, the Pricing Disclosure Package and the Prospectus under the caption "Item 10. Additional Information—Taxation," insofar as they purport to describe the provisions of the laws and documents referred to therein, fairly summarize the matters referred to therein.

(p) *No Violation or Default.* Neither the Company nor any of its subsidiaries is (i) in violation of its charter, bylaws (*estatutos sociales*) or other constituent documents, (ii) in default in the performance or observance of any indenture, mortgage, deed of trust, loan agreement or other similar financing agreement or instrument or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries is subject or (iii) in violation of any law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority; except, in the case of clauses (ii) and (iii) above, for any such default or violation that would not, individually or in the aggregate, have a Material Adverse Effect.

(q) *No Conflicts.* The execution, delivery and performance by each of the Company and the Selling Subsidiaries of the Transaction Documents to which it is a party, the sale of the Shares and the issuance and sales of the Series A Shares and Series B Shares underlying the Shares, and the consummation of the transactions contemplated by the Transaction Documents will not (i) conflict with or result in a breach or violation of any of the terms or provisions of, or constitute a default under, any indenture, mortgage, deed of trust, loan agreement or other similar financing agreement or instrument or other agreement or instrument to which the Company or any of its subsidiaries is a party or by which the Company or any of its subsidiaries is bound or to which any of the property or assets of the Company or any of its subsidiaries (including the Selling Subsidiaries) is subject, (ii) result in any violation of the provisions of the charter, bylaws (*estatutos sociales*) or other constituent documents of the Company or any of the Selling Subsidiaries or (iii) result in the violation of any law or statute or any judgment, order, rule or regulation of any court or arbitrator or governmental or regulatory authority having jurisdiction over the Company or any of its subsidiaries, except, in the case of clause (i), for any such conflict, breach, violation or default that would not, individually or in the aggregate, have a Material Adverse Effect.

(r) *No Consents Required.* No consent, approval, authorization, order, registration or qualification of or with any court or arbitrator or governmental or regulatory authority is required for the execution, delivery and performance by each of the Company and the Selling Subsidiaries of the Transaction Documents to which it is a party, the sale of the Shares and the issuance and sales of the Series A Shares and Series B Shares underlying the Shares, or the consummation by the Company or the Selling Subsidiaries of the transactions contemplated by the Transaction Documents, except (A) the registration under the Securities Act of the Shares, (B) the approval of the CNBV to enter into the CPO Deed and issue CPOs, (C) the approval of the CNBV to conduct a public offering in Mexico of the Mexican CPOs and to register the Mexican CPOs with the RNV; (D) the favorable opinion of the Mexican Stock Exchange to undertake the public offering in Mexico of the Mexican CPOs and the listing of the Mexican CPOs; and (E) such consents, approvals, authorizations, orders, registrations or qualifications as may be required under state securities or Blue Sky laws or any laws of jurisdictions outside Mexico and the United States in connection with the purchase and distribution of the Shares, in each case as have been duly obtained and are in full force and effect.

(s) *Legal Proceedings.* Except as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus, there are no legal or government proceedings pending to which the Company or any of its subsidiaries is a party or of which any property of the Company or any of its subsidiaries is the subject which, if determined adversely to the Company or any of its subsidiaries, would individually or in the aggregate have a Material Adverse Effect; and, to the Company's knowledge, no such proceedings are threatened or contemplated by any court or arbitrator or governmental or regulatory authority or threatened by others.

(t) *Independent Accountants*. KPMG Cárdenas Dosal, S.C., who have certified certain financial statements of the Company and its consolidated subsidiaries and delivered their report with respect to the audited consolidated financial statements and schedules included in the Registration Statement, the Pricing Disclosure Package and the Prospectus, is an independent registered public accounting firm with respect to the Company and its subsidiaries within the applicable rules and regulations adopted by the SEC and the U.S. Public Company Accounting Oversight Board and as required by the Securities Act.

(u) *Title to Real and Personal Property*. The Company and its subsidiaries have good and marketable title to all real property and good and marketable title to all personal property owned by them, in each case free and clear of all liens, encumbrances and defects except as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus or as do not materially affect the operations, business or properties of the Company and its subsidiaries, taken as a whole, and do not interfere with the use made and proposed to be made of such property by the Company and its subsidiaries; and any real property and buildings held under lease by the Company and its subsidiaries are held by them under valid, subsisting and enforceable leases with such exceptions as are not material and do not interfere with the use made and proposed to be made of such property and buildings by the Company and its subsidiaries taken as a whole.

(v) *Licenses and Permits.* The Company and each of its subsidiaries have all licenses, franchises, permits, authorizations, approvals and orders and other concessions of and from all courts, arbitrators and governmental and regulatory authorities that are necessary to own or lease their other properties and conduct their businesses as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus except for such licenses, franchises, permits, authorizations, approvals and orders and other concessions, the failure to obtain or possess would not individually or in the aggregate have a Material Adverse Effect.

(w) *Investment Company Act*. The Company is not and, after giving effect to the offering and sale of the Shares, will not be an "investment company," as such term is defined in the U.S. Investment Company Act of 1940, as amended, and the rules and regulations of the SEC thereunder (the "Investment Company Act").

(x) *Taxes.* The Company and its subsidiaries have paid all federal, state, local and foreign taxes and filed all tax returns required to be paid or filed through the date hereof; and except as otherwise disclosed in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus, there is no material tax deficiency that has been, or could reasonably be expected to be, asserted against the Company or any of its subsidiaries or any of their respective properties or assets.

(y) *No Labor Disputes*. No labor disturbance by or dispute with employees of the Company or any of its subsidiaries exists or, to the knowledge of the Company, is contemplated or threatened, and the Company is not aware of any existing or imminent labor disturbance by, or dispute with, the employees of any of its or its subsidiaries' principal suppliers, contractors or customers, except as would not have a Material Adverse Effect.

(z) *Compliance with and Liability under Environmental Laws.* The Company and its subsidiaries are (i) in compliance with any and all applicable foreign, federal, state and local laws and regulations relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants ("Environmental Laws"), (ii) have received and are in compliance with all permits, licenses or other approvals required of them

under applicable Environmental Laws to conduct their respective businesses and (iii) have not received notice of any actual or potential liability under any environmental law, except where such non-compliance with Environmental Laws, failure to receive required permits, licenses or other approvals, or liability would not, individually or in the aggregate have a Material Adverse Effect, and except as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus.

(aa) *Review of Environmental Laws.* In the ordinary course of its business, the Company periodically reviews the effect of Environmental Laws on the business, operations and properties of the Company and its subsidiaries, in the course of which it identifies and evaluates associated costs and liabilities (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws, or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties). On the basis of such review, the Company has reasonably concluded that such associated costs and liabilities would not, individually or in the aggregate, have a Material Adverse Effect, except as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus.

(bb) *Disclosure Controls*. The Company and its subsidiaries maintain an effective system of "disclosure controls and procedures" (as defined in Rule 13a-15(e) of the Exchange Act) that complies with the requirements of the Exchange Act and that has been designed to ensure that information required to be disclosed by the Company in reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms, including controls and procedures designed to ensure that such information is accumulated and communicated to the Company's management as appropriate to allow timely decisions regarding required disclosure. The Company and its subsidiaries have carried out evaluations of the effectiveness of their disclosure controls and procedures as required by Rule 13a-15 of the Exchange Act.

(cc) *Accounting Controls.* The Company and its subsidiaries maintain systems of "internal control over financial reporting" (as defined in Rule 13a-15(f) of the Exchange Act) that comply with the requirements of the Exchange Act and have been designed by, or under the supervision of, their respective principal executive and principal financial officers, or persons performing similar functions, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles, including, but not limited to, internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with generally accepted accounting principles and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. Based on the Company's most recent evaluation of its internal controls over financial reporting pursuant to Rule 13a-15(c) of the Exchange Act, there are no material weaknesses in the Company's internal controls. The Company's auditors and the Audit Committee of the Board of Directors of the Company have been advised of: (i) all significant deficiencies and material weaknesses in the design or operation of internal controls over financial reporting which have adversely affected or are reasonably likely to adversely affect the Company's ability to record, process, summarize and report financial information; and (ii) any fraud, whether or not material, that involves management or other employees who have a significant role in the Company's internal controls over financial reporting.

(dd) *No Unlawful Payments.* Neither the Company nor any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or other person associated with or acting on behalf of the Company or any of its subsidiaries has (i) used any corporate funds for any unlawful contribution, gift, entertainment or other unlawful expense relating to political activity; (ii) made any direct or indirect unlawful payment to any foreign or domestic government official or employee from corporate funds; (iii) violated or is in violation of any provision of the U.S. Foreign Corrupt Practices Act of 1977; or (iv) made any bribe, rebate, payoff, influence payment, kickback or other unlawful payment.

(ee) *Compliance with Money Laundering Laws*. The operations of the Company and its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements of the U.S. Currency and Foreign Transactions Reporting Act of 1970, as amended, the money laundering statutes of Mexico, the United States and any other applicable jurisdiction, the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "Money Laundering Laws"), to the extent applicable to the Company and its subsidiaries, and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the knowledge of the Company, threatened.

(ff) *Compliance with OFAC.* None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is currently subject to any U.S. sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC"); and neither the Company nor the Selling Subsidiaries will, directly or indirectly, use the proceeds of the offering of the Shares hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC.

(gg) *No Stabilization.* Neither the Company nor any of its subsidiaries has taken, directly or indirectly, any action which was designed to or which has constituted or which might reasonably be expected to cause or result in, under the Exchange Act or otherwise, stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Shares.

(hh) *Passive Foreign Investment Company.* The Company does not expect to be a passive foreign investment company ("PFIC") within the meaning of Section 1297 of the U.S. Internal Revenue Code of 1986, as amended, for its current taxable year, and does not expect to become a PFIC in the future.

(ii) *Sarbanes-Oxley Act*. There is and has been no failure on the part of the Company or, to the knowledge of the Company, any of the Company's directors or officers, in their capacities as such, to comply with any provision of the U.S. Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith, including Section 402 related to loans and Sections 302 and 906 related to certifications.

(jj) *Forward-Looking Statements.* No forward-looking statement (within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act) contained in the Registration Statement, the Pricing Disclosure Package or the Prospectus has been made or reaffirmed without a reasonable basis or has been disclosed other than in good faith.

(kk) *No Transfer Taxes.* No stamp or other issuance or transfer taxes or duties and no capital gains, income, withholding or other taxes are payable by or on behalf of the Underwriters in connection with the sale and delivery of the Shares as contemplated in this Agreement or the sale and delivery by the Underwriters of the Shares as contemplated herein.

(ll) *No Exchange Controls.* Except as described in each of the Registration Statement, the Pricing Disclosure Package and the Prospectus, all cash dividends and other distributions declared and payable on the Shares may, under current Mexican law and regulations, be paid to holders thereof in Mexican pesos and may be converted into foreign currency that may be transferred out of Mexico.

Any certificate signed by any officer of the Company or any Selling Subsidiary and delivered to the Representatives or counsel of the Underwriters in connection with the offering of the Shares shall be deemed a representation and warranty by the Company and such Selling Subsidiary, as to matters covered thereby, to each Underwriter.

4. Further Agreements of the Company. The Company covenants and agrees with each Underwriter that:

(a) *Required Filings.* The Company will file the Prospectus with the SEC within the time periods specified by Rule 424(b) and Rule 430A, 430B or 430C under the Securities Act, will file any Issuer Free Writing Prospectus to the extent required by Rule 433 under the Securities Act; will file promptly all reports required to be filed by the Company with the SEC pursuant to Section 13(a), 13(c) or 15(d) of the Exchange Act subsequent to the date of the Prospectus and for so long as the delivery of a prospectus is required in connection with the offering or sale of the Shares; and will furnish copies of the Prospectus and each Issuer Free Writing Prospectus (to the extent not previously delivered) to the Underwriters in New York City prior to 10:00 A.M., New York City time, on the business day next succeeding the date of this Agreement in such quantities as the Representatives may reasonably request. The Company will pay the registration fee for this offering within the time period required by Rule 456(b)(1) under the Securities Act (without giving effect to the proviso therein) and in any event prior to the Closing Date.

(b) *Delivery of Copies.* The Company will deliver, without charge, to each Underwriter (A) a conformed copy of the Registration Statement as originally filed and each amendment thereto (without exhibits) and (B) during the Prospectus Delivery Period (as defined below), as many copies of the Prospectus (including all amendments and supplements thereto and documents incorporated by reference therein and each Issuer Free Writing Prospectus) as the Representatives may reasonably request. As used herein, the term "Prospectus Delivery Period" means such period of time after the first date of the public offering of the Shares as in the opinion of counsel for the Underwriters a prospectus relating to the Shares is required by law to be delivered (or required to be delivered but for Rule 172 under the Securities Act) in connection with sales of the Shares by any Underwriter or dealer.

(c) *Amendments or Supplements, Issuer Free Writing Prospectuses.* Before preparing, using, authorizing, approving, referring to or filing any Issuer Free Writing Prospectus, and before filing any amendment or supplement to the Registration Statement or the Prospectus, the Company will furnish to the Representatives and counsel for the Underwriters a copy of the proposed Issuer Free Writing Prospectus, amendment or supplement for review and will not prepare, use, authorize, approve, refer to or file any such Issuer Free Writing Prospectus or file any such proposed amendment or supplement to which the Representatives reasonably objects.

(d) *Notice to the Representatives.* The Company will advise the Representatives promptly, and confirm such advice in writing, (i) when the Registration Statement has become effective; (ii) when any amendment to the Registration Statement has been filed or becomes effective; (iii) when any supplement to the Prospectus or any Issuer Free Writing Prospectus or any amendment to the Prospectus has been filed; (iv) of any request by the SEC for any amendment to the Registration Statement or any amendment or supplement to the Prospectus or the receipt of any comments from the SEC relating to the Registration Statement or any other request by the SEC for any additional information; (v) of the issuance by the SEC of any order suspending the effectiveness of the Registration Statement or preventing or suspending the use of any Preliminary Prospectus, any of the Pricing Disclosure Package or the Prospectus or the initiation or threatening of any proceeding for that purpose or pursuant to Section 8A of the Securities Act; (vi) of the occurrence of any event within the Prospectus Delivery Period as a result of which the Prospectus, the Pricing Disclosure Package or any Issuer Free Writing Prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances existing when the Prospectus, the Pricing Disclosure Package or any such Issuer Free Writing Prospectus is delivered to a purchaser, not misleading; (vii) of the receipt by the Company of any notice of objection of the SEC to the use of the Registration Statement or any post-effective amendment thereto pursuant to Rule 401(g)(2) under the Securities Act; and (viii) of the receipt by the Company of any notice with respect to any suspension of the qualification of the Shares for offer and sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose; and the Company will use its commercially reasonable best efforts to prevent the issuance of any such order suspending the effectiveness of the Registration Statement, preventing or suspending the use of any Preliminary Prospectus, any of the Pricing Disclosure Package or the Prospectus or suspending any such qualification of the Shares and, if any such order is issued, will obtain as soon as reasonably practicable the withdrawal thereof.

(e) *Ongoing Compliance.* (1) If during the Prospectus Delivery Period (i) any event shall occur or condition shall exist as a result of which the Prospectus as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances existing when the Prospectus is delivered to a purchaser, not misleading or (ii) it is necessary to amend or supplement the Prospectus to comply with law, the Company will immediately notify the Underwriters thereof and forthwith prepare and, subject to paragraph (c) above, file with the SEC and furnish to the Underwriters such amendments or supplements to the Prospectus as may be necessary so that the statements in the Prospectus as so amended or supplemented will not, in the light of the circumstances existing when the Prospectus is delivered to a purchaser, be misleading or so that the Prospectus will comply with law and (2) if at any time prior to the Closing Date (i) any event shall occur or condition shall exist as a result of which the Pricing Disclosure Package as then amended or supplemented would include any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances existing when the Pricing Disclosure Package is delivered to a purchaser, not misleading or (ii) it is necessary to amend or supplement the Pricing Disclosure Package to comply with law, the Company will immediately notify the Underwriters thereof and forthwith prepare and, subject to paragraph (c) above, file with the SEC (to the extent required) and furnish

to the Underwriters such amendments or supplements to the Pricing Disclosure Package as may be necessary so that the statements in the Pricing Disclosure Package as so amended or supplemented will not, in the light of the circumstances existing when the Pricing Disclosure Package is delivered to a purchaser, be misleading or so that the Pricing Disclosure Package will comply with law.

(f) *Securities Laws Compliance.* The Company will qualify the Shares for offer and sale under the securities or Blue Sky laws of such jurisdictions as the Representatives shall reasonably request and will continue such qualifications in effect so long as required for distribution of the Shares; provided that the Company shall not be required to (i) qualify as a foreign corporation or other entity or as a dealer in securities in any such jurisdiction where it would not otherwise be required to so qualify, (ii) file any general consent to service of process in any such jurisdiction or (iii) subject itself to taxation in any such jurisdiction if it is not otherwise so subject.

(g) *Earning Statement.* The Company will make generally available to its security holders and the Representatives as soon as practicable an earning statement that satisfies the provisions of Section 11(a) of the Securities Act and Rule 158 of the SEC promulgated thereunder covering a period of at least twelve months beginning with the first fiscal quarter of the Company occurring after the "effective date" (as defined in Rule 158) of the Registration Statement.

(h) *Clear Market.* For a period of 90 days after the date of the Prospectus, the Company will not, directly or indirectly, (i) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase or otherwise transfer or dispose of, or file with the SEC a registration statement under the Securities Act or with the CNBV a prospectus under Mexican securities laws relating to, any ADSs, CPOs or shares of common stock or any securities convertible into or exercisable or exchangeable for ADSs, CPOs or shares of common stock, or publicly disclose the intention to make any offer, sale, pledge, disposition or filing, or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of ADSs, CPOs or shares of common stock, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of such securities, in cash or otherwise, without the prior written consent of the Representatives, other than the Shares to be sold hereunder and the Mexican CPOs to be sold under the Mexican Underwriting Agreement; provided that the foregoing does not apply to (1) convertible securities publicly placed in the Mexican securities market with, among others, Mexican pension funds (*SIEFORES*), as described in each of the Pricing Disclosure Package and Prospectus and (2) any shares of common stock of the Company issued upon the exercise of options outstanding as of the date hereof. Notwithstanding the foregoing, if (A) during the last 17 days of the 90-day restricted period, the Company issues an earnings release or material news or a material event relating to the Company occurs; or (B) prior to the expiration of the 90-day restricted period, the Company announces that it will release earnings results during the 16-day period beginning on the last day of the 90-day period, the restrictions imposed by this Agreement shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event.

(i) *Use of Proceeds*. The Company and the Selling Subsidiaries will apply the net proceeds from the sale of the Shares as described in the Registration Statement, the Pricing Disclosure Package and the Prospectus under the heading "Use of Proceeds."

(j) *No Stabilization.* The Company and its subsidiaries will not take, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization or manipulation of the price of the Shares.

(k) *Exchange Listing*. The Company will use its commercially reasonable efforts to list, subject to notice of issuance, the ADSs on the New York Stock Exchange and, to the extent Shares are delivered in the form of CPOs, CPOs on the Mexican Stock Exchange.

(l) *Record Retention*. The Company will, pursuant to reasonable procedures developed in good faith, retain copies of each Issuer Free Writing Prospectus that is not filed with the SEC in accordance with Rule 433 under the Securities Act.

5. Certain Agreements of the Underwriters. Each Underwriter hereby represents and agrees that:

(a) It has not used, authorized use of, referred to or participated in the planning for use of, and will not use, authorize use of, refer to or participate in the planning for use of, any "free writing prospectus," as defined in Rule 405 under the Securities Act (which term includes use of any written information furnished to the SEC by the Company and not incorporated by reference into the Registration Statement and any press release issued by the Company) other than (i) a free writing prospectus that contains no "issuer information" (as defined in Rule 433(h)(2) under the Securities Act) that was not included (including through incorporation by reference) in the Preliminary Prospectus or a previously filed Issuer Free Writing Prospectus, (ii) any Issuer Free Writing Prospectus listed on Annex A or prepared pursuant to Section 3(c) or Section 4(c) above (including any electronic road show), or (iii) any free writing prospectus prepared by such Underwriter and approved by the Company in advance in writing (each such free writing prospectus referred to in clauses (i) or (iii), an "Underwriter Free Writing Prospectus").

(b) It has not and will not, without the prior written consent of the Company, use any free writing prospectus that contains the final terms of the Shares unless such terms have previously been included in a free writing prospectus filed with the SEC.

(c) It is not subject to any pending proceeding under Section 8A of the Securities Act with respect to the offering (and will promptly notify the Company if any such proceeding against it is initiated during the Prospectus Delivery Period).

6. Conditions of Underwriters' Obligations. The obligation of each Underwriter to purchase the Underwritten Shares on the Closing Date or the Optional Shares on the Additional Closing Date, as the case may be, as provided herein is subject to the performance by the Company and the Selling Subsidiaries of their covenants and other obligations hereunder and to the following additional conditions:

(a) *Registration Compliance; No Stop Order.* No order suspending the effectiveness of the Registration Statement shall be in effect, and no proceeding for such purpose, pursuant to Rule 401(g)(2) or pursuant to Section 8A under the Securities Act shall be pending before or threatened by the SEC; the Prospectus and each Issuer Free Writing Prospectus shall have been timely filed with the SEC under the Securities Act (in the case of an Issuer Free Writing Prospectus, to the extent required by Rule 433 under the Securities Act) and in accordance with Section 4(a) hereof; and all requests by the SEC for additional information shall have been complied with to the reasonable satisfaction of the Representatives.

(b) *Representations and Warranties.* The representations and warranties of the Company contained herein shall be true and correct on the date hereof and on and as of the Closing Date or the Additional Closing Date, as the case may be; and the statements of the Company and the Selling Subsidiaries and their respective officers made in any certificates delivered pursuant to this Agreement shall be true and correct on and as of the Closing Date or the Additional Closing Date, as the case may be.

(c) *No Downgrade.* Subsequent to the earlier of (A) the Applicable Time and (B) the execution and delivery of this Agreement, (i) no downgrading rated by a "nationally recognized statistical rating organization," as such term is defined by the SEC for purposes of Rule 436(g)(2) under the Securities Act, shall have occurred in the rating accorded any debt securities of, or guaranteed by, the Company and (ii) no such organization shall have publicly announced that it has under surveillance or review, or has changed its outlook with respect to, its rating of any such debt securities (other than an announcement with positive implications of a possible upgrading).

(d) *No Material Adverse Change.* No event or condition of a type described in Section 3(f) hereof shall have occurred or shall exist, which event or condition is not described in each of the Pricing Disclosure Package and the Prospectus, the effect of which in the sole judgment of the Representatives makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Shares on the Closing Date or the Additional Closing Date, as the case may be, on the terms and in the manner contemplated by this Agreement, the Pricing Disclosure Package and the Prospectus.

(e) *Officer's Certificate.* The Representatives shall have received on and as of the Closing Date or the Additional Closing Date, as the case may be, a certificate in form and substance reasonably satisfactory to the Representatives of an authorized officer of the Company (i) confirming that such officer has carefully reviewed the Registration Statement, the Pricing Disclosure Package and the Prospectus and, to the knowledge of such officer, the representations set forth in Sections 3(b) and 3(d) hereof are true and correct, (ii) confirming that the other representations and warranties of the Company in this Agreement are true and correct and that the Company has complied with all agreements and satisfied all conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date or the Additional Closing Date, as the case may be, and (iii) to the effect set forth in paragraphs (a), (c) and (d) above.

(f) *Comfort Letters.* On the date of this Agreement and on the Closing Date or the Additional Closing Date, as the case may be, KPMG Cárdenas Dosal, S.C. shall have furnished to the Representatives in form and substance reasonably satisfactory to the Representatives, at the request of the Company, letters, dated the respective dates of delivery thereof and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, containing statements and information of the type customarily included in accountants' "comfort letters" to underwriters with respect to the financial statements and certain financial information contained or incorporated by reference in the Registration Statement, the Pricing Disclosure Package and the Prospectus; provided that the letter delivered on the Closing Date or the Additional Closing Date, as the case may be, shall use a "cut-off" date no more than three business days prior to such Closing Date or such Additional Closing Date, as the case may be.

(g) *Opinion and Negative Assurance of General Counsel.* Lic. Ramiro G. Villarreal, General Counsel to the Company, shall have furnished to the Representatives his written opinion and negative assurance, dated the Closing Date or Additional Closing Date, as the case may be, and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, to the effect set forth in Annex B hereto.

(h) *Opinion and Negative Assurance of Counsel for the Company*. Skadden, Arps, Slate, Meagher & Flom LLP, New York counsel for the Company, shall have furnished to the Representatives, at the request of the Company, their written opinion and negative assurance letter, dated the Closing Date or the Additional Closing Date, as the case may be, and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, to the effect set forth in Annex C hereto.

(i) *Opinion of Counsel for the ADS Depositary*. Patterson Belknap Webb & Tyler LLP, New York counsel for the ADS Depositary, shall have furnished to the Representatives, at the request of the ADS Depositary, their written opinion, dated the Closing Date or the Additional Closing Date, as the case may be, and addressed to the Underwriters, in form and substance reasonably satisfactory to the Representatives, to the effect set forth in Annex D hereto.

(j) *Opinion and Negative Assurance of Counsel for the Underwriters*. The Representatives shall have received on and as of the Closing Date or the Additional Closing Date, as the case may be, an opinion and negative assurance letter of Simpson Thacher & Bartlett LLP, special New York counsel for the Underwriters, with respect to such matters as the Representatives may reasonably request in form and substance reasonably satisfactory to the Representatives, and such counsel shall have received such documents and information as they may reasonably request to enable them to pass upon such matters.

(k) *Opinion and Negative Assurance of Mexican Counsel for the Underwriters*. The Representatives shall have received on and as of the Closing Date or the Additional Closing Date, as the case may be, an opinion and negative assurance letter of Ritch, Mueller, S.C., special Mexican counsel for the Underwriters, with respect to such matters as the Representatives may reasonably request in form and substance reasonably satisfactory to the Representatives, and such counsel shall have received such documents and information as they may reasonably request to enable them to pass upon such matters.

(l) *No Legal Impediment to Issuance*. No action shall have been taken and no statute, rule, regulation or order shall have been enacted, adopted or issued by any federal, state or foreign governmental or regulatory authority that would, as of the Closing Date or the Additional Closing Date, as the case may be, prevent the issuance or sale of the Shares; and no injunction or order of any federal, state or foreign court shall have been issued that would, as of the Closing Date or the Additional Closing Date, as the case may be, prevent the issuance or sale of the Shares.

(m) *Exchange Listing*. The ADSs to be delivered on the Closing Date or Additional Closing Date, as the case may be, shall have been approved for listing on the New York Stock Exchange, subject to official notice of issuance.

(n) *Lock-up Agreements*. The "lock-up" agreements, each substantially in the form of Exhibit A hereto, between you and the officers and directors of the Company relating to sales and certain other dispositions of ADSs, CPOs and shares of common stock of the Company or certain other securities, delivered to you on or before the date hereof, shall be in full force and effect on the Closing Date or Additional Closing Date, as the case may be.

(o) *Mexican Approvals*. (i) The CNBV shall have approved the entry into the CPO Deed and issuance of CPOs thereunder, (ii) the CNBV shall have approved the public offering in Mexico of the Mexican CPOs and the registration of the Mexican CPOs with the RNV and (iii) the Mexican Stock Exchange shall have given its favorable opinion to the public offering in

Mexico of the Mexico CPOs and listing of the Mexican CPOs and any CPOs sold in the form of CPOs hereunder; and no order or other type of official communication suspending the Mexican Offering shall have been issued by the CNBV or a Mexican judicial authority and continue in effect.

(p) *Mexican Underwriting Agreement.* On or prior to the Closing Date, the Mexican Underwriting Agreement shall have been signed. The closing of the sale of the Shares to be issued and sold pursuant to this Agreement shall occur concurrently with the closing of the Mexican CPOs to be sold by the Company and the Selling Subsidiaries pursuant to the Mexican Underwriting Agreement.

(q) *ADSs*. The ADS Depositary shall have furnished or caused to be furnished to the Representatives a certificate satisfactory to the Representatives evidencing the deposit of CPOs in respect of which the ADSs are to be delivered on the Closing Date or Additional Closing Date, as the case may be, and such other matters related thereto as the Representatives may reasonably request.

(r) *Additional Documents.* On or prior to the Closing Date or the Additional Closing Date, as the case may be, the Company shall have furnished to the Representatives such further certificates and documents as the Representatives may reasonably request.

7. Indemnification and Contribution.

(a) *Indemnification of the Underwriters.* The Company agrees to indemnify and hold harmless each Underwriter, its affiliates, directors and officers and each person, if any, who controls such Underwriter within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act, from and against any and all losses, claims, damages and liabilities (including, without limitation, reasonable and documented legal fees and other expenses incurred in connection with any suit, action or proceeding or any claim asserted, as such fees and expenses are incurred), joint or several, that arise out of, or are based upon, (i) any untrue statement or alleged untrue statement of a material fact contained in the Registration Statement (or any amendment or supplement thereto) or caused by any omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein, not misleading, (ii) or any untrue statement or alleged untrue statement of a material fact contained in the Prospectus (or any amendment or supplement thereto), any Issuer Free Writing Prospectus, any "issuer information" filed or required to be filed pursuant to Rule 433(d) under the Securities Act or any Pricing Disclosure Package (including any Pricing Disclosure Package that has subsequently been amended), or caused by any omission or alleged omission to state therein a material fact necessary in order to make the statements therein, in light of the circumstances under which they were made, not misleading, in each case except insofar as such losses, claims, damages or liabilities arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in reliance upon and in conformity with any information furnished to the Company in writing by any Underwriter through the Representatives expressly for use therein (it being understood and agreed that the only such information furnished by any Underwriter consists of the information described as such in subsection (b) below).

(b) *Indemnification of the Company.* Each Underwriter agrees, severally and not jointly, to indemnify and hold harmless the Company, its affiliates, its directors, its officers who signed the Registration Statement and each person, if any, who controls the Company within the meaning of Section 15 of the Securities Act or Section 20 of the Exchange Act to the same extent as the indemnity set forth in paragraph (a) above, but only with respect to any losses, claims, damages or liabilities that arise out of, or are based upon, any untrue statement or omission or alleged untrue statement or omission made in

reliance upon and in conformity with any information relating to such Underwriter furnished to the Company in writing by such Underwriter through the Representatives expressly for use in the Registration Statement, the Prospectus, any Issuer Free Writing Prospectus or any Pricing Disclosure Package (or any amendment or supplement thereto); it being understood and agreed upon that the only such information furnished by any Underwriter consists of the following information in the Prospectus furnished on behalf of each Underwriter: the names of the underwriters set forth in the table under the second paragraph, the third, ninth, sixteenth and seventeenth paragraphs under the caption "Underwriting."

(c) *Notice and Procedures.* If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any person in respect of which indemnification may be sought pursuant to either paragraph (a) or (b) above, such person (the "Indemnified Person") shall promptly notify the person against whom such indemnification may be sought (the "Indemnifying Person") in writing; provided that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have under paragraph (a) or (b) above except to the extent that it has been materially prejudiced (through the forfeiture of substantive rights or defenses) by such failure; and provided, further, that the failure to notify the Indemnifying Person shall not relieve it from any liability that it may have to an Indemnified Person otherwise than under paragraph (a) or (b) above. If any such proceeding shall be brought or asserted against an Indemnified Person and it shall have notified the Indemnifying Person thereof, the Indemnifying Person shall retain counsel reasonably satisfactory to the Indemnified Person (who shall not, without the consent of the Indemnified Person, be counsel to the Indemnifying Person) to represent the Indemnified Person in such proceeding and shall pay the fees and expenses of such counsel related to such proceeding, as incurred. In any such proceeding, any Indemnified Person shall have the right to retain its own counsel, but the fees and expenses of such counsel shall be at the expense of such Indemnified Person unless (i) the Indemnifying Person and the Indemnified Person shall have mutually agreed to the contrary; (ii) the Indemnifying Person has failed within a reasonable time to retain counsel reasonably satisfactory to the Indemnified Person; (iii) the Indemnified Person shall have reasonably concluded that there may be legal defenses available to it that are different from or in addition to those available to the Indemnifying Person; or (iv) the named parties in any such proceeding (including any impleaded parties) include both the Indemnifying Person and the Indemnified Person and representation of both parties by the same counsel would be inappropriate due to actual or potential differing interest between them. It is understood and agreed that the Indemnifying Person shall not, in connection with any proceeding or related proceedings in the same jurisdiction, be liable for the fees and expenses of more than one separate firm (in addition to any local counsel) for all Indemnified Persons, and that all such fees and expenses shall be paid or reimbursed as they are incurred. Any such separate firm for any Underwriter, its affiliates, directors and officers and any control persons of such Underwriter shall be designated in writing by J.P. Morgan Securities Inc., in consultation with the other Representatives, and any such separate firm for the Company, its directors, its officers who signed the Registration Statement and any control persons of the Company shall be designated in writing by the Company. The Indemnifying Person shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, the Indemnifying Person agrees to indemnify each Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an Indemnified Person shall have requested that an Indemnifying Person reimburse the Indemnified Person for fees and expenses of counsel as contemplated by this paragraph, the Indemnifying Person shall be liable for any settlement of any proceeding effected without its written consent if (i) such settlement is entered into more than 30 days after receipt by the Indemnifying Person of such request and (ii) the Indemnifying Person shall not have reimbursed the Indemnified Person in accordance with such request prior to the date of such settlement. No Indemnifying Person shall, without the written consent of the Indemnified Person, effect any settlement of any pending or threatened proceeding in respect of which any Indemnified Person is or could have been a party and indemnification could have been sought

hereunder by such Indemnified Person, unless such settlement (x) includes an unconditional release of such Indemnified Person, in form and substance reasonably satisfactory to such Indemnified Person, from all liability on claims that are the subject matter of such proceeding and (y) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

(d) *Contribution.* If the indemnification provided for in paragraphs (a) and (b) above is unavailable to an Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then each Indemnifying Person under such paragraph, in lieu of indemnifying such Indemnified Person thereunder, shall contribute to the amount paid or payable by such Indemnified Person as a result of such losses, claims, damages or liabilities (i) in such proportion as is appropriate to reflect the relative benefits received by the Company and the Selling Subsidiaries, on the one hand, and the Underwriters on the other, from the offering of the Shares or (ii) if the allocation provided by clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in clause (i) but also the relative fault of the Company, on the one hand, and the Underwriters on the other, in connection with the statements or omissions that resulted in such losses, claims, damages or liabilities, as well as any other relevant equitable considerations. The relative benefits received by the Company and the Selling Subsidiaries, on the one hand, and the Underwriters on the other, shall be deemed to be in the same respective proportions as the net proceeds (before deducting expenses) received by the Company and the Selling Subsidiaries from the sale of the Shares and the total underwriting discounts and commissions received by the Underwriters in connection therewith, in each case as set forth in the table on the cover of the Prospectus, bear to the aggregate offering price of the Shares. The relative fault of the Company, on the one hand, and the Underwriters on the other, shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Company or by the Underwriters and the parties' relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission.

(e) *Limitation on Liability.* The Company and the Underwriters agree that it would not be just and equitable if contribution pursuant to this Section 7 were determined by pro rata allocation (even if the Underwriters were treated as one entity for such purpose) or by any other method of allocation that does not take account of the equitable considerations referred to in paragraph (d) above. The amount paid or payable by an Indemnified Person as a result of the losses, claims, damages and liabilities referred to in paragraph (d) above shall be deemed to include, subject to the limitations set forth above, any legal or other expenses incurred by such Indemnified Person in connection with any such action or claim. Notwithstanding the provisions of this Section 7, in no event shall an Underwriter be required to contribute any amount in excess of the amount by which the total underwriting discounts and commissions received by such Underwriter with respect to the offering of the Shares exceeds the amount of any damages that such Underwriter has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. No person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Securities Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. The Underwriters' obligations to contribute pursuant to this Section 7 are several in proportion to their respective purchase obligations hereunder and not joint.

(f) *Non-Exclusive Remedies.* The remedies provided for in this Section 7 are not exclusive and shall not limit any rights or remedies which may otherwise be available to any Indemnified Person at law or in equity.

8. Effectiveness of Agreement. This Agreement shall become effective upon the execution and delivery hereof by the parties hereto.

9. Termination. This Agreement may be terminated in the absolute discretion of the Representatives, by notice to the Company, if after the execution and delivery of this Agreement and prior to the Closing Date or, in the case of the Option Shares, prior to the Additional Closing Date (i) trading generally shall have been suspended or materially limited on or by any of the New York Stock Exchange or the Mexican Stock Exchange; (ii) trading of any securities issued or guaranteed by the Company shall have been suspended on any exchange or in any over-the-counter market; (iii) a general moratorium on commercial banking activities shall have been declared by U.S. federal, New York State or Mexican authorities; or (iv) there shall have occurred any outbreak or escalation of hostilities or any change in financial markets or any calamity or crisis, either within or outside the United States or Mexico, that, in the judgment of the Representatives, is material and adverse and makes it impracticable or inadvisable to proceed with the offering, sale or delivery of the Shares on the Closing Date or the Additional Closing Date, as the case may be, on the terms and in the manner contemplated by this Agreement, the Pricing Disclosure Package and the Prospectus.

10. Defaulting Underwriter.

(a) If, on the Closing Date or the Additional Closing Date, as the case may be, any Underwriter defaults on its obligation to purchase the Shares that it has agreed to purchase hereunder on such date, the non-defaulting Underwriters may in their discretion arrange for the purchase of such Shares by other persons satisfactory to the Company on the terms contained in this Agreement. If, within 36 hours after any such default by any Underwriter, the non-defaulting Underwriters do not arrange for the purchase of such Shares, then the Company shall be entitled to a further period of 36 hours within which to procure other persons satisfactory to the non-defaulting Underwriters to purchase such Shares on such terms. If other persons become obligated or agree to purchase the Shares of a defaulting Underwriter, either the non-defaulting Underwriters or the Company may postpone the Closing Date or the Additional Closing Date, as the case may be, for up to five full business days in order to effect any changes that in the opinion of counsel for the Company or counsel for the Underwriters may be necessary in the Registration Statement and the Prospectus or in any other document or arrangement, and the Company agrees to promptly prepare any amendment or supplement to the Registration Statement and the Prospectus that effects any such changes. As used in this Agreement, the term "Underwriter" includes, for all purposes of this Agreement unless the context otherwise requires, any person not listed in Schedule 1 hereto that, pursuant to this Section 10, purchases Shares that a defaulting Underwriter agreed but failed to purchase.

(b) If, after giving effect to any arrangements for the purchase of the Shares of a defaulting Underwriter or Underwriters by the non-defaulting Underwriters and the Company as provided in paragraph (a) above, the aggregate number of Shares that remain unpurchased on the Closing Date or the Additional Closing Date, as the case may be, does not exceed one-eleventh of the aggregate number of Shares to be purchased on such date, then the Company shall have the right to require each non-defaulting Underwriter to purchase the number of Shares that such Underwriter agreed to purchase hereunder on such date plus such Underwriter's pro rata share (based on the number of Shares that such Underwriter agreed to purchase on such date) of the Shares of such defaulting Underwriter or Underwriters for which such arrangements have not been made.

(c) If, after giving effect to any arrangements for the purchase of the Shares of a defaulting Underwriter or Underwriters by the non-defaulting Underwriters and the Company as provided in paragraph (a) above, the aggregate number of Shares that remain unpurchased on the Closing Date or the Additional Closing Date, as the case may be, exceeds one-eleventh of the aggregate amount of Shares to be purchased on such date, or if the Company shall not exercise the right described in paragraph (b) above, then this Agreement or, with respect to any Additional Closing Date, the obligation of the Underwriters to purchase Shares on the Additional Closing Date shall terminate without liability on the

part of the non-defaulting Underwriters. Any termination of this Agreement pursuant to this Section 10 shall be without liability on the part of the Company, except that the Company will continue to be liable for the payment of expenses as set forth in Section 11 hereof and except that the provisions of Section 7 hereof shall not terminate and shall remain in effect.

(d) Nothing contained herein shall relieve a defaulting Underwriter of any liability it may have to the Company or any non-defaulting Underwriter for damages caused by its default.

11. Payment of Expenses. Whether or not the transactions contemplated by this Agreement are consummated or this Agreement is terminated (including, without limitation, if (i) this Agreement is terminated pursuant to Section 9 hereof, (ii) the Company for any reason fails to tender the Shares for delivery to the Underwriters or (iii) the Underwriters decline to purchase the Shares for any reason permitted under this Agreement), the Company will pay or cause to be paid (a) all costs and expenses incident to the performance of its obligations hereunder, including without limitation, (i) the costs incident to the authorization, issuance, sale, preparation and delivery of the Shares and any taxes payable in connection therewith; (ii) the costs incident to the preparation, printing and filing under the Securities Act of the Registration Statement, any Issuer Free Writing Prospectus, any Pricing Disclosure Package and the Prospectus (including all exhibits, amendments and supplements thereto) and the distribution thereof; (iii) the costs of reproducing and distributing each of the Transaction Documents; (iv) the fees, disbursements and expenses of the Company's counsel and independent accountants in connection with the offering and sale of the Shares; (v) the reasonable and documented fees and expenses incurred in connection with the registration or qualification of the Shares under the state or foreign securities or blue sky laws of such jurisdictions as the Representatives may designate and the preparation, printing and distribution of a Blue Sky Memorandum (including the related reasonable and documented fees and expenses of counsel for the Underwriters); (vi) the costs and charges of any transfer agent, registrar, CPO trustee and depositary; (vii) all expenses and application fees incurred in connection with any filing with, and clearance of the offering by, the U.S. Financial Industry Regulatory Authority (FINRA); (viii) all reasonable and documented out-of-pocket costs and expenses (including, without limitation, reasonable and documented fees, disbursements and other charges of legal counsels and other experts; provided that the aggregate fees of such legal counsels retained by the Underwriters that are subject to reimbursement are approved by the Company in advance of their being retained) incurred by the Underwriters in connection with the transactions contemplated hereby; and (ix) all reasonable and documented expenses incurred by the Company and the Underwriters in connection with any "road show" presentation to potential investors.

12. Persons Entitled to Benefit of Agreement. This Agreement shall inure to the benefit of and be binding upon the parties hereto and their respective affiliates, successors and the officers and directors and any controlling persons referred to in Section 7 hereof. Nothing in this Agreement is intended or shall be construed to give any other person any legal or equitable right, remedy or claim under or in respect of this Agreement or any provision contained herein. No purchaser of Shares from any Underwriter shall be deemed to be a successor merely by reason of such purchase.

13. Survival. The respective indemnities, rights of contribution, representations, warranties and agreements of the Company and the Underwriters contained in this Agreement or made by or on behalf of the Company or the Underwriters pursuant to this Agreement or any certificate delivered pursuant hereto shall survive the delivery of and payment for the Shares and shall remain in full force and effect, regardless of any termination of this Agreement or any investigation made by or on behalf of the Company or the Underwriters.

14. Certain Defined Terms. For purposes of this Agreement, (a) except where otherwise expressly provided, the term "affiliate" has the meaning set forth in Rule 405 under the Securities Act; (b) the term "business day" means any day other than a day on which banks are permitted or required to be closed in New York City; and (c) the term "subsidiary" has the meaning set forth in Rule 405 under the Securities Act; and (d) the term "significant subsidiary" has the meaning set forth in Rule 1-02 of Regulation S-X under the Exchange Act.

15. Miscellaneous.

(a) *Authority of the Representatives.* Any action by the Underwriters hereunder may be taken by the Representatives on behalf of the Underwriters, and any such action taken by the Representatives shall be binding upon the Underwriters.

(b) *Notices.* All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given if mailed or transmitted and confirmed by any standard form of telecommunication. Notices to the Underwriters shall be given to the Representatives c/o J.P. Morgan Securities Inc., 383 Madison Avenue, New York, New York 10179 (fax: (212) 622-8358); Attention: Equity Syndicate Desk; Citigroup Global Markets Inc., 388 Greenwich Street, New York, New York 10013 (fax: (212) 816-7912); Attention: Legal Department; and Santander Investment Securities Inc., 45 East 53rd Street, New York, New York 10022 (fax: (212) 407 7810; Attention: Iñigo Gaytán de Ayala. Notices to the Company shall be given to it at Av. Ricardo Margáin Zozaya No. 324, Colonia Valle del Campestre, San Pedro Garza García, Nuevo León, Mexico 66265 (fax: +52(81)8888-4432; Attention: Enrique Jimenez Hernandez, Manager, Capital Markets.

(c) *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of New York.

(d) *Currency*. Each reference in this Agreement to dollars, U.S. dollars or U.S.$ (the "relevant currency") is of the essence. To the fullest extent permitted by law, the obligations of the Company and the Selling Subsidiaries and in respect of any amount due under this Agreement will, notwithstanding any payment in any other currency (whether pursuant to a judgment or otherwise), be discharged only to the extent of the amount in the relevant currency that the party entitled to receive such payment may, in accordance with its normal procedures, purchase with the sum paid in such other currency (after any premium and costs of exchange) on the business day immediately following the day on which such party receives such payment. If the amount in the relevant currency that may be so purchased for any reason falls short of the amount originally due, the Company and the Selling Subsidiaries will pay such additional amounts, in the relevant currency, as may be necessary to compensate for the shortfall. Any obligation of the Company and the Selling Subsidiaries not discharged by such payment will, to the fullest extent permitted by applicable law, be due as a separate and independent obligation and, until discharged as provided herein, will continue in full force and effect.

(e) *Additional Amounts.* Each payment of fees or other amounts due to the Underwriters under this Agreement shall, except as required by applicable law, be made without withholding or deduction for or on account of any taxes imposed by any jurisdiction. If any taxes are required to be withheld or deducted from any such payment, the Company and the Selling Subsidiaries shall pay such additional amounts as may be necessary to ensure that the net amount actually received by the Underwriters after such withholding or deduction is equal to the amount that the Underwriter would have received had no such withholding or deduction been required.

(f) *Waiver of Immunity.* To the extent that the Company or any of its subsidiaries (including the Selling Subsidiaries) has or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service or notice, attachment in aid or otherwise) with respect to itself or any of its property, each of the Company and its subsidiaries (including the Selling Subsidiaries) hereby irrevocably waives and agrees not to plead or claim such immunity in respect of its obligations under this Agreement.

(g) *Jurisdiction and Venue.* Each of the parties hereto hereby irrevocably agrees that any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in any U.S. Federal or State court located in the State of New York, County of New York ("New York Court") and the competent courts located in its jurisdiction of domicile with respect to actions brought against it as defendant, irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of venue of any such proceeding, and waives any right to which it may be entitled on account of place of residence or domicile, and irrevocably submits to the jurisdiction of such courts in any suit, action or proceeding. Each of the Company and the Selling Subsidiaries has appointed Corporate Creations Network Inc. as its authorized agent (the "Authorized Agent" upon whom process may be served in any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated herein which may be instituted in any New York Court, by any Underwriter, the directors, officers, employees and agents of any Underwriter, or by any person who controls any Underwriter, and expressly accepts the jurisdiction of any such court in respect of any such suit, action or proceeding. Each of the Company and the Selling Subsidiaries hereby represents and warrants that the Authorized Agent has accepted such appointment and has agreed to act as said agent for service of process, and each of the Company and the Selling Subsidiaries agrees to take any and all action, including the filing of any and all documents that may be necessary to continue such appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent shall be deemed, in every respect, effective service of process upon the Company and the Selling Subsidiaries. The provisions of this Section 15(g) shall survive the termination of this Underwriting Agreement, in whole or in part.

(h) *Counterparts.* This Agreement may be signed in counterparts (which may include counterparts delivered by any standard form of telecommunication), each of which shall be an original and all of which together shall constitute one and the same instrument.

(i) *Amendments or Waivers.* No amendment or waiver of any provision of this Agreement, nor any consent or approval to any departure therefrom, shall in any event be effective unless the same shall be in writing and signed by the parties hereto.

(j) *Headings.* The headings herein are included for convenience of reference only and are not intended to be part of, or to affect the meaning or interpretation of, this Agreement.

If the foregoing is in accordance with your understanding, please indicate your acceptance of this Agreement by signing in the space provided below.

Very truly yours,

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

By: /s/ Hector Medina Aguiar
Name: Hector Medina Aguiar
Title: Executive VP Finance & Legal

PETROCEMEX, S.A. DE C.V.

By: /s/ Hector Medina Aguiar
Name: Hector Medina Aguiar
Title: Executive VP Finance & Legal

CENTRO DISTRIBUIDOR DE CEMENTO, S.A. DE C.V.

By: /s/ Hector Medina Aguiar
Name: Hector Medina Aguiar
Title: Executive VP Finance & Legal

EMPRESAS TOLTECA DE MÉXICO, S.A. DE C.V.

By: /s/ Hector Medina Aguiar
Name: Hector Medina Aguiar
Title: Executive VP Finance & Legal

Accepted: September 22, 2009

J.P. MORGAN SECURITIES INC.
CITIGROUP GLOBAL MARKETS INC.
SANTANDER INVESTMENT SECURITIES INC.

For themselves and on behalf of the several Underwriters listed in Schedule 1 hereto.

J.P. MORGAN SECURITIES INC.

By: /s/ Bill Contente
Authorized Signatory

CITIGROUP GLOBAL MARKETS INC.

By: /s/ J.R. Blackett
Authorized Signatory

SANTANDER INVESTMENT SECURITIES INC.

By: /s/ Ignacio Menaye
Authorized Signatory

By: /s/ Inigo Gaytàn De Ayala
Authorized Signatory

Schedule 1

Underwriter	Total Number of Underwritten Shares to be Purchased	Number of Optional Shares to be Purchased if Maximum Option Exercised
J.P. Morgan Securities Inc.	120,250,000	18,037,500
Citigroup Global Markets Inc.	120,250,000	18,037,500
Santander Investment Securities Inc.	120,250,000	18,037,500
Banco Bilbao Vizcaya Argentaria, S.A.	117,000,000	17,550,000
BNP PARIBAS	117,000,000	17,550,000
HSBC Securities (USA) Inc.	117,000,000	17,550,000
RBS Securities Inc.	117,000,000	17,550,000
Merrill Lynch, Pierce, Fenner & Smith Incorporated	48,750,000	7,312,500
Barclays Capital Inc.	48,750,000	7,312,500
Calyon Securities (USA) Inc.	9,750,000	1,462,500
ING Financial Markets LLC	9,750,000	1,462,500
Morgan Stanley & Co. Incorporated	9,750,000	1,462,500
Lazard Capital Markets LLC	9,750,000	1,462,500
Scotia Capital (USA) Inc.	9,750,000	1,462,500
Total	975,000,000	146,250,000

Schedule 2

Company & Selling Subsidiaries	Total Number of Underwritten Shares to be Sold	Number of Optional Shares to be Sold if Maximum Option Exercised
CEMEX, S.A.B. de C.V.	528,750,000	146,250,000
Petrocemex, S.A. de C.V.	187,607,705	—
Centro Distribuidor de Cemento, S.A. de C.V.	156,015,812	—
Empresas Tolteca de México, S.A. de C.V.	102,626,483	—
Total	975,000,000	146,250,000

a. Pricing Disclosure Package

none

b. Pricing Information Provided Orally by Underwriters

Offering Size: 1,300,000,000 CPOs, directly or in the form of ADSs (plus 15% over-allotment option)

International/Mexican Offerings: 975,000,000 / 325,000,000 (plus 15% over-allotment in each offering)

Public Offering Price: US$12.50000 per ADS / MXP 16.65 per CPO

Underwriters' Discount and Commissions: 4.50%

Form of Opinion and Negative Assurance of
Lic. Ramiro G. Villarreal, General Counsel of the Company

[to be inserted]

Form of Opinion, Tax Opinion and Negative Assurance Letter of
Skadden, Arps, Slate, Meagher & Flom LLP, New York Counsel for the Company

[to be inserted]

**Form Opinion of Patterson Belknap Webb & Tyler LLP,
New York Counsel to the ADS Depositary**

[to be inserted]

Exhibit A

FORM OF LOCK-UP AGREEMENT

September , 2009

J.P. Morgan Securities Inc.
Citigroup Global Markets Inc.
Santander Investment Securities Inc.
As Representatives of the
several Underwriters listed
in Schedule 1 to the Underwriting
referred to below

c/o J.P. Morgan Securities Inc.
383 Madison Avenue
New York, New York 10179

Citigroup Global Markets Inc.
388 Greenwich Street
New York, New York 10013

Santander Investment Securities Inc.
45 East 53rd Street
New York, New York 10022

Re: CEMEX, S.A.B. DE C.V.

Ladies and Gentlemen:

The undersigned understands that you, as Representatives of the several Underwriters, propose to enter into an Underwriting Agreement (the "Underwriting Agreement") with CEMEX, S.A.B. de C.V., a *sociedad anónima bursátil de capital variable* organized under the laws of Mexico (the "Company"), providing for the international offering outside of Mexico (the "International Offering") by the several Underwriters named in Schedule 1 to the Underwriting Agreement, of Ordinary Participation Certificates of the Company (*certificados de participación ordinarios,* or "CPOs") (each representing two Series A Shares (the "Series A Shares") and one Series B Shares (the "Series B Shares"), each without par value, of the Company's common stock), directly or in the form of American Depositary Shares ("ADSs"), each representing ten CPOs (collectively, the "Shares"). Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Underwriting Agreement.

In consideration of the Underwriters' agreement to purchase and make the International Offering of the Shares, and for other good and valuable consideration receipt of which is hereby acknowledged, the undersigned hereby agrees that, without the prior written consent of the Representatives, the undersigned will not, during the period ending 90 days after the date of the prospectus relating to the International Offering (the "Prospectus"), (1) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, directly

or indirectly, any shares of ADSs, CPOs or shares of common stock of the Company or any securities convertible into or exercisable or exchangeable for ADSs, CPOs or shares of common stock (including without limitation, ADSs, CPOs or shares of common stock or such other securities which may be deemed to be beneficially owned by the undersigned in accordance with the rules and regulations of the U.S. Securities and Exchange Commission and securities which may be issued upon exercise of a stock option or warrant) or (2) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of ADSs, CPOs or shares of common stock or such other securities, whether any such transaction described in clause (1) or (2) above is to be settled by delivery of ADSs, CPOs or shares of common stock or such other securities, in cash or otherwise or (3) make any demand for or exercise any right with respect to the registration of any ADSs, CPOs or shares of common stock or any security convertible into or exercisable or exchangeable for ADSs, CPOs or shares of common stock, in each case other than (A) transfers of shares of ADSs, CPOs or shares of common stock as a bona fide gift or gifts, (B) transfers of ADSs, CPOs or shares of common stock to any immediate family member of the undersigned or trust for the direct or indirect benefit of the undersigned and/or any immediate family member of the undersigned and (C) upon the death of the undersigned, transfers of ADSs, CPOs or shares of common stock by the estate of the undersigned; provided that in the case of any transfer or distribution pursuant to clause (A), (B) or (C), each donee or distributee shall execute and deliver to the Representatives a lock-up letter in the form of this paragraph; and provided, further, that in the case of any transfer or distribution pursuant to clause (A), (B) or (C), no filing by any party (donor, donee, transferor or transferee) under the U.S. Securities Exchange Act of 1934, as amended, or other public announcement shall be required or shall be made voluntarily in connection with such transfer or distribution. Notwithstanding the foregoing, if (1) during the last 17 days of the 90-day restricted period, the Company issues an earnings release or material news or a material event relating to the Company occurs; or (2) prior to the expiration of the 90-day restricted period, the Company announces that it will release earnings results during the 16-day period beginning on the last day of the 90-day period, the restrictions imposed by this Letter Agreement shall continue to apply until the expiration of the 18-day period beginning on the issuance of the earnings release or the occurrence of the material news or material event.

In furtherance of the foregoing, the Company, and any duly appointed transfer agent for the registration or transfer of the securities described herein, are hereby authorized to decline to make any transfer of securities if such transfer would constitute a violation or breach of this Letter Agreement.

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this Letter Agreement. All authority herein conferred or agreed to be conferred and any obligations of the undersigned shall be binding upon the successors, assigns, heirs or personal representatives of the undersigned.

The undersigned understands that, if the Underwriting Agreement does not become effective, or if the Underwriting Agreement (other than the provisions thereof which survive termination) shall terminate or be terminated prior to payment for and delivery of the Shares to be sold thereunder, the undersigned shall be released from, all obligations under this Letter Agreement. The undersigned understands that the Underwriters are entering into the Underwriting Agreement and proceeding with the International Offering in reliance upon this Letter Agreement.

This Letter Agreement shall be governed by and construed in accordance with the laws of the State of New York.

Very truly yours,

[*NAME OF STOCKHOLDER*]

By: _____

Name:
Title:

Exhibit 4.43

This **UNDERWRITING AGREEMENT** (this **"Agreement"**), is entered as of September 22, 2009, into by and between Acciones y Valores Banamex, S.A. de C.V., Casa de Bolsa, a company of Grupo Financiero Banamex (**"Accival"**), J.P. Morgan Casa de Bolsa, S.A. de C.V., J.P. Morgan Grupo Financiero (**"JPMorgan"**), Casa de Bolsa Santander, S.A. de C.V., Grupo Financiero Santander (**"Santander"**), Casa de Bolsa BBVA Bancomer, S.A. de C.V., Grupo Financiero BBVA Bancomer (**"BBVA Bancomer"**), and HSBC Casa de Bolsa, S.A. de C.V., Grupo Financiero HSBC (**"HSBC"**; and HSBC together with Accival, JPMorgan, Santander and BBVA Bancomer, collectively referred to as the **"Lead Mexican Underwriters"**), CEMEX, S.A.B. de C.V. (alternatively, **"Cemex"** or the **"Company"**), Centro Distribuidor de Cemento, S.A. de C.V. (**"Cedice"**), Empresas Tolteca de Mexico, S.A. de C.V. (**"ETM"**) and Petrocemex, S.A. de C.V. (**"Petrocemex"**; and Petrocemex, together with Cedice and ETM, collectively referred to as the **"Selling Shareholders"**, and the Selling Shareholders together with Cemex, the **"Sellers"**).

PREAMBLE

1. Sellers desire to make a mixed public offering (primary and secondary) for the issuing and sale, in the United States of Mexico (**"Mexico"**), in the United States of America (the **"United States"**) and in other foreign markets, in the form of a simultaneous global offer (collectively, the **"Global Offering"**), of a total of one thousand four hundred ninety five million (1,495'000,000) ordinary participation certificates (*certificados de participacion ordinaria*), issued by the CPO Trust (as such term is defined hereinbelow), each of which has an underlying value two (2) Series A, ordinary shares of stock issued in registered form, without par value, and one (1) Series B, ordinary share of stock issued in registered form, without par value, all of them representing the capital stock of the Company (each one of such securities, a **"CPO"** and collectively, the **"CPO's"**).

2. Subject to the terms and conditions hereinafter set forth, Cemex has the intent to offer for issue and sale, by means of a primary public offering and sale in, in the Bolsa Mexicana de Valores, S.A.B. de C.V. (the **"BMV"**), of two hundred and twenty five million (225'000,000) CPO's, which is inclusive of forty eight million seven hundred and fifty thousand (48'750,000) CPO's subject of the over-assignment option for Mexico (the **"Optional CPO's"**), which option is to be granted by Cemex to the Lead Mexican Underwriters, trough JPMorgan, in connection with the Mexican Offering (as such term is defined hereinbelow), as described with more detail below (the **"Mexican Over-Assignment Option"**).

3. Subject to the terms and conditions hereinafter set forth, the Selling Shareholders have the intent to offer, in a secondary public offering in Mexico and with the BMV, one hundred forty eight million seven hundred fifty thousand (148'750,000) CPO's.

4. Collectively, the primary and secondary offering of CPO's publicly traded in Mexico by each of Cemex and the Selling Shareholders, respectively (collectively, the **"Mexican Offering"**), is in the amount of three hundred and twenty five million (325'000,000) of CPO's, excluding the Mexican Over-Assignment Option, and three hundred seventy three million seven hundred and fifty thousand (373'750,000) CPO's, inclusive of the Mexican Over-Assignment Option.

5. Jointly with the Mexican Offering which is to be implemented through the BMV, the Sellers shall make a primary and secondary public offering of CPO's in the United States, trough the New York Stock Exchange, and in other international trading markets (collectively, the **"International Offering"**), for a total amount of nine hundred and seventy five million (975'000,000) CPO's, either in the form of CPO's or in the form of American Depositary Shares (**"ADS"**), each ADS representing ten (10) CPO's, together with one hundred and forty six million two hundred and fifty thousand (146'250,000) CPO's referring to the primary portion of the International Offering, directly or through ADS's subject matter of the over-assignment option to be afforded by Cemex to the underwriter agents of the International Offering, J.P. Morgan Securities Inc. (the **"International Underwriters"**, and the International Underwriters together with the Lead Mexican Underwriters, the **"Underwriters"**), under the terms of the applicable law.

6. For the purposes hereof, the aggregate of three hundred twenty five million (325'000,000) CPO's which shall be offered by the Sellers through the Mexican Offering (in both, the primary and secondary offerings), shall hereinafter be referred to as the **"Firm CPO's"**. The Firm CPO's and the Optional CPO's, collectively, shall be referred to as the **"Offered CPO's"**, and the Offered CPO's and the CPO's or ADS to be offered in the International Offering, shall be referred to, collectively, as the as the **"Securities"**.

7. Concurrently with the execution hereof, the Sellers have entered into an international underwriting agreement (hereinafter the **"International Underwriting Agreement"**), with the International Underwriters, in connection with the International Offering.

8. Concurrently with the execution hereof, the Underwriters have entered into an agreement with various lead syndicated underwriters (hereinafter the **"Intersyndicate Agreement**"), setting forth, amongst other things, that J.P. Morgan Securities, Inc. is the global coordinator (with such character the **"Global Coordinator"**), in connection with the Global Offering for the sale of Securities, and the transfer of the Securities between the various underwriters.

9. Two (2) different prospectuses shall be used in connection with the Global Offering; one in connection with the Mexican Offering and the other one in connection with the International Offering.

RECITALS

I. The Company, through its agent, hereby declares that:

(a) The underlying shares representing the capital stock of the Company with regards to the Firm CPO's and the underlying shares representing the capital stock of the Company with regards to the Optional CPO's, have been validly issued pursuant to those resolutions taken at the Extraordinary Shareholders Meeting dated as of September 4, 2009, and are not subject to any preemptive or other similar right, and are free and clear of any and all liens, domain restrictions or options.

(b) The Firm CPO's which are being offered by the Company and by each of the Selling Shareholders in the Mexican Offering, and the Optional CPO's which are being offered by Cemex in the Mexican Offering, have been validly issued by Banco Nacional de Mexico, S.A. de C.V., an entity of Grupo Financiero Banamex Accival, Division Fiduciaria (**"Banamex"**), acting as trustee in that certain trust agreement number 111033-9, dated as of September 6, 1999, as amended on November 21, 2002 and on January 8, 2007 (hereinafter the **"CPO Trust"**), and under the provisions of those certain minutes dated as of September 7, 2009, issued and executed unilaterally by Banamex, together with the [Mexican] National Banking and Securities Commission (*Comision Nacional Bancaria y de Valores*, the **"CNBV"**), and with Banco Mercantil del Norte, S.A., Institucion de Banca Multiple, Grupo Financiero Banorte, as the common agent (the **"Issuing Minutes"**), and the Offered CPO's are not subject to any preemptive right or other similar right, and are free and clear of any and all liens, domain restrictions or options, and they are also free of any and all restrictions in connection with their transferability by or on behalf of the Company and of the Selling Shareholders to the Lead Mexican Underwriters, and are filed with the [Mexican] National Registry of Securities (*Registro Nacional de Valores*) maintained by the CNBV (the **"RNV"**), and are filed for their trading with the BMV; the terms of the CPO's are consistent with their description as contained in the Mexican Prospectus; and there is no restriction whatsoever on subsequent transfers of said Securities pursuant to the Mexican laws except as otherwise disclosed in the Mexican Prospectus.

(c) All authorizations required with regards to the Mexican Offering, with the updated filings before the RNV, with the shares of stock of the Company underlying to the CPO's and with the CPO's, with the execution and performance of this Agreement by the Company, with regards to special conditions, as applicable, to which the Mexican Offering is subject, and with regards to the use of the initial prospectus dated as of September 8, 2009, and with regards to the final prospectus dated as of September 22, 2009 (collectively, both prospectuses referred to as the **"Mexican Prospectus"**), have been obtained from the CNBV and from the BMV, as applicable, and from all other applicable competent governmental agencies (the **"Authorizations"**); furthermore, the Offered CPO's and the underlying shares of stock of the Company thereof, have been placed for deposit with the S.D. Indeval Institución para el Deposito de Valores, S.A. de C.V. **("Indeval")**.

(d) The Mexican Prospectus have been prepared by the Company pursuant to, and at the time of the preparation thereof were compliant, and as of the date hereof are compliant, in all material aspects, with the requirements of the [Mexican] Stock Exchange Law (*Ley del Mercado de Valores*) and with the General Guidelines applicable to Issuers of Securities and Other Participants of the Stock Exchange Market (*Disposiciones de Caracter General aplicables a las Emisoras de Valores y Otros Participantes del Mercado de Valores*) promulgated thereunder by the CNBV (the **"Guidelines for Issuers"**), they do not contain any false statement relating to relevant information and do not fail to include any material information which could be misleading to investors.

(e) It has been duly organized and exists as a variable capital public stock corporation (*sociedad anonima bursatil de capital variable*) pursuant to the laws of Mexico, and has the power and authority to be the owner of its assets and to conduct its business as described in the Mexican Prospectus, and it is fully authorized to execute this Agreement and to comply with its obligations hereunder, and is authorized as a foreign company, to conduct its business and is compliant with its obligations, pursuant to the laws of any other jurisdiction where the Company does business or otherwise owns assets; each of the subsidiaries of the Company has been duly organized and exists pursuant to the laws of its jurisdiction of incorporation; each of the subsidiaries of the Company, in other words, the companies on which the Company holds the majority of the shares representing their capital stock or on which the Company is entitled to appoint the majority of the members of its board of directors or its administration (collectively the **"Subsidiaries"**), has been duly organized and exists pursuant to the laws of their relevant jurisdiction of incorporation; each of the Subsidiaries is authorized, as a foreign company, to conduct its business and is compliant with its obligations pursuant to the laws of any other jurisdiction where it does business or otherwise owns assets; the Company is further authorized to execute this Agreement and to comply its obligations hereunder.

(f) Its paid in capital stock is as set forth in the Mexican Prospectus, and the entirety of the shares representing the capital stock of the Company have been duly issued, paid in full (except for the underlying shares of the CPO's subject matter of the primary portion of the Mexican Offering, the underlying shares of the CPO's subject matter of the primary portion of the International Offering and the shares maintained in the treasury of the Company to secure the issuing of various convertible liabilities of Cemex), and their terms are consistent with their description as contained in the Mexican Prospectus; the entirety of the outstanding shares representing the capital stock of the Subsidiaries have been duly issued, are paid in full, are not subject to any claim o third party rights, and the Company is, either directly or indirectly, the owner of such shares, and are free and clear of any lien, except for the liens created for the benefit of and other interests relating to the creditors of the Company, as disclosed in the Mexican Prospectus, and all of the shares of stock of the Company are filed with the RNV.

(g) Each of the CPO Trust and the Issuing Minutes have been duly executed by the Company and by Banamex, as applicable, and constitute valid and binding obligations of the Company and Banamex, enforceable against the Company and Cemex pursuant to its terms, subject to bankruptcy, insolvency, reorganization and other similar provisions generally applicable affecting the rights of creditors, the terms of the CPO Trust and of the Issuing Minutes are consistent with their terms as described in the Mexican Prospectus.

(h) This Agreement has been duly executed by Cemex and constitutes a valid and binding obligation of Cemex, enforceable against Cemex pursuant to its terms, subject to bankruptcy, insolvency, reorganization and other similar laws generally affecting creditors' rights

(i) Neither the execution of this Agreement, performance hereunder, nor the consummation of the transactions contemplated herein, violates or breaches any of the terms or provisions of any law or agreement to which the Company of any of the Subsidiaries are bound by or which are otherwise applicable to them, or which their assets are subject to (except for those violations which, individually or in the aggregate, do not have a material adverse effect in performance hereunder by the Company, or in the financial position, capital stock or operational results, of any of the Company and its Subsidiaries taken as a whole), and do not breach the provisions of the by-laws of the Company, or any license, authorization or order of any governmental authority having jurisdiction over the Company or over any of its Subsidiaries or its or their assets; and does not require the approval, authorization or order of, or the filing with any governmental agency, in order to subscribe, sell and pay the Offered CPO's or to consummate the transactions contemplated herein, but except for the Authorizations, which the Company has secured and maintained in force.

(j) Neither the Company nor any of the Subsidiaries thereof is, as of the date hereof, in breach of any material obligation (affirmative or negative) whatsoever, as contained in the agreements by which they are bound.

(k) There are no legal or governmental proceedings pending, other than as disclosed in the Mexican Prospectus, to which the Company or any of its Subsidiaries are a party to, which, if resolved adversely against the Company or its Subsidiaries, individually or in the aggregate, could have a material adverse effect in the financial condition, the capital stock or operational results of the Company or any Subsidiary thereof, taken as a whole.

(l) The financial statements attached to the Mexican Prospectus, and those other [financial statements which are] incorporated thereto by reference, have been prepared pursuant to the financial reporting standards as applicable in Mexico, consistently applied, they have been approved by the general shareholders meeting of the Company (with regards to financial statements relating to full corporate years), and fairly represent the financial position of the Company and its Subsidiaries, in a consolidated form, as of the date of such financial statements, and from and after the date thereof, no event has occurred which could adversely and materially affect the financial position, the capital stock or operational results of the Company or any of its Subsidiaries taken as a whole.

(m) Its agent herein has the authority to execute this Agreement and to bind the Company pursuant to the terms hereof, and as of the date hereof, such capacity has neither been revoked nor limited in any form whatsoever.

II. Each of the Selling Shareholders trough their duly appointed agents, on their own behalf and individually, with regards to the Firm CPO's listed opposite their names in the Exhibit A attached hereto, hereby declares that:

(a) It is the owner of record of each Firm CPO's being offered by the relevant Selling Shareholder in the Mexican Offering, [each Firm CPO] has been duly issued by Banamex, acting as trustee in the CPO Trust, [each Firm CPO] has been paid

in full, they are not subject to any preemptive right or other similar right, are free and clear of any lien, domain restriction or option, are free of any and all restrictions in connection with their transferability by or on behalf of the Company and of the relevant Selling Shareholders, are filed with the RNV, are filed for their trading with the BMV and been placed for deposit with Indeval; the terms of the CPO's are consistent with their description as contained in the Mexican Prospectus; and there is no restriction whatsoever on subsequent transfers of the Firm CPO's pursuant to the Mexican laws except as otherwise disclosed in the Mexican Prospectus.

(b) It has entered into that certain trust agreement number 110778-8, dated as of December 2, 1991, with Banamex, acting as trustee, the purpose of which is to underwrite the relevant Firm CPO's in the Mexican Offering (hereinafter the **"Selling Shareholders Trust"**).

(c) All required authorizations for the execution and performance of this Agreement by the relevant Selling Shareholder, have been obtained from the CNBV and from the BMV, as applicable, and from all other applicable competent governmental agencies.

(d) In connection with information relating to the relevant Selling Shareholder, at the time of preparation of the Mexican Prospectus it was compliant, and as of the date hereof is compliant, in all material aspects, with the requirements of the [Mexican] Stock Exchange Law (*Ley del Mercado de Valores*) and with the Guidelines for Issuers, they do not contain any false statement relating to relevant information and do not fail to include any material information which could be misleading to investors.

(e) It has been duly organized and exists as a variable capital corporation (*sociedad anonima de capital variable*) pursuant to the laws of Mexico, and has the power and authority to be the owner of its relevant assets, it is fully authorized to execute this Agreement and to comply with its obligations hereunder.

(f) This Agreement has been duly executed by the relevant Selling Shareholder and constitutes a valid and binding obligation of the Selling Shareholder, enforceable against the Selling Shareholder pursuant to its terms, subject to bankruptcy, insolvency, reorganization and other similar laws generally affecting creditors' rights.

(g) Neither the execution of this Agreement, performance hereunder, nor the consummation of the transactions contemplated herein, violates or breaches any of the terms or provisions of any law or agreement to which the relevant Selling Shareholder is bound by or which is otherwise applicable to it, or which its assets are subject to (except for those violations which, individually or in the aggregate, do not have a material adverse effect in performance hereunder by the Selling Shareholder), and do not breach the provisions of the by-laws of the relevant Selling Shareholder, or any license, authorization or order of any governmental authority having jurisdiction over the Selling Shareholder; and does not require the approval, authorization or order of, or the filing with any governmental agency, in order to

subscribe, sell and pay the Offered CPO's or to consummate the transactions contemplated herein, but except for the Authorizations may have been secured and maintained in force.

(h) There are no legal or governmental proceedings pending, other than as disclosed in the Mexican Prospectus, to which the relevant Selling Shareholder is a party to, which, if resolved adversely against the Selling Shareholder, individually or in the aggregate, could have a material adverse effect in the relevant Selling Shareholder or in its capacity to perform hereunder.

(i) Its agent herein has the authority to execute this Agreement and to bind the relevant Selling Shareholder pursuant to the terms hereof, and as of the date hereof, such capacity has neither been revoked nor limited in any form whatsoever.

III. Each of the Lead Mexican Underwriters, on their own behalf and trough their duly appointed agents, hereby declares:

(a) It is an investment dealer (*casa de bolsa*) duly organized and existing pursuant to the laws of Mexico.

(b) Has all the required authorizations to enter into and perform under the terms of this Agreement, and has the necessary authority to execute this Agreement and perform as provided herein.

(c) This Agreement has been duly executed by the relevant Lead Mexican Underwriter and constitutes a valid and binding obligation of the relevant Lead Mexican Underwriter, enforceable against the Lead Mexican Underwriter pursuant to its terms, subject to bankruptcy, insolvency, reorganization and other similar laws generally affecting creditors' rights.

(d) Neither the execution of this Agreement, performance hereunder consistent with its terms, nor the consummation of the transactions contemplated, violates or breaches any of the terms or provisions of any law or agreement to which it is a party.

(e) Its agent herein has the authority to execute this Agreement and to bind such party pursuant to the terms hereof, and as of the date hereof, such capacity has neither been revoked nor limited in any form whatsoever.

NOW, THEREFORE, in view of the above the parties have agreed to be bound pursuant to the terms of the following

CLAUSES:

First Clause. Issuing and Underwriting of CPO's in Mexico; Offering Date; Firm Acceptance . (a) Subject to the terms and conditions hereinafter set forth (i) Accival does hereby agree to underwrite, by means of a public offering in Mexico, at the Per CPO Price (as such term is defined in the Second Clause below), those Firm CPO's

detailed in the Exhibit B attached hereto opposite to its name, and to coordinate with HSBC, the underwriting of those such Firm CPO's detailed in the Exhibit B attached hereto opposite to its name under the heather "on its own name", at the Per CPO Price; (ii) BBVA Bancomer does hereby agree to underwrite, by means of a public offering in Mexico, at the Per CPO Price, those Firm CPO's detailed in the Exhibit B attached hereto opposite to its name; (iii) Santander does hereby agree to underwrite, by means of a public offering in Mexico, at the Per CPO Price, those Firm CPO's detailed in the Exhibit B attached hereto opposite to its name; (iv) JPMorgan does hereby agree to underwrite, by means of a public offering in Mexico, at the Per CPO Price, such number of CPO's equal to the Optional CPO's (the maximum number of which is reiterated in the Exhibit B attached hereto opposite to its name). Each of the Lead Mexican Underwriters hereby agrees to underwrite the Offered CPO's through direct sales with clients and sales made through their Mexican Syndicated investment firms (as such term is defined in the Seventh Clause below), provided, however, that in regards to HSBC, HSBC will underwrite Firm CPO's among institutional investors as agreed to with Accival.

(b) Cemex hereby covenants and agrees to take all necessary steps to cause the Selling Shareholders to sell, and the Selling Shareholders hereby covenant and agree to sell, under the terms and subject to the conditions herein agreed to, such number of Firm CPO's detailed in the Exhibit B attached hereto, at the Per CPO Price. Furthermore, in the event JPMorgan, acting through Mexican Syndicated investment firms, should exercise its Mexican Over-Assignment Option, then Cemex hereby agrees to sell, at the Per CPO Price, such number of Optional CPO's in respect of which JPMorgan has exercised such option, the maximum number of which is specified in the Exhibit B attached hereto.

(c) The parties agree that the Offering in Mexico of the Offered CPO's shall be made on September 23, 2009 (the " Offering Date"). The sale and purchase of Firm CPO's shall be perfected by means of three (3) different recording transactions with the BMV, to be implemented independently by each of Accival, BBVA Bancomer and Santander on the Offering Date with respect to the Firm CPO's specified in the Exhibit B attached hereto, provided, however, that the Firm CPO's identified in the Exhibit B opposite the name of HSBC under the heather "on its own name", shall include the register transactions to be implemented by Accival, BBVA Bancomer and Santander with the BMV on a pro-rated basis. Furthermore, on the Offering Date, JPMorgan shall make one (1) register transaction with the BMV with respect to those CPO's subject matter of an over-assignment of the Mexican Offering, by using those CPO's acquired through independent securities lending transactions consistent with the applicable law.

(d)(1) Accival hereby covenants to underwrite those Firm CPO's which it is required to underwrite consistent with the terms of the Exhibit B attached hereto, among permitted investors at the Per CPO Price on the Offering Date and to transfer to HSBC, at the Per CPO Price, those Firm CPO's which it is required to transfer consistent with the terms of the Exhibit B attached hereto, which HSBC will underwrite among permitted investors qualifying as institutional investors on the Offering Date. If Accival should fail to underwrite those [CPO's] which it is required to underwrite, then Accival agrees to take those Firm CPO's indicated in the Exhibit B attached hereto opposite to its name under the heather "on its own name".

(2) BBVA Bancomer hereby covenants to underwrite those Firm CPO's which it is required to underwrite consistent with the terms of the Exhibit B attached hereto, among permitted investors at the Per CPO Price on the Offering Date, and upon its failure to do so, agrees to take those Firm CPO's indicated in the Exhibit B attached hereto opposite to its name under the heather "on its own name".

(3) Santander hereby covenants to underwrite those Firm CPO's which it is required to underwrite consistent with the terms of the Exhibit B attached hereto, among permitted investors at the Per CPO Price on the Offering Date, and upon its failure to do so, agrees to take those Firm CPO's indicated in the Exhibit B attached hereto opposite to its name under the heather "on its own name".

(4) JPMorgan hereby covenants to underwrite, at the Per CPO Price on the Offering Date, those CPO's which are the subject of an over assignment in the Mexican Offering among permitted investors.

(5) HSBC hereby covenants to underwrite those Firm CPO's which it is required to underwrite consistent with the terms of the Exhibit B attached hereto, among permitted investors qualifying as institutional investors, at the Per CPO Price on the Offering Date, and upon its failure to do so, agrees to take those Firm CPO's indicated in the Exhibit B attached hereto opposite to its name under the heather "on its own name".

(6) If Accival, BBVA Bancomer and Santander should fail to underwrite those Firm CPO's which they are required to underwrite as indicated in the Exhibit B attached hereto opposite to their [relevant] name under the heather "on its own name", in spite of the obligation each of Accival, BBVA Bancomer or Santander have to do so, then Accival, JPMorgan, BBVA Bancomer and Santander agree to take the outstanding Firm CPO's on equal parts.

(e) The Lead Mexican Underwriters covenant to pursue an equitable distribution of Offered CPO's amongst permitted investors and third parties interested in purchasing Offered CPO's.

(f) Up until the moment prior to the Firm CPO's Payment Date (as such term is defined below) or subsequently, as part in the Mexican Offering, the Lead Mexican Underwriters may exchange CPO's amongst them, free of any consideration, as agreed to by the relevant parties, through the systems of Indeval, and consistent with the terms of the Intersyndicate Agreement.

Second Clause. Consideration. (a) Each of the Sellers hereby acknowledges and accepts that the purchase price per Offered CPO to be offered pursuant with the terms hereof, shall be of $16.65 Pesos (Sixteen Pesos 65/100, Mexican Currency) (the " Per

CPO Price") and that the aggregate consideration [payable] for the Firm CPO's shall be the sum of $5,411'250,000 Pesos (Five Thousand Four Hundred Eleven Million Two Hundred Fifty Thousand Pesos 00/100, Mexican Currency) (the "Aggregate Consideration for Firm CPO's"), of which, $2,476'687,500 Pesos (Two Thousand Four Hundred Seventy Six Million Six Hundred Eighty Seven Five Hundred Pesos 00/100, Mexican Currency) shall be allocated among the Selling Shareholders (the "Aggregate Consideration to the Selling Shareholders for Firm CPO's"), and $2,934'562,500 Pesos (Two Thousand Nine Hundred thirty Four Million Five Hundred Sixty Two Five Hundred Pesos 00/100, Mexican Currency) shall be allocated to Cemex (the "Aggregate Consideration to Cemex for Firm CPO's").

(b) Consistent with the terms agreed to by each of the Lead Mexican Underwriters in the paragraph (d), of the First Clause above, but excepting JPMorgan with respect to those CPO's referred to in sub-paragraph (d)(4), each of the Lead Mexican Underwriters hereby agrees to pay to Cemex the Aggregate Consideration to Cemex for Firm CPO's, minus any applicable commission fees pursuant to the terms of the Third Clause below, and to the Selling Shareholders the Aggregate Consideration to the Selling Shareholders for Firm CPO's, minus any applicable commission fees pursuant to the terms of the Third Clause below, in both cases, precisely on September 28, 2009 (the "Firm CPO's Payment Date"). Payment of the Aggregate Consideration for Firm CPO's shall be made by means of transfer of the Aggregate Consideration for Firm CPO's to the bank account maintained by Cemex with the Lead Mexican Underwriters, and with regards to the Selling Shareholders, maintained with the Selling Shareholders Trust. Payment of the Aggregate Consideration for the Optional CPO's (as such term is defined in the Fifth Clause below), as applicable, shall be made consistent with the terms of the Fifth Clause below.

Third Clause. Commission Fees payable to the Lead Mexican Underwriters. (a) Subject to the terms and conditions herein set forth, (i) the Sellers hereby covenant to pay to the Lead Mexican Underwriters, on the Firm CPO's Payment Date, a commission fee equal to four percent (4.0%) of the Aggregate Consideration for Firm CPO's plus the relevant Value Added Tax, and (ii) Cemex covenant to pay to JPMorgan, on the Optional CPO's Payment Date (as such term is defined in the Fifth Clause below), a commission fee equal to four percent (4.0%) of the Aggregate Consideration for the Optional CPO's (as such term is defined in the Fifth Clause below) plus the relevant Value Added Tax, to be divided among the Lead Mexican Underwriters, as agreed amongst them and timely notified in writing to the Sellers.

(b) Cemex hereby agrees to pay, on each of the Firm CPO's Payment Date and the Optional CPO's Payment Date, as applicable, to Accival, JP Morgan, BBVA Bancomer and Santander, an additional commission fee equal to zero point five percent (0.5%) of the Aggregate Consideration for Firm CPO's and of the Aggregate Consideration for the Optional CPO's (applicable to the Optional CPO's actually underwritten) (the "Additional Consideration"), plus the relevant Value Added Tax, of which, forty percent (40%) of the Additional Consideration shall be allocated with Accival, twenty percent (20%) of the Additional Consideration shall be allocated with JPMorgan, twenty percent (20%) of the Additional Consideration shall be allocated with BBVA Bancomer, and twenty percent (20%) of the Additional Consideration shall be allocated with

Santander, provided, however, that after the Optional CPO's Payment Date, the Lead Mexican Underwriters and the Company shall pay and offset amongst themselves the relevant amounts according to the percentages so assigned.

(c) Subject to the provisions of the final part of the paragraph (b) above, the commission fees referred to in the paragraphs (a) and (b) of this Third Clause shall be divided and paid among and by the Lead Mexican Underwriters in the relevant amounts owing to such parties and as agreed amongst themselves with regards to both, the Firm CPO's and to the Optional CPO's, if the Mexican Over-Assignment Option should be exercised.

(d) The Sellers agree that the commission fees referred to in the above paragraph (a) and, to the extent applicable, those commission fees referred to in the above paragraph (b), shall be deducted from the amounts payable to the Sellers on the Firm CPO's Payment Date and, as applicable, to the Company on the Optional CPO's Payment Date.

Fourth Clause. Delivery of Offered CPO's. (a) To the extent not already completed on the date hereof, the Sellers hereby agree to deliver, through Indeval, the certificates representing the Offered CPO's to Accival to JPMorgan, BBVA Bancomer and Santander, by means of deposit thereof in the account maintained by each of Accival, JPMorgan, BBVA Bancomer and Santader, respectively, with Indeval for such purposes and as indicated to Cemex and to the Selling Shareholders.

(b) The date and time of such delivery shall be (i) with regards to the Firm CPO's, no later than 7:30 hours (Mexico City standard time), of September 23, 2009, or at any other date and time as agreed to in writing by the Lead Mexican Underwriters and the Company, and (ii) with regards to the Optional CPO's, during BMV's regular business transacting hours, but no later than 15:00 hours (Mexico City standard time), of the Option Exercise Date (as such term is defined in the Fifth Clause below), as determined by JPMorgan on the written notice to be delivered by such party to the Company in connection with its option to acquire such Optional CPO's, or at any other date and time as agreed to in writing by JPMorgan and the Company.

Fifth Clause. Purchase of Optional CPO's. Cemex hereby grants to the Lead Mexican Underwriters the option to over-assign, on the Offering Date, up to the total number of Optional CPO's, in addition to the Firm CPO's, and to that end does hereby grant JPMorgan the right to acquire up to the total amount of such Optional CPO's, at a price equal to $811'687,500 Pesos (Eight Hundred Eleven Million Six Hundred Eighty Seven Five Hundred Pesos 00/100, Mexican Currency) or such other lesser amount, if the Lead Mexican Underwriters, acting through JPMorgan, fail to exercise their right to purchase the entirety of the Optional CPO's (the "Aggregate Consideration for the Optional CPO's ") consistent with the applicable law, and pursuant to the following provisions:

(a) the right to exercise the option for the purchase of Optional CPO's may refer to a lesser amount than the total amount of such Optional CPO's:

(b) the election to purchase Optional CPO's may be exercised through JPMorgan, in one occasion only, by means of written notice to Cemex to be delivered the next business day upon exercise of such option (the " Option Exercise Date"), provided, however, that such notice shall be delivered to Cemex no later than thirty (30) calendar days from and after the date hereof and shall specify the total number of Optional CPO's to be purchased and the date in which such Optional CPO's are to be delivered;

(c) each Optional CPO shall have been underwritten by JPMorgan by means of an equal number of CPO's in the Mexican Offering, at a price per CPO equal to the Per CPO Price, and JPMorgan shall not be required to underwrite all or any of the Optional CPO's;

(d) the registry of the relevant Optional CPO's shall be effected by JPMorgan with the BMV on the Option Exercise Date;

(e) payment of the Aggregate Consideration for the Optional CPO's and the relevant commission fees agreed to in the Third Clause hereof shall be made at the time and place the Optional CPO's are paid as agreed to by the parties, and to be made three (3) business days following the Option Exercise Date and to the account maintained by the Company with JPMorgan or to such other account as instructed to it irrevocably in writing (the " Optional CPO's Payment Date");

(f) JPMorgan shall allocate the commission fees and expenses ensuing from payment of the Aggregate Consideration for the Optional CPO's, among the Lead Mexican Underwriters in their relevant percentages and, to the extent applicable, shall pay the outstanding balance to the remainder of the Lead Mexican Underwriters, subject to the provisions of the final part of the paragraph (b) of the Third Clause above.

Sixth Clause. Stabilizing Transactions. (a) The Sellers acknowledge and agree that the Lead Mexican Underwriters, acting through JPMorgan, may implement transactions with the BMV aiming to stabilize the offering price of the Offered CPO's, and that any such transactions are to be implemented under the terms and conditions agreed to with the International Underwriters, consistent with the terms and conditions agreed to in the Intersyindicate Agreement and consistent with the applicable law.

(b) The Sellers acknowledge and agree there is no obligation or commitment by the Lead Mexican Underwriters, acting through JPMorgan, to implement stabilizing transactions with regards to the offering price of the Offered CPO's and that, if so implemented, such transactions may be discontinued at any time thereafter.

(c) The Lead [Mexican] Underwriters agree to share the losses or profits and the expenses ensuing from any such stabilizing transactions consistent with the terms of the Intersyndicate Agreement.

Seventh Clause. Mexican Syndicate: (a) The Sellers acknowledge that the Lead Mexican Underwriters shall be at liberty to invite other Mexican investment dealers

(*casas de bolsa*) to participate in the Mexican Offering as members of a syndicate (the **"Mexican Syndicate"**). As agreed among them, the Lead Mexican Underwriters will be responsible for conforming and organizing the Mexican Syndicate, and for the distribution of commission fees, profits, losses and associated expenses ensuing from the over-assignment option and from the stabilizing transactions referred to in the Fifth and Sixth Clauses hereof, and the Company shall be under no obligation to pay any such amounts.

(b) Each of the Lead Mexican Underwriters covenants to include the same obligations as those applicable to the Lead Mexican Underwriters as per the terms of the Ninth Clause hereof, in any and all contracts they should enter into with the members of the Mexican Syndicate.

Eighth Clause. Affirmative Covenants of the Sellers.

(a) Each of the Sellers hereby covenants and agrees to cause their relevant controlling shareholders, directors, general directors, executive officers falling immediately under the general director, and all other officers directly responsible of the areas of finance, comptrollership and legal, to comply with the following:

(1) for a period of 90 (ninety) calendar days from and after execution hereof, they shall not offer, sell, promise to sell or in any other manner transfer title of any of the Company's securities which may be similar to the Securities, including, without limitation, any securities convertible to, or otherwise granting the right to receive, Shares or any other similar security of the Company, without the prior written consent of the Lead Mexican Underwriters (except for those securities subject matter of the International Offering, securities which the Company is required to tender with regards to employee [stock] options and securities convertible to, or otherwise granting the right to receive CPO's, and underwritten within the period one hundred and eighty (180) days following the Mexican Offering), and

(2) they shall not, directly or indirectly, undertake or pursue (and they shall cause their Subsidiaries not to undertake or pursue) any action intended to, or which constitutes, or which could reasonably constitute, or have the result of, the stabilization or manipulation of the price of any securities issued by the Company (including the Securities), or which otherwise facilitates the sale of the Securities.

Ninth Clause. Negative Covenants of the Lead Mexican Underwriters.

(a) Each of the Lead Mexican Underwriters has offered and covenants to offer the Offered CPO's only in Mexico and agrees not offer or sell, directly or indirectly, the Offered CPO's to any person or corporation located in the United States of America or in any other country other than Mexico, except to the extent permitted by the terms of this Ninth Clause. For the purposes of this Ninth Clause, an offer or sale is deemed to be made in the United States of America or in any other country, if the offer is made to natural persons or corporations (of any type) residing, or whose agents are residents, in the United States of America or any other country.

(b) Each of the Lead Mexican Underwriters hereby agrees and covenants not to:

(1) acquire, on its own name, any of Securities (except for the Firm CPO's and, as applicable, the Optional CPO's);

(2) file, on its own name, purchase offers relating to the CPO's, in the trading floor of the BMV, except for the stabilization transactions conducted as per the terms of the Sixth Clause above;

(3) directly or by means of a subsidiary or affiliate, make offers or purchases, intending to affect the market of CPO's, whether apparent or actual, or which otherwise have the effect of increasing the price of the CPO's, except for the stabilization transactions conducted as per the terms of the Sixth Clause above and for the transactions conducted by investment companies to which they may be affiliated to;

(4) recommend the purchase of CPO's other outside the Mexican Offering;

(5) promote the offer of CPO's relying on information different from the information contained in the Mexican Prospectus, or distribute the Mexican Prospectus in the United States or in any country other than Mexico;

(6) do any action which could, generally, induce third parties to purchase CPO's, except for those actions which are required to be done as a result of the Mexican Offering;

(7) include publicity or advertisements referring to the Company, in mass media materials circulated in the United States of America or in any country other than Mexico;

(8) circulate printed materials referring to the Company, to investors having their domiciles located in the United States of America or in any country other than Mexico;

(9) give seminars in the United States or in any other country, except for Mexico, where the issuing and sale of the Offered CPO's is discussed or addressed;

(10) except for Mexico, make any king of publicity in the United States or in any other country, referring to the offer of the Offered CPO's; and

(11) in general terms, undertake or do any other activity relating to the offer of the Offered CPO's directed to the United States or any other country, except for Mexico, purporting to influence the market of CPO's.

(c) The negative covenants referred to in the paragraphs (1) and (3) of the section (b) above, shall be effective from the date of execution hereof and until otherwise agreed to by the Lead Mexican Underwriters and the International Underwriters, or otherwise, whenever the Global Coordinator should notify the Lead Mexican Underwriters, or otherwise, when the Lead Mexican Underwriters have gained knowledge, by any means, that the distribution of the Company's Securities in the international markets has ceased, whichever is first.

(d) Each of the Lead Mexican Underwriters agrees to offer the Offered CPO's [for purchase] among the investing public, consistent with the terms and conditions set forth in the Mexican Prospectus.

(e) Each of the Lead Mexican Underwriters warrants and represents that, since the date of its appointment as potential underwriter for the Offered CPO's, it has not undertaken any of the actions referred to in the paragraphs (4) to (11), of this section (b). The negative covenants referred to in the paragraphs (4) to (11), of this section (b), shall be effective from this date and until such date as agreed to by the Lead Mexican Underwriters and the International Underwriters, or otherwise, whenever the Global Coordinator should notify the Lead Mexican Underwriters that the distribution of the Securities of Cemex in the international market has ceased, or otherwise, whenever the Lead Mexican Underwriters have gained knowledge, by any means, that the distribution of the Securities of Cemex in the international market has ceased, provided, however, that with regards to any kind of analysis relating to Cemex, including, without limitation, any reports to be circulated among their clientele, as prepared by the relevant areas of any of the Lead Mexican Underwriters, the negative covenants referred to in the paragraphs (4) to (11), of this section (b), shall become effective on October 3, 2009.

(f) Each of the Lead Mexican Underwriters covenants to include the same limitations as those agreed to in this Clause, in any and all contracts they should enter into with the members of the Mexican Syndicate, and the obligation of such members to include such limitations in any and all contracts they should enter into with other authorized underwriters participating in the Mexican Offering.

Tenth Clause. Expenses. (a) The Company hereby agrees to pay or reimburse the Lead Mexican Underwriters, each and all of the reasonable and documented fees and expenses incurred or paid in connection with the execution hereof, performance consistent with the terms hereunder or to the underwriting of the Offered CPO's, including, without limitation, payments made to the CNBV, the BMV or to Indeval, expenses relating to printout of the Mexican Prospectus, press expenses relating to the Mexican Offering, expenses associated to meetings and presentations to individuals or possible investors, legal fees of the counsel for the Lead Mexican Underwriters, travel expenses and other associated expenses, and any applicable taxes.

(b) All fees and expenses and any applicable taxes referred to in the paragraph (a) above, shall be paid by Cemex to the relevant Lead Mexican Underwriters, or to their duly appointed designees, within three (3) days following the date in which the relevant Lead Mexican Underwriters has submitted a detailed statement in writing of the same.

Eleventh Clause. Conditions Precedent and Conditions Subsequent .

(a) The parties hereby agree that the effectiveness of this Agreement is subject to, and conditioned upon, the occurrence of the following conditions precedent:

(1) that prior to 8:00 a.m., of the Firm CPO's Payment Date, the Lead Mexican Underwriters shall have received a written opinion from the legal counsel of the Company, and from the legal counsel of each of the Selling Shareholders, Mr. Ramiro Villarreal Morales, in connection with the Mexican Offering, amongst other things, in form and substance satisfactory to the Lead Mexican Underwriters;

(2) that prior to 8:00 a.m., of the Firm CPO's Payment Date, the Lead Mexican Underwriters shall have received a statement letter from the external auditors of the Company, setting forth the due incorporation and consistency of the financial information contained in the Mexican Prospectus (known as comfort letter) with the relevant financial statements of the Company; and

(3) that the Authorizations shall have been obtained and the same be in full force and effect.

(b) The parties hereby agree that upon the occurrence of any of the following conditions subsequent on or prior to the Firm CPO's Payment Date or of the Optional CPO's Payment Date, as applicable, the obligations of the Lead Mexican Underwriters hereunder shall be resolved, with no liability whatsoever for any of the Lead Mexican Underwriters, as if such obligations had never existed:

(1) (A) [any of] the Company or any of its Subsidiaries, from the date of their last audited financial statements as included or incorporated by reference in the Mexican Prospectus, should sustain a material loss or interference in connection with their business ensuing from any event, whether or not insured, or from any labor conflict or legal or governmental action, except to this extent such event has been disclosed in the Mexican Prospectus, or (B) as of the date of the Mexican Prospectus, any change has occurred in the capital stock or long term debt of the Company or any of its Subsidiaries, or any change or circumstance which affects the ordinary course of the business, the administration, the financial position, the capital stock or the operational results of the Company or its Subsidiaries, except to this extent such events have been disclosed in the Mexican Prospectus, which effect, in any of the events described in the above paragraphs (A) or (B), at the reasonable discretion of any of the Lead Mexican Underwriters, should be adverse and material in nature, and prevents or

otherwise makes unadvisable to move forward with the Mexican Offering in the terms and conditions provided for in the Mexican Prospectus or in this Agreement;

(2) (A) a reduction in the rating issued by a rating agency, to the debt instruments issued by the Company, or (B) a notice released by any of the abovementioned rating agencies, advising that it is reviewing or revising the rating of the debt instruments issued by the Company;

(3) the occurrence of any of the following events: (A) the suspension or otherwise substantial limitation to the trading of the securities, generally, with the New York Stock Exchange, with any of the lead European stock exchange markets or with the BMV; (B) the suspension or otherwise substantial limitation to the trading of the securities issued by the Company with the New York Stock Exchange or with the BMV; (C) a general suspension should be declared by the competent authorities, in the banking activities in New York or in Mexico, or there shall be a significant disturbance in the commercial banking services or with regards to payment of securities in the United States of America, the European continent or in Mexico; (D) commencement or otherwise increase of hostilities involving the United States of America or Mexico, or a declaration of war or national emergency, made by Mexico or the United States of America, or (E) the occurrence of a crisis or change in the political, financial or economic condition, or in the applicable exchange rate, or in the ordinances governing the exchange rates, in the United States of America, the European continent, Mexico or any other jurisdiction, if the events referred to in the paragraphs (D) or (E) above, at the reasonable discretion of any of the Lead Mexican Underwriters, should prevents or otherwise makes unadvisable to move forward with the Mexican Offering;

(4) the registration statement of the Offered CPO's to be sold by Cemex with the RNV should be canceled by the CNBV or otherwise the listing of the CPO's with the BMV should be canceled;

(5) any of the Lead Mexican Underwriters is unable to underwrite the Offered CPO's as a matter of law or otherwise due to an order of a competent [governmental] authority;

(6) the Lead Mexican Underwriters shall have terminated the International Underwriting Agreement;

(7) Cemex or the Selling Shareholders shall have failed to underwrite the certificates representing the Offered CPO's with the Lead Mexican Underwriters, in the time and form herein agreed to;

(8) the bankruptcy, insolvency or any other similar event affecting the Company or any of its material Subsidiaries.

(c) The parties hereby agree that, without forfeiting the right to the same subsequently, the Lead Mexican Underwriters may waive any of the above conditions; and the waiver of any condition by the Lead Mexican Underwriters shall not be construed as a waiver of any other condition.

Twelfth Clause. Indemnity. (a) Cemex and each of the Selling Shareholders, jointly, agree to indemnify and hold each of the Lead Mexican Underwriters and their relevant immediate or ultimate, direct or indirect, holding companies (in other words, Grupo Financiero Banamex, J.P. Morgan Grupo Financiero, Grupo Financiero BBVA Bancomer, Grupo Financiero Santander and Grupo Financiero HSBC), and their relevant affiliates and subsidiaries, and their relevant shareholders, directors, employees, agents or advisors, and those of their relevant holding companies, direct or indirect subsidiaries and affiliates (the **"Indemnified Parties"**), free and harmless, from and against, any and all claims, proceedings, actions or complaints of any nature whatsoever filed, commenced or pursued against the Indemnified Parties, by virtue of any action or omission while performing with the terms of this Agreement, deriving from any action or omission in connection with the Global Offering, deriving from any inaccurate or misleading information contained in the Mexican Prospectus or deriving from the execution or performance hereunder. Therefore, the Company and the Selling Shareholders, jointly, covenant to pay or otherwise reimburse each of the Indemnified Parties, all damages, expenses, costs, court costs or other liabilities of any nature whatsoever, sustained or incurred by any of the Indemnified Parties, resulting from any actual or threatened claim, proceeding, action or demand, of any nature whatsoever, except and to the extent such damages, expenses, costs, court costs or other liabilities, are the result of the negligent or willful actions or omissions of the relevant Indemnified Party, as declared by firm judgment rendered by a court with competent jurisdiction.

(b) Each of the Lead Mexican Underwriters hereby covenants, individually, to indemnify and hold each and all of the Sellers, and their relevant shareholders, directors, employees, agents or advisors (the **"Cemex Indemnified Parties"**), free and harmless, from and against, any and all claims, proceedings, actions or complaints of any nature whatsoever filed, commenced or pursued against them, resulting from any information the relevant Lead Mexican Underwriter should have submitted to the Sellers in writing, in connection with its condition or its activities, for incorporation in the Mexican Prospectus, provided, however, for the avoidance of doubt, that each of the Lead Mexican Underwriters shall only be liable for the information that such Lead Mexican Underwriter should have made available and in no event any Lead Mexican Underwriter shall be liable for the actions of, or for the information supplied by, the remainder Lead Mexican Underwriters. Therefore, the relevant Lead Mexican Underwriter, individually, hereby agrees to pay or reimburse to each of the Cemex Indemnified Parties, all damages, expenses, costs, court costs or other liabilities of any nature whatsoever, sustained or incurred by any of the Cemex Indemnified Parties, resulting from any actual or threatened claim, proceeding, action or demand, of any nature whatsoever, except and to the extent such damages, expenses, costs, court costs or other liabilities, are the result of the negligent or willful actions or omissions of the relevant Cemex Indemnified Party, as declared by firm judgment rendered by a court with competent jurisdiction.

Thirteenth Clause. Effective Agreement. (a) This Agreement shall be when all of the conditions precedent herein contained have occurred or otherwise been fully satisfied, and shall remain in full force until occurrence of the first of the following events (i) performance and compliance of each and all of the obligations contained herein by the parties hereto, or (ii) termination of this Agreement due to the occurrence of any condition subsequent hereunder. Notwithstanding anything herein to the contrary and notwithstanding the termination of this Agreement, the obligations of the parties as set forth in the Tenth, Twelfth, Fourteenth and Fifteenth Clauses, and any other provision related thereto, shall remain in full force and effect.

(b) The obligations of each of the Lead Mexican Underwriters herein contained are several and not joint with the other Lead Mexican Underwriters, therefore, breach hereunder by any one of them [individually] shall not be construed and shall not result in the breach by the remainder Lead Mexican Underwriters.

Fourteenth Clause. Notices. Any notice of any kind whatsoever required from the parties hereunder, shall be given personally or by facsimile transmission. Notices by or to the parties shall be made in writing, in a conclusive manner, and to the following domiciles or numbers:

If to Cemex:

Av. Ricardo Margain Zozaya No. 325,
Col. Valle del Campestre,
66265, San Pedro Garza Garcia,
Nuevo Leon.
Telephone: (81) 8888-4480
Fax: (81) 8888-4432
Attention to: Humberto Moreira Rodriguez

If to the Selling Shareholders:

Av. Ricardo Margain Zozaya No. 325,
Col. Valle del Campestre,
66265, San Pedro Garza Garcia,
Nuevo Leon.
Telephone: (81) 8888-4480
Fax: (81) 8888-4432
Attention to: Humberto Moreira Rodriguez

If to Accival:

Paseo de la Reforma No. 398,
Col. Juarez,
06600, México, Distrito Federal.
Telephone: 1226-0667
Fax: 5326-4857
Attention to: Ignacio Gómez Daza Alarcón

If to JPMorgan:

Paseo de las Palmas No. 405,
Piso 16, Col. Lomas de Chapultepec,
11000, Mexico, Distrito Federal.
Telephone: 5540-9333
Fax: 5540-9306
Attention to: Legal Department

If to BBVA Bancomer:

Montes Urales No. 620,
Segundo piso,
Col. Lomas de Chapultepec,
11000, Mexico, Distrito Federal.
Telephone: (55) 5201-2056/2358
Fax: (55) 5201-2054/2317
Attention to: Ruy Halffter Marcet and Giampiero Bellucci Sanchez

If to Santander:

Prol. Paseo de la Reforma No. 500,
Módulo 109,
Col. Lomas de Santa Fe, Álvaro Obregón
01219, México, Distrito Federal.
Telephone: 5257-8000
Fax: 5261-5169
Attention to: Jorge H. Pigeon Solórzano

If to HSBC:

Paseo de la Reforma No. 347,
Col. Cuauhtemoc,
06500, Mexico, Distrito Federal
Telephone: 5721-2027 Fax: 5721-6150
Attention to: Direction of Operations.

Fifteenth Clause. Jurisdiction and Governing Law.

(a) The foregoing Agreement shall be governed and construed in accordance with the applicable laws of Mexico.

(b) Each of the parties hereto irrevocably (i) submits to the jurisdiction and venue of the competent courts sitting in Mexico City, Federal District, and (ii) hereby waives the benefit of any other forum available to them by virtue of their present or future domiciles.

Sixteenth Clause. Prior Agreements. This Agreement constitutes the entire understanding between the Parties in connection with the matters contemplated herein and supersedes any other agreement or understanding of any nature whatsoever, entered in connection with the matters contemplated herein.

Seventeenth Clause. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and all counterparts taken together shall constitute one and the same contract.

Eighteenth Clause. Exhibits. The parties hereto agree that the Exhibits hereof shall be deemed an integral part of this Agreement, and incorporated hereto by this reference.

IN WITNESSETH WHEREOF, the parties have caused this Underwriting Agreement to be executed on September 22, 2009, in ten (10) counterparts, in Mexico City, Federal District.

[REMAINDER OF PAGE DELIBERATELY IN BLANK]

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

By: /s/ Jaime Armando Chapa Gonzalez
Name: Jaime Armando Chapa Gonzalez
Position: Agent

CENTRO DISTRIBUIDOR DE CEMENTO, S.A. DE C.V.

By:	/s/ Jaime Armando Chapa Gonzalez	By:	/s/ Rene Delgadillo Galvan
Name:	Jaime Armando Chapa Gonzalez	Name:	Rene Delgadillo Galvan
Position:	Agent	Position:	Agent

EMPRESAS TOLTECA DE MEXICO, S.A. DE C.V.

By:	/s/ Jaime Armando Chapa Gonzalez	By:	/s/ Rene Delgadillo Galvan
Name:	Jaime Armando Chapa Gonzalez	Name:	Rene Delgadillo Galvan
Position:	Agent	Position:	Agent

PETROCEMEX, S.A. DE C.V.

/s/ Hector Medina Aguiar

By: Mr. Hector Medina Aguiar
Position: Agent

ACCIONES Y VALORES BANAMEX, S.A. DE C.V.,
CASA DE BOLSA, INTEGRANTE DEL GRUPO FINANCIERO
BANAMEX

By: /s/ Ignacio Gomez-Daza Alarcon
Ignacio Gomez-Daza Alarcon
Position: Agent

J.P. MORGAN CASA DE BOLSA, S.A. DE C.V.,
J.P. MORGAN GRUPO FINANCIERO

By: /s/ Jose Oriol Bosch Par
Name: Jose Oriol Bosch Par
Position: Agent

CASA DE BOLSA BBVA BANCOMER, S.A. DE C.V.,
GRUPO FINANCIERO BBVA BANCOMER

By:	/s/ Ruy Halffter Marcet	By:	/s/ Luis Pablo Gerardo Bustamante Desdier
Name:	Ruy Halffter Marcet	Name:	Luis Pablo Gerardo Bustamante Desdier
Position:	Agent	Position:	Agent

CASA DE BOLSA SANTANDER, S.A. DE C.V.,
GRUPO FINANCIERO SANTANDER

By:	/s/ Jose Antonio Gomez Aguado	By:	/s/ Jorge Humerto Pigeon Solorzano
Name:	Jose Antonio Gomez Aguado	Name:	Jorge Humerto Pigeon Solorzano
Position:	Agent	Position:	Agent

CASA DE BOLSA HSBC, S.A. DE C.V.,
GRUPO FINANCIERO HSBC

By: /s/ Fernando Perez Saldivar
Name: Fernando Perez Saldivar
Position: Agent

Exhibit A

Selling Shareholder	CPO's
1.- Centro Distribuidor de Cemento, S.A. de C.V.	208'021,083
2.- Empresas Tolteca de México, S.A. de C.V.	136'835,310
3.- Petrocemex, S.A. de C.V.	250'143,607

Exhibit B

	Lead Mexican Underwriter	Firm CPO's	Optional CPO's
1.	Acciones y Valores Banamex, S.A. de C.V., Casa de Bolsa, integrante del Grupo Financiero Banamex		
	On its behalf	61'250,000	--
	On behalf of third parties	43'286,239	--
2.	J.P. Morgan Casa de Bolsa, S.A. de C.V., J.P. Morgan Grupo Financiero		
	On its behalf	--	Up to 48'750,000
	On behalf of third parties	--	--
3.	Casa de Bolsa BBVA Bancomer, S.A. de C.V., Grupo Financiero BBVA Bancomer		
	On its behalf	61'250,000	--
	On behalf of third parties	43'286,239	--
4.	Casa de Bolsa Santander, S.A. de C.V., Grupo Financiero Santander		
	On its behalf	57'500,000	--
	On behalf of third parties	43'286,239	--
5.	HSBC Casa de Bolsa, S.A. de C.V., Grupo Financiero HSBC		
	On its behalf	15'141,283	--
	On behalf of third parties	--	--

Exhibit 4.44

C L I F F O R D

C H A N C E

NEW SUNWARD HOLDING B.V.

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

SUNWARD ACQUISITIONS N.V.

as Pledgors

and

WILMINGTON TRUST (LONDON) LIMITED

as Security Agent

and

the Secured Parties

Share Pledges Agreement

INDEX

In Madrid, on 29 September 2009.

With my intervention, Mr. Rafael Monjó Carrió, Notary Public of the Madrid Notaries Association, with domicile in this city.

APPEAR

On the one hand,

NEW SUNWARD HOLDING B.V., a company duly incorporated under the laws of The Netherlands, with registered offices at Amsteldijk 166, 1079LH Amsterdam, The Netherlands, registered with the Chamber of Commerce and Industries for Amsterdam (*Kamer van Koophandel en Fabrieken voor Amsterdam*) under the number 34133556 and with tax identification number N-0032922-G (hereinafter, " **Holding**").

Represented by Mr. Héctor José Vela Dib, of Mexican nationality, of legal age, bearer of Passport number G00987134 currently in force, with professional address at Madrid, C/ Hernández de Tejada, número 1, acting as attorney by virtue of the faculties conferred in the power of attorney granted before the Notary of Amsterdam, Mr. J.F.A. Aerts, on 7 August 2009, which is duly apostilled according to 1961 Hague Convention.

CEMEX, S.A.B. DE C.V., an entity duly incorporated under the laws of Mexico with registered offices at Ciudad de Monterrey, N.L. (México), Avenida Constitución, 444, Poniente, Zona Centro, registered with the Federal Registry under the number CEM-880726-UZA and with tax identification number N-4121454-E (hereinafter, "**Parent**").

Represented by Mr. Juan Pelegrí y Girón, of Spanish nationality, of legal age, with professional address at Madrid, calle Hernández de Tejada número 1, and bearer of Spanish Identity Card number 01489996-X currently in force and by Mr. Héctor José Vela Dib, of Mexican nationality, of legal age, bearer of Passport number G00987134 currently in force, with professional address at Madrid, C/ Hernández de Tejada, número 1, both acting as attorneys by virtue of the faculties conferred in the power of attorney granted before the Notary of Monterrey, Mr. Juan Manuel García García, on 29 July 2009, with number 47206 of his oficial protocol and duly apostilled according to 1961 Hague Convention.

SUNWARD ACQUISITIONS N.V., a company duly incorporated under the laws of The Netherlands, having its registered office at Amsteldijk 166, 1079 LH Amsterdam, The Netherlands and registered with registered with the Chamber of Commerce and Industries for Amsterdam (*Kamer van Koophandel en Fabrieken voor Amsterdam*) under the number 33235711 and with tax identification number N-0035445-F (hereinafter, " **Acquisitions**").

Represented by Mr. Héctor José Vela Dib, of Mexican nationality, of legal age, bearer of Passport number G00987134 currently in force, with professional address at Madrid, C/ Hernández de Tejada, número 1, acting as attorney by virtue of the faculties conferred in the power of attorney granted before the Notary of Amsterdam, Mr. Kjell Stelling, on 28 July 2009, which is duly apostilled according to 1961 Hague Convention.

Hereinafter, Holding, Parent and Acquisitions shall be jointly referred to as the " **Pledgors**", and each of them, individually, a "**Pledgor**".

And on the other hand,

The entities referred to in **Annex 1.A** hereto.

The entities referred to in **Annex 2** hereto.

WILMINGTON TRUST (LONDON) LIMITED, an entity duly incorporated under the laws of England and Wales with registered offices at 6 Broad Street Place, London EC2M 7JH, registered with the Companies Home under the number 05650152 (hereinafter, the " **Security Agent**").

Represented by Mrs. María Luisa Alonso Horcada, of Spanish nationality, of legal age, with professional address at Madrid, Paseo de la Castellana 110, and bearer of Spanish Identity Card number 51702956-Z currently in force, acting as attorney by virtue of the faculties conferred in the power of attorney granted before the Notary of London, Ms. Alisa Grafton, on 1 September 2009, which is duly apostilled according to 1961 Hague Convention.

The Security Agent acts in this Agreement in its own name and on its own behalf and, in addition:

- for the benefit of the entities referred to in **Annex 1.B** hereto (said entities, together with the entities referred to in Annex 1.A, the " **Participant Creditors**") and of the remaining Secured Parties (as defined below) by virtue of the Intercreditor Agreement (as this term is defined below), and
- in the name and on behalf of the entities referred to in Annex 2 (the " **Noteholders Trustees**") by virtue of the relevant powers of attorney.

The entities listed above shall be jointly referred to as the " **Parties**".

WHEREAS

I. That the Company (as this term is defined below) and the Pledgors are part of the CEMEX Group (hereinafter, the " **Group**"), the parent company of which is Parent.

II. That the Parent, in connection with a debt refinancing in respect of the Group, has entered into an English law governed financing agreement executed on 14 August 2009, raised to the status of Spanish public document on the date hereof before the Notary of Madrid, Mr. Rafael Monjo Carrió (hereinafter, the "**Financing Agreement**"), with the Participating Creditors amongst which Wilmington Trust (London) Limited acts as Security Agent, and to which a number of companies within the Group including the Pledgors and the Company, in their capacity as Original Borrower, Original Guarantors and Original Security Provider in the case of Parent and Holding and Original Security Provider in the case of Acquisitions (as each of these terms is defined in the Financing Agreement), are also parties.

Pursuant to Clause 27 (*Changes to Participating Creditors*) and Clause 28 (*Changes to Obligors*) of the Financing Agreement, respectively, it is anticipated that additional Participating Creditors

and additional Guarantors may accede to the Financing Agreement.

III. That, pursuant to the Financing Agreement, the Participating Creditors have agreed the terms upon which, during the Override Period, they are willing to continue to make available the Facilities and amend, vary, override and supplement certain terms of the Existing Finance Documents (as defined in the Financing Agreement).

The Financing Agreement includes as Schedule 1 Part II a list of the Original Participating Creditors together with their Exposures.

The Financing Agreement includes as Schedule 10, Part 1A and Part 1C a list of the Existing Notes in relation to the Existing Notes Trustees (as such terms are defined in the Intercreditor Agreement defined below).

IV. That, certain of the Participating Creditors, certain financial institutions in their capacity as administrative agents, the Parent and certain companies of the Group defined therein as the Borrowers and Guarantors, have entered into an omnibus amendment and waiver agreement executed on 14 August 2009, which is governed by New York law (hereinafter, the "**Omnibus Agreement**").

That, pursuant to the Omnibus Agreement, the Participating Creditors party thereto have agreed, in relation to the Existing Facility Agreements which are governed by New York law, to amend, vary, override and supplement certain terms of such Existing Facility Agreements in order that they conform to the terms of the Financing Agreement.

V. That, the Participating Creditors, the Security Agent, Parent and certain companies of the Group defined therein as the Original Debtors, have entered into an intercreditor agreement executed on 14 August 2009 (hereinafter, the "**Intercreditor Agreement**").

Pursuant to Clause 12 of the Intercreditor Agreement (*Changes to the Parties*), new parties may accede to the same in accordance with the procedure and formalities set out thereunder.

In addition, it is intended that the Refinancing Creditors, Additional Notes Creditors and Additional Notes Trustee shall have the benefit of the Pledges (as defined below) by acceding to this Agreement pursuant to Clause 16.

A copy of the Intercreditor Agreement is attached herewith as **Annex 3**.

VI. The Pledgors are the legitimate owners of the shares detailed below of **CEMEX ESPAÑA, S.A.**, a company duly incorporated under the laws of Spain, with registered office in Hernández de Tejada 1, 28027, Madrid (Spain), with Tax Identification Number A-46004214 and registered with the Commercial Registry of Madrid, in volume 9,743 and 9,744, sheet 1 y 166, section 8, page no. M-156542 (hereinafter, " **Cemex España**" or the "**Company**"):

- Holding owns 893,625,326 shares of 1.17 euro par value each (hereinafter, the " **Holding Shares**"), which represent 99.2403% of the share capital of the Company. The Shares are free and clear of any lien or encumbrance whatsoever, as evidenced by the ownership certificate (*certificado de legitimación*) (hereinafter, the "**Holding Shares Ownership Certificate**") issued on 29 July 2009 by Banco Bilbao Vizcaya Argentaria, S.A. (hereinafter,

the "**Custodian**"), managing company of the registry where the Shares are recorded (hereinafter, the " **Holding Shares Registry**").

- Parent owns 2,050,000 shares of 1.17 euro par value each (hereinafter, the " **Parent Shares**"), which represent 0.2276% of the share capital of the Company. The Parent Shares are free and clear of any lien or encumbrance whatsoever, as evidenced by the ownership certificate (*certificado de legitimación*) (hereinafter, the "**Parent Shares Ownership Certificate**") issued on 29 July 2009 by the Custodian, managing company of the registry where the Parent Shares are recorded (hereinafter, the " **Parent Shares Registry**").
- Acquisitions owns 1,957 shares of 1.17 euro par value each (hereinafter, the " **Acquisitions Shares**"), which represent 0.0002% of the share capital of the Company. The Acquisitions Shares are free and clear of any lien or encumbrance whatsoever, as evidenced by the ownership certificate (*certificado de legitimación*) (hereinafter, the "**Acquisitions Shares Ownership Certificate**") issued on 29 July 2009 by the Custodian, managing company of the registry where the Acquisitions Shares are recorded (hereinafter, the " **Acquisitions Shares Registry**").

Hereinafter, the Holding Shares, the Parent Shares and the Acquisitions Shares shall be jointly referred to as the " **Shares**".

Hereinafter, the Holding Shares Ownership Certificate, the Parent Shares Ownership Certificate and the Acquisitions Shares Ownership Certificate shall be jointly referred to as the "**Ownership Certificates**".

Hereinafter, the Holding Shares Registry, the Parent Shares Registry and the Acquisitions Shares Registry shall be jointly referred to as the " **Registries**".

VII. That, for the purposes of securing the Secured Obligations (as this term is defined in Clause 1.2 below), the Original Guarantors and the Original Security Providers, amongst which the Pledgors are included, have agreed to grant in favour of the Secured Parties (as defined in Clause 1.2 below), certain guarantees and security interests, including, in the case of the Pledgors, the granting of several rights *in rem* of pledges over the Shares.

VIII. In light of the above, the Parties have agreed to enter into this Agreement of Pledge over Shares (hereinafter, the " **Agreement**") which shall be governed by the following

CLAUSES

1. INTERPRETATION AND DEFINITIONS

1.1. Unless a contrary indication appears, capitalised terms included in this Agreement shall have the same meanings given to them in the Financing Agreement.

The Parties hereby agree that this Agreement shall not in any way prejudice or affect the terms and conditions contained in the Financing Agreement or the Intercreditor Agreement. Further, this Agreement shall be subject to the terms of the Intercreditor Agreement and in the event of any inconsistencies, the Intercreditor Agreement shall prevail amongst the parties hereto and thereto and as permitted by applicable law.

1.2. In addition, the following terms shall have the meaning ascribed to them below:

"**Secured Obligations**" means all the Liabilities and all other present and future obligations at any time due, owing or incurred by any member of the Group and by each Debtor to any Secured Party under each Debt Documents, both actual and contingent and whether incurred solely or jointly and as principal or surety or in any other capacity (as each of the terms above are defined in the Intercreditor Agreement).

"**Secured Parties**" shall have the meaning given to it in the Intercreditor Agreement.

"**Enforcement Event**" shall have the meaning given to it in the Intercreditor Agreement.

"**Instructing Group**" shall have the meaning given to it in the Intercreditor Agreement.

"**Release Date**" means the date on which the Transaction Security (as defined in the Intercreditor Agreement) shall be automatically released pursuant to Clause 8.2 of the Intercreditor Agreement.

"**Final Discharge Date**" shall have the meaning given to it in the Intercreditor Agreement.

2. CREATION OF PLEDGES

2.1 As security for the full and punctual performance of each of the Secured Obligations, the Pledgors hereby create in favour of the Secured Parties several first ranking concurrent pledges over the Shares, which the Secured Parties hereby accept in its own name and on its own behalf or through the Security Agent (hereinafter, the "**Pledges**", and each of them, individually, a "**Pledge**").

2.2 In this regard, for clarification purposes, the obligations arising from each of the Debt Documents (as defined in the Intercreditor Agreement) in favour of the Secured Parties is secured by a different Pledge created hereunder.

2.3. No obligations shall be included in the definition of Secured Obligations to the extent that, if they were included, the security interests granted pursuant to this Agreement or any part thereof would be void as a result of violation of the prohibition on financial assistance contained in Article 2:98c and 2:207c Dutch Civil Code or any other applicable financial assistance rules under any relevant jurisdiction (hereinafter, the " **Prohibition**") and all provisions hereof will be interpreted accordingly. For the avoidance of doubt, this Agreement will continue to secure those obligations which, if included in the definition of Secured Obligations, will not constitute a violation of the Prohibition.

2.4 Each of the Pledges is independent in its own right and shall each be governed separately by Clauses 2 to 17 of this Agreement. The references made in this Agreement to the Secured Obligations, the Pledges (including their enforcement and cancellation) and the Secured Parties shall be deemed to be made separately in regard to each of the Pledges, although it shall only be possible to jointly enforce all Pledges in accordance with the terms provided herein and in the Intercreditor Agreement.

3. SECURED OBLIGATIONS. INDIVISIBLE NATURE

3.1 Each of the Pledges created in favour of the Secured Parties secures the full and punctual performance of all the relevant Secured Obligations.

3.2 Each of the Pledges is of an indivisible nature. Consequently, each Pledge secures the punctual performance of the corresponding Secured Obligations in their entirety. Partial performance of the Secured Obligations will not entail the proportional cancellation of the relevant Pledges.

3.3 The Secured Parties may enforce the Pledges independently of any other personal guarantee or rights *in rem* of pledges created or to be created for the purposes of securing the performance of the Secured Obligations. Consequently, the Pledges may be enforced previously, simultaneously or subsequently to the enforcement of any other guarantee created in favour of the Secured Parties.

4. DELIVERY OF THE POSSESSION

4.1 In accordance with Article 10 of the Law 24/1988, dated 28 July, on the Securities Market, the recording of the Pledges in the corresponding accounts of the Registries will be equivalent to the delivery of possession of the Shares.

4.2 The Custodian, by means of is appearance as a party to this Agreement, acknowledges the execution of this Agreement and:

4.2.1 hereby records the creation of each of the Pledges in the relevant book entries Registries. This recording shall be equivalent to the delivery of possession of the Shares pursuant to Article 10 of the Law 24/1988, dated 28 July, on the Securities Market and Article 13 of RD 116/1992;

4.2.2 undertakes to issue new ownership certificates which evidence the creation of the Pledges as well as its registration with the relevant book entries Registries (hereinafter, the "**Pledges Certificates**").

4.3 The Notary hereby delivers to the Security Agent the original pledges certificates received from the Custodian, and the Security Agent shall keep the Pledges Certificates until the Pledges are released pursuant to Clause 9 of this Agreement.

The Security Agent undertakes to safekeep the Pledges Certificates and to return them to the Pledgors immediately upon the cancellation of the Pledges in accordance with Clause 9 below.

5. EXTENSION OF PLEDGES

5.1 *Replacement of assets*

The Pledges created herein shall extend to comprise any shares, securities, assets (tangible or intangible) or funds which substitute or correspond to the Shares in the event of merger, winding up, capital increase or reduction, conversion or share swap, transformation, de-merger or any other similar corporate transactions affecting the Company or the Shares such that the value of the Pledges does not decrease. Hereinafter, any reference to the Shares in this Agreement shall extend to comprise any right, securities, assets or funds that may correspond or in future

substitute to the Shares.

If as a result of any transactions referred to in the preceding paragraph, the Pledges extend to cash or credit rights convertible into cash, the relevant amount shall be deposited in accounts opened by the Pledgors with the entity or entities appointed by the Instructing Group (through the Security Agent) and shall remain pledged in favour of the Secured Parties (in similar terms to those contained herein). Should any of the Pledges over the credit right to the reimbursement of the cash be enforced, the enforcement will take place by means of the set off of the relevant amount, which shall be directly allocated to the Secured Parties against the Secured Obligations outstanding, on a pro rata basis, provided that prior notice has been served to the Pledgors.

The extension of the Pledges, if applicable, shall be made at the request of the Security Agent on written instructions of the Instructing Group, by means of the execution of public or private documents as may be necessary or desirable in light of the type of guarantee to be granted pursuant to the nature of the asset that replaces the Shares. The Pledgors undertake to grant as many documents as may be necessary for the purposes of extending the Pledges within thirty (30) calendar days following receipt of a written request from the Security Agent for such purposes.

In the event that such documents are not granted within the above referred deadline, the Security Agent shall be entitled to grant the same in the name and on behalf of the Pledgors exercising the faculties conferred under the irrevocable powers of attorney granted by the Pledgors on the date hereof in favour of the Security Agent (even if this implies self-contracting).

5.2 *Increase of share capital*

In the event that a capital share increase is made in accordance with the Financing Agreement, the Pledgors shall inform the Security Agent in writing at least five (5) Business Days in advance of the date on which a general shareholders meeting, in which that increase of share capital is to be considered or approved, is to be held and shall send the Security Agent, through registered mail, a copy of the deed of increase of share capital as soon as the Pledgors receive it from the relevant Notary.

The Pledgors undertake to do all things and execute all documents as may be necessary in order for the Pledges to be extended to such newly-issued shares of the Company subscribed by the Pledgors, in order to avoid a decrease in the value of the Pledges (as referred to a percentage in the share capital), so that 99.4681% of the share capital of the Company is pledged at all times.

The extension of the Pledges shall be documented by a supplementary pledge document granted by the Pledgors before a Spanish Notary within thirty (30) calendars days following the date of registration of the capital increase with the Mercantile Registry, and shall be recorded with the corresponding accounts of the Registries.

In the event that such documents are not granted and/or the extension is not perfected within the above referred deadline, the Security Agent shall be entitled to grant the same in the name and on behalf of the Pledgors exercising the faculties conferred under the irrevocable powers of attorney granted by the Pledgors on the date hereof in favour of the Security Agent (even if this implies self-contracting).

6. NON DISPOSAL OF THE SHARES

In accordance with Article 21 of RD 116/1992, for so long as any of the Pledges over the Shares is in force, the Shares may not be transferred and, therefore, the Pledgors may not sell, transfer, encumber, levy or dispose of the Shares in any way or create any option right or restriction to the transmission thereof without the express prior written consent of the Security Agent acting on the instructions of the Instructing Group, unless it is otherwise permitted in accordance with the terms of the Financing Agreement.

7. EXERCISE OF THE RIGHTS ATTACHED TO THE SHARES

7.1 The following rights shall remain with the Pledgors:

7.1.1 the voting rights attached to the Shares; and

7.1.2 the economic rights attached to the Shares (including, dividends, interests or any other return).

7.2 Notwithstanding the above, the Pledgors may not exercise, without the prior consent of the Security Agent, the voting rights attached to the Shares for the purposes of passing resolutions that are (i) contrary to the provisions of the Financing Agreement and/or the Intercreditor Agreement; or (ii) detrimental to the rights conferred upon the Secured Parties hereunder.

7.3 Upon (i) the occurrence of an Enforcement Event and (ii) the service of a notice to that purpose sent by the Security Agent, following the instructions required pursuant to the Intercreditor Agreement to the Pledgors, the Secured Parties, acting through the Security Agent, shall be entitled to exercise all rights attached to the Shares.

For the above purposes, the Pledgors undertake to promptly perform as many actions as may be necessary or desirable in order to allow the exercise of the rights attached to the Shares by the Secured Parties in accordance with the preceding paragraph.

8. REPRESENTATIONS OF THE PLEDGORs

8.1 The Pledgors represent in favour of the Secured Parties:

8.1.1 That the Company exists and is validly incorporated under the laws of Spain and is registered with the Mercantile Registry of Madrid.

8.1.2 That the Custodian is the managing company of the Registries where the Shares are recorded.

8.1.3 That they have the capacity to execute this Agreement and all necessary actions to authorise the execution and performance of this Agreement have been obtained.

8.1.4 That the rights *in rem* of pledges constitute valid and binding obligations to the Pledgors, in accordance with the terms of this Agreement.

8.1.5 That the acceptance and performance by the Pledgors of the obligations set out hereunder: (a) does not contravene any judicial or administrative order or decision; (b) does not contravene their constitutional documents or the Company in any respect; (c) does not

oppose to any document, agreement or contract binding for the Pledgors or the Company; and (d) does not require any authorisation, consent, licence or permit.

8.1.6 That each of the Pledgors is the owner of the Shares identified in Recital V of this Agreement and has the full title to dispose of its Shares.

8.1.7 That the Shares: (a) are free from any lien, encumbrance, option right or statutory or contractual restriction to their transmission; (b) have been validly issued by the Company; and (c) are fully subscribed and paid up.

8.1.8 Subject to acceptance by the Secured Parties, first ranking pledges over the Shares are created in favour of the Secured Parties as security for the performance of the Secured Obligations.

8.1.9 That the pledged Shares represent the 99.4681% of the share capital of the Company.

9. TERMINATION OF THE PLEDGES

9.1 The Pledges shall be automatically terminated and cancelled on the earlier of (i) the Final Discharge Date (as defined in the Intercreditor Agreement) or (ii) the Release Date.

9.2 In accordance with Clause 8.2 of the Intercreditor Agreement, the Security Agent, on behalf of the Secured Parties, shall within ten (10) Business Days following the Release Date release all of the Pledges created under this Agreement and shall do all such acts as may be necessary or desirable to effect the termination and/or cancellation of the Pledges, including, but not limited to, (i) returning to the Pledgors the Pledges Certificates (or any replacement thereof) and (ii) notifying the Custodian in order that such cancellation may be recorded in the Registries accordingly.

10. MATURITY AND ENFORCEMENT

10.1 Subject to the terms and conditions of this Agreement and the Intercreditor Agreement, the Pledges may be enforced upon the occurrence of an Enforcement Event and for so long as it is continuing and there is an amount owing, due and payable, in which case the Security Agent, following instructions from the Instructing Group (as this term is defined in the Intercreditor Agreement), shall be entitled to enforce the Pledges.

10.2 Following an Enforcement Event, the Security Agent shall not take any enforcement action against the Shares unless expressly instructed to do so in writing by the Instructing Group (as such term is defined in the Intercreditor Agreement) or otherwise in accordance with the terms of the Intercreditor Agreement, and for the purposes of the enforcement of the Pledges, the Secured Parties may, through the Security Agent, initiate upon their election, any of the legal proceedings available for the enforcement of the Pledges, including the ordinary or executive judicial proceedings or the non-judicial proceeding set forth in Article 1872 of the Civil Code, and also the procedure set out in Articles 11 and subsequent of Royal Decree-Law 5/2005, of 11 March 2005 (hereinafter, the "**RDL 5/2005**"), it being understood that the election of any of the above proceedings does not limit the possibility of electing any of the other proceedings, if the Secured Obligations have not been fully discharged.

10.3 For the purposes of the enforcement of the Pledges (by any of the relevant procedures), the Parties agree that any amount due and payable in the event of enforcement of the Pledges shall be the amount indicated in the certificate issued by the Administrative Agent pursuant to Article 572.2 of the Spanish Law of Civil Procedure, reflecting the balance owed under the Secured Obligations, in accordance with the provisions of Clause 35 of the Financing Agreement.

10.4 In the event that the Secured Parties, through the Security Agent, decide to follow the special enforcement proceedings set forth in RDL 5/2005, the following is agreed:

10.4.1 In accordance with article 12 of RDL 5/2005, for the commencement of the enforcement proceeding the Security Agent shall send an enforcement request (hereinafter, the "**Enforcement Request**") to the Custodian, which shall include the following:

(i) the relevant details of the Financing Agreement, including name, date, type, information on the parties and a declaration that an early termination event has occurred or the reason for the termination, acceleration and settlement of the Secured Obligations;

(ii) the amount of the debt of the Pledgors, as a result of the termination of the Financing Agreement;

(iii) the name and details of the Custodian; and

(iv) the order for the sale of the Shares or the order for the transfer (free of payment) of the Shares to the account of the Security Agent.

The Custodian shall check the identity of the creditor and the authority of the person signing the request, and shall take the necessary measures for the selling or transferring the Shares with the intervention of a notary or through a " *sociedad de valores*", "*agencia de valores*" or credit entity as per the Third Additional Provision of Law 24/1988, dated 28 July, on the securities market, as amended.

10.4.2 In the event of enforcement of the Pledges, the value of the Shares shall be their market value (hereinafter, the " **Enforcement Value**"). The Enforcement Value of the Shares shall be the value determined by an independent investment bank of internationally recognised standing which shall be appointed by the Security Agent (following the instructions of the Instructing Group) among the following: Goldman Sachs, Rothschild, UBS, Nomura and Credit Suisse First Boston. The appointed investment bank (hereinafter, the " **Investment Bank**") must be independent from the Pledgors and the Secured Parties at the time of determining the Enforcement Value, and must confirm in writing to the Parties that it is not affected by any conflict of interest or by any other circumstance which may prejudice its independence to determine the Enforcement Value. The appointed Investment Bank will issue its valuation within one fifteen (15) working days from its acceptance. Any cost arising out from the valuation of the Shares shall be borne by the Pledgors. The Pledgors unconditionally and irrevocably undertake hereby to promptly provide the Security Agent with all financial, commercial, legal or technical information that is required to assess the Enforcement Value of the Shares.

The parties expressly agree that the Security Agent may request the Investment Bank to

determine the Enforcement Value of the Shares at any time after an Enforcement Event occurs provided that prior notice to that effect has been served by the Security Agent following instructions of the Instructing Group to the Pledgors.

The Enforcement Value shall be based on the results obtained by the Investment Bank by using the following methods: (i) break-up value of the Company and of its consolidated group; (ii) value of the Shares pursuant to the discounted cash flows valuation method; (iii) value of the Shares pursuant to the company multiples and comparable transactions valuation methods; and (iv) any other applicable valuation method generally accepted by the international financial community.

10.4.3 After the occurrence of an Enforcement Event, and once the Enforcement Value has been determined by the Investment Bank, the Secured Parties, acting through the Security Agent, may enforce the Pledges by selling the Shares to any third party or by means of directly acquiring them. The minimum selling price shall be the Enforcement Value corresponding to the transferred Shares.

10.4.4 After the occurrence of an Enforcement Event, the Security Agent, even if it gives rise to self-contracting, and by virtue of the irrevocable powers of attorney granted on the date hereof by the Pledgors to these effects, shall be capable of acting as the attorney of the Pledgors for the purpose of the sale of the Shares in the condition of seller, as well as for the purposes of granting in its name and behalf any public or private documents which may be necessary for the formalisation of the transfer of the Shares.

10.5 In the event that the Participating Creditors, acting through the Security Agent, decide to follow the enforcement proceedings set forth under article 1872 of the Civil Code, the following is agreed:

10.5.1 The domiciles for requests and notifications shall be those indicated in Clause 12 below.

10.5.2 The minimum bid price for the first auction shall be, at the option of the Instructing Group (as this term is defined in the Intercreditor Agreement), the Enforcement Value (determined in accordance with Clause 10.4 above). The minimum bid price for the second auction shall be the 75% of the Enforcement Value.

If no bids were presented in the first two auctions, the Secured Parties may become owners of the Shares, acknowledging receipt of payment of the amount owed under the relevant Secured Obligations.

At the request of the Security Agent, third and further auctions may take place with the same formalities and no initial bid price.

10.5.3 The Security Agent, by virtue of the irrevocable powers of attorney granted by the Pledgors on the date hereof for such purposes, shall be capable of acting as representative of the Pledgors in the auction of the Shares, as transferor, and to execute the notarial deed of transfer of the Shares in favour of the purchaser on behalf of the

Pledgors.

10.5.4 The Spanish Notary Public competent for the enforcement proceedings shall be a Notary resident in Madrid (capital city) appointed by the Security Agent.

Upon the request of the Security Agent, partial auctions may take place for selling the Shares in different lots.

The auctions shall be announced ten (10) calendar days in advance. In case of several auctions, the announcement of each such auctions may be effected simultaneously, however, a minimum ten (10) calendar days period must elapse between each of such auctions. The Pledgors and the Company shall be as well notified with the same advance, indicating the Notary who shall carry out the auction.

10.5.5 Any bidder (except for the Secured Parties) shall place a deposit with the relevant notary appointed for the enforcement of the Pledges for an amount equal to 10% of the minimum bid price for the first auction, as security for the formalisation of the transfer and payment in case of award; if this is not formalised the bidder shall lose the deposit in favour of the Secured Parties who shall apply such amounts towards the discharge of the Secured Obligations in the order provided for the in the Intercreditor Agreement.

10.6 In case of enforcement of the Pledges through the enforcement proceedings set forth under RDL 5/2005 or article 1872 of the Civil Code, the Security Agent will apply the price obtained from the sale of the Shares to the complete repayment of the Secured Obligations and, if any, shall deliver to the Pledgors the excess obtained from the sale of the Shares once all costs, expenses and taxes related to the sale have been satisfied.

10.7 The Secured Parties shall keep any and all of their rights and legal actions against the Pledgors for any portion of the Secured Obligations that has not been satisfied or collected as a result of the enforcement of the Pledges.

11. TAXES AND EXPENSES

All present and future taxes, fees and expenses of any nature whatsoever (including the fees of the Notary attesting and before whom this Agreement is granted and those connected with the maintenance of the Registries of book entries where the Shares are recorded) arising out of the execution, extension, maintenance, amendments, cancellation and enforcement of the Pledges in accordance with this Agreement as well as any other fees or expenses of legal advisors and *procuradores* and the judicial costs in which the Secured Parties may incur as a consequence of the breach by the Pledgors of any of its obligations hereunder, shall be borne by the Pledgors.

12. NOTICES

12.1 All notices to be delivered between the parties in connection with this Agreement shall be made in writing by means of a letter signed by a duly empowered attorney and sent with acknowledgement of receipt. When urgent, notices may be delivered by fax or by any other mean that may evidence its reception. In this latter case, the notices shall be confirmed within the following five (5) calendar days by means of a letter with acknowledgement of receipt.

12.2 The address of each of the parties for the purposes of notices are as follows:

12.2.1 For Holding:

Address: C / Hernández de Tejada 1, 28027, Madrid (Spain)
Attention of: Mr. Juan Pelegrí y Girón
Telf: +34 91 377 9254
Fax: +34 91 377 96 48

12.2.2 For Parent:

Address: C / Hernández de Tejada 1, 28027, Madrid (Spain)
Attention of: Mr. Juan Pelegrí y Girón
Telf: +34 91 377 9254
Fax: +34 91 377 96 48

12.2.3 For Acquisitions:

Address: C / Hernández de Tejada 1, 28027, Madrid (Spain)
Attention of: Mr. Juan Pelegrí y Girón
Telf: +34 91 377 9254
Fax: +34 91 377 96 48

12.2.4 For the Security Agent and the Secured Parties:

Address: 6 Broad Street Place, London EC2M 7JH
Attention of: Elaine K. Lockhart
Fax: +44 (0) 20 7614 1122

12.2.5 For the Company:

Address: C/ Hernández de Tejada 1, 28027, Madrid (Spain)
Attention of: Mr. Juan Pelegrí y Girón
Telf: +34 91 377 92 54
Fax: + 34 91 377 96 48

12.3 Any change of address shall be communicated to the other parties with no less than five (5) calendar days prior notice in accordance with Clause 12.1 above.

13. FURTHER ASSURANCES

The Pledgors shall, within ten (10) Business Days of receipt of a written request from the Security Agent, grant all such documents (private or public) as may be necessary to clarify any term of this Agreement or perfect the Pledges.

14. ASSIGNMENT OF THE PLEDGE

The Pledgors hereby acknowledge and agree that, pursuant to the Financing Agreement and the Intercreditor Agreement, each of the Secured Parties may assign or transfer by novation any of its rights and benefits in respect of (in case of a Participating Creditor or Refinancing Creditor) any of its Exposures under the Facilities (as the three preceding terms are defined in the Financing Agreement), and (in the case of a Noteholder) the Notes held by it (as the two preceding terms are defined in the Intercreditor Agreement).

The Pledgors hereby expressly acknowledges and agrees that, in accordance with article 1528 of the Spanish Civil Code, any assignment or transfer carried out by any of the Secured Parties (or any subsequent assignee or transferee thereof) under the provisions of the Financing Agreement

or Refinancing Documents and the Intercreditor Agreement, or the relevant Noteholder Documents (as defined in the Intercreditor Agreement), shall automatically entail without the need of any further agreement of the Pledgors to such effect, the proportional assignment of the rights corresponding to the relevant Participating Creditor, Refinancing Creditor or Noteholder (as the case may be) by virtue of the relevant Pledge. Notwithstanding the above, the Pledgors undertake that, upon the Security Agent's request, it will grant as many public or private documents as may be necessary or desirable to evidence such transfers. Any costs and/or expenses related to the execution of such documents shall be borne by the Pledgors.

Consequently, references in this Agreement to the Secured Parties and/or the Security Agent shall be construed as references to the Secured Parties and/or the Security Agent from time to time under the Financing Agreement and/or the Intercreditor Agreement.

Likewise, the references to the Security Agent shall be deemed to be made to the entity that holds that condition from time to time.

15. SECURITY AGENT

15.1 The Security Agent shall not, whether by virtue of this Agreement or by exercising any of its rights thereunder, owe any duty of care or fiduciary duty to the Pledgors or the Company.

15.2 The permissive rights of the Security Agent to take action under this Agreement shall not be construed as an obligation or duty for it to do so.

15.3 Provided it complies with its obligations in this Agreement, the Security Agent is not required to have any regard to the interests of the Company.

15.4 In acting as Security Agent, the Security Agent shall be treated as acting through its agency division which shall be treated as a separate entity from its other divisions and departments. Any information received or acquired by the Security Agent which is received or acquired by some other division or department or otherwise than in its capacity as Security Agent may be treated as confidential by the Security Agent and will not be treated as information possessed by the Security Agent in its capacity as such.

15.5 In acting or otherwise exercising its rights or performing its duties under any of this Agreement, the Security Agent shall act in accordance with the provisions of the Intercreditor Agreement and shall, when required to grant a consent, exercise a discretion, take or omit to take any action, seek instruction or direction from the Instructing Group or Administrative Agent (as applicable and as provided in the Intercreditor Agreement). In so acting, the Security Agent shall have the rights, benefits, protections, indemnities and immunities set out in the Intercreditor Agreement as if those provisions were set out in this Agreement, *mutatis mutandis*, and shall not incur any liability to the Pledgors, the Company or to any other Person.

15.6 The provisions of this Clause 15 shall survive any termination of this Agreement.

16. ACCESSION AND RATIFICATION

16.1 The Secured Parties on whose benefit the Security Trustee has acted herein may accede to this Agreement and ratify its content, accepting the Pledges created in their favour, by appearing

before the intervening notary.

16.2 The Parties hereby instruct the intervening notary to document the accessions and ratifications set out in the previous paragraph by means of the execution of the relevant deeds (*pólizas* or *escrituras*) by the relevant Secured Parties.

16.3 The intervening notary accepts the aforementioned instructions.

17. LAW AND JURISDICTION

17.1 This Agreement will be governed by and construed in accordance with Spanish law.

17.2 Each of the parties to this Agreement irrevocably submits themselves, with express waiver to any other forum, to the jurisdiction of the Courts and Tribunals of the city of Madrid for the resolution of any claim which may arise out of in connection with this Agreement.

18. LANGUAGE

This Agreement is executed in both the Spanish and the English language. In the event of any discrepancy or inconsistency between the Spanish and the English versions, the Spanish version shall prevail. The English version is intended for information purposes only.

Las Partes se manifiestan conformes con el contenido de este Contrato tal y como aparece redactado, extendido en _____ hojas incluidos sus anexos, que otorgan y firman únicamente en la última página con mi intervención que sello y rubrico todos los folios, quedando el original en mi archivo.

Y yo, el Notario, hechas las advertencias legales oportunas, doy fe de la identidad de las Partes, de la legitimidad de sus firmas, y de todo lo convenido en este Contrato, que firmo y sello en el lugar y fecha del encabezamiento.

NEW SUNWARD HOLDING B.V.

/s/ Héctor José Vela Dib

p.p. D. Héctor José Vela Dib

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

/s/ Héctor José Vela Dib	**/s/ Juan Pelegrí y Girón**

p.p. D. Héctor José Vela Dib **p.p. D. Juan Pelegrí y Girón**

SUNWARD ACQUISITIONS B.V.

/s/ Héctor José Vela Dib

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p.p. D. Héctor José Vela Dib

WILMINGTON TRUST (LONDON) LIMITED

/s/ María Luisa Alonso Horcada

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p.p. Dª. María Luisa Alonso Horcada

ABN AMRO BANK, N.V.
ABN AMRO BANK N.V. SUCURSAL EN ESPAÑA
ATLANTIC SECURITY BANK
BANCA MONTE DEI PASCHI DI SIENA S.P.A., SUCURSAL EN NUEVA YORK
BANCA MONTE DEI PASCHI DI SIENA S.P.A., SUCURSAL EN LONDRES
BANCO NACIONAL DE COMERCIO EXTERIOR, S.N.C.
BANCO NACIONAL DE MÉXICO, S.A. INTEGRANTE DEL GRUPO FINANCIERO BANAMEX
BANK OF AMERICA N.A.
BANK OF AMERICA N.A., SUCURSAL EN ESPAÑA
BARCLAYS BANK PLC
BAYERISCHE LANDESBANK
BNP PARIBAS
BNP PARIBAS SUCURSAL EN SYDNEY
BNP PARIBAS SUCURSAL EN PANAMA
BNP PARIBAS SUCURSAL EN ESPAÑA
BRED BANQUE POPULAIRE
CAISSE REGIONALE DE CREDIT AGRICOLE MUTUEL DE PARIS ES D'ILE-DE-FRANCE
CALYON
CALYON, SUCURSAL EN NUEVA YORK
CALYON SUCURSAL EN ESPAÑA
CENTROBANCA – BANCA DI CREDITO FINANZIARIO E MOBILIARE S.P.A.
CITIBANK (BANAMEX USA)
CITIBANK N.A. NASSAU, SUCURSAL EN BAHAMAS
CITIBANK N.A.

COMERICA BANK
COMMERZBANK AG, SUCURSAL EN LONDRES
COMMERZBANK AG, SUCURSAL EN NUEVA YORK (anteriormente, DRESDNER BANK AG.)
CREDIT INDUSTRIELE ET COMMERCIAL, SUCURSAL EN LONDRES
DEUTSCHE BANK AG, SUCURSAL EN NUEVA YORK
DEUTSCHE BANK LUXEMBOURG S.A.
FORTIS BANK S.A./N.V.
FORTIS BANK S.A./N.V. SUCURSAL EN ISLAS CAYMAN
FORTIS S.A., SUCURSAL EN ESPAÑA
HSBC BANK PLC, SUCURSAL EN ESPAÑA
HSBC MÉXICO S.A. INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO HSBC
HSBC MÉXICO S.A. INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO HSBC, ACTUANDO A TRAVÉS DE SU SUCURSAL EN ISLAS CAYMAN
INTESA SANPAOLO S.P.A. SUCURSAL EN NUEVA YORK
JP MORGAN CHASE BANK, N.A.
JP MORGAN CHASE BANK, N.A. SUCURSAL EN ESPAÑA
LANDESBANK BADEN-WÜRTTEMBERG, SUCURSAL EN LONDRES
LANDESBANK BADEN-WÜRTTEMBERG, SUCURSAL EN STUTTGART
LLOYDS TSB BANK PLC
LLOYDS TSB BANK PLC, SUCURSAL EN ESPAÑA
MEDIOBANCA-BANCA DI CREDITO FINANZIARIO S.P.A.
MERRILL LYNCH INTERNATIONAL BANK, LTD
MIZUHO CORPORATE BANK, LTD
MIZUHO CORPORATE BANK NEDERLAND, N.V.
MORGAN STANLEY BANK INTERNATIONAL LIMITED
SCOTIABANK EUROPE PLC
SCOTIABANK EUROPE PLC, SUCURSAL EN LONDRES
STANDARD CHARTERED BANK
TAKAREKBANK (MAGYAR)
THE BANK OF NOVA SCOTIA
THE BANK OF TOKYO-MITSUBISHI UFJ LTD, SUCURSAL EN ESPAÑA
THE BANK OF TOKYO-MITSUBISHI UFJ
THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND
THE ROYAL BANK OF SCOTLAND PLC
WACHOVIA BANK, NACIONAL ASSOCIATION
WESTLB AG, SUCURSAL EN ESPAÑA
WESTPAC EUROPE LIMITED
WILMINGTON TRUST (SECURITY AGENT)
PRINCIPAL LIFE INSURANCE COMPANY
RGA REINSURANCE COMPANY
SYMETRA LIFE INSURANCE COMPANY
SCOTISH RE (U.S.). INC.
GENERAL AMERICAN LIFE INSURANCE
NEW ENGLAND LIFE INSURANCE

METLIFE INSURANCE COMPANY OF CONNECTICUT
METROPOLITAN LIFE INSURANCE COMPANY
METROPOLITAN TOWER LIFE INSURANCE COMPANY
WESTERN NATIONAL LIFE INSURANCE COMPANY (FORMERLY AIG ANNUITY INSURANCE COMPANY)
AMERICAN GENERAL LIFE AND ACCIDENT INSURANCE COMPANY
AMERICAN INTERNATIONAL LIFE ASSURANCE COMPANY OF NEW YORK
MERIT LIFE INSURANCE CO.
THE VARIABLE ANNUITY LIFE INSURANCE COMPANY
THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY
ING LIFE INSURANCE & ANNUITY COMPANY
ING USA LIFE INSURANCE AND ANNUITY COMPANY
RELIASTAR LIFE INSURANCE COMPANY
SECURITY OF DENVER INSURANCE COMPANY
JOHN HANCOCK VARIABLE LIFE INSURANCE COMPANY
JOHN HANCOCK LIFE INSURANCE COMPANY
MANULIFE LIFE INSURANCE COMPANY
NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION
NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION,
INSTITUTIONALLY OWNED LIFE INSURANCE SEPARATE ACCOUNT
NEW YORK LIFE INSURANCE COMPANY
THRIVENT FINANCIAL FOR LUTHERANS
HARTFORD ACCIDENT AND INDEMNITY COMPANY
HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY
HARTFORD LIFE INSURANCE COMPANY
AMCO INSURANCE COMPANY
NATIONWIDE LIFE AND ANNUITY INSURANCE COMPANY
NATIONWIDE LIFE INSURANCE COMPANY
NATIONWIDE MULTIPLE MATURITY SEPARATE ACCOUNT
NATIONWIDE MUTUAL INSURANCE COMPANY
THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA
BERKSHIRE LIFE INSURANCE COMPANY OF AMERICA
MONUMENTAL LIFE INSURANCE COMPANY
PACIFIC LIFE INSURANCE COMPANY
NATIONAL BENEFIT LIFE INSURANCE COMPANY
PRIMERICA LIFE INSURANCE COMPANY
SWISS RE LIFE & HEALTH AMERICA INC.
WESTPORT INSURANCE CORPORATION (FKA EMPLOYERS REINSURANCE CORPORATION)
ALLSTATE LIFE INSURANCE COMPANY
ALLIED IRISH BANKS PLC
BARCLAYS BANK PLC
GENWORTH LIFE INSURANCE COMPANY
GENWORTH LIFE INSURANCE COMPANY OF NEW YORK
ORIOLE CDO
PHL VARIABLE INSURANCE COMPANY

PHOENIX LIFE INSURANCE COMPANY
KNIGHTS OF COLUMBUS
THE OHIO NATIONAL LIFE INSURANCE COMPANY
AVIVA LIFE AND ANNUITY COMPANY
BENEFICIAL LIFE INSURANCE COMPANY
ENSURE INVESTMENT FUND
NEW ENGLAND LIFE INSURANCE

/s/ María Luisa Alonso Horcada

p.p. Dª. María Luisa Alonso Horcada

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.

/s/ Miguel Castillo Gitiérrez	**/s/ Itziar Sogo Aldamendi**
p.p. D. Miguel Castillo Gitiérrez	**p.p. Dª. Itziar Sogo Aldamendi**

BANCO BILBAO VIZCAYA ARGENTARIA, S.A., SUCURSAL EN GRAND CAYMAN

/s/ Miguel Castillo Gitiérrez	**/s/ Itziar Sogo Aldamendi**
p.p. D. Miguel Castillo Gitiérrez	**p.p. Dª. Itziar Sogo Aldamendi**

BANCO BILBAO VIZCAYA ARGENTARIA, S.A., SUCURSAL EN NUEVA YORK

/s/ Miguel Castillo Gitiérrez	**/s/ Itziar Sogo Aldamendi**
p.p. D. Miguel Castillo Gitiérrez	**p.p. Dª. Itziar Sogo Aldamendi**

BANCO CAIXA GERAL, S.A.

/s/ Piedad María Contreras Moyano	**/s/ Primitivo Chamorro Tejado**
p.p. Dª. Piedad María Contreras Moyano	**p.p. D. Primitivo Chamorro Tejado**

BANCO POPULAR ESPAÑOL, S.A.

/s/ Ana Cáceres Ares	**/s/ Eduardo Martín Martínez**
p.p. Dª. Ana Cáceres Ares	**p.p. D. Eduardo Martín Martínez**

BANCO DE SABADELL, S.A.

/s/ Gustavo Manuel Gutiérrez León	**/s/ Fernando Rojas Cubas**
p.p. D. Gustavo Manuel Gutiérrez León	**p.p. D. Fernando Rojas Cubas**

BANCO ESPAÑOL DE CRÉDITO, S.A.

/s/ Asier González Linaza	**/s/ Susana González Menéndez**
p.p. D. Asier González Linaza	**p.p. Dª. Susana González Menéndez**

BANCO SANTANDER, S.A.

/s/ César Vertiz Padamonte	**/s/ Pablo Faustino Lastra Moreno**
p.p. D. César Vertiz Padamonte	**p.p. D. Pablo Faustino Lastra Moreno**

BANCO SANTANDER, S.A., SUCURSAL EN NUEVA YORK

/s/ César Vertiz Padamonte	**/s/ Pablo Faustino Lastra Moreno**
p.p. D. César Vertiz Padamonte	**p.p. D. Pablo Faustino Lastra Moreno**

BANCO SANTANDER (MÉXICO, S.A.), INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO SANTANDER

/s/ Ángel Barranco Guadarrama	**/s/ Javier Martín Robles**
p.p. D. Ángel Barranco Guadarrama	**p.p. D. Javier Martín Robles**

BAYERISCHE HYPO-UND-VEREINSBANK A.G.

/s/ María Dolores Degner	**/s/ Ana María Chaves López**
p.p. Dª. María Dolores Degner	**p.p. Dª. Ana María Chaves López**

BBVA BANCOMER S.A., INSTITUCIÓN DE BANCA MÚLTIPLE GRUPO FINANCIERO BBVA BANCOMER

/s/ Itziar Sogo Aldamendi	**/s/ Elena Bugallal Cercadillo**
p.p. Dª. Itziar Sogo Aldamendi	**p.p. Dª. Elena Bugallal Cercadillo**

CAIXA D'ESTALVIS I PENSIONS DE BARCELONA

/s/ Pablo Fernández Matabuena	**/s/ Ignacio Bereciartua González**
p.p. D. Pablo Fernández Matabuena	**p.p. D. Ignacio Bereciartua González**

CAJA DE AHORROS DE ASTURIAS

/s/ Rafael Caruana Careaga

p.p. D. Rafael Caruana Careaga

CAJA DE AHORROS DE GALICIA

/s/ Arturo Bermúdez Cachaza

p.p. D. Arturo Bermúdez Cachaza

CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID

/s/ Antonio San Segundo Hernández	**/s/ Jorge Salamero Sanz**
p.p. D. Antonio San Segundo Hernández	**p.p. D. Jorge Salamero Sanz**

CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID, AGENCIA EN MIAMI

/s/ Jaime González Lasso de la Vega	**/s/ D. Jorge Salamero Sanz**
p.p. D. Jaime González Lasso de la Vega	**p.p. D. Jorge Salamero Sanz**

CITIBANK INTERNATIONAL PLC, SUCURSAL EN ESPAÑA

/s/ Pedro López-Quesada Fernández-Urrutia

p.p. D. Pedro López-Quesada Fernández-Urrutia

IKB DEUTSCHE INDUSTRIEBANK AG, SUCURSAL EN ESPAÑA

/s/ Javier Mico Olcina

p.p. D. Javier Mico Olcina

ING BANK, N.V.

/s/ Gustavo Alberto de Rosa	**/s/ Sergio Casado Gamez**
p.p. D. Gustavo Alberto de Rosa	**p.p. D. Sergio Casado Gamez**

ING BANK, N.V., ACTUANDO A TRAVÉS DE SU SUCURSAL EN CURAÇAO

/s/ Gustavo Alberto de Rosa	**/s/ Sergio Casado Gamez**
p.p. D. Gustavo Alberto de Rosa	**p.p. D. Sergio Casado Gamez**

ING BELGIUM S.A., SUCURSAL EN ESPAÑA

/s/ Gustavo Alberto de Rosa	**/s/ Sergio Casado Gamez**
p.p. D. Gustavo Alberto de Rosa	**p.p. D. Sergio Casado Gamez**

INSTITUTO DE CRÉDITO OFICIAL

/s/ Antonio Bandrés Cajal

p.p. D. Antonio Bandrés Cajal

SANTANDER OVERSEAS BANK INC.

/s/ César Vertiz Padamonte	**/s/ Pablo Faustino Lastra Moreno**
p.p. D. César Vertiz Padamonte	**p.p. D. Pablo Faustino Lastra Moreno**

SOCIÉTÉ GÉNÉRALE

/s/ Álvaro Corominas Sunico	**/s/ José Manuel Martín Barranco**
p.p. D. Álvaro Corominas Sunico	**p.p. D. José Manuel Martín Barranco**

SOCIÉTÉ GÉNÉRALE, SUCURSAL EN NUEVA YORK

/s/ Álvaro Corominas Sunico	**/s/ José Manuel Martín Barranco**
p.p. D. Álvaro Corominas Sunico	**p.p. D. José Manuel Martín Barranco**

UNICREDIT S.P.A., SUCURSAL EN NUEVA YORK

/s/ Mario Campana	**/s/ Federico Pozzolo**
p.p. D. Mario Campana	**p.p. D. Federico Pozzolo**

UNICREDIT S.P.A., SUCURSAL EN ESPAÑA

/s/ Mario Campana	**/s/ Federico Pozzolo**
p.p. D. Mario Campana	**p.p. D. Federico Pozzolo**

U.S. BANK TRUST NATIONAL ASSOCIATION
THE BANK OF NEW YORK MELLON
THE BANK OF NEW YORK MELLON, INSTITUCIÓN DE BANCA MÚLTIPLE
SCOTIA INVERLAT CASA DE BOLSA, S.A. DE C.V., GRUPO FINANCIERO SCOTIABANK INVERLAT

/s/ María Luisa Alonso Horcada
/s/ Rafael Monjó Carrió

p.p. Wilmington Trust (London) Limited
Dª. María Luisa Alonso Horcada

Con mi intervención
D. Rafael Monjó Carrió

ANNEX 1

PARTICIPATING CREDITORS

PART A

ABN AMRO BANK N.V.

ABN AMRO BANK N.V. SUCURSAL EN ESPAÑA

ATLANTIC SECURITY BANK

BANCA MONTE DEI PASCHI DI SIENA, S.P.A., SUCURSAL EN NUEVA YORK

BANCA MONTE DEI PASCHI DI SIENA, S.P.A., SUCURSAL EN LONDRES

BANCO BILBAO VIZCAYA ARGENTARIA, S.A.

BANCO BILBAO VIZCAYA ARGENTARIA, S.A., SUCURSAL EN GRAND CAYMAN

BANCO BILBAO VIZCAYA ARGENTARIA, S.A., SUCURSAL EN NUEYA YORK

BANCO CAIXA GERAL, S.A.

BANCO POPULAR ESPAÑOL, S.A. (anteriormente BANCO DE GALICIA, S.A.)

BANCO DE SABADELL, S.A.

BANCO ESPAÑOL DE CRÉDITO, S.A.

BANCO NACIONAL DE COMERCIO EXTERIOR, S.N.C.

BANCO NACIONAL DE MÉXICO S.A., INTEGRANTE DEL GRUPO FINANCIERO BANAMEX

BANCO SANTANDER, S.A.

BANCO SANTANDER, S.A., SUCURSAL EN NUEVA YORK

BANCO SANTANDER (MÉXICO), S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO SANTANDER

BANK OF AMERICA N.A.

BANK OF AMERICA N.A., SUCURSAL EN ESPAÑA

BARCLAYS BANK PLC

BAYERISCHE HYPO- UND VEREINSBANK AG

BAYERISCHE LANDESBANK

BBVA BANCOMER S.A., INSTITUCIÓN DE BANCA MÚLTIPLE GRUPO FINANCIERO BBVA BANCOMER

BNP PARIBAS

BNP PARIBAS, SUCURSAL EN SYDNEY

BNP PARIBAS, SUCURSAL EN PANAMÁ

BNP PARIBAS, SUCURSAL EN ESPAÑA

BRED BANQUE POPULAIRE

CAISSE REGIONALE DE CREDIT AGRICOLE MUTUEL DE PARIS ET D´ILE-DE-FRANCE

CAIXA D'ESTALVIS I PENSIONS DE BARCELONA

CAJA DE AHORROS DE ASTURIAS

CAJA DE AHORROS DE GALICIA

CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID

CAJA DE AHORROS Y MONTE DE PIEDAD DE MADRID, AGENCIA EN MIAMI

CALYON Société Anonyme

CALYON, SUCURSAL EN ESPAÑA

CALYON, SUCURSAL EN NEW YORK

CENTROBANCA, BANCA DI CREDITO FINAZIARIO E MOBILIARE S.P.A.

CITIBANK (BANAMEX USA)

CITIBANK INTERNATIONAL PLC, SUCURSAL EN ESPAÑA

CITIBANK N.A. NASSAU, SUCURSAL EN BAHAMAS

CITIBANK N.A.

COMERICA BANK

COMMERZBANK AG, SUCURSAL EN NUEVA YORK (anteriormente DRESDNER BANK AG, actuando a través de DRESDNER BANK AG, Sucursal en Nueva York)

COMMERZBANK AG, SUCURSAL EN LONDRES

CREDIT INDUSTRIEL ET COMMERCIAL, SUCURSAL EN LONDRES

DEUTSCHE BANK AG, SUCURSAL EN NEW YORK

DEUTSCHE BANK LUXEMBOURG S.A.

FORTIS BANK S.A./N.V.

FORTIS BANK S.A., SUCURSAL EN ESPAÑA

FORTIS BANK S.A./N.V., SUCURSAL EN ISLAS CAYMAN

HSBC BANK PLC, SUCURSAL EN ESPAÑA

HSBC MEXICO S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO HSBC

HSBC MEXICO S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO HSBC, ACTUANDO A TRAVÉS DE SU SUCURSAL EN ISLAS CAYMAN

IKB DEUTSCHE INDUSTRIEBANK AG, SUCURSAL EN ESPAÑA

ING BANK N.V.

ING BANK N.V., ACTUANDO A TRAVÉS DE SU SUCURSAL EN CURACAO

ING BELGIUM S.A., SUCURSAL EN ESPAÑA

INSTITUTO DE CRÉDITO OFICIALINTESA SANPAOLO S.P.A., SUCURSAL EN NUEVA YORK

INTESA SANPAOLO S.P.A., SUCURSAL EN ESPAÑA

JPMORGAN CHASE BANK, N.A.

JPMORGAN CHASE BANK, N.A., SUCURSAL EN ESPAÑA

LANDESBANK BADEN-WÜRTTEMBERG, SUCURSAL EN STUTTGART

LANDESBANK BADEN-WÜRTTEMBERG, SUCURSAL EN LONDRES

LLOYDS TSB BANK, PLC

LLOYDS TSB BANK, PLC, SUCURSAL EN ESPAÑA

MEDIOBANCA—BANCA DI CREDITO FINANZIARIO S.P.A.

MERRIL LYNCH INTERNATIONAL BANK LIMITED

MIZUHO CORPORATE BANK, LTD.

MIZUHO COPORATE BANK NEDERLAND, N.V.

MORGAN STANLEY BANK INTERNATIONAL LIMITED

SANTANDER OVERSEAS BANK INC.

SCOTIABANK EUROPE PLC

SCOTIABANK EUROPE PLC, SUCURSAL EN LONDRES

SOCIÉTÉ GÉNÉRALE

SOCIÉTÉ GÉNÉRALE, SUCURSAL EN NUEVA YORK

STANDARD CHARTERED BANK

TAKAREKBANK (MAGYAR)

THE BANK OF NOVA SCOTIA

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD., SUCURSAL EN ESPAÑA

THE GOVERNOR AND COMPANY OF THE BANK OF IRELAND

THE ROYAL BANK OF SCOTLAND PLC

UNICREDIT S.P.A., SUCURSAL EN NUEYA YORK

UNICREDIT S.P.A., SUCURSAL EN ESPAÑA

WACHOVIA BANK, NATIONAL ASSOCIATION

WESTLB AG, SUCURSAL EN ESPAÑA

WESTPAC EUROPE LIMITED

PRINCIPAL LIFE INSURANCE COMPANY

RGA REINSURANCE COMPANY

SYMETRA LIFE INSURANCE COMPANY

SCOTISH RE (U.S.). INC.

GENERAL AMERICAN LIFE INSURANCE

NEW ENGLAND LIFE INSURANCE

METLIFE INSURANCE COMPANY OF CONNECTICUT

METROPOLITAN LIFE INSURANCE COMPANY

METROPOLITAN TOWER LIFE INSURANCE COMPANY

WESTERN NATIONAL LIFE INSURANCE COMPANY (FORMERLY AIG ANNUITY INSURANCE COMPANY)

AMERICAN GENERAL LIFE AND ACCIDENT INSURANCE COMPANY

AMERICAN INTERNATIONAL LIFE ASSURANCE COMPANY OF NEW YORK

MERIT LIFE INSURANCE CO.

THE VARIABLE ANNUITY LIFE INSURANCE COMPANY

THE NORTHWESTERN MUTUAL LIFE INSURANCE COMPANY

ING LIFE INSURANCE & ANNUITY COMPANY

ING USA ANNUITY AND LIFE INSURANCE COMPANY

RELIASTAR LIFE INSURANCE COMPANY

SECURITY LIFE OF DENVER INSURANCE COMPANY

JOHN HANCOCK VARIABLE LIFE INSURANCE COMPANY

JOHN HANCOCK LIFE INSURANCE COMPANY

MANULIFE LIC

NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION

NEW YORK LIFE INSURANCE AND ANNUITY CORPORATION INSTITUTIONALLY OWNED LIFE INSURANCE SEPARATE ACCOUNT

NEW YORK LIFE INSURANCE COMPANY

THRIVENT FINANCIAL FOR LUTHERANS

HARTFORD ACCIDENT AND INDEMNITY COMPANY

HARTFORD LIFE AND ACCIDENT INSURANCE COMPANY

HARTFORD LIFE INSURANCE COMPANY

AMCO INSURANCE COMPANY

NATIONWIDE LIFE AND ANNUITY INSURANCE COMPANY

NATIONWIDE LIFE INSURANCE COMPANY

NATIONWIDE MULTIPLE MATURITY SEPARATE ACCOUNT

NATIONWIDE MUTUAL INSURANCE COMPANY

THE GUARDIAN LIFE INSURANCE COMPANY OF AMERICA

BERKSHIRE LIFE INSURANCE COMPANY OF AMERICA

MONUMENTAL LIFE INSURANCE COMPANY

PACIFIC LIFE INSURANCE COMPANY

NATIONAL BENEFIT LIFE INSURANCE COMPANY

PRIMERICA LIFE INSURANCE COMPANY

SWISS RE LIFE & HEALTH AMERICA INC.

WESTPORT INSURANCE CORPORATION (FKA EMPLOYERS REINSURANCE CORPORATION)

ALLSTATE LIFE INSURANCE COMPANY

ALLIED IRISH BANKS PLC

BARCLAYS BANK PLC

GENWORTH LIFE INSURANCE COMPANY

GENWORTH LIFE INSURANCE COMPANY OF NEW YORK

ORIOLE CDO

PHL VARIABLE INSURANCE COMPANY

PHOENIX LIFE INSURANCE COMPANY

KNIGHTS OF COLUMBUS

THE OHIO NATIONAL LIFE INSURANCE COMPANY

AVIVA LIFE AND ANNUITY COMPANY

BENEFICIAL LIFE INSURANCE COMPANY

ENSURE INVESTMENT FUND

MORGAN STANLEY BANK, N.A.

COMERICA BANK & TRUST, NATIONAL ASSOCIATION

ANNEX 2

NOTEHOLDERS TRUSTEES

U.S. BANK TRUST NATIONAL ASSOCIATION

U.S. BANK TRUST NATIONAL ASSOCIATION

THE BANK OF NEW YORK MELLON

THE BANK OF NEW YORK MELLON

THE BANK OF NEW YORK MELLON

THE BANK OF NEW YORK MELLON

THE BANK OF NEW YORK MELLON, INSTITUCIÓN DE BANCA MÚLTIPLE

THE BANK OF NEW YORK MELLON, INSTITUCIÓN DE BANCA MÚLTIPLE

THE BANK OF NEW YORK MELLON, INSTITUCIÓN DE BANCA MÚLTIPLE

THE BANK OF NEW YORK MELLON, INSTITUCIÓN DE BANCA MÚLTIPLE

THE BANK OF NEW YORK MELLON, INSTITUCIÓN DE BANCA MÚLTIPLE

THE BANK OF NEW YORK MELLON, INSTITUCIÓN DE BANCA MÚLTIPLE

THE BANK OF NEW YORK MELLON, INSTITUCIÓN DE BANCA MÚLTIPLE

THE BANK OF NEW YORK MELLON, INSTITUCIÓN DE BANCA MÚLTIPLE

SCOTIA INVERLAT CASA DE BOLSA, S.A. DE C.V., CRUPO FINANCIERO SCOTIBANK INVERLAT

ANNEX 3

COPY OF THE INTERCREDITOR AGREEMENT

OFFICIAL TRANSLATION, David A. González Vessi, Authorized Translator from English-Spanish, Spanish-English,
Approval Number 861/2010 dated as of January 25, 2010.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

JOINDER DEED ISSUED BY THE CORPORATE ENTITIES NAMED "THE BANK OF NEW YORK MELLON" AND "CEMEX ESPAÑA, S.A."

NUMBER THREE THOUSAND FIFTY SIX

In the city of Madrid, my residence as of the second day of December two thousand nine.

Before me, **RAFAEL MONJO CARRIO,** Notary of Madrid and its Illustrious College.

APPEARED

MR. JUAN PERLAZA, of British nationality, with majority of age, with domicile located at and for purposes of this deed Calle José Abascal, 45 in Madrid, bearer of valid Passport Number 300919078.

MR. JUAN PELEGRI y GIRON, with majority of age, with domicile in Madrid located at, and for purposes of this deed, calle Hernández de Tejada, number l; bearer of National Identity Document number 01.489.996-X.

LEGAL PERSONALITY

The first one, in the name and on behalf of **THE BANK OF NEW YORK MELLON** (hereinafter referred to as the **"Bank**"), entity incorporated in accordance with the laws of the State of New York (United States of

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

America), with its corporate domicile located at One Wall Street, New York, N.Y. 10286, United States of America, and furthermore, acting on behalf of and for the benefit of the holders of the Senior Secured Notes in the amount of one thousand two hundred and fifty million United States Dollars (US$1,250,000,000), at an interest rate of 9,25%, due 2016 by virtue of certain Indenture governed by the laws of the State of New York (United States of America), subscribed as of December 14, 2009 by and between among others, CEMEX Finance LLC, a limited liability company incorporated in accordance with the laws of the State of Delaware, (United States of America) as issuer and The Bank of New York Mellon, as trustee (hereinafter referred, together with its amendments or novations the **"Indenture"**) Exercising the current power of attorney, issued by a Notary Public of the State of New York Mr. Danny Lee, dated as of December 14, 2009, copy of which has been delivered to me, and whose original has been duly apostilled in accordance with The Hague Convention of October 5, 1961, and attached hereto.

The second one, in the name and on behalf of the corporate entity **CEMEX ESPAÑA, S.A.**, entity governed in accordance with the laws of Spain (in

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

the past known as *Compañía Valenciana de Cementos Pórtland, S.A.*), and its corporate domicile in Madrid is located at calle Hernández de Tejada, number 1, whose corporate purpose, among others, is the manufacture, commercialization and distribution of all kinds of sacks, bags and similar articles, made of paper or any other materials, suitable for cement packaging, etc.

It was incorporated with un-definitive term by means of a deed authorized by a Notary Public, in the city of Valencia, Mr. Juan Bautista Roch Contelles, dated as of April 30, 1917, duly adapted to the current legislation by means of a deed authorized by a Notary Public, in the city of Valencia, Mr. Antonio Soto Bisquert, dated as of July 13, 1990; the incorporation of the Company was RECORDED in the Commercial Registry of Valencia in Volume 122, Book 28 regarding corporations, third section, first inscription; and the adaptation was recorded in such Registry in Volume 2854, Book 10, general section, page V2533, inscription 165; furthermore, the bylaws of the Company were restated by means of another public deed number 6796 authorized by a Notary Public in Madrid, Mr. Antonio Francés y de Mateo, dated as of August 12, 1993, that caused the inscription number 200th.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

The Company changed its corporate domicile to the current domicile by means of public deed number 1,489 authorized by a Notary Public in Valencia, Mr. Antonio Soto Bisquert, dated as of June 29, 1995, and recorded in the Registry of Commerce of Madrid, Volume 9743 and 9744, section 8th, Book of Corporations, pages 1 and 166, sheet number M-156542 inscriptions first and second.

The corporate domicile was changed by resolutions adopted by the General Shareholders Meeting held as of June twenty-four, two thousand two, which were officially formalized before me, the same date, under public deed number 662, causing the inscription number 122º.

The Company is the bearer of C.I.F. number: A46004214.

Exercising his corporate authority by means of a power of attorney issued before me as of July twenty seven two thousand nine, under public deed number 2013.

In accordance with the provisions of article 98 of the Law 24/2001, and further to the Resolution issued by the Director General in charge of Public Registries and Notary Publics dated as of April 12, 2002,

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

I hereby attest that to my knowledge and by virtue of the office that they hold, such individuals have sufficient corporate authority to execute this public deed in accordance with the terms set forth herein.

Such individuals have, in accordance with my knowledge, sufficient legal capacity and legal standing to issue this Joinder Deed and, for such purposes, said individuals on behalf of the companies which they represent and for all legal purposes, make the following:

STATEMENTS

I. That, in accordance with a contract issued by means of a public deed number 4599 dated as of September 29, 2009 (hereinafter referred to as **"Pledge Deed"**), CEMEX, S.A.B. de C.V., New Sunward Holding B.V. and Sunward Acquisitions N.V. (the later one absorbed by New Sunward Holding B.V. as of October 23, 2009) constituted certain pledge rights (hereinafter referred to as the " **Pledges**") over their shares of stock of the company CEMEX España, S.A.

II. That, given the improvement in the conditions of the financial markets, it allows

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

Cemex to issue notes to be issued among other things to reduce its debt with financial creditors that are part of the Creditors Agreement (as such term is defined in the Pledge Deed), CEMEX, S.A.B. de C.V. has requested such financial creditors to make some amendments to the Creditors Agreement for the purpose of increasing the flexibility of the CEMEX Group to issue notes and to apply the proceeds obtained by such issuances. Such amendments were approved by said financial creditors, and as of December 1, 2009 it was executed an amendment novation agreement that does not extinguish the Creditors Agreement. As a result of such amendments, it is stated that the creditors of the CEMEX Group by virtue of the issuance of the notes, such as the Indenture shall be considered as Creditors of the Additional Notes Creditors*)* and, as a consequence, shall be considered as Secured Parties further to the terms of the Creditors Agreement and the Pledge Deed, and shall be entitled to obtain the benefits of the Pledges, by means of a joinder of the Pledge Deed in accordance with Clause 16 of the Pledge Deed.

III. That, in accordance with Clause 16 of the Pledge Deed, the Secured Parties in which benefit the Guaranty Agent acted, among them the Bank, in

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

its capacity of trustee for the holders of notes issued under the Indenture, may join the Pledge Deed and ratify the contents of such deed, accepting the constituted Pledges in their favor as a guaranty of the corresponding Secured Obligations, my means of appearing before a Notary Public in Madrid, Mr. Rafael Monjo Carrio.

Such joinder agreements shall be formalized by means of a joinder deed, all of which without need of a new consent by the pledgor or the pledgees, since their consent were granted in accordance with the Creditors Agreement (as such agreement was novated dated as of December 1, 2009) and the terms of the Pledge Deed.

IV. That the Bank hereby expressly state that the joinder agreement referred to in the foregoing statements is formalized as an execution instrument of the rights granted to the Bank in accordance with the Pledge Deed, in order for the payment obligations related to the Indenture be guaranteed by a first priority pledge interest over the Shares (as such term is defined in the Pledge Deed), concurrently with the remaining Pledges.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

V. That in accordance with the foregoing, the Bank intends to issue this Joinder Deed (hereinafter referred to as the " **Deed**") in accordance with the following

CLAUSES

FIRST.- JOINDER AGREEMENT TO THE PLEDGE DEED.

By means of this Deed, the Bank hereby joins, ratify and approve the terms and conditions of the Pledge Deed, issued before me as of September 29, 2009, and recorded under deed number 4599 in Section A of my Registrar Book, whose entire content the Bank hereby states to know, and such joinder agreement has full value and legal effects, accepting that the payment obligations related to the Indenture be guaranteed by the first priority pledge over the Shares (as such term is defined in the Pledge Deed) concurrently with the remaining Pledges.

The Bank hereby REQUEST the undersigned Notary Public, to **NOTIFY** this Joinder Agreement to **WILMINGTON TRUST (LONDON) LIMITED**, with domicile located at 6 Broad Street Place, London EC2M 7JH to the attention of Elaine K. Lockhart) in its capacity of Guaranty Agent, and the undersigned Notary hereby accept such request.

CEMEX España, S.A. hereby appears to this act for the purpose of notifying itself of the contents of such joinder agreement.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

SECOND. - GOVERNING LAW AND JURISDICTION.

2.1 This Deed is governed by the laws of Spain.

2.2 The parties hereto expressly submit themselves to the jurisdiction of the Courts and Tribunals sitting in the capital city of Madrid, to resolve any and all claims related to the enforceability, interpretation, compliance and execution of this Deed.

TREATMENT OF INFORMATION. - The parties hereto accept the incorporation of information and the copy of the identification documents to the files of this Notary with the purposes of rendering the notarial activity and to effect notification of information in accordance with the Law of Public Administrations (*Ley de las Administraciones Públicas*) and, as the case may be, to the Notary Public that succeeds the undersigned Notary in this city. The parties may exercise their rights of access, rectification, cancelation and opposition before the undersigned Notary.

I hereby attest and issue this deed.

And I, the Notary, HEREBY ATTEST:

a.- That I identify the individuals appearing before me by the identification documents described above, which were shown to me.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

b.- That on my own judgment, the individuals appearing before me have the capacity and have legal standing to issue this deed.

c.- That the execution of this deed is lawful, and its execution derives to the free will of the individuals appearing before me, which were informed of its contents.

d.- That I read this deed to the individuals appearing before me, and were previously notified of their right to read the deed by themselves, and such individuals stated to be aware of its contents, and hereby give their consent, all of the foregoing in accordance with article 193 of the Notary Regulations.

e.- That this public instrument is being issued in six pages of stamp paper for exclusive use of notarial documents, Series 9M, numbers 9.850.793 and five subsequent numbers, all of them, I the undersigned Notary hereby attest. Signatures of the appearing individuals follow: Signed: RAFAEL MONJO CARRIÓ. Seal of approval.

NOTARIAL PROCEEDING: I, RAFAEL MONJO CARRIO, Notary Public residing in Madrid and member of its Illustrious College, I hereby issue this instrument

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

to attest that as of December seventeenth, two thousand nine, the legal representative of BANK OF NEW YORK MELLON delivered to me a copy of the power of attorney duly apostilled in accordance with La Hague Convention, issued a Notary Public of New York, Mr. Danny Lee, dated as of December fourteen, two thousand nine, which in accordance of my judgment, Mr. Juan Perlaza as legal representative has sufficient authority to execute this public deed.

And having nothing else to attest, I hereby authorize the deed in this page, I, the Notary, hereby attest. Signature: RAFAEL MONJO CARRIÓ. Signed and sealed.

NOTARIAL PROCEEDING.- For purposes of attesting that as of December twenty-four, two thousand nine, I have delivered in the Postal Office number 2825494, E.O. MINISTRY OF PUBLIC ADMINISTRATIONS, as Certificate and notice of receipt of the preceding deed, and the officer in charge of the postal service has given the postal receipt number RR 26 804 324 8ES.

All of which and that this proceeding is extended at the end of this public deed, in its

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

final page under number 1716499 Series 9L.- In Madrid as of December twenty-four, two thousand nine,- Signed.- RAFAEL MONJO CARRIÓ.- Notarial Seal

NOTE.- As of December twenty four, two thousand nine, and for the use of the appearing parties, I hereby issue in seven pages of stamped paper for the exclusive use of notarial documents, Series 9L, numbers 1469344 and seven subsequent numbers in decreasing order. I attest.- RAFAEL MONJO CARRIÓ.- Signed.

NOTARIAL PROCEEDING.- Made by the undersigned, **RAFAEL MONJO CARRIÓ**, Notary of MADRID to attest, that as of February eleven, two thousand ten, the Postal and Telegraphic Service has not delivered the corresponding receipt of the letter addressed to **WILMINGTON TRUST (LONDON) LIMITED**, so in order to know the status of such delivery, I connect myself using one of my computers to the website named www.correos.es, and I hereby confirm that such notice has been delivered to the international office of the place of destination as of January 3 two thousand ten, and I hereby attach to this deed the printout of such inquiry.

Of all the contents of this notarial proceeding, I hereby issue this certification under one page of stamped paper for exclusive use of notarial

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

documents, Series 9L, number 6020138, which I, The Notary, hereby attest. Signature: RAFAEL MONJO CARRIÓ. Signed and sealed. Signatures of the appearing individuals are printed. Signature: /s/ RAFAEL MONJO CARRIÓ. Signed. The Seal of the Notary appears. ---------- THE ATTACHED DOCUMENTS FOLLOW ----------

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

Mail Service: Status of Delivery

Spain Mail Service Customer Service

Individuals Companies Virtual Office

To send Documents: Status of Delivery

To send Packages:

Money: **STATUS OF DELIVERY**

A.P.E. Delivery Number: RR268043248ES

Bancorreos	Dates	Status
Other Products	29/12/2009	Admitted
Museum	29/12/2009	In transit
Customer Service	02/01/2010	Exit from International Office
	03/01/2010	Arrival to International Destination Office

If you want more postal information of the country of destination, please see the local postal office.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

CERTIFICATION

The undersigned, DAVID A. GONZALEZ VESSI, Official Translator authorized by the Superior Court of the State of Nuevo Leon, further to Approval number 861/2010 issued as of January 25, 2010, HEREBY CERTIFIES THAT:

The preceding document is a true and accurate translation from the Spanish language to the English language of Public Deed Number 3056 dated as of December 14, 2009 issued by Mr. Rafael Monjo Carrió, Notary Public residing in the city of Madrid, Spain. This certification is issued for any and all legal purposes.

Monterrey, N.L., as of June 8, 2010

DAVID A GONZALEZ VESSI

OFFICIAL TRANSLATION, David A. González Vessi, Authorized Translator from English-Spanish, Spanish-English,
Approval Number 861/2010 dated as of January 25, 2010.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

JOINDER DEED ISSUED BY THE CORPORATE ENTITIES NAMED "THE BANK OF NEW YORK MELLON" AND "CEMEX ESPAÑA, S.A."

NUMBER THREE THOUSAND FIFTY FIVE

In the city of Madrid, my residence as of the fourteenth day of December two thousand nine.

Before me, **RAFAEL MONJO CARRIO,** Notary of Madrid and its Illustrious College.

APPEARED

MR. JUAN PERLAZA, of British nationality, with majority of age, with domicile located at and for purposes of this deed Calle José Abascal, 45 in Madrid, bearer of valid Passport Number 300919078.

MR. JUAN PELEGRI y GIRON, with majority of age, with domicile in Madrid located at, and for purposes of this deed, calle Hernández de Tejada, number l; bearer of National Identity Document number 01.489.996-X.

LEGAL PERSONALITY

The first one, in the name and on behalf of **THE BANK OF NEW YORK MELLON** (hereinafter referred to as the **"Bank**"), entity incorporated in accordance with

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

the laws of the State of New York (United States of America), with its corporate domicile located at One Wall Street, New York, N.Y. 10286, United States of America, and furthermore, acting on behalf of and for the benefit of the holders of the Senior Secured Notes in the amount of three hundred and fifty million Euros (€350,000,000), at an interest rate of 9,625%, due 2017 by virtue of certain Indenture governed by the laws of the State of New York (United States of America), subscribed as of December 14, 2009 by and between among others, CEMEX Finance LLC, a limited liability company incorporated in accordance with the laws of the State of Delaware, (United States of America) as issuer, and The Bank of New York Mellon, as trustee (hereinafter referred, together with its amendments or novations the **"Indenture"**).

Exercising the current power of attorney, issued by a Notary Public of the State of New York Mr. Danny Lee, dated as of December 14, 2009, copy of which has been delivered to me, and whose original has been duly apostilled in accordance with The Hague Convention of October 5, 1961, and attached hereto.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

The second one, in the name and on behalf of the corporate entity **CEMEX ESPAÑA, S.A.**, entity governed in accordance with the laws of Spain (in the past known as *Compañía Valenciana de Cementos Pórtland, S.A.*), and its corporate domicile in Madrid is located at calle Hernández de Tejada, number 1, whose corporate purpose, among others, is the manufacture, commercialization and distribution of all kinds of sacks, bags and similar articles, made of paper or any other materials, suitable for cement packaging, etc.

It was incorporated with un-definitive term by means of a deed authorized by a Notary Public, in the city of Valencia, Mr. Juan Bautista Roch Contelles, dated as of April 30, 1917, duly adapted to the current legislation by means of a deed authorized by a Notary Public, in the city of Valencia, Mr. Antonio Soto Bisquert, dated as of July 13, 1990; the incorporation of the Company was RECORDED in the Commercial Registry of Valencia in Volume 122, Book 28 regarding corporations, third

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

section, first inscription; and the adaptation was recorded in such Registry in Volume 2854, Book 10, general section, page V2533, inscription 165; furthermore, the bylaws of the Company were restated by means of another public deed number 6796 authorized by a Notary Public in Madrid, Mr. Antonio Francés y de Mateo, dated as of August 12, 1993, that caused the inscription number 200th.

The Company changed its corporate domicile to the current domicile by means of public deed number 1,489 authorized by a Notary Public in Valencia, Mr. Antonio Soto Bisquert, dated as of June 29, 1995, and recorded in the Registry of Commerce of Madrid, Volume 9743 and 9744, section 8th, Book of Corporations, pages 1 and 166, sheet number M-156542 inscriptions first and second.

The corporate domicile was changed by resolutions adopted by the General Shareholders Meeting held as of June twenty-four, two thousand two, which were officially formalized before me, the same date, under public deed number 662, causing the inscription number 122º.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

The Company is the bearer of C.I.F. number: A46004214.

Exercising his corporate authority by means of a power of attorney issued before me as of July twenty seven two thousand nine, under public deed number 2013.

In accordance with the provisions of article 98 of the Law 24/2001, and further to the Resolution issued by the Director General in charge of Public Registries and Notary Publics dated as of April 12, 2002, I hereby attest that to my knowledge and by virtue of the office that they hold, such individuals have sufficient corporate authority to execute this public deed in accordance with the terms set forth herein.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

Such individuals have, in accordance with my knowledge, sufficient legal capacity and legal standing to issue this **Joinder Deed** and, for such purposes, said individuals on behalf of the companies which they represent and for all legal purposes, make the following:

STATEMENTS

I. That, in accordance with a contract issued by means of a public deed number 4599 dated as of September 29, 2009 (hereinafter referred to as **"Pledge Deed"**), CEMEX, S.A.B. de C.V., New Sunward Holding B.V. and Sunward Acquisitions N.V. (the later one absorbed by New Sunward Holding B.V. as of October 23, 2009) constituted certain pledge rights (hereinafter referred to as the " **Pledges**") over their shares of stock of the company CEMEX España, S.A.

II. That, given the improvement in the conditions of the financial markets, it allows Cemex to issue notes to be issued among other things to reduce its debt with financial creditors that are part of the Creditors Agreement (as such term is defined in the Pledge Deed), CEMEX, S.A.B. de C.V. has requested such financial creditors to make some amendments to the Creditors Agreement for the purpose of increasing the flexibility of the CEMEX Group to issue notes and to apply the proceeds obtained by such issuances. Such amendments were approved by said financial creditors, and as of December 1, 2009 it was

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

executed an amendment novation agreement that does not extinguish the Creditors Agreement. As a result of such amendments, it is stated that the creditors of the CEMEX Group by virtue of the issuance of the notes, such as the Indenture shall be considered as Creditors of the Additional Notes Creditors *)* and, as a consequence, shall be considered as Secured Parties further to the terms of the Creditors Agreement and the Pledge Deed, and shall be entitled to obtain the benefits of the Pledges, by means of a joinder of the Pledge Deed in accordance with Clause 16 of the Pledge Deed.

III. That, in accordance with Clause 16 of the Pledge Deed, the Secured Parties in which benefit the Guaranty Agent acted, among them the Bank, in its capacity of trustee for the holders of notes issued under the Indenture, may join the Pledge Deed and ratify the contents of such deed, accepting the constituted Pledges in their favor as a guaranty of the corresponding Secured Obligations, my means of appearing before a Notary Public in Madrid, Mr. Rafael Monjo Carrio.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

Such joinder agreements shall be formalized by means of a joinder deed, all of which without need of a new consent by the pledgor or the pledgees, since their consent were granted in accordance with the Creditors Agreement (as such agreement was novated dated as of December 1, 2009) and the terms of the Pledge Deed.

IV. That the Bank hereby expressly state that the joinder agreement referred to in the foregoing statements is formalized as an execution instrument of the rights granted to the Bank in accordance with the Pledge Deed, in order for the payment obligations related to the Indenture be guaranteed by a first priority pledge interest over the Shares (as such term is defined in the Pledge Deed), concurrently with the remaining Pledges.

V. That in accordance with the foregoing, the Bank intends to issue this Joinder Deed (hereinafter referred to as the " **Deed**") in accordance with the following

CLAUSES

FIRST.- JOINDER AGREEMENT TO THE PLEDGE DEED.

By means of this Deed, the Bank hereby joins,

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

ratifies and approves the terms and conditions of the Pledge Deed, issued before me as of September 29, 2009, and recorded under deed number 4599 in Section A of my Registrar Book, whose entire content the Bank hereby states to know, and such joinder agreement has full value and legal effects, accepting that the payment obligations related to the Indenture be guaranteed by the first priority pledge over the Shares (as such term is defined in the Pledge Deed) concurrently with the remaining Pledges.

The Bank hereby REQUEST the undersigned Notary Public, to **NOTIFY** this Joinder Agreement to **WILMINGTON TRUST (LONDON) LIMITED**, with domicile located at 6 Broad Street Place, London EC2M 7JH to the attention of Elaine K. Lockhart) in its capacity of Guaranty Agent, and the undersigned Notary hereby accept such request.

CEMEX España, S.A. hereby appears to this act for the purpose of notifying itself of the contents of such joinder agreement.

SECOND. - GOVERNING LAW AND JURISDICTION.

2.1 This Deed is governed by the laws of Spain.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

2.2 The parties hereto expressly submit themselves to the jurisdiction of the Courts and Tribunals sitting in the capital city of Madrid, to resolve any and all claims related to the enforceability, interpretation, compliance and execution of this Deed.

TREATMENT OF INFORMATION. - The parties hereto accept the incorporation of information and the copy of the identification documents to the files of this Notary with the purposes of rendering the notarial activity and to effect notification of information in accordance with the Law of Public Administrations (*Ley de las Administraciones Públicas*) and, as the case may be, to the Notary Public that succeeds the undersigned Notary in this city. The parties may exercise their rights of access, rectification, cancelation and opposition before the undersigned Notary.

I hereby attest and issue this deed.

And I, the Notary, HEREBY ATTEST:

a.- That I identify the individuals appearing before me by the identification documents described above, which were shown to me.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

b.- That on my own judgment, the individuals appearing before me have the capacity and have legal standing to issue this deed.

c.- That the execution of this deed is lawful, and its execution derives to the free will of the individuals appearing before me, which were informed of its contents.

d.- That I read this deed to the individuals appearing before me, and were previously notified of their right to read the deed by themselves, and such individuals stated to be aware of its contents, and hereby give their consent, all of the foregoing in accordance with article 193 of the Notary Regulations.

e.- That this public instrument is being issued in six pages of stamp paper for exclusive use of notarial documents, Series 9M, numbers 9.850.787 and five subsequent numbers, all of them, I the undersigned Notary hereby attest. Signatures of the appearing individuals follow: Signed: RAFAEL MONJO CARRIÓ. Seal of approval.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

NOTARIAL PROCEEDING: I, **RAFAEL MONJO CARRIO**, Notary Public residing in Madrid and member of its Illustrious College, I hereby issue this instrument to attest that as of December seventeenth, two thousand nine, the legal representative of BANK OF NEW YORK MELLON delivered to me a copy of the power of attorney duly apostilled in accordance with La Hague Convention, issued a Notary Public of New York, Mr. Danny Lee, dated as of December fourteen, two thousand nine, which in accordance of my judgment, Mr. Juan Perlaza as legal representative has sufficient authority to execute this public deed.

And having nothing else to attest, I hereby authorize the deed in this page, I, the Notary, hereby attest. Signature: RAFAEL MONJO CARRIÓ. Signed and sealed.

NOTARIAL PROCEEDING.- For purposes of attesting that as of December twenty-four, two thousand nine, I have delivered in the Postal Office number 2825494, E.O. MINISTRY OF PUBLIC ADMINISTRATIONS, as Certificate and notice of receipt of the preceding deed, and the officer in charge of the postal service has given the postal receipt number RR 26 804 323 4ES.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

All of which and that this proceeding is extended at the end of this public deed, in its final page under number 1716500 Series 9L.- In Madrid as of December twenty-four, two thousand nine,- Signed.- RAFAEL MONJO CARRIÓ.- Notarial Seal

NOTE.- As of December twenty four, two thousand nine, and for the use of the appearing parties, I hereby issue in seven pages of stamped paper for the exclusive use of notarial documents, Series 9L, numbers 1469351 and seven subsequent numbers in decreasing order. I attest.- RAFAEL MONJO CARRIÓ.- Signed.

NOTARIAL PROCEEDING.- Made by the undersigned, **RAFAEL MONJO CARRIÓ**, Notary of MADRID to attest, that as of February eleven, two thousand ten, the Postal and Telegraphic Service has not delivered the corresponding receipt of the letter addressed to **WILMINGTON TRUST (LONDON) LIMITED**, so in order to know the status of such delivery, I connect myself using one of my computers to the website named www.correos.es, and I hereby confirm that

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

such notice has been delivered to the addressee as of January 6, two thousand ten, and I hereby attach to this deed the printout of such inquiry.

Of all the contents of this notarial proceeding, I hereby issue this certification under one page of stamped paper for exclusive use of notarial documents, Series 9L, number 6099005, which I, The Notary, hereby attest. Signature: RAFAEL MONJO CARRIÓ. Signed and sealed. Signatures of the appearing individuals are printed.

Signature: /s/ RAFAEL MONJO CARRIÓ.

The Seal of the Notary appears. ----------THE ATTACHED DOCUMENTS FOLLOW----------

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

Mail Service: Status of Delivery

Spain Mail Service Customer Service

Individuals Companies Virtual Office

To send Documents: Status of Delivery

To send Packages:

Money: **STATUS OF DELIVERY**

A.P.E. Delivery Number: RR268043234ES

Bancorreos	Dates	Status
Other Products	29/12/2009	Admitted
Museum	29/12/2009	In transit
Customer Service	02/01/2010	Exit from International Office
	03/01/2010	Arrival to International Destination Office
	06/01/2010	Delivered

If you want more postal information of the country of destination, please see the local postal office.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

CERTIFICATION

The undersigned, DAVID A. GONZALEZ VESSI, Official Translator authorized by the Superior Court of the State of Nuevo Leon, further to Approval number 861/2010 issued as of January 25, 2010, HEREBY CERTIFIES THAT:

The preceding document is a true and accurate translation from the Spanish language to the English language of Public Deed Number 3055 dated as of December 14, 2009 issued by Mr. Rafael Monjo Carrió, Notary Public residing in the city of Madrid, Spain. This certification is issued for any and all legal purposes.

Monterrey, N.L., as of June 8, 2010

/s/ DAVID A GONZALEZ VESSI

OFFICIAL TRANSLATION, David A. González Vessi, Authorized Translator from English-Spanish, Spanish-English,
Approval Number 861/2010 dated as of January 25, 2010.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

EXTENSION DEED OF THE JOINDER DEED ISSUED BY THE CORPORATE ENTITIES NAMED "THE BANK OF NEW YORK MELLON" AND "CEMEX ESPAÑA, S.A." AS OF DECEMBER FOURTEEN, TWO THOUSAND NINE

NUMBER THIRTY FOUR

In the city of Madrid, my residence as of the nineteenth day of January two thousand ten.

Before me, **ANTONIO PÉREZ-COCA CRESPO**, Notary of Madrid and its Illustrious College, acting as substitute of my colleague **Mr. RAFAEL MONJO CARRIO,** due to lawful absence, and under his notarial book.

APPEARED

MR. JUAN PERLAZA, of British nationality, with majority of age, with domicile located at and for purposes of this deed, Calle José Abascal, 45 in Madrid, bearer of valid Passport Number 300919078.

MR. JUAN PELEGRI y GIRON, with majority of age, with domicile in Madrid located at, and for purposes of this deed, calle Hernández de Tejada, number l; bearer of National Identity Document number 01.489.996-X.

LEGAL PERSONALITY

The first one, in the name and on behalf of **THE BANK OF NEW YORK MELLON** (hereinafter referred to as

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

the "**Bank**"), entity incorporated in accordance with the laws of the State of New York (United States of America), with its corporate domicile located at One Wall Street, New York, N.Y. 10286, United States of America, and furthermore, acting on behalf of and for the benefit of the holders of the Senior Secured Notes issued in United States Dollars, at an interest rate of 9,25%, due 2016 by virtue of certain Indenture governed by the laws of the State of New York (United States of America), subscribed as of December 14, 2009 by and between among others, CEMEX Finance LLC, a limited liability corporation incorporated in accordance with the laws of the State of Delaware, (United States of America) as issuer and The Bank of New York Mellon, as trustee (hereinafter referred, together with its amendments or novations the " **Indenture**")

Exercising the current power of attorney issued by a Notary Public of the State of New York Mr. Danny Lee, dated as of January 19, 2010, copy of which has been delivered to me. At the moment in which the legal representation is proved by delivering the original document, I the undersigned Notary, will attest by means of the corresponding proceeding.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

The second one, in the name and on behalf of the corporate entity **CEMEX ESPAÑA, S.A.**, entity governed in accordance with the laws of Spain (in the past known as *Compañía Valenciana de Cementos Pórtland, S.A.*), and its corporate domicile in Madrid is located at calle Hernández de Tejada, number 1, whose corporate purpose, among others, is the manufacture, commercialization and distribution of all kinds of sacks, bags and similar articles, made of paper or any other materials, suitable for cement packaging, etc.

It was incorporated with un-definitive term by means of a deed authorized by a Notary Public, in the city of Valencia, Mr. Juan Bautista Roch Contelles, dated as of April 30, 1917, duly adapted to the current legislation by means of a deed authorized by a Notary Public, in the city of Valencia, Mr. Antonio Soto Bisquert, dated as of July 13, 1990; the incorporation of the Company was RECORDED in the Commercial Registry of Valencia in Volume 122, Book 28 regarding corporations, third section, first inscription; and the adaptation was recorded in such Registry in Volume 2854, Book 10, general section, page V2533, inscription 165;

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

furthermore, the bylaws of the Company were restated by means of another public deed number 6796 authorized by a Notary Public in Madrid, Mr. Antonio Francés y de Mateo, dated as of August 12, 1993, that caused the inscription number 200th.

The Company changed its corporate domicile to the current domicile by means of public deed number 1,489 authorized by a Notary Public in Valencia, Mr. Antonio Soto Bisquert, dated as of June 29, 1995, and recorded in the Registry of Commerce of Madrid, Volume 9743 and 9744, section 8th, Book of Corporations, pages 1 and 166, sheet number M-156542 inscriptions first and second.

The corporate domicile was changed by resolutions adopted by the General Shareholders Meeting held as of June twenty-four, two thousand two, which were officially formalized before Mr. Rafael Monjo Carrió, the same date, under public deed number 662, causing the inscription number 122º.

The Company is the bearer of C.I.F. number: A46004214.

Exercising his corporate authority by means of a power of attorney issued before Mr. Rafael Monjo Carrió, as of July twenty seven two thousand nine, under public deed number 2013.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

In accordance with the provisions of article 98 of the Law 24/2001, and further to the Resolution issued by the Director General in charge of Public Registries and Notary Publics dated as of April 12, 2002, I hereby attest that to my knowledge and by virtue of the office that they hold, such individuals have sufficient corporate authority to execute this public deed in accordance with the terms set forth herein.

Such individuals have, in accordance with my knowledge, sufficient legal capacity and legal standing to issue this Joinder Deed and, for such purposes, said individuals on behalf of the companies which they represent and for all legal purposes, make the following:

STATEMENTS

I. That, in accordance with a contract signed before Mr. Rafael Monjo Carrió, issued by means of a public deed number 4599 dated as of September 29, 2009 (hereinafter referred to as **"Pledge Deed"**), CEMEX, S.A.B. de C.V., New Sunward Holding B.V. and Sunward Acquisitions N.V. (the later one absorbed by New Sunward Holding B.V. as of October 23, 2009) constituted certain pledge rights (hereinafter referred to as the " **Pledges**") over their shares of stock of the company CEMEX España, S.A.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

II. That, given the improvement in the conditions of the financial markets, it allows Cemex to issue notes to be issued among other things for purposes of reducing its debt with financial creditors that are part of the Creditors Agreement (as such term is defined in the Pledge Deed), CEMEX, S.A.B. de C.V. has requested such financial creditors to make some amendments to the Creditors Agreement for the purpose of increasing the flexibility of the CEMEX Group to issue notes and to apply the proceeds obtained by such issuances. Such amendments were approved by said financial creditors, and as of December 1, 2009 it was executed an amendment novation agreement that does not extinguish the Creditors Agreement. As a result of such amendments, it is stated that the creditors of the CEMEX Group by virtue of the issuance of the notes, such as the Indenture shall be considered as Creditors of the Additional Notes Creditors *)* and, as a consequence, they will be considered Secure Parties further to the terms of the Creditors Agreement and the Pledge Deed, and shall be entitled to obtain the benefits of the Pledges, by means of a joinder of the Pledge Deed in accordance with Clause 16 of the Pledge Deed.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

III. That, in accordance with Clause 16 of the Pledge Deed, the Secured Parties in which benefit the Guaranty Agent acted, among them the Bank, in its capacity of trustee for the holders of notes issued under the Indenture, may join the Pledge Deed and ratify the contents of such deed, accepting the constituted Pledges in their favor as a guaranty of the corresponding Secured Obligations.

Such joinder agreements shall be formalized by means of a joinder deed, all of which without need of a new consent by the pledgor or the pledgees, since their consent were granted in accordance with the Creditors Agreement (as such agreement was novated dated as of December 1, 2009) and the terms of the Pledge Deed.

IV. That as of December 14, 2009, the Bank and CEMEX España, S.A. executed a joinder agreement to the Pledge Deed, in order to guarantee by means of a first priority security interest over the Shares (as such term is defined in the Pledge Deed) concurrently with the remaining Pledges, the payment obligations related to the issuance of Senior Secured Notes of an initial amount of US$1.250.000.000, at a rate of 9,5%, due 2016, by

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

virtue of an Indenture governed under the laws of the State of New York (United States of America), executed as of December 14, 2009 by, among others, CEMEX Finance, LLC, a limited liability company incorporated in accordance with the laws of Delaware (United States of America) as issuer, and The Bank of New York Mellon, as trustee.

V. That as of January 19, 2010 CEMEX Finance, LLC issued additional Senior Secured Notes for a face value of US$500.000.000, at a rate of 9,5%, due 2016, by virtue on an Indenture referred to in paragraph IV above, as such Indenture was amended by Supplement Indenture 1 dated as of January 19, 2010.

VI. That the Parties hereto desire to issue this deed in order for the pledge over the Shares (as such term is defined in the Pledge Deed) constituted as a guaranty during the issuance of the notes described in paragraph IV above, be extended and guarantee the new notes issued in accordance with paragraph V above.

VII. That the Bank hereby expressly state that the joinder agreement referred to in the foregoing statements is formalized as an execution instrument of the rights granted to the Bank in accordance with the Pledge Deed.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

VIII. That in accordance with the foregoing, the Bank intends to issue this Extension (hereinafter referred to as the " **Deed**") in accordance with the following

CLAUSES

FIRST.- JOINDER AGREEMENT TO THE PLEDGE DEED.

By means of this Deed, the Bank hereby issues the extension of the pledge over the Shares (as such term is defined in the Pledge Deed) constituted as a guaranty with respect to the issuance of notes referred to in Paragraph IV above, in order that such pledge be extended to, and to guarantee the additional issuance of notes referred to in Paragraph V above, ratifying and approving the terms and conditions of the Pledge Deed, issued before Mr. Rafael Monjo Carrió, as of September 29, 2009, and recorded under deed number 4599 in Section A of my Registrar Book, and the Joinder Deed, issued before Mr. Rafael Monjo Carrió dated as of December 14, 2009 under public deed number 3,056 whose entire content the Bank hereby states to know, giving to such delivery full value and legal effects, and accepting that the pledge over the Shares (as such term is defined in the Pledge Deed) constituted as guaranty in the

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

issuance of the notes described in Paragraph IV of this deed be extended and covering the issuance of additional notes described in Paragraph V of this Deed.

The Bank hereby REQUEST the undersigned Notary Public, to **NOTIFY** this Extension to **WILMINGTON TRUST (LONDON) LIMITED**, with domicile located at 6 Broad Street Place, London EC2M 7JH to the attention of Elaine K. Lockhart) in its capacity of Guaranty Agent, and the undersigned Notary hereby accept such request.

CEMEX España, S.A. hereby appears to this act for the purpose of notifying itself of the contents of this extension.

SECOND. - GOVERNING LAW AND JURISDICTION.

2.1 This Deed is governed by the laws of Spain.

2.2 The parties hereto expressly submit themselves to the jurisdiction of the Courts and Tribunals sitting in the capital city of Madrid, to resolve any and all claims related to the enforceability, interpretation, compliance and execution of this Deed.

TREATMENT OF INFORMATION. - The parties hereto accept the incorporation of information and the copy of the identification documents to the files of this Notary with the purposes of rendering the

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

notarial activity and to effect notification of information in accordance with the Law of Public Administrations (*Ley de las Administraciones Públicas*) and, as the case may be, to the Notary Public that succeeds the undersigned Notary in this city. The parties may exercise their rights of access, rectification, cancelation and opposition before the undersigned Notary.

I hereby attest and issue this deed.

And I, the Notary, HEREBY ATTEST:

a.- That I identify the individuals appearing before me by the identification documents described above, which were shown to me.

b.- That on my own judgment, the individuals appearing before me have the capacity and have legal standing to issue this deed.

c.- That the execution of this deed is lawful, and its execution derives to the free will of the individuals appearing before me, which were informed of its contents.

d.- That I read this deed to the individuals appearing before me, and were previously notified of their right to read the deed by themselves, and such individuals stated to be aware of its contents, and hereby give their consent, all of the foregoing in accordance with article 193 of the Notary Regulations.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

e.- That this public instrument is being issued in six pages of stamp paper for exclusive use of notarial documents, Series 9M, numbers 9.850.793 and five subsequent numbers, all of them, I the undersigned Notary hereby attest. Signatures of the appearing individuals follow: Signed: ANTONIO PÉREZ-COCA CRESPO. Seal of approval.

NOTARIAL PROCEEDING.- For purposes of attesting that as of January twenty-two, two thousand ten, I ANTONIO PÉREZ-COCA CRESPO, acting as substitute of, and during the lawful absence of my colleague Mr. RAFAEL MONJO CARRIÓ, have delivered in the Postal Office number 2825494, E.O. MINISTRY OF PUBLIC ADMINISTRATIONS, as Certificate and notice of receipt of the preceding deed, and the officer in charge of the postal service has given the postal receipt number RR 26 803 196 0ES.

All of which and that this proceeding is extended at the end of this public deed, in its final page under number 1716699 Series 9L.- In Madrid as of January twenty-two, two thousand ten.- Signed.- ANTONIO PÉREZ-COCA CRESPO.- Notarial Seal

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

NOTE.- As of January twenty five, two thousand ten, I hereby issue two copies, in eight stamped pages for exclusive use of notarial documents, Series 9M each, ONE COPY to CEMEX ESPAÑA, S.A. numbers 9831956 and the seven subsequent numbers in decreasing order; ONE COPY to THE BANK OF NEW YORK MELLON, numbers 9831948 and the seven subsequent numbers in decreasing order. I attest.- RAFAEL MONJO CARRIÓ.- Signed.

NOTARIAL PROCEEDING: I, ANTONIO PÉREZ-COCA CRESPO, Notary Public residing in Madrid and member of its Illustrious College, acting as substitute of, and during the lawful absence of my colleague Mr. RAFAEL MONJO CARRIÓ I hereby issue this instrument to attest that as of February two, two thousand ten, the legal representative of BANK OF NEW YORK MELLON delivered to me a copy of the power of attorney issued in favor of Mr. Juan Perlaza, issued by a Notary Public of New York, Mr. Danny Lee, dated as of January nineteenth, two thousand ten, which in accordance of my judgment, the legal representative has sufficient authority to execute this extension of the pledge deed.

And having nothing else to attest, I hereby authorize the deed in this page, I, the Notary, hereby attest. Signature: /s/ ANTONIO PEREZ-COCA CRESPO. Signed and sealed.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

NOTARIAL PROCEEDING.- Made by the undersigned, **RAFAEL MONJO CARRIÓ**, Notary of Madrid to attest, that as of March twenty-four, two thousand ten, the Postal and Telegraphic Service has not delivered the corresponding receipt of the letter addressed to **WILMINGTON TRUST (LONDON) LIMITED**, so in order to know the status of such delivery, I connect myself using one of my computers to the website named www.correos.es, and I hereby confirm that such notice has been delivered to the international office of the place of destination as of January 31 two thousand ten, and I hereby attach to this deed the printout of such inquiry.

Of all the contents of this notarial proceeding, I hereby issue this certification under one page of stamped paper for exclusive use of notarial documents, Series 9L, number 9252505, which I, The Notary, hereby attest. Signature: RAFAEL MONJO CARRIÓ. Signed and sealed. Signatures of the appearing individuals are printed. Signature: /s/ RAFAEL MONJO CARRIÓ. Signed. The Seal of the Notary appears.

---------THE ATTACHED DOCUMENTS FOLLOW----------

Mail Service: Status of Delivery

Spain Mail Service Customer Service

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

Individuals Companies Virtual Office

To send Documents: Status of Delivery

To send Packages:

Money:

A.P.E.

Bancorreos

Other Products

Museum

Customer Service

STATUS OF DELIVERY

Delivery Number: RR268031960ES

Dates	Status
26/01/2010	Admitted
26/01/2010	In transit
28/01/2010	Exit from International Office
31/01/2010	Arrival to International Destination Office

If you want more postal information of the country of destination, please see the local postal office.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

CERTIFICATION

The undersigned, DAVID A. GONZALEZ VESSI, Official Translator authorized by the Superior Court of the State of Nuevo Leon, further to Approval number 861/2010 issued as of January 25, 2010,

HEREBY CERTIFIES THAT:

The preceding document is a true and accurate translation from the Spanish language to the English language of Public Deed Number 034 dated as of December 14, 2009 issued by Mr. Rafael Monjo Carrió, Notary Public residing in the city of Madrid, Spain. This certification is issued for any and all legal purposes.

Monterrey, N.L., as of June 8, 2010

DAVID A GONZALEZ VESSI

OFFICIAL TRANSLATION, David A. González Vessi, Authorized Translator from English-Spanish, Spanish-English,
Approval Number 861/2010 dated as of January 25, 2010.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

JOINDER DEED ISSUED BY THE CORPORATE ENTITIES NAMED "THE BANK OF NEW YORK MELLON" AND "CEMEX ESPAÑA, S.A."

NUMBER NINE HUNDRED SIXTY EIGHT

In the city of Madrid, my residence as of the twelfth day of May two thousand ten.

Before me, **RAFAEL MONJO CARRIO,** Notary of Madrid and its Illustrious College.

APPEARED

MR. JUAN PERLAZA, of British nationality, with majority of age, with domicile located at and for purposes of this deed located at Calle José Abascal, 45 in Madrid, bearer of valid Passport Number 300919078.

MR. FRANCISCO JAVIER GARCÍA RUIZ DE MORALES, with majority of age, with domicile in Madrid located at, and for purposes of this deed, calle Hernández de Tejada, number l; bearer of National Identity Document number 9.772.997-K.

LEGAL PERSONALITY

The first one, in the name and on behalf of THE BANK OF NEW YORK MELLON (hereinafter referred to as the " **Bank**"), entity incorporated in accordance with the laws of the State of

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

New York (United States of America), with its corporate domicile located at One Wall Street, New York, N.Y. 10286, United States of America, and furthermore, acting on behalf of and for the benefit of the holders of the Senior Secured Notes in the amount of one thousand sixty seven million six hundred sixty five thousand United States Dollars (US$1,067,665,000), at an interest rate of 9,25%, due 2020 and redeemable at the beginning of the fifth anniversary of their initial issuance, and in the amount of one hundred fifteen million three hundred forty six thousand Euros (€115,346,000), at an interest rate of 8,875%, due 2017 and redeemable at the beginning of the fourth anniversary of their initial issuance, both securities issued in accordance with an Indenture governed under the laws of the State of New York, issued as of May 12th, 2010 by and between among others, CEMEX España, S.A., Luxembourg Branch, a branch created under the laws of Luxembourg, as issuer and The Bank of New York Mellon, as trustee (hereinafter referred, together with its amendments or novations the "**Indenture**").

Exercising the current power of attorney, issued by a Notary Public of the State of New York Mr. Danny Lee, dated as of May 12, 2010, copy of which has been delivered to me, and whose original has been duly apostilled in accordance with The Hague Convention of October 5, 1961, and attached hereto.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

The second one, in the name and on behalf of the corporate entity **CEMEX ESPAÑA, S.A.**, entity governed in accordance with the laws of Spain (in the past known as *Compañía Valenciana de Cementos Pórtland, S.A.*), and its corporate domicile in Madrid is located at calle Hernández de Tejada, number 1, whose corporate purpose, among others, is the manufacture, commercialization and distribution of all kinds of sacks, bags and similar articles, made of paper or any other materials, suitable for cement packaging, etc.

It was incorporated with un-definitive term by means of a deed authorized by a Notary Public, in the city of Valencia, Mr. Juan Bautista Roch Contelles, dated as of April 30, 1917, duly adapted to the current legislation by means of a deed authorized by a Notary Public, in the city of Valencia, Mr. Antonio Soto Bisquert, dated as of July 13, 1990; the incorporation of the Company was RECORDED in the Commercial Registry of Valencia in Volume 122, Book 28 regarding corporations, third section, first inscription; and the adaptation was recorded in such Registry in Volume 2854, Book 10, general section, page V2533, inscription 165; furthermore, the bylaws of the Company were restated by means of another public deed number 6796 authorized by a Notary Public in Madrid, Mr. Antonio Francés y de Mateo, dated as of August 12, 1993, that caused the inscription number 200th.

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The Company changed its corporate domicile to the current domicile by means of public deed number 1,489 authorized by a Notary Public in Valencia, Mr. Antonio Soto Bisquert, dated as of June 29, 1995, and recorded in the Registry of Commerce of Madrid, Volume 9743 and 9744, section 8th, Book of Corporations, pages 1 and 166, sheet number M-156542 inscriptions first and second.

The corporate domicile was changed by resolutions adopted by the General Shareholders Meeting held as of June twenty-four, two thousand two, which were officially formalized before me, the same date, under public deed number 662, causing the inscription number 122º.

The Company is the bearer of C.I.F. number: A46004214.

Exercising his corporate authority by means of a power of attorney issued before me as of July twenty seven two thousand nine, under public deed number 2013.

In accordance with the provisions of article 98 of the Law 24/2001, and further to the Resolution issued by the Director General in charge of Public Registries and Notary Publics dated as of April 12, 2002, I hereby attest that to my knowledge, such individuals have sufficient corporate authority to execute this public deed in accordance with the terms set forth herein.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

Such individuals have, in accordance with my knowledge, sufficient legal capacity and legal standing to issue this Joinder Deed and, for such purposes, said individuals on behalf of the companies which they represent and for all legal purposes, make the following:

STATEMENTS

I. That, in accordance with a contract issued by means of a public deed number 4599 dated as of September 29, 2009 (hereinafter referred to as "**Pledge Deed**"), CEMEX, S.A.B. de C.V., New Sunward Holding B.V. and Sunward Acquisitions N.V. (the later one absorbed by New Sunward Holding B.V. as of October 23, 2009) constituted pledge rights (hereinafter referred to as the "**Pledges**") over their shares of stock of the company CEMEX España, S.A.

II. That, given the improvement in the conditions of the financial markets, it allows Cemex to issue notes to be issued among other things to reduce its debt with financial creditors that are part of the Creditors Agreement (as such term is defined in the Pledge Deed), CEMEX, S.A.B. de C.V. has requested such financial creditors to make some amendments to the Creditors Agreement for the purpose of increasing the flexibility of the CEMEX Group to issue notes and to apply the proceeds obtained by such issuances. Such amendments were approved by said financial creditors,

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

and as of December 1, 2009 it was executed an amendment novation agreement that does not extinguish the Creditors Agreement. As a result of such amendments, it is stated that the creditors of the CEMEX Group, by virtue of the issuance of the notes such as the Indenture, shall be considered as Creditors of the Additional Notes Creditors*)* and, as a consequence, shall be considered as Secured Parties further to the terms of the Creditors Agreement and the Pledge Deed, and shall be entitled to obtain the benefits of the Pledges, by means of a joinder of the Pledge Deed in accordance with Clause 16 of the Pledge Deed.

III. That, in accordance with Clause 16 of the Pledge Deed, the Secured Parties in which benefit the Guaranty Agent acted, among them the Bank, in its capacity of trustee for the holders of notes issued under the Indenture, may join the Pledge Deed and ratify the contents of such deed, accepting the constituted Pledges in their favor as a guaranty of the corresponding Secured Obligations, my means of appearing before a Notary Public in Madrid, Mr. Rafael Monjo Carrio.

Such joinder agreements shall be formalized by means of a joinder deed, all of which without need of a new consent by the pledgor or the pledgees, since their consent were granted in accordance with the Creditors Agreement (as such agreement was novated dated as of December 1, 2009) and the terms of the Pledge Deed.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

IV. That the Bank hereby expressly state that the joinder agreement referred to in the foregoing statements is formalized as an execution instrument of the rights granted to the Bank in accordance with the Pledge Deed, in order for the payment obligations related to the Indenture be guaranteed by a first priority pledge interest over the Shares (as such term is defined in the Pledge Deed), concurrently with the remaining Pledges.

V. That in accordance with the foregoing, the Bank intends to issue this Joinder Deed (hereinafter referred to as the " **Deed**") in accordance with the following

CLAUSES

FIRST.- JOINDER AGREEMENT TO THE PLEDGE DEED.

By means of this Deed, the Bank hereby joins, ratify and approve the terms and conditions of the Pledge Deed, issued before me as of September 29, 2009, and recorded under deed number 4599 in Section A of my Registrar Book, whose entire content the Bank hereby states to know, and such joinder agreement has full value and legal effects, accepting that the payment obligations related to the Indenture be guaranteed by the first priority pledge over the Shares (as such term is defined in the Pledge Deed) concurrently with the remaining Pledges.

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The Bank hereby REQUEST the undersigned Notary Public, to **NOTIFY** this Joinder Agreement to **WILMINGTON TRUST (LONDON) LIMITED**, with domicile located at 6 Broad Street Place, London EC2M 7JH (attention Elaine K. Lockhart), in its capacity of Guaranty Agent, and the undersigned Notary hereby accept such request.

CEMEX España, S.A. hereby appears to this act for the purpose of notifying itself of the contents of such joinder agreement.

SECOND. - GOVERNING LAW AND JURISDICTION.

2.1 This Deed is governed by the laws of Spain.

2.2 The parties hereto expressly submit themselves to the jurisdiction of the Courts and Tribunals sitting in the capital city of Madrid, to resolve any and all claims related to the enforceability, interpretation, compliance and execution of this Deed.

TREATMENT OF INFORMATION.- The parties hereto accept the incorporation of information and the copy of the identification documents to the files of this Notary with the purposes of rendering the notarial activity and to effect notification of information in accordance with the Law of Public Administrations (*Ley de las Administraciones Públicas*) and, as the case may be, to the Notary Public that succeeds the undersigned Notary in this city. The parties may exercise their rights of access, rectification, cancelation and opposition before the undersigned Notary.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

I hereby attest and issue this deed.

And I, the Notary, HEREBY ATTEST:

a.- That I identify the individuals appearing before me by the identification documents described above, which were shown to me.

b.- That on my own judgment, the individuals appearing before me have the capacity and have legal standing to issue this deed.

c.- That the execution of this deed is lawful, and its execution derives to the free will of the individuals appearing before me, which were informed of its contents.

d.- That I read this deed to the individuals appearing before me, and were previously notified of their right to read the deed by themselves, and such individuals stated to be aware of its contents, and hereby give thier consent, all of the foregoing in accordance with article 193 of the Notary Regulations.

e.- That this public instrument is being issued in seven pages of stamp paper for exclusive use of notarial documents, Series 9L, numbers 1690562, 1690563, 1690564, 1690565, 1690566, 1690567, all of them, I the undersigned Notary hereby attest.

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

Signatures of the appearing individuals follow: Signed: RAFAEL MONJO CARRIÓ. Seal of approval.

NOTARIAL PROCEEDING: Made by the undersigned, RAFAEL MONJO CARRIO, for purposes of attesting:

That as of May fourteen two thousand ten, it was delivered to me by the interested party, copy of the power of attorney duly legalized, issued by a Notary Public of New York, Mr. Danny Lee, dated as of May twelve, two thousand ten, which in accordance of my judgment, the legal representative has sufficient authority to execute this public deed.

And having nothing else to attest, I hereby authorize the deed in this page, I, the Notary, hereby attest.

Signature: RAFAEL MONJO CARRIÓ. Signed and sealed.

DELIVERY PROCEEDING.-Prepared by the undersigned Notary as of May seventeen, for purposes of ATTESTING THE FOLLOWING:

That by means of certified mail, addressed to **WILMINGTON TRUST (LONDON) LIMITED**", PHOTOCOPY, in accordance with the provisions of CLAUSE FIRST of this deed, and such delivery was made under postal receipt number RR 38 557 363 7 ES. Photocopy of such receipt is attached hereto. I, the Notary, hereby attest the entire content of such delivery proceeding, and attached hereto at the end of this deed.

Signature: /s/ RAFAEL MONJO CARRIÓ. Signed and sealed.

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Notes regarding the issuance of copies follow.

NOTARIAL PROCEEDING.- Made by the undersigned, **RAFAEL MONJO CARRIÓ**, Notary of MADRID to attest, that as of twenty of may, two thousand ten, in order to know the status of the delivery to **WILMINGTON TRUST (LONDON) LIMITED**, made as of May seventeen, 2010, I hereby connect myself using one of my computers to the website named www.correos.es, and I hereby confirm that such notice has been delivered to the addressee as of May 19 of the current year, and I hereby attach to this deed the printout of such inquiries.

Of all the contents of this notarial proceeding, I hereby issue this certification under one page of stamped paper for exclusive use of notarial documents, Series 9U, number 6020138, which I, The Notary, hereby attest.

Signature: /s/ RAFAEL MONJO CARRIÓ. Signed and sealed.

Signatures of the appearing individuals are printed.

Signature: /s/ RAFAEL MONJO CARRIÓ. Signed. The Seal of the Notary appears.

OFFICIAL TRANSLATION, David A. González Vessi, Authorized Translator from English-Spanish, Spanish-English, Approval Number 861/2010 dated as of January 25, 2010.

Apostille

(Convention de La Haye du 5 Octobre 1961)

1. Country: **United States of America**
   This public document
2. has been signed by **Norman Goodman**
3. acting in the capacity of **County Clerk**
4. bears the seal/stamp of the county of **New York**

Certified

5. At New York, New York 6. the 12th day of May 2010
7. by Secretary of State, State of New York
8. No. NYC-10759739B
9. Seal/Stamp 10. Signature

STATE OF NEW YORK ★ DEPARTMENT OF STATE ★

/s/ Lorraine Corés-Vázquez

Lorraine Corés-Vázquez
Secretary of State

[SEAL OF RAFAEL MONJO CARRIO. - NOTARY PUBLIC OF MADRID]

POWER OF ATTORNEY

Mr. Patrick Tadie and Mr. Kevin Cremin acting in the name and on behalf of The Bank of New York Mellon (a corporation duly organized and existing under the laws of the State of New York, with corporate domicile at One Wall Street, New York, N.Y. 10286, U.S.A., and with an I.R.S. employer identification number 13-5160382) (the "**Grantor**"), grants a special power of attorney, as broad and sufficient as is required by law, in favour of **Mr. Juan Perlaza,** of legal age, of British nationality, domiciled for these purposes at Calle José Abascal 45, Madrid and bearer of passport number 300919078, currently in force (hereinafter, the "**Attorney**"), so that he may, in the name and on behalf of the Grantor, acting on behalf and for the benefit of:

- the holders of the 9.25% U.S. Dollar-Denominated Senior Secured Notes Due 2020 (the "**USD Notes**") referred to below (the "**USD Noteholders**"); and

- the holders of the 8.875% Euro-Denominated Senior Secured Notes Due 2017 (the "**EUR Notes**" and, together with the USD Notes, the "**Notes**") referred to below (the "**EUR Noteholders**" and, together with the USD Noteholders, the "**Noteholders**"),

all the Noteholders by virtue of an indenture entered into by, among others, CEMEX España, S.A., Luxembourg Branch, as issuer (the "**Issuer**"), if applicable CEMEX España, S.A., CEMEX, S.A.B. de C.V. (the "**Company**"), CEMEX México, S.A. de C.V. and New Sunward Holding B.V., as guarantors (the "**Note Guarantors**") and the Grantor, as trustee and paying agent, dated as of 12 May, 2010, by means of which the Issuer issued a maximum of US$ 2,203,795,000 aggregate principal amount of USD Notes and EUR 523,775,000 aggregate principal amount of EUR Notes (as amended,

PODER ESPECIAL

D. Patrick Tadie y D. Kevin Cremin, actuando en nombre y representación de The Bank of New York Mellon (una sociedad debidamente constituida con arreglo a las leyes del estado de Nueva York, con domicilio en One Wall Street, New York, N.Y. 10286, (U.S.A.) y con número de I.R.S. 13-5160382) (el "**Poderdante**"), confiere poder especial, tan amplio y bastante como en derecho sea menester, en favor de **D. Juan Perlaza,** mayor de edad, de nacionalidad británica, con domicilio profesional en Calle José Abascal 45, titular de pasaporte número 300919078 en vigor; (en lo sucesivo, el "**Apoderado**"), para que pueda, en nombre y representación del Poderdante, que a su vez actúa en representación y beneficio de:

- los tenedores de Bonos Senior Garantizados 9,25% con fecha de vencimiento en 2020 y denominados en dólares estadounidenses (*9.25% U.S. Dollar-Denominated Senior Secured Notes Due 2020*) (los "**Bonos USD**") a los que se hace referencia mas adelante (los "**Bonistas USD**"); y de

- los tenedores de Bonos Senior Garantizados 8,875% con fecha de vencimiento en 2017 y denominados en euros (*8.875% Euro-Denominated Senior Secured Notes Due 2017*) (los "**Bonos EUR**" y, junto con los Bonos USD, los "**Bonos**") a los que se hace referencia más adelante (los "**Bonistas EUR**" y, junto con los Bonistas USD, los "**Bonistas**"),

todos los Bonistas en virtud del contrato de emisión de bonos suscrito el 12 de mayo de 2010 por, entre otros, CEMEX España, S.A., Luxembourg Branch, como emisor (el "**Emisor**"), en su caso CEMEX España, S.A., CEMEX, S.A.B. de C.V. (la "**Sociedad**"), CEMEX México, S.A. de C.V. y New Sunward Holding B.V., como garantes (los "**Garantes**") y el Otorgante como *trustee* y agente de pagos, mediante el cual el Emisor emitió Bonos USD por un importe máximo principal agregado de 2.203.795.000 dólares estadounidenses y Bonos EUR por un

the "**Indenture**").

carry out any of the following acts, in the terms and conditions that the Attorney may deem appropriate:

1. Negotiate, execute, accept, amend, extend, accede or ratify one or several pledge agreements (the "**Share Pledges**") over all or part of the shares (*acciones*) of the Spanish company CEMEX España, S.A. (Tax Identification Number A46004214, registered with the Commercial Registry of Madrid, in volume 9,743 and 9,744, sheet 1 to 166, section 8, page no. M-l56542), whereby one or more share pledges are created to secure *inter alia* the full and punctual performance of all or part of the obligations assumed by the Issuer and each of the Note Guarantors in favour of, among others, the relevant Noteholders, as well as other secured obligations assumed by the Company and its subsidiaries.

2. Execute or ratify the abovementioned documents, in a public or private document and appear before a Spanish Notary Public to grant the notarial deeds (*pólizas*) or public deeds (*escrituras públicas*) of the abovementioned documents and, in particular (without limitation), appear before a Spanishnotary public (*Notario*) to notarize or raise to the status of public document (*elevar a documento publico)* the Share Pledges, the Indenture and any other agreements, documents, notices or letters related thereto.

3. Carry out whichever other actions, declarations, agreements, letters or execute whichever other public or private document the Attorney deems desirable or necessary for the validity of the documents previously mentioned, as well as (in particular without limitation) to accept the extension of the Share Pledges to any other shares of CEMEX España, S.A. that the pledgors that created the Share Pledges may hold from time to time, and to acknowledge the creation of any pledges or any other security agreement

importe máximo principal agregado de 523.775.000 euros (según sea modificado, el "**Contrato de Emisión de Bonos**").

realizar cualesquiera de las siguientes actuaciones, en los términos y condiciones que el Apoderado crea apropiados:

1. Negociar, celebrar, firmar, ejecutar, ratificar, aceptar, modificar, extender, adherirse y otorgar en los términos y condiciones que el Apoderado crea convenientes la constitución de una o varias prendas (las "**Prendas sobre las Acciones**") sobre todas o parte de las acciones de la sociedad española CEMEX España, S.A. (C.I.F. número A46004214 e inscrita en el Registro Mercantil de Madrid, en el Tomo 9.743, folio 9.744, hoja 1 y 166, sección 8, página M-l56542), mediante las cuales se constituyan una o varias prendas sobre acciones para garantizar el completo y puntual cumplimiento de todas o parte de las obligaciones asumidas por el Emisor y cada uno de los Garantes de Bonos en favor de, entre otros, los respectivos Bonistas, al igual que otras obligaciones garantizadas asumidas por la Sociedad y sus filiales.

2. Firmar o ratificar los anteriores documentos y contratos en documento privado o público, comparecer ante Notario Público español para intervenga en póliza o eleve a público los mencionados documentos, y, en especial (sin limitación), comparecer ante Notario para elevar a documento público las Prendas sobre las Acciones, el Contrato de Emisión de Bonos y cualquiera otros contratos, documentos o cartas relacionados o previstos en los citados contratos o documentos.

3. Realizar cualesquiera otros actos o declaraciones, y firmar contratos, cartas, u otorgar cualesquiera otros documentos públicos o privados que el Apoderado considere necesarios o convenientes para la validez de los documentos a los que se ha hecho referencia anteriormente y, en particular (aunque sin limitación), para aceptar la extensión de las Prendas sobre las Acciones a cualesquiera otras acciones de CEMEX España, S.A. de las que sean titulares en cada momento los pignorantes que constituyeron las

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granted in accordance with the preceding paragraph.

4. Carry out whichever other actions, declarations, agreements, letters or execute whichever other public or private document the Attorney deems desirable or necessary to maintain and protect the Share Pledges or any other security interest related to the documents referred to in the preceding paragraphs.

5. To appear before the Spanish administrative authorities and execute, in the name and on behalf of the Grantor, the necessary documents for obtaining the Spanish tax identification by filing the necessary tax forms including, but not limited to, form 036, and specifically to request the provisional and final Spanish Tax Identification Number for the Grantor.

6. To appear before any Spanish administrative authorities and, in particular, but not limited to, the Foreign Investments' Registry of the Ministry of Finance and the Bank of Spain executing, delivering and filing, in the name and on behalf of the Grantor, any document, statement, payment, application or official forms (including those of a tax nature) that may be necessary or advisable in connection with the execution or compliance with the Indenture and the Share Pledges.

7. As a result of the authority granted in the preceding paragraphs, to agree on the terms and conditions the Attorney deems appropriate and to issue and receive any binding declarations.

8. Grant deeds of formalization, acknowledgement, ratification, confirmation, modification or amendment of any of the

Prendas sobre las Acciones, y para tomar conocimiento de la constitución o extensión de cuantas prendas u otros derechos de garantía se otorguen de acuerdo con los apartados anteriores.

4. Realizar cualesquiera otros actos o declaraciones, y firmar contratos, cartas, u otorgar cualesquiera otros documentos públicos o privados que el Apoderado considere necesarios o convenientes para conservar y proteger la validez de las Prendas sobre las Acciones o cualesquiera otros derechos de garantía se otorguen de acuerdo con los apartados anteriores.

5. Comparecer ante las autoridades administrativas españolas y firmar, en nombre del Poderdante, cuantos documentos sean necesarios para la obtención de identificación fiscal presentando los modelos fiscales que sean necesarios incluyendo, pero sin limitación, el modelo 036, y específicamente solicitar el NIF provisional y definitivo para el Poderdante.

6. Comparecer ante cuantas autoridades administrativas españolas y, en particular, pero sin limitación ante, el Registro de Inversiones Exteriores del Ministerio de Economía y el Banco de España, otorgando, comunicando y cumplimentando, en nombre y representación del Poderdante, cuantos documentos, declaraciones, pagos, solicitudes, o impresos oficiales (incluidos los de índole fiscal) que resulten necesarios o convenientes para la celebración o cumplimiento las Prendas sobre las Acciones y el Contrato de Emisión de Bonos.

7. En el ejercicio de la autoridad conferida en los párrafos precedentes, fijar los términos y condiciones que considere apropiados y emitir y recibir todo tipo de declaraciones de voluntad y manifestaciones.

8. Otorgar escrituras o pólizas de formalización, reconocimiento, ratificación, confirmación, modificación o rectificación de cualquiera de

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agreements, and/or public deeds referred to above.

9. To request the issue of copies of any of the aforementioned public documents.

10. All the powers granted herein can be exercised by the Attorney, even if this would result in the self-contracting *(autocontratación)* or multi-representation *(multirrepresentación)* or conflict of interest *(conflicto de interés)* figures.

The deed and text of the present power of attorney will be interpreted exclusively according to the Spanish Language translation.

This power of attorney terminates on May 12, 2011, without any further notice to be given.

The Grantor hereby undertakes to confirm and ratify, if so requested by the Attorney, each and every actions taken by the Attorney in accordance with the terms of this power of attorney.

In New York, on May 12 2010.

los contratos, escrituras o pólizas referidos anteriormente.

9. Solicitar copias de las citadas pólizas o escrituras.

10. La totalidad de las facultades incluidas en este poder podrán ser ejercitadas por el Apoderado aun cuando en el ejercicio de las mismas incurrieran en las figuras de autocontratación multirrepresentación o conflicto de interés.

La minuta y redacción del presente poder será, en todo caso, interpretado conforme a la dicción y sentido del texto que se incluye en lengua espaflola.

El presente poder expirará el 12 de mayo de 2011, sin que sea necesario realizar ningún tipo de notificación al respecto.

El Poderdante se compromete a confirmar y ratificar, si es requerido para ello por el Apoderado, todas y cada una de las actuaciones realizadas por el Apoderado de conformidad con los terminos de este poder.

En Nueva York, el 12 de mayo de 2010.

The Bank of New York Mellon

By: /s/ Mr. Patrick Tadie
Mr. Patrick Tadie

By: /s/ Mr. Kevin Cremin
Mr. Kevin Cremin

[SEAL OF RAFAEL MONJO CARRIO. - NOTARY PUBLIC OF MADRID]

NOTARIAL CERTIFICATE

I, Notary Public of New York hereby certify that:

I. The Bank of New York Mellon is a corporation duly organized and existing under the laws of the State of New York, with corporate domicile at One Wall Street, New York, N.Y. 10286, U.S.A., with an I.R.S. employer identification number of 13-5160382, and with the required capacity to grant this Power of Attorney.

II. This Power of Attorney has been validly executed by M. Patrick Tadie and Mr. Kevin Cremin who have the required authority to grant this Power of Attorney in the name and on behalf of The Bank of New York Mellon.

III. The above is the true hand-written signature of Mr. Patrick Tadie and Mr. Kevin Cremin.

IV. That the Grantor has the necessary authority to act in the name and on behalf of the Noteholders.

V. The acts and transactions effected by the Attorney appointed in this Power of Attorney in the name and on behalf of The Bank of New York Mellon, within the scope of such Power of Attorney, will be acts or transactions validly effected by The Bank of New York Mellon.

Executed before me, on May 12, 2010.

CERTIFICADO NOTARIAL

Yo, Notario de Nueva York, por la presente certifico que:

I. The Bank of New York Mellon es una sociedad existente y válidamente constituida de acuerdo con las leyes del estado de Nueva York, con domicilio social en One Wall Street, New York, N.Y. 10286, (U.S.A.), con número I.R.S. 13-5160382 y con la capacidad necesaria para otorgar este poder.

II. El presente poder ha sido válidamente emitido por D. Patrick Tadie y D. Kevin Cremin quienes tiene capacidad legal para otorgar dicho poder en nombre y representación de The Bank of New York Mellon.

III. La anterior firma es la firma manuscrita auténtica de D. Patrick Tadie y D. Kevin Cremin.

IV. El Poderdante tiene autoridad necesaria para actuar en nombre y representación de los Bonistas.

V. Los actos realizados y negocios celebrados por el Apoderado designado en este poder en nombre y representación de The Bank of New York Mellon, dentro del ámbito del presente poder, serán actos o negocios válidamente realizados o celebrados por The Bank of New York Mellon.

Firmado ante mí, el 12 de mayo de 2010.

COUNTY CLERK | NEW YORK COUNTY

Signed by:

DANNY LEE, NOTARY PUBLIC
State of New York, NO. 01LE6161129
Qualified in New York County
Commission Expires February 20, 20 11

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

778808 Form 1

State of New York
County of New York, } ss.:

I, NORMAN GOODMAN, County Clerk and Clerk of the Supreme Court of the State of New York, in and for the County of New York, a Court of Record, having by law a seal,

DO HEREBY CERTIFY pursuant to the Executive Law of the State of New York, that

Danny Lee

whose name is subscribed to the annexed affidavit, deposition, certificate of acknowledgment or proof, was at the time of taking the same a NOTARY PUBLIC in and for the State of New York duly commissioned, sworn and qualified to act as such; that pursuant to law, a commission or a certificate of his official character, with his autograph signature has been filed in my office; that at the time of taking such proof, acknowledgment or oath, he was duly authorized to take the same; that I am well acquainted with the handwriting of such NOTARY PUBLIC or have compared the signature on the annexed instrument with his autograph signature deposited in my office, and I believe that such signature is genuine.

IN WITNESS WHEREOF, I have hereunto set my hand affixed my official seal this

MAY 12 2010

FEE PAID $3.00

County Clerk and Clerk of the Supreme Court, New York County

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

MAIL RECEIPT

RR385573637ES

SENDER: [SEAL OF RAFAEL MONJO CARRIO, NOTARY

PUBLIC.- C/Monte Esquinza, 6, 28010 Madrid]

ADDRESSEE: Wilmington Trust (London) Limited

6 Broad Street Place

City: London EC27 7JH.

968 M.S. ALFONSO

Certified Letter

Date: 17/05/2010

Weight: 66 grams

Hour: 12:57

Cost: €4,59

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

NOTICE

The loss, misplace or damage made to a certified mail gives the right to a fixed indemnization determined in accordance with the current rates, and such amount will be the limit of responsibility.

For packages containing documents and merchandises of certain value, or in the event of packages in which the sender has a special interest, other services may be used to guarantee the value of the contents, as Declared Goods, Secured Items and Express Postage with optional insurance.

Claims: The term to claim any kind of certified mail with indemnization rights is four months for deliveries within the national territory and six months for international deliveries.

For certified deliveries, against reimbursement, said term applies if the delivery was not made to the addressee. If the delivery was made, and the addressee did not pay the total amount of the postage, the service will have two years to claim the amount.

The completeness of the services implies the acceptance of the conditions for claims and indemnification.

Any questions or doubts request information.

SPAIN MAIL SERVICE

[SEAL OF RAFAEL MONJO CARRIO.- NOTARY PUBLIC OF MADRID]

Mail Service: Status of Delivery

Spain Mail Service Customer Service

Individuals Companies Virtual Office

To send Documents: Status of Delivery

To send Packages:

Money: **STATUS OF DELIVERY**

A.P.E. Delivery Number: RR385573637ES

Bancorreos	Dates	Status
Other Products	17/05/2010	Admitted
Museum	17/05/2010	In transit
Customer Service	18/05/2010	Exit from International Office
	18/05/2010	Arrival to International Destination Office
	19/05/2010	Delivered

If you want more postal information of the country of destination, please see the local postal office.

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CERTIFICATION

The undersigned, DAVID A. GONZALEZ VESSI, Official Translator authorized by the Superior Court of the State of Nuevo Leon, further to Approval number 861/2010 issued as of January 25, 2010, HEREBY CERTIFIES THAT:

The preceding document is a true and accurate translation from the Spanish language to the English language of Public Deed Number 968 dated as of May 12, 2010 issued by Mr. Rafael Monjo Carrió, Notary Public residing in the city of Madrid, Spain. This certification is issued for any and all legal purposes.

Monterrey, N.L., as of June 8, 2010

DAVID A GONZALEZ VESSI

Exhibit 4.45

OFFICIAL TRANSLATION, David A. González Vessi, Authorized Translator from English-Spanish, Spanish-English, Approval Number 861/2010 dated as of January 25, 2010.

Underwriting Agreement of Mandatory Convertible Bonds into Ordinary Participation Certificates, Representing Shares of Stock of CEMEX, S.A.B. de C.V., dated as of December 3, 2009 (hereinafter referred to as the "Agreement") executed by and between CEMEX, S.A.B. de C.V. as issuer of the bonds (hereinafter referred to as the "Issuer" or "CEMEX"), represented by Mr. Humberto Javier Moreira Rodríguez; and on the other hand, Casa de Bolsa Santander, S.A. de C.V., Grupo Financiero Santander (hereinafter referred to as "Santander"), represented by Messrs. Octaviano Carlos Couttolenc Mestre and Gerardo Manuel Freire Alvarado; HSBC Casa de Bolsa, S.A. de C.V., Grupo Financiero HSBC (hereinafter referred to as "HSBC") represented by Mr. Fernando Pérez Saldívar; Acciones y Valores Banamex, S.A. de C.V., Casa de Bolsa, Integrante del Grupo Financiero Banamex (hereinafter referred to as " Accival") represented by Mr. Ignacio Gómez-Daza Alarcón; Casa de Bolsa BBVA Bancomer, S.A. de C.V., Grupo Financiero BBVA Bancomer represented by Messrs. Ruy Halffter Marcet and Gonzalo Manuel Mañon Suárez (hereinafter referred to as "BBVA Bancomer" and together with Santander, Accival y HSBC, the "Underwriters"), in accordance with the following Statements and Clauses:

WITNESSETH:

I. the Issuer states, by means of its legal representative, as of the date of this Agreement and as of the Date of the Offer (as defined below), that:

a) Is a *sociedad anónima bursátil de capital variable* , duly formed in accordance with the laws of the United Mexican States (" Mexico"), further to public deed number 94 as of May 28, 1920, issued by Mr. Carlos Lozano, Notary Public Number 34 of Monterrey, Nuevo Leon, recorded in the Public Registry of Property and Commerce of the city of Monterrey, Nuevo Leon, as of June 11, 1920, under number 21, pages 157 through 186, volume 16, book 3, Second Auxiliary, Commerce Section;

b) The execution and delivery of this Agreement and the performance by the Issuer of its obligations under this Agreement, the issuance of the Bonds (as such term is defined in the Prospectus), and the performance by the Issuer of its obligations with respect to such Bonds, is allowed by its by-laws and does not contravene such by-

laws, nor any law or contractual provision binding upon or affecting the Issuer, that may have a material adverse effect on the Issuer, and its corporate purpose does contemplates, in general, obtaining debt, the issuance of negotiable instruments (including the Bonds) and the performance of its obligations in accordance with such terms;

c) The Issuer has obtained all the necessary internal authorizations for the execution and delivery of this Agreement, and the performance by the Issuer of its obligations under this Agreement, and for the performance of the obligations with respect to the Bonds; and this Agreement and the Bonds constitute legal, valid and binding obligations of the Issuer, enforceable against the Issuer under their terms, provided, however, that such enforcement may be affected in the event of a *concurso mercantil* or bankruptcy of the Issuer, as provided by Mexican Bankruptcy Law (*Ley de Concursos Mercantiles*);

d) Do not require the authorization or approval of any authority to execute and deliver this Agreement, with respect to the Public Offer (as such term is defined herein), for the issuance of the Bonds or for the performance by the Issuer of its obligations under this Agreement or the Bonds (except for the approvals described in paragraph I(f), and the necessary approvals to performs the actions referred to in paragraph I(g) below);

e) Except as provided for in the Prospectus (as such term is defined herein), the Issuer is not a party at the present time in any material litigation proceeding, and does not have knowledge of any litigation against the Issuer, as a consequence of summons received, in both cases for amounts that are material or their outcome may have a material adverse effect on the consolidated financial position of the Issuer, or on its capacity to comply with its obligations with respect to this Agreement or with respect to the Bonds;

f) has obtained the approval of the Mexican National Banking and Securities Commission (the *Comisión Nacional Bancaria y de Valores*, or "CNBV") for the issuance of Bonds and their exchange for debt notes (the " Debt Notes") which were previously issued by the Issuer as described in the Prospectus, in accordance with Approval Letter Number 153/79167/2009 dated as of November 11, 2009 (the " CNBV Approval");

g) has obtained the favorable opinion issued by the Mexican Stock Exchange (*Bolsa Mexicana de Valores, S.A.B. de C.V.* or "BMV") for the listing of the Bonds in the BMV (the "BMV Approval", and together with the CNBV Approval, the " Approvals"). Further to the terms of the Approvals, the issuance of the Bonds shall have the characteristics determined for such effects, and as set forth in the offer notice, the security and in the Prospectus (as defined herein below);

h) it is the intention of the Issuer to issue the Bonds, and to place them through a public offer for the acquisition and exchange of the Debt Notes (the "Public Offer"), with the characteristics described in the respective offer notice, and the corresponding preliminary prospectus (the " Prospectus"), on a best efforts basis through the BMV;

i) the financial information, description, either legal or from a businesswise, and any other information contained in the Prospectus and related to the Issuer and its subsidiaries, is true and complete with respect to the relevant issues to make an investment decision, or omit to state relevant information, or contains false relevant information or that may mislead the Bond investors, and complies with the provisions set forth in the General Provisions Applicable to Issuers of Securities and Other Market Participants (the " *Disposiciones de Carácter General aplicables a las Emisoras de Valores y a otros Participantes del Mercado de Valores")* issued by the CNBV, and published in the Official Gazette of the Federation as of March 19, 2003, and its amendments (the "Sole Rules");

j) the financial statements contained in the Prospectus have been prepared in accordance with the norms of financial information, applied on a consistent basis, and duly reflect the consolidated financial position of the Issuer as of the dates stated in such financial statements;

k) in order to carry out with the offer of the Bonds under best efforts basis, the Issuer wishes to hire the services of the Underwriters to assist the Issuer in structuring the offer procedures, the issuance and the Exchange of the Bonds for Debt Notes through the BMV;

l) has designated Banco Mercantil del Norte, S.A., Institución de Banca Múltiple, Grupo Financiero Banorte, as common representative (the " Common Representative") for the holders of the Bonds, in accordance with the Mexican Securities Market Law;

m) Mr. Humberto Javier Moreira Rodríguez has the necessary corporate authority to execute this Agreement on behalf of the Issuer, as provided in public deed number 47,526, dated as of September 4, 2009, issued by Mr. Juan Manuel García García, Notary Public Number 129 residing in San Pedro Garza García, Nuevo Leon, México, and duly recorded in the Public Registry Of Property and Commerce of the State of Nuevo Leon under commerce number 532*9, dated as of September 22, 2009, which authority has not been revoked or limited as of the date of this Agreement.

II. Casa de Bolsa Santander, S.A. de C.V., Grupo Financiero Santander hereby states through its legal representative, as of the date of this Agreement and as of the Date of the Offer, that:

a) Is a company duly incorporated in accordance with the laws of the United Mexican States, as provided in public deed number 7765 dated as of April 27, 1973, issued by Mr. José G. Arce Cervantes, Notary Public Number 102 residing in the Federal District, and recorded in the Public Registry of Mexico City, Federal District, under number 23, page 32 volume 877, Book No. 3 of the Commerce Section, dated as of July 23, 1973, under the corporate name of "Inverméxico, S.A. de C.V., Casa de Bolsa";

b) Changed its corporate name to "Casa de Bolsa Santander Mexicano, S.A. de C.V.", as provided in public deed number 52174 dated as of November 17, 2001, issued by Mr. Miguel Alessio Robles, Notary Public Number 19 residing in the Federal District, and recorded in the Public Registry of Mexico City, Federal District, under commercial number 4744, Commerce Section, and currently its corporate name is "Casa de Bolsa Santander, S.A. de C.V., Grupo Financiero Santander", as provided in public deed number 3,251 dated

as of May 2, 2006, issued by Mr. Ricardo Felipe Sánchez Destenave, Notary Public Number 239 residing in the Federal District, and recorded in the Public Registry of Mexico City, Federal District, under commercial number 4744,as of July 2, 2006;

c) Is duly approved to act in its capacity of intermediary in the securities market, to execute this Agreement and to perform its obligations under this Agreement and under the applicable legal provisions;

d) Desires to perform in favor of the Issuer the services described in this Agreement, including to act as assistant to the Issuer in obtaining the Approvals and any other additional authorizations that are necessary in connection with the Public Offer, the carry out with the Public Offer through the BMV, in accordance with the terms and conditions set forth in this Agreement, as well as to provide the information that is required under Clause Eighth of this Agreement, and has the capacity, experience, human financial and material resources to provide such services, and to obtain the necessary approvals;

e) The execution and delivery of this Agreement and the performance by Santander of its obligations under this Agreement, is allowed by its by-laws and does not contravene such by-laws, nor any law or contractual provision binding upon or affecting Santander;

f) this Agreement constitutes a legal, valid and binding obligation of Santander, enforceable against Santander under its terms, provided, however, that such enforcement may be affected in the event of a *concurso mercantil* or bankruptcy of Santander, as provided by Mexican Bankruptcy Law (*Ley de Concursos Mercantiles*);

g) Messrs. Octaviano Carlos Couttolenc Mestre and Gerardo Manuel Freire Alvarado have the necessary corporate authority to execute this Agreement on behalf of Santander, as provided in public deed number 51 dated as of July 23, 2002, issued by Mr. Ricardo Felipe Sánchez Destenave, Notary Public Number 239 residing in the Federal District, and recorded in the Public Registry of Mexico City, Federal District, and under public deed number 53,818 dated as of July 15, 1998, issued by the Notary Public No. 19 residing in the Federal District, both duly recorded in the Public Registry of Commerce of Mexico City, Federal District, under commercial number 4744.

III. HSBC Casa de Bolsa, S.A. de C.V., Grupo Financiero HSBC, hereby states through its legal representative, as of the date of this Agreement and as of the Date of the Offer, that:

a) It is a brokerage house duly incorporated in accordance to the laws of Mexico, as provided in public deed number 5,178 dated as of December 18, 1963, issued by Mr. Mario Garciadiego Foncerrada, residing in the Federal District, and recorded in the Public Registry of Property and Commerce of Mexico City, Federal District, under Book No. 3, volume 567, Page 364, and number 216 of the Commerce Section;

b) Is duly approved to act in its capacity of intermediary in the securities market, to execute this Agreement and to perform its obligations under this Agreement and under the applicable legal provisions;

c) Desires to perform in favor of the Issuer the services described in this Agreement, including to act as assistant to the Issuer in obtaining the Approvals and any other additional authorizations that are necessary in connection with the Public Offer, the carry out with the Public Offer through the BMV, in accordance with the terms and conditions set forth in this Agreement, as well as to provide the information that is required under Clause Eighth of this Agreement, and has the capacity, experience, human financial and material resources to provide such services, and to obtain the necessary approvals;

d) The execution and delivery of this Agreement and the performance by HSBC of its obligations under this Agreement, is allowed by its by-laws and does not contravene such by-laws, nor any law or contractual provision binding upon or affecting HSBC;

e) this Agreement constitutes a legal, valid and binding obligation of Santander, enforceable against HSBC under its terms, provided, however, that such enforcement may be affected in the event of a *concurso mercantil* or bankruptcy of HSBC, as provided by Mexican Bankruptcy Law (*Ley de Concursos Mercantiles*);

f) that Mr. Fernando Paulo Pérez Saldívar has the necessary corporate authority to execute this Agreement on behalf of HSBC, as provided in public deed number 14,865, dated as of February 10, 2009, issued by Mr. Francisco Lozano Noriega, Notary Public Number 87 residing in Mexico City, Federal District, without recording information, which authority has not been revoked or limited as of the date of this Agreement.

IV. Acciones y Valores Banamex, S.A. de C.V. Casa de Bolsa, integrante del Grupo Financiero Banamex hereby states through its legal representative, as of the date of this Agreement and as of the Date of the Offer, that:

a) It is a brokerage house duly incorporated in accordance to the laws of Mexico, as provided in public deed number 31,198 dated as of October 4, 1971, issued by Mr. Joaquín Talavera Sánchez, Notary Public No. 50, residing in Mexico City, Federal District, and recorded in the Public Registry of Property and Commerce of Mexico City, Federal District, under number 288, page 320, volume 320, Book No. 3 of the Commerce Section;

b) Is duly approved to act in its capacity of intermediary in the securities market, to execute this Agreement and to perform its obligations under this Agreement and under the applicable legal provisions;

c) Desires to perform in favor of the Issuer the services described in this Agreement, including to act as assistant to the Issuer in obtaining the Approvals and any other additional authorizations that are necessary in connection with the Public Offer, the carry out with the Public Offer through the BMV, in accordance with the terms and conditions set forth in this Agreement, as well as to provide the information that is required under Clause Eighth of this Agreement, and has the capacity, experience, human financial and material resources to provide such services, and to obtain the necessary approvals;

d) The execution and delivery of this Agreement and the performance by Accival of its obligations under this Agreement, is allowed by its by-laws and does not contravene such by-laws, nor any law or contractual provision binding upon or affecting Accival;

e) this Agreement constitutes a legal, valid and binding obligation of Santander, enforceable against Accival under its terms, provided, however, that *n t i l* or bankruptcy of Accival *de Concursos Mercantiles*);

f) that Mr. Ignacio Gómez-Daza Alarcón has the necessary corporate authority to execute this Agreement on behalf of Accival, as provided in public deed number 52,854, dated as of April 12, 2005, issued by Mr. Roberto Núñez y Bandera, Notary Public No. 1 residing in Mexico City, Federal District, Mexico, which authority has not been revoked or limited as of the date of this Agreement.

V. Casa de Bolsa BBVA Bancomer S.A. de C.V., Grupo Financiero BBVA Bancomer hereby states through its legal representative, as of the date of this Agreement and as of the Date of the Offer, that:

a) It is a brokerage house duly incorporated in accordance to the laws of Mexico, as provided in public deed number 38,387 dated as of September 10, 1973, issued by Mr. Fausto Rico Alvarez, Notary Public No. 6, residing in Mexico City, Federal District, and recorded in the Public Registry of Property and Commerce of Mexico City, Federal District, under number 84, page 82, volume 888, as of October 5, 1973;

b) Is duly approved to act in its capacity of intermediary in the securities market, to execute this Agreement and to perform its obligations under this Agreement and under the applicable legal provisions;

c) Desires to perform in favor of the Issuer the services described in this Agreement, including to act as assistant to the Issuer in obtaining the Approvals and any other additional authorizations that are necessary in connection with the Public Offer, the carry out with the Public Offer through the BMV, in accordance with the terms and conditions set forth in this Agreement, as well as to provide the information that is required under Clause Eighth of this Agreement, and has the capacity, experience, human financial and material resources to provide such services, and to obtain the necessary approvals;

d) The execution and delivery of this Agreement and the performance by BBVA Bancomer of its obligations under this Agreement, is allowed by its by-laws and does not contravene such by-laws, nor any law or contractual provision binding upon or affecting BBVA Bancomer;

e) this Agreement constitutes a legal, valid and binding obligation of Santander, enforceable against Accival under its terms, provided, however, that such enforcement may be affected in the event of a *concurso mercantil* or bankruptcy of BBVA Bancomer, as provided by Mexican Bankruptcy Law (*Ley de Concursos Mercantiles*);

f) that Messrs. Ruy Halffter Marcet and Gonzalo Manuel Mañón Suárez have the necessary corporate authority to execute this Agreement on behalf of BBVA Bancomer, as provided in public deed numbers 87,082 and 87,099 dated as of August 28, 2006 and August 29, 2006, respectively, both issued by Mr. Carlos de Pablo Serna, Notary Public Number 137 residing in Mexico City, Federal District, and recorded in the Public Registry of Mexico City, Federal District under commercial number 4,498, dated as of September 7, 2006 and September 22, 2006, respectively, which authority has not been revoked or limited as of the date of this Agreement.

In accordance to the foregoing, the parties hereby agree to the following:

CLAUSES

FIRST. Placement. Subject to the terms and conditions set forth in this Agreement, the Issuer hereby entrusts the Underwriters, and the Underwriters hereby agree with the Issuer to place de Bonds, through the allotment mechanism described in the Prospectus, through a Public Offer, and in accordance with the Purchase Factor established in Clause Sixth herein.

The Underwriters hereby agree to conduct the placement of the Bonds in accordance with the applicable provisions of the Securities market Law, and the regulations issued under such law and currently in effect.

The parties hereby agree that the Public Offer of the Bonds shall commence as of the Date of the Offer (as such term is defined herein), in accordance with the approval issued by the CNBV.

SECOND. Placement on a Best Efforts Basis. Subject to the terms and conditions set forth in this Agreement, the Underwriters hereby agree to give their best efforts to effect the placement of the Bonds beginning from the Date of the Offer and until de Termination Date of the Offer (as such term is defined in the Prospectus), in accordance with the Purchase Factor, established in Clause Sixth herein.

THIRD. Exchange. Santander and HSBC shall be obligated to exchange the Bonds for the Debt Notes described in the Prospectus that participate in the Public Offer in accordance with their terms (the "Exchange").

FOURTH. Date of the Offer. Subject to the terms and conditions set forth in this Agreement, the parties hereby agree that the Public Offer shall commence on November 11, 2009 (the "Date of the Offer") and shall be in effect until the Termination Date of the Offer.

Subject to the conditions set forth in this Agreement, HSBC hereby agrees to carry out the registry transaction (*cruce*) of the Bonds in the BMV on December 10, 2009.

FIFTH. Transfer. Subject to the terms and conditions set forth in this Agreement, the Underwriters, through HSBC, shall deliver the Debt Notes obtained during the Exchange (the "Transfer of the Debt Notes"), on December 15, 2009 (the "Transfer Date"). The Underwriters, through, shall deliver the Bonds in accordance with the distribution plan contained in the Prospectus.

The Issuer hereby agrees to make available to the Underwriters, through HSBC or *S.D. Indeval Institución para el Depósito de Valores, S.A. de C.V.* ("Indeval"), in the case of the later if it was agreed by the parties, the certificate representing the Bonds, not later than 9:00 a.m. (Mexico City Time) on the Transfer Date, for its deposit to the account kept by HSBC at Indeval.

SIXTH. Purchase Factor. The Bonds shall be placed among authorized investors in accordance with the Purchase Factor (as such term is defined in the Prospectus), further to the provisions set forth in the Prospectus.

SEVENTH. Fees. Subject to the conditions set forth in this Agreement, the Issuer hereby agrees to pay fees to the Underwriters as described herein, on March 30, 2010 (the "Payment Date"):

i) Together to Santander and HSBC, 2.0% (two percent) over the difference between the total amounts placed minus the amount effectively placed by Accival and BBVA, plus 0.50% (cero point five percent) over the amount effectively placed by Accival and BBVA. To the resulting amount, the corresponding value added tax shall be added;

ii) To Accival and BBVA Bancomer respectively, 1.50% (one point five percent) over the amount effectively placed by each of them, adding the corresponding value added tax,

as sole consideration for the obligations assumed by the Underwriters under this Agreement (the " Fees").

Provided, however, that the amount placed shall be understood as the result of multiplying the face value of the Bonds times the number of Bonds effectively placed in the Date of the Offer.

The Issuer hereby agrees to pay to the Underwriters the agreed amounts as Fees, within the 3 (three) business days following the Payment Date, not later than 11:00 hours (Mexico City Time), through a bank deposit to Santander, and Santander shall distribute the corresponding amounts to the other Underwriters.

EIGHTH. Prospectus and Notices; Information .

(a) The parties hereby agree that the Underwriters, for purposes of conducting the Public Offer, shall use exclusively the Prospectus approved by the CNBV with respect to the Public Offer, as such Prospectus will be made available by the Issuer to them, either physically or electronically, for purposes of such Public Offer. The Underwriters shall only distribute such Prospectus within Mexico.

(b) The Issuer hereby issues its consent in order to, if it becomes necessary, any of the Underwriters may publish the notice of the offer and the placement notice in *Emisnet* a service of the BMV and, in the newspapers of wide distribution

in Mexico, with the previous consultation with, and agreement of, the Issuer with respect to their terms at the dates that are more convenient for the parties.

(c) The Underwriters hereby agree to inform the CNBV, Indeval and BMV, with at least one (1) business day prior to the Transfer Date, or the time in advance determined by the CNBV, as well as the amount, the subscription date and the maturity date of the Bonds. In order to make such notices, the Issuer hereby agrees to make available to the Underwriters the public information that the Underwriters may reasonably require. The parties hereby agree that the placement of the Bonds shall only take place if the notice described above was made, and the CNBV had approved the terms of the placement notice.

(d) The Underwriters hereby agree to inform in writing to the Issuer, within the two (2) business days following the end of the placement of the Bonds, the results of the Public Offer, including the number of purchasers of the Bonds, as well as the distribution of them. In the same manner, the Underwriters hereby agree to inform such results to the CNBV and to BMV, within five (5) business days following the end of the placement of the Bonds.

NINTH. Resolutory Conditions. The parties hereby agree that, if any of the following events occurs before the Termination Date of the Offer, the obligations of the parties set forth herein shall be resolved (except if the applicable condition were cured by the Underwriters):

a) If the Issuer or the Underwriters, either by law or by order issued by competent authority, are prevented from placing or agreeing to the terms of the Bonds, in the terms set forth in this Agreement and in the actual text of the Bonds;

b) If force majeure events prevent the placement of the Bonds, or materially affect the Underwriters or the Issuer;

c) If there are abnormal or disorderly situations with respect to the securities markets in general, which prevent the placement of the Bonds;

d) If the Issuer fails to comply with its obligation to make available to the Underwriters and Indeval, the certificates representing the Bonds in accordance with Clause Fifth above;

e) If the parties does not execute the document containing the applicable terms and conditions of the Bonds (which can be the placement notice of the Bonds duly signed by the parties);

f) In the event of suspension or cancellation of the registration of the Bonds in the RNV or in BMV, or if the Approvals are not longer in effect;

g) In the event of commencement of certain acts towards *concurso mercantil*, bankruptcy, liquidation or dissolution of the Issuer; or in the event of *concurso mercantil*, bankruptcy, liquidation or dissolution of a subsidiary of the Issuer, which has a materially adverse effect on the financial position of the Issuer, or in the event that a legal action is commenced against the Issuer or its subsidiaries, and the nature of such action prevents their normal operations, or the compliance with the obligations of the Issuer under the terms of the Bonds;

h) In the event that the financial, legal or accounting situation of the Issuer, presents material adverse differences than the conditions that the Underwriters were aware, and were included in the Prospectus;

i) In the event that there are economic or political events, or events of any nature, that given their importance, prevent, affect or restrict in a material way the ability of the Underwriters to comply with their obligations set forth herein; and

j) If, by any reason, the Common Representative is unable to act in such capacity, and a new common representative is not appointed to replace the Common Representative to perform its duties.

The obligations of the Underwriters shall terminate, and the Underwriters shall be released from performing such obligations, as if such obligations were never existed, if any of the resolutory conditions set forth above are met (and such events were not cured or amended by the parties).

The Underwriters may cure or amend any of the above mentioned resolutory conditions by written notice to the Issuer.

The parties hereby agree that in the event that any of the resolutory conditions occur, the obligations of the Issuer to reimburse to the Underwriters the expenses agreed to be reimbursed in Clause Tenth in accordance to the terms of such Clause Tenth, as well as the indemnification obligations assumed by the Issuer in accordance with Clause Eleventh, shall continue in effect, except in the event that the resolutory condition was caused by acts that are not imputable to the Issuer.

TENTH. Expenses. With respect to the execution and delivery of this Agreement, and the placement of the Bonds, the Issuer hereby agrees to pay all the expenses and fees, including, without limitation, the publications of the notices of public offer related to the Public Offer, the expenses in connection with obtaining the Approvals, expenses payable to CNBV, BMV or Indeval, as well as the expenses of the officers of the Issuer that will attend meetings with potential investors and any other related expenses, as well as the reasonable and documented attorney's, tax, and accounting fees incurred by the Underwriters.

Such expenses and fees shall be paid by Issuer to the party that is entitled to them, not later than ten (10) business days following the delivery of a written statement that complies with the applicable fiscal provisions.

The obligation assumed by Issuer pursuant to this Clause shall be in force and effect, even that the obligations of the Underwriters are terminated or resolved under the terms of this Agreement.

ELEVENTH. Indemnification. (a) The Issuer hereby agrees to indemnify and hold harmless each Underwriter and the financial institutions that form the same financial group in Mexico, and that the Underwriters may be part of such financial group, whose holding company are *Grupo Financiero Santander, S.A.B. de C.V.*, *Grupo Financiero HSBC, Grupo Financiero Banamex*, *Grupo Financiero BBVA Bancomer*, and any member of the economic group identified as *Banco Bilbao Vizcaya Argentaria, S.A.*, respectively (together, the "Affiliates"), as well as the directors, officers and employees of the Underwriters and their Affiliates, including any person in Mexico that controls the Underwriters or their Affiliates, from and against any claim,

proceeding, judgment or lawsuit against any of them, in connection with the execution and delivery of this Agreement or the performance by the Underwriters of their obligations under this Agreement, or as a result of their acts under this Agreement and the applicable law with respect to the Public Offer, or derived from: (i) any omission or untrue or misleading statement by the Issuer contained in the Prospectus, and (ii) any omission, or untrue or misleading statement by the Issuer that is contained in this Agreement or in any material or document prepared by the Issuer. Consequently, the Issuer hereby agrees to pay and reimburse to the Underwriters, their Affiliates, and their shareholders, directors, officers and employees, as well as any person in Mexico that controls any Underwriter and Affiliates, respectively in the event any of them incurs in expenses (including reasonable and documented attorney's fees and expenses), or suffers a loss in connection with a claim, judicial procedure, lawsuit commenced against the Underwriters, their Affiliates, their shareholders, directors, officers or employees, as well as any person in Mexico that controls any Underwriter and Affiliates, in connection with the acts or facts mentioned herein, or in connection with such omissions or untrue or misleading information, unless such losses or expenses were caused by the fault, bad faith or willful misconduct of the Underwriters, their Affiliates, or their directors, officers, employees, legal representatives or advisers, as well as any person in Mexico that controls any Underwriter and Affiliates, which are determined by a judge or court of competent jurisdiction in a definitive judgment not subject to appeal.

The obligations that each of the Underwriters are assuming pursuant to this Agreement are individual, and not joint obligations, consequently, the non-performance of the obligations by any of the Underwriters shall not imply the non performance of the obligations by the other Underwriters.

The obligation assumed by the parties pursuant to this Clause shall continue to be in force and effect, even if this Agreement is terminated or the obligations of the parties are terminated or resolved under the terms of this Agreement.

TWELFTH. Term of this Agreement. This Agreement shall become effective upon the Date of the Offer, and shall terminate in the date in which all the parties have complied with their obligations under this Agreement, unless the Agreement is resolved in accordance with the terms of Clause Eighth above, or in the event of default of any obligation set forth in this Agreement.

The obligations assumed by the Issuer in accordance with Clause Ninth and Tenth above, shall remain effective, notwithstanding the provisions set forth in the last paragraph, and under the terms set forth in such Clauses.

THIRTEENTH. Notices. All notices and communications that the parties are required under this Agreement must me in writing, sent by certified mail, return receipt requested, fax or by any other mean that assures the receipt by the addressee, addressed to the domiciles set forth below. The notices and communications shall be directed to the following addresses or fax numbers, as the case may be:

CEMEX, S.A.B. de C.V.:
Avenida Ricardo Margain #325
Colonia Valle del Campestre
San Pedro Garza García, N.L. México C.P. 66265
Fax: (81) 8888 – 4432

Casa de Bolsa Santander, S.A. de C.V., Grupo Financiero Santander:
Prol. Paseo de la Reforma No. 500, Módulo 110, Colonia Lomas de Santa Fe,
México, Distrito Federal, 01219
Fax: (55) 5261 – 5162

HSBC Casa de Bolsa, S.A. de C.V., Grupo Financiero HSBC:
Paseo de la Reforma #347, Piso 15
Colonia Cuauhtémoc
México, Distrito Federal, 06500
Fax: (55) 5721 – 3403

Acciones y Valores Banamex, S.A. de C.V. Casa de Bolsa, integrante del Grupo Financiero Banamex:
Actuario Roberto Medellín No.800, Piso 5 Norte,
Colonia Santa Fe,
México, Distrito Federal, 01210, México
Fax: (55) 2226-7651

Casa de Bolsa BBVA Bancomer S.A. de C.V., Grupo Financiero BBVA Bancomer:
Montes Urales 620 piso 2
Col. Lomas de Chapultepec
México, Distrito Federal, C.P. 11000
Fax: (55) 5201 – 2054

FOURTEENTH. Prior Agreements. This Agreement contains the agreement of the parties with respect to the rights and obligations that each of them are obtaining or assumed, as the case may be, with respect to the subject matter of this Agreement, superseding any other agreement or understanding, either oral or written, entered by the parties with respect of such subject matter.

FIFTEENTH. Confidentiality. The parties hereby agree that their officers and employees shall keep confidentiality with respect to the information and documents received by them in connection with the underwriting of Bonds. Under the same terms, the parties hereby agree that their employees, subsidiaries and affiliates shall abstain from disclosing the information delivered to them as confidential.

The foregoing, unless in the event that such information and documentation (i) is or becomes available to the public, other than as a result of a disclosure by the Underwriters or the Issuer or their representatives, officers or employees in breach of this section; (ii) has become available to the Issuer or the Underwriters, on a non-confidential basis from a source that has the right or is authorized to disclose such information; (iii) is available to the Underwriters or the Issuer on a non-confidential basis prior to disclosure under this Agreement, (iv) the parties agree that the information may be disclosed; (v) was prepared by any officer, employee or agent of the Underwriters without reference or use of the confidential information, and (vi) in the event of a request of information issued by competent authorities, and if the information should be included in the Prospectus in accordance with the Mexican Securities Market Law, the Credit Institutions Law and any other applicable legal provision.

SIXTEENTH. Governing Law. This Agreement shall be governed and construed in accordance with the applicable laws of Mexico, Federal District, Mexico.

SEVENTEENTH. Jurisdiction. For the interpretation and enforcement of this Agreement, the parties hereby agree to submit themselves to the jurisdiction of the competent courts sitting in Mexico City, Federal District, Mexico, and hereby waive any other forum that may correspond to them by reason of their current or future domiciles, or by any other reason whatsoever.

The parties are in agreement with the contents of this Agreement, and the parties hereby execute five (5) counterparts, in Mexico City, Federal District, Mexico, as of December 3, 2009.

[SIGNATURE PAGES FOLLOW]

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

/s/ Humberto Javier Moreira Rodríguez
Humberto Javier Moreira Rodríguez
Attorney-in-fact

Casa de Bolsa Santander, S.A. de C.V.,
Grupo Financiero Santander

/s/ Octaviano Carlos Couttolenc Mestre
Octaviano Carlos Couttolenc Mestre
Attorney-in-fact

/s/ Gerardo Manuel Freire Alvarado
Gerardo Manuel Freire Alvarado
Attorney-in-fact

Page Number 20 (only for signatures) of the Underwriting Agreement of Mandatory Convertible Bonds into Ordinary Participation Certificates, Representing Shares of Stock of CEMEX, S.A.B. de C.V., dated as of December 3, 2009.

HSBC Casa de Bolsa, S.A. de C.V.,
Grupo Financiero HSBC

/s/ Fernando Pérez Saldívar
Fernando Pérez Saldívar
Attorney-in-fact

Acciones y Valores Banamex, S.A. de C.V.,
Casa de Bolsa, Integrante del Grupo Financiero Banamex

/s/ Ignacio Gómez-Daza Alarcón
Ignacio Gómez-Daza Alarcón
Attorney-in-fact

Casa de Bolsa BBVA Bancomer, S.A. de C.V.,
Grupo Financiero BBVA Bancomer

/s/ Ruy Halffter Marcet
Ruy Halffter Marcet
Attorney-in-fact

/s/ Gonzalo Manuel Mañón Suárez
Gonzalo Manuel Mañón Suárez
Attorney-in-fact

CERTIFICATION

The undersigned, DAVID A. GONZALEZ VESSI, Official Translator authorized by the Superior Court of the State of Nuevo Leon, further to Approval number 861/2010 issued as of January 25, 2010, HEREBY CERTIFIES THAT:

The preceding document is a true and accurate translation from the Spanish language to the English language of the Underwriting Agreement of Mandatory Convertible Bonds into Ordinary Participation Certificates, Representing Shares of Stock of CEMEX, S.A.B. de C.V., dated as of December 3, 2009. This certification is issued for any and all legal purposes.

Monterrey, N.L., as of March 11, 2010

/s/ DAVID A. GONZALEZ VESSI
DAVID A. GONZALEZ VESSI

Exhibit 4.46
Execution Version

CEMEX Finance LLC

U.S.$1,250,000,000
9.500% SENIOR SECURED NOTES DUE 2016

PURCHASE AGREEMENT

December 9, 2009

Citigroup Global Markets Inc.
Banc of America Securities LLC
Barclays Capital Inc.
J.P. Morgan Securities Inc.
As Representatives of the Initial Purchasers
c/o Citigroup Global Markets Inc.
388 Greenwich Street
New York, New York 10013

Ladies and Gentlemen:

CEMEX Finance LLC, a Delaware limited liability company (the "Issuer"), an indirect subsidiary of CEMEX, S.A.B. de C.V., a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) organized under the laws of Mexico (the "Company"), proposes to issue and sell to the several parties named in Schedule I hereto (the "Initial Purchasers"), for whom you (the "Representatives") are acting as representatives, U.S.$1,250,000,000 principal amount of its 9.500% Senior Secured Notes due 2016 (the "Securities"). The Securities will be unconditionally guaranteed (the "Guarantees") by each of (i) the Company, CEMEX México, S.A. de C.V., Empresas Tolteca de México, S.A. de C.V. and CEMEX Concretos, S.A. de C.V. (collectively, the "Mexican Note Guarantors"), (ii) New Sunward Holding B.V. ("New Sunward"), (iii) CEMEX España, S.A. ("CEMEX España"); and (iv) CEMEX Corp. (the "U.S. Note Guarantor" and together with the Mexican Note Guarantors, CEMEX España and New Sunward, the "Note Guarantors"), and are to be issued under an indenture (the "Indenture"), to be dated as of the Closing Date, among the Issuer, the Note Guarantors and The Bank of New York Mellon, a New York banking corporation, as trustee (the "Trustee"). To the extent there are no additional parties listed on Schedule I other than you, the term Representatives as used herein shall mean you as the Initial Purchasers, and the terms Representatives and Initial Purchasers shall mean either the singular or plural as the context requires. The use of the neuter in this Agreement shall include the feminine and masculine wherever appropriate. Certain terms used herein are defined in Section 25 hereof.

The Securities will be secured in accordance with the terms of the Intercreditor Agreement, by a first-priority security interest in the Collateral, but holding a Security will not grant its holders the right to direct the foreclosure or the right to foreclose on the Collateral.

The sale of the Securities to the Initial Purchasers will be made without registration of the Securities under the Act in reliance upon exemptions from the registration requirements of the Act.

In connection with the sale of the Securities, the Company has prepared a preliminary offering memorandum, dated December 1, 2009 (as amended or supplemented at the date thereof, including any and all exhibits thereto and any information incorporated by reference therein, the "Preliminary Memorandum"), and a final offering memorandum, dated December 9, 2009 (as amended or supplemented at the Execution Time, including any and all exhibits thereto and any information incorporated by reference therein, the "Final Memorandum"). Each of the Preliminary Memorandum and the Final Memorandum sets forth certain information concerning the Company and the Securities. The Company hereby confirms that it has authorized the use of the Disclosure Package, the Preliminary Memorandum and the Final Memorandum, and any amendment or supplement thereto, in connection with the offer and sale of the Securities by the Initial Purchasers. Unless stated to the contrary, any references herein to the terms "amend", "amendment" or "supplement" with respect to the Disclosure Package, the Preliminary Memorandum and the Final Memorandum shall be deemed to refer to and include any information filed under the Exchange Act subsequent to the Execution Time that is incorporated by reference therein.

It is understood that the Issuer is concurrently entering into a purchase agreement (the " Euro Purchase Agreement") with the several initial purchasers thereunder providing for the sale by the Issuer of an aggregate of € 350,000,000 principal amount of its 9.625% Senior Secured Notes due 2017 (the "Euro Denominated Securities"). In connection with the sale of the Euro Denominated Securities, the Company has prepared a preliminary offering memorandum, dated December 7, 2009, and a final offering memorandum, dated December 9, 2009, substantially in the same form as the Preliminary Memorandum and the Final Memorandum, respectively. The Euro Denominated Securities will share in the Collateral and benefit from the same guarantees as the Securities.

1. Representations and Warranties. The Issuer represents and warrants to each Initial Purchaser as set forth below in this Section 1:

(a) The Preliminary Memorandum, at the date thereof, did not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. At the Execution Time and on the Closing Date the Final Memorandum did not and will not (and any amendment or supplement thereto, at the date thereof and at the Closing Date, will not) contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the Issuer makes no representation or warranty as to the information contained in or omitted from the Preliminary Memorandum or the Final Memorandum, or any amendment or supplement thereto, in reliance upon and in conformity with information furnished in writing to the Issuer by or on behalf of the Initial Purchasers through the Representatives specifically for inclusion therein, it being understood and agreed that the only such information furnished by or on behalf of any Initial Purchaser consists of the information described as such in Section 8(b) hereof.

(b) The Disclosure Package, as of the Execution Time, does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The preceding sentence does not apply to statements in or omissions from the Disclosure Package based upon and in conformity with written information furnished to the Issuer by any Initial Purchaser through the Representatives specifically for use therein, it being understood and agreed that the only such information furnished by or on behalf of any Initial Purchaser consists of the information described as such in Section 8(b) hereof.

(c) None of the Issuer, any of the Note Guarantors or any person acting on its or their behalf has, directly or indirectly, made offers or sales of any security, or solicited offers to buy, any security under circumstances that would require the registration of the Securities under the Act.

(d) None of the Issuer, any of the Note Guarantors or any person acting on its or their behalf has: (i) engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with any offer or sale of the Securities or (ii) engaged in any directed selling efforts (within the meaning of Regulation S) with respect to the Securities; and each of the Issuer, the Note Guarantors and each person acting on its or their behalf has complied with the offering restrictions requirement of Regulation S.

(e) The Securities satisfy the eligibility requirements of Rule 144A(d)(3) under the Act.

(f) No registration of the Securities under the Act is required for the offer and sale of the Securities to or by the Initial Purchasers in the manner contemplated herein, in the Disclosure Package and in the Final Memorandum.

(g) Neither the Issuer nor any of the Note Guarantors is, and after giving effect to the offering and sale of the Securities and the application of the proceeds thereof as described in the Disclosure Package and the Final Memorandum, will not be, an “investment company” as defined in the Investment Company Act.

(h) Neither the Issuer nor any of the Note Guarantors has paid or agreed to pay to any person any compensation for soliciting another to purchase any securities of the Issuer or such Note Guarantor (except as contemplated in this Agreement).

(i) Neither the Issuer nor any of the Note Guarantors has taken, directly or indirectly, any action designed to or that has constituted or that might reasonably be expected to cause or result, under the Exchange Act or otherwise, in stabilization or manipulation of the price of any security of the Issuer or such Note Guarantor to facilitate the sale or resale of the Securities.

(j) The Issuer and each of the Note Guarantors have been duly organized and are validly existing and, if applicable, in good standing under the laws of the jurisdiction in which they are chartered or organized with power and authority to own or lease, as the case may be, and to operate their properties and conduct their businesses as described in the Disclosure Package and the Final Memorandum, and, if applicable, are duly qualified to do business as foreign

corporations and are in good standing under the laws of each jurisdiction that requires such qualification or such person is subject to no material liability or disability by reason of the failure to be so qualified.

(k) All the outstanding shares of capital stock or other equity interests of the Company have been duly authorized and validly issued and are fully paid and nonassessable, and, except as otherwise set forth in the Disclosure Package and the Final Memorandum, all outstanding shares of capital stock or other equity interests of the subsidiaries of the Company are owned directly or indirectly by the Company either directly or through wholly-owned and majority-owned subsidiaries, except as set forth in the Disclosure Package and the Final Memorandum, free and clear of any security interest, claim, lien or encumbrance; except for the security interest created under the Transaction Security Documents.

(l) (i) The statements in the Preliminary Memorandum and the Final Memorandum under the headings "Important Federal Tax Considerations" and "Description of Notes"; and (ii) the statements in the Preliminary Memorandum and the Final Memorandum under the heading "Recent Developments — Recent Developments Relating to Our Regulatory Matters and Legal Proceedings", taken together with the statements in the Company's annual report on Form 20-F for the year ended December 31, 2008 under the heading "Regulatory Matters and Legal Proceedings", as updated by the statements in the Company's report on Form 6-K, filed with the Commission on September 21, 2009 under the heading "Recent developments relating to our regulatory matters and legal proceedings", in each case incorporated by reference therein; insofar as they purport to describe the provisions of the laws and documents referred to therein, fairly summarize the matters therein described in all material respects.

(m) This Agreement has been duly authorized, executed and delivered by the Issuer and each of the Note Guarantors; the Indenture, including the Guarantees provided for therein by each of the Note Guarantors, has been duly authorized by the Issuer and each of the Note Guarantors and, assuming due authorization, execution and delivery thereof by the Trustee, when executed and delivered by the Issuer and each of the Note Guarantors, will constitute a legal, valid, binding instrument enforceable against the Issuer and each of the Note Guarantors in accordance with its terms (subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity); and the Securities have been duly authorized, and, when executed, authenticated and issued in accordance with the provisions of the Indenture and delivered to and paid for by the Initial Purchasers, will have been duly executed and delivered by the Issuer and will constitute the legal, valid and binding obligations of the Issuer entitled to the benefits of the Indenture (subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity).

(n) As of the Closing Date, the Securities are duly secured by a first-priority security interest in the Collateral on an equal and ratable basis with (i) the indebtedness under the Financing Agreement, (ii) the Euro Denominated Notes: and (iii) the notes (or similar instruments, including *certificados bursátiles*) outstanding on the date of the Financing Agreement which are not subject to the Financing Agreement but are required to be secured pursuant to their terms, but holding a Security will not grant its holders the right to direct the foreclosure or the right to foreclose on the Collateral.

(o) The shares that constitute the Collateral are fully paid and non assessable and not subject to any option to purchase or similar rights and are free and clear of any lien, pledge, security interest or encumbrance, except for the security interest created under the Transaction Security Documents. The constitutional documents of the companies whose shares are subject to the Collateral do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Collateral. There are no agreements in force which provide for the issue or allotment of, any share or loan capital of the Company or any of its subsidiaries (including any option or right of pre-emption or conversion) other than pre-emptive rights (i) arising under applicable law in favor of shareholders generally; and (ii) arising under any obligation in respect of any stock option plan, restricted stock plan or retirement plan which the Company or any of its subsidiaries customarily provides to its employees, consultants and directors.

(p) Under the Transaction Security Documents, the Collateral is granted over all the issued share capital in each of the Company and its subsidiaries whose shares are subject to the Collateral except:

(i) in the case of CEMEX España:

(A) 0.3602% of the issued share capital, comprised of shares owned by subsidiaries of CEMEX España; and

(B) 0.1716% of the issues share capital, comprised of shares owned by persons that are not subsidiaries or affiliates of the Company;

(ii) in the case of CEMEX Trademarks Holding Ltd., 0.4326% of the issues share capital, comprised of shares owned by CEMEX Inc.;

(iii) in the case of each Mexican company whose shares are the subject to the Collateral (except in the case of CEMEX México, S.A. de C.V.), the single share held by a minority shareholder that is either the Company or any of its subsidiaries;

(iv) in the case of CEMEX México, S.A. de C.V., 0.1245% of the issued share capital, comprised of shares owned by CEMEX, Inc.;

(v) in the case of CEMEX Concretos, S.A. de C.V., 0.0357% of the issued share capital, comprised of shares owned by CEMEX, Inc. and 0.0131% of the issued share capital comprised of shares owned by third parties.

(q) No consent, approval, authorization, filing with or order of any court or governmental agency or body is required in connection with the transactions contemplated herein or in the Indenture, except (i) such as may be required under the blue sky laws or other state securities laws of any jurisdiction in which the Securities are offered and sold and, (ii) for the approval of the Securities for listing on the Luxembourg Stock Exchange.

(r) None of the execution and delivery of this Agreement, the Indenture, the issuance and sale of the Securities, the Financing Agreement, and the Transaction Security Documents or the consummation of any other of the transactions herein or therein contemplated, or the fulfillment of the terms hereof or thereof will conflict with, or result in a breach or violation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries (other than the Collateral), pursuant to (i) the organizational documents of the Company or any of its subsidiaries; (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which the Company or any of its subsidiaries is a party or bound or to which its or their property is subject (including the Financing Agreement and the Transaction Security Documents); or (iii) any statute, law, rule, regulation, judgment, order or decree of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company's or any of its subsidiaries' properties, which conflict, breach, violation or imposition would, in the case of clauses (ii) and (iii) above, either individually or in the aggregate with all other conflicts, breaches, violations and impositions referred to in this paragraph (r) (if any), have (x) a Material Adverse Effect (as defined below) or (y) a material adverse effect upon the transactions contemplated herein or any Initial Purchaser.

(s) The consolidated historical financial statements and schedules of the Company and its consolidated subsidiaries included or incorporated by reference in the Disclosure Package and the Final Memorandum present fairly in all material respects the financial condition, results of operations and cash flows of the Company and its consolidated subsidiaries as of the dates and for the periods indicated and have been prepared in conformity with Mexican FRS applied on a consistent basis throughout the periods involved (except as otherwise noted therein); the selected financial data set forth under the caption "Selected Financial Information" in the Preliminary Memorandum and the Final Memorandum fairly present, on the basis stated in the Preliminary Memorandum and the Final Memorandum, the information included therein.

(t) No action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries or their respective property is pending or, to the best knowledge of the Issuer, threatened that (i) could reasonably be expected to have a material adverse effect on the performance of this Agreement, the Indenture, the Financing Agreement and the Transaction Security Documents or the consummation of any of the transactions contemplated hereby or thereby or (ii) could reasonably be expected to have a material adverse effect on the condition (financial or otherwise), prospects, earnings, business or properties of the Company and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business (a "Material Adverse Effect"), except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(u) Each of the Company and its subsidiaries owns or leases all such properties as are necessary to the conduct of its operations as presently conducted except (i) for such properties the loss of which would not reasonably be expected to result in a Material Adverse Effect and (ii) as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement).

(v) Neither the Company nor any of its subsidiaries is in violation or default of (i) any provision of its organizational documents; (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which it is a party or bound or to which its property is subject (including the Financing Agreement and the Transaction Security Documents); or (iii) any statute, law, rule, regulation, judgment, order or decree applicable to the Company or any of its subsidiaries of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company or any of its subsidiaries or any of their respective properties, as applicable, except for such violations or defaults which, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(w) KPMG Cárdenas Dosal, S.C., which has certified certain financial statements of the Company and its consolidated subsidiaries and delivered its report with respect to the audited consolidated financial statements and schedules included or incorporated by reference in the Disclosure Package and the Final Memorandum, are independent auditors with respect to the Company in accordance with local accounting rules, which are substantially the same as those contemplated by Rule 10A of the Code of Professional Conduct of the American Institute of Certified Public Accountants.

(x) There are no stamp or other issuance or transfer taxes or duties or other similar fees or charges required to be paid in connection with the execution and delivery of this Agreement or the issuance or sale by the Issuer of the Securities.

(y) The Company and each of its subsidiaries have filed all applicable tax returns that are required to be filed by them or have requested extensions of the period applicable for the filing of such returns (except in any case in which the failure so to file would not have a Material Adverse Effect and except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto)) and have paid all taxes required to be paid by them and any other assessment, fine or penalty levied against them, to the extent that any of the foregoing is due and payable, except for any such tax, assessment, fine or penalty that is currently being contested in good faith or as would not have a Material Adverse Effect and except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(z) No labor problem or dispute with the employees of the Company or any of its subsidiaries exists or is threatened or imminent, and the Issuer is not aware of any existing or imminent labor disturbance by the employees of any of its subsidiaries' principal suppliers, contractors or customers, except as would not have a Material Adverse Effect and except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(aa) No subsidiary of the Company is currently prohibited, directly or indirectly, from paying any dividends to the Company, from making any other distribution on such subsidiary's capital stock or ownership interest, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such subsidiary's property or assets to the Company or any other subsidiary of the Company, except as described in or contemplated in the Disclosure Package or the Final Memorandum (in each case, exclusive of any amendment or supplement thereto).

(bb) The Company and each of its subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged; all policies of insurance and fidelity or surety bonds insuring the Company or any of its subsidiaries or any of their respective businesses, assets, employees, officers and directors are in full force and effect; the Company and its subsidiaries are in compliance in all material respects with the terms of such policies and instruments; there are no material claims by the Company or any of its subsidiaries under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause; neither the Company nor any of its subsidiaries has been refused any material insurance coverage sought or applied for; and neither the Company nor any of its subsidiaries has reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(cc) The Company and each of its subsidiaries possess all licenses, certificates, permits and other authorizations issued by all applicable authorities necessary to conduct their respective businesses, except to the extent that the failure to have such license, certificate, permit or authorization would not reasonably be expected to have a Material Adverse Effect and except, as described in or contemplated in the Disclosure Package or the Final Memorandum (exclusive of any amendment or supplement thereto), and neither the Company nor any of its subsidiaries have received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a Material Adverse Effect, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(dd) The Company and each of its subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with Mexican FRS and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. The Company's and each of its subsidiaries' internal controls over financial reporting are effective, and neither the Company nor any of its subsidiaries is aware of any material weakness in its internal control over financial reporting. The Company and each of its subsidiaries maintains "disclosure controls and procedures" (as such term is defined in Rule 13a-15(e) under the Exchange Act) and such disclosure controls and procedures are effective.

(ee) Each of the Company and its subsidiaries (i) is in compliance with any and all applicable laws and regulations relating to the protection of human health and safety, the

environment or hazardous or toxic substances or wastes, pollutants or contaminants ("Environmental Laws"); (ii) has received and is in compliance with all permits, licenses or other approvals required under applicable Environmental Laws to conduct its businesses; and (iii) has not received notice of any actual or potential liability under any Environmental Law, except where such non-compliance with Environmental Laws, failure to receive required permits, licenses or other approvals, or liability would not, individually or in the aggregate, have a Material Adverse Effect, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto). Except as set forth in the Disclosure Package and the Final Memorandum, neither the Company nor any of its subsidiaries has been named as a "potentially responsible party" under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

(ff) In the ordinary course of its business, the Company periodically reviews the effect of Environmental Laws on the business, operations and properties of the Company and its subsidiaries, in the course of which it identifies and evaluates associated costs and liabilities (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws, or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties); on the basis of such review, the Company has reasonably concluded that such associated costs and liabilities would not, singly or in the aggregate, have a Material Adverse Effect, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(gg) The operations of the Company and each of its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements and the money laundering statutes and the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

(hh) None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee or Affiliate of the Company or any of its subsidiaries is currently subject to any sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC"); and the Issuer will not directly or indirectly use the proceeds of the offering of the Securities hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC. There is and has been no failure on the part of the Company and or of the Company's directors or officers, in their capacities as such, to comply with any provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the "Sarbanes-Oxley Act"), including Section 402 relating to loans and Sections 302 and 906 relating to certifications.

(ii) None of the Company, any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or Affiliate of the Company is aware of or has

taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "FCPA"), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA; and the Company, its subsidiaries and, to the knowledge of the Company, its Affiliates have conducted their respective businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(jj) Any certificate signed by any officer of the Company or any of its subsidiaries and delivered to the Representatives or counsel for the Initial Purchasers in connection with the offering of the Securities shall be deemed a representation and warranty by the Issuer, as to matters covered thereby, to each Initial Purchaser.

2. Purchase and Sale. Subject to the terms and conditions and in reliance upon the representations and warranties herein set forth, the Issuer agrees to sell to each Initial Purchaser, and each Initial Purchaser agrees, severally and not jointly, to purchase from the Issuer, at a purchase price of 99.1530% of the principal amount thereof, plus accrued interest, if any, from December 14, 2009 to the Closing Date, the principal amount of Securities set forth opposite such Initial Purchaser's name in Schedule I hereto. The Initial Purchasers may acquire the Securities through any of their Affiliates.

3. Delivery and Payment. Delivery of and payment for the Securities shall be made at 10:00 A.M., New York City time, on December 14, 2009, or at such time on such later date not more than three Business Days after the foregoing date as the Representatives shall designate, which date and time may be postponed by agreement between the Representatives and the Issuer or as provided in Section 9 hereof (such date and time of delivery and payment for the Securities being herein called the "Closing Date"). Delivery of the Securities shall be made to the Representatives for the respective accounts of the several Initial Purchasers against payment by the several Initial Purchasers through the Representatives of the purchase price thereof to or upon the order of the Company by wire transfer payable in same-day funds to the account specified by the Company. Delivery of the Securities shall be made through the facilities of The Depository Trust Company and any other relevant clearing system unless the Representatives shall otherwise instruct.

4. Offering by Initial Purchasers. (a) Each Initial Purchaser acknowledges that the Securities have not been and will not be registered under the Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Act.

(b) Each Initial Purchaser, severally and not jointly, represents and warrants to and agrees with the Issuer that:

(i) it has not offered or sold, and will not offer or sell, any Securities within the United States or to, or for the account or benefit of, U.S. persons (x) as part of their distribution at any time or (y) otherwise until 40 days after the later of the commencement of the offering and the date of the closing of the offering except:

(A) to those it reasonably believes to be "qualified institutional buyers" (as defined in Rule 144A under the Act) or

(B) in accordance with Rule 903 of Regulation S;

(ii) neither it nor any person acting on its behalf has made or will make offers or sales of the Securities in the United States by means of any form of general solicitation or general advertising (within the meaning of Regulation D);

(iii) in connection with each sale pursuant to Section 4(b)(i)(A), it has taken or will take reasonable steps to ensure that the purchaser of such Securities is aware that such sale may be made in reliance on Rule 144A;

(iv) neither it, nor any of its Affiliates nor any person acting on its or their behalf has engaged or will engage in any directed selling efforts (within the meaning of Regulation S) with respect to the Securities;

(v) it is an "accredited investor" (as defined in Rule 501(a) of Regulation D);

(vi) it has complied and will comply with the offering restrictions requirement of Regulation S;

(vii) at or prior to the confirmation of sale of Securities (other than a sale of Securities pursuant to Section 4(b)(i)(A) of this Agreement), it shall have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Securities from it during the distribution compliance period (within the meaning of Regulation S) a confirmation or notice to substantially the following effect:

> "The Securities covered hereby have not been registered under the U.S. Securities Act of 1933 (the "Act") and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons (i) as part of their distribution at any time or (ii) otherwise until 40 days after the later of the commencement of the offering and the date of closing of the offering, except in either case in accordance with Regulation S or Rule 144A under the Act. Terms used in this paragraph have the meanings given to them by Regulation S.";

(viii) it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial

Services and Markets Act 2000 (the "FSMA")) received by it in connection with the issue or sale of any Securities, in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer;

(ix) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Securities in, from or otherwise involving the United Kingdom; and

(x) in relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a "Relevant Member State"), it has not made and will not make an offer to the public of any Securities which are the subject of the offering contemplated by this Agreement in that Relevant Member State, except that it may make an offer to the public in that Relevant Member State of any Securities at any time under the following exemptions under the Prospectus Directive, if they have been implemented in that Relevant Member State:

(A) to legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;

(B) to any legal entity which has two or more of (i) an average of at least 250 employees during the last financial year, (ii) a total balance sheet of more than €43,000,000 and (iii) an annual turnover of more than €50,000,000, as shown in its last annual or consolidated accounts;

(C) to fewer than 100 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior written consent of the Representatives for any such offer; or

(D) in any other circumstances falling within Article 3(2) of the Prospectus Directive;

provided that no such offer of Securities shall result in a requirement for the publication by the Issuer or any Initial Purchaser of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an "offer to the public" in relation to any Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Securities to be offered so as to enable an investor to decide to purchase any Securities, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression "Prospectus Directive" means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

5. Agreements. The Issuer and the Note Guarantors agree, jointly and severally, in each case with each Initial Purchaser that:

(a) The Company will furnish to each Initial Purchaser and to counsel for the Initial Purchasers, without charge, during the Distribution Period (as defined in Section 5(c) below), as many copies of the materials contained in the Disclosure Package and the Final Memorandum and any amendments and supplements thereto as they may reasonably request.

(b) The Company will prepare a final term sheet, containing solely a description of final terms of the Securities and the offering thereof, in the form approved by you attached as Schedule II hereto.

(c) The Company will not amend or supplement the Disclosure Package or the Final Memorandum other than by filing documents under the Exchange Act that are incorporated by reference therein, without the prior written consent of the Representatives, which consent, following the Closing Date, may not be unreasonably withheld; provided, however, that prior to the earlier of (i) the completion of the distribution of the Securities by the Initial Purchasers (as determined by the Representatives and communicated to the Company) and (ii) twelve (12) months after the date of the Final Memorandum (the "Distribution Period"), the Company will not file any document under the Exchange Act that is incorporated by reference in the Disclosure Package or the Final Memorandum unless, prior to such proposed filing, the Company has furnished the Representatives with a copy of such document for their review and the Representatives have not reasonably objected to the filing of such document. The Issuer will promptly advise the Representatives when any document filed under the Exchange Act that is incorporated by reference in the Disclosure Package or the Final Memorandum shall have been filed with the Commission.

(d) If at any time during the Distribution Period, any event occurs as a result of which the Disclosure Package or the Final Memorandum, as then amended or supplemented, would include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made or the circumstances then prevailing, not misleading, or if it should be necessary to amend or supplement the Disclosure Package or the Final Memorandum to comply with applicable law, the Company will promptly (i) notify the Representatives of any such event; (ii) subject to the requirements of Section 5(c), prepare an amendment or supplement that will correct such statement or omission or effect such compliance; and (iii) supply any supplemented or amended Disclosure Package or Final Memorandum to the several Initial Purchasers and counsel for the Initial Purchasers without charge in such quantities as they may reasonably request.

(e) Without the prior written consent of the Representatives, the Issuer and each of the Note Guarantors will not give to any prospective purchaser of the Securities any written information concerning the offering of the Securities other than materials contained in the Disclosure Package, the Final Memorandum or any other offering materials prepared by or with the prior written consent of the Representatives. For the avoidance of doubt, the foregoing shall not apply to any written information or other offering materials in connection with the offering of the Euro Denominated Securities.

(f) The Issuer will arrange, if necessary, for the qualification of the Securities for sale by the Initial Purchasers under the laws of such jurisdictions as the Representatives may designate (including Japan and certain provinces of Canada) and will maintain such qualifications in effect so long as required for the sale of the Securities; provided that in no event shall the Issuer be obligated to qualify to do business in any jurisdiction where it is not now so qualified or to take any action that would subject it to service of process in suits, other than those arising out of the offering or sale of the Securities, in any jurisdiction where it is not now so subject. The Issuer will promptly advise the Representatives of the receipt by the Issuer of any notification with respect to the suspension of the qualification of the Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose.

(g) The Issuer will not, and will not permit any of its Affiliates to, resell any Securities that have been acquired by any of them, except for Securities resold after the "40-day distribution compliance period" within the meaning of Rule 903 of Regulation S, (i) in a transaction registered under the Securities Act or (ii) in a transaction exempt from the registration requirements under the Securities Act if such transaction does not cause the holding periods under Rule 144 under the Securities Act to be extended for other holders of Securities.

(h) None of the Issuer, its Affiliates, or any person acting on its or their behalf will, directly or indirectly, make offers or sales of any security, or solicit offers to buy any security, under circumstances that would require the registration of the Securities under the Act.

(i) None of the Issuer, its Affiliates, or any person acting on its or their behalf will engage in any directed selling efforts (within the meaning of Regulation S) with respect to the Securities; and each of them will comply with the offering restrictions requirement of Regulation S.

(j) None of the Issuer, its Affiliates, or any person acting on its or their behalf will engage in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with any offer or sale of the Securities in the United States.

(k) For so long as any of the Securities are outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the Act, the Company, during any period in which it is not subject to and in compliance with Section 13 or 15(d) of the Exchange Act or it is not exempt from such reporting requirements pursuant to and in compliance with Rule 12g3-2(b) under the Exchange Act, will provide to each holder of such restricted securities and to each prospective purchaser (as designated by such holder) of such restricted securities, upon the request of such holder or prospective purchaser, any information required to be provided by Rule 144A(d)(4) under the Act. This covenant is intended to be for the benefit of the holders, and the prospective purchasers designated by such holders, from time to time of such restricted securities.

(l) The Issuer will cooperate with the Representatives and use its best efforts to permit the Securities to be eligible for clearance and settlement through The Depositary Trust Company ("DTC"), Euroclear Bank S.A./N.V. ("Euroclear") and Clearstream Banking, S.A. ("Clearstream"), as applicable, and any other relevant clearing system.

(m) Each of the Securities will bear, to the extent applicable, the legend contained in "Transfer Restrictions" in the Preliminary Memorandum and the Final Offering Memorandum for the time period and upon the other terms stated therein.

(n) Neither the Issuer nor any of the Note Guarantors will, for a period of 90 days following the Execution Time, without the prior written consent of the Representatives, which consent shall not be unreasonably withheld, offer, sell, contract to sell, pledge or otherwise dispose of or enter into any transaction which is designed to, or might reasonably be expected to, result in the disposition (whether by actual disposition or effective economic disposition due to cash settlement or otherwise) by the Issuer or any of the Note Guarantors or any person in privity with the Issuer or any of the Note Guarantors, directly or indirectly, or announce the offering of, any debt securities in the international capital markets that are issued or guaranteed by the Issuer or any of the Note Guarantors (other than the Securities and the Euro Denominated Securities). For the avoidance of doubt, the foregoing will not restrict the ability of the Issuer or any of the Note Guarantors to offer, sell, contract to sell, pledge or otherwise dispose of or announce the offering of *certificados bursátiles* and the Convertible Securities (as defined in the Preliminary Memorandum and the Final Memorandum) in the local Mexican market and to enter into securitization transactions.

(o) The Company will not take, directly or indirectly, any action designed to, or that has constituted or that might reasonably be expected to, cause or result, under the Exchange Act or otherwise, in stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities.

(p) The Company will, for a period of twelve months following the Execution Time, furnish to the Representatives (i) all reports or other communications (financial or other) generally made available to its shareholders, and deliver such reports and communications to the Representatives as soon as they are available, unless such documents are furnished to or filed with the Commission or any securities exchange on which any class of securities of the Company is listed and generally made available to the public and (ii) such additional information concerning the business and financial condition of the Company as the Representatives may from time to time reasonably request (such statements to be on a consolidated basis to the extent the accounts of the Company and its subsidiaries are consolidated in reports furnished to its shareholders).

(q) The Company will comply with all applicable securities and other laws, rules and regulations, including, without limitation, the Sarbanes-Oxley Act, and use its best efforts to cause the Company's directors and officers, in their capacities as such, to comply with such laws, rules and regulations, including, without limitation, the provisions of the Sarbanes-Oxley Act.

(r) The Issuer and the Note Guarantors agree, jointly and severally, to pay the costs and expenses relating to the following matters: (i) the preparation of the Indenture and the issuance of the Securities and the fees of the Trustee; (ii) the preparation, printing or reproduction of the materials contained in the Disclosure Package and the Final Memorandum and each amendment or supplement to either of them; (iii) the printing (or reproduction) and delivery (including postage, air freight charges and charges for counting and packaging) of such copies of the materials contained in the Disclosure Package and the Final Memorandum, and all

amendments or supplements to either of them, as may, in each case, be reasonably requested for use in connection with the offering and sale of the Securities; (iv) the issuance and delivery of the Securities; (v) any stamp or transfer taxes in connection with the original issuance and sale of the Securities; (vi) the printing (or reproduction) and delivery of this Agreement, any blue sky memorandum and all other agreements or documents printed (or reproduced) and delivered in connection with the offering of the Securities; (vii) any registration or qualification of the Securities for offer and sale under the securities or blue sky laws of the several states, Japan, the provinces of Canada and any other jurisdictions specified pursuant to Section 5(e) (including filing fees and the reasonable fees and expenses of counsel for the Initial Purchasers relating to such registration and qualification); (viii) the transportation and other expenses incurred by or on behalf of the Company representatives in connection with presentations to prospective purchasers of the Securities; (ix) the fees and expenses of the Company's accountants and the fees and expenses of counsel (including local and special counsel) for the Company; (x) fees and expenses incurred in connection with listing the Securities on the Luxembourg Stock Exchange; (xi) the fees and expenses incurred in connection with the rating of the Securities by Standard & Poor's and Fitch Ratings; and (xii) all other costs and expenses incident to the performance by the Issuer of its obligations hereunder.

(s) The Issuer and the Note Guarantors agree, jointly and severally, to reimburse the Representatives, on behalf of the Initial Purchasers, for all their reasonable expenses incurred in connection with the sale of the Securities provided for herein (including, without limitation, reasonable fees, disbursements and expenses of legal advisors for the Initial Purchasers). The reimbursement obligations of the Company in respect of the legal advisors for the Initial Purchasers pursuant to Sections 5(s) and 7 hereof and pursuant to Sections 5(s) and 7 of the Euro Purchase Agreement will be limited to U.S.$600,000 (excluding reimbursements in respect of disbursements and expenses of such legal advisors).

(t) The Issuer will apply the aggregate net proceeds from the offering of the Securities in the manner specified in the Final Memorandum under the heading "Use of Proceeds".

6. Conditions to the Obligations of the Initial Purchasers. The obligations of the Initial Purchasers to purchase the Securities shall be subject to the accuracy of the representations and warranties of the Issuer contained herein at the Execution Time and the Closing Date, to the accuracy of the statements of the Issuer made in any certificates pursuant to the provisions hereof, to the performance by the Issuer of its obligations hereunder and to the following additional conditions:

(a) The Issuer shall have requested and caused Skadden, Arps, Slate, Meagher & Flom LLP, special U.S. counsel for the Company, to furnish to the Representatives its opinion, tax opinion and negative assurance letter, each dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule III attached hereto.

(b) The Issuer shall have requested and caused Mr. Ramiro G. Villarreal, General Counsel for the Company, to furnish to the Representatives his opinion, subject to certain applicable exceptions, qualifications and conditions acceptable to the Representatives, dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule IV attached hereto.

(c) The Issuer shall have requested and caused Clifford Chance SL, special Spanish counsel to the Company, to furnish to the Representatives its opinion, subject to certain applicable exceptions, qualifications and conditions acceptable to the Representatives, dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule V attached hereto.

(d) The Issuer shall have requested and caused Warendorf, special Dutch counsel to the Company, to furnish to the Representatives its opinion, subject to certain applicable exceptions, qualifications and conditions acceptable to the Representatives, dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule VI attached hereto.

(e) The Issuer shall have requested and caused GHR Rechtsanwälte AG, special Swiss counsel to the Company, to furnish to the Representatives its opinion, subject to certain applicable exceptions, qualifications and conditions acceptable to the Representatives, dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule VII attached hereto.

(f) The Representatives shall have received from Cleary Gottlieb Steen & Hamilton LLP and Ritch Mueller, S.C., counsel for the Initial Purchasers, such opinion or opinions, dated the Closing Date and addressed to the Representatives, with respect to the issuance and sale of the Securities, the Indenture, the Disclosure Package, the Final Memorandum (as amended or supplemented at the Closing Date) and other related matters as the Representatives may reasonably require, and the Company shall have furnished to such counsel such documents as they request for the purpose of enabling them to pass upon such matters.

(g) The Company shall have furnished to the Representatives a certificate, signed by an executive officer of the Company, dated as of the Closing Date, substantially in the form of Schedule VIII attached hereto.

(h) At the Execution Time and at the Closing Date, the Company shall have requested and caused KPMG Cárdenas Dosal, S.C. to furnish to the Representatives, letters, dated respectively as of the Execution Time and as of the Closing Date, in form and substance satisfactory to the Representatives and confirming that they are independent auditors within the meaning of the Exchange Act and the applicable published rules and regulations thereunder substantially in the form of Schedule IX attached hereto.

(i) Any and all applicable amendments, supplements or modifications to the Financing Agreement, any of the Transaction Security Documents, the Intercreditor Agreement and any other documents derived therefrom and in connection therewith, as applicable, shall have been made and shall constitute legal, valid and binding obligations to each party thereof.

(j) The Trustee shall be entitled to all rights and benefits provided in the Intercreditor Agreement as an Additional Notes Trustee (as such term is defined in the Intercreditor Agreement) and the Initial Purchasers, and/or each of the subsequent holders of the Securities, shall be entitled to all rights and benefits provided therein as Additional Notes Creditors (as such term is defined in the Intercreditor Agreement).

(k) Subsequent to the Execution Time or, if earlier, the dates as of which information is given in the Disclosure Package (exclusive of any amendment or supplement thereto) and the Final Memorandum (exclusive of any amendment or supplement thereto), there shall not have been (i) any change, increase or decrease specified in the letter or letters referred to in paragraph (h) of this Section 6; or (ii) any change, or any development involving a prospective change, in or affecting the condition (financial or otherwise), prospects, earnings, business or properties of the Company and its subsidiaries taken as a whole, whether or not arising from transactions in the ordinary course of business, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto), the effect of which, in any case referred to in clause (i) or (ii) above, is, in the sole judgment of the Representatives, so material and adverse as to make it impractical or inadvisable to proceed with the offering or delivery of the Securities as contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(l) The Securities shall be eligible for clearance and settlement through DTC, Euroclear and Clearstream, as applicable, and any other relevant clearing system.

(m) Subsequent to the Execution Time, there shall not have been any decrease in the rating of any of the Company's or any of its subsidiaries' debt securities by Standard & Poor's and Fitch Ratings or any notice given of any intended or potential decrease in any such rating. For the avoidance of doubt, any reiteration or reissuance of the outlook of a rating agency that was in place at the Execution Time shall not be considered a notice of an intended or potential decrease in a rating.

(n) Prior to the Closing Date, the Company shall have furnished to the Representatives such further information, certificates and documents as the Representatives may reasonably request.

If any of the conditions specified in this Section 6 shall not have been fulfilled when and as provided in this Agreement, or if any of the opinions and certificates mentioned above or elsewhere in this Agreement shall not be reasonably satisfactory in form and substance to the Representatives and counsel for the Initial Purchasers, this Agreement and all obligations of the Initial Purchasers hereunder may be cancelled at, or at any time prior to, the Closing Date by the Representatives. Notice of such cancellation shall be given to the Issuer in writing or by telephone or facsimile confirmed in writing.

The documents required to be delivered under this Section 6 will be delivered at the office of counsel for the Initial Purchasers, at Cleary Gottlieb Steen & Hamilton LLP, One Liberty Plaza, New York, New York, 10006, Attention: Duane McLaughlin, Esq., on the Closing Date.

7. Reimbursement of Expenses. If the sale of the Securities provided for herein is not consummated because any condition to the obligations of the Initial Purchasers set forth in

Section 6 hereof is not satisfied, because of any termination pursuant to Section 10 hereof or because of any refusal, inability or failure on the part of the Company to perform any agreement herein or comply with any provision hereof other than by reason of a default by any of the Initial Purchasers, the Issuer will reimburse the Initial Purchasers severally through Citigroup on demand for all expenses (including reasonable fees and disbursements of counsel) that shall have been incurred by them in connection with the proposed purchase and sale of the Securities.

8. Indemnification and Contribution. (a) The Issuer and the Note Guarantors, jointly and severally, agree to indemnify and hold harmless each Initial Purchaser, the directors, officers, employees, Affiliates and agents of each Initial Purchaser and each person who controls any Initial Purchaser within the meaning of either the Act or the Exchange Act against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Act, the Exchange Act or other U.S. federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, damages or liabilities or actions in respect thereof arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Preliminary Memorandum, the Final Memorandum, any Issuer Written Information or any other written information used by or on behalf of the Company in connection with the offer or sale of the Securities, or in any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and agrees to reimburse each such indemnified party, as incurred, for any legal or other expenses reasonably incurred by it in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that neither the Issuer nor any of the Note Guarantors will be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made in the Preliminary Memorandum or the Final Memorandum, or in any amendment thereof or supplement thereto, in reliance upon and in conformity with written information furnished to the Company by or on behalf of any Initial Purchaser through the Representatives specifically for inclusion therein. This indemnity agreement will be in addition to any liability that the Issuer or any of the Note Guarantors may otherwise have.

(b) Each Initial Purchaser severally, and not jointly, agrees to indemnify and hold harmless the Issuer, each of its directors, each of its officers, and each person who controls the Issuer within the meaning of either the Act or the Exchange Act, to the same extent as the foregoing indemnity to each Initial Purchaser, but only with reference to written information relating to such Initial Purchaser furnished to the Issuer by or on behalf of such Initial Purchaser through the Representatives specifically for inclusion in the Preliminary Memorandum or the Final Memorandum (or in any amendment or supplement thereto). This indemnity agreement will be in addition to any liability that any Initial Purchaser may otherwise have. The Issuer acknowledges that (i) the statements set forth in the last paragraph of the cover page regarding delivery of the Securities and (ii), under the heading “Plan of Distribution”, (A) the table of Initial Purchasers, and (B) the eighth and ninth paragraphs in the Preliminary Memorandum and the Final Memorandum constitute the only information furnished in writing by or on behalf of the Initial Purchasers for inclusion in the Preliminary Memorandum or the Final Memorandum or in any amendment or supplement thereto.

(c) Promptly after receipt by an indemnified party under this Section 8 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 8, notify the indemnifying party in writing of the commencement thereof; but the failure so to notify the indemnifying party (i) will not relieve it from liability under paragraph (a) or (b) above unless and to the extent it did not otherwise learn of such action and such failure results in the forfeiture by the indemnifying party of substantial rights and defenses and (ii) will not, in any event, relieve the indemnifying party from any obligations to any indemnified party other than the indemnification obligation provided in paragraph (a) or (b) above. The indemnifying party shall be entitled to appoint counsel (including local counsel) of the indemnifying party's choice at the indemnifying party's expense to represent the indemnified party in any action for which indemnification is sought (in which case the indemnifying party shall not thereafter be responsible for the fees and expenses of any separate counsel, other than local counsel if not appointed by the indemnifying party, retained by the indemnified party or parties except as set forth below); provided, however, that such counsel shall be satisfactory to the indemnified party. Notwithstanding the indemnifying party's election to appoint counsel (including local counsel) to represent the indemnified party in an action, the indemnified party shall have the right to employ separate counsel (including local counsel), and the indemnifying party shall bear the reasonable fees, costs and expenses of such separate counsel if (i) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with a conflict of interest; (ii) the actual or potential defendants in, or targets of, any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there may be legal defenses available to it that are different from or additional to those available to the indemnifying party and/or other indemnified parties; (iii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of the institution of such action; or (iv) the indemnifying party shall authorize the indemnified party to employ separate counsel at the expense of the indemnifying party. If none of the conditions in clauses (i) through (iv) in the preceding sentence are satisfied as to any indemnified party, it is understood that the Issuer shall, in connection with any one such action be liable for the reasonable fees and expenses of only one separate firm of attorneys in each jurisdiction (and in addition to any local counsel) at any time (other than reasonable overlapping of engagements) for all such indemnified parties. An indemnifying party will not, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding.

(d) In the event that the indemnity provided in paragraph (a) or (b) of this Section 8 is unavailable to, or insufficient to hold harmless, an indemnified party for any reason, the Issuer and the Initial Purchasers severally agree to contribute to the aggregate losses, claims, damages and liabilities (including legal or other expenses reasonably incurred in connection with investigating or defending any loss, claim, damage, liability or action) (collectively "Losses") to which the Issuer and one or more of the Initial Purchasers may be subject in such proportion as is appropriate to reflect the relative benefits received by the Issuer on the one hand and by the Initial Purchasers on the other from the offering of the Securities; provided, however, that in no

case shall any Initial Purchaser be responsible for any amount in excess of the purchase discount or commission applicable to the Securities purchased by such Initial Purchaser hereunder. If the allocation provided by the immediately preceding sentence is unavailable for any reason, the Issuer and the Initial Purchasers severally shall contribute in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Issuer on the one hand and the Initial Purchasers on the other in connection with the statements or omissions that resulted in such Losses, as well as any other relevant equitable considerations. Benefits received by the Issuer shall be deemed to be equal to the total net proceeds from the offering (before deducting expenses) received by it, and benefits received by the Initial Purchasers shall be deemed to be equal to the total purchase discounts and commissions. Relative fault shall be determined by reference to, among other things, whether any untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information provided by the Issuer on the one hand or the Initial Purchasers on the other, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The Issuer and the Initial Purchasers agree that it would not be just and equitable if contribution were determined by pro rata allocation or any other method of allocation that does not take account of the equitable considerations referred to above. Notwithstanding the provisions of this paragraph (d), no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 8, each person who controls an Initial Purchaser within the meaning of either the Act or the Exchange Act and each director, officer, employee, Affiliate and agent of an Initial Purchaser shall have the same rights to contribution as such Initial Purchaser, and each person who controls the Issuer within the meaning of either the Act or the Exchange Act and each officer and director of the Issuer shall have the same rights to contribution as the Issuer, subject in each case to the applicable terms and conditions of this paragraph (d).

9. Default by an Initial Purchaser. If any one or more Initial Purchasers shall fail to purchase and pay for any of the Securities agreed to be purchased by such Initial Purchaser hereunder and such failure to purchase shall constitute a default in the performance of its or their obligations under this Agreement, the remaining Initial Purchasers shall be obligated severally to take up and pay for (in the respective proportions which the principal amount of Securities set forth opposite their names in Schedule I hereto bears to the aggregate principal amount of Securities set forth opposite the names of all the remaining Initial Purchasers) the Securities which the defaulting Initial Purchaser or Initial Purchasers agreed but failed to purchase; provided, however, that in the event that the aggregate principal amount of Securities which the defaulting Initial Purchaser or Initial Purchasers agreed but failed to purchase shall exceed 10% of the aggregate principal amount of Securities set forth in Schedule I hereto, the remaining Initial Purchasers shall have the right to purchase all, but shall not be under any obligation to purchase any, of the Securities, and if such non-defaulting Initial Purchasers do not purchase all the Securities, this Agreement will terminate without liability to any non-defaulting Initial Purchaser or the Issuer. In the event of a default by any Initial Purchaser as set forth in this Section 9, the Closing Date shall be postponed for such period, not exceeding five Business Days, as the Representatives and the Issuer shall determine in order that the required changes in the Final Memorandum or in any other documents or arrangements may be effected. Nothing contained in this Agreement shall relieve any defaulting Initial Purchaser of its liability, if any, to the Issuer or any non-defaulting Initial Purchaser for damages occasioned by its default hereunder.

10. Termination. This Agreement shall be subject to termination in the absolute discretion of the Representatives, by notice given to the Issuer prior to delivery of and payment for the Securities, if at any time prior to such time (i) trading in securities generally on the Mexican Stock Exchange (*Bolsa Mexicana de Valores, S.A.B. de C.V.*) or the New York Stock Exchange shall have been suspended or limited or minimum prices shall have been established on either such exchange; (ii) a banking moratorium shall have been declared either by Mexican, U.S. federal or New York State authorities; or (iii) there shall have occurred any outbreak or escalation of hostilities, declaration by Mexico or the United States of a national emergency or war or other calamity or crisis the effect of which on financial markets is such as to make it, in the sole judgment of the Representatives, impractical or inadvisable to proceed with the offering or delivery of the Securities as contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

11. Representations and Indemnities to Survive . The respective agreements, representations, warranties, indemnities and other statements of the Issuer or its officers and of the Initial Purchasers set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation made by or on behalf of the Initial Purchasers or the Issuer or any of the indemnified persons referred to in Section 8 hereof, and will survive delivery of and payment for the Securities. The provisions of Sections 7 and 8 hereof shall survive the termination or cancellation of this Agreement.

12. Notices. All communications hereunder will be in writing and effective only on receipt, and, if sent to the Representatives, will be mailed, delivered or telefaxed to the Citigroup General Counsel (fax no.: (212) 816-7912) and confirmed to Citigroup at 388 Greenwich Street, New York, New York 10013, Attention: General Counsel; or, if sent to the Issuer, will be mailed, delivered or telefaxed to +5281-8888-4399 and confirmed to it at CEMEX, S.A.B. de C.V., Av. Ricardo Margáin, Zozaya #325, Colonia Valle del Campestre, Garza García, Nuevo León, México 66265. Attention: Legal Department.

13. Successors. This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and the indemnified persons referred to in Section 8 hereof and their respective successors, and, except as expressly set forth in Section 5(k) hereof, no other person will have any right or obligation hereunder.

14. Jurisdiction. Each of the parties hereto agrees that any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in any State or U.S. federal court in The City of New York and County of New York and in the courts of its own domicile in respect of actions brought against such party as a defendant, and waives any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the jurisdiction of such courts in any suit, action or proceeding and waives the right to any other jurisdiction that it may be entitled to by reason of its present or future , and waives any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the jurisdiction of such courts in any suit, action or proceeding and waives the right to any other jurisdiction that it may

be entitled to by reason of domicile or other reason. Each of the Mexican Note Guarantors, CEMEX España and New Sunward hereby appoints CEMEX NY Corporation, 590 Madison Avenue, 41st Floor, New York, NY 10022, U.S.A., Attention: Legal Counsel; telephone: (212)317-6000, as its authorized agent (the "Authorized Agent") upon whom process may be served in any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated herein that may be instituted in any of such courts. Each of the parties appointing the Authorized Agent as provided herein hereby represents and warrants that the Authorized Agent has accepted such appointment and has agreed to act as said agent for service of process, and the Issuer agrees to take, and have each of the Mexican Note Guarantors, CEMEX España and New Sunward take, any and all action, including the execution and filing of any and all documents that may be necessary to continue such appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent shall be deemed, in every respect, effective service of process upon each of the Mexican Note Guarantors, CEMEX España and New Sunward. Notwithstanding the foregoing, any action arising out of or based upon this Agreement may be instituted by any Initial Purchaser, the directors, officers, employees, Affiliates and agents of any Initial Purchaser, or by any person who controls any Initial Purchaser, in any court of competent jurisdiction in Mexico.

15. Integration. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the Initial Purchasers, or any of them, with respect to the subject matter hereof.

16. Applicable Law. This Agreement will be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed within the State of New York.

17. Waiver of Jury Trial. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

18. No Fiduciary Duty. The Issuer hereby acknowledges that (a) the purchase and sale of the Securities pursuant to this Agreement is an arm's-length commercial transaction between the Issuer, on the one hand, and the Initial Purchasers and any Affiliates through which they may be acting, on the other, (b) the Initial Purchasers are acting as principal and not as an agent or fiduciary of the Issuer and (c) the Issuer's engagement of the Initial Purchasers in connection with the offering and the process leading up to the offering is as independent contractors and not in any other capacity. Furthermore, the Issuer agrees that it is solely responsible for making its own judgments in connection with the offering (irrespective of whether any of the Initial Purchasers has advised or is currently advising the Issuer on related or other matters). The Issuer agrees that it will not claim that the Initial Purchasers have rendered advisory services of any nature or respect, or owe an agency, fiduciary or similar duty to the Issuer, in connection with such transaction or the process leading thereto.

19. Currency. Each reference in this Agreement to U.S. dollars (the "relevant currency"), including by use of the symbol "U.S.$", is of the essence. To the fullest extent permitted by law, the obligation of the parties in respect of any amount due under this Agreement will, notwithstanding any payment in any other currency (whether pursuant to a

judgment or otherwise), be discharged only to the extent of the amount in the relevant currency that the party entitled to receive such payment may, in accordance with its normal procedures, purchase with the sum paid in such other currency (after any premium and costs of exchange) on the Business Day immediately following the day on which such party receives such payment. If the amount in the relevant currency that may be so purchased for any reason falls short of the amount originally due, the obligated party will pay such additional amounts, in the relevant currency, as may be necessary to compensate for the shortfall. Any obligation of the obligated party not discharged by such payment will, to the fullest extent permitted by applicable law, be due as a separate and independent obligation and, until discharged as provided herein, will continue in full force and effect.

20. Waiver of Immunity. To the extent that the Issuer or any of the Note Guarantors has or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service or notice, attachment in aid or otherwise) with respect to itself or any of its property, the Issuer and each of the Note Guarantors hereby irrevocably waives and agrees not to plead or claim such immunity in respect of its obligations under this Agreement.

21. Waiver of Tax Confidentiality. Notwithstanding anything herein to the contrary, purchasers of the Securities (and each employee, representative or other agent of a purchaser) may disclose to any and all persons, without limitation of any kind, the U.S. tax treatment and U.S. tax structure of any transaction contemplated herein and all materials of any kind (including opinions or other tax analyses) that are provided to the purchasers of the Securities relating to such U.S. tax treatment and U.S. tax structure, other than any information for which nondisclosure is reasonably necessary in order to comply with applicable securities laws.

22. Taxes. Each payment of fees or other amounts due to the Initial Purchasers under this Agreement shall, except as required by applicable law, be made without withholding or deduction for or on account of any taxes imposed by any jurisdiction. If any taxes are required to be withheld or deducted from any such payment, the Issuer and the Note Guarantors shall, jointly and severally, pay such additional amounts as may be necessary to ensure that the net amount actually received by the Initial Purchasers after such withholding or deduction is equal to the amount that the Initial Purchasers would have received had no such withholding or deduction been required.

23. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

24. Headings. The section headings used herein are for convenience only and shall not affect the construction hereof.

25. Definitions. The terms that follow, when used in this Agreement, shall have the meanings indicated.

"Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Affiliate" shall have the meaning specified in Rule 501(b) of Regulation D.

"Business Day" shall mean any day other than a Saturday, a Sunday or a legal holiday or a day on which banking institutions or trust companies are authorized or obligated by law to close in The City of New York, Mexico City, Madrid or Amsterdam.

"Citigroup" shall mean Citigroup Global Markets Inc.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Collateral" shall mean the security created or expressed to be created in favor of the Security Agent pursuant to the Transaction Security Documents that consists of (i) shares of the following entities: CEMEX México, S.A. de C.V.; Centro Distribuidor de Cemento, S.A. de C.V.; Mexcement Holdings S.A. de C.V.; Corporación Gouda, S.A. de C.V.; New Sunward; CEMEX Trademarks Holding Ltd and CEMEX España; and (ii) all proceeds thereof.

"Commission" shall mean the Securities and Exchange Commission.

"Disclosure Package" shall mean (i) the Preliminary Memorandum, as amended or supplemented at the Execution Time, (ii) the final term sheet prepared pursuant to Section 5(b) hereto and in the form attached as Schedule II hereto, and (iii) any Issuer Written Information.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Execution Time" shall mean the date and time that this Agreement is executed and delivered by the parties hereto.

"Financing Agreement" shall mean the Financing Agreement dated August 14, 2009, as amended, between the Company, the Financial Institutions and Noteholders named therein, as participating creditors, Citibank International PLC, as administrative agent and Wilmington Trust (London) Limited, as security agent.

"Intercreditor Agreement" shall mean the Intercreditor Agreement dated August 14, 2009, as amended, between Citibank International PLC, as administrative agent, the participating creditors named therein, the Company and certain of its subsidiaries named therein, as original borrowers, original guarantors and original security providers, Wilmington Trust (London) Limited, as security agent, and others.

"Investment Company Act" shall mean the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Issuer Written Information" shall mean any writings in addition to the Preliminary Memorandum, the final term sheet prepared pursuant to Section 5(b) hereto in the form attached as Schedule II hereto that the parties expressly agree in writing to treat as part of the Disclosure Package and which are identified on Schedule X hereto.

"Mexican FRS" shall mean the Mexican financial reporting standards (*Normas de Información Financiera aplicables en Mexico*) as in effect from time to time issued by the Mexican Financial Reporting Standards Board (*Consejo Mexicano para la Investigación y Desarrollo de Normas de Información Financiera*).

"Regulation D" shall mean Regulation D under the Act.

"Regulation S" shall mean Regulation S under the Act.

"Security Agent" shall mean Wilmington Trust (London) Limited, as security agent under the Financing Agreement.

"Transaction Security Documents" means any document, as amended from time to time, entered by any of the Company or its subsidiaries creating or expressed to create any security over all or any part of its assets in respect of their obligations under the Financing Agreement or any other document derived therefrom, or in connection therewith.

"Trust Indenture Act" shall mean the Trust Indenture Act of 1939, as amended, and the rules and regulations of the Commission promulgated thereunder.

[Signature pages follow]

If the foregoing is in accordance with your understanding of our agreement, please sign and return to us the enclosed duplicate hereof, whereupon this letter and your acceptance shall represent a binding agreement between the Issuer and the several Initial Purchasers.

Very truly yours,

CEMEX Finance LLC

By: /s/ Héctor Medina
Name: Héctor Medina
Title: Attorney-in-Fact

EACH OF THE NOTE GUARANTORS LISTED BELOW

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

By: /s/ Héctor Medina
Name: Héctor Medina
Title: Attorney-in-Fact

CEMEX México, S.A. de C.V.

By: /s/ Héctor Medina
Name: Héctor Medina
Title: Attorney-in-Fact

Empresas Tolteca de México, S.A. de C.V.

By: /s/ Héctor Medina
Name: Héctor Medina
Title: Attorney-in-Fact

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

By: /s/ Héctor Medina

Name: Héctor Medina

Title: Attorney-in-Fact

New Sunward Holding B.V.

By: /s/ Héctor Medina
Name: Héctor Medina
Title: Attorney-in-Fact

CEMEX España, S.A.

By: /s/ Rodrigo Trevino
Name: Rodrigo Trevino
Title: Attorney-in-Fact

CEMEX Corp.

By: /s/ Héctor Medina
Name: Héctor Medina
Title: Attorney-in-Fact

The foregoing Agreement is hereby confirmed and accepted as of the date first above written.

Citigroup Global Markets Inc.

By: /s/ M. Christopher Gilford
Name: M. Christopher Gilford
Title: Managing Director

Banc of America Securities LLC

By: /s/ Lily Chang
Name: Lily Chang
Title: Principal

Barclays Capital Inc.

By: /s/ Jonas Knoll
Name: Jonas Knoll
Title: Executive Director

J.P. Morgan Securities Inc.

By: /s/ Gustavo Ferraro
Name: Gustavo Ferraro
Title: Managing Director

For themselves and the other several Initial Purchasers named in Schedule I to the foregoing Agreement.

SCHEDULE I

Initial Purchasers	Principal Amount of Securities to be Purchased
Citigroup Global Markets Inc.	U.S.$ 312,500,000
Banc of America Securities LLC	U.S.$ 312,500,000
Barclays Capital Inc.	U.S.$ 312,500,000
J.P. Morgan Securities Inc.	U.S.$ 312,500,000
Total	U.S.$1,250,000,000

SCHEDULE II

Pricing Term Sheet

Final

Pricing Term Sheet
December 9, 2009

CEMEX Finance LLC
9.5% Senior Secured Notes Due 2016 (the "Notes")

Issuer	CEMEX Finance LLC
Security Description	Senior Secured Notes
Note Guarantors	CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V., CEMEX España, S.A., CEMEX Corp., CEMEX Concretos, S.A. de C.V., Empresas Tolteca de México, S.A. de C.V. and New Sunward Holding B.V. (together, the "Note Guarantors").
Security	First-priority security interest over (i) the shares of CEMEX México, S.A. de C.V., Centro Distribuidor de Cemento, S.A. de C.V., Mexcement Holdings, S.A. de C.V., Corporación Gouda, S.A. de C.V., CEMEX Trademarks Holding Ltd., New Sunward Holding B.V. and CEMEX España, S.A., or the Collateral, and (ii) all proceeds of such Collateral. Holders will not be entitled to direct the foreclosure on, or foreclose on, the Collateral. The Notes will cease to be secured in accordance with the provisions of the Intercreditor Agreement.
Format	144A Global Notes / Regulation S Global Notes
Global Coordinator	Citigroup Capital Markets Inc.
Joint Bookrunners	Citigroup Capital Markets Inc. Banc of America Securities LLC Barclays Capital Inc. J.P. Morgan Securities Inc.
Identifiers (144 A Notes)	CUSIP 12516U AA3 ISIN US12516UAA34
Identifiers (Reg S Notes)	CUSIP U12763 AA3 ISIN USU12763AA37
Issue amount	U.S.$1.25 billion
Settlement date	December 14, 2009
Final maturity	December 14, 2016
Interest payment	June 14 and December 14, beginning on June 14, 2010
Day count convention	360-day year consisting of twelve 30-day months
Coupon	9.500%
Issue price	100%
Issue yield	9.500%

Optional Redemption	• Make-whole call prior to December 14, 2013, at greater of (1) 100% of principal amount of the Notes, and (2) a Make-Whole Amount. • On or after December 14, 2013, at the prices indicated below for a redemption during the twelve-month period beginning on December 14 of each of the years indicated below: 2013 104.750% 2014 102.375% 2015 and thereafter 100.000% • Prior to December 14, 2012, redemption of up to 35% of original principal amount at 109.500% of principal amount of the Notes with proceeds from equity offerings. • In the event of certain changes in the withholding tax treatment relating to payments on the Notes, at 100% of their principal amount. The Issuer shall not have the right to exercise any optional redemption at any time when the Issuer is prohibited from exercising such an option under the Financing Agreement.
Use of Proceeds	The estimated net proceeds from the offering of the Notes and the offering of the Euro Notes (as defined below) will be approximately U.S.$1,739 million. The Issuer intends to use the net proceeds from the offerings primarily to repay indebtedness outstanding under the Financing Agreement and for general corporate purposes. CEMEX's total secured indebtedness will increase by approximately U.S.$400 million as a result of cash proceeds from the offerings retained for general corporate purposes.
Denominations	U.S.$100,000 and integral multiples of U.S.$1,000
Governing law	New York
Listing	Luxembourg Stock Exchange – EURO MTF
Clearing	The Depositary Trust Company, Euroclear and Clearstream

Additional Information

Contemporaneous Offerings

Contemporaneous with this offering, the Issuer is offering 9.625% Senior Secured Notes due 2017 denominated in Euros (the "Euro Notes") in an aggregate principal amount of € 350 million, pursuant to a separate offering memorandum. The Euro Notes will have substantially the same terms as the Notes, other than currency, interest rate, tenor and other pricing related terms, and will share in the same security and benefit from the same guarantee structure as the Notes. Neither the offering of the Notes nor the offering of the Euro Notes is contingent upon the successful offering of the other. References herein to the offerings refer to the offering of the Notes and the Euro Notes.

Financial Information

1. As of September 30, 2009, on a *pro forma* basis after giving effect to the sale of our Australian operations and the application of the net proceeds therefrom, we had total obligations of Ps226,850 million (U.S.$16,804

million) outstanding secured by a first-priority security interest over the Collateral and the proceeds thereof, consisting of obligations of approximately Ps161,473 million (U.S.$11,961 million) outstanding under the Financing Agreement, approximately Ps41,418 million (U.S.$3,068 million) outstanding under our perpetual debentures, approximately of Ps23,128 million (U.S.$1,713 million) outstanding under our CBs and approximately Ps830 million (U.S.$62 million) outstanding of other short-term secured debt.

2. As of September 30, 2009, on a *pro forma* basis after giving effect to the sale of our Australian operations and the application of the net proceeds therefrom and from the offerings (in each case not including approximately Ps41,418 million (U.S.$3,068 million) of perpetual debentures):

- CEMEX, S.A.B. de C.V. and its Subsidiaries (as defined herein) would have had consolidated total debt of approximately Ps222,790 million (U.S.$16,503 million), approximately Ps191,147 million (U.S.$14,159 million) of which would have been secured by the Collateral,
- the Primary Note Guarantors, taken together (excluding their respective subsidiaries), would have had total debt of approximately Ps149,290 million (U.S.$11,059 million), approximately Ps129,552 million (U.S.$9,596 million) of which would have been secured by the Collateral,
- the Issuer and the Note Guarantors, taken together (excluding their respective subsidiaries), would have had total debt of approximately Ps194,885 million (U.S.$14,436 million), approximately Ps175,147 million (U.S.$12,974 million) of which would have been secured by the Collateral, and
- CEMEX, S.A.B. de C.V.'s Subsidiaries (other than the Issuer and the Note Guarantors), taken together (excluding their respective subsidiaries), would have had total debt of approximately Ps27,905 million (U.S.$2,067 million).

3. As of September 30, 2009, after giving *pro forma* effect to the sale of our Australian operations and the application of the net proceeds therefrom and from the offerings, our subsidiaries other than the Issuer and the Note Guarantors represented the following approximate percentages of our assets and net sales, on a consolidated basis:

75% of our consolidated assets excluding intercompany balances and excluding investments in subsidiaries; and

74% of our consolidated total net sales excluding intercompany sales.

4. As of September 30, 2009, after giving *pro forma* effect to the sale of our Australian operations and the application of the net proceeds therefrom, indebtedness issued or guaranteed by our subsidiaries other than the Issuer and the Note Guarantors totaled Ps29,922 million (U.S.$2,216 million), as follows:

- CEMEX, Inc., a subsidiary of CEMEX Corp., is a guarantor under a joint bilateral facility of Ps15,797 million (U.S.$1,170 million). This indebtedness is part of the Financing Agreement.
- CEMEX Materials LLC is a borrower under an indenture and a bilateral facility for a combined amount of Ps4,465 million (U.S.$331 million), of which Ps2,246 million (U.S.$166 million) is guaranteed by CEMEX Corp. and Ps2,219 million (U.S.$164 million) is guaranteed by CEMEX España, S.A., as a part of the Financing Agreement.
- Several of our other operating subsidiaries are borrowers under bilateral facilities aggregating Ps4,354 million (U.S.$323 million), of which Ps378 million (U.S.$28 million) is guaranteed by CEMEX España, S.A.
- Other obligations of Ps5,306 million (US$393 million) with Mexican development banks, issued by two of the Note Guarantors, which are secured by fixed assets and shares not pledged as Collateral.

Capitalization

	As of September 30, 2009				
	Actual	As adjusted(1)		As further adjusted(2)	
	(unaudited)	(Mexican Pesos and U.S. Dollars in millions)			
Short-term debt(3)					
Secured					
Banobras(4)	Ps 253	Ps 253	U.S.$ 19	Ps 253	U.S.$ 19
Bancomext(4)	716	716	53	716	53
Other secured(5)	830	830	62	830	62
Unsecured					
Other unsecured	7,163	5,529	409	5,529	409
Total short-term debt	8,962	7,328	543	7,328	543
Long-term debt					
Secured					
Financing Agreement	179,974	161,473	11,961	143,396	10,622
CBs(6)	23,128	23,128	1,713	23,128	1,713
Notes					
Payable in U.S. Dollars				16,875	1,250
Payable in Euros(7)				6,917	512
Other secured					
Banobras	1,679	1,679	124	1,679	124
Bancomext	2,659	2,659	197	2,659	197
Unsecured					
CEMEX España Euro Notes(8)	17,776	17,776	1,317	17,776	1,317
Other unsecured	3,136	3,032	225	3,032	225
Total long-term debt	228,353	209,747	15,537	215,462	15,960
Total debt	237,315	217,075	16,080	222,790	16,503
Stockholders' equity					
Minority interest					
Perpetual debentures(9)	41,418	41,418	3,068	41,418	3,068
Other	4,070	4,062	301	4,062	301
Majority interest	214,523	209,940	15,551	209,625	15,528
Total stockholders' equity	260,011	255,420	18,920	255,105	18,897
Total capitalization(10)	Ps497,326	Ps472,495	U.S.$ 35,000	Ps477,895	U.S.$ 35,400

(1) Reflects application of net proceeds from the sale of our Australian operations as required under the Financing Agreement. CEMEX retained approximately U.S.$248 million of such net proceeds as permitted under the Financing Agreement.

(2) Reflects additional application of the net proceeds from the offerings. Assumes approximately U.S.$400 million of cash proceeds retained for general corporate purposes. Amounts in Dollars have been converted from Pesos at an exchange rate of Ps13.50 to U.S.$1.00, the CEMEX accounting rate as of September 30, 2009.

(3) Includes current portion of long-term debt.

(4) Obligations with Mexican development banks, issued by two of the Note Guarantors, which are secured by fixed assets and shares not pledged as Collateral.

(5) On October 1, 2009, CEMEX, S.A.B. de C.V. retired its Euronote at maturity with a principal amount of U.S.$62 million.

(6) Does not reflect adjustments for the exchange offer of Convertible Securities for CBs.

(7) Amounts in Dollars have been converted from Euros at an exchange rate of U.S.$1.4640 to € 1.00, the foreign exchange rate as of September 30, 2009.

(8) Issued by CEMEX Finance Europe B.V., a special purpose vehicle and wholly-owned subsidiary of CEMEX España, S.A., and solely guaranteed by CEMEX España, S.A.

(9) Issued by special purpose vehicles. In accordance with MFRS, these securities are accounted for as equity due to the fact that they do not have a specified maturity date and our option to defer payment of interest. However, for purposes of our U.S. GAAP reconciliation, we record these debentures as debt and interest payments thereon as part of financial expenses in our consolidated income statement. The perpetual debentures are secured by a first-priority security interest over the Collateral and the proceeds thereof.

(10) As used in this table, total capitalization equals total debt plus total stockholders' equity.

Polish Antitrust Investigation

On December 9, 2009, the Polish Competition and Consumer Protection Office, or the Protection Office, delivered to CEMEX Polska Sp. ZO.O., or CEMEX Polska, one of our indirect subsidiaries in Poland, its decision against Polish cement producers related to an investigation which covered a period from 1998 to 2006. The decision imposes fines on six Polish cement producers, including CEMEX Polska. The fine imposed on CEMEX Polska is Polish Zloty 115 million (approximately U.S.$40.5 million), which is 10% of CEMEX Polska's total revenue in 2008. CEMEX Polska disagrees with the decision, denies any wrongdoing and intends to initiate an appeal before the Polish Court of Competition and Consumer Protection within 14 days of December 9, 2009. The decision will not be enforced until all appeals are exhausted.

***

This communication is intended for the sole use of the person to whom it is provided by the sender.

These securities have not been registered under the Securities Act of 1933, as amended, and may only be sold to qualified institutional buyers pursuant to Rule 144A or pursuant to another applicable exemption from registration.

The information in this term sheet supplements the Company's preliminary offering memorandum, dated December 1, 2009 (the "Preliminary Memorandum") and supersedes the information in the Preliminary Memorandum to the extent inconsistent with the information in the Preliminary Memorandum. This term sheet is qualified in its entirety by reference to the Preliminary Memorandum. Terms used herein but not defined herein shall have the respective meanings as set forth in the Preliminary Memorandum.

ANY DISCLAIMERS OR OTHER NOTICES THAT MAY APPEAR BELOW ARE NOT APPLICABLE TO THIS COMMUNICATION AND SHOULD BE DISREGARDED. SUCH DISCLAIMERS OR OTHER NOTICES WERE AUTOMATICALLY GENERATED AS A RESULT OF THIS COMMUNICATION BEING SENT VIA BLOOMBERG OR ANOTHER EMAIL SYSTEM.

SCHEDULE III

**Forms of Opinions of Skadden, Arps, Slate, Meagher & Flom LLP,
special U.S. counsel to the Company**

SCHEDULE IV

Form of Opinion of Ramiro G. Villarreal, General Counsel of the Company

[INTRODUCTORY PARAGRAPH AND RELIANCE SECTIONS]

In rendering this opinion, I have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to me as originals, the conformity to original documents of all documents submitted to me as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. In making my examination of executed documents, I have assumed that the parties thereto (other than the Company and the Mexican Subsidiaries) had the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties (other than the Company and the Mexican Subsidiaries) of such documents and the validity and binding effect thereof on such parties. I have also assumed that each of the parties (other than the Company and the Mexican Subsidiaries) to the Transaction Documents (as defined herein) has been duly organized and is validly existing in good standing, if applicable, and has requisite legal status and legal capacity, under the laws of its jurisdiction of organization and that each of such parties has complied and will comply with all aspects of the laws of all relevant jurisdictions (including the laws of its jurisdiction of organization) in connection with the transactions contemplated by, and the performance of its obligations under, the Transaction Documents, other than the laws of Mexico insofar as I express my opinions herein.

In rendering this opinion I have reviewed the following documents (referred to herein collectively as the " Transaction Documents"):

(a) an executed copy of the Purchase Agreement;

(b) the Preliminary Memorandum, the documents incorporated by reference therein and the final term sheet, dated December 9, 2009 (the "Final Term Sheet");

(c) the Final Memorandum and the documents incorporated by reference therein;

(d) an executed copy of the Indenture;

(e) the Securities in global form as executed by the Issuer and each of the Mexican Note Guarantors and authenticated by the Trustee;

(f) an executed copy of the Financing Agreement dated August 14, 2009 (the "Financing Agreement") between CEMEX, S.A.B. de C.V., the financial institutions and noteholders named therein, as participating creditors, Citibank International PLC, as administrative agent, and Wilmington Trust (London) Limited, as security agent (the "Security Agent");

(g) an executed copy of each of the Transaction Security Documents (as such term is defined in the Financing Agreement) (the "Transaction Security Documents"); including

without limitation, an executed copy of the security trust agreement (*contrato de fideicomiso de garantía*) entered into among (i) the Mexican Note Guarantors, Impra Café, S.A. de C.V., Interamerican Investments, Inc. and Centro Distribuidor de Cemento, S.A. de C.V., as settlors; (ii) CEMEX México, S.A. de C.V., Centro Distribuidor de Cemento, S.A. de C.V., Mexcement Holdings, S.A. de C.V. and Corporación Gouda, S.A. de C.V., as issuers; (iii) Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, as trustee; and (iv) the Security Agent (the "Mexican Security Trust"); and

(h) the documents executed and delivered by each of the Company and the Mexican Note Guarantors at the closing pursuant to the Purchase Agreement.

Based upon the foregoing, and subject to the further qualifications set forth below, I am of the opinion that:

1. Each of the Mexican Note Guarantors has been duly incorporated and is validly existing as a corporation under the laws of Mexico, with full corporate power and authority to own or lease, as the case may be, and to operate their properties and conduct their businesses as described in the Disclosure Package and the Final Memorandum.

2. All the outstanding shares of capital stock of each Mexican Note Guarantor has been duly authorized and validly issued and are fully paid and nonassessable, and, except as otherwise set forth in the Disclosure Package and the Final Memorandum, all outstanding shares of capital stock of the Subsidiaries are owned by the Company either directly or through wholly owned subsidiaries free and clear of any perfected security interest and, to the knowledge of such counsel, after due inquiry, any other security interest, claim, lien or encumbrance.

3. Each of the Transaction Documents to which each of the Mexican Note Guarantors is a party, has been duly authorized, executed and delivered by the applicable Mexican Note Guarantors and constitutes a legal, valid and binding agreement, enforceable against each of the applicable Mexican Note Guarantors in accordance with its terms.

4. The Mexican Security Trust creates in favor of the Security Agent, for the benefit of holders of the Securities, valid security interests in the Collateral for the payment of the Securities.

5. Neither the execution and delivery of the Transaction Documents, nor the consummation of any other of the transactions therein contemplated, nor the fulfillment of the terms thereof will conflict with, result in a breach or violation of, or imposition of any lien, charge or encumbrance upon any property or asset of any of the Mexican Note Guarantors pursuant to, (i) the charter or by laws (*estatutos sociales*) of any of the Mexican Note Guarantors; (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which each of the Mexican Note Guarantors is a party or bound or to which their property is subject; or (iii) any statute, law, rule, regulation, judgment, order or decree applicable to the Mexican Note Guarantors of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Mexican Note Guarantors or any of their respective properties.

6. No consent, approval, authorization, filing with, order of, notice to, or qualification with any Mexican governmental or regulatory authority or court is required for the execution, delivery and performance by each of the Mexican Note Guarantors of the Purchase Agreement, the Indenture, the issuance and sale of the Securities, and the consummation of the transactions contemplated therein.

7. The choice of New York state law as the governing law of the Purchase Agreement, the Indenture, and the issuance and sale of the Securities, is legal, valid and binding to each of the Mexican Note Guarantors under the laws of Mexico and there is no reason why the courts of Mexico would not give effect to the choice of New York law as the proper law of the Purchase Agreement, the Indenture, and the Securities; each of the Mexican Note Guarantors has the legal capacity to sue and be sued in its own name under the laws of Mexico; each of the Mexican Note Guarantors has the power to submit, and has irrevocably submitted, to the jurisdiction of the New York courts and each of the Mexican Note Guarantors has validly and irrevocably appointed CEMEX NY Corporation as its authorized agent under the laws of Mexico for service of process under the Purchase Agreement, the Indenture and the Securities; the irrevocable submission of each of the Mexican Note Guarantors to the jurisdiction of the New York courts and the waivers by each of the Mexican Note Guarantors of any immunity and any objection to the venue of the proceeding in a New York court in the Purchase Agreement, in the Indenture, and in the Securities, are legal, valid and binding under the laws of Mexico and there is no reason why the courts of Mexico would not give effect to such submission and waivers; and the courts in Mexico will recognize as valid and final, and will enforce, any final and conclusive judgment against each of the Mexican Note Guarantors obtained in a New York court arising out of or in relation to the obligations of each Mexican Note Guarantor under the Purchase Agreement, the Indenture, or the Securities, without re-examination of the issues pursuant to Articles 569 and 571 of the Mexican Federal Code of Civil Procedure and Article 1347A of the Mexican Commerce Code, which provide, *inter alia*, that any judgment rendered outside of Mexico may be enforced by Mexican Courts, provided that:

(i) such judgment is obtained in compliance with (a) all legal requirements of the jurisdiction of the court rendering such judgment, and (b) all legal requirements of the Purchase Agreement;

(ii) such judgment is not rendered in a real action (*acción real*);

(iii) such judgment is final, non-appealable and authenticated by the appropriate governmental authorities, and is strictly for the payment of a certain sum of money, provided that, under Mexican Monetary Law, payments that should be made in Mexico in foreign currency, whether by agreement or upon a judgment of a Mexican Court, may be discharged in Mexican currency at a rate of exchange for such currency prevailing at the time of payment;

(iv) the court rendering such judgment is competent to render such judgment in accordance with applicable rules under international law and such rules are compatible with the rules adopted under the Mexican Code of Commerce;

(v) service of process was made personally on the Company and each Mexican Note Guarantor, as applicable, or on an appropriate Process Agent of the Company and each Mexican Note Guarantor, as applicable;

(vi) such judgment does not contravene Mexican public policy or laws (and we have no reason to believe that a judgment based upon the Transaction Documents would contravene Mexican public policy);

(vii) the applicable procedure under the laws of Mexico with respect to the enforcement for foreign judgments (including the issuance of a letter rogatory by the competent authority of such jurisdiction requesting enforcement of such judgment and the certification of such judgment as authentic by the corresponding authorities of such jurisdiction in accordance with the laws thereof) is complied with;

(viii) the courts of such jurisdiction recognize the principles of reciprocity in connection with the enforcement of Mexican judgments in such jurisdiction; and

(ix) the cause of action in connection with which such judgment is rendered is not the same cause of action between the same parties that is pending before a Mexican court.

8. Except as described in the Disclosure Package and the Final Memorandum, with respect to non-residents of Mexico, no stamp or other issuance or transfer taxes or duties and no capital gains, income, withholding or other taxes are payable by or on behalf of the Initial Purchasers to Mexico or to any political subdivision or taxing authority thereof or therein in connection with the sale and delivery by the Issuer of the Securities as contemplated in the Purchase Agreement to the Initial Purchasers or the sale and delivery by the Initial Purchasers of the Securities as contemplated in the Purchase Agreement.

9. Other than as described in the Disclosure Package and the Final Memorandum, under the current laws and regulations of Mexico, all payments of principal, premium (if any) and interest on the Securities may be paid, if applicable, by each Mexican Note Guarantor to the registered holder thereof in U.S. dollars (that may be obtained through conversion of Mexican Pesos) that may be freely transferred out of Mexico, and all such payments and other distributions made to holders of the Securities who are non-residents of Mexico, will not be subject to Mexican income, withholding or other taxes under the laws and regulations of Mexico and are otherwise free and clear of any other tax, duty withholding or deduction in Mexico and without the necessity of obtaining any governmental authorization in Mexico.

10. It is not necessary in order to enable the Initial Purchasers, the Trustee or the holders of the Securities to exercise or enforce its rights under the Purchase Agreement, the Indenture or the Securities in Mexico or by reason of the entry into and/or the performance of the Purchase Agreement and the Indenture, that the Initial Purchasers should be licensed or qualified to do business in Mexico. The Initial Purchasers and the non-Mexican holders of the Securities

will not be deemed resident, domiciled, carrying on business or subject to taxation in Mexico solely by reason of the execution, delivery, performance or enforcement of the Purchase Agreement.

11. Except as disclosed in the Disclosure Package and the Final Memorandum, there is no pending or, to the best of our knowledge, threatened action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries or its or their property that is not adequately disclosed in the Disclosure Package and the Final Memorandum, except in each case (A) for such proceedings that, if the subject of an unfavorable decision, ruling or finding would not singly or in the aggregate, have a Material Adverse Effect; and (B) (i) the statements in the Preliminary Memorandum and the Final Memorandum under the headings "Important Federal Tax Considerations" and "Description of Notes"; and (ii) the statements in the Preliminary Memorandum and the Final Memorandum under the heading "Recent Developments — Recent Developments Relating to Our Regulatory Matters and Legal Proceedings", taken together with the statements in the Company's annual report on Form 20-F for the year ended December 31, 2008 under the heading "Regulatory Matters and Legal Proceedings", as updated by the statements in the Company's report on Form 6-K, filed with the Commission on September 21, 2009 under the heading "Recent developments relating to our regulatory matters and legal proceedings"; fairly summarize the matters therein described.

12. There is no reason to believe that the Disclosure Package, as amended or supplemented at the Execution Time, contained any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading (in each case, other than the financial statements and other financial information contained therein, as to which such counsel need express no opinion).

13. There is no reason to believe that the Final Memorandum, as of its date or on the Closing Date, contained or contains any untrue statement of a material fact or omitted or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (in each case, other than the financial statements and other financial information contained therein, as to which such counsel need express no opinion).

I express no opinion as to any laws other than the laws of Mexico. In rendering my opinion, I have relied, (i) as to matters governed by United States Federal and New York law, upon the opinion of Skadden, Arps, Slate, Meagher & Flom LLP delivered pursuant to the Purchase Agreement and (ii) as to matters of fact, on certificates of responsible officers of each of the Mexican Note Guarantors and public officials that are furnished to the Initial Purchasers.

This opinion is subject to the following qualifications:

a. Enforcement of the Transaction Documents may be limited by *concurso mercantil,* bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar laws or general principles of equity affecting the rights of creditors generally;

b. Labor claims, claims of tax authorities for unpaid taxes, social security quotas, worker's housing fund quotas, retirement fund quotas, as well as claims from secured or privileged creditors, will have priority over claims of the parties to the Purchase Agreement, the Indenture and the Securities;

c. In the event that proceedings are brought in Mexico seeking performance of the obligations of the Mexican Note Guarantors in Mexico, pursuant to the Mexican Monetary Law, such entity may discharge its obligations by paying any sums due in a currency other than Mexican currency, in Mexican currency at the rate of exchange prevailing in Mexico on the date when payment is made;

d. In the event that any legal proceedings are brought in the courts of Mexico, a Spanish translation of the documents required in such proceedings prepared by a court-approved translator would have to be approved by the court after the defendant has been given an opportunity to be heard with respect to the accuracy of the translation, and proceedings would thereafter be based upon the translated documents;

e. In the event of foreclosure of the Mexican Security Trust, the purchaser or purchasers of any transferred shares of a Mexican entity may require the approval of each of the Mexican Competition Commission (*Comisión Federal de Competencia*) and the Mexican Foreign Investment Commission (*Comisión Nacional de Inversiones Extranjeras*);

f. Claims may become barred under the statutes of limitation, which are not waivable under Mexican law, or may become subject to defenses or set-off or counterclaim;

g. A Mexican court may stay proceedings held in such court if concurrent proceedings are being held elsewhere;

h. Under the laws of Mexico, the obligations of a guarantor are not independent from, and may not exceed, the obligations of the main obligor;

i. With respect to the provisions contained in each of the Transaction Documents in connection with service of process, it should be noted that service of process by mail does not constitute personal service of process under Mexican law and, since such service is considered to be a basic procedural requirement, if for purposes of proceedings outside Mexico service of process is made by mail, a final judgment based on such process would not be enforced by the courts of Mexico; and

j. An obligation to pay interest on interest may not be enforceable in Mexico.

This opinion is furnished only to you as representative of the Initial Purchasers and is solely for the Initial Purchasers' benefit in connection with the closing occurring today and the offering of the Securities, in each case pursuant to the Purchase Agreement. Without my prior written consent, this opinion may not be used, circulated, quoted or otherwise referred to for any other purpose or relied upon by, or assigned to, any other person for any purpose, including any other person that acquires any Securities or that seeks to assert your rights in respect of this opinion (other than an Initial Purchaser's successor in interest by means of

merger, consolidation, transfer of a business or other similar transaction), except that Skadden, Arps, Slate, Meagher & Flom LLP may rely upon this opinion as to matters of the laws of the Mexico in rendering their opinion pursuant to Section 6(a) of the Purchase Agreement.

SCHEDULE V

Form of Opinion of Clifford Chance SL

SCHEDULE VI

Form of Opinion of Warendorf

SCHEDULE VII

Form of Opinion of GHR Rechtsanwälte AG

SCHEDULE VIII

Matters to be addressed in the Officer's Certificate of the Issuer:

1. He/She has carefully examined the Disclosure Package and the Final Memorandum and any supplements or amendments thereto, and the Purchase Agreement;

2. To the best of his/her knowledge, the representations and warranties of the Issuer in the Purchase Agreement are true and correct on and as of the Closing Date with the same effect as if made on the Closing Date, and the Issuer has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date; and

3. To the best of his/her knowledge, since the date of the most recent financial statements included or incorporated by reference in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto), there has been no material adverse change in the condition (financial or otherwise), prospects, earnings, business or properties of the Company and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

SCHEDULE IX

Form of Comfort Letter by KPMG Cárdenas Dosal, S.C.

SCHEDULE X

1. Issuer Written Information (included in the Disclosure Package)

   (a) Final term sheet, dated December 9, 2009.

2. Other Information Included in the Disclosure Package

   (a) The following information is also included in the General Disclosure Package:

   Company's report on Form 6-K, filed with the Commission on December 7, 2009

Exhibit 4.47
Execution Version

CEMEX Finance LLC

€ 350,000,000
9.625% SENIOR SECURED NOTES DUE 2017

PURCHASE AGREEMENT

December 9, 2009

Citigroup Global Markets Inc.
BNP Paribas
The Royal Bank of Scotland plc
As Representatives of the Initial Purchasers
c/o Citigroup Global Markets Inc.
388 Greenwich Street
New York, New York 10013

Ladies and Gentlemen:

CEMEX Finance LLC, a Delaware limited liability company (the "Issuer"), an indirect subsidiary of CEMEX, S.A.B. de C.V., a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) organized under the laws of Mexico (the "Company"), proposes to issue and sell to the several parties named in Schedule I hereto (the "Initial Purchasers"), for whom you (the "Representatives") are acting as representatives, €350,000,000 principal amount of its 9.625% Senior Secured Notes due 2017 (the "Securities"). The Securities will be unconditionally guaranteed (the "Guarantees") by each of (i) the Company, CEMEX México, S.A. de C.V., Empresas Tolteca de México, S.A. de C.V. and CEMEX Concretos, S.A. de C.V. (collectively, the "Mexican Note Guarantors"), (ii) New Sunward Holding B.V. ("New Sunward"), (iii) CEMEX España, S.A. ("CEMEX España"); and (iv) CEMEX Corp. (the "U.S. Note Guarantor" and together with the Mexican Note Guarantors, CEMEX España and New Sunward, the "Note Guarantors"), and are to be issued under an indenture (the "Indenture"), to be dated as of the Closing Date, among the Issuer, the Note Guarantors and The Bank of New York Mellon, a New York banking corporation, as trustee (the "Trustee"). To the extent there are no additional parties listed on Schedule I other than you, the term Representatives as used herein shall mean you as the Initial Purchasers, and the terms Representatives and Initial Purchasers shall mean either the singular or plural as the context requires. The use of the neuter in this Agreement shall include the feminine and masculine wherever appropriate. Certain terms used herein are defined in Section 25 hereof.

The Securities will be secured in accordance with the terms of the Intercreditor Agreement, by a first-priority security interest in the Collateral, but holding a Security will not grant its holders the right to direct the foreclosure or the right to foreclose on the Collateral.

The sale of the Securities to the Initial Purchasers will be made without registration of the Securities under the Act in reliance upon exemptions from the registration requirements of the Act.

In connection with the sale of the Securities, the Company has prepared a preliminary offering memorandum, dated December 7, 2009 (as amended or supplemented at the date thereof, including any and all exhibits thereto and any information incorporated by reference therein, the "Preliminary Memorandum"), and a final offering memorandum, dated December 9, 2009 (as amended or supplemented at the Execution Time, including any and all exhibits thereto and any information incorporated by reference therein, the "Final Memorandum"). Each of the Preliminary Memorandum and the Final Memorandum sets forth certain information concerning the Company and the Securities. The Company hereby confirms that it has authorized the use of the Disclosure Package, the Preliminary Memorandum and the Final Memorandum, and any amendment or supplement thereto, in connection with the offer and sale of the Securities by the Initial Purchasers. Unless stated to the contrary, any references herein to the terms "amend", "amendment" or "supplement" with respect to the Disclosure Package, the Preliminary Memorandum and the Final Memorandum shall be deemed to refer to and include any information filed under the Exchange Act subsequent to the Execution Time that is incorporated by reference therein.

It is understood that the Issuer is concurrently entering into a purchase agreement (the " U.S.$ Purchase Agreement") with the several initial purchasers thereunder providing for the sale by the Issuer of an aggregate of U.S.$1,250,000,000 principal amount of its 9.500% Senior Secured Notes due 2016 (the "U.S.$ Denominated Securities"). In connection with the sale of the U.S.$ Denominated Securities, the Company has prepared a preliminary offering memorandum, dated December 1, 2009, and a final offering memorandum, dated December 9, 2009, substantially in the same form as the Preliminary Memorandum and the Final Memorandum, respectively. The U.S.$ Denominated Securities will share in the Collateral and benefit from the same guarantees as the Securities.

1. Representations and Warranties. The Issuer represents and warrants to each Initial Purchaser as set forth below in this Section 1:

(a) The Preliminary Memorandum, at the date thereof, did not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. At the Execution Time and on the Closing Date the Final Memorandum did not and will not (and any amendment or supplement thereto, at the date thereof and at the Closing Date, will not) contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the Issuer makes no representation or warranty as to the information contained in or omitted from the Preliminary Memorandum or the Final Memorandum, or any amendment or supplement thereto, in reliance upon and in conformity with information furnished in writing to the Issuer by or on behalf of the Initial Purchasers through the Representatives specifically for inclusion therein, it being understood and agreed that the only such information furnished by or on behalf of any Initial Purchaser consists of the information described as such in Section 8(b) hereof.

(b) The Disclosure Package, as of the Execution Time, does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The preceding sentence does not apply to statements in or omissions from the Disclosure Package based upon and in conformity with written information furnished to the Issuer by any Initial Purchaser through the Representatives specifically for use therein, it being understood and agreed that the only such information furnished by or on behalf of any Initial Purchaser consists of the information described as such in Section 8(b) hereof.

(c) None of the Issuer, any of the Note Guarantors or any person acting on its or their behalf has, directly or indirectly, made offers or sales of any security, or solicited offers to buy, any security under circumstances that would require the registration of the Securities under the Act.

(d) None of the Issuer, any of the Note Guarantors or any person acting on its or their behalf has: (i) engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with any offer or sale of the Securities or (ii) engaged in any directed selling efforts (within the meaning of Regulation S) with respect to the Securities; and each of the Issuer, the Note Guarantors and each person acting on its or their behalf has complied with the offering restrictions requirement of Regulation S.

(e) The Securities satisfy the eligibility requirements of Rule 144A(d)(3) under the Act.

(f) No registration of the Securities under the Act is required for the offer and sale of the Securities to or by the Initial Purchasers in the manner contemplated herein, in the Disclosure Package and in the Final Memorandum.

(g) Neither the Issuer nor any of the Note Guarantors is, and after giving effect to the offering and sale of the Securities and the application of the proceeds thereof as described in the Disclosure Package and the Final Memorandum, will not be, an “investment company” as defined in the Investment Company Act.

(h) Neither the Issuer nor any of the Note Guarantors has paid or agreed to pay to any person any compensation for soliciting another to purchase any securities of the Issuer or such Note Guarantor (except as contemplated in this Agreement).

(i) Neither the Issuer nor any of the Note Guarantors has taken, directly or indirectly, any action designed to or that has constituted or that might reasonably be expected to cause or result, under the Exchange Act or otherwise, in stabilization or manipulation of the price of any security of the Issuer or such Note Guarantor to facilitate the sale or resale of the Securities.

(j) The Issuer and each of the Note Guarantors have been duly organized and are validly existing and, if applicable, in good standing under the laws of the jurisdiction in which they are chartered or organized with power and authority to own or lease, as the case may be, and to operate their properties and conduct their businesses as described in the Disclosure Package and the Final Memorandum, and, if applicable, are duly qualified to do business as foreign

corporations and are in good standing under the laws of each jurisdiction that requires such qualification or such person is subject to no material liability or disability by reason of the failure to be so qualified.

(k) All the outstanding shares of capital stock or other equity interests of the Company have been duly authorized and validly issued and are fully paid and nonassessable, and, except as otherwise set forth in the Disclosure Package and the Final Memorandum, all outstanding shares of capital stock or other equity interests of the subsidiaries of the Company are owned directly or indirectly by the Company either directly or through wholly-owned and majority-owned subsidiaries, except as set forth in the Disclosure Package and the Final Memorandum, free and clear of any security interest, claim, lien or encumbrance; except for the security interest created under the Transaction Security Documents.

(l) (i) The statements in the Preliminary Memorandum and the Final Memorandum under the headings "Important Federal Tax Considerations" and "Description of Notes"; and (ii) the statements in the Preliminary Memorandum and the Final Memorandum under the heading "Recent Developments —Recent Developments Relating to Our Regulatory Matters and Legal Proceedings", taken together with the statements in the Company's annual report on Form 20-F for the year ended December 31, 2008 under the heading "Regulatory Matters and Legal Proceedings", as updated by the statements in the Company's report on Form 6-K, filed with the Commission on September 21, 2009 under the heading "Recent developments relating to our regulatory matters and legal proceedings", in each case incorporated by reference therein; insofar as they purport to describe the provisions of the laws and documents referred to therein, fairly summarize the matters therein described in all material respects.

(m) This Agreement has been duly authorized, executed and delivered by the Issuer and each of the Note Guarantors; the Indenture, including the Guarantees provided for therein by each of the Note Guarantors, has been duly authorized by the Issuer and each of the Note Guarantors and, assuming due authorization, execution and delivery thereof by the Trustee, when executed and delivered by the Issuer and each of the Note Guarantors, will constitute a legal, valid, binding instrument enforceable against the Issuer and each of the Note Guarantors in accordance with its terms (subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity); and the Securities have been duly authorized, and, when executed, authenticated and issued in accordance with the provisions of the Indenture and delivered to and paid for by the Initial Purchasers, will have been duly executed and delivered by the Issuer and will constitute the legal, valid and binding obligations of the Issuer entitled to the benefits of the Indenture (subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity).

(n) As of the Closing Date, the Securities are duly secured by a first-priority security interest in the Collateral on an equal and ratable basis with (i) the indebtedness under the Financing Agreement, (ii) the U.S.$ Denominated Notes: and (iii) the notes (or similar instruments, including *certificados bursátiles*) outstanding on the date of the Financing Agreement which are not subject to the Financing Agreement but are required to be secured pursuant to their terms, but holding a Security will not grant its holders the right to direct the foreclosure or the right to foreclose on the Collateral.

(o) The shares that constitute the Collateral are fully paid and non assessable and not subject to any option to purchase or similar rights and are free and clear of any lien, pledge, security interest or encumbrance, except for the security interest created under the Transaction Security Documents. The constitutional documents of the companies whose shares are subject to the Collateral do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Collateral. There are no agreements in force which provide for the issue or allotment of, any share or loan capital of the Company or any of its subsidiaries (including any option or right of pre-emption or conversion) other than pre-emptive rights (i) arising under applicable law in favor of shareholders generally; and (ii) arising under any obligation in respect of any stock option plan, restricted stock plan or retirement plan which the Company or any of its subsidiaries customarily provides to its employees, consultants and directors.

(p) Under the Transaction Security Documents, the Collateral is granted over all the issued share capital in each of the Company and its subsidiaries whose shares are subject to the Collateral except:

(i) in the case of CEMEX España:

(A) 0.3602% of the issued share capital, comprised of shares owned by subsidiaries of CEMEX España; and

(B) 0.1716% of the issues share capital, comprised of shares owned by persons that are not subsidiaries or affiliates of the Company;

(ii) in the case of CEMEX Trademarks Holding Ltd., 0.4326% of the issues share capital, comprised of shares owned by CEMEX Inc.;

(iii) in the case of each Mexican company whose shares are the subject to the Collateral (except in the case of CEMEX México, S.A. de C.V.), the single share held by a minority shareholder that is either the Company or any of its subsidiaries;

(iv) in the case of CEMEX México, S.A. de C.V., 0.1245% of the issued share capital, comprised of shares owned by CEMEX, Inc.;

(v) in the case of CEMEX Concretos, S.A. de C.V., 0.0357% of the issued share capital, comprised of shares owned by CEMEX, Inc. and 0.0131% of the issued share capital comprised of shares owned by third parties.

(q) No consent, approval, authorization, filing with or order of any court or governmental agency or body is required in connection with the transactions contemplated herein or in the Indenture, except (i) such as may be required under the blue sky laws or other state securities laws of any jurisdiction in which the Securities are offered and sold and, (ii) for the approval of the Securities for listing on the Luxembourg Stock Exchange.

(r) None of the execution and delivery of this Agreement, the Indenture, the issuance and sale of the Securities, the Financing Agreement, and the Transaction Security Documents or the consummation of any other of the transactions herein or therein contemplated, or the fulfillment of the terms hereof or thereof will conflict with, or result in a breach or violation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries (other than the Collateral), pursuant to (i) the organizational documents of the Company or any of its subsidiaries; (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which the Company or any of its subsidiaries is a party or bound or to which its or their property is subject (including the Financing Agreement and the Transaction Security Documents); or (iii) any statute, law, rule, regulation, judgment, order or decree of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company's or any of its subsidiaries' properties, which conflict, breach, violation or imposition would, in the case of clauses (ii) and (iii) above, either individually or in the aggregate with all other conflicts, breaches, violations and impositions referred to in this paragraph (r) (if any), have (x) a Material Adverse Effect (as defined below) or (y) a material adverse effect upon the transactions contemplated herein or any Initial Purchaser.

(s) The consolidated historical financial statements and schedules of the Company and its consolidated subsidiaries included or incorporated by reference in the Disclosure Package and the Final Memorandum present fairly in all material respects the financial condition, results of operations and cash flows of the Company and its consolidated subsidiaries as of the dates and for the periods indicated and have been prepared in conformity with Mexican FRS applied on a consistent basis throughout the periods involved (except as otherwise noted therein); the selected financial data set forth under the caption "Selected Financial Information" in the Preliminary Memorandum and the Final Memorandum fairly present, on the basis stated in the Preliminary Memorandum and the Final Memorandum, the information included therein.

(t) No action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries or their respective property is pending or, to the best knowledge of the Issuer, threatened that (i) could reasonably be expected to have a material adverse effect on the performance of this Agreement, the Indenture, the Financing Agreement and the Transaction Security Documents or the consummation of any of the transactions contemplated hereby or thereby or (ii) could reasonably be expected to have a material adverse effect on the condition (financial or otherwise), prospects, earnings, business or properties of the Company and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business (a "Material Adverse Effect"), except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(u) Each of the Company and its subsidiaries owns or leases all such properties as are necessary to the conduct of its operations as presently conducted except (i) for such properties the loss of which would not reasonably be expected to result in a Material Adverse Effect and (ii) as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement).

(v) Neither the Company nor any of its subsidiaries is in violation or default of (i) any provision of its organizational documents; (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which it is a party or bound or to which its property is subject (including the Financing Agreement and the Transaction Security Documents); or (iii) any statute, law, rule, regulation, judgment, order or decree applicable to the Company or any of its subsidiaries of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company or any of its subsidiaries or any of their respective properties, as applicable, except for such violations or defaults which, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(w) KPMG Cárdenas Dosal, S.C., which has certified certain financial statements of the Company and its consolidated subsidiaries and delivered its report with respect to the audited consolidated financial statements and schedules included or incorporated by reference in the Disclosure Package and the Final Memorandum, are independent auditors with respect to the Company in accordance with local accounting rules, which are substantially the same as those contemplated by Rule 10A of the Code of Professional Conduct of the American Institute of Certified Public Accountants.

(x) There are no stamp or other issuance or transfer taxes or duties or other similar fees or charges required to be paid in connection with the execution and delivery of this Agreement or the issuance or sale by the Issuer of the Securities.

(y) The Company and each of its subsidiaries have filed all applicable tax returns that are required to be filed by them or have requested extensions of the period applicable for the filing of such returns (except in any case in which the failure so to file would not have a Material Adverse Effect and except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto)) and have paid all taxes required to be paid by them and any other assessment, fine or penalty levied against them, to the extent that any of the foregoing is due and payable, except for any such tax, assessment, fine or penalty that is currently being contested in good faith or as would not have a Material Adverse Effect and except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(z) No labor problem or dispute with the employees of the Company or any of its subsidiaries exists or is threatened or imminent, and the Issuer is not aware of any existing or imminent labor disturbance by the employees of any of its subsidiaries' principal suppliers, contractors or customers, except as would not have a Material Adverse Effect and except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(aa) No subsidiary of the Company is currently prohibited, directly or indirectly, from paying any dividends to the Company, from making any other distribution on such subsidiary's capital stock or ownership interest, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such subsidiary's property or assets to the Company or any other subsidiary of the Company, except as described in or contemplated in the Disclosure Package or the Final Memorandum (in each case, exclusive of any amendment or supplement thereto).

(bb) The Company and each of its subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged; all policies of insurance and fidelity or surety bonds insuring the Company or any of its subsidiaries or any of their respective businesses, assets, employees, officers and directors are in full force and effect; the Company and its subsidiaries are in compliance in all material respects with the terms of such policies and instruments; there are no material claims by the Company or any of its subsidiaries under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause; neither the Company nor any of its subsidiaries has been refused any material insurance coverage sought or applied for; and neither the Company nor any of its subsidiaries has reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(cc) The Company and each of its subsidiaries possess all licenses, certificates, permits and other authorizations issued by all applicable authorities necessary to conduct their respective businesses, except to the extent that the failure to have such license, certificate, permit or authorization would not reasonably be expected to have a Material Adverse Effect and except, as described in or contemplated in the Disclosure Package or the Final Memorandum (exclusive of any amendment or supplement thereto), and neither the Company nor any of its subsidiaries have received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a Material Adverse Effect, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(dd) The Company and each of its subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with Mexican FRS and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. The Company's and each of its subsidiaries' internal controls over financial reporting are effective, and neither the Company nor any of its subsidiaries is aware of any material weakness in its internal control over financial reporting. The Company and each of its subsidiaries maintains "disclosure controls and procedures" (as such term is defined in Rule 13a-15(e) under the Exchange Act) and such disclosure controls and procedures are effective.

(ee) Each of the Company and its subsidiaries (i) is in compliance with any and all applicable laws and regulations relating to the protection of human health and safety, the

environment or hazardous or toxic substances or wastes, pollutants or contaminants ("Environmental Laws"); (ii) has received and is in compliance with all permits, licenses or other approvals required under applicable Environmental Laws to conduct its businesses; and (iii) has not received notice of any actual or potential liability under any Environmental Law, except where such non-compliance with Environmental Laws, failure to receive required permits, licenses or other approvals, or liability would not, individually or in the aggregate, have a Material Adverse Effect, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto). Except as set forth in the Disclosure Package and the Final Memorandum, neither the Company nor any of its subsidiaries has been named as a "potentially responsible party" under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

(ff) In the ordinary course of its business, the Company periodically reviews the effect of Environmental Laws on the business, operations and properties of the Company and its subsidiaries, in the course of which it identifies and evaluates associated costs and liabilities (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws, or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties); on the basis of such review, the Company has reasonably concluded that such associated costs and liabilities would not, singly or in the aggregate, have a Material Adverse Effect, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(gg) The operations of the Company and each of its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements and the money laundering statutes and the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

(hh) None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee or Affiliate of the Company or any of its subsidiaries is currently subject to any sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC"); and the Issuer will not directly or indirectly use the proceeds of the offering of the Securities hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC. There is and has been no failure on the part of the Company and or of the Company's directors or officers, in their capacities as such, to comply with any provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the "Sarbanes-Oxley Act"), including Section 402 relating to loans and Sections 302 and 906 relating to certifications.

(ii) None of the Company, any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or Affiliate of the Company is aware of or has

taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "FCPA"), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA; and the Company, its subsidiaries and, to the knowledge of the Company, its Affiliates have conducted their respective businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(jj) Any certificate signed by any officer of the Company or any of its subsidiaries and delivered to the Representatives or counsel for the Initial Purchasers in connection with the offering of the Securities shall be deemed a representation and warranty by the Issuer, as to matters covered thereby, to each Initial Purchaser.

2. Purchase and Sale. Subject to the terms and conditions and in reliance upon the representations and warranties herein set forth, the Issuer agrees to sell to each Initial Purchaser, and each Initial Purchaser agrees, severally and not jointly, to purchase from the Issuer, at a purchase price of 99.2433% of the principal amount thereof, plus accrued interest, if any, from December 14, 2009 to the Closing Date, the principal amount of Securities set forth opposite such Initial Purchaser's name in Schedule I hereto.

3. Delivery and Payment. Delivery of and payment for the Securities shall be made at 10:00 A.M., New York City time, on December 14, 2009, or at such time on such later date not more than three Business Days after the foregoing date as the Representatives shall designate, which date and time may be postponed by agreement between the Representatives and the Issuer or as provided in Section 9 hereof (such date and time of delivery and payment for the Securities being herein called the "Closing Date"). Delivery of the Securities shall be made to the Representatives for the respective accounts of the several Initial Purchasers against payment by the several Initial Purchasers through the Representatives of the purchase price thereof to or upon the order of the Company by wire transfer payable in same-day funds to the account specified by the Company. Delivery of the Securities shall be made through the facilities of Euroclear Bank S.A./N.V. ("Euroclear") and Clearstream Banking, S.A. ("Clearstream") and any other relevant clearing system unless the Representatives shall otherwise instruct.

4. Offering by Initial Purchasers. (a) Each Initial Purchaser acknowledges that the Securities have not been and will not be registered under the Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Act.

(b) Each Initial Purchaser, severally and not jointly, represents and warrants to and agrees with the Issuer that:

(i) it has not offered or sold, and will not offer or sell, any Securities within the United States or to, or for the account or benefit of, U.S. persons (x) as part of their distribution at any time or (y) otherwise until 40 days after the later of the commencement of the offering and the date of the closing of the offering except:

(A) to those it reasonably believes to be "qualified institutional buyers" (as defined in Rule 144A under the Act) or

(B) in accordance with Rule 903 of Regulation S;

(ii) neither it nor any person acting on its behalf has made or will make offers or sales of the Securities in the United States by means of any form of general solicitation or general advertising (within the meaning of Regulation D);

(iii) in connection with each sale pursuant to Section 4(b)(i)(A), it has taken or will take reasonable steps to ensure that the purchaser of such Securities is aware that such sale may be made in reliance on Rule 144A;

(iv) neither it, nor any of its Affiliates nor any person acting on its or their behalf has engaged or will engage in any directed selling efforts (within the meaning of Regulation S) with respect to the Securities;

(v) it is an "accredited investor" (as defined in Rule 501(a) of Regulation D);

(vi) it has complied and will comply with the offering restrictions requirement of Regulation S;

(vii) at or prior to the confirmation of sale of Securities (other than a sale of Securities pursuant to Section 4(b)(i)(A) of this Agreement), it shall have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Securities from it during the distribution compliance period (within the meaning of Regulation S) a confirmation or notice to substantially the following effect:

> "The Securities covered hereby have not been registered under the U.S. Securities Act of 1933 (the "Act") and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons (i) as part of their distribution at any time or (ii) otherwise until 40 days after the later of the commencement of the offering and the date of closing of the offering, except in either case in accordance with Regulation S or Rule 144A under the Act. Terms used in this paragraph have the meanings given to them by Regulation S.";

(viii) it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial

Services and Markets Act 2000 (the "FSMA")) received by it in connection with the issue or sale of any Securities, in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer;

(ix) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Securities in, from or otherwise involving the United Kingdom; and

(x) in relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a "Relevant Member State"), it has not made and will not make an offer to the public of any Securities which are the subject of the offering contemplated by this Agreement in that Relevant Member State, except that it may make an offer to the public in that Relevant Member State of any Securities at any time under the following exemptions under the Prospectus Directive, if they have been implemented in that Relevant Member State:

(A) to legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;

(B) to any legal entity which has two or more of (i) an average of at least 250 employees during the last financial year, (ii) a total balance sheet of more than €43,000,000 and (iii) an annual turnover of more than €50,000,000, as shown in its last annual or consolidated accounts;

(C) to fewer than 100 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior written consent of the Representatives for any such offer; or

(D) in any other circumstances falling within Article 3(2) of the Prospectus Directive;

provided that no such offer of Securities shall result in a requirement for the publication by the Issuer or any Initial Purchaser of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an "offer to the public" in relation to any Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Securities to be offered so as to enable an investor to decide to purchase any Securities, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression "Prospectus Directive" means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

5. Agreements. The Issuer and the Note Guarantors agree, jointly and severally, in each case with each Initial Purchaser that:

(a) The Company will furnish to each Initial Purchaser and to counsel for the Initial Purchasers, without charge, during the Distribution Period (as defined in Section 5(c) below), as many copies of the materials contained in the Disclosure Package and the Final Memorandum and any amendments and supplements thereto as they may reasonably request.

(b) The Company will prepare a final term sheet, containing solely a description of final terms of the Securities and the offering thereof, in the form approved by you attached as Schedule II hereto.

(c) The Company will not amend or supplement the Disclosure Package or the Final Memorandum other than by filing documents under the Exchange Act that are incorporated by reference therein, without the prior written consent of the Representatives, which consent, following the Closing Date, may not be unreasonably withheld; provided, however, that prior to the earlier of (i) the completion of the distribution of the Securities by the Initial Purchasers (as determined by the Representatives and communicated to the Company) and (ii) twelve (12) months after the date of the Final Memorandum (the "Distribution Period"), the Company will not file any document under the Exchange Act that is incorporated by reference in the Disclosure Package or the Final Memorandum unless, prior to such proposed filing, the Company has furnished the Representatives with a copy of such document for their review and the Representatives have not reasonably objected to the filing of such document. The Issuer will promptly advise the Representatives when any document filed under the Exchange Act that is incorporated by reference in the Disclosure Package or the Final Memorandum shall have been filed with the Commission.

(d) If at any time during the Distribution Period, any event occurs as a result of which the Disclosure Package or the Final Memorandum, as then amended or supplemented, would include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made or the circumstances then prevailing, not misleading, or if it should be necessary to amend or supplement the Disclosure Package or the Final Memorandum to comply with applicable law, the Company will promptly (i) notify the Representatives of any such event; (ii) subject to the requirements of Section 5(c), prepare an amendment or supplement that will correct such statement or omission or effect such compliance; and (iii) supply any supplemented or amended Disclosure Package or Final Memorandum to the several Initial Purchasers and counsel for the Initial Purchasers without charge in such quantities as they may reasonably request.

(e) Without the prior written consent of the Representatives, the Issuer and each of the Note Guarantors will not give to any prospective purchaser of the Securities any written information concerning the offering of the Securities other than materials contained in the Disclosure Package, the Final Memorandum or any other offering materials prepared by or with the prior written consent of the Representatives. For the avoidance of doubt, the foregoing shall not apply to any written information or other offering materials in connection with the offering of the U.S.$ Denominated Securities.

(f) The Issuer will arrange, if necessary, for the qualification of the Securities for sale by the Initial Purchasers under the laws of such jurisdictions as the Representatives may designate (including Japan and certain provinces of Canada) and will maintain such qualifications in effect so long as required for the sale of the Securities; provided that in no event shall the Issuer be obligated to qualify to do business in any jurisdiction where it is not now so qualified or to take any action that would subject it to service of process in suits, other than those arising out of the offering or sale of the Securities, in any jurisdiction where it is not now so subject. The Issuer will promptly advise the Representatives of the receipt by the Issuer of any notification with respect to the suspension of the qualification of the Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose.

(g) The Issuer will not, and will not permit any of its Affiliates to, resell any Securities that have been acquired by any of them, except for Securities resold after the "40-day distribution compliance period" within the meaning of Rule 903 of Regulation S, (i) in a transaction registered under the Securities Act or (ii) in a transaction exempt from the registration requirements under the Securities Act if such transaction does not cause the holding periods under Rule 144 under the Securities Act to be extended for other holders of Securities.

(h) None of the Issuer, its Affiliates, or any person acting on its or their behalf will, directly or indirectly, make offers or sales of any security, or solicit offers to buy any security, under circumstances that would require the registration of the Securities under the Act.

(i) None of the Issuer, its Affiliates, or any person acting on its or their behalf will engage in any directed selling efforts (within the meaning of Regulation S) with respect to the Securities; and each of them will comply with the offering restrictions requirement of Regulation S.

(j) None of the Issuer, its Affiliates, or any person acting on its or their behalf will engage in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with any offer or sale of the Securities in the United States.

(k) For so long as any of the Securities are outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the Act, the Company, during any period in which it is not subject to and in compliance with Section 13 or 15(d) of the Exchange Act or it is not exempt from such reporting requirements pursuant to and in compliance with Rule 12g3-2(b) under the Exchange Act, will provide to each holder of such restricted securities and to each prospective purchaser (as designated by such holder) of such restricted securities, upon the request of such holder or prospective purchaser, any information required to be provided by Rule 144A(d)(4) under the Act. This covenant is intended to be for the benefit of the holders, and the prospective purchasers designated by such holders, from time to time of such restricted securities.

(l) The Issuer will cooperate with the Representatives and use its best efforts to permit the Securities to be eligible for clearance and settlement through Euroclear and Clearstream, and any other relevant clearing system.

(m) Each of the Securities will bear, to the extent applicable, the legend contained in "Transfer Restrictions" in the Preliminary Memorandum and the Final Offering Memorandum for the time period and upon the other terms stated therein.

(n) Neither the Issuer nor any of the Note Guarantors will, for a period of 90 days following the Execution Time, without the prior written consent of the Representatives, which consent shall not be unreasonably withheld, offer, sell, contract to sell, pledge or otherwise dispose of or enter into any transaction which is designed to, or might reasonably be expected to, result in the disposition (whether by actual disposition or effective economic disposition due to cash settlement or otherwise) by the Issuer or any of the Note Guarantors or any person in privity with the Issuer or any of the Note Guarantors, directly or indirectly, or announce the offering of, any debt securities in the international capital markets that are issued or guaranteed by the Issuer or any of the Note Guarantors (other than the Securities and the U.S.$ Denominated Securities). For the avoidance of doubt, the foregoing will not restrict the ability of the Issuer or any of the Note Guarantors to offer, sell, contract to sell, pledge or otherwise dispose of or announce the offering of *certificados bursátiles* and the Convertible Securities (as defined in the Preliminary Memorandum and the Final Memorandum) in the local Mexican market and to enter into securitization transactions.

(o) The Company will not take, directly or indirectly, any action designed to, or that has constituted or that might reasonably be expected to, cause or result, under the Exchange Act or otherwise, in stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities.

(p) The Company will, for a period of twelve months following the Execution Time, furnish to the Representatives (i) all reports or other communications (financial or other) generally made available to its shareholders, and deliver such reports and communications to the Representatives as soon as they are available, unless such documents are furnished to or filed with the Commission or any securities exchange on which any class of securities of the Company is listed and generally made available to the public and (ii) such additional information concerning the business and financial condition of the Company as the Representatives may from time to time reasonably request (such statements to be on a consolidated basis to the extent the accounts of the Company and its subsidiaries are consolidated in reports furnished to its shareholders).

(q) The Company will comply with all applicable securities and other laws, rules and regulations, including, without limitation, the Sarbanes-Oxley Act, and use its best efforts to cause the Company's directors and officers, in their capacities as such, to comply with such laws, rules and regulations, including, without limitation, the provisions of the Sarbanes-Oxley Act.

(r) The Issuer and the Note Guarantors agree, jointly and severally, to pay the costs and expenses relating to the following matters: (i) the preparation of the Indenture and the issuance of the Securities and the fees of the Trustee; (ii) the preparation, printing or reproduction of the materials contained in the Disclosure Package and the Final Memorandum and each amendment or supplement to either of them; (iii) the printing (or reproduction) and delivery (including postage, air freight charges and charges for counting and packaging) of such copies of the materials contained in the Disclosure Package and the Final Memorandum, and all

amendments or supplements to either of them, as may, in each case, be reasonably requested for use in connection with the offering and sale of the Securities; (iv) the issuance and delivery of the Securities; (v) any stamp or transfer taxes in connection with the original issuance and sale of the Securities; (vi) the printing (or reproduction) and delivery of this Agreement, any blue sky memorandum and all other agreements or documents printed (or reproduced) and delivered in connection with the offering of the Securities; (vii) any registration or qualification of the Securities for offer and sale under the securities or blue sky laws of the several states, Japan, the provinces of Canada and any other jurisdictions specified pursuant to Section 5(e) (including filing fees and the reasonable fees and expenses of counsel for the Initial Purchasers relating to such registration and qualification); (viii) the transportation and other expenses incurred by or on behalf of the Company representatives in connection with presentations to prospective purchasers of the Securities; (ix) the fees and expenses of the Company's accountants and the fees and expenses of counsel (including local and special counsel) for the Company; (x) fees and expenses incurred in connection with listing the Securities on the Luxembourg Stock Exchange; (xi) the fees and expenses incurred in connection with the rating of the Securities by Standard & Poor's and Fitch Ratings; and (xii) all other costs and expenses incident to the performance by the Issuer of its obligations hereunder.

(s) The Issuer and the Note Guarantors agree, jointly and severally, to reimburse the Representatives, on behalf of the Initial Purchasers, for all their reasonable expenses incurred in connection with the sale of the Securities provided for herein (including, without limitation, reasonable fees, disbursements and expenses of legal advisors for the Initial Purchasers). The reimbursement obligations of the Company in respect of the legal advisors for the Initial Purchasers pursuant to Sections 5(s) and 7 hereof and pursuant to Sections 5(s) and 7 of the U.S.$ Purchase Agreement will be limited to U.S.$600,000 (excluding reimbursements in respect of disbursements and expenses of such legal advisors).

(t) The Issuer will apply the aggregate net proceeds from the offering of the Securities in the manner specified in the Final Memorandum under the heading "Use of Proceeds".

6. Conditions to the Obligations of the Initial Purchasers. The obligations of the Initial Purchasers to purchase the Securities shall be subject to the accuracy of the representations and warranties of the Issuer contained herein at the Execution Time and the Closing Date, to the accuracy of the statements of the Issuer made in any certificates pursuant to the provisions hereof, to the performance by the Issuer of its obligations hereunder and to the following additional conditions:

(a) The Issuer shall have requested and caused Skadden, Arps, Slate, Meagher & Flom LLP, special U.S. counsel for the Company, to furnish to the Representatives its opinion, tax opinion and negative assurance letter, each dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule III attached hereto.

(b) The Issuer shall have requested and caused Mr. Ramiro G. Villarreal, General Counsel for the Company, to furnish to the Representatives his opinion, subject to certain applicable exceptions, qualifications and conditions acceptable to the Representatives, dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule IV attached hereto.

(c) The Issuer shall have requested and caused Clifford Chance SL, special Spanish counsel to the Company, to furnish to the Representatives its opinion, subject to certain applicable exceptions, qualifications and conditions acceptable to the Representatives, dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule V attached hereto.

(d) The Issuer shall have requested and caused Warendorf, special Dutch counsel to the Company, to furnish to the Representatives its opinion, subject to certain applicable exceptions, qualifications and conditions acceptable to the Representatives, dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule VI attached hereto.

(e) The Issuer shall have requested and caused GHR Rechtsanwälte AG, special Swiss counsel to the Company, to furnish to the Representatives its opinion, subject to certain applicable exceptions, qualifications and conditions acceptable to the Representatives, dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule VII attached hereto.

(f) The Representatives shall have received from Cleary Gottlieb Steen & Hamilton LLP and Ritch Mueller, S.C., counsel for the Initial Purchasers, such opinion or opinions, dated the Closing Date and addressed to the Representatives, with respect to the issuance and sale of the Securities, the Indenture, the Disclosure Package, the Final Memorandum (as amended or supplemented at the Closing Date) and other related matters as the Representatives may reasonably require, and the Company shall have furnished to such counsel such documents as they request for the purpose of enabling them to pass upon such matters.

(g) The Company shall have furnished to the Representatives a certificate, signed by an executive officer of the Company, dated as of the Closing Date, substantially in the form of Schedule VIII attached hereto.

(h) At the Execution Time and at the Closing Date, the Company shall have requested and caused KPMG Cárdenas Dosal, S.C. to furnish to the Representatives, letters, dated respectively as of the Execution Time and as of the Closing Date, in form and substance satisfactory to the Representatives and confirming that they are independent auditors within the meaning of the Exchange Act and the applicable published rules and regulations thereunder substantially in the form of Schedule IX attached hereto.

(i) Any and all applicable amendments, supplements or modifications to the Financing Agreement, any of the Transaction Security Documents, the Intercreditor Agreement and any other documents derived therefrom and in connection therewith, as applicable, shall have been made and shall constitute legal, valid and binding obligations to each party thereof.

(j) The Trustee shall be entitled to all rights and benefits provided in the Intercreditor Agreement as an Additional Notes Trustee (as such term is defined in the Intercreditor Agreement) and the Initial Purchasers, and/or each of the subsequent holders of the Securities, shall be entitled to all rights and benefits provided therein as Additional Notes Creditors (as such term is defined in the Intercreditor Agreement).

(k) Subsequent to the Execution Time or, if earlier, the dates as of which information is given in the Disclosure Package (exclusive of any amendment or supplement thereto) and the Final Memorandum (exclusive of any amendment or supplement thereto), there shall not have been (i) any change, increase or decrease specified in the letter or letters referred to in paragraph (h) of this Section 6; or (ii) any change, or any development involving a prospective change, in or affecting the condition (financial or otherwise), prospects, earnings, business or properties of the Company and its subsidiaries taken as a whole, whether or not arising from transactions in the ordinary course of business, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto), the effect of which, in any case referred to in clause (i) or (ii) above, is, in the sole judgment of the Representatives, so material and adverse as to make it impractical or inadvisable to proceed with the offering or delivery of the Securities as contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(l) The Securities shall be eligible for clearance and settlement through Euroclear and Clearstream and any other relevant clearing system.

(m) Subsequent to the Execution Time, there shall not have been any decrease in the rating of any of the Company's or any of its subsidiaries' debt securities by Standard & Poor's and Fitch Ratings or any notice given of any intended or potential decrease in any such rating. For the avoidance of doubt, any reiteration or reissuance of the outlook of a rating agency that was in place at the Execution Time shall not be considered a notice of an intended or potential decrease in a rating.

(n) Prior to the Closing Date, the Company shall have furnished to the Representatives such further information, certificates and documents as the Representatives may reasonably request.

If any of the conditions specified in this Section 6 shall not have been fulfilled when and as provided in this Agreement, or if any of the opinions and certificates mentioned above or elsewhere in this Agreement shall not be reasonably satisfactory in form and substance to the Representatives and counsel for the Initial Purchasers, this Agreement and all obligations of the Initial Purchasers hereunder may be cancelled at, or at any time prior to, the Closing Date by the Representatives. Notice of such cancellation shall be given to the Issuer in writing or by telephone or facsimile confirmed in writing.

The documents required to be delivered under this Section 6 will be delivered at the office of counsel for the Initial Purchasers, at Cleary Gottlieb Steen & Hamilton LLP, One Liberty Plaza, New York, New York, 10006, Attention: Duane McLaughlin, Esq., on the Closing Date.

7. Reimbursement of Expenses. If the sale of the Securities provided for herein is not consummated because any condition to the obligations of the Initial Purchasers set forth in

Section 6 hereof is not satisfied, because of any termination pursuant to Section 10 hereof or because of any refusal, inability or failure on the part of the Company to perform any agreement herein or comply with any provision hereof other than by reason of a default by any of the Initial Purchasers, the Issuer will reimburse the Initial Purchasers severally through Citigroup on demand for all expenses (including reasonable fees and disbursements of counsel) that shall have been incurred by them in connection with the proposed purchase and sale of the Securities.

8. Indemnification and Contribution. (a) The Issuer and the Note Guarantors, jointly and severally, agree to indemnify and hold harmless each Initial Purchaser, the directors, officers, employees, Affiliates and agents of each Initial Purchaser and each person who controls any Initial Purchaser within the meaning of either the Act or the Exchange Act against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Act, the Exchange Act or other U.S. federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, damages or liabilities or actions in respect thereof arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Preliminary Memorandum, the Final Memorandum, any Issuer Written Information or any other written information used by or on behalf of the Company in connection with the offer or sale of the Securities, or in any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and agrees to reimburse each such indemnified party, as incurred, for any legal or other expenses reasonably incurred by it in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that neither the Issuer nor any of the Note Guarantors will be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made in the Preliminary Memorandum or the Final Memorandum, or in any amendment thereof or supplement thereto, in reliance upon and in conformity with written information furnished to the Company by or on behalf of any Initial Purchaser through the Representatives specifically for inclusion therein. This indemnity agreement will be in addition to any liability that the Issuer or any of the Note Guarantors may otherwise have.

(b) Each Initial Purchaser severally, and not jointly, agrees to indemnify and hold harmless the Issuer, each of its directors, each of its officers, and each person who controls the Issuer within the meaning of either the Act or the Exchange Act, to the same extent as the foregoing indemnity to each Initial Purchaser, but only with reference to written information relating to such Initial Purchaser furnished to the Issuer by or on behalf of such Initial Purchaser through the Representatives specifically for inclusion in the Preliminary Memorandum or the Final Memorandum (or in any amendment or supplement thereto). This indemnity agreement will be in addition to any liability that any Initial Purchaser may otherwise have. The Issuer acknowledges that (i) the statements set forth in the last paragraph of the cover page regarding delivery of the Securities and (ii), under the heading “Plan of Distribution”, (A) the table of Initial Purchasers, and (B) the eighth and ninth paragraphs in the Preliminary Memorandum and the Final Memorandum constitute the only information furnished in writing by or on behalf of the Initial Purchasers for inclusion in the Preliminary Memorandum or the Final Memorandum or in any amendment or supplement thereto.

(c) Promptly after receipt by an indemnified party under this Section 8 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 8, notify the indemnifying party in writing of the commencement thereof; but the failure so to notify the indemnifying party (i) will not relieve it from liability under paragraph (a) or (b) above unless and to the extent it did not otherwise learn of such action and such failure results in the forfeiture by the indemnifying party of substantial rights and defenses and (ii) will not, in any event, relieve the indemnifying party from any obligations to any indemnified party other than the indemnification obligation provided in paragraph (a) or (b) above. The indemnifying party shall be entitled to appoint counsel (including local counsel) of the indemnifying party's choice at the indemnifying party's expense to represent the indemnified party in any action for which indemnification is sought (in which case the indemnifying party shall not thereafter be responsible for the fees and expenses of any separate counsel, other than local counsel if not appointed by the indemnifying party, retained by the indemnified party or parties except as set forth below); provided, however, that such counsel shall be satisfactory to the indemnified party. Notwithstanding the indemnifying party's election to appoint counsel (including local counsel) to represent the indemnified party in an action, the indemnified party shall have the right to employ separate counsel (including local counsel), and the indemnifying party shall bear the reasonable fees, costs and expenses of such separate counsel if (i) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with a conflict of interest; (ii) the actual or potential defendants in, or targets of, any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there may be legal defenses available to it that are different from or additional to those available to the indemnifying party and/or other indemnified parties; (iii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of the institution of such action; or (iv) the indemnifying party shall authorize the indemnified party to employ separate counsel at the expense of the indemnifying party. If none of the conditions in clauses (i) through (iv) in the preceding sentence are satisfied as to any indemnified party, it is understood that the Issuer shall, in connection with any one such action be liable for the reasonable fees and expenses of only one separate firm of attorneys in each jurisdiction (and in addition to any local counsel) at any time (other than reasonable overlapping of engagements) for all such indemnified parties. An indemnifying party will not, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding.

(d) In the event that the indemnity provided in paragraph (a) or (b) of this Section 8 is unavailable to, or insufficient to hold harmless, an indemnified party for any reason, the Issuer and the Initial Purchasers severally agree to contribute to the aggregate losses, claims, damages and liabilities (including legal or other expenses reasonably incurred in connection with investigating or defending any loss, claim, damage, liability or action) (collectively "Losses") to which the Issuer and one or more of the Initial Purchasers may be subject in such proportion as is appropriate to reflect the relative benefits received by the Issuer on the one hand and by the Initial Purchasers on the other from the offering of the Securities; provided, however, that in no

case shall any Initial Purchaser be responsible for any amount in excess of the purchase discount or commission applicable to the Securities purchased by such Initial Purchaser hereunder. If the allocation provided by the immediately preceding sentence is unavailable for any reason, the Issuer and the Initial Purchasers severally shall contribute in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Issuer on the one hand and the Initial Purchasers on the other in connection with the statements or omissions that resulted in such Losses, as well as any other relevant equitable considerations. Benefits received by the Issuer shall be deemed to be equal to the total net proceeds from the offering (before deducting expenses) received by it, and benefits received by the Initial Purchasers shall be deemed to be equal to the total purchase discounts and commissions. Relative fault shall be determined by reference to, among other things, whether any untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information provided by the Issuer on the one hand or the Initial Purchasers on the other, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The Issuer and the Initial Purchasers agree that it would not be just and equitable if contribution were determined by pro rata allocation or any other method of allocation that does not take account of the equitable considerations referred to above. Notwithstanding the provisions of this paragraph (d), no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 8, each person who controls an Initial Purchaser within the meaning of either the Act or the Exchange Act and each director, officer, employee, Affiliate and agent of an Initial Purchaser shall have the same rights to contribution as such Initial Purchaser, and each person who controls the Issuer within the meaning of either the Act or the Exchange Act and each officer and director of the Issuer shall have the same rights to contribution as the Issuer, subject in each case to the applicable terms and conditions of this paragraph (d).

9. Default by an Initial Purchaser. If any one or more Initial Purchasers shall fail to purchase and pay for any of the Securities agreed to be purchased by such Initial Purchaser hereunder and such failure to purchase shall constitute a default in the performance of its or their obligations under this Agreement, the remaining Initial Purchasers shall be obligated severally to take up and pay for (in the respective proportions which the principal amount of Securities set forth opposite their names in Schedule I hereto bears to the aggregate principal amount of Securities set forth opposite the names of all the remaining Initial Purchasers) the Securities which the defaulting Initial Purchaser or Initial Purchasers agreed but failed to purchase; provided, however, that in the event that the aggregate principal amount of Securities which the defaulting Initial Purchaser or Initial Purchasers agreed but failed to purchase shall exceed 10% of the aggregate principal amount of Securities set forth in Schedule I hereto, the remaining Initial Purchasers shall have the right to purchase all, but shall not be under any obligation to purchase any, of the Securities, and if such non-defaulting Initial Purchasers do not purchase all the Securities, this Agreement will terminate without liability to any non-defaulting Initial Purchaser or the Issuer. In the event of a default by any Initial Purchaser as set forth in this Section 9, the Closing Date shall be postponed for such period, not exceeding five Business Days, as the Representatives and the Issuer shall determine in order that the required changes in the Final Memorandum or in any other documents or arrangements may be effected. Nothing contained in this Agreement shall relieve any defaulting Initial Purchaser of its liability, if any, to the Issuer or any non-defaulting Initial Purchaser for damages occasioned by its default hereunder.

10. Termination. This Agreement shall be subject to termination in the absolute discretion of the Representatives, by notice given to the Issuer prior to delivery of and payment for the Securities, if at any time prior to such time (i) trading in securities generally on the Mexican Stock Exchange (*Bolsa Mexicana de Valores, S.A.B. de C.V.*) or the New York Stock Exchange shall have been suspended or limited or minimum prices shall have been established on either such exchange; (ii) a banking moratorium shall have been declared either by Mexican, U.S. federal or New York State authorities; or (iii) there shall have occurred any outbreak or escalation of hostilities, declaration by Mexico or the United States of a national emergency or war or other calamity or crisis the effect of which on financial markets is such as to make it, in the sole judgment of the Representatives, impractical or inadvisable to proceed with the offering or delivery of the Securities as contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

11. Representations and Indemnities to Survive . The respective agreements, representations, warranties, indemnities and other statements of the Issuer or its officers and of the Initial Purchasers set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation made by or on behalf of the Initial Purchasers or the Issuer or any of the indemnified persons referred to in Section 8 hereof, and will survive delivery of and payment for the Securities. The provisions of Sections 7 and 8 hereof shall survive the termination or cancellation of this Agreement.

12. Notices. All communications hereunder will be in writing and effective only on receipt, and, if sent to the Representatives, will be mailed, delivered or telefaxed to the Citigroup General Counsel (fax no.: (212) 816-7912) and confirmed to Citigroup at 388 Greenwich Street, New York, New York 10013, Attention: General Counsel; or, if sent to the Issuer, will be mailed, delivered or telefaxed to +5281-8888-4399 and confirmed to it at CEMEX, S.A.B. de C.V., Av. Ricardo Margáin, Zozaya #325, Colonia Valle del Campestre, Garza García, Nuevo León, México 66265. Attention: Legal Department.

13. Successors. This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and the indemnified persons referred to in Section 8 hereof and their respective successors, and, except as expressly set forth in Section 5(k) hereof, no other person will have any right or obligation hereunder.

14. Jurisdiction. Each of the parties hereto agrees that any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in any State or U.S. federal court in The City of New York and County of New York and in the courts of its own domicile in respect of actions brought against such party as a defendant, and waives any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the jurisdiction of such courts in any suit, action or proceeding and waives the right to any other jurisdiction that it may be entitled to by reason of its present or future , and waives any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the jurisdiction of such courts in any suit, action or proceeding and waives the right to any other jurisdiction that it may

be entitled to by reason of domicile or other reason. Each of the Mexican Note Guarantors, CEMEX España and New Sunward hereby appoints CEMEX NY Corporation, 590 Madison Avenue, 41st Floor, New York, NY 10022, U.S.A., Attention: Legal Counsel; telephone: (212)317-6000, as its authorized agent (the "Authorized Agent") upon whom process may be served in any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated herein that may be instituted in any of such courts. Each of the parties appointing the Authorized Agent as provided herein hereby represents and warrants that the Authorized Agent has accepted such appointment and has agreed to act as said agent for service of process, and the Issuer agrees to take, and have each of the Mexican Note Guarantors, CEMEX España and New Sunward take, any and all action, including the execution and filing of any and all documents that may be necessary to continue such appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent shall be deemed, in every respect, effective service of process upon each of the Mexican Note Guarantors, CEMEX España and New Sunward. Notwithstanding the foregoing, any action arising out of or based upon this Agreement may be instituted by any Initial Purchaser, the directors, officers, employees, Affiliates and agents of any Initial Purchaser, or by any person who controls any Initial Purchaser, in any court of competent jurisdiction in Mexico.

15. Integration. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the Initial Purchasers, or any of them, with respect to the subject matter hereof.

16. Applicable Law. This Agreement will be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed within the State of New York.

17. Waiver of Jury Trial. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

18. No Fiduciary Duty. The Issuer hereby acknowledges that (a) the purchase and sale of the Securities pursuant to this Agreement is an arm's-length commercial transaction between the Issuer, on the one hand, and the Initial Purchasers and any Affiliates through which they may be acting, on the other, (b) the Initial Purchasers are acting as principal and not as an agent or fiduciary of the Issuer and (c) the Issuer's engagement of the Initial Purchasers in connection with the offering and the process leading up to the offering is as independent contractors and not in any other capacity. Furthermore, the Issuer agrees that it is solely responsible for making its own judgments in connection with the offering (irrespective of whether any of the Initial Purchasers has advised or is currently advising the Issuer on related or other matters). The Issuer agrees that it will not claim that the Initial Purchasers have rendered advisory services of any nature or respect, or owe an agency, fiduciary or similar duty to the Issuer, in connection with such transaction or the process leading thereto.

19. Currency. Each reference in this Agreement to Euro (the "relevant currency"), including by use of the symbol "€", is of the essence. To the fullest extent permitted by law, the obligation of the parties in respect of any amount due under this Agreement will, notwithstanding any payment in any other currency (whether pursuant to a judgment or

otherwise), be discharged only to the extent of the amount in the relevant currency that the party entitled to receive such payment may, in accordance with its normal procedures, purchase with the sum paid in such other currency (after any premium and costs of exchange) on the Business Day immediately following the day on which such party receives such payment. If the amount in the relevant currency that may be so purchased for any reason falls short of the amount originally due, the obligated party will pay such additional amounts, in the relevant currency, as may be necessary to compensate for the shortfall. Any obligation of the obligated party not discharged by such payment will, to the fullest extent permitted by applicable law, be due as a separate and independent obligation and, until discharged as provided herein, will continue in full force and effect.

20. Waiver of Immunity. To the extent that the Issuer or any of the Note Guarantors has or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service or notice, attachment in aid or otherwise) with respect to itself or any of its property, the Issuer and each of the Note Guarantors hereby irrevocably waives and agrees not to plead or claim such immunity in respect of its obligations under this Agreement.

21. Waiver of Tax Confidentiality. Notwithstanding anything herein to the contrary, purchasers of the Securities (and each employee, representative or other agent of a purchaser) may disclose to any and all persons, without limitation of any kind, the U.S. tax treatment and U.S. tax structure of any transaction contemplated herein and all materials of any kind (including opinions or other tax analyses) that are provided to the purchasers of the Securities relating to such U.S. tax treatment and U.S. tax structure, other than any information for which nondisclosure is reasonably necessary in order to comply with applicable securities laws.

22. Taxes. Each payment of fees or other amounts due to the Initial Purchasers under this Agreement shall, except as required by applicable law, be made without withholding or deduction for or on account of any taxes imposed by any jurisdiction. If any taxes are required to be withheld or deducted from any such payment, the Issuer and the Note Guarantors shall, jointly and severally, pay such additional amounts as may be necessary to ensure that the net amount actually received by the Initial Purchasers after such withholding or deduction is equal to the amount that the Initial Purchasers would have received had no such withholding or deduction been required.

23. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

24. Headings. The section headings used herein are for convenience only and shall not affect the construction hereof.

25. Definitions. The terms that follow, when used in this Agreement, shall have the meanings indicated.

"Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Affiliate" shall have the meaning specified in Rule 501(b) of Regulation D.

"Business Day" shall mean any day other than a Saturday, a Sunday or a legal holiday or a day on which banking institutions or trust companies are authorized or obligated by law to close in The City of New York, Mexico City, Madrid or Amsterdam.

"Citigroup" shall mean Citigroup Global Markets Inc.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Collateral" shall mean the security created or expressed to be created in favor of the Security Agent pursuant to the Transaction Security Documents that consists of (i) shares of the following entities: CEMEX México, S.A. de C.V.; Centro Distribuidor de Cemento, S.A. de C.V.; Mexcement Holdings S.A. de C.V.; Corporación Gouda, S.A. de C.V.; New Sunward; CEMEX Trademarks Holding Ltd and CEMEX España; and (ii) all proceeds thereof.

"Commission" shall mean the Securities and Exchange Commission.

"Disclosure Package" shall mean (i) the Preliminary Memorandum, as amended or supplemented at the Execution Time, (ii) the final term sheet prepared pursuant to Section 5(b) hereto and in the form attached as Schedule II hereto, and (iii) any Issuer Written Information.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Execution Time" shall mean the date and time that this Agreement is executed and delivered by the parties hereto.

"Financing Agreement" shall mean the Financing Agreement dated August 14, 2009, as amended, between the Company, the Financial Institutions and Noteholders named therein, as participating creditors, Citibank International PLC, as administrative agent and Wilmington Trust (London) Limited, as security agent.

"Intercreditor Agreement" shall mean the Intercreditor Agreement dated August 14, 2009, as amended, between Citibank International PLC, as administrative agent, the participating creditors named therein, the Company and certain of its subsidiaries named therein, as original borrowers, original guarantors and original security providers, Wilmington Trust (London) Limited, as security agent, and others.

"Investment Company Act" shall mean the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Issuer Written Information" shall mean any writings in addition to the Preliminary Memorandum, the final term sheet prepared pursuant to Section 5(b) hereto in the form attached as Schedule II hereto that the parties expressly agree in writing to treat as part of the Disclosure Package and which are identified on Schedule X hereto.

"Mexican FRS" shall mean the Mexican financial reporting standards (*Normas de Información Financiera aplicables en Mexico*) as in effect from time to time issued by the Mexican Financial Reporting Standards Board (*Consejo Mexicano para la Investigación y Desarrollo de Normas de Información Financiera*).

"Regulation D" shall mean Regulation D under the Act.

"Regulation S" shall mean Regulation S under the Act.

"Security Agent" shall mean Wilmington Trust (London) Limited, as security agent under the Financing Agreement.

"Transaction Security Documents" means any document, as amended from time to time, entered by any of the Company or its subsidiaries creating or expressed to create any security over all or any part of its assets in respect of their obligations under the Financing Agreement or any other document derived therefrom, or in connection therewith.

"Trust Indenture Act" shall mean the Trust Indenture Act of 1939, as amended, and the rules and regulations of the Commission promulgated thereunder.

[Signature pages follow]

If the foregoing is in accordance with your understanding of our agreement, please sign and return to us the enclosed duplicate hereof, whereupon this letter and your acceptance shall represent a binding agreement between the Issuer and the several Initial Purchasers.

Very truly yours,

CEMEX Finance LLC

By: /s/ Héctor Medina
Name: Héctor Medina
Title: Attorney-in-Fact

EACH OF THE NOTE GUARANTORS LISTED BELOW

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

By: /s/ Héctor Medina
Name: Héctor Medina
Title: Attorney-in-Fact

CEMEX México, S.A. de C.V.

By: /s/ Héctor Medina
Name: Héctor Medina
Title: Attorney-in-Fact

Empresas Tolteca de México, S.A. de C.V.

By: /s/ Héctor Medina
Name: Héctor Medina
Title: Attorney-in-Fact

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

By: /s/ Héctor Medina
Name: Héctor Medina
Title: Attorney-in-Fact

New Sunward Holding B.V.

By: /s/ Héctor Medina
Name: Héctor Medina
Title: Attorney-in-Fact

CEMEX España, S.A.

By: /s/ Rodrigo Trevino
Name: Rodrigo Trevino
Title: Attorney-in-Fact

CEMEX Corp.

By: /s/ Héctor Medina
Name: Héctor Medina
Title: Attorney-in-Fact

The foregoing Agreement is hereby confirmed and accepted as of the date first above written.

Citigroup Global Markets Inc.

By: /s/ M. Christopher Gilford
Name: M. Christopher Gilford
Title: Managing Director

BNP Paribas

By: /s/ Marcelo Delmar
Name: Marcelo Delmar
Title:

By: /s/ Hugo Sueiro
Name: Hugo Sueiro
Title:

The Royal Bank of Scotland plc

By: /s/ David Hopkins
Name: David Hopkins
Title: Authorized Signatory

For themselves and the other several Initial Purchasers named in Schedule I to the foregoing Agreement.

SCHEDULE I

Initial Purchasers	Principal Amount of Securities to be Purchased
Citigroup Global Markets Inc.	€116,668,000
BNP Paribas	€116,666,000
The Royal Bank of Scotland plc	€116,666,000
Total	€ 350,000,000

SCHEDULE II

Pricing Term Sheet

Final
Pricing Term Sheet
December 9, 2009

CEMEX Finance LLC
9.625% Senior Secured Notes Due 2017 (the "Notes")

Issuer	CEMEX Finance LLC
Security Description	Senior Secured Notes
Note Guarantors	CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V., CEMEX España, S.A., CEMEX Corp., CEMEX Concretos, S.A. de C.V., Empresas Tolteca de México, S.A. de C.V. and New Sunward Holding B.V. (together, the "Note Guarantors").
Security	First-priority security interest over (i) the shares of CEMEX México, S.A. de C.V., Centro Distribuidor de Cemento, S.A. de C.V., Mexcement Holdings, S.A. de C.V., Corporación Gouda, S.A. de C.V., CEMEX Trademarks Holding Ltd., New Sunward Holding B.V. and CEMEX España, S.A., or the Collateral, and (ii) all proceeds of such Collateral. Holders will not be entitled to direct the foreclosure on, or foreclose on, the Collateral. The Notes will cease to be secured in accordance with the provisions of the Intercreditor Agreement.
Format	144A Global Notes / Regulation S Global Notes
Global Coordinator	Citigroup Capital Markets Inc.
Identifiers (144 A Notes)	ISIN XS0473870607
Identifiers (Reg S Notes)	ISIN XS0473787884
Issue amount	€ 350 million
Settlement date	December 14, 2009
Final maturity	December 14, 2017
Interest payment	June 14 and December 14, beginning on June 14, 2010
Day count convention	360-day year consisting of twelve 30-day months
Coupon	9.625%
Issue price	100%
Issue yield	9.625%
Optional Redemption	• Make-whole call prior to December 14, 2013, at greater of (1) 100% of principal amount of the Notes, and (2) a Make-Whole Amount.

	• On or after December 14, 2013, at the prices indicated below for a redemption during the twelve-month period beginning on December 14 of each of the years indicated below: 2013 104.81250% 2014 102.40625% 2015 and thereafter 100.00000% • Prior to December 14, 2012, redemption of up to 35% of original principal amount at 109.625% of principal amount of the Notes with proceeds from equity offerings. • In the event of certain changes in the withholding tax treatment relating to payments on the Notes, at 100% of their principal amount. The Issuer shall not have the right to exercise any optional redemption at any time when the Issuer is prohibited from exercising such an option under the Financing Agreement.
Use of Proceeds	The estimated net proceeds from the offering of the Notes and the offering of the U.S.$ Notes (as defined below) will be approximately U.S.$1,739 million. The Issuer intends to use the net proceeds from the offerings primarily to repay indebtedness outstanding under the Financing Agreement and for general corporate purposes. CEMEX's total secured indebtedness will increase by approximately U.S.$400 million as a result of cash proceeds from the offerings retained for general corporate purposes.
Denominations	€ 50,000 and integral multiples of € 1,000
Governing law	New York
Listing	Luxembourg Stock Exchange – EURO MTF
Clearing	Euroclear and Clearstream

Additional Information

Contemporaneous Offerings

Contemporaneous with this offering, the Issuer is offering 9.5% Senior Secured Notes due 2016 denominated in U.S.$ (the "U.S.$ Notes") in an aggregate principal amount of U.S.$1.25 billion pursuant to a separate offering memorandum. The U.S.$ Notes will have substantially the same terms as the Notes, other than currency, interest rate, tenor and other pricing related terms, and will share in the same security and benefit from the same guarantee structure as the Notes. Neither the offering of the Notes nor the offering of the U.S$ Notes is contingent upon the successful offering of the other. References herein to the offerings refer to the offering of the Notes and the U.S.$ Notes.

Financial Information

1. As of September 30, 2009, on a *pro forma* basis after giving effect to the sale of our Australian operations and the application of the net proceeds therefrom, we had total obligations of Ps226,850 million (U.S.$16,804 million) outstanding secured by a first-priority security interest over the Collateral and the proceeds thereof, consisting of obligations of approximately Ps161,473 million (U.S.$11,961 million) outstanding under the Financing Agreement, approximately Ps41,418 million (U.S.$3,068 million) outstanding under our perpetual debentures,

approximately of Ps23,128 million (U.S.$1,713 million) outstanding under our CBs and approximately Ps830 million (U.S.$62 million) outstanding of other short-term secured debt.

2. As of September 30, 2009, on a *pro forma* basis after giving effect to the sale of our Australian operations and the application of the net proceeds therefrom and from the offerings (in each case not including approximately Ps41,418 million (U.S.$3,068 million) of perpetual debentures):

- CEMEX, S.A.B. de C.V. and its Subsidiaries (as defined herein) would have had consolidated total debt of approximately Ps222,790 million (U.S.$16,503 million), approximately Ps191,147 million (U.S.$14,159 million) of which would have been secured by the Collateral,
- the Primary Note Guarantors, taken together (excluding their respective subsidiaries), would have had total debt of approximately Ps149,290 million (U.S.$11,059 million), approximately Ps129,552 million (U.S.$9,596 million) of which would have been secured by the Collateral,
- the Issuer and the Note Guarantors, taken together (excluding their respective subsidiaries), would have had total debt of approximately Ps194,885 million (U.S.$14,436 million), approximately Ps175,147 million (U.S.$12,974 million) of which would have been secured by the Collateral, and
- CEMEX, S.A.B. de C.V.'s Subsidiaries (other than the Issuer and the Note Guarantors), taken together (excluding their respective subsidiaries), would have had total debt of approximately Ps27,905 million (U.S.$2,067 million).

3. As of September 30, 2009, after giving *pro forma* effect to the sale of our Australian operations and the application of the net proceeds therefrom and from the offerings, our subsidiaries other than the Issuer and the Note Guarantors represented the following approximate percentages of our assets and net sales, on a consolidated basis:

75% of our consolidated assets excluding intercompany balances and excluding investments in subsidiaries; and

74% of our consolidated total net sales excluding intercompany sales.

4. As of September 30, 2009, after giving *pro forma* effect to the sale of our Australian operations and the application of the net proceeds therefrom, indebtedness issued or guaranteed by our subsidiaries other than the Issuer and the Note Guarantors totaled Ps29,922 million (U.S.$2,216 million), as follows:

- CEMEX, Inc., a subsidiary of CEMEX Corp., is a guarantor under a joint bilateral facility of Ps15,797 million (U.S.$1,170 million). This indebtedness is part of the Financing Agreement.
- CEMEX Materials LLC is a borrower under an indenture and a bilateral facility for a combined amount of Ps4,465 million (U.S.$331 million), of which Ps2,246 million (U.S.$166 million) is guaranteed by CEMEX Corp. and Ps2,219 million (U.S.$164 million) is guaranteed by CEMEX España, S.A., as a part of the Financing Agreement.
- Several of our other operating subsidiaries are borrowers under bilateral facilities aggregating Ps4,354 million (U.S.$323 million), of which Ps378 million (U.S.$28 million) is guaranteed by CEMEX España, S.A.
- Other obligations of Ps5,306 million (US$393 million) with Mexican development banks, issued by two of the Note Guarantors, which are secured by fixed assets and shares not pledged as Collateral.

Capitalization

	As of September 30, 2009				
	Actual	As adjusted(1)		As further adjusted(2)	
	(unaudited)	(Mexican Pesos and U.S. Dollars in millions)			
Short-term debt(3)					
Secured					
Banobras(4)	Ps 253	Ps 253	U.S.$ 19	Ps 253	U.S.$ 19
Bancomext(4)	716	716	53	716	53
Other secured(5)	830	830	62	830	62
Unsecured					
Other unsecured	7,163	5,529	409	5,529	409
Total short-term debt	8,962	7,328	543	7,328	543
Long-term debt					
Secured					
Financing Agreement	179,974	161,473	11,961	143,396	10,622
CBs(6)	23,128	23,128	1,713	23,128	1,713
Notes					
Payable in U.S. Dollars				16,875	1,250
Payable in Euros(7)				6,917	512
Other secured					
Banobras	1,679	1,679	124	1,679	124
Bancomext	2,659	2,659	197	2,659	197
Unsecured					
CEMEX España Euro Notes(8)	17,776	17,776	1,317	17,776	1,317
Other unsecured	3,136	3,032	225	3,032	225
Total long-term debt	228,353	209,747	15,537	215,462	15,960
Total debt	237,315	217,075	16,080	222,790	16,503
Stockholders' equity					
Minority interest					
Perpetual debentures(9)	41,418	41,418	3,068	41,418	3,068
Other	4,070	4,062	301	4,062	301
Majority interest	214,523	209,940	15,551	209,625	15,528
Total stockholders' equity	260,011	255,420	18,920	255,105	18,897
Total capitalization(10)	Ps497,326	Ps472,495	U.S.$ 35,000	Ps477,895	U.S.$ 35,400

(1) Reflects application of net proceeds from the sale of our Australian operations as required under the Financing Agreement. CEMEX retained approximately U.S.$248 million of such net proceeds as permitted under the Financing Agreement.

(2) Reflects additional application of the net proceeds from the offerings. Assumes approximately U.S.$400 million of cash proceeds retained for general corporate purposes. Amounts in Dollars have been converted from Pesos at an exchange rate of Ps13.50 to U.S.$1.00, the CEMEX accounting rate as of September 30, 2009.

(3) Includes current portion of long-term debt.

(4) Obligations with Mexican development banks, issued by two of the Note Guarantors, which are secured by fixed assets and shares not pledged as Collateral.

(5) On October 1, 2009, CEMEX, S.A.B. de C.V. retired its Euronote at maturity with a principal amount of U.S.$62 million.

(6) Does not reflect adjustments for the exchange offer of Convertible Securities for CBs.

(7) Amounts in Dollars have been converted from Euros at an exchange rate of U.S.$1.4640 to € 1.00, the foreign exchange rate as of September 30, 2009.

(8) Issued by CEMEX Finance Europe B.V., a special purpose vehicle and wholly-owned subsidiary of CEMEX España, S.A., and solely guaranteed by CEMEX España, S.A.

(9) Issued by special purpose vehicles. In accordance with MFRS, these securities are accounted for as equity due to the fact that they do not have a specified maturity date and our option to defer payment of interest. However, for purposes of our U.S. GAAP reconciliation, we record these debentures as debt and interest payments thereon as part of financial expenses in our consolidated income statement. The perpetual debentures are secured by a first-priority security interest over the Collateral and the proceeds thereof.

(10) As used in this table, total capitalization equals total debt plus total stockholders' equity.

Polish Antitrust Investigation

On December 9, 2009, the Polish Competition and Consumer Protection Office, or the Protection Office, delivered to CEMEX Polska Sp. ZO.O., or CEMEX Polska, one of our indirect subsidiaries in Poland, its decision against Polish cement producers related to an investigation which covered a period from 1998 to 2006. The decision imposes fines on six Polish cement producers, including CEMEX Polska. The fine imposed on CEMEX Polska is Polish Zloty 115 million (approximately U.S.$40.5 million), which is 10% of CEMEX Polska's total revenue in 2008. CEMEX Polska disagrees with the decision, denies any wrongdoing and intends to initiate an appeal before the Polish Court of Competition and Consumer Protection within 14 days of December 9, 2009. The decision will not be enforced until all appeals are exhausted.

* * *

This communication is intended for the sole use of the person to whom it is provided by the sender.

These securities have not been registered under the Securities Act of 1933, as amended, and may only be sold to qualified institutional buyers pursuant to Rule 144A or pursuant to another applicable exemption from registration.

The information in this term sheet supplements the Company's preliminary offering memorandum, dated December 7, 2009 (the "Preliminary Memorandum") and supersedes the information in the Preliminary Memorandum to the extent inconsistent with the information in the Preliminary Memorandum. This term sheet is qualified in its entirety by reference to the Preliminary Memorandum. Terms used herein but not defined herein shall have the respective meanings as set forth in the Preliminary Memorandum.

ANY DISCLAIMERS OR OTHER NOTICES THAT MAY APPEAR BELOW ARE NOT APPLICABLE TO THIS COMMUNICATION AND SHOULD BE DISREGARDED. SUCH DISCLAIMERS OR OTHER NOTICES WERE AUTOMATICALLY GENERATED AS A RESULT OF THIS COMMUNICATION BEING SENT VIA BLOOMBERG OR ANOTHER EMAIL SYSTEM.

SCHEDULE III

Form of Opinions of Skadden, Arps, Slate, Meagher & Flom LLP, special U.S. counsel to the Company

SCHEDULE IV

Form of Opinion of Ramiro G. Villarreal, General Counsel of the Company

[INTRODUCTORY PARAGRAPH AND RELIANCE SECTIONS]

In rendering this opinion, I have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to me as originals, the conformity to original documents of all documents submitted to me as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. In making my examination of executed documents, I have assumed that the parties thereto (other than the Company and the Mexican Subsidiaries) had the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties (other than the Company and the Mexican Subsidiaries) of such documents and the validity and binding effect thereof on such parties. I have also assumed that each of the parties (other than the Company and the Mexican Subsidiaries) to the Transaction Documents (as defined herein) has been duly organized and is validly existing in good standing, if applicable, and has requisite legal status and legal capacity, under the laws of its jurisdiction of organization and that each of such parties has complied and will comply with all aspects of the laws of all relevant jurisdictions (including the laws of its jurisdiction of organization) in connection with the transactions contemplated by, and the performance of its obligations under, the Transaction Documents, other than the laws of Mexico insofar as I express my opinions herein.

In rendering this opinion I have reviewed the following documents (referred to herein collectively as the " Transaction Documents"):

(a) an executed copy of the Purchase Agreement;

(b) the Preliminary Memorandum, the documents incorporated by reference therein and the final term sheet, dated December 9, 2009 (the "Final Term Sheet");

(c) the Final Memorandum and the documents incorporated by reference therein;

(d) an executed copy of the Indenture;

(e) the Securities in global form as executed by the Issuer and each of the Mexican Note Guarantors and authenticated by the Trustee;

(f) an executed copy of the Financing Agreement dated August 14, 2009 (the "Financing Agreement") between CEMEX, S.A.B. de C.V., the financial institutions and noteholders named therein, as participating creditors, Citibank International PLC, as administrative agent, and Wilmington Trust (London) Limited, as security agent (the "Security Agent");

(g) an executed copy of each of the Transaction Security Documents (as such term is defined in the Financing Agreement) (the "Transaction Security Documents"); including

without limitation, an executed copy of the security trust agreement (*contrato de fideicomiso de garantía*) entered into among (i) the Mexican Note Guarantors, Impra Café, S.A. de C.V., Interamerican Investments, Inc. and Centro Distribuidor de Cemento, S.A. de C.V., as settlors; (ii) CEMEX México, S.A. de C.V., Centro Distribuidor de Cemento, S.A. de C.V., Mexcement Holdings, S.A. de C.V. and Corporación Gouda, S.A. de C.V., as issuers; (iii) Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, as trustee; and (iv) the Security Agent (the "Mexican Security Trust"); and

(h) the documents executed and delivered by each of the Company and the Mexican Note Guarantors at the closing pursuant to the Purchase Agreement.

Based upon the foregoing, and subject to the further qualifications set forth below, I am of the opinion that:

1. Each of the Mexican Note Guarantors has been duly incorporated and is validly existing as a corporation under the laws of Mexico, with full corporate power and authority to own or lease, as the case may be, and to operate their properties and conduct their businesses as described in the Disclosure Package and the Final Memorandum.

2. All the outstanding shares of capital stock of each Mexican Note Guarantor has been duly authorized and validly issued and are fully paid and nonassessable, and, except as otherwise set forth in the Disclosure Package and the Final Memorandum, all outstanding shares of capital stock of the Subsidiaries are owned by the Company either directly or through wholly owned subsidiaries free and clear of any perfected security interest and, to the knowledge of such counsel, after due inquiry, any other security interest, claim, lien or encumbrance.

3. Each of the Transaction Documents to which each of the Mexican Note Guarantors is a party, has been duly authorized, executed and delivered by the applicable Mexican Note Guarantors and constitutes a legal, valid and binding agreement, enforceable against each of the applicable Mexican Note Guarantors in accordance with its terms.

4. The Mexican Security Trust creates in favor of the Security Agent, for the benefit of holders of the Securities, valid security interests in the Collateral for the payment of the Securities.

5. Neither the execution and delivery of the Transaction Documents, nor the consummation of any other of the transactions therein contemplated, nor the fulfillment of the terms thereof will conflict with, result in a breach or violation of, or imposition of any lien, charge or encumbrance upon any property or asset of any of the Mexican Note Guarantors pursuant to, (i) the charter or by laws (*estatutos sociales*) of any of the Mexican Note Guarantors; (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which each of the Mexican Note Guarantors is a party or bound or to which their property is subject; or (iii) any statute, law, rule, regulation, judgment, order or decree applicable to the Mexican Note Guarantors of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Mexican Note Guarantors or any of their respective properties.

6. No consent, approval, authorization, filing with, order of, notice to, or qualification with any Mexican governmental or regulatory authority or court is required for the execution, delivery and performance by each of the Mexican Note Guarantors of the Purchase Agreement, the Indenture, the issuance and sale of the Securities, and the consummation of the transactions contemplated therein.

7. The choice of New York state law as the governing law of the Purchase Agreement, the Indenture, and the issuance and sale of the Securities, is legal, valid and binding to each of the Mexican Note Guarantors under the laws of Mexico and there is no reason why the courts of Mexico would not give effect to the choice of New York law as the proper law of the Purchase Agreement, the Indenture, and the Securities; each of the Mexican Note Guarantors has the legal capacity to sue and be sued in its own name under the laws of Mexico; each of the Mexican Note Guarantors has the power to submit, and has irrevocably submitted, to the jurisdiction of the New York courts and each of the Mexican Note Guarantors has validly and irrevocably appointed CEMEX NY Corporation as its authorized agent under the laws of Mexico for service of process under the Purchase Agreement, the Indenture and the Securities; the irrevocable submission of each of the Mexican Note Guarantors to the jurisdiction of the New York courts and the waivers by each of the Mexican Note Guarantors of any immunity and any objection to the venue of the proceeding in a New York court in the Purchase Agreement, in the Indenture, and in the Securities, are legal, valid and binding under the laws of Mexico and there is no reason why the courts of Mexico would not give effect to such submission and waivers; and the courts in Mexico will recognize as valid and final, and will enforce, any final and conclusive judgment against each of the Mexican Note Guarantors obtained in a New York court arising out of or in relation to the obligations of each Mexican Note Guarantor under the Purchase Agreement, the Indenture, or the Securities, without re-examination of the issues pursuant to Articles 569 and 571 of the Mexican Federal Code of Civil Procedure and Article 1347A of the Mexican Commerce Code, which provide, *inter alia*, that any judgment rendered outside of Mexico may be enforced by Mexican Courts, provided that:

(i) such judgment is obtained in compliance with (a) all legal requirements of the jurisdiction of the court rendering such judgment, and (b) all legal requirements of the Purchase Agreement;

(ii) such judgment is not rendered in a real action (*acción real*);

(iii) such judgment is final, non-appealable and authenticated by the appropriate governmental authorities, and is strictly for the payment of a certain sum of money, provided that, under Mexican Monetary Law, payments that should be made in Mexico in foreign currency, whether by agreement or upon a judgment of a Mexican Court, may be discharged in Mexican currency at a rate of exchange for such currency prevailing at the time of payment;

(iv) the court rendering such judgment is competent to render such judgment in accordance with applicable rules under international law and such rules are compatible with the rules adopted under the Mexican Code of Commerce;

(v) service of process was made personally on the Company and each Mexican Note Guarantor, as applicable, or on an appropriate Process Agent of the Company and each Mexican Note Guarantor, as applicable;

(vi) such judgment does not contravene Mexican public policy or laws (and we have no reason to believe that a judgment based upon the Transaction Documents would contravene Mexican public policy);

(vii) the applicable procedure under the laws of Mexico with respect to the enforcement for foreign judgments (including the issuance of a letter rogatory by the competent authority of such jurisdiction requesting enforcement of such judgment and the certification of such judgment as authentic by the corresponding authorities of such jurisdiction in accordance with the laws thereof) is complied with;

(viii) the courts of such jurisdiction recognize the principles of reciprocity in connection with the enforcement of Mexican judgments in such jurisdiction; and

(ix) the cause of action in connection with which such judgment is rendered is not the same cause of action between the same parties that is pending before a Mexican court.

8. Except as described in the Disclosure Package and the Final Memorandum, with respect to non-residents of Mexico, no stamp or other issuance or transfer taxes or duties and no capital gains, income, withholding or other taxes are payable by or on behalf of the Initial Purchasers to Mexico or to any political subdivision or taxing authority thereof or therein in connection with the sale and delivery by the Issuer of the Securities as contemplated in the Purchase Agreement to the Initial Purchasers or the sale and delivery by the Initial Purchasers of the Securities as contemplated in the Purchase Agreement.

9. Other than as described in the Disclosure Package and the Final Memorandum, under the current laws and regulations of Mexico, all payments of principal, premium (if any) and interest on the Securities may be paid, if applicable, by each Mexican Note Guarantor to the registered holder thereof in U.S. dollars (that may be obtained through conversion of Mexican Pesos) that may be freely transferred out of Mexico, and all such payments and other distributions made to holders of the Securities who are non-residents of Mexico, will not be subject to Mexican income, withholding or other taxes under the laws and regulations of Mexico and are otherwise free and clear of any other tax, duty withholding or deduction in Mexico and without the necessity of obtaining any governmental authorization in Mexico.

10. It is not necessary in order to enable the Initial Purchasers, the Trustee or the holders of the Securities to exercise or enforce its rights under the Purchase Agreement, the Indenture or the Securities in Mexico or by reason of the entry into and/or the performance of the Purchase Agreement and the Indenture, that the Initial Purchasers should be licensed or qualified to do business in Mexico. The Initial Purchasers and the non-Mexican holders of the Securities

will not be deemed resident, domiciled, carrying on business or subject to taxation in Mexico solely by reason of the execution, delivery, performance or enforcement of the Purchase Agreement.

11. Except as disclosed in the Disclosure Package and the Final Memorandum, there is no pending or, to the best of our knowledge, threatened action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries or its or their property that is not adequately disclosed in the Disclosure Package and the Final Memorandum, except in each case (A) for such proceedings that, if the subject of an unfavorable decision, ruling or finding would not singly or in the aggregate, have a Material Adverse Effect; and (B) (i) the statements in the Preliminary Memorandum and the Final Memorandum under the headings "Important Federal Tax Considerations" and "Description of Notes"; and (ii) the statements in the Preliminary Memorandum and the Final Memorandum under the heading "Recent Developments—Recent Developments Relating to Our Regulatory Matters and Legal Proceedings", taken together with the statements in the Company's annual report on Form 20-F for the year ended December 31, 2008 under the heading "Regulatory Matters and Legal Proceedings", as updated by the statements in the Company's report on Form 6-K, filed with the Commission on September 21, 2009 under the heading "Recent developments relating to our regulatory matters and legal proceedings"; fairly summarize the matters therein described.

12. There is no reason to believe that the Disclosure Package, as amended or supplemented at the Execution Time, contained any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading (in each case, other than the financial statements and other financial information contained therein, as to which such counsel need express no opinion).

13. There is no reason to believe that the Final Memorandum, as of its date or on the Closing Date, contained or contains any untrue statement of a material fact or omitted or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (in each case, other than the financial statements and other financial information contained therein, as to which such counsel need express no opinion).

I express no opinion as to any laws other than the laws of Mexico. In rendering my opinion, I have relied, (i) as to matters governed by United States Federal and New York law, upon the opinion of Skadden, Arps, Slate, Meagher & Flom LLP delivered pursuant to the Purchase Agreement and (ii) as to matters of fact, on certificates of responsible officers of each of the Mexican Note Guarantors and public officials that are furnished to the Initial Purchasers.

This opinion is subject to the following qualifications:

a. Enforcement of the Transaction Documents may be limited by *concurso mercantil,* bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar laws or general principles of equity affecting the rights of creditors generally;

b. Labor claims, claims of tax authorities for unpaid taxes, social security quotas, worker's housing fund quotas, retirement fund quotas, as well as claims from secured or privileged creditors, will have priority over claims of the parties to the Purchase Agreement, the Indenture and the Securities;

c. In the event that proceedings are brought in Mexico seeking performance of the obligations of the Mexican Note Guarantors in Mexico, pursuant to the Mexican Monetary Law, such entity may discharge its obligations by paying any sums due in a currency other than Mexican currency, in Mexican currency at the rate of exchange prevailing in Mexico on the date when payment is made;

d. In the event that any legal proceedings are brought in the courts of Mexico, a Spanish translation of the documents required in such proceedings prepared by a court-approved translator would have to be approved by the court after the defendant has been given an opportunity to be heard with respect to the accuracy of the translation, and proceedings would thereafter be based upon the translated documents;

e. In the event of foreclosure of the Mexican Security Trust, the purchaser or purchasers of any transferred shares of a Mexican entity may require the approval of each of the Mexican Competition Commission (*Comisión Federal de Competencia*) and the Mexican Foreign Investment Commission (*Comisión Nacional de Inversiones Extranjeras*);

f. Claims may become barred under the statutes of limitation, which are not waivable under Mexican law, or may become subject to defenses or set-off or counterclaim;

g. A Mexican court may stay proceedings held in such court if concurrent proceedings are being held elsewhere;

h. Under the laws of Mexico, the obligations of a guarantor are not independent from, and may not exceed, the obligations of the main obligor;

i. With respect to the provisions contained in each of the Transaction Documents in connection with service of process, it should be noted that service of process by mail does not constitute personal service of process under Mexican law and, since such service is considered to be a basic procedural requirement, if for purposes of proceedings outside Mexico service of process is made by mail, a final judgment based on such process would not be enforced by the courts of Mexico; and

j. An obligation to pay interest on interest may not be enforceable in Mexico.

This opinion is furnished only to you as representative of the Initial Purchasers and is solely for the Initial Purchasers' benefit in connection with the closing occurring today and the offering of the Securities, in each case pursuant to the Purchase Agreement. Without my prior written consent, this opinion may not be used, circulated, quoted or otherwise referred to for any other purpose or relied upon by, or assigned to, any other person for any purpose, including any other person that acquires any Securities or that seeks to assert your rights in respect of this opinion (other than an Initial Purchaser's successor in interest by means of

merger, consolidation, transfer of a business or other similar transaction), except that Skadden, Arps, Slate, Meagher & Flom LLP may rely upon this opinion as to matters of the laws of the Mexico in rendering their opinion pursuant to Section 6(a) of the Purchase Agreement.

SCHEDULE V

Form of Opinion of Clifford Chance SL

SCHEDULE VI

Form of Opinion of Warendorf

SCHEDULE VII

Form of Opinion of GHR Rechtsanwälte AG

SCHEDULE VIII

Matters to be addressed in the Officer's Certificate of the Issuer:

1. He/She has carefully examined the Disclosure Package and the Final Memorandum and any supplements or amendments thereto, and the Purchase Agreement;

2. To the best of his/her knowledge, the representations and warranties of the Issuer in the Purchase Agreement are true and correct on and as of the Closing Date with the same effect as if made on the Closing Date, and the Issuer has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date; and

3. To the best of his/her knowledge, since the date of the most recent financial statements included or incorporated by reference in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto), there has been no material adverse change in the condition (financial or otherwise), prospects, earnings, business or properties of the Company and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

SCHEDULE IX

Form of Comfort Letter by KPMG Cárdenas Dosal, S.C.

SCHEDULE X

1. Issuer Written Information (included in the Disclosure Package)

    (a) Final term sheet, dated December 9, 2009.

2. Other Information Included in the Disclosure Package

    (a) The following information is also included in the General Disclosure Package:

    [None]

PUBLIC DEED NUMBER 992 NINE HUNDRED NINETY TWO

IN THE CITY OF SAN PEDRO GARZA GARCIA, NUEVO LEON, UNITED MEXICAN STATES, as of the (10th) tenth day of the month of December of the year (2009) two thousand and nine, I, **Mr. IGNACIO GERARDO MARTINEZ GONZALEZ**, Notary Public in charge of the Notary Public Number (75) seventy five, with residence in the First District, **HEREBY ATTEST,** the following legal act:-

THE ISSUANCE OF MANDATORY CONVERTIBLE SECURITIES INTO ORDINARY COMMON STOCK WITHOUT PAR VALUE, REPRESENTATIVE OF THE CAPITAL STOCK OF THE COMPANY NAMED CEMEX, SOCIEDAD ANONIMA BURSATIL DE CAPITAL VARIABLE, shares that are represented by ordinary participation certificates (each one, considering their par value, and provided that such securities were not converted and kept outstanding, a "Security" and, collectively, the "Securities", and "Cemex" or the "Company", respectively), that for unilateral decision made by the Company, represented by its special attorney-in-fact Mr. RENE DELGADILLO GALVAN, with the appearance of the banking institution named BANCO MERCANTIL DEL NORTE, SOCIEDAD ANONIMA, INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BANORTE, in its capacity of common representative of the holders of the Securities (in such capacity, the " Common Representative") and in its capacity of calculation agent (in such capacity, the "Calculation Agent"), represented by Messrs. TEODORO RUIZ GONZALEZ and MIGUEL ARNULFO RAMOS SALGADO, the company named CEMEX MÉXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE ("Cemex Mexico") represented by Mr. JOSE LEOPOLDO QUIROGA CASTAÑON, and the company named EMPRESAS TOLTECA DE MÉXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE ("Tolteca") represented by Mr. JOSE LEOPOLDO QUIROGA CASTAÑON, in accordance with the following Antecedents, Statements and Clauses:

A N T E C E D E N T S

I. INCORPORATION. Cemex is a *sociedad anónima bursátil de capital variable*, duly incorporated and existing under the laws of the United Mexican States ("Mexico") and with corporate domicile located in the city of Monterrey, Nuevo Leon, in accordance with

public deed number 94 (ninety four), dated as of May 28 (twenty eight) 1920 (one thousand nine hundred twenty), issued by Mr. Carlos Lozano, who was a Notary Public residing in the city of Monterrey, Nuevo León, and recorded in the Public Registry of Commerce of the city of Monterrey, Nuevo León, under number 21 (twenty one), pages 157 (one hundred fifty seven) to 186 (one hundred eighty six), volume 16 (sixteen), book 3 (three), Second Auxiliary, Commerce Section, as of June 11 (eleven) 1920 (one thousand nine hundred twenty), whose corporate purpose include, among others, (i) to acquire or subscribe shares or equity participations or in the management of any kind of corporations or partnerships, either national or foreign, and (ii) the issuance, endorsement, confirmation, guarantee or any kind of issuance of securities, and to engage in any transaction involving such securities.

II. AMENDMENT TO CONVERT INTO *SOCIEDAD ANÓNIMA BURSÁTIL*. By means of public deed number 35,211 (thirty five thousand two hundred eleven), dated as of April 27 (twenty-seven), 2006 (two thousand and six), issued by Mr. Francisco Garza Calderón, then Public Notary Number 75, recorded in the Public Registry of Property and Commerce of the State of Nuevo Leon, under the electronic file number 532*9 (five hundred thirty two asterisk nine), as of July 5 (five), 2006 (two thousand and six), it was officially formalized the minutes of the General Extraordinary Shareholders Meeting of Cemex held as of April 27 (twenty seven), 2006 (two thousand six), which, among other items, approved to amend the by-laws of Cemex, to make them suitable to the legal principles of the *sociedades anónimas bursátiles* as set forth in the Mexican Securities Market Law, and to substitute all the shares of stock representative of the capital stock of Cemex.

III. DOMICILE OF THE COMPANY. For purposes of this Indenture, the domicile of the Company is located in Avenida Constitución number 444 (four hundred four), Downtown, Monterrey, Nuevo León, Zip Code 64000 (sixty-four thousand).

IV. GENERAL EXTRAORDINARY SHAREHOLDERS MEETING. By means of public deed number 47,526 (forty seven thousand five hundred twenty-six) dated as of September 4 (four), 2009 (two thousand nine), issued by Mr. Juan Manuel García García, Notary Public No. 129 (one hundred twenty-nine), residing in the First District of the State of Nuevo Leon, and recorded in the Public Registry of Property and Commerce of the

State of Nuevo Leon under electronic file number 532*9 (five hundred thirty-two asterisk nine) dated as of September 22 (twenty-two), 2009 (two thousand nine), it was officially formalized the minutes of the General Extraordinary Shareholders Meeting of Cemex held as of September 4 (four), 2009 (two thousand nine) (the "Shareholders Meeting"), in which it was approved, among other items, for the purposes of Article 210 (two hundred ten) BIS, 213 (two hundred thirteen) and other applicable provisions of the General Law of Negotiable Instruments and Credit Operations (*Ley General de Títulos y Operaciones de Crédito*), the issuance of convertible securities into shares of common ordinary, nominative and without par value, representative of the capital stock of, represented by ordinary participation certificates (each of one a " CPO" and collectively, the "CPOs"; this definition shall be considered adjusted taking into consideration the provisions of Clause Thirteenth of the Indenture); and that such shares are not subject to preemptive rights by Cemex shareholders as set forth in Article 132 (one hundred thirty two) of the General Law of Commercial Companies (*Ley General de Sociedades Mercantiles*); and that the individuals that will act as delegated of the Shareholders Meeting to execute any legal acts related to the issuance of the Securities. Each CPO has a subjacent value of two (2) Series A shares and one (1) Series B share, representative of the capital stock of Cemex.

A certified copy of the public deed referred to in paragraph IV above is hereby attached as **Exhibit A** to this Indenture, and form part of this instrument, and it is deemed to be reproduced literally for any legal purpose.

V. LEGAL REPRESENTATIVE. By means of public deed number 48,056 (forty eight thousand fifty-six) dated as of October 30 (thirty), 2009 (two thousand nine), issued by Mr. Juan Manuel García García, Notary Public No. 129 (one hundred twenty-nine), residing in the First District of the State of Nuevo Leon, and recorded in the Public Registry of Property and Commerce of the State of Nuevo Leon under electronic file number 532*9 (five hundred thirty-two asterisk nine) dated as of November 3 (three), 2009 (two thousand nine), it was officially formalized the minutes of the board of directors meeting held as of September 24 (twenty-four), 2009 (two thousand nine), in which it was approved, among other items, that any two (2) members of the Board of Directors of Cemex will be entitled to subscribe the negotiable instrument representing the Securities.

VI. DELEGATES OF THE SHAREHOLDERS MEETING. In exercise of the authority delegated by the Shareholders Meeting, the delegates of the Shareholders Meeting, by resolutions adopted as of December 9 (nine), 2009 (two thousand nine), agreed to the terms and conditions of the Securities.

A copy of the resolutions adopted by the delegates of the Shareholders Meeting is hereby attached as **Exhibit B** to this Indenture, and form part of this instrument, and it is deemed to be reproduced literally for any legal purpose.

VII. BALANCE SHEET. In accordance to the provisions of Article 213 (Two hundred thirteen), paragraph I (first), letter b), of the General Law of Negotiable Instruments and Credit Operations, the financial statements that shall be the base for the issuance of the Securities shall be the consolidated financial statements of Cemex as of the end of September 30 (thirty), 2009 (two thousand nine), prepared to carry on with the issuance of the Securities, as certified by the public accountant Rafael Garza Lozano (the "Base Financial Statements"); in accordance with the Base Financial Statements, the total amount of net worth of Cemex is equal to $260,010'260,000.00 (two hundred and sixty thousand and ten million two hundred and sixty thousand pesos 00/100 Mexican Currency), having assets in the amount of $614,742'894,000.00 (six hundred fourteen thousand seven hundred forty two million eight hundred ninety four thousand pesos 00/100 Mexican Currency) and liabilities in the amount of $354,732,634,000.00 (three hundred fifty four thousand seven hundred thirty two million six hundred and thirty four thousand pesos 00/100 Mexican Currency). For purposes of the provisions of Article 213 (Two hundred thirteen), paragraph V, letter a), of the General Law of Negotiable Instruments and Credit Operations, the value of the net assets of Cemex, taking into consideration the Base Financial Statements is $260,010'260,000.00 (two hundred and sixty thousand and ten million two hundred and sixty thousand pesos 00/100 Mexican Currency) (the "Net Assets".

A copy of the Base Financial Statements is hereby attached as **Exhibit C** to this Indenture, and form part of this instrument, and it is deemed to be reproduced literally for any legal purpose.

VIII. TRUST ISSUER OF THE CPOs. As of September 6 (six), 1999 (one thousand ninety nine), Banco Nacional de México, Sociedad Anónima, a integral part of the Banamex Financial Group, Trust Division (the "CPO Trustee") and the Company

entered into a Trust Agreement Number 111033-9 (one hundred and eleven thousand thirty three dash nine) (the "CPO Trust Agreement"), in which the CPO Trustee is authorized to issue CPOs, which have as subjacent value shares of stock of the Company.

IX. CPOs INDENTURE. By means of public deed number 50,931 (fifty thousand nine hundred thirty one), dated as of September 7 (seven), 2009 (two thousand nine), issued by Mr. Erick Salvador Pulliam Aburto, Notary Public Number 196 (one hundred ninety six), residing in Mexico City, Federal District, and recorded in the Public Registry of Property and Commerce of the Federal District under the electronic file number 65126 (sixty five thousand one hundred twenty six) dated as of September 18, 2009 (two thousand and nine), it was officially formalized the indenture that contains the unilateral decision of the CPO Trustee (the "CPOs Indenture"), with the appearance of the Mexican National Banking and Securities Commission (the " CNBV"), by which one thousand six hundred million (1,600'000,000) ordinary participation certificates were issued, having as subjacent value shares of stock of the Company, out of which four hundred million (400'000,000) CPOs were issued for the purpose of guaranteeing the conversion of the Securities.

X. GUARANTORS. CEMEX México and Tolteca, both subsidiaries of the Company, shall subscribe the negotiable instrument representing the Securities in their capacity of guarantors.

S T A T E M E N T S:

Cemex hereby states through its legal representative that:

(a) as of September 30 (thirty), 2009 (two thousand nine), the total capital stock outstanding duly paid-in was the amount of $80'022,611.56 (Eighty Million Twenty Two Thousand Six Hundred Eleven Pesos and 56/100 Mexican Currency), integrated as follows: (i) the minimum fixed capital of Cemex without redemption rights was the amount of $36'300,000.00 (thirty six million three hundred thousand pesos 00/100 Mexican Currency), represented by 8,712'000,000 (eight thousand seven hundred twelve million) common ordinary, nominative, Series "A" shares, and 4,356'000,000 (four thousand three hundred fifty six million) common ordinary, nominative, Series "B" shares, all of them duly paid and without par value, and (ii) the variable part of the capital stock of Cemex was the amount of $43'722,611.56 (forty three million seven hundred twenty two thousand six

hundred eleven pesos and 56/100 Mexican Currency), represented by 10,510'609,228 (ten thousand five hundred ten million six hundred nine thousand two hundred twenty eight) common ordinary, nominative, Series "A" shares, and 5,255'304,614 (five thousand two hundred fifty five million three hundred four thousand six hundred fourteen) common ordinary, nominative, Series "B" shares, all of them paid in and without par value; the amount of the Net Assets is stated in paragraph VI above;

(b) as of the date of this Indenture, except with respect to the Securities that are hereby issued, the Subjacent Treasury Shares (as such term is defined below), and the shares affected in accordance with the trusts that were created directly or indirectly by the Company for purposes of creating and maintaining share option plans and retirement plans for employees of the Company and its subsidiaries, Cemex is not obligated to put in circulation any other shares representative of the capital stock, or ordinary participation certificates whose subjacent value is formed by shares of stock of Cemex, in accordance with any contract or agreement of any nature whatsoever; Cemex does not have additional treasury shares, nor has convertible or exchangeable securities for shares of stock of Cemex or ordinary participation certificates whose subjacent value is formed by shares of Stock of Cemex or option securities that require the issuance or delivery of shares of stock of Cemex or ordinary participation certificates whose subjacent value is formed by shares of stock of Cemex, and Cemex has not executed an option or derivative financial transaction that forces Cemex to issue or deliver shares of stock of Cemex or ordinary participation certificates whose subjacent value is formed by Cemex's shares of stock and, in general, Cemex does not have an obligation of any kind to issue or deliver or to put in circulation any shares of stock representative of its capital stock or ordinary participation certificates whose subjacent value is formed by Cemex's shares of stock;

(c) is a *sociedad anónima bursátil de capital variable*, duly incorporated and existing under the laws of Mexico, authorized in accordance with its corporate purposes to issue this Indenture, to subscribe the Securities and to assume the obligations resulting from this Indenture and the Securities;

(d) the execution of this Indenture, the subscription of the Securities and the assumption of the obligations contemplated in the Indenture and the Securities, have been authorized by the necessary corporate actions, and do not violate or contravene (i) the by-laws currently in effect as of this date, or (ii) any law or administrative provision, or any contractual provision of any nature, which is binding to, or affects, Cemex;

(e) the Subjacent Treasury Shares have been duly issued and are free of any preemptive rights or similar rights, that may correspond to the shareholders or third parties, and shall remain in treasury to guarantee the existence of a sufficient number of subjacent shares with respect to the CPOs that will be delivered in the event of conversion of the Securities as set forth in the Indenture and in the Securities;

(f) This Indenture and each and every one of the Securities constitute a valid obligation, enforceable in accordance with their terms, but subject to applicable provisions regarding bankruptcy;

(g) does not require the consent or approval from any third party, including any governmental authority or auto regulatory body, for the issuance and performance of this Indenture, and for the subscription, issuance and circulation of the Securities, except for the necessary authorization of the CNBV for the registration of the Securities in the National Registry of Securities, and the authorization of the CNBV for the offering of the Securities, which have been obtained and are in force;

(h) its interest payment obligations (including the payment of penalty interest, if there is the case) and the Agreed Amount (as such term is defined below) if there is the case, with respect to the Securities, constitute unconditional and non subordinated obligations of Cemex, and have and will have at all times, at least the same priority for payment (*pari passu*) that the other not guaranteed liabilities, present or future (with the exception of those obligations that have priority in accordance with applicable bankruptcy laws);

(i) As of the date of this Indenture, there are no actions, suits or proceedings, either judicial, arbitral, administrative or of any nature pending, including conflicts regarding environmental, tax or labor claims or, to the knowledge of Cemex, threatened by or before any court, governmental authority or arbitral, materially affecting or could reasonably be expected to have a material adverse effect on the business, financial condition or prospects of Cemex or its subsidiaries on a consolidates basis, or that materially affects or could reasonably be expected to have a material adverse effect on the compliance by Cemex of its obligations under this Indenture or the Securities;

(j) As of the date of this Indenture, Cemex or any of its subsidiaries are not in default in the payment of any debt, nor in default of any contract which derive payment obligations, in which they are parties or bound by their terms;

(k) Cemex shall use the Securities for Exchange of certain outstanding debt notes (*certificados bursátiles)* which represent liabilities against the Company;

(l) The foregoing Antecedents contained in this Indenture are true and complete, and do not omit relevant information with respect to the issuance of the Securities contemplated by this Indenture;

(m) Its legal representative, Mr. René Delgadillo Galván, has sufficient corporate authority to bind the Company to the terms of this Indenture and the Securities, and such corporate authority has not been revoked or limited in any way as of the date of this Indenture and as of the date of issuance of the Securities.

In accordance with the foregoing Antecedents and Statements, Cemex by unilateral decision hereby agrees to the following:

C L A U S E S

FIRST. DEFINITIONS.

As used in this Indenture, the following terms have the meanings specified below, and shall be equally applicable to the singular or the plural of such terms:

"Subjacent Treasury Shares" shall mean the eight hundred million (800'000,000) Series "A" shares, and the four hundred million (400'000,000) Series "B" shares, representative of the capital stock of Cemex, all of them common ordinary, nominative, which once placed in circulation, shall have full voting and economic rights as provided in the current by-laws of Cemex, issued by Cemex further to the Shareholders Meeting, which have been placed in the treasury of Cemex to be used only and mandatorily as a subjacent value for CPOs, upon the conversion of all the Securities.

"Indenture" shall mean this Indenture, together with all its Exhibits, as such is amended from time to time if needed.

"CPOs Indenture" shall have the meaning specified in the Antecedents of this Indenture.

"Net Assets" shall have the meaning specified in the Antecedents of this Indenture.

"Calculation Agent" shall have the meaning specified at the beginning of this Indenture.

"Shareholders Meeting" shall have the meaning specified in the Antecedents of this Indenture.

"General Security holders Meeting" shall have the meaning specified in Clause Sixteenth of this Indenture.

"BMV" shall mean Bolsa Mexicana de Valores, Sociedad Anónima Bursátil de Capital Variable (the Mexican Stock Exchange).

"Agreed Amount" shall have the meaning specified in Clause Eleventh, section (G) (j) of this Indenture.

"Early Conversion Events" shall have the meaning specified in Clause Fifteenth of this Indenture.

"Cemex" shall have the meaning specified at the beginning of this Indenture.

"Cemex México" shall have the meaning specified at the beginning of this Indenture.

"CNBV" shall have the meaning specified in the Antecedents of this Indenture.

"CPO" or "CPOs" shall have the meaning specified in the Antecedents of this Indenture.

"Condition for Mandatory Conversion for the Price of CPO" shall mean that the Cemex's ordinary participation certificates that have Cemex shares of stock as their subjacent value, have in each of the (5) consecutive trading sessions at the BMV prior to the corresponding calculation date a weighted average price, taking as a base the daily trading volumes in the BMV and the information disclosed by Bloomberg in the section *CEMEXCPO MM Equity VWAP* precisely with respect to each one of such trading sessions, equal or above to multiply one dot five (1.5) times the result of dividing the per Security over the Conversion Factor, as such Conversion Factor may be adjusted further to the terms of Clause Thirteenth herein.

"CPO Trust Agreement" shall have the meaning specified in the Antecedents of this Indenture.

"Business Day" shall mean any day of the year, except Saturdays, Sundays and Holidays, in which the offices of credit institutions located in Mexico City are open to the public to carry on banking operations in accordance with the Schedule previously disclosed by the CNBV.

"General Regulations" shall mean the *Disposiciones de Carácter General Aplicables a las Emisoras de Valores y a otros Participantes del Mercado de Valores* (General Regulations applicable to Issuers of Securities and other Participants in the Securities Market in Mexico), issued by the CNBV, and published in the Official Newspaper of the Federation (*Diario Oficial de la Federacion*) as of March 19 (nineteen), 2003 (two thousand three), and amended by publication in the Official Newspaper of the Federation as of July 22 (twenty two), 2009 (two thousand nine), or any other provisions that amend or substitute such regulations.

"Base Financial Statements" shall have the meaning specified in the Antecedents of this Indenture.

"Conversion Factor" shall mean the 372 (three hundred seventy two) CPOs that the Company shall deliver to each of the Security holders per each of the Securities outstanding (and considering for such purposes, the Nominal Value of the Securities) that such holders own during any conversion and that, initially, shall be the result of dividing the Nominal Value of the Security over $8,900.00 (Eight Thousand Nine Hundred Pesos 00/100 Mexican Currency), as such Conversion Factor may be adjusted in accordance with the provisions of Clause Thirteenth herein.

"Provisional Conversion Factor" shall mean the Conversion Factor that Cemex intends to use for the conversion of all or part of the Securities for CPOs, at any corresponding Conversion Date.

"Definitive Conversion Factor" shall mean the Provisional Conversion Factor notified by Cemex to the Calculation Agent, and that the Calculation Agent had verified if necessary, after holding discussions with Cemex on this respect.

"Conversion Date" shall mean the Due Date, the Conversion Date of the Remaining, the Optional Conversion Date, the Conversion Date for CPO Price, the Conversion Date in the Event of Early Conversion, or the Conversion Date for OPA.

"Conversion Date of the Remaining" shall have the meaning specified in Clause Eleventh, Paragraph B of this Indenture.

"Optional Conversion Date" shall have the meaning specified in Clause Eleventh, Paragraph C of this Indenture.

"Conversion Date in the Event of Early Conversion" shall have the meaning specified in Clause Eleventh, Paragraph D of this Indenture.

"Conversion Date for CPO Price" shall have the meaning specified in Clause Eleventh, Paragraph F of this Indenture.

"Conversion Date for OPA" shall have the meaning specified in Clause Eleventh, Paragraph E of this Indenture.

"Issuance Date" shall mean December 10 (ten), 2009 (two thousand nine).

"Due Date" shall mean November 28 (twenty eight), 2019 (two thousand nineteen).

"Interest Payment Date" shall mean the last day of each Interest period with respect to any of the Securities that are outstanding; regarding penalty interest, its shall be any date in which Cemex makes the payment and it is Business Day.

"CPO Trustee" shall have the meaning specified in the Antecedents of this Indenture.

"Indeval" shall mean *S.D. Indeval Institución para el Depósito de Valores, Sociedad Anónima de Capital Variable*.

"Mexico" shall have the meaning specified in the Antecedents of this Indenture.

"Mexican NIFs" shall mean general financial information principles applicable in Mexico at the time co the corresponding determination, considering any amendment to such principles, including any amendment in accordance with applicable law or rules of financial disclosure.

"Security" and "Securities" shall have the meaning specified in the Antecedents of this Indenture.

"Security holder" shall mean, collectively, at any time, the persons, individuals or entities of any nationality which are legal holders of the Securities.

"OPA" shall have the meaning specified in Clause Eleventh, Paragraph E of this Indenture.

"Indemnified Parties" shall have the meaning specified in Clause Twentieth of this Indenture.

"Interest Period" shall mean, with respect to each of the Securities, each ninety one (91) calendar day period, from the Issuance Date to whatever occurs first between the Due Date or the corresponding Conversion Date, to calculate the interest amount accrued by the Securities, provided however that (i) the first Interest Period shall begin with the Issuance Date and shall end precisely in the corresponding date that is ninety one (91) calendar days after the Issuance Date, (ii) subsequent Interest Periods shall begin the calendar day immediately following the last day of the Interest Period immediately before and shall end the date that is ninety one (91) calendar days after, (iii) any Interest Period that does not end on a Business Day, it shall be extended to the Business Day immediately following, taking into consideration the additional day or days for the calculation of accrued interest, and (iv) any Interest Period that is in effect in the Due Date or in the corresponding Conversion Date shall end precisely at Due Date or at the corresponding Conversion Date.

"Common Representative" shall have the meaning specified at the beginning of this Indenture.

"Company" shall have the meaning specified at the beginning of this Indenture.

"Interest Rate" shall mean a yearly gross fixed interest rate of [ten (10) percentage points] that the Securities will accrue during the term of such Securities.

"Penalty Interest Rate" shall have the meaning specified in Clause Seventh of this Indenture.

"Tolteca" shall have the meaning specified at the beginning of this Indenture.

"Nominal Value of the Securities" shall mean $8,900.00 (Eight Thousand Nine Hundred Pesos and 00/100 Mexican Currency).

"Term of the Securities" shall have the meaning specified in Clause Twelfth of this Indenture.

SECOND. ISSUANCE OF THE SECURITIES.

Subject to the terms and conditions set forth in this Indenture, Cemex hereby issues, by unilateral decision and in the form and terms provided by Chapter V, Title First of the General Law of Negotiable Instruments and Credit Operations, 463,656 (Four Hundred Sixty Three Thousand Six Hundred Fifty Six) bearer Securities, with a nominal value per Security equal to the Nominal Value of the Securities, and with the consequent total Nominal Value equal to $4,126'538,400.00 (Four Thousand One Hundred Twenty Six Million Five Hundred Thirty Eight Thousand Four Hundred Pesos and 00/100 Mexican Currency), which represent a collective liability against Cemex and that Cemex hereby agrees to timely pay, including the cash payment of applicable interest and, if the case may be, penalty interest and the Agreed Amount, as set forth in this Indenture.

The Securities are unsecured and do not have a specific guarantee.

The Securities are issued in bearer form.

Notwithstanding that the Securities are mandatorily convertible into shares of stock of Cemex, represented by CPOs, for purposes of clarity and briefness with respect to the mechanics of the conversion and the delivery of the certificates, either in physical form or electronically, this Indenture shall contain references to the conversion of the Securities into CPOs.

THIRD. NAME OF THE ISSUANCE.

The name of the issuance of the Securities referred to in this Indenture is " *Emisión de Obligaciones Forzosamente Convertibles en Acciones de Cemex, S.A.B. de C.V., representadas por Certificados de Participación Ordinarios*" (Issuance of Mandatory Convertible Securities into Shares of Stock of Cemex, S.A.B. de C.V., represented by Ordinary Participation Certificates).

FOURTH. CERTIFICATES REPRESENTING THE SECURITIES.

Cemex issues a single certificate to represent initially the total amount of the Securities. The certificate representing the Securities and any certificate or certificates that substitute the original certificate shall reflect the number of Securities represented, shall contain the requirements set forth in Article 210 (two hundred ten) of the General Law of Negotiable Instruments and Credit Operations, and shall contain the signature of two (2) members of the Board of Directors of Cemex authorized for such effects, as well as the signature of the Common Representative.

In accordance with the provisions of, and as permitted by, Article 282 (two hundred eighty two) of the Securities market Law, the certificate initially representing the Securities, or any certificate or certificates that substitute such initial certificate, shall be deposited at *Indeval* and shall not require to have coupons for the exercise of rights related to (i) payment of interest amounts accrued by the Securities (including penalty interest and the Agreed Amount, if it is the case), (ii) the conversion of the Securities into CPOs, or (iii) any other act or fact that may be construed to require the tendering of a coupon.

Notwithstanding the provisions set forth in this Clause, the certificate initially representing the Securities, and any other certificate or certificates that substitutes such initial certificate, shall contain, without limitation, the following terms: (i) the name, purpose and corporate domicile of Cemex, (ii) the amount of the capital stock outstanding of Cemex, and the total assets and liabilities in accordance with the Base Financial Statements, (iii) the amount of the issuance, with the number and Nominal Value of the Securities, (iv) the Interest Rate and the Penalty Interest Rate to be accrued by the Securities, (v) the events and the mechanics for the conversion of the Securities into CPOs, (vi) the place of conversion of the Securities, (vii) the place and Issuance Date, (viii) the signature of two (2) members of the Board of Directors of Cemex that have been appointed for the issuance of such documents or the certificates related to the issuance of the Securities, (ix) the signature of the Common Representative, and (x) a summary of the main terms and conditions of this Indenture.

If it is necessary, Cemex shall proceed to fraction, exchange and substitution of the certificate or certificates representing the Securities, as required by Indeval or BMV, to the extent conversions of Securities into CPOs have occurred, or a result of any other fact or act that requires a change or substitution.

The Securities issued under the terms of this Indenture shall entitle their holders with the same rights and shall impose upon them the same obligations under the terms of this Indenture.

FIFTH. USE OF THE SECURITIES.

The issuance of the Securities referred to in this Indenture is made with the purpose that Cemex will use such Securities to exchange them for certain debt notes (*certificados bursátiles*) which are outstanding against the Company.

SIXTH. POTENTIAL PURCHASERS.

In accordance with applicable law, the Securities may be acquired by individuals or entities, of Mexican or foreign nationality, including institutional investors, such as credit institutions, brokerage houses, insurance companies, investment companies specialized in retirement funds, pension funds, retirement funds, general warehousing deposits, leasing companies, credit unions and factoring companies.

SEVENTH. INTEREST AND INTEREST PAYMENT.

A. INTEREST.

Beginning from the Issuance Date and until the Due Date or applicable Conversion Date, as the case may be, each of the Securities outstanding shall accrue ordinary interest at a gross annual rate equal to the Interest Rate, which rate shall be fixed during the term of the Securities. Such interest amounts shall be paid with respect to each Interest Period, on each of the Interest Payment Dates.

Interest shall be calculated over the basis of a year of three hundred and sixty five (365) days, and for the number of days that effectively lapsed in the corresponding Interest Period. The calculations shall be rounded to the nearest hundredth.

Interest payable by each of the Securities shall be multiplied by the total number of Securities outstanding to determine the total amount of interest payable by Cemex in each of the Interest Payment Dates with respect to the corresponding Interest Period, with respect to the total number of Securities outstanding.

Interest shall be payable in Mexican pesos.

The Common Representative shall announce, by written notice to Cemex, to CNBV, Indeval and to BMV two (2) Business Days prior to the corresponding Interest Payment Date, through the means determined by BMV (including the Electronic System for Delivery and Disclosure of Information or *Sistema Electrónico de Envío y Difusión de Información* , or "SEDI" governed by BMV), the amount of interest payable by Cemex in the corresponding Interest Payment Date with respect to the Securities outstanding as of such Interest Payment Date, as well as the interest rate applicable to the next Interest Period.

Each of the Securities shall cease to accrue interest upon such Security is converted into CPOs in any of the Conversion Dates, provided that Cemex, simultaneously, has deposited the corresponding interest amounts at the offices of Indeval, with the prior verification made by the Common Representative, at the latest of 11:00 a.m. at the respective Conversion Date; otherwise, Securities shall continue to accrue interest, including penalty interest.

B. PENALTY INTEREST.

In the event of default by Cemex in the payment of ordinary interest accrued with respect to the outstanding Securities at the corresponding Interest Payment Date, and to the extent permitted by applicable law, penalty interest shall accrue over the unpaid balance of such ordinary interest, beginning from the date of the default until the total payment, applying an interest rate resulting from adding two (2) percentage points to the Interest Rate (the " Penalty Interest Rate"), over the basis of a year of three hundred and sixty five (365) days and for the number of days effectively lapsed during the default. Penalty interest shall be payable at sight.

C. INTEREST PAYMENT DATE.

Ordinary interest over the Securities outstanding shall be paid at each of the Interest Payment Dates while the Securities are outstanding and such Securities have not been converted in accordance with the provisions of this Indenture; penalty interest, as the case may be, shall be payable at sight. In the event that some or the total amount of the Securities have not been previously converted during any of the Conversion Dates, the last Interest Payment Date with respect to such Securities shall be the Due Date.

EIGHTH. FORM OF PAYMENT AND PLACE OF PAYMENT OF INTEREST AND OTHER AMOUNTS.

The Security holders shall receive payment of interest and, as the case may be, penalty interest, and the Agreed Amount, as the case may be, with respect to the Securities outstanding, precisely at the respective Interest Payment Date or in the corresponding payment date (regarding penalty interest and the Agreed Amount, as the case may be), prior validation made by the Common Representative though Indeval, whose offices are located at Paseo de la Reforma No. 255, Third Floor, Colonia Cuauhtémoc, Mexico City, Federal District, by electronic wire transfer, and Indeval shall make the appropriate distributions among the custodians of the Security holders, and, if such procedure is impossible or with respect to the penalty interest, such payment shall be made at the offices of Cemex located at Avenida Ricardo Margáin Zozaya number 325 (three hundred twenty five), Colonia Valle del Campestre, 66265 (sixty six thousand two hundred sixty five), San Pedro Garza García, Nuevo Leon, México.

NINTH. TAX PROVISIONS.

The current tax provisions affecting the Security holders with respect to the acquisition, property, payment or conversion of the Securities, shall be the applicable provisions of the Mexican Income Tax Law (*Ley del Impuesto sobre la Renta*), provided, however, that the Security holders, by purchasing the Securities, are accepting that such tax provisions may be amended during the term of the Securities as such law and its applicable interpretation may change from time to time.

TENTH. REGISTRATION OF THE SECURITIES IN THE NATIONAL REGISTRY OF SECURITIES AND THE BMV.

Cemex hereby agrees to take all the actions, steps and in general all acts that are necessary and/or convenient to register the Securities in the National Registry of Securities which is administered by the CNBV, and to register the Securities for trading in the BMV, with the prior deposit of the certificate or certificates, as the case may be, representing the Securities at Indeval.

Furthermore, Cemex hereby agrees to take all actions and acts necessary and/or convenient (including the payment of applicable expenses and fees) in order to maintain in force and effect, throughout the Term of the Securities, the registration of the Securities in the National Registry of Securities administered by CNBV, as well as for trading of the Securities in the BMV.

In addition, Cemex agrees to take all the actions and acts that are necessary and/or convenient, to keep the registration of the ordinary participation certificates whose subjacent value is formed by shares of stock of Cemex, and the shares of stock representing the capital stock of Cemex in the National Registry of Securities administered by CNBV, and the registration of the ordinary participation certificates whose subjacent value is formed by shares of stock of Cemex, for trading in the BMV.

The Common Representative shall have the right form time to time to verify the compliance of Cemex's obligations under Clause Eleventh herein and to obtain certificates from the Company to reflect compliance with such obligations.

ELEVENTH. CONVERSION OF THE SECURITIES.

A. CONVERSION AT THE DUE DATE.

Unless that the total amount or part of the Securities had been early converted in accordance with the provisions of this Indenture, precisely at the Due Date, Cemex shall mandatorily convert into CPOs all the outstanding Securities as of such moment, and shall use the Conversion Factor in effect as of the Business Day immediately before the Due Date, and precisely on Due Date Cemex shall transfer (or cause to be transferred), through Indeval, with the prior validation from the Calculation Agent, the number of CPOs resulting from such Conversion Factor free and clear of any liens or limitation of ownership to an account maintained by the Common Representative at Indeval for such purposes, and the Common Representative (through Indeval) shall transfer the CPOs to the accounts kept at Indeval for such purposes by the corresponding custodians of each of the Security holders (and provided such accounts were notified in advance to the Common Representative). Five (5) Business Days prior to Due Date, after the close of operations of the BMV, Cemex shall notify in writing to the Common Representative and the Calculation Agent the Provisional Conversion Factor, which the Calculation Agent shall be obligated to validate within the next two (2) Business Days, and after the such validation by the Calculation Agent, the Provisional Conversion Factor shall become the Definitive Conversion Factor. Cemex shall notify in writing the Provisional Conversion Factor and the Definitive Conversion Factor to the Common Representative in order for the Common Representative to inform the Security holders and the corresponding authorities through the Electronic System for the Delivery and Disclosure of Information administered by BMV (known as the "SEDI"), and to Indeval, in accordance with Article 288 (two hundred eighty eight) of the Securities Market Law.

B. EARLY CONVERSION AT THE OPTION OF CEMEX.

Within a term of one hundred and twenty (120) calendar days, beginning from the date in which at least eighty five percent (85%) of the Securities (using as a base the Nominal Value per Security) issued in the Issuance Date have been previously converted into CPOs in accordance with any of the conversion events set forth in this Indenture, Cemex shall have the right, in a Business Day, which in any event shall coincide with a Interest Payment Date which is at least ten (10) Business Days after the Business Day in which Cemex notified in writing to the Security holders, the Common Representative and the Calculation Agent the exercise of such right (the "Conversion Date of the Remaining"), to early convert into CPOs the total amount of the outstanding Securities at such moment, using the Conversion Factor in effect the Business Day immediately prior to the Conversion Date of the Remaining, and precisely as of the Conversion Date of the Remaining, Cemex shall transfer (or caused to be transferred), through Indeval, with the prior validation from the Calculation Agent, the number of CPOs resulting from such Conversion Factor free and clear of any liens or limitation of ownership to an account maintained by the Common Representative at Indeval for such purposes, and the Common Representative (through Indeval) shall transfer the CPOs to the accounts kept at Indeval for such purposes by the corresponding custodians of each of the Security holders (and provided such accounts were notified in advance to the Common Representative). Five (5) Business Days prior to Conversion Date of the Remaining, after the close of operations of the BMV, Cemex shall notify in writing to the Common Representative and the Calculation Agent the Provisional Conversion Factor, which the Calculation Agent shall be obligated to validate within the next two (2) Business Days, and after the such validation by the Calculation Agent, the Provisional Conversion Factor shall become the Definitive Conversion Factor. Cemex shall notify in writing the Provisional Conversion Factor and the Definitive Conversion Factor to the Common Representative in order for the Common Representative to inform the Security holders and the corresponding authorities through the Electronic System for the Delivery and Disclosure of Information administered by BMV (known as the "SEDI"), and to Indeval, in accordance with Article 288 (two hundred eighty eight) of the Securities Market Law.

C. EARLY CONVERSION AT THE OPTION OF THE SECURITY HOLDERS.

In any Interest Payment Date taking place from the Business Day immediately following the date which is the first anniversary of the Issuance Date, each of the Security holders shall have the right, provided that such Security holder has irrevocably notified in writing the Common Representative with at least fifteen (15) Business Days in advance to the Interest Payment Date selected by the Security holder (the " Optional Conversion Date") to convert into CPOs in whole or in part the Securities that are owned by such Security holder, in accordance with the Conversion Factor in effect the Business Day immediately prior to the Optional Conversion Date, and precisely as of the Optional Conversion Date, Cemex shall transfer (or caused to be transferred), through Indeval, with the prior validation from the Calculation Agent, the number of CPOs resulting from such Conversion Factor free and clear of any liens or limitation of ownership to an account maintained by the Common Representative at Indeval for such purposes, and the Common Representative (through Indeval) shall transfer the CPOs to the accounts kept at Indeval for such purposes by the corresponding custodians of each of the Security holders that exercised this option (and provided such accounts were notified in advance to the Common Representative). For purposes of the foregoing, the Common Representative shall notify Cemex and the Calculation Agent, the Business Days following the receipt of a conversion notice from any Security holder in terms of this paragraph (c), the reception and the terms of such notice. Five (5) Business Days prior to Optional Conversion Date, after the close of operations of the BMV, Cemex shall notify in writing to the Common Representative and the Calculation Agent the Provisional Conversion Factor, which the Calculation Agent shall be obligated to validate within the next two (2) Business Days, and after the such validation by the Calculation Agent, the Provisional Conversion Factor shall become the Definitive Conversion Factor. Cemex shall notify in writing the Provisional Conversion Factor and the Definitive Conversion Factor to the Common Representative in order for the Common Representative to inform the Security holders and the corresponding authorities through the Electronic System for the Delivery and Disclosure of Information administered by BMV (known as the "SEDI"), and to Indeval, in accordance with Article 288 (two hundred eighty eight) of the Securities Market Law.

D. CONVERSION IN THE EVENT OF EARLY CONVERSION.

In any Business Day taking place from the tenth Business Day after the occurrence of an automatic event or had been declared the mandatory conversion as a result of a Event of Early Conversion (made by the Security holders that own certain percentage of the outstanding Securities as provided in this Indenture), the total number of the Security

holders collectively shall have the right and the obligation to, provided that the Common Representative has notified Cemex in writing with at least ten (10) Business Days in advance to the Business Day selected for conversion (the " Conversion Date in the Event of Early Conversion "), to early convert into CPOs the total amount of the Securities owned by the Security holder as of the date of such exercise, in accordance with the Conversion Factor in effect the Business Day immediately prior to the Conversion Date in the Event of Early Conversion, and precisely as of the Conversion Date in the Event of Early Conversion, Cemex shall transfer (or caused to be transferred), through Indeval, with the prior validation from the Calculation Agent, the number of CPOs resulting from such Conversion Factor free and clear of any liens or limitation of ownership to an account maintained by the Common Representative at Indeval for such purposes, and the Common Representative (through Indeval) shall transfer the CPOs to the accounts kept at Indeval for such purposes by the corresponding custodians of each of the Security holders (and provided such accounts were notified in advance to the Common Representative). Five (5) Business Days prior to Conversion Date in the Event of Early Conversion, after the close of operations of the BMV, Cemex shall notify in writing to the Common Representative and the Calculation Agent the Provisional Conversion Factor, which the Calculation Agent shall be obligated to validate within the next two (2) Business Days, and after the such validation by the Calculation Agent, the Provisional Conversion Factor shall become the Definitive Conversion Factor. Cemex shall notify in writing the Provisional Conversion Factor and the Definitive Conversion Factor to the Common Representative in order for the Common Representative to inform the Security holders and the corresponding authorities through the Electronic System for the Delivery and Disclosure of Information administered by BMV (known as the "SEDI"), and to Indeval, in accordance with Article 288 (two hundred eighty eight) of the Securities Market Law.

E. CONVERSION IN THE EVENT OF AN OPA.

In any Business Day taking place beginning from the fifth Business Day following the start of a public tender offer to acquire CPOs or shares of stock of Cemex, payable in cash, shares or other securities of the offeror (or issued by a third party), or a combination of the foregoing, by virtue of which any person (or group of persons), either individuals or entities, may result in holding more than thirty percent (30%) of the total CPOs outstanding, or shares representing the capital stock of Cemex then outstanding (an " OPA "), each of the Security holders shall have the right, provided that they have notified the Common Representative with at least five (5) Business Days in advance to the

Business Day selected for conversion, which in all conversion events in accordance to the paragraph E of this Clause Eleventh must occur in the date that is five (5) Business Days before the Business Day stated to conclude said public offer (the " Conversion Date for OPA"), to early convert into CPOs in whole or in part the Securities that are owned by such Security holder at the time of the exercise, in accordance with the Conversion Factor in effect the Business Day immediately prior to the Conversion Date for OPA, and precisely as of the Conversion Date for OPA, Cemex shall transfer (or caused to be transferred), through Indeval, with the prior validation from the Calculation Agent, the number of CPOs resulting from such Conversion Factor free and clear of any liens or limitation of ownership to an account maintained by the Common Representative at Indeval for such purposes, and the Common Representative (through Indeval) shall transfer the CPOs to the accounts kept at Indeval for such purposes by the corresponding custodians of each of the Security holders that exercised this option (and provided such accounts were notified in advance to the Common Representative). For purposes of the foregoing, the Common Representative shall notify Cemex and the Calculation Agent, the Business Days following the receipt of a conversion notice from any Security holder in terms of this paragraph E, the reception and the terms of such notice. Four (4) Business Days prior to Conversion Date for OPA, after the close of operations of the BMV, Cemex shall notify in writing to the Common Representative and the Calculation Agent the Provisional Conversion Factor, which the Calculation Agent shall be obligated to validate within the next two (2) Business Days, and after the such validation by the Calculation Agent, the Provisional Conversion Factor shall become the Definitive Conversion Factor. Cemex shall notify in writing the Provisional Conversion Factor and the Definitive Conversion Factor to the Common Representative in order for the Common Representative to inform the Security holders and the corresponding authorities through the Electronic System for the Delivery and Disclosure of Information administered by BMV (known as the "SEDI"), and to Indeval, in accordance with Article 288 (two hundred eighty eight) of the Securities Market Law.

F. EARLY CONVERSION FOR CPO PRICE.

In the Business Day taking place ten (10) Business Days after the Condition for Mandatory Conversion for CPO Price is met (the " Conversion Date for CPO Price"), and precisely as of the Conversion Date for CPO Price, Cemex shall mandatorily convert into CPOs all the outstanding Securities as of such moment, and shall use the Conversion Factor in effect as of the Business Day immediately before the Conversion Date for CPO Price, and precisely on Conversion Date for CPO Price Cemex shall transfer (or cause to

be transferred), through Indeval, with the prior validation from the Calculation Agent, the number of CPOs resulting from such Conversion Factor free and clear of any liens or limitation of ownership to an account maintained by the Common Representative at Indeval for such purposes, and the Common Representative (through Indeval) shall transfer the CPOs to the accounts kept at Indeval for such purposes by the corresponding custodians of each of the Security holders (and provided such accounts were notified in advance to the Common Representative). Five (5) Business Days prior to Conversion Date for CPO Price, after the close of operations of the BMV, Cemex shall notify in writing to the Common Representative and the Calculation Agent the Provisional Conversion Factor, which the Calculation Agent shall be obligated to validate within the next two (2) Business Days, and after the such validation by the Calculation Agent, the Provisional Conversion Factor shall become the Definitive Conversion Factor. Cemex shall notify in writing the Provisional Conversion Factor and the Definitive Conversion Factor to the Common Representative in order for the Common Representative to inform the Security holders and the corresponding authorities through the Electronic System for the Delivery and Disclosure of Information administered by BMV (known as the "SEDI"), and to Indeval, in accordance with Article 288 (two hundred eighty eight) of the Securities Market Law.

G. PROCEDURE FOR THE CONVERSION OF SECURITIES.

The conversion of the Securities shall be subject to the following:

(a) Regardless of any other notices that Cemex is obligated to give in accordance with this Indenture or in accordance with applicable law, Cemex hereby agrees to give notice to the Security holders though the Electronic System for the Delivery and Disclosure On Information administered by BMV (known as the "SEDI"), and in two (2) news papers of wide distribution in the cities of Mexico, Federal District and Monterrey, Nuevo Leon, and to give notice to Indeval, CNBV, BMV and the Common Representative with respect to the circulation of the Subjacent Treasure Shares and any corresponding CPOs, the Business Day following the corresponding Conversion Date.

(b) Cemex hereby agrees to, and in any case with sufficient anticipation under the circumstances, in order for the Calculation Agent to be in a position to determine the corresponding Conversion Factor and to discuss any relevant aspect with Cemex, promptly deliver to the Calculation Agent and the Common Representative notices indicating: (i) the occurrence of any fact or act and the circumstances of such act or fact, (ii) if one or more Security holders have requested the conversion of their Securities, or if an event resulting in mandatory conversion has occurred or reasonably is expected to

occur, and (iii) the applicable Conversion Factor, including the Provisional Conversion Factor, and any and all information and methodology to calculate the Conversion Factor, to allow the Calculation Agent to comply with its obligations under this Indenture, including the validation of the Provisional Conversion Factor and the Definitive Conversion Factor; provided, however, that the Calculation Agent shall not have any obligation with respect to (1) investigation if there is an event that has caused or that may cause an adjustment in the Conversion Factor or the characteristics of said Conversion Factor, (2) to confirm the validity or enforceability of the fact that caused a modification in the Conversion Factor, or (3) to initially determine the applicable Conversion Factor.

(c) The conversion of the Securities into CPOs in any of the events set forth in this Indenture shall be done exclusively against the delivery of the corresponding Securities by the appropriate Security holder, provided, however, that (i) the Security holder shall be prevented from transferring to third parties in the market, the Securities that are subject to a conversion request or with respect to the Securities that are subject to a mandatory conversion, even in the cases in which such Security holder had not agreed to the conversion, and shall instruct the transfer of the Securities from the account of the Security holder custodian to the account of the Common Representative at Indeval with the appropriate time in advance for the conversion to take place, and (ii) the Common Representative may refuse to take any action in the name and on the account of a Security holder, if the Common Representative has not received the corresponding Securities for the transfer in accordance to this Indenture.

(d) The Securities shall be considered converted into CPOs once Cemex has given notice to Indeval, CNBV, BMV and the Common Representative, informing them that the corresponding amount of Subjacent Treasury Shares have been placed in circulation and that the CPOs have been released and transferred through Indeval, and that each Security holder has received through the corresponding custodian, the applicable CPOs precisely in the account maintained by such custodian, regardless that the exchange of the corresponding certificate representing the Securities for the certificate representing the CPOs takes place at a later time. Cemex hereby agrees to transfer to Indeval the corresponding Subjacent Treasury Shares, to cause the CPO Trustee to transfer through Indeval the corresponding CPOs, and to take the necessary or convenient acts for the conversion of the Securities to take place.

(e) If there are fractions while calculating the number of CPOs to be released to each of the Security holders as a result of a conversion of their Securities, (i) if the result is equal or more than zero dot five (0.5), the number of CPOs will be rounded upwards to the

nearest entire amount, and one (1) additional CPO will be delivered; and (ii) if the result was less than zero dot five (0.5), the number of CPOs shall be rounded downwards to the nearest inferior round number, and no additional CPOs with respect to such fraction.

(f) The conversion of the Securities in accordance with the provisions of this Clause shall be done directly by Indeval, by means of a transfer of CPOs and Securities, in accordance with the terms of this Indenture.

(g) In the event that the trading of the ordinary participation certificates whose subjacent value is formed by shares of stock of Cemex has been suspended in the BMV, either temporarily or definitively, and consequently there will be no market value for such ordinary participation certificates as of the corresponding the Conversion Date, then the corresponding conversion of Securities into CPOs shall be suspended, and shall take place thirty (30) Business Days from the date in which the ordinary participation certificates whose subjacent value is formed by shares of stock of Cemex have resumed trading in the BMV; provided, however, that (i) if the suspension of the trading exceeds a term of one hundred eighty (180) days, then the Securities shall be mandatorily converted by Cemex (and Cemex will be obligated to take any and all actions to effect such conversion in accordance with this Indenture), from the Business Day following the term of one hundred and eighty (180) days, using the Conversion Factor in effect the Business Day immediately prior to the date in which the trading of the ordinary participation certificates whose subjacent value is formed by shares of stock of Cemex in the BMV was suspended (and the Conversion Factor shall be validated by the Calculation Agent), and (ii) during the time of the suspension, the Securities shall accrue interest, at the Interest Rate, and such interest amounts shall be paid on the corresponding Conversion Date (including the date of conversion in accordance with paragraph (i) above).

(h) In accordance with the provisions of section IX (nine) of Article 210 Bis (two hundred ten BIS) of the General Law of Negotiable Instruments and Credit Operations, the Subjacent Treasury Shares not delivered as a result of the conversion of the Securities (as subjacent value for the corresponding CPOs), shall be cancelled, and the Board of Directors and the Common Representative shall prepare minutes in that regards, and such minutes shall be officially formalized before a Notary Public and record such deed in the Public Registry of Property and Commerce of the State of Nuevo Leon, which corresponds to the corporate domicile of Cemex.

(i) Precisely on the corresponding Conversion Date, each of the Security holders that is converting their Securities shall have the right to receive from Cemex, with respect to the Securities being converted, any accrued and unpaid interest and any other applicable accessory amounts, including the Agreed Amount.

(j) Precisely on the Conversion Date in the Event of Early Conversion, each of the Security holders converting their Securities shall have the right to receive from Cemex, with respect to the Securities being converted, ordinary interest with respect to the Securities corresponding to the period of three hundred and sixty five (365) days immediately following the Conversion Date in the Event of Early Conversion or to an inferior period, if the Due Date occurs in an inferior term than the term of three hundred and sixty five (365) days (the " Agreed Amount"). This amount shall be paid in the manner set forth in Clause Eighth of this Indenture.

(k) Any controversy related to the conversion of the Securities, including the calculation of the applicable Conversion Factor shall be resolved by Cemex, the Common Representative and the Calculation Agent, and in the event that such parties are unable to reach an agreement among them, as determined in a definitive decision by any of the auditing firms below (or any successor of such firms), at the election of Cemex (i) Ernst & Young, (ii) KPMG, o (iii) PriceWaterhouseCoopers, and the Conversion Date (or any other date for conversion) shall be deemed extended until the tenth Business Day following the date in which the definitive determination was made.

TWELFTH. TERM OF THE SECURITIES.

The Securities shall have a term of three thousand six hundred forty (3,640) calendar days, beginning from December 10 (ten), 2009 (two thousand nine), and such term shall conclude on November 28 (twenty eight), 2019 (two thousand nineteen), provided however that, with respect to the corresponding Securities, the term of the Securities shall be deemed reduced to, and shall conclude at, the corresponding Conversion Date (the " Term of the Securities").

THIRTEENTH. NEGATIVE COVENANTS.

A. NEGATIVE COVENANTS RELATED TO DILUTION.

During the Term of the Securities, Cemex shall not make any agreement or determination adversely affecting the rights of the Security holders with respect to the basis for conversion set forth in Clause Eleventh of this Indenture and particularly, without limitation in the following cases, unless Cemex has the prior written consent of the General Security holders Meeting further to this Indenture to take such adverse agreement or determination, provided, however, that if adjustments have to be made or the following events occur, no approval of the General Security holders Meeting will be needed.

With respect to any of the items that Cemex has the intention to approve, or were approved, or the intention to determine, or were determined, with respect to the items set forth below, Cemex hereby agrees to the following:

(a) Capital Stock Increases by Capitalization of Shareholders Equity Accounts, Share Dividends, Splits, etc . In the event of capital stock increases of Cemex, by the issuance of shares representative of the capital stock of Cemex, that are paid by means of capitalization of shareholders' equity accounts (of any nature), distribution of dividends in shares representative of the capital stock of Cemex or in the event of a stock split of such shares of stock or similar event that results in the delivery or exchange of shares, of whatever nature or determination, it shall be adjusted the number of shares of Cemex that may be subscribed (by conversion) by the Security holders, by means of an adjustment in the Conversion Factor in accordance with the terms proposed by Cemex to the Common Representative, with the prior acceptance and/or ratification by the Calculation Agent (and for such purposes the Calculation Agent shall be notified and consulted in accordance with Clause Eleventh, section G subsection (b)).

(b) Reverse Split. In the event that Cemex decreases the number of shares representative of its capital stock outstanding by a reverse Split or similar or equivalent transaction, whatever it is called, the number of shares of stock that may be subscribed (by conversion) by the Security holders shall be adjusted by means of an adjustment to the Conversion Factor in accordance with the terms proposed by Cemex to the Common Representative, with the prior acceptance and/or ratification by the Calculation Agent (and for such purposes the Calculation Agent shall be notified and consulted in accordance with Clause Eleventh, section G subsection (b)).

(c) Mergers in which Cemex is the Merging Company . In the event that the general shareholders meeting of Cemex approves a merger of one or more companies, and Cemex is the merging company, or enters into a similar transaction, the Conversion Factor shall not be adjusted.

(d) Mergers in which Cemex is the Merged Company . In the event that the general shareholders meeting of Cemex approves that Cemex, as merged company, is merged with one or more companies, or enters into a similar transaction whatever is called, so Cemex ceases to exist to be absorbed by other legal entity, as a merging company or a new company is created as a result of the merger, whatever such company is named and

regardless of the type of transaction, then the outstanding Obligations shall be, and shall be considered mandatorily converted, precisely the Business Day prior to the date in which the merger agreements were approved, in accordance with the terms of Section A of Clause Eleventh, provided, however, that to effect the conversion mentioned in this paragraph (d), Cemex hereby agrees to take any and all necessary measures, including any necessary action before CNBV, Indeval and BMV.

(e) Spin-off of Cemex. In the event that the general shareholders meeting of Cemex approves the spin-off of Cemex, then, the outstanding Securities shall be, and shall be considered mandatorily converted precisely the Business Day immediately before to the Business Day in which the approval of the spin-off was made, in accordance with the terms of Section A of Clause Eleventh of this Indenture, and shall be considered such prior Business Day as if such date were the Due Date contemplated in such Clause Eleventh Section A, provided, however, that to effect the conversion mentioned in this paragraph (e), Cemex hereby agrees to take any and all necessary measures, including any necessary action before CNBV, Indeval and BMV.

(f) *Concurso Mercantil;* Dissolution and Liquidation of Cemex. In the event that the general shareholders meeting of Cemex approves that Cemex be dissolved, or such dissolution is the result of an order issued by competent authority, or that Cemex was subject of a procedure of " *concurso mercantil*", bankruptcy or similar or equivalent procedure, in any jurisdiction and regardless of the name of such procedure, then all the outstanding Securities shall be, and shall be considered as mandatorily converted, at the corresponding Conversion Factor in effect immediately before the approval of the dissolution or the declaration of "*concurso mercantil*", bankruptcy or similar event, in order for the Security holders to convert into shares of stock of Cemex, and with such capacity participate in the *concurso mercantil* or bankruptcy procedures or similar procedures or in the liquidation or dissolution, and the provisions of Article 226 (two hundred and twenty five) of the General Law of Negotiable Instruments and Credit Operations shall not apply, provided, however that, in the event of *concurso mercantil*, bankruptcy or similar event, it shall be considered that the outstanding Securities shall still accrue interest until such Securities are effectively converted into shares representative of capital stock of Cemex, considering what is resolved by the judge deciding on the *concurso mercantil* or bankruptcy procedures.

The provisions of this Clause Thirteenth, Section A with respect to the shares of stock of the Company shall be considered to be applicable *mutatis mutandi*, to the CPOs.

In the event that the proposals to adjust the Conversion Factor presented by Cemex for the approval and/or ratification of the Calculation Agent during any of the events referred in this Clause Thirteenth Section A, were not accepted or ratified by the Calculation Agent, the Calculation Agent shall notify Cemex in order for Cemex to correct the proposal and may enter into the necessary discussions and negotiation between Cemex and the Calculation Agent, and if no agreement is reached with respect to the Adjustment Factor by Cemex and the Calculation Agent, then the applicable adjustment shall be determined by a definitive decision by any of the auditing firms below (or any successor of such firms), at the election of Cemex (i) Ernst & Young, (ii) KPMG, o (iii) PriceWaterhouseCoopers, and the Conversion Date (or any other date for conversion) shall be deemed extended until the tenth Business Day following the date in which the definitive determination was made.

Regardless of the actions that may correspond to the Security holders and the Common Representative in accordance to applicable law, if Cemex does not comply with any of its obligations under Clause Thirteenth Section A, the Security holders owning at least ten percent (10%) of the total outstanding Securities (considering the Nominal Value per Security) shall have the right, but not the obligation, to request the Common Representative to adjust the Conversion Factor as necessary in the terms proposed to the Common Representative, with the prior validation of such adjustment by the Calculation Agent and notice to Cemex, provided, however that in the event that the Security holders do not proposed the respective adjustment to the Conversion Factor, such adjustment shall be determined by the Calculation Agent, and the Calculation shall have no liability before Cemex and the Security holders, and Cemex and the Security holders (for the mere fact of acquiring the Securities) release the Calculation Agent of such liability.

B. OTHER NEGATIVE COVENANTS.

During the Term of the Securities, Cemex hereby agrees not to engage in the following acts, unless Cemex obtains the prior written approval of the General Security holders Meeting:

(a) Accounting Policies. Not to modify its current accounting policies unless (i) it is expressly authorized by Cemex's auditing committee, and it is disclosed to the public investors under the terms of the General Regulations, and (ii) the modifications are required by applicable law, the Mexican NIFs, or the rules of financial disclosure;

(b) Related Party Transactions. Not to engage in related party transactions, except in accordance to the provisions and under the terms of the Securities Market Law;

(c) By-laws. Not to amend the clauses of its by-laws with respect to (i) its main corporate purpose, and (ii) its corporate domicile, to change it to a country other than Mexico;

(d) Registration. Not to take any action to cancel the registration of the Securities, or the shares of stock of Cemex or the CPOs in the National Registry of Securities, or the listing of such securities in the BMV;

(e) Adverse Acts. Not to engage in any acts or to take any step to amend the CPOs Indenture, the CPO Trust Agreement which adversely affects or reasonably could adversely affect the rights of the Security holders in accordance with the Securities.

FOURTEENTH. AFFIRMATIVE COVENANTS.

During the Term of the Securities, Cemex hereby agrees:

(a) Internal Financial Statements. To deliver to the Common Representative, quarterly, within the five (5) Business Days after the deadline established by the General Regulations, one (1) complete set of internal consolidated unaudited financial statements of Cemex, with respect to every quarter, which will include a balance sheet, statements of income and cash flows, prepared in accordance with the Mexican NIFs, and signed by the Chief Financial Officer or equivalent officer of Cemex.

(b) Audited Financial Statements. To deliver to the Common Representative, yearly, within the five (5) Business Days after the deadline established by the General Regulations, one (1) complete set of consolidated audited financial statements of Cemex, with respect to the corresponding fiscal year, which will include a balance sheet, statements of income and cash flows, prepared in accordance with the Mexican NIFs, and certified by the external auditor of Cemex.

(c) Other Reports.

(1) To deliver to the Common Representative an annual certificate, precisely in the same date of delivery to the Common Representative of the annual financial statements indicated in paragraph (b) above, signed by the Chief Financial Officer or equivalent officer of Cemex, stating that Cemex has complied during the respective annual period with its obligations contained in Clause Thirteenth and Fourteenth of this Indenture.

(2) To inform the Common Representative in writing, within the five (5) Business Days following to the date in which Cemex has knowledge of any event that constitutes an Event of Early Conversion, or that with the lapse of time or by written notice or both, may constitute an Event Of Early Termination in accordance with this Indenture.

(3) To inform the Common Representative and the Calculation Agent in writing, within the five (5) Business Days from the occurrence of a corresponding act, in the event that Cemex adopts or is affected by any of the resolutions contained in Paragraph A of Clause Thirteenth.

(d) Use of the Issuance. To use the Securities for exchange of certain outstanding debt securities (*certificados bursátiles*).

(e) Legal Existence and Accounting .

(1) To keep its legal existence and to keep itself as a going concern.

(2) To keep its accounting in accordance with the Mexican NIFs.

(f) *Pari Passu Ranking*. To make sure that its interest payment obligations (including the penalty interest, if the case may be), and the Agreed Amount, as the case may be, with respect to the Securities and in accordance with this Indenture, constitute at all times unconditional and unsubordinated obligations of Cemex, and shall have at all times at least the same priority for payment (*pari passu*) with respect to other not guaranteed liabilities, either present or future (except for those obligations that have payment priority in accordance with applicable bankruptcy laws.

(g) Obligations with respect to the CPOs and the Shares . To carry out all the necessary acts of any nature in order that (i) the Subjacent Treasury Shares be sufficient for the Security holders to make the conversion of the Securities into CPOs, either in whole or in part, using the Conversion Factor (including any change to the Conversion factor as set forth in Clause Thirteenth), (ii) it bay be issued and released enough CPOs for the Security holders making the conversion of the Securities, either in whole or in part, using the Conversion Factor (including any change to the Conversion factor as set forth in Clause Thirteenth), including the execution of any trust agreement, supplemental indenture or amendment to the current indentures, (iii) the CPO Trustee can carry out any necessary or convenient acts in order for the Security holders to convert, either in whole or in part, their Securities at any Conversion Date, including by means of issuance and release of CPOs, even in the adjustment events set forth in Clause Thirteenth, (iv) the shares of Cemex to be delivered at the time of conversion of any of the Securities, as subjacent values for the CPOs, and the CPOs are currently registered in the date of conversion and delivery in the National Registry of Securities and, in the case of the CPOs, are authorized for trading in the BMV, (v) to deposit, or cause to be deposited, the certificates representing the Subjacent Treasury Shares or the CPOs at Indeval, to allow the Security holders to convert any of their Securities, and (vi) to keep the registration of the shares of stock of Cemex and the ordinary participation certificates that have shares of stock as their subjacent value, in the National Registry of Securities.

FIFTEENTH. EVENTS OF EARLY CONVERSION.

The Common Representative may demand to Cemex the early conversion of all the Securities into CPOs in accordance with the applicable Conversion Factor (as such Conversion Factor may be adjusted in accordance with Clause Thirteenth), and to demand the payment of any interests accrued and not paid and the Agreed Amount in accordance with the following, upon the occurrence of any of the following events (each of such events, an " Early Conversion Event"), without need of a lawsuit or judicial proceeding or any other notice of any nature, and without regard to any rights that may correspond to the Security holders:

(a) Failure to Timely Pay Interests and Other Amounts. If Cemex fails to pay interests, either ordinary or penalty interest, payable with respect to the Securities, during a term exceeding three (3) Business Days beginning from the date in which such payment are due and payable;

(b) False or Incorrect Information. If Cemex delivers to the Common Representative false or incorrect information with respect to any significant aspect with respect to the issuance of the Securities or during the term of the Securities;

(c) Default in Obligations. If Cemex defaults in any of its obligations under this Indenture and under the Securities, and such default is not cured within the thirty (30) calendar days following the date of such default, in which Cemex has knowledge of such default or when Cemex was notified of such default by the Common Representative, whichever occurs first;

(d) Default in Obligations not derived from the Securities. If Cemex, Cemex Mexico or Tolteca defaults in any obligations set forth in any agreement or instrument of any nature, related to financial debt of Cemex, Cemex Mexico or Tolteca, and the corresponding creditors declare an early maturity, if the amount of the financial debt is equivalent in any currency, at least US$50,000,000.00 (Fifty Million Dollars and 00/100 Currency of the United States of America);

(e) Insolvency. If Cemex, Cemex México or Tolteca were declared bankrupt or in "*concurso mercantil*", or any similar condition in accordance with applicable law in the corresponding jurisdiction, or if any one of Cemex, Cemex México or Tolteca expressly admits in writing the inability to pay their debts of financial nature upon maturity (including by means of a public announcement);

(f) Judgments or Awards. If Cemex, Cemex México or Tolteca, did not pay or satisfy a definitive judgment, administrative sentence or arbitral award (not subject to appeal or any other recourse of whatever nature), in an amount equal or exceeding US$50,000,000.00 (Fifty Million Dollars and 00/100 Currency of the United States of America) or its equivalent in other currencies, within a term of ninety (90) calendar days beginning from the date of notification of such judgment, sentence or award, or if within such term the judgment, sentence or award have not been cancelled.

If the event mentioned in section (e) above occurs, the Securities shall be mandatorily converted precisely at the time of the occurrence of said event, without need of prior default notice, and all accrued unpaid interests with respect to the Securities and the Agreed Amount shall immediately become due and payable.

In the event that any of the events mentioned in sections (a), (b), (c), (d) or (f) occurs, the Securities shall be mandatory convertible, provided that a Security holder or a group of Security holders that individually or collectively own at least ten percent (10%) of the outstanding Securities (considering the Nominal Value of the Securities), deliver a written notice to the Common Representative requesting the mandatory conversion of the outstanding Securities, and the Common Representative delivers to Cemex a notice declaring the mandatory conversion of the outstanding Securities, in which case, all accrued unpaid interests with respect to the Securities and the Agreed Amount shall immediately become due and payable.

SIXTEENTH. SECURITY HOLDERS MEETING.

While the Securities are not converted into CPOs, its holders shall not have corporate or economic rights with respect to the CPOs or the shares of stock subjacent to the CPOs, without prejudice to the express provisions regarding the payment of interest and penalty interest in accordance with Clauses Seventh and Eight of this Indenture.

However, the Security holders shall have voting rights corresponding to their Securities during general Security holders meetings (the " General Security holders Meetings") in accordance with the following:

(a) The General Security holders Meetings shall represent all the Security holders, and shall be governed in any event by the provisions set forth in this Indenture and in the General Law of Negotiable Instruments and Credit Operations, and its decisions shall be valid against all Security holders, even the absent or dissident Security holders.

(b) The General Security holders Meeting shall gather when summoned by the Common Representative, by its own decision or at the request of the Security holders or Cemex.

The Security holders that, collectively or individually, are the owners of ten per cent (10%) or more of the outstanding Securities (based on the Nominal Value of the Securities), shall be entitled to request the Common Representative to call a General Security holders Meeting, specifying in their request the items to be discussed during the meeting. The Common Representative shall issue the call for the General Security holders Meeting to gather within twenty (20) calendar days beginning from the date of the request. If the Common Representative does not comply with this obligation, a judge of first instance of the corporate domicile of Cemex, at the request of the requesting Security holders, shall issue the call to the corresponding General Security holders Meeting.

(c) The calls for the General Security holders Meetings shall be published once, at least in the Official Newspaper of the Federation and in any of the newspapers of wide distribution of the corporate domicile of Cemex, with at least ten (10) calendar days in advance to the date of the corresponding General Security holders Meeting. The call shall contain the Agenda for the Meeting containing the items to be discussed.

(d) A General Security holders Meeting shall be duly installed by virtue of first call if represented at least a number of Security holders representing at least half plus one of the Securities outstanding (based on the Nominal Value of the Securities), and its decisions will be adopted with the affirmative vote, unless the events set forth in paragraph (e) below, of the majority of the attending Security holders (based on the Nominal Value of the Securities). A General Security holders Meeting shall be duly installed by virtue of second call if represented by any number of Securities.

(e) It shall be required to be represented during a General Security holders Meeting at least seventy five percent (75%) of the outstanding Securities, and that the decisions be approved by half plus one, at least, of the entitled votes at the Meeting (based on the Nominal Value of the Securities), with respect to the following matters:

(1) To appoint a common representative of the Security holders;

(2) To revoke the appointment of Common Representative;

(3) To issue waivers or to issue extensions to Cemex, or to introduce or approve any modification to this Indenture.

(f) To attend ant General Security holders Meeting, the Security holders hall deposit their certificates of deposit certificates issued with respect to the Securities which are property of each of them, issued by a credit institution or written evidence with respect of the property of such Securities issued by Indeval (completed in the last case, by the lists issued by the corresponding custodians), in the place designated in the call for the Meeting, at least the day before of the Meeting. The Security holders may represent themselves by proxy, appointed by a simple proxy letter or by any other mean permitted by applicable law.

Management, representatives and advisers of Cemex shall be entitled to attend any General Security holders Meetings, with voice but without vote.

(g) In any event may be represented during a General Security holders Meeting, Securities that are not outstanding, or any Securities that were acquired by Cemex or that were subject to early conversions under the terms of this Indenture.

(h) From all General Security holders Meetings minutes shall be prepared and shall be signed by the individuals acting as President and Secretary of the Meeting. To the minutes of the meeting it shall be added the attendance list signed by the attending holders and the tellers. The minutes, as well as the certificates, accounting records and any other information referred to the issuance of the Securities and the acts of the General Security holders Meetings, the Common Representative and the Calculation Agent shall be kept by the Common Representative and may be consulted from time to time by the Security holders, and may request, at their own expense, certified copies of such documents.

(i) The Meeting shall be chaired by the Common Representative or, in its absence, by the judge issuing the corresponding call, and during the Meetings the Security holders shall be entitled to one vote per each of the outstanding Securities that they own and taking into consideration the Nominal Value of the Securities.

SEVENTEENTH. COMMON REPRESENTATIVE AND REMUNERATION.

The Common Representative for all Security holders shall be Banco Mercantil del Norte, S.A., Institución de Banca Múltiple, Grupo Financiero Banorte, and such institution hereby states that:

(a) Banco Mercantil del Norte, S.A., Institución de Banca Múltiple, Grupo Financiero Banorte hereby accepts the appointment of common representative for the Security holders;

(b) Has verified the information contained in the Base Financial Statements and the amount of the Net Assets; and

(c) Has received from Cemex (i) written evidence of the issuance of the Subjacent Treasury Shares, which shall be used as subjacent value of the CPOs to effect the conversion of the Securities in accordance with the provisions of Clause Eleventh and other applicable provisions of this Indenture, and (ii) written evidence issued by the CPO Trustee, with respect to the issuance of the CPOs that are necessary to effect the conversion of the Security in accordance with the provisions of Clause Eleventh and other applicable provisions of this Indenture.

The Common Representative shall act as an attorney-in-fact of the Security holders, and shall have all the rights and obligations set forth in the General Law of Negotiable Instruments and Credit Operations, and the provisions of this Indenture:

(1) The Common Representative shall obtain, if Cemex does not do it, the inscription of the public deed in which it is officially formalized this Indenture in the Public Registry of Commerce of the State of Nuevo Leon, corresponding to the corporate domicile of Cemex, as required by the terms of Article 213 (two hundred thirteen) of the General Law of Negotiable Instruments and Credit Operations;

(2) The Common Representative shall watch for the compliance with respect to the use of proceeds by Cemex of the issuance of the Securities, or that the Securities are used for exchange of other outstanding debt securities issued by the Company;

(3) The Common Representative shall verify that the Obligations comply with all applicable laws, and once this is done, it shall sign as a Common Representative the certificate or certificates representing the Securities;

(4) The Common Representative shall exercise all the actions or rights that correspond to the Security holders as a whole or a portion of the Security holders, with respect to the payment of interests, either ordinary or penalty accrued by the Securities, and the Agreed Amount, if the case may be, as well as the conversion of the Securities into CPOs, and the actions or rights required in the performance of the duties referred to in Article 217 (two hundred seventeen) of the General law of Negotiable Instruments and Credit Operations, and to execute any acts of custody;

(5) The Common Representative shall execute the trust agreement to be executed with the purpose of limiting the transferability of the Securities at the Issuance Date, and shall exercise all the rights and shall comply with all the obligations set forth in such trust agreement;

(6) The Common Representative shall call and preside the General Security holders Meetings, and shall execute its resolutions;

(7) The Common Representative shall obtain from Cemex and its officers all the reports and information that are necessary for the fulfillment of its duties;

(8) The Common Representative shall verify the compliance by Cemex of its obligations set forth in this Indenture with respect to the Securities;

(9) The Common Representative shall agree with Cemex any adjustments to the Conversion Factor under the terms of this Indenture, with the prior validation made by the Calculation Agent, and shall do all the necessary acts with respect to the conversion of the Securities;

(10) The Common Representative shall attend during the Term of the Securities, the general shareholders meetings of Cemex, without voice or vote (and Cemex hereby agrees to take the necessary measures);

(11) The Common Representative shall calculate the interests and other amounts payable with respect the Securities, and shall publish the notices of conversion and the notices of payment of interests in the newspapers of wide distribution in Mexico City, Federal District, as determined by the Common Representative;

(12) The Common Representative shall deliver on behalf of the Security holders, the documents or agreement required to be entered with Cemex;

(13) The Common Representative shall verify the existence of sufficient amount of treasury shares and issued by Cemex and CPOs issued, to effect the conversion of the Securities at any Conversion Date;

(14) The Common Representative shall execute the agreements related to the custody, brokerage services, investment services, account opening and any other similar agreements that are required to carry out its duties, provided, however, that the expenses incurred for such concepts shall be on the account of and paid by Cemex;

(15) In general, the Common representative shall do all the necessary acts in order to protect the rights of the Security holders.

The Common Representative may be removed by resolution of the General Security holders Meeting as provided in section (e) of Clause Fifteenth of this Indenture, provided, however, that such removal shall only be effective the date in which a successor common representative has been designated and has taken office and from such moment, the successor common representative shall be considered for all purposes of this Indenture and the Securities as the "Common Representative".

The Common Representative shall conclude its duties in the date in which (i) the total amount of interest accrued by the Securities, either ordinary or penalty, and the Agreed Amount, if such is the case, have been paid in full, and (ii) once the total amount of the issued Securities and outstanding have been converted into CPOs.

The Common Representative shall receive as compensation for rendering its services the amounts agreed by the Common Representative and Cemex in a separate instrument, and Cemex agrees to pay such amounts.

To all the fees to be received by the Common Representative shall be added the applicable value added tax, and any other tax that may be imposed at the time of payment on the Common Representative.

EIGHTEENTH. CALCULATION AGENT AND REMUNERATION.

The Calculation Agent hereby accepts the appointment made in its favor, and hereby agrees:

(a) To confirm, when required and when necessary, the adjustments to the Conversion Factor as proposed in accordance with the terms of this Indenture, including starting with the Provisional Conversion Factor;

(b) To discuss any relevant aspect with Cemex in connection with the events that causes a modification to the Conversion factor and with respect to the calculation of the Conversion Factor;

(c) To carry on with any act entrusted to him under this Indenture, or when reasonably requested by Cemex, the Common Representative or the Security holders.

The Calculation Agent shall receive as compensation for rendering its services the amounts agreed by the Calculation Agent and Cemex in a separate instrument, and Cemex agrees to pay such amounts.

To all the expenses incurred, and the fees to be received by the Calculation Agent shall be added the applicable value added tax.

The Calculation Agent may be removed by resolution of the General Security holders Meeting as provided in section (e) of Clause Fifteenth of this Indenture, provided, however, that such removal shall only be effective the date in which a successor calculation agent have been designated and has taken office and from such moment, the successor calculation agent shall be considered for all purposes of this Indenture and the Securities as the " Calculation Agent".

NINETEENTH. EXPENSES.

All the expenses, fees, taxes, charges and, in general, any disbursements that are caused or made with respect to this Indenture, its execution and in maintaining the Indenture in force and effect, as well as in connection with the issuance and maintaining the Securities and their conversion, including without limitation, expenses with respect to its execution before a Notary Public and the regarding of this Indenture before the Public registry of Property and Commerce of the State of Nuevo Leon shall be paid by Cemex, provided, however, that the income tax generated by the interest earned as a result of the Securities, the Agreed Amount or the conversion of the Securities, including any capital gains, either actual or implied, shall be the sole responsibility of the Security holders.

TWENTIETH. INDEMNIFICATION.

Cemex shall indemnify and hold harmless each of the Calculation Agent, its immediate or final holding companies, its subsidiaries and affiliates, direct or indirect, and its shareholders, directors, employees, representatives or advisors and their corresponding holding companies, subsidiaries and affiliates, direct or indirect (the "Indemnified Parties"), from any and all claims, proceedings, judgments or suits of any kind, against any of the Indemnified Parties, by virtue of any act or omission made in connection the compliance with their obligations set forth in this Indenture or related to the execution of this Indenture. Consequently, Cemex agrees to pay or reimburse each of the Indemnified Parties the losses, claims, liabilities, costs, expenses or responsibilities of any nature suffered by the Indemnified Parties resulting from a claim, proceeding, judgment, suit or threatened proceeding or suit, which are related to the concepts above referenced, except if such losses, claims, liabilities, costs, expenses or responsibilities were the result of acts or omissions derived from the gross negligence, dab faith or willful misconduct of the Indemnified Party declared in a definitive sentence from competent judicial authority.

TWENTY FIRST. DOMICILES.

(a) For the exercise of any rights, and to comply with the obligations related to this Indenture and the Securities, the parties hereby designate the following conventional domiciles:

Cemex:

Avenida Ricardo Margáin Zozaya number 325 (thee hundred twenty five), Colonia Valle del Campestre, 66265 sixty six thousand two hundred sixty five, in San Pedro Garza García, Nuevo León, México. Telefax: (81) 8888-4432.

Attention: Vice-president of Corporate Finance

The Common Representative and Calculation Agent:

Avenida Revolución number 3000 three thousand, Colonia Primavera, 64830 (sixty four thousand eight hundred thirty), in Monterrey, Nuevo Leon, Mexico. Telefax: (81) 8319-6809

Attention: Trust Division

(b) Any change of domicile with respect to the ones determined above shall be notified to the other parties within three (3) Business Days following the actual change of domicile, and shall be effective the fifth (5th) Business Day from the date of the notice delivered to the other parties, unless in urgent cases, in which the change of domicile will be effective the following Business Day.

(c) Any notices and other communications related to this Indenture or the Securities shall be in writing, and addressed and delivered to the domiciles or telefax numbers identified in this Clause Twentieth, or to any other address or telefax number that the parties from time to time designate in accordance to paragraph (b) above. All notices and communications shall be delivered personally or by telefax, and shall be effective upon receipt.

TWENTY SECOND. GUARANTORS.

By appearing to the execution and subscription of this Indenture, and in the subscription of the Securities. Each of Cemex México and Tolteca, in an unconditional and irrevocable manner, hereby guarantee each and every one of the payment obligations assumed by Cemex under the terms of this Indenture and the Securities, expressly waiving the benefits of order, (*excusion*), division and waiting rights that may correspond to them.

TWENTY-THIRD. JURISDICTION AND COMPETENT COURTS.

This Indenture shall be governed, and shall be construed in accordance with the laws of the United Mexican States. For anything related to the interpretation and enforcement of the obligations derived from this Indenture, the parties hereby submit themselves to the jurisdiction of the courts sitting in Mexico City, Federal District, waiving any other forum that may correspond to them as a result of their domiciles of for any other reason.

TWENTY-FOURTH. EXHIBITS.

All the documents attached hereto as Exhibits to this Indenture constitute an integral part of this Indenture and shall be deemed to have been reproduced in each place in which such documents are referred in this instrument.

LEGAL PERSONALITY

I.- Mr. **RENE DELGADILLO GALVAN**, proves the authority in which he is appearing to this legal act as a legal representative of **"CEMEX, SOCIEDAD ANONIMA BURSATIL DE CAPITAL VARIABLE"**, and for such purposes he states that such authority has not been revoked or limited in any way, and proves the legal existence and good standing of the Company with the documents produced to me, which documents the undersigned Notary hereby attest to have in front of me and transcribe the relevant parts of such documents under the Appendix Chapter of this deed.

II.- Messrs. **TEODORO RUIZ GONZALEZ** and **MIGUEL ARNULFO RAMOS SALGADO** prove the authority in which they are appearing to this legal act as legal representatives of the banking institution named **BANCO MERCANTIL DEL NORTE, SOCIEDAD ANONIMA, INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BANORTE**, and for such purposes they state that such authority has not been revoked or limited in any way, and prove the legal existence and good standing of such banking institution with the documents produced to me, which documents the undersigned Notary hereby attest to have in front of me and transcribe the relevant parts of such documents under the Appendix Chapter of this deed.

III.- Mr. **JOSE LEOPOLDO QUIROGA CASTAÑON**, proves the authority in which he is appearing to this legal act as a legal representative of **CEMEX MÉXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE**, and for such purposes he states that such authority has not been revoked or limited in any way, and proves the legal existence and good

standing of such company with the documents produced to me, which documents the undersigned Notary hereby attest to have in front of me and transcribe the relevant parts of such documents under the Appendix Chapter of this deed.

IV.- Mr. **JOSE LEOPOLDO QUIROGA CASTAÑON**, proves the authority in which he is appearing to this legal act as a legal representative of **EMPRESAS TOLTECA DE MÉXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE**, and for such purposes he states that such authority has not been revoked or limited in any way, and proves the legal existence and good standing of such company with the documents produced to me, which documents the undersigned Notary hereby attest to have in front of me and transcribe the relevant parts of such documents under the Appendix Chapter of this deed.

IDENTIFICATION INFORMATION

The individuals appearing before me stated the following:

Mr. **RENE DELGADILLO GALVAN** stated to be: Mexican citizen by birth, forty nine (49) years of age, married, born in the city of Monterrey, Nuevo Leon as of July 1 (one), 1960 (one thousand and sixty), Attorney at law, Tax Identification Number DEGR-600701-1V8, with Population Sole Code Number DEGR600701HNLLLN01 and with conventional domicile located at Avenida Ricardo Margáin Zozaya number 325, Colonia Valle del Campestre, in San Pedro Garza García, Nuevo León.

The Tax Identification Number of **"CEMEX, SOCIEDAD ANONIMA BURSATIL DE CAPITAL VARIABLE"** is CEM-880726-UZA, and its corporate domicile is located at Avenida Constitución Poniente number 444 four hundred forty four, Downtown, Monterrey, Nuevo Leon.

Mr. **TEODORO RUIZ GONZALEZ** stated to be: Mexican citizen by birth, forty one (41) years of age, married, born in the city of Monterrey, Nuevo Leon where he was born November 27 (twenty seven), 1968 (one thousand one hundred sixty eight), Bank officer, Tax Identification Number RUGT-681127-315, with Population Sole Code Number RUGT681127MNLZND05 and with conventional domicile located at Avenida Revolución number 3000 three thousand, Fourth Floor, Colonia Primavera, in the city of Monterrey, Nuevo Leon.

Mr. **MIGUEL ARNULFO RAMOS SALGADO** stated to be: Mexican citizen by birth, forty five (45) years of age, married, born in the city of Monterrey, Nuevo Leon where he was borne don November 15 (fifteen), 1964 (one thousand nine hundred sixty four), bank officer, with Tax Identification Number RASM-641115-B59, and Population Sole Code Number RASM641115HNLMLG03 and conventional domicile located at Avenida Revolución number 3000 (three thousand), Fourth Floor, Colonia Primavera, in the city of Monterrey, Nuevo Leon.

The Tax Identification Number of the banking institution named **BANCO MERCANTIL DEL NORTE, SOCIEDAD ANONIMA, INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BANORTE** is BMN-930209-927, and its domicile is located at Avenida Revolución number 3000 (three thousand), Fourth Floor, Colonia Primavera, in the city of Monterrey, Nuevo Leon.

Mr. **JOSE LEOPOLDO QUIROGA CASTAÑON** stated to be: Mexican citizen by birth, forty eight (48) years of age, born in the city of Monterrey, Nuevo Leon where he was born on April 16 (sixteen), 1961 (one thousand nine hundred sixty one), with Economics Degree, Tax Identification Number QUCL-610416-PX5, and Population Sole Code Number QUCL610416HNLRSP08, and with conventional domicile located at Avenida Ricardo Margáin Zozaya number 325, Colonia Valle del Campestre, in San Pedro Garza García, Nuevo León

The Tax Identification Number of the company named **"CEMEX MEXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE"** is CME-820101-LJ4, its corporate domicile is located at Avenida Constitución Poniente number 444 four hundred forty four, Downtown, Monterrey, Nuevo Leon.

The Tax Identification Number of the company named **"EMPRESAS TOLTECA DE MEXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE"** is ETM-890720-DJ2, its corporate domicile is located at Avenida Constitución Poniente number 444 four hundred forty four, Downtown, Monterrey, Nuevo Leon.

NOTARIAL ACKNOWLEDGEMENT

I, THE UNDERSIGNED NOTARY, HEREBY ATTEST:-I.- The veracity of this act; II.- That I personally know the person appearing, and that such person has the necessary legal capacity to execute this legal document, without anything in the contrary; III.- That I saw the documents referred to in this instrument; IV.- That all the inserted texts faithfully harmonize with the original documents; V.- That all the statements referred herein were made under oath; VI.- That the requirements set forth in Article 106, one hundred six, of the *"Ley del Notariado"* and the applicable provisions of the Income Tax Law and the Federal Tax Code were fulfilled; and VII.-That I read to him the content of this instrument, and I explained to him his right to read its contents by himself, and explained to him the scope and legal value of this instrument; and that all the acts that were manifested in this

agreement are hereby ratified by the person appearing and such individual hereby execute such instrument before me, as of the date of issuance . I hereby authorize this deed since there is no tax caused by this act.- **I ATTEST**

/s/ MR. RENE DELGADILLO GALVAN on behalf of the company named "CEMEX, S.A.B. DE C.V.".- MR. TEODORO RUIZ GONZALEZ.- MR. MIGUEL ARNULFO RAMOS SALGADO.- On behalf of the banking institution named BANCO MERCANTIL DEL NORTE, S.A., INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BANORTE.- MR. JOSE LEOPOLDO QUIROGA CASTAÑON.- On behalf of the company named CEMEX MÉXICO, S.A. DE C.V.- MR. JOSE LEOPOLDO QUIROGA CASTAÑON.- On behalf of the company named EMPRESAS TOLTECA DE MÉXICO, S.A. DE C.V.- Mr. IGNACIO GERARDO MARTINEZ GONZALEZ.- NOTARY PUBLIC.- Signed.- Notarial Seal of Approval.

LEGAL PERSONALITY

I.- Mr. **RENE DELGADILLO GALVAN**, proves the authority in which he is appearing to this legal act as a legal representative of **"CEMEX, SOCIEDAD ANONIMA BURSATIL DE CAPITAL VARIABLE"**; and for such purposes he states that such authority has not been revoked or limited in any way, and proves the legal existence and good standing of the Company with the following documents:

AUTHORITY OF THE INDIVIDUALS APPEARING TO THIS LEGAL ACT

Copy of public deed number 47,526 (forty seven thousand five hundred twenty-six) dated as of September 4 (four), 2009 (two thousand nine), issued by Mr. Juan Manuel García García, Notary Public No. 129 (one hundred twenty-nine), residing in the First District of the State of Nuevo Leon, and recorded in the Public Registry of Property and Commerce of the State of Nuevo Leon under electronic file number 532*9 (five hundred thirty-two asterisk nine) dated as of September 22 (twenty-two), 2009 (two thousand nine), with respect to the OFFICIAL FORMALIZATION of the minutes of the General Extraordinary Shareholders Meeting of **"CEMEX", SOCIEDAD ANONIMA BURSÁTIL DE CAPITAL VARIABLE** held as of September 4 (four), 2009 (two thousand nine), in which among other items, authority for LAWSUITS AND COLLECTIONS, MANAGEMENT ACTS, OWNERSHIP ACTS AND FORT HE ISSUANCE OF NEGOTIABLE INSTRUMENTS was granted to Mr. **RENE DELGADILLO GALVAN**, which I hereby transcribe in the relevant parts as follows:

".....That before me appeared Mr. **RAMIRO VILLARREAL MORALES**, in his capacity of Special Delegate of the General Extraordinary Shareholders Meeting of **"CEMEX", SOCIEDAD ANONIMA BURSÁTIL DE CAPITAL VARIABLE**, and STATED: That intends to OFFICIALLY FORMALIZED THE MINUTES OF THE GENERAL EXTRAORDINARY SHAREHOLDERS MEETING held as of September 4 (four), 2009 (two thousand nine), showing for such purposes ht e corresponding minutes, which I, the Undersigned Notary, hereby attest to have such document in front of me, and I hereby fully transcribe as follows: **"MINUTE NUMBER 1045.-CEMEX, S.A.B. DE C.V.- EXTRAORDINARY SHAREHOLDERS MEETING.-** PRESIDENCY OF MR. LORENZO H. ZAMBRANO.-In the city of Monterrey, Nuevo Leon, corporate domicile of **CEMEX, S.A.B. DE C.V**. (the "Company"), being the 12:00 (twelve) hours of September 4 (four), 2009 (two thousand and nine), the shareholders and their representatives met at the Auditorium of the *"Museo de Arte Contemporáneo, A.C."* located at Zuazua street and Jardón street, Downtown Monterrey, whose names appear in the Attendance List, which is signed by the shareholders and the Tellers, and it is part of the file formed for this Meeting, with the purpose of holding a **GENERAL EXTRAORDINARY SHAREHOLDERS MEETING** which was called for such date, hour and place, further to the publications made in accordance with the By-laws of the Company in the newspapers " *El Norte*" of Monterrey, and "*Reforma*" of Mexico City, as of August 15 (fifteen), 2009 (two thousand and nine). Acted as Chairman of the Meeting, the Chairman of the Board of Directors, Mr. **LORENZO H. ZAMBRANO TREVIÑO**, who in accordance with the provisions of Article 17th of the By-Laws of the Company appointed Messrs. **VICTOR MANUEL ROMO MUÑOZ** and **RENE DELGADILLO GALVAN** as Tellers, and such Tellers reviewed the Attendance List, proxy letters, access cards and certified that it was represented at the meeting an amount of 24,768'192,575 (twenty four thousand seven hundred sixty eight million one hundred ninety two thousand five hundred seventy five) shares out of the 26,133'593,448 (twenty six thousand one hundred thirty three million five hundred ninety three thousand four hundred forty eight) shares with voting rights representing the capital stock of the Company, which represent 94.77% (ninety four point seventy seven percent) of such capital stock outstanding. The required quorum is met in accordance with the General Law of Commercial Corporations and the By-laws of the Company, and considering the provisions of Securities Market Law, specifically the provisions of Article 53 of such law, and article 210 Bis of the General Law of Negotiable Instruments and Credit Operations, the Chairman declared the Meeting duly installed, and acted as Secretary of the Meeting,

the Secretary of the Board of Directors, Mr. **RAMIRO GERARDO VILLARREAL MORALES** , who read the following AGENDA, which appears in the Call for the Meeting. **AGENDA.- I. RESOLUTION REGARDING A PROPOSAL SUBMITTED BY THE BOARD OF DIRECTORS TO INCREASE THE VARIABLE PORTION OF THE CAPITAL STOCK OF THE COMPANY, AND TO ISSUE CONVERTIBLE SECURITIES INTO SHARES OF STOCK, AND CONSEQUENTLY IT SHALL BE PROPOSED TO ISSUE UP TO 4,800 MILLION UNSUBSCRIBED SHARES, WHICH SHALL BE KEPT IN THE TREASURY OF THE COMPANY, TO BE SUBSCRIBED AT A LATER TIME BY PUBLIC INVESTORS BY MEANS OF A PUBLIC OFFER IN ACCORDANCE WITH THE TERMS OF ARTICLE 53 OF THE SECURITIES MARKET LAW, OR IN THE EVENT OF CONVERSION OF THE SECURITIES TO BE ISSUED IN ACCORDANCE WITH ARTICLE 210 BIS OF THE GENERAL LAW OF NEGOTIABLE INSTRUMENTS AND CREDIT OPERATIONS, IN BOTH CASES, THE PREEMPTIVE RIGHTS OF CURRENT SHAREHOLDERS SHALL NOT BE APPLICABLE. THE SHARES OF STOCK REPRESENTING THE CAPITAL INCREASE SHALL BE REPRESENTED BY ORDINARY PARTICIPATION CERTIFICATES ("CEMEX.CPO") WHICH SHALL BE REFERRED EACH TO 3 ORDINARY SHARES, AND IT SHALL BE PROPOSED THAT THE PUBLIC OFFER AND, AS THE CASE MAY ME, THE ISSUANCE OF CONVERTIBLE SECURITIES, SHALL BE MADE WITHIN A TERM OF 24 MONTHS. II. APPOINTMENT OF INDIVIDUAL OR INDIVIDUALS TO OFFICIALLY FORMALIZE THE ADOPTED RESOLUTIONS.**- The shareholders approved the Agenda that was proposed, and proceeded to discuss it in the following manner. Further to the provisions of Section III of Article 49 of the Securities Market Law, the Secretary informed to the Meeting that the Company made available to the shareholders, the intermediaries of the securities markets and the legal representatives of the shareholders, the formats of proxy letters in order for the shareholders to issue such proxy letters, to duly represent their shares during this Meeting.- The Chairman proceeded to discuss the **FIRST ITEM** of the Agenda that reads: **"I. RESOLUTION REGARDING A PROPOSAL SUBMITTED BY THE BOARD OF DIRECTORS TO INCREASE THE VARIABLE PORTION OF THE CAPITAL STOCK OF THE COMPANY, AND TO ISSUE CONVERTIBLE SECURITIES INTO SHARES OF STOCK, AND CONSEQUENTLY IT SHALL BE PROPOSED TO ISSUE UP TO 4,800 MILLION UNSUBSCRIBED SHARES, WHICH SHALL BE KEPT IN THE TREASURY OF THE COMPANY, TO BE SUBSCRIBED AT A LATER TIME BY PUBLIC INVESTORS BY MEANS OF A PUBLIC OFFER IN ACCORDANCE WITH THE TERMS OF ARTICLE 53**

OF THE SECURITIES MARKET LAW, OR IN THE EVENT OF CONVERSION OF THE SECURITIES TO BE ISSUED IN ACCORDANCE WITH ARTICLE 210 BIS OF THE GENERAL LAW OF NEGOTIABLE INSTRUMENTS AND CREDIT OPERATIONS, IN BOTH CASES, THE PREEMPTIVE RIGHTS OF CURRENT SHAREHOLDERS SHALL NOT BE APPLICABLE. THE SHARES OF STOCK REPRESENTING THE CAPITAL INCREASE SHALL BE REPRESENTED BY ORDINARY PARTICIPATION CERTIFICATES ("CEMEX.CPO") WHICH SHALL BE REFERRED EACH TO 3 ORDINARY SHARES, AND IT SHALL BE PROPOSED THAT THE PUBLIC OFFER AND, AS THE CASE MAY BE, THE ISSUANCE OF CONVERTIBLE SECURITIES, SHALL BE MADE WITHIN A TERM OF 24 MONTHS." The Chairman informed that the Board of Directors of the Company has considered proposing to this Meeting, to increase the variable portion of the capital stock, and to issue convertible Securities. Before asking the Secretary to proceed with the reading of the proposed resolutions to this Extraordinary Meeting, Mr. Lorenzo H. Zambrano read a brief message to the shareholders of the Company: Before requesting the Secretary to read the resolutions to be proposed to this Extraordinary Meeting, I want to take advantage of the opportunity to convey to you a few words. As you already know, the unprecedented dimension of the financial and economic global crisis that broke out, has not only affected our Company, but our entire industry. In spite of the fact that certain recorded indicators have begun to show that the worst part of the world crisis is behind us, the construction activity in the majority of our markets will take more time to retake the growth levels comparable to the levels of past years. Thus, in CEMEX we are not betting to a quick recovery of our markets, we are betting to the commitment to a constant improvement, to become a more efficient and agile company, able to take maximum advantage out of all business opportunities it faces, as such opportunities are presented in more favorable economic conditions. During the last Shareholders Meeting I informed with respect to the strategy that was adopted, and we have followed such strategy in a disciplinary way to strengthen the Company and to continue delivering value to you. For purposes of this Meeting, I would like to mention the five central points of the strategy to recover our financial flexibility, since the reason of this meeting is centered within the same process: First, refinancing of approximately 15 thousand million dollars of our debt. Recently we reached an agreement with more than 50 of our creditor banks and 25 note holders in private placements, with a new maturity calendar extended until the year 2014, which opens spaces to keep concentrating in strengthen our business model. -Second, an effort to reduce in 900 million dollars our cost

base. This important saving is not only due to a decreased demand in our main markets, it is also due to an improvement in our operative efficiency, since approximately 60% of these savings are structural, and consequently, they are sustainable.- Third, a reduction in our investments in fixed assets for maintenance and expansion, which this year will be limited to 600 million dollars and such amount, represents a reduction of approximately 1,500 million dollars in comparison with the last year.- Fourth, the sale of assets with a fixed objective of 2,000 million dollars for this year, and where we already have important advances, especially with the agreement to sale our assets in Australia for approximately 1,700 million dollars which was a difficult decision, but a necessary one since it will allow us to achieve our divestment goals that we have set.- And, fifth, to achieve a better Access to the capital markets, to strengthen our financial structure and to have additional liquidity, which is the reason for the call of this meeting.- It is important to mention that in accordance with our debt refinancing agreement, if we do not make a placement of capital for at least 1,000 million dollars by June 30, 2010, the cost of our refinanced debt will increase in 0.75 percentage points, and we will be forced to pay an additional fee of approximately 110 million dollars. If we do not issue capital or convertible Securities before June 30, 2010 for the same amount, the main creditors which represent 25% of all of our debt may request the realization of market transactions for such amount before December 31, 2010.- To conclude, I want to reiterate to you my great confidence that we are following an adequate strategy for CEMEX, to be a global company with the highest operative standards, with a talented and dedicated team, and the capacity of continuing creating sustainable value to its shareholders. Today, CEMEX is a more efficient company, a slimmer and more flexible company, and we are committed to keep improving to have even more solid basis to assure our future growth. Thank you very much for your attention.” Immediately thereafter, the Secretary of the Meeting read to the shareholders the resolutions of the Board of Directors that are proposed to the Meeting to be adopted, in order to implement said capital stock increase and the offering: **“FIRST:** The variable portion of the capital stock of the Company is hereby increased in the amount of $13’327,728.00 Mexican Currency, by the issuance of up to 4,800’000,000 ordinary common shares, out of which an amount of up to 3,200’000,000 shall be Series “A”, subseries “A4” shares, and up to 1,600’000,000 shall be Series “B” subseries “B4” shares, all of them of nominative form and without par value.- **SECOND:** The ordinary, nominative, without par value shares representing the increase in the variable portion of the capital stock, shall be represented by ordinary participation certificates, which shall be subscribed

and paid, either by means of a public offer among public investors in accordance with Article 53 of the Mexican Securities Market Law (*Ley del Mercado de Valores*), and authorizing Messrs. Lorenzo H. Zambrano Treviño and Armando J. García Segovia as Delegates in order to execute the corresponding Prospectus and other relevant documents required to register such public offer; or by means of the issuance of convertible Securities into shares in accordance with Article 210 Bis of the General Law of Negotiable Instruments and Credit Operations (*Ley General de Títulos y Operaciones de Crédito*), or, in both forms. The subscription of the shares representing the increase in the variable portion of the capital stock shall be made at a theoretical par value of $0.00277661 Mexican Currency per share, plus a premium.- **THIRD:** For the purposes of the provisions of Article 210 Bis of the General Law of Negotiable Instruments and Credit Operations, it is resolved that: (i) the Securities shall be convertible into ordinary, nominative without par value, shares of stock, represented by ordinary participation certificates; (ii) beginning from their issuance, the Securities shall be convertible in a term not exceeding 10 (ten) years, from the date of their placement; (iii) the convertible Securities shall not be placed under par value, and their placement can be done by means of a public offering or among Institutional Investors, in Mexico or abroad; (iv) once the placement is consummated, the Board of Directors, annually and within the four months following the end of a fiscal year, shall officially formalize a statement made by the Board of Directors, indicating the amount of capital stock subscribed through conversion, and such statement shall be recorded in the Public Registry; (v) the issuance of the Securities shall comply with the requirements set forth in articles 208, 209, 210, 210 Bis, 211, 212 and 213 of the General Law of Negotiable Instruments and Credit Operations; (vi) the issuance of the Securities shall be made in accordance with the financial statements corresponding to the last immediate quarter of the date of the issuance; and (vii) it shall be designated as common representative the banking institution approved by the legal representatives of the Company as set forth in the Resolution Tenth below, and such legal representatives shall be authorized to hire such banking institution and to agree on the terms of its hiring.- **FOURTH:** Once issued, and in the mean time they are subscribed and paid, either by payment or by conversion as the case may be, the shares of stock representing the proposed capital stock increase shall be kept in the treasury of the Company.- **FIFTH:** The ordinary, nominative without par value shares of stock, representing the increase in the variable portion of the capital stock of CEMEX, S.A.B. de C.V., shall grant the same rights and obligations than the shares of stock of the Company currently outstanding.-

SIXTH: The terms and conditions in which the public offering shall be made, and in the event of the issuance and placement of the convertible Securities, as well as the number of shares determined for each case, including the determination of the corresponding premium, and the conversion terms within the resolutions adopted by this shareholders meeting, shall be authorized by any of the following legal representatives of the Company: Messrs. Lorenzo H. Zambrano Treviño, Héctor Medina Aguiar, Rodrigo Treviño Muguerza and Ramiro Gerardo Villarreal Morales, either jointly or individually.- **SEVENTH:** The Public Offer and, as the case may be, the issuance of convertible Securities into shares of stock, shall be made within a term of 24 (twenty-four) months beginning from the date of this general extraordinary shareholders meeting.- **EIGHTH:** The shares of stock representing the increase of the capital stock of the Company shall be represented by Ordinary Participation Certificates ("CEMEX.CPO") to be issued by Banco Nacional de Mexico, S.A., member of the Grupo Financiero Banamex, in its capacity of Trustee in the Trust No. No. 111033-9, and each of such certificates shall be referred to 2 (two) Series "A" shares and 1 (one Series "B" shares. For such effects, the legal representatives of the Company are authorized to enter into the necessary agreements and other instruments for the issuance and release of the necessary Ordinary Participation Certificates, and to cause that the shares representing the capital stock be issued in favor of such trust institution and deposited at *S.D. Indeval Institución para el Depósito de Valores, S.A. de C.V.*- **NINTH:** The exercise of the preemptive rights in connection with the issuance of the shares representing the capital stock increase set forth in Article 132 of the General Law of Commercial Corporations (*Ley General de Sociedades Mercantiles*) shall not be applicable since it is a capital stock increase approved for a public offering, as permitted by Article 53 of the Mexican Securities Market Law; in the same way, such preemptive rights shall not be applicable in the case of the convertible Securities, further to the terms of Article 210 Bis of the General Law of Negotiable Instruments and Credit Operations.- **TENTH:** Messrs. Lorenzo H. Zambrano Treviño, Héctor Medina Aguiar, Rodrigo Treviño Muguerza, Ramiro Gerardo Villarreal Morales, Humberto Javier Moreira Rodríguez and René Delgadillo Galván are hereby authorized, individually any one of them in the name and on the account of the Company, to proceed with: (i) to carry on any and all necessary actions before any competent authority or third party, including the Mexican National Banking and Securities Commission (*Comision Nacional Bancaria y de Valores*), the Mexican Stock Exchange (*Bolsa Mexicana de Valores, S.A.B. de C.V.*), Securities and Exchange Commission, the New York Stock Exchange, *Nacional Financiera, S.N.C.*, *S.D. Indeval*

Institución para el Depósito de Valores, S.A. de C.V., the *Comisión Nacional del Sistema de Ahorro para el Retiro*, and any public registry, for the issuance and placement of the shares of stock, the ordinary participation certificates representing such shares of stock, or the issuance and placement of the convertible Securities; (ii) to negotiate and to deliver any contract, unilateral statement, agreement, instrument or legal act necessary or related, including without limitation any statement, affirmative covenants, negative covenants, events of early maturity, indemnifications or any other provision considered necessary or convenient, and such instruments may be governed by the laws of Mexico or by the laws of other jurisdictions; and (iii) to carry on with any other necessary or convenient acts related to the offerings and approved transactions.- With respect to the above mentioned transactions, the legal representatives shall have the authority for lawsuits and collections, management acts, acts of ownership (*actos de dominio*) and to issue negotiable instruments, as provided in article 2554 of the Federal Civil Code, and its correlative articles of the Civil Codes of the other Mexican States, and in accordance with the provisions of Article 9 of the General Law of Negotiable Instruments and Credit Operations.- **ELEVENTH:** The new certificates, either in definitive or temporary form, representing Series "A" and Series "B" shares, representing the proposed increase in the variable portion of the capital stock of the Company, may be signed by any 2 (two) of the Members of the Board of the Company, in accordance with the provisions set forth in the Bylaws of the Company, containing coupons number 141 through 149.- **TWELFTH:** The Board of Directors shall designate the board members that shall sign the certificates representing the Securities.- **THIRTEENTH:** The Chairman and the Secretary of the Board of Directors, and the designated attorneys-in-fact, jointly or individually any of them, are authorized to make the applicable publications, notices and communications.- Monterrey, Nuevo León, as of June 25, 2009. By the Board of Directors, Mr. LORENZO H. ZAMBRANO, Chairman; Mr. RAMIRO VILLARREAL MORALES, Secretary (Signed)." Once the proposal presented by the Board of Directors of the Company was heard, the attending shareholders proceeded to analyze and discuss among them such proposal, and with the affirmative vote of the majority shareholders, and the negative vote of 176'541,610 (one hundred seventy six million five hundred forty-one thousand six hundred ten) shares, the following Resolution was approved: **FIRST:** It is hereby approved, in a express and unconditional manner, in all their terms, which each of such terms are hereby expressly ratified, the resolutions contained in the proposal presented by the Board of Directors of the Company, to increase the variable portion of the capital stock of the Company, to effect

the public offering and to issue convertible Securities.- With respect to the **SECOND** and **LAST ITEM** of the Agenda which reads: **"II. APPOINTMENT OF INDIVIDUAL OR INDIVIDUALS TO OFFICIALLY FORMALIZE THE ADOPTED RESOLUTIONS."** In order to execute and officially formalize the resolutions adopted during this General Extraordinary Shareholders Meeting, it was approved by unanimous vote the following Resolution: **SECOND:** That Messrs. **LORENZO H. ZAMBRANO TREVIÑO** and **RAMIRO GERARDO VILLARREAL MORALES** be and they are hereby designated and authorized, jointly or individually, to attend before a Notary Public that they consider appropriate, to officially formalize the minutes of this Meeting, to formalize and fulfill the adopted resolutions, and to cause their registration in the corresponding Public Registry of Commerce, if deemed necessary.- The Meeting was adjourned after reading the minutes of the meeting, which shall be incorporated in the Minute Book, and a set of minutes shall be prepared in regular paper, together with a copy of the newspaper in which the Call for the Meeting was published, proxy letters, access cards, attendance list certified by the Tellers, and other documents presented during the Meeting, which are part of the file of this Meeting, which shall be kept in the records of the Secretary of the Company.- These minutes were signed by the Chairman, the Secretary and the Tellers attending the meeting..- Mr. Lorenzo H. Zambrano Treviño- Chairman.- Mr. Ramiro Gerardo Villarreal Morales- Secretary.- Mr. Víctor Manuel Romo Muñoz- Teller.- Mr. René Delgadillo Galván- Teller.- .....".

LEGAL EXISTENCE AND GOOD STANDING OF THE COMPANY

1.- First Instrument of Public Deed Number 94, ninety four, issued by the then Notary Public of the city of Monterrey, Mr. Carlos Lozano, issued as of May 28, twenty-eight, 1920, (one thousand nine hundred twenty), and duly recorded under number 21 (twenty-one), Pages 157 (one hundred fifty seven) to 186 (one hundred eighty six), Volume 16 (sixteen), Second Auxiliary, Commerce Section, as of June 11 (eleven), 1920 (one thousand nine hundred twenty), in the Public Registry of Property and Commerce of the First District of the State, residing in Monterrey, Nuevo Leon, related to the articles of incorporation of CEMENTOS PORTLAND MONTERREY, SOCIEDAD ANONIMA.

2.- First Instrument of Public Deed Number 297, two hundred ninety seven, issued in Monterrey, Nuevo Leon issued as of September 2, two, 1927, one thousand nine hundred twenty-seven), by Mr. Andrés Canales Cadena, which contains amendments to

the articles of incorporation and by-laws of the Company, further to the provisions of the organic Law of Section I of Article 27 (twenty-seven) of the Constitution and its Regulations. Such public deed was transcribed totally and was attached to the appendix, the Certificate number 267 (two hundred sixty-seven), issued by the Secretary of Foreign Relations as of February 4 (four), 1927 (one thousand nine hundred twenty seven), which contains the authorization granted to the Company to amend its articles of incorporation and by-laws in accordance with articles second (2 nd), fourth (4th), fifth (5th) and sixth (6th) of such law. The public deed was recorded under number 22 (twenty-two), Page 119 (one hundred nineteen), Volume 46 (forty-six), Book Number 3, three, Second Auxiliary of Commerce, in the Public Registry of Property and Commerce of the First District of the State, as of March 10 (ten), 1930 (one thousand nine hundred thirty).

3.- First Instrument of Public Deed Number 28, twenty- eight, issued as of January 20, twenty, 1931 (one thousand nine hundred thirty-one) by the then Notary Public of the city of Monterrey, Mr. Carlos Hinojosa Guajardo, and duly recorded under number 102 (one hundred two), Pages 66 (sixty-six), Volume 53 (fifty-three), as of August 17 (seventeen), 1931 (one thousand nine hundred thirty-one), in the Public Registry of Property and Commerce of the First District of the State, residing in Monterrey, Nuevo Leon, related to the change of corporate name to “CEMENTOS MEXICANOS, SOCIEDAD ANONIMA”.

4.- First Instrument of Public Deed Number 1531, one thousand five hundred thirty one, issued as of April 27, twenty-seven, 1963 (one thousand nine hundred sixty-three) by the Notary Public Number 4 of the city of Monterrey, Nuevo Leon , Mr. Carlos de la Garza Evia, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, residing in Monterrey, Nuevo Leon, under number 378 (three hundred seventy-eight), Volume 178 (one hundred seventy-eight), Book Number 3 (three), Second Auxiliary, Commerce Section, related to AMENDMENT TO ARTICLES 25, TWENTY-FIVE, 32, THIRTY-TWO, 33, THIRTY THREE, 36, THIRTY SIX, OF THE BY-LAWS.

5.- First Instrument of Public Deed Number 2,306, two thousand three hundred six, issued as of January 16, sixteen, 1970 (one thousand nine hundred seventy) by the Notary Public Number 35 of the city of Monterrey, Nuevo Leon , Mr. Luis Manautou Gonzalez, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, residing in Monterrey, Nuevo Leon, under number 121 (one hundred twenty-one), Volume 33 (thirty-three), Book Number 4 (four), Third Auxiliary General Agreements and Acts, Commerce Section, dated as of February 2 (second), 1970 (one thousand nine

hundred seventy); related to the official formalization of the minutes number 621 (six hundred twenty-one), dated as of December 10 (ten), 1969 (one thousand nine hundred sixty-nine), in which it was approved an AMENDMENT TO THE BY-LAWS OF THE COMPANY.

6.- First Instrument of Public Deed Number 10,092, ten thousand ninety two, issued as of June 19, nineteen, 1973, one thousand nine hundred seventy-three, by Notary Public No. 12, Mr. Fernando Méndez López, residing in Monterrey, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 921 (nine hundred twenty one), Page n/a, Volume 56 (fifty-six), Book Number 4, four, Third Auxiliary General Agreements, Commerce Section, as of June 27, twenty-seven, 1973, one thousand nine hundred seventy-three, related to AMENDMENTS TO ARTICLES 6, SIX, 2, TWO, AND 25, TWENTY-FIVE, OF THE BY-LAWS OF THE COMPANY.

7.- First Instrument of Public Deed Number 6,055, six thousand fifty-five, issued as of June 2, two, 1983, one thousand nine hundred eighty-three, by Notary Public No. 35, Mr. Luis Manauotu Gonzalez, residing in Monterrey, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 2493 (two thousand four hundred ninety three), Volume 144 (one hundred forty-four), Book Number 4, four, Third Auxiliary General Agreements, Commerce Section, as of September 28, twenty-eight, 1983, one thousand nine hundred eighty-three, related to AMENDMENTS TO ARTICLES 6, SIX, 8, EIGHT, 12, TWELVE AND 17, SEVENTEEN OF THE BY-LAWS, FURTHERMORE, IT WAS ATTACHED A NEW ARTICLE NUMBER 9, NINE, CHANGING THE FORMER NUMERATION OF ARTICLE FROM NUMBER 9, NINE AND SO ON, TO THE SAME NUMBER PLUS ONE.

8.- First Instrument of Public Deed Number 15,237, fifteen thousand two hundred thirty seven, issued as of June 13, thirteen, 1987, one thousand nine hundred eighty-seven, by Notary Public No. 31, thirty one, Mr. Atanasio Gonzalez Lozano, residing in Monterrey, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 2128 (two thousand one hundred twenty-eight), Volume 187 (one hundred eighty seven), Book Number 4, four, Third Auxiliary General Agreements, Commerce Section, as of June 29, twenty-nine, 1987, one thousand nine hundred eighty-seven, related to A CAPITAL STOCK INCREASE TO ACHIEVE AN AMOUNT EQUAL TO Ps $30,000,000,000.00 (THIRTY THOUSAND MILLION AND 00/100 PESOS) and amend articles 2, TWO, 6, SIX, 11, ELEVEN, 18, EIGHTEEN, 26, TWENTY-SIX, and the corresponding Transitory Clause of the By-laws of the Company.

9.- First Instrument of Public Deed Number 3,415, three thousand four hundred fifteen, issued as of July 16, sixteen, 1988, one thousand nine hundred eighty-eight, by Alternate Notary Public No. 70, seventy, Mr. Adolfo Cesar Guerra Hinojosa, residing in Monterrey, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 2965 (two thousand nine hundred sixty-five), Volume 189-60 (one hundred eighty nine-sixty), Book Number 4, four, Third Auxiliary General Agreements, Commerce Section, as of July 28, twenty-eight, 1988, one thousand nine hundred eighty-eight, related to A CHANGE IN THE CORPORATE NAME OF THE COMPANY FROM "CEMENTOS MEXICANOS, SOCIEDAD ANONIMA, TO "CEMEX", SOCIEDAD ANONIMA; AND CONSEQUENTLY, AMEND ARTICLE FIRST OF THE BY-LAWS, under the Permit number 045494 (zero four five four nine four), File 34929 (thirty four thousand nine hundred twenty-nine), issued by the Secretary of Foreign Relations as of July 26, twenty-six, 1988, one thousand eighty-eight).

10.- First Instrument of Public Deed Number 3, 431, three thousand four hundred thirty one, issued as of August 3, three, 1988, one thousand nine hundred eighty-eight, by Alternate Notary Public No. 70, seventy, Mr. Adolfo Cesar Guerra Hinojosa, residing in Monterrey, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 3,177 (three thousand one hundred seventy-seven), Volume 189-64 (one hundred eighty nine-sixty four), Book Number 4, four, Third Auxiliary General Agreements, Commerce Section, as of August 12, twelve, 1988, one thousand nine hundred eighty-eight, related to the official formalization of the minutes of a general extraordinary shareholders meeting, in which it was resolved to increase the capital stock of the Company from Ps $30,000,000,000.00 (THIRTY THOUSAND MILLION AND 00/100 MEXICAN PESOS) to Ps $33,000,000,000.00 (THIRTY THREE THOUSAND MILLION AND 00/100 MEXICAN PESOS).

11.- First Instrument of Public Deed Number 25,021, twenty five thousand twenty one, issued as of May 17, seventeen, 1990, one thousand nine hundred ninety, by the then Alternate Notary Public No. 62, sixty two, Mr. Juan Manuel Garcia Garcia, residing in San Pedro Garza Garcia, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number

2,226 (two thousand two hundred twenty-six), Volume 193-45 (one hundred ninety-three dash forty five), Book Number 4, four, Third Auxiliary General Agreements, Commerce Section, as of May 18, eighteen, 1990, one thousand nine hundred ninety, related to the official formalization of the minutes of a general extraordinary shareholders meeting held on April 26, twenty six, 1990, one thousand nine hundred ninety, in which it was resolved to amend and incorporate new provisions in the By-laws of the Company, being the following: Articles 2, TWO, 5, FIVE, 6, SIX, 7, SEVEN, 8, EIGHT, 9, NINE, 11, ELEVEN, 12, TWELVE, 13, THIRTEEN, 15, FIFTEEN, 17, SEVENTEEN, 18, EIGHTEEN, 19, NINETEEN, 26, TWENTY-SIX, 33, THIRTY-THREE, 34, THIRTY-FOUR, 35, THIRTY-FIVE, 37 THIRTY-SEVEN, 39 THIRTY-NINE AND 42 FORTY-SECOND, AND TO INCLUDE A NEW ARTICLE 6-BIS, SIX, AND THE SOLE TRANSITORY ARTICLE.

12.- First Instrument of Public Deed Number 37,165, thirty seven thousand one hundred sixty five, issued as of June 5, five, 1992, one thousand nine hundred ninety two, by the Notary Public No. 62, sixty two, Mr. Manuel Garcia Cirilo, residing in San Pedro Garza García, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 3411 (three thousand four hundred eleven), Volume 197-69 (one hundred ninety-seven dash sixty nine), Book Number 4, four, Third Auxiliary General Agreements, Commerce Section, as of June 16, sixteen, 1992, one thousand nine hundred ninety two, related to the official formalization of the minutes of a general extraordinary shareholders meeting held on May 28, twenty-eight, 1992, one thousand nine hundred ninety two, in which it was resolved to AMEND ARTICLES 6, SIX, 6-BIS, SIX BIS, AND 7, SEVEN OF THE BY-LAWS.

13.- First Instrument of Public Deed Number 41,827, forty one thousand three hundred twenty seven, issued as of April 29, twenty-nine, 1993, one thousand nine hundred ninety three, by the Notary Public No. 62, sixty two, Mr. Manuel Garcia Cirilo, residing in San Pedro Garza García, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 2755 (two thousand seven hundred fifty five), Volume 199-55 (one hundred ninety-nine dash fifty five), Book Number 4, four, Third Auxiliary General Agreements, Commerce Section, as of May 12, twelve, 1993, one thousand nine hundred ninety three, related to the official formalization of the minutes of a general extraordinary shareholders meeting held on April 29, twenty-nine, 1993, one thousand nine hundred ninety three, in which it was resolved to ADEQUATE THE CAPITAL STOCK OF THE COMPANY TO THE NEW MONETARY UNIT OF THE UNITED MEXICAN STATES, AMENDING IN CONSEQUENCE ARTICLES 6, SIX, AND 6-BIS, SIX BIS OF THE BY-LAWS.

14.- First Instrument of Public Deed Number 45,923, forty five thousand nine hundred twenty three, issued as of May 31, thirty one, 1994, one thousand nine hundred ninety four, by the then Alternate Notary Public No. 62, sixty two, Mr. Juan Manuel Garcia Garcia, residing in San Pedro Garza Garcia, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 3256 (three thousand two hundred fifty-six), Volume 201-66 (two hundred one dash sixty-six), Book Number 4, four, Third Auxiliary General Agreements, Commerce Section, as of June 22, twenty-two, 1994, one thousand nine hundred ninety four, related to the official formalization of the minutes of a general extraordinary shareholders meeting held on April 28, twenty eight, 1994, one thousand nine hundred ninety four, in which it was resolved to transform the Company to a company with variable capital, amending as a consequence, ARTICLES 1, ONE, 6, SIX, 6-BIS, SIX-BIS, 7, SEVEN, 8, EIGHT, 9, NINE, 10, TEN, 17, SEVENTEEN, AND 19, NINETEEN, CHANGING THE NUMERATION OF SUCH ARTICLES BEGINNING FROM 6-BIS, SIX BIS, WHICH SHALL BE FROM NOW ON 7, SEVEN, AND FROM 7, SEVEN TO 48, FORTY EIGHT TO INCREASE THE NUMERATION BY ONE, AND IT IS ADDED A NEW ARTICLE 45, FORTY FIVE.

15.- First Instrument of Public Deed Number 45,925, forty five thousand nine hundred twenty five, issued as of May 31, thirty one, 1994, one thousand nine hundred ninety four, by the then Alternate Notary Public No. 62, sixty two, Mr. Juan Manuel Garcia Garcia, residing in San Pedro Garza Garcia, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 3257 (three thousand two hundred fifty-seven), Volume 201-66 (two hundred one dash sixty-six), Book Number 4, four, Third Auxiliary General Agreements, Commerce Section, as of June 22, twenty-two, 1994, one thousand nine hundred ninety four, related to the official formalization of the minutes of a general extraordinary shareholders meeting held on April 28, twenty eight, 1994, one thousand nine hundred ninety four, in which it was resolved TO INCREASE THE CAPITAL STOCK OF THE COMPANY IN THE VARIABLE PART BY THE AMOUNT OF NPs$4,537,600.00 (FOUR MILLION FIVE HUNDRED THIRTY SEVEN THOUSAND SIX HUNDRED AND 00/100 NEW MEXICAN PESOS).

16.- First Instrument of Public Deed Number 48,973, forty eight thousand nine hundred seventy-three, issued as of May 22, twenty-two, 1995, one thousand nine

hundred ninety five, by the then Alternate Notary Public No. 62, sixty two, Mr. Juan Manuel Garcia Garcia, residing in San Pedro Garza Garcia, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 10,996 (ten thousand nine hundred ninety-six), Volume 201-220 (two hundred one dash two hundred twenty), Book Number 4, four, Third Auxiliary General Agreements, Commerce Section, as of June 26, twenty-six, 1995, one thousand nine hundred ninety five, related to the official formalization of the minutes of a general ordinary shareholders meeting held on April 27, twenty seven, 1995, one thousand nine hundred ninety five, in which it was resolved TO INCREASE THE CAPITAL STOCK OF THE COMPANY IN THE VARIABLE PART BY THE AMOUNT OF NPs$7,226,100.00 (SEVEN MILLION TWO HUNDRED TWENTY SIX THOUSAND ONE HUNDRED AND 00/100 NEW MEXICAN PESOS).

17.- First Instrument of Public Deed Number 53,288, fifty three thousand two hundred eighty eight, issued as of May 2, two, 1996, one thousand nine hundred ninety six, by the Notary Public No. 129, one hundred twenty nine, Mr. Juan Manuel Garcia Garcia, residing in San Pedro Garza Garcia, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 2,852 (two thousand eight hundred fifty two), Volume 203-58 (two hundred three dash fifty eight), Book Number 4, four, Third Auxiliary General Agreements, Commerce Section, as of May 24, twenty-four, 1996, one thousand nine hundred ninety six, related to the official formalization of the minutes of a general extraordinary shareholders meeting held on April 25, twenty five, 1996, one thousand nine hundred ninety six, in which it was resolved TO AMEND ARTICLES 6, SIX, 7, SEVEN, 8, EIGHT, 11, ELEVEN, 16, SIXTEEN, 18, EIGHTEEN, 34, THIRTY-FOUR, 38, THIRTY-EIGHT AND 43, FORTY-THREE OF THE BY-LAWS, AND TO INCREASE THE CAPITAL STOCK OF THE COMPANY IN ITS VARIABLE PART BY TH AMOUNT OF NPs$2,332,987.00 (TWO MILLION THREE HUNDRED THIRTY TWO NINE HUNDRED EIGHTY SEVEN AND 00/100 NEW MEXICAN PESOS).

18.- First Instrument of Public Deed Number 57,956, fifty seven thousand nine hundred fifty six, issued as of April 30, thirty, 1997, one thousand nine hundred ninety seven, by the Notary Public No. 129, one hundred twenty nine, Mr. Juan Manuel Garcia Garcia, residing in San Pedro Garza Garcia, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 2,359 (two thousand three hundred fifty nine), Volume 203-51 (two

hundred three dash fifty one), Book Number 4, four, Third Auxiliary General Agreements, Commerce Section, as of May 13, thirteen, 1997, one thousand nine hundred ninety seven, related to the official formalization of the minutes of a general extraordinary shareholders meeting held on April 24, twenty four, 1997, one thousand nine hundred ninety seven, in which it was resolved TO AMEND ARTICLES 2, TWO, 18, EIGHTEEN, 19, NINETEEN, 20, TWENTY, 22, TWENTY-TWO, 23, TWENTY-THREE, 26, TWENTY-SIX, 30, THIRTY AND 35, THIRTY-FIVE OF THE BY-LAWS.

19.- First Instrument of Public Deed Number 61,771, sixty one thousand seven hundred seventy one, issued as of May 25, twenty-five, 1998, one thousand nine hundred ninety eight, by the Notary Public No. 129, one hundred twenty nine, Mr. Juan Manuel Garcia Garcia, residing in San Pedro Garza Garcia, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 3385 (three thousand three hundred eighty-five), Volume 207-68 two hundred seven dash sixty eight, Book Number 4 four, Third Auxiliary General Agreements and Acts, Commerce Section dated as of June 1 one, 1998 (one thousand nine hundred ninety eight, related to the Official Formalization of the minutes of the General Ordinary Shareholders Meeting held as of April 23 twenty three, 1998 (one thousand nine hundred ninety eight), in which among other items it was approved a capital increase in the variable part of the capital stock in the amount of $1'394,438.00 Mexican Currency, and the issuance and subscription of 41'875,005 common ordinary Series "A" shares without par value, which will form the Subseries "A-1".

20.- First Instrument of Public Deed Number 25,205, twenty five thousand two hundred five, issued as of May 18, eighteen, 1999, one thousand nine hundred ninety nine, issued by the undersigned Notary Public, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 3,481 (three thousand four hundred eighty one), Volume 209-70 (two hundred nine dash seventy), Book Number 4, four, Third Auxiliary General Agreements, Commerce Section, as of May 21, twenty-one, 1999, one thousand nine hundred ninety nine, related to the official formalization of the minutes of a general extraordinary shareholders meeting held on April 29, twenty nine, 1999, one thousand nine hundred ninety nine, in which it was resolved TO AMEND ARTICLE 6, SIX OF THE BY-LAWS.

21.- First Instrument of Public Deed Number 2,522 two thousand five hundred twenty-two, dated as of May 22, twenty two, 2001 (two thousand and one), issued by Mr. José Luis Farías Montemayor, Notary Public No. 120 (one hundred and twenty), residing in the

city of Monterrey, Nuevo Leon, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 4743 four thousand seven hundred forty-three, Volume 2 two, Book First, dated as of May 25 twenty five 2001 two thousand one; regarding the official formalization of the minutes of general extraordinary shareholders meeting held as of April 26 (twenty six), 2001 (two thousand one), in which it was agreed among other items to amend ARTICLE 45 OF THE BY-LAWS OF THE COMPANY.

22.- First Instrument of Public Deed Number 75,536 seventy five thousand five hundred thirty six, dated as of July 4 four, 2002 (two thousand and two), issued by Mr. Juan Manuel García García, Notary Public Number 129 (one hundred twenty-nine), residing in this city, and duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 6547 six thousand five hundred forty-seven, Volume 3 three, Book First, as of July 10 (ten), 2002 (two thousand and two); regarding the official formalization of the minutes of a general extraordinary shareholders meeting held as of April 25 (twenty five), 2002 (two thousand and two), in which it was approved to amend ARTICLES 4, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 17, 18, 19, 20, 22, 23, 25, 26, 27, 32, 33, 34 Y 35, AS WELL AS THE ADDITION OF A SOLE TRANSITORY ARTICLE.

23.- First Instrument of Public Deed Number 30,411 (thirty thousand four hundred eleven), dated as of April, 28 (twenty-eight) 2003 (two thousand and three), issued by Mr. Francisco Garza Calderón, then Notary Public No. 75, duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under number 4087 (four thousand eighty seven), Volume 4 four, Book First, dated as of May 8 (eight) 2003 (two thousand three), regarding the official formalization of the minutes of the general extraordinary shareholders meeting held as of April 24 (twenty four) 2003 (two thousand and three), in which it was approved the amendment to ARTICLES 2, 6, 8, 18, 27 and 45 OF THE BY-LAWS OF THE COMPANY.

24.- First Instrument of Public Deed Number 7,725 (seven thousand seven hundred twenty-five) dated as of April 28, 2005 (two thousand five), issued by Mr. Juan Manuel García García, Notary Public Number 129 (one hundred twenty-nine), duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under electronic file number 532*9 (five hundred thirty two asterisk nine) dated as of May 13, 2005 (two thousand and five), regarding the Official Formalization of the minutes of the general extraordinary shareholders meeting of the Company held as of

April 28 (twenty eight), 2005 (two thousand and five), in which it was approved, among other items, the subdivision of the Series "A" and "B" ordinary common shares of stock of the Company, without par value, representing the fixed and variable capital that form the capital stock of the Company, delivering two Common ordinary shares without par value, per each of the shares of stock outstanding, AMENDING Article 6 of the By-laws.

25.- First Instrument of Public Deed Number 35,211 (thirty five thousand two hundred eleven), dated as of April, 27 (twenty-seven) 2006 (two thousand and six), issued by Mr. Francisco Garza Calderón, then Notary Public No. 75, duly recorded in the Public Registry of Property and Commerce of the First District of the State, in Monterrey, Nuevo Leon, under electronic file number 532*9 (five hundred thirty two asterisk nine), Internal Control Number 41 (forty one) dated as of July 5 (five), 2006 (two thousand and six), regarding the official formalization of the minutes of the extraordinary shareholders meeting of the Company held as of April 27 (twenty seven), 2006 (two thousand and six), in which among other items it was approved the amendment of articles 1, 2, 6, 7, 8, 9, 10, 12, 13, 15, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 30, 31, 34, 35, 44 and 45 of the By-laws of **"CEMEX", SOCIEDAD ANONIMA DE CAPITAL VARIABLE**, the elimination of the current articles 32, 33 and 36, and the addition of a transitory article second, to adjunt the text of the by-laws to the new provisions of the Mexican Securities Market Law; the change in the numbering of the articles beginning from article 34 which will be 32, the article 35 will now be 33 and articles 37 through 45 will begin three numbers from that point; and the inclusion of a heading in each of the articles of the by-laws of the Company.

From the foregoing instruments, the by-laws of the Company that are in force and effect are the following:

"**.....ARTICLE 1. DENOMINATION.-** The Company is a commercial anonymous Company and is called CEMEX, followed by the words "*Sociedad Anonima Bursátil de Capital Variable*" or by its abbreviation "*S.A.B. de C.V.*".- - - - **ARTICLE 2. PURPOSE.-** The Company's purpose shall be: **I.-** To industrially produce and commercially develop Portland cement. **II.-** To industrially produce and commercially develop any other product similar to Portland cement or in any way related to the production and sale of Portland cement. **III.-** To industrially and commercially develop clays, limestone, plasters and other substances found to exist in land belonging to the Company or to which it has such rights. **IV.-** To carry out all the transactions related to the aforesaid purposes or that directly or indirectly assist in their realization. **V.-** To acquire through the purchase, contribution, barter, lease or any other legal title, all kinds of goods whether fixed or movable, and to

enter into any type of agreement, contract, or affect the property rights or any other attribute of said goods, and acquire through any act, agreement or contract, all kinds of rights and obligations, without any limitations whatsoever; having the capacity to organize or install other industrial plants anywhere whatsoever, purchase or subscribe shares and obtain interest in the capital or management of companies, national or foreign, with the same, similar or a different line of business as stipulated in clauses I, II, III and IV herein. **VI.-** To issue, endorse, accept, guarantee and otherwise subscribe negotiable instruments and to execute every type of transaction with them. **VII.-** To execute *avales*, Securities and, in general, guarantee, including with pledges and mortgages, obligations incurred on behalf of third parties, with or without consideration, and therefore to sign negotiable instruments, contracts and any other documents necessary for the execution of said guarantees..- **ARTICLE 3. DOMICILE.-** The corporate seat of the Company is the city of Monterrey, N.L., Mexico, with the understanding that agencies or branches may be established within Mexico or abroad as deemed advisable by the Board of Directors.- **ARTICLE 4. DURATION.-** The duration of the Company shall be for a period computed as of May 28, 1920, and shall terminate on May 27, 2100.- **ARTICLE 5. NATIONALITY.-** This Company is Mexican. Any foreigner who in the incorporation date of this Company has acquired or in the future shall acquire an interest or participation in the Capital Stock of the Company, shall be considered for this sole act as Mexican, it being understood that said party has agreed not to seek the protection of its government, under penalty of losing said interest or participation in favor of the Republic of Mexico. This article shall be inserted in its entirety on the share certificates issued by the Company. This Company received authorization from the Mexican Ministry of Foreign Affairs under Permit Number 267, dated February 4, 1927, in accordance with the Organizational Law of Section I of Article 27 of the Constitution and its Regulations.- - **ARTICLE 6. CAPITAL STOCK.-** The Capital Stock shall be variable. The Minimum Fixed Capital with no redemption rights is of $36,300,000.00 (thirty-six million three hundred thousand pesos and 00/100) represented by 13,068´000,000 (thirteen thousand sixty eight million) ordinary shares, which shall be registered and with no Nominal Value, of which 8,712´000,000 (eight thousand seven hundred twelve million) correspond to the Series “A” and 4,356´000,000 (four thousand three hundred fifty six million) to Series “B”; the Variable Capital with no redemption rights shall be unlimited. The common ordinary Capital Stock, as well as the capital represented by Class Shares, both in its Fixed and Variable portions, shall be represented by Series of registered shares with no par value, together with its respective sub-series. Every time

reference is made to a series of shares, Fixed or Variable Capital, it shall be construed as a reference to any sub-series that, as the case may be, have been issued and that shall be identified with the same letter with which the Series has been identified and a number from 1 (one) and forward, in accordance with the respective sub-series. The common ordinary Capital Stock shall be represented by two Series, both for its Fixed and Variable portions. The Series "A" shall represent as a minimum the (64%) sixty four per cent of the common ordinary Capital Stock and the Series "B", or of free subscription, shall represent as a maximum the (36%) thirty-six per cent. In the event that Class Shares shall exist, and unless an authorization is obtained to treat them as neutral investment in accordance with the Law, at least (64%) sixty-four percent of the Capital Stock represented by this type of shares shall be subject, in respect to its holders, to the same restrictions applicable to the Series "A" shares of the ordinary capital. All the shares forming part of the common ordinary Capital Stock, except for the characteristics related to the holdings of each one of the Series and the part of the Capital which they represent, give their holders the same rights and obligations. By no means and neither directly nor indirectly, the shares of the Series "A" may be acquired: **(i)** by foreign individuals or foreign legal entities or Mexican legal entities that do not have a foreign exclusion clause, in the understanding that such clause shall be contained both in the by-laws of the acquirer as in the by-laws of any other company or partnership that directly or indirectly has an interest in the Capital Stock of such acquirer; **(ii)** by groups, units, associations, trusts, and any entity, with or without legal personality, that admits foreigners, that is foreign, is one in which, by any form, directly or indirectly, there is intervention of foreigners, or companies in which any foreigners participate (except for the case of Trusts formed by the Company for the issuance of ordinary participation certificates to be offered to the public investors); **(iii)** by foreign governments or foreign sovereigns. The Class Shares may be acquired subject to the terms and conditions approved by the Shareholders' Meeting authorizing its issuance. In the event of a violation of these restrictions, the acquisition shall be null and the Company shall not recognize the acquirer as the owner nor may the acquirer exercise the corporate rights inherent to the shares. For the purposes of these by-laws, "Class Shares" are defined as the shares that carry no voting rights, and also those that have limits over other corporate rights, and shares with restricted vote.- **ARTICLE 7. ACQUISITION OF OWN SHARES AND MEASURES TO LIMIT THE SHAREHOLDING OWNERSHIP.- I.-** The Company may acquire shares representing its own Capital Stock or negotiable instruments representing them, as well as optional instruments or financial derivative

instruments which may be liquidated in kind that have such shares or negotiable instruments underlying in accordance with the terms and conditions indicated by the applicable Law. The shares or negotiable instruments that represent such shares that belong to the Company, or, the shares issued but not subscribed maintained in the Treasury, may be placed among the public investors in accordance with the dispositions of the applicable law. So long the shares are the property of the Company, they may not be represented nor voted in the Shareholders' Meetings, and no social or economical rights of whatever nature may be exercised. **II.- (A).-** For purposes of these by-laws, the following definitions shall apply, whether in their singular or plural form: --- "Shares": the ones that represent the Capital Stock of the Company; any type of certificate or receipt referred to the shares representing the Capital Stock of the Company; as well as any other security, negotiable instrument or document that refers to or permits the exercise of, the vote of the corresponding shares representing the Capital Stock of CEMEX, S.A.B. de C.V. --- "CONSORTIUM": shall have the meaning established by the Mexican Securities Law. --- "RELATIVE": person or persons that with respect to each other, have family relationship by consanguinity, affinity or civil, up until the fifth degree in a straight or collateral line, the spouse, concubine and concubinary. --- "ENCUMBRANCE": pledges, seizures, trusts (or equivalent figures under foreign Law), or any act or transaction that in any form, limits, restricts or affects, the implicit rights of the Shares. --- "GROUP OF PERSONS": shall have the meaning established by the Mexican Securities Law. --- "CORPORATE GROUP": shall have the meaning established by the Mexican Securities Law. --- "RELATED PARTY": shall have the meaning established by the Mexican Securities Law. --- "HOLDING": the ownership, possession or holding of Shares or the possibility of instructing or exercising the right to vote. --- "TRANSACTION": Any agreement, contract, unilateral declaration, stipulation, arrangement and any act that creates, transmits, modifies or extinguishes obligations, including, enunciatively but not limited to, all acts or facts that give or may give place for any exercise or instruction of the exercise of the vote, or if the ownership, possession or holding of the Shares may be obtained. --- Any Transaction or Encumbrance that may result or results in a possibility, directly or indirectly, to acquire or exercise the right to vote regarding the Shares that represent a 2% or more of the Capital Stock of the Company, shall be subject to the prior authorization of the Board of Directors. The Board of Directors must decide, within a period of 90 days from the reception of the written application directed to the President or Secretary of the Board. The application must contain: **(i)** name, social denomination of the participant(s) in the Transaction or

Encumbrance and the Shares whose Holding they have on the date of the application, **(ii)** in case of a Group of Persons, Corporate Group, Consortium, Related Parties or Relatives, provide the details of all the persons involved, indicating their name, social denomination and Shares each holds, as well as who shall exercise the social and economic rights, and **(iii)** description of the Transactions or Encumbrances. The Board of Directors, in order to resolve the applications, shall consider the following criteria: **a)** if it involves Transactions or Encumbrances of qualified investors or institutions in which the public investors participate; **b)** the likelihood of the participants in the Transactions or Encumbrances exercising a significant influence or being able to obtain control (as these terms are defined in the applicable law); **c)** if all the legal dispositions and the by-laws have been observed, and the persons who wish to participate in the Transactions or Encumbrances have not incurred in any violation of the Law or by-laws or have not complied with the applicable Law or by-laws; **d)** if the persons who wish to participate in the Transactions or Encumbrances are competitors of the Company and there is a risk of affecting the free market competition or there could be an access to confidential and privileged information; **e)** the moral and economic solvency of the participants; **f)** the protection of the minority rights and the rights of the workers of the Company and its subsidiaries; and **g)** maintain an adequate base of investors. If the Board of Directors authorizes the application, the Transaction or Encumbrance shall be done during the next 10 (ten) days following notification from the Board of such authorization. If done afterwards, the authorization shall be null. **II.- (B).-** Any Transaction or Encumbrance that results o may result in a participation equal or greater than 30% of the Capital Stock of the Company, shall oblige, without taking into account whether the participants in the Transaction or Encumbrance wish or not to acquire control, the execution of a forced public offer for the acquisition for the total of the Shares representing the Company's Capital Stock. In the event the requirements described in numeral II of this article are not met or exceed the participations indicated in the paragraphs A and B, the persons involved therein shall not be entitled to exercise the voting rights corresponding to the total of the Shares whose Holding was obtained or is obtained, and therefore, such Shares shall not be taken into account for the determination of the quorum of attendance and voting in the Shareholders' Meetings, nor shall the records in the shareholder ledger be done and there shall be no effects of the Registry done by the Institute for the Deposit of Securities. In order to determine if a specific situation is within numeral II of this Article, the following considerations and criteria shall apply and all the Shares whose holding is obtained, shall be obtained, or is obtained

by virtue of any Transaction or Encumbrance, shall be taken into account (the calculation shall be made regarding the number of shares directly representing the Capital Stock of the Company). **1.-** It does not matter if the Transaction or Encumbrance is made abroad. **2.-** A single Holding shall be considered regarding each of the participants in the Group of Persons, Corporate Group, Consortium, each Related Party, and each Relative. **3.-** Each Transaction or Encumbrance that may result in obtaining a 2% or more of the Capital Stock must be submitted to authorization. **4.-** In case of Trusts established by the Company for the issuance of ordinary participation certificates to be offered to the public investors, the fiduciary institution shall not be subject to numeral II of this Article or Article 10 of these bylaws. **5.-** For the interpretation of these by-laws, the applicable law shall be taken into account.- **ARTICLE 8. MODIFICATIONS TO THE CAPITAL STOCK.-** To increase or decrease the Capital Stock and amortize issued shares with undistributed profits, except in accordance with the provisions of Article 7 of these by-laws, the following procedure shall be followed: The Fixed Capital Stock shall only be increased or decreased by resolution of the General Extraordinary Shareholders' Meeting, and such Meeting shall also authorize the amortization of issued shares with distributable profits representing this part of the Capital Stock and the amendments to the limits of the Variable Capital. The Variable Capital Stock shall be increased or decreased by resolution of the General Ordinary Shareholders' Meeting, and such Meeting shall also resolve about the amortization of issued Shares representing this part of the Capital Stock with distributable profits; in the event of a capital increase in its Variable part, the Meeting may delegate to the Board of Directors the authority to determine the terms and conditions under which it shall proceed to the issuance, exhibit and subscription of the respective shares, which once issued and while subscribed shall be held by the Treasury of the Company. In the event of a capital reduction in the Variable part of its Capital Stock, the Board of Directors, in accordance with applicable legal provisions, may fix the terms and conditions for its implementation. The amortization of Shares with distributable profits shall be made in accordance with the terms mentioned by the Law. The minutes of the General Ordinary Shareholders´ Meetings that approve increases or decreases in the variable portion of the Capital Stock must be notarize, except in the cases where the increases and decreases are the result of the repurchase of shares. In the terms of the applicable law, the Company may increase its Capital Stock by the issuance of non-voting shares, shares with other limitations in their corporate rights, or shares with restricted vote. The issuance of the shares mentioned in this paragraph shall not exceed the percentage of the Capital Stock

established by the applicable Law and may be part of the Fixed or Variable portions of the Capital Stock. The non-voting shares shall not be counted for purposes of determining the attendance or voting quorums at the Shareholders' Meetings, while the shares with limitations on other corporate rights, or of restricted vote, shall only be counted to determine the attendance and voting quorums in the Shareholders' Meetings held to deal with any matters in which such shares have a voting right. Issued Class Shares, as the case may be, shall conform one or several Series with its respective sub-series, each Series shall be identified with two letters of the alphabet, one of which shall be "A", "B" or "N", respectively and depending on whether its holding restrictions are reserved in the terms of these by-laws with respect to the Series "A", common ordinary Capital, are of free subscription in the terms of these by-laws with respect to the Series "B" of the common ordinary Capital Stock, or in its case, are considered as neutral investment under which they shall also have free subscription; and the other letter shall be used to distinguish them from the shares representing the common ordinary Capital Stock and the other Classes that conform the Capital Stock, attaching a progressive number for each sub-series issued. In the event of a Capital Stock increase, the shareholders holding shares that represent the Capital Stock shall have a preemptive right to subscribe, in proportion to their participation in the same and depending on their participation in the common ordinary capital or in the capital represented by Class Shares, the shares that in either case are issued. The proportion shall be determined considering only the participation in the issued Capital Stock. The preemptive rights may only be exercised with respect to the same class of Shares that are held by the shareholder and within the (15) fifteen days following the publication of the resolution of the respective Shareholders' Meeting, the publication shall be made in the terms provided in these by-laws for the calls for Shareholders' Meetings. The preemptive right to subscribe shall not be applicable to increases to the capital through public offers or through the issuance of own shares previously acquired by the Company. The Shareholders shall also have the right to receive the shares that are issued by means of capitalization of reserves or profits, in the understanding that the shares issued under this concept shall correspond proportionately to all issued Shares. The Shareholders' Meeting shall determine the nature or class of shares that shall be represented by the Capital Increases made by the capitalization of reserves or profits and only those Shareholders holding common ordinary shares or Class Shares, depending on which of them are being issued, shall share the benefit of receiving the shares so issued in the proportion of their Holdings in the issued ordinary common Capital Stock or of Class,

respectively. The Company may issue Treasury Shares to be subscribed afterwards by the public investors, in accordance and subject to the applicable Laws. The shareholders of the variable part of the Capital Stock of the Company shall not have withdrawal rights. The Company shall keep a Book, which shall be authorized by the Chairman or Secretary of the Board of Directors or by any other officer designated by the Board of Directors for this purpose. All notes relating to the registration of increases and decreases of the Capital Stock in its Variable portion shall be kept in this Book. **ARTICLE 9. CERTIFICATES REPRESENTING THE SHARES.-** The Share Certificates and Provisional Certificates issued in each case, must contain the expressions referred to in the Law and in Articles 5, 7 (regarding the restrictions for the transmission of Shares or to acquire substantial portions of the Capital Stock), 8, and 10 of these by-laws, regarding the rights and obligations of the shareholders, and must have the signatures of any two Board members appointed by the Board of Directors. The Chairman and Secretary may use a facsimile of their signature, as long as they fulfill the requirement of the applicable Law. The Share Certificates and provisional certificates must also contain adhered vouchers, to be used when exercising their dividend and preemptive rights. The Board shall determine the number of shares represented in each Share Certificate and the number of vouchers to be adhered. **ARTICLE 10. SHARE REGISTRY AND SIGNIFICANT PARTICIPATIONS.-** The Company shall have a Share Registry that must contain: **a).-** The name, nationality, and address of the Shareholder, as well as the indication of the shares belonging to him, indicating their number, series, class, and other distinctions; **b).-** The indication of the payments made taking place; **c).-** Any encumbrances over the Shares, as well as of the rights incorporated in them, the limitations of domain, and transfers made. The Registry must also comply with the dispositions established in the applicable law and with Article 7 of these by-laws. The Company shall consider the person inscribed in the Registry, referred to in this article, as owner of the shares. To this effect, the Company must record in such Registry, when requested by any holder, the transfers, limitations, or liens imposed on them. In case the Shares or certificates that represent them were deposited in an authorized Institution for the Deposit of Securities, the register shall be made in accordance with the applicable law and with the by-laws. The persons who, in any way and in accordance with the criteria set forth in numeral II of Article 7 of these by-laws, obtain a participation of 5%, 10%, 15%, 20%, 25% or 30% must inform the Company within a period of 5 (five) working days following the day in which such percentage of ownership is obtained or exceeded. For purposes of calculating such percentages,

numeral II of article 7 of these by-laws shall apply. In the case of Corporate Groups, Groups of Persons, or Consortiums, the obligation to notify applies to all the persons that are considered members of such groups. The notice given to the Company, referenced in this Article, shall include the name of the person or persons that have the ownership and the rights or faculties acquired, the authorization from the Board in those cases described in Article 7 of these by-laws, and the data needed to identify the persons regarding the ones for which Shares are grouped for Ownership. In case of non compliance with the provisions of this Article, regarding notices of significant participations, the corresponding Shares shall not be represented in the Meeting. The Company shall keep a registry of significant participations, where names, nationality and domicile of the persons whose names are in the instruments or respective certificates, as well as the relation, agreement or arrangement that exists between them and the information necessary in order to verify the compliance of these by-laws, shall be registered. Only those who are registered may represent the respective shares in the Shareholders' Meeting. The shareholders must, additionally, comply with what the applicable law establishes regarding acquisitions of securities subject to disclosure and disclosure of contracts and agreements between shareholders. In order to comply with the obligations to notify, this Article shall apply. Only those that have complied with these bylaws and the applicable law shall be able to exercise or instruct the exercise of the corresponding voting rights. In case of non compliance with what is stated in these by-laws, the registration in the Registry of Shares shall not take place and all the transactions made by an institution for the deposit of securities shall have no legal effect whatsoever before the Company. **ARTICLE 11. SHAREHOLDER´S MEETING.-** The General Meeting is the supreme decision organ of the Company, and it may resolve and ratify all of the resolutions and acts of the same. It shall have no limitation on its powers other than as mentioned in the Law and in these by-laws. In the event that the Capital Stock of the Company, in addition to the common ordinary shares, is represented by shares of other classes, all proposals that may affect the rights conferred to Shareholders holding shares of such classes shall be previously accepted by the class so affected in a Special Shareholders' Meeting in which the attendance and voting quorums applicable to the Extraordinary Shareholders' Meetings shall be applied, which shall be counted in reference to the total number of shares of each respective class. The class Shareholders' Meetings shall be held in the social domicile and shall be subject to the provisions of Articles 13, 14 and 15 of these by-laws, and the Shareholder designated by the Shareholders present thereat shall act as Chairman and

the Secretary of the Company shall act as Secretary or in his absence, whoever the Shareholders designate. **ARTICLE 12. COMPETENCE OF THE SHAREHOLDERS' MEETINGS.-** The Ordinary General Meeting shall meet at least once a year, once the immediate preceding fiscal year ends, in the corporate domicile, on the date specified by the Board of Directors in accordance with applicable law. The Annual Ordinary General Meeting held because of the closing of the fiscal year, shall deal with the following, in accordance with the applicable law: **(a)** annual reports regarding the activities corresponding to the Corporate Practices and Audit Committees; **(b)** annual report of the Chief Executive Officer, accompanied with the report from the external auditor; **(c)** opinion of the Board of Directors regarding the contents of the annual report of the Chief Executive Officer; **(d)** the annual report of the Board of Directors declaring and explaining the main policies and accounting and information criteria followed in the preparation of the financial information; **(e)** the report of the Board of Directors regarding the operations and activities in which it has participated; **(f)** the election, removal or substitution of the members of the Board of Directors, and their level of independence; additionally, the Ordinary Meeting shall approve the operations that the Company or the companies controlled by the Company wish to undertake during one fiscal year, when they represent 20% (twenty percent) or more of the net worth of the Company, based on amounts corresponding to the closing of the immediate preceding trimester of the date the Meeting is held, independent from the way they are executed, simultaneously or progressively, but that, because of their characteristics, may be considered as one operation; in such Meetings the shareholders that have shares with voting rights may vote, including the ones that have a limited or restricted vote; and **(g)** all other matters that are part of their faculties in accordance with these bylaws or the applicable law. Extraordinary General Meetings shall have the competence over the matters established in the applicable law and in the by-laws. Ordinary and Extraordinary Meetings shall meet whenever called. **ARTICLE 13. CALLS.-** The calls for Shareholders' Meetings shall be made by the Board of Directors or by the Corporate Practices or Audit Committees, with the exception of those rights granted by Law to the shareholders to legally publish the Calls. The Call shall be made through an announcement published in the Official Gazette of the State or in any of the major daily newspapers in the corporate domicile, at least fifteen days prior to the date set for the Meeting. The Call shall state the place, day and time at which the Meeting shall be held and shall contain the Agenda, which shall not include matters under the title of "general" or equivalents. A Call shall not be required if all the shares in their entirety are represented

when the Meeting is installed and the votes are taken. When a quorum is not obtained for a Meeting, a minute shall be drawn-up in the respective Book, evidencing such circumstance, and said minute shall be signed by the Chairman and Secretary as well as by the appointed Tellers, setting forth the date of the newspaper in which the call was published. If such should be the case, a second Call, so noted, shall be published just once in the Official Gazette or another major daily paper in the corporate domicile, at least fifteen days prior to the date set for the Meeting. The Shareholders that are Owners of shares with voting right, including in a limited or restrictive form, that represent at least 10% (ten percent) of the Capital Stock subscribed and paid, shall be able to request to the Chairman of the Board of Directors or of the Corporate Practices or Audit Committees, in any moment, that a General Shareholders Meeting takes place, in the terms of the applicable law. Any Shareholder may request the Chairman of the Board of Directors that a General Shareholders Meeting takes place, in the terms of the applicable law, when, for any cause, the minimum number required, for a Meeting to be held, of members of the Corporate Practices and Audit Committees is not present and the Board of Directors has not made the provisional corresponding appointments. From the publication of the Call for the Shareholders' Meetings, information and documents regarding every and all of the matters included in the Agenda shall be made available to the Shareholders, in the offices of the Company and at no cost. **ARTICLE 14. ATTENDANCE TO THE SHAREHOLDERS' MEETINGS.-** In order to attend and participate in the General Meetings of Shareholders, the Shareholders with the right to vote shall deposit their shares at the corporate offices, in a Mexican credit institution or a brokerage firm, operating in accordance with the Mexican Securities Law. The Certificate of Deposit and, as the case may be, the list of Owners issued by the broker shall be delivered in the office of the Secretary of the Company at least 48 hours prior to the time set for the Meeting. In addition, it is necessary to observe the dispositions of Articles 7 and 10 of these by-laws regarding the Shares intended to be represented in the Meeting. The Secretary, in exchange for the aforesaid certificate of deposit, shall list, and after checking the compliance with the by-laws regarding Articles 7 and 10, shall issue a deposit voucher that verifies the shareholders' standing as such and the number of shares represented. Said voucher shall authorize the person to whom it has been issued to attend the Meeting. The deposited shares or respective certificates shall only be returned to the Shareholders when the Meeting has been concluded, and in exchange for the voucher issued by the Secretary. The Secretary shall have the documents referred to herein, at the disposal of

the Tellers appointed to act as such at the respective Meeting, so that, at the end of the respective registration period, they may prepare the Attendance List of the Shareholders who have right to attend that Meeting. **ARTICLE 15. SHAREHOLDERS' REPRESENTATION.-** Every Shareholder has the right, subject to compliance with these by-laws, to attend the Meetings, personally or through Proxy. If attending by Proxy, it shall be necessary to obtain a simple power of attorney, granted in accordance with the forms created by the Company and that shall be at the disposal of the shareholders, including the brokers in the Stock Exchange, during the term indicated by the Law. The forms shall contain the following: **(a)** clearly name the Company and the Agenda without mentioning under the title "General Matters", the items referred to by the applicable law, and **(b)** a space for including the instructions for exercise of the Power of Attorney indicated by the grantor of such Power of Attorney. The Secretary of the Board of Directors shall verify that this Article is observed and shall inform the Meeting thereof. **ARTICLE 16. INSTALLATION OF THE SHAREHOLDERS' MEETINGS.-** The General Ordinary Shareholders' Meeting shall be considered legitimately installed in its first call, if at least 50% of the total number of voting shares representing the Capital Stock are present thereat. In the event of a second call, the General Ordinary Shareholders' Meeting shall be deemed installed regardless of the number of voting shares that are present thereat. The General Extraordinary Shareholders' Meeting shall be considered legitimately installed in its first call, if at least three fourths of the total number of voting shares representing the Capital Stock are present thereat, and in the event of a second call, if at least 50% per cent of the total number of voting shares representing the Capital Stock are present thereat. **ARTICLE 17. DEVELOPMENT OF THE SHAREHOLDERS' MEETINGS.-** The Meeting shall be chaired by the Chairman of the Board of Directors or who normally substitutes him in the practice of his functions. In their absence, the Meeting shall be chaired by the Shareholder appointed by the absolute majority of those present. The Secretary of the Meeting shall be the person who is the Secretary of the Board of Directors or in his absence, the person appointed by the majority of the shareholders and proxies present thereat. The voting shall be simple unless the shareholders representing at least 20% of the Capital Stock request that the voting be nominal. The Chairman of the Board of Directors shall appoint two Tellers, having the possibility of doing so in writing once the call for the Meeting is published. In the case of absence of the Tellers so appointed, a new designation may be made. The Tellers present at the Meeting shall determine, with the documentation available and the Attendance List formulated for said effect, the number of

legally represented shares. If by any reason the Agenda was not totally discussed in the date for which the Meeting had been called, such Meeting shall continue to be open during the immediate following days and until all items on the Agenda are dealt with. The Shareholders owning shares with voting rights, including in a limited or restrictive form, duly represented in the Meeting and that represent at least 10% (ten percent) of the Capital Stock subscribed and paid, shall have the right to request the deferral of the voting on any matter for which they considered themselves not to be well informed, abiding to the terms and conditions indicated by the General Corporations Law. **ARTICLE 18. VOTING RIGHTS AND QUOROUM OF THE SHAREHOLDERS' MEETINGS.-** In all Meetings, each common ordinary share shall be entitled to one vote. This principle shall be subject to applicable legal provisions and to the provisions of these by-laws, with exception to those cases of shares temporarily re-acquired by the Company as referred to in numeral I of Article 7; to the non-voting shares, as well as to, or with the limitation to other corporate rights, and any shares with limited vote in accordance with the applicable law and the resolutions of the Shareholders' Meeting in which its issuance has been approved; as well as to those cases contemplated by numeral II of Article 7 and Article 10 of these by-laws. In all Ordinary Shareholders' Meetings, the resolutions shall be valid with the affirmative vote of the majority of the votes of the voting-shares present thereat. In the Extraordinary Shareholders' Meetings, the resolutions shall only be valid if approved by the affirmative vote of the voting-shares representing at least (50%) fifty per cent of the Capital Stock with voting rights, except in the case of amendments to Articles 7 (except for the acquisitions of own shares), 10, and 22, in which it shall be required to obtain approval of (75%) seventy-five percent of the voting shares as well as those cases that in accordance with the Law, require a special quorum. It shall be left to the Tellers, who shall sign the respective minute, to verify that the quorums so indicated are complied with. The Shareholders, Owners of shares with voting rights, including in a limited or restrictive form, that represent at least 20% of the Capital Stock subscribed and paid, shall have the right to judicially oppose to the resolutions of the General Meetings, regarding those items where they have voting rights, whenever the provisions stated in applicable law, for these purposes, are observed. The shareholders owning shares with voting rights, limited or restricted, who jointly or individually own 10% of the Capital Stock, may request the postponement, only once, by 3 days and without the need for a new call, of the voting of any matter which they feel they have not been sufficiently informed of. **ARTICLE 19. INTEGRATION OF THE BOARD.-** The Board of Directors shall be composed of a maximum of twenty one (21)

Regular Board Members, where at least 25% (twenty-five percent) must be independent in accordance with the applicable Law. A Shareholders' Meeting may designate Alternate Board Members. The Alternate Board Members shall become part of the Board of Directors only in such cases of temporary or permanent absences of the Regular Board Members. The person appointed as Chairman of the Board of Directors shall be designated by the Shareholders' Meeting; the Shareholders' Meeting or the Board of Directors shall designate the Secretary, whom may not be a Board Member. The Board Members, Regular or Alternate, shall remain in their position, even if their term has expired or because of their resignation, up until 30 days from such event. In case any of the Board Members is absent, or the appointed one does not take charge of such appointment, and no alternate has been appointed, or such alternate does not take charge of such appointment, the Board of Directors may appoint provisional members, without the intervention of the Shareholders' Meeting, who shall ratify such appointments or appoint the substitute members in the next Meeting from such event. The Alternate Board Members, in the order in which they were appointed, shall substitute the Regular Members; in case the number of Alternate Board Members designated is less than the number of Board Members, each Alternate Board Member shall substitute the Board Member that corresponds according to the designation order of the Alternate Board Members, and once the Alternate Board Members have been appointed, this procedure shall be repeated until designating each Board Member its own Alternate Board Member, under which cases an Alternate Board Member can have that character with respects to one or more Regular Board Members, in the understanding that Alternate Board Members of Regular Board Members who are independent must have that same character. The Regular Board Members can only be substituted in their absences by the Alternate Board Member that corresponds in accordance to the designation. The independent Board Members and their alternates must be appointed in accordance with the dispositions of the applicable Law and these by-laws, and those who cease to have such character must notify the Board of Directors in its next Meeting at the latest. **ARTICLE 20. MINORITY RIGHTS IN THE APPOINTMENT OF THE BOARD.-** All shareholders owning shares with voting rights, including limited and restricted, who individually or jointly own 10% of the Capital Stock of the Company, shall have the right to appoint and revoke, in the General Shareholders Meeting, a member of the Board of Directors. Such appointment may only be revoked by the other shareholders when all the other appointments of the members are revoked, in which case, the substituted persons may not be appointed with such character

during the next twelve months following the date of such revocation. In such case, the minority shareholders must refrain from taking part in the election of the Board referred to by Article 19 of the by-laws, limiting their actions to appointing by majority of votes, a member of the Board of Directors. **ARTICLE 21. HONORARY CHAIRMAN.-** The General Shareholders Meeting may, through a resolution, appoint as Honorary Chairman of the Company a person that deserves such appointment due to his achievements within the Company. The Honorary Chairman must keep confidential the information or matters of the Company that he is aware of, when such information is not of public domain. The Honorary Chairman shall not be subject to the responsibilities established in the applicable law for Board members and relevant executives; he shall have voice without vote whenever he attends to the Meetings of the Board of Directors, The Honorary Chairman may not adopt resolutions that transcend in a significant way the administrative, financial, operational or legal situation of the Company or corporate group to which it belongs. **ARTICLE 22. RESTRICTION TO BECOME A BOARD MEMBER.-** The following persons cannot be Board Members of the Company: **a)** Persons with no legal capacity.- **b)** Persons who, in accordance with the Law, may not engage in commercial transactions; **c)** Those who, during the twelve months immediately preceding the election, have held a position as external auditors of the Company or any of the companies part of the corporate group; **d)** Those who have been substituted in their appointment by revocation, in which case they can not be appointed with such character during the twelve months following the date of revocation; **e)** Those who have past due obligations with the Company not duly guaranteed; **f)** Those who, during the fiscal year immediately preceding the election (either with or without interruptions) have held a position in, acted as representatives or attorneys-in-fact in any form of, have been shareholders or have participated (directly or indirectly) in 5% or more of the Capital Stock or assets of, or have rendered services through any form to: persons or entities (either incorporated or not) (except those companies in which Cemex, S.A.B de C.V. has direct or indirect participation with a minimum of 40% of the Capital Stock) and whose activity is related to the production or distribution of cement or its derivatives (persons or entities includes those that at the same time are shareholders or participate in the management, either directly or indirectly, of the person or entity dedicated to the above mentioned activity, and also those in which the latter is a shareholder or participate in the management, either directly or indirectly), or **g)** those who have participated in an act that implicates a violation to the bylaws, Laws and applicable rules. Board members who, after being appointed, are found to be in one of the cases or

situations described above, shall have to renounce and shall not be able to perform their functions again, except with a new election and after the restriction has been eliminated. **ARTICLE 23. BOARD MEETINGS.-** The Board of Directors shall gather at least four times during each fiscal year. The Chairman of the Board of Directors and of the Corporate Practices and Audit Committees, as well as 25% (twenty five percent) of the Board Members, can call a Board Meeting and include in the agenda such items as they consider pertinent. The Company's external auditor may be called to the Board of Director Meetings, as an invitee with voice but without vote, and shall abstain from being present during the discussion of those items on the agenda in which he has a conflict of interest or that could impair his independence as defined by the Law. The Meeting shall be considered duly installed with the presence of the majority of the Board Members, who shall make their decisions by an absolute majority of the Board Members there present. Minutes shall be drawn up for each of the Meetings of the Board, which shall contain the topics and items discussed; said minutes must be signed by the Chairman and Secretary who acted as such during said Meeting. The Board may adopt resolutions without a Meeting through the unanimous consent of its members. Such resolutions shall be confirmed in writing. All information presented to the Board of Directors, whether of the Company or of its controlled entities, shall be signed by the persons responsible for its content and drafting. **ARTICLE 24. FACULTIES OF THE CHAIRMAN OF THE BOARD.–** The Chairman of the Board of Directors shall have, except for any modifications, restrictions or additional responsibilities that the General Shareholders' Meeting or the Law may determine, the following faculties, obligations, attributions, and powers: **I.-** Execute or procure the execution of the resolutions of the General Shareholders' Meetings and the Board of Directors, doing anything that is necessary or prudent in order to protect the Company's interests, without affecting the faculties that the Shareholders' Meeting, the Board or the Law may confer to the Chief Executive Officer. **II.-** Submit proposals to the Board of Directors regarding the independent directors that shall integrate the Corporate Practices and Audit Committees, as well as the provisional directors that shall be designated by the Board, if necessary. **III.-** Chair the Shareholders' Meetings and the Board Meetings, having a quality vote in the Board's Resolutions in the case of a tie. **IV.-** Prepare, sign and publish the calls for the General Shareholders' Meetings and summon the Board of Directors' Meetings. **V.-** Represent the Company before any type of authority, company or individual. Any absence of the Chairman shall be covered by the Board Member appointed by the Board of Directors. **ARTICLE 25.**

APPOINTMENT OF THE SECRETARY OF THE BOARD.- In case the Shareholders' Meeting does not prepare it, the Board of Directors shall appoint a Secretary, who may not be a Board Member and who shall be subject to the obligations and responsibilities established by the Law, being this appointment revocable at any time. **ARTICLE 26. DUTIES AND RESPONSIBILITIES OF THE BOARD MEMBERS.-** The General Ordinary Shareholders' Meeting may establish the obligation that the Board Members and Secretary of the Board, the Chief Executive Officer and the Relevant Executives referred to by the applicable Law, grant a guarantee to cover the liabilities in which they may incur as a result of the performance of their position. The Board Members shall perform their duties in a value-creating manner for the benefit of the Company, without favoring a specific shareholder or group of shareholders, and shall therefore act diligently and in good faith by adopting informed decisions; and shall comply with their duty of care and loyalty, abstaining from engaging in illicit acts or activities, as established by the applicable Law. The liability for breach of these fiduciary duties or for engaging in illicit acts or activities shall consist of indemnifying the Company for the damages and costs suffered, and the responsible individuals shall be removed from their positions as established by applicable Laws. With respect to liabilities arising from the breach of the duty of care, and only when the relevant acts were not done willfully, in bad faith or are not illegal, indemnities or insurance may be contracted for the Board Members or the Secretary. In no other case may such indemnity or insurance be granted or contracted. The right to bring actions based on the breach of the fiduciary duties or on the committing of illicit acts or activities as established by the Law, shall be exclusively on behalf of the Company or of the individual who is controlled by the Company or in which the Company has significant influence, that suffers the economic damage, and may be enforced by the Company, through the resolution previously adopted in the General Extraordinary Shareholders' Meeting, or by the shareholders who, individually or in group, hold voting shares, including shares with limited or restricted voting rights, that represent 5% or more of the Company's Capital Stock, with disregard of the fulfillment of the requirements established by the General Corporations Law for suing management for their civil responsibility. With respect to liability claims brought on behalf of controlled companies or of those where the Company has substantial influence, these shall be independent of other claims that should be brought under the General Corporations Law, and if such claims are brought by the *Sociedad Anónima Bursátil*, the prior approval by the General Extraordinary Shareholders' Meeting shall be required. In the event that the shares representing the Capital Stock of

the Company are placed among the public through negotiable instruments representing such shares, issued by fiduciary institutions under a trust, the right to bring the liability claim shall correspond to the fiduciary institution and to the holders of such instruments that represent 5% or more of the Company's Capital Stock…. **ARTICLE 27. RESPONSIBILITIES OF THE BOARD.-** It is the responsibility of the Board of Directors to: **I.-** Establish the general strategies for conducting the Company's business and other companies controlled by it. **II.-** Monitor the managing and handling of the Company and of the other companies controlled by it, considering the importance that the latter have in the financial, administrative and legal situation of the Company, as well as the performance of the Relevant Executives. **III.-** Approve, with the prior opinion of the Audit and Corporate Practices Committees: **A)** The policies and guidelines for the use of the Company's assets and the assets of other companies controlled by it, by related parties. **B)** Each related party transaction that the Company or other companies controlled by it plan to enter into. **C)** Transactions that are executed, either simultaneously or successively, that may be considered as one single transaction given their characteristics, and that the Company or the companies controlled by it plan to enter into, during a fiscal year, when these are unusual or non-recurrent, or else, when their total value represents, based on numbers corresponding to the end of the immediately preceding quarter in any of the following scenarios: **1.** The purchase or sale of assets with a value equal or greater than 5% of the consolidated assets of the Company. **2.** The granting of guarantees or the assumption of liabilities for a total sum equal or greater than 5% of the consolidated assets of the Company. Investments in debt securities or financial instruments shall not be covered by this provision whenever these are made in accordance with the policies that for such purpose are issued by the Board of Directors. **D)** The appointment, election, and, as the case may be, removal of the Chief Executive Officer of the Company, and its compensation, as well as the policies for the appointment and compensation of other Relevant Executives. **E)** The policies for extending credit or personal guarantees to related parties. **F)** Waivers granted so that a Board Member, Relevant Executive or any other individual with power to command, can take personal advantage or for third parties of corporate opportunities belonging to the Company or to other companies controlled by it or where the Company has substantial influence. Waivers for transactions with a total value less than what is mentioned in Section C) of this numeral III may be delegated to the Audit and Corporate Practices Committees. **G)** The guidelines with respect to internal controls and the internal audit of the Company and of the other companies controlled by it. **H)** The

accounting policies of the Company, adjusting them to the accounting principles recognized or issued by the National Banking and Securities Commission. **I)** The Company's financial statements. **J)** The hiring of the firm that shall render the external audit services and, if applicable, of additional or complementary services. **IV.-** Present to the General Shareholders' Meeting held after the end of the fiscal year: **A)** the annual report regarding the activities of the Audit and Corporate Practices Committees. **B)** The report prepared by the Chief Executive Officer, according to the Law, together with the report of the external auditor. **C)** The Board of Director's opinion regarding the content of the Chief Executive Officer's report mentioned in the preceding section. **D)** The report mentioned in Article 172, section b) of the General Corporations Law, which contains the main accounting and information policies and criteria to be used in preparing the financial information. **E)** The report on the activities and transactions in which it intervened as required by the applicable Law. **V.-** Follow-up on the main risks to which the Company and the other companies controlled by it are exposed, identified based on the information presented to the committees, the Chief Executive Officer and the firm that serves as external auditor, as well as the accounting, internal control and internal audit, registry, archive or information systems of the Company or the other companies controlled by it. This task may be done through the conduit of the Audit and Corporate Practices Committee. **VI.-** Approve the policies for information and communication with shareholders and the market, as well as with the Board Members and Relevant Executives, in order to comply with the Law. **VII.-** Determine the corresponding course of action in order to correct any irregularities it is aware of and to implement the applicable corrective measures. **VIII.-** Establish the terms and conditions to which the Chief Executive Director shall abide in the exercise of its powers of administration. **IX.-** Order the Chief Executive Officer to disclose to the public those material events that it has knowledge of. **X.-** Manage the businesses and assets of the Company, with full management power, under the terms of Article 2,554 (two thousand five hundred and fifty-four), Second paragraph of the Federal District Civil Code, and its correlative Article 2,448 (two thousand four hundred and forty-eight) of the State of Nuevo Leon. **XI.-** Perform the domain over movable and real estate assets of the Company, as well as over their real and personal rights, under the terms of the third paragraph of Article 2,554 (two thousand five hundred and fifty-four) of the Federal District Civil Code and its correlative article 2,448 (two thousand four hundred and forty eight) of the Civil Code for the State of Nuevo Leon. **XII.-** Represent the Company before any type of administrative or judicial authorities of the Municipality, State or Country, as well as

before the labor authorities or any other authority, or before arbitrators, with a vast power, including those faculties requiring a special clause according to the Law, under the provisions of the first paragraph of Article 2,554 (two thousand five hundred and fifty-four) of the Federal District Civil Code and its correlative Article 2,448 (two thousand four hundred and forty-eight) of the Civil Code for the State of Nuevo Leon, and file legal suits, complaints and criminal accusations, being also able to act as a civil party in criminal cases, and grant remission, as well as to present *Juicios de Amparo* and waive the company's rights under them. **XIII.-** Grant and subscribe negotiable instruments on behalf of the Company, contribute with movable and real estate assets of the Company to other companies, and subscribe shares or take a participation in other companies, with the exception of those restrictions established by the applicable Law. **XIV.-** Grant *avales*, Securities, and generally guarantee, even with mortgage or pledge, duties from third parties with or without counter benefits, and therefore execute negotiable instruments, contracts and other documents that are necessary for the granting of said guarantees, with the exception of those restrictions established by the applicable Law. **XV.-** Monitor compliance with the resolutions of the Shareholders' Meetings. **XVI.-** Grant or deny the authorizations referred to in article 7 of these by-laws. **XVII.-** Any other responsibility established by the Law in accordance with the functions that the Law grants to the Board of Directors and that are not reserved for the General Shareholders' Meeting. Approval from the Board of Directors shall not be required for the following transactions, each individually, entered between related parties and the Company or the companies controlled by it, if such transactions adhere to the policies and guidelines approved by the Board of Directors for such purpose: **(a)** those transactions that, based on their value, are not material to the Company or those companies controlled by it; **(b)** transactions entered into by the Company and the companies controlled by it or companies where the Company has substantial influence or entered by any of latter, whenever such transactions are part of the Company's business scope or are considered made at market prices or supported on valuations made by external specialized firms; and **(c)** transactions with employees, whenever these are entered under the same conditions as with other clients or as a result of the rendering of general professional services. The Board of Directors may only delegate its faculties under numerals X, XI, XII, XIII, and XIV above, and the attorneys-in-fact to whom they delegate those faculties are hereby duly authorized to delegate once more the faculties that have been delegated to them; with respect to section F) of numeral III, delegation shall be made as established therein, all other faculties correspond

exclusively to the Board of Directors. **ARTICLE 28. CHIEF EXECUTIVE OFFICER.-** The management, direction and execution of the business of Company and of the companies controlled by it shall be the responsibility of the Chief Executive Officer, who shall abide to the strategies, policies and guidelines approved by the Board of Directors. The Chief Executive Officer shall have the signature of the Company, and shall have the following faculties, duties and obligations**: I.-** Represent the Company with general powers for act of administration, to manage the businesses and corporate assets with the ampleness of the second paragraph of Article 2554 of the Federal District Civil Code and its correlative Articles in the Civil Codes of any and all States of the Republic of Mexico, and Article 10 of the General Corporations Law. **II.-** Represent the Company with general power for lawsuits and collections, with all the general and special powers requiring special power or clause, without ay limitation whatsoever, with the ampleness of the first paragraph of Article 2554 and 2587 of the Federal District Civil Code, and its correlative Articles in the Civil Codes of any and all States of the Republic of Mexico, as well as the power to represent the Company in labor disputes, with the attributions, obligations and rights prescribed in the Federal Employment Law. **III.-** Execute acts of domain over the corporate assets, as well as over their personal and real rights, whether movable or real estate assets, with the powers that correspond per the Law to the owner pursuant to the terms of the third paragraph of Article 2554 of the Federal District Civil Code and the correlative Article 2448 of the State of Nuevo Leon. **IV.-** Exercise the voting rights of those shares issued by those subsidiaries owned by the Company, complying with the Law. **V.-** Organize, manage and direct the personnel and the assets and businesses of the Company as instructed by the Board and to collect and make payments. **VI.-** Enter into agreements, execute negotiable instruments that are to be issued, accepted, endorsed or guaranteed, and all other documents related to his attributions, and execute those acts that are required for the ordinary course of business whenever they abide to the policies and guidelines that are approved by the Board of Directors for such purposes. **VII.-** Designate the Relevant Executives that shall assist him in the exercise of his functions and due fulfillment of his obligations, as well as any other employees he deems convenient. **VIII.-** Grant and revoke general and special powers, as well as to delegate, all or part of his faculties, including the power to authorize the attorney-in-fact to whom he delegated Powers so that the latter can likewise delegate the faculties he deems convenient, including such power of delegation. **IX.-** All other faculties, obligations and responsibilities established by the Law and that are not reserved to the General Shareholders' Meeting or to the Board of Directors. The Board

of Directors may broaden or restrict the faculties of the Chief Executive Officer. The Chief Executive Officer and Relevant Executives shall conduct their positions in a manner that looks after the creation of value for the Company, without favoring a specific shareholder or group of shareholders. For this purpose they shall act with due diligence, making informed decisions and complying with the duties imposed by the Law or these by-laws. The Chief Executive Officer and the Relevant Directors shall be responsible for damages and losses caused to the Company or to other companies controlled by it, as determined by the Law. **ARTICLE 29. MANAGING POSITIONS.-** The Board of Directors may appoint managers and sub-managers, who shall be under the immediate orders of the Chief Executive Officer. It shall delegate among them the different attributions that shall correspond to them. The managers and sub-managers shall have the duties and obligations expressed in the Power issued for said effect. **ARTICLE 30. FACULTIES OF THE SECRETARY OF THE BOARD.-** The Board may designate, among its Members, one or more delegates for executing specific acts. The Secretary of the Board of Directors shall have the following faculties, obligations and attributions: **A).-** Draft, sign and publish the calls and notifications for the Shareholders' Meetings, and if applicable, call the Meetings of the Board of Directors and of the Corporate Practices and Audit Committees. **B).-** Participate with voice, but without vote, in the Board of Director Meetings. **C).-** Maintain the confidentiality of the information and issues that he becomes aware of as part of his position in the Company, when such information and issues are not deemed public. **D).-** Attend all of the General Shareholders' Meetings and Board of Director Meetings, draft and sign the corresponding minutes, and keep the Minute Books of the General Shareholders' Meetings and Board of Director Meetings as established by Law. **E).-** Sign the minutes prepared in such Meetings, as well as authenticate such acts or resolutions contained in such minutes for all applicable legal effects. **F).-** Act as the special designated representative of the Company to appear before a notary public and obtain the complete or partial protocolization of the minutes prepared at the General Shareholders' Meetings and the Board of Director Meetings. **G).-** Issue any required proofs or authentications of the legal representation of the Company and of records inserted in the Shareholder Ledger. **ARTICLE 31. COMMITTEES.-** To fulfill its responsibilities, the Board of Directors shall be assisted by the Audit and Corporate Practices Committees, which shall be only comprised of independent directors and at least with three of such directors as appointed by the General Shareholders' Meeting or by the Board of Directors, as per the proposal made by the Chairman of such Board. The Chairman of the Audit and Corporate Practices

Committees shall be appointed and removed from office exclusively by the General Shareholders' Meeting, and shall not be able to chair the Board of Directors. The Secretary of the Board of Directors shall also be the Secretary of the Audit and Corporate Practices Committees, but he shall not be a member of such Committees. The Chairmen of the Audit and Corporate Practices Committees may call Board of Director Meetings and insert in the agenda the items they deem pertinent. With respect to corporate practices, the Committee shall: **(a)** Provide its opinion to the Board of Directors with respect to those issues that are relevant to it, as provided by the Law. **(b)** Request opinions from independent experts whenever it deems it necessary for the efficient performance of its duties o whenever required by Law; **(c)** Call General Shareholders' Meetings and insert in such Meetings' agendas those items that it deems pertinent. **(d)** Assist the Board of Directors in preparing the reports referenced in Article 28, section IV, letters d) and e) of the Mexican Securities Law. **(e)** Perform all other duties established by the Law or in these by-laws. With respect to audit matters, the Committee shall: **(a)** Provide its opinion to the Board of Directors with respect to those issues that are relevant to it, as provided by the Law. **(b)** Evaluate the performance of the firm that renders the external audit services, as well as analyze the report, opinions or notices prepared and issued by the external auditor; to this effect, the Committee may request the external auditor's presence whenever it deems it convenient, in addition to its duty to meet with the external auditor at least once a year. **(c)** Discuss the Company's financial statements with the persons involved in their preparation and revision, and based on this, recommend the Board of Directors to approve or disapprove the financial statements. **(d)** Inform the Board of Directors about the condition of the internal control and internal audit systems of the Company and the companies controlled by it, including any irregularities that it detects, if so is the case. **(e)** Prepare the opinion referenced in Article 28, section IV, letter c) of the Mexican Securities Law and submit it to the Board of Director's consideration, for its later presentation to the Shareholders' Meeting, aiding itself with, among other things, the report of the external auditor; such opinion shall indicate, at the least: **1.-** Whether the policies and accounting and information criteria followed by the Company are adequate and sufficient based on the particular circumstances of the Company. **2.-** Whether such policies and criteria have been consistently applied to the information presented by the Chief Executive Officer. **3.-** Whether, as the result of numbers 1. and 2. above, the information presented by the Chief Executive Officer reasonably reflects the financial results and condition of the Company. **(f)** Assist the Board of Directors in the preparation of the reports referenced in Article 28,

section IV, letters d) and e) of the Mexican Securities Law. **(g)** Supervise that the transactions referenced in Articles 28, section III and 47 of the Mexican Securities Law are conducted in compliance with the Law and with the policies issued as per such legal dispositions. **(h)** Request opinions from independent experts whenever it deems it necessary for the efficient performance of its duties o whenever required by Law. **(i)** Request from the Relevant Directors and any other employees of the Company or other companies controlled by it, any reports related to the preparation of financial information or any other report that he deems necessary for performing its duties. **(j)** Investigate possible non-compliance that he is aware of, with the operations, guidelines and policies, internal control, internal audit and accounting record systems, whether by the Company or any other company controlled by it; to this effect, it shall conduct and examination of the documents, files and any other evidence, to the extent this is necessary to perform such surveillance. **(k)** Receive any observations made by the Shareholders, Directors, Relevant Executives, employees, and any other third party, with respect to the matters described in letter **(j)** above, and take any action that, under its judgment, may be taken as a result of such observations. **(l)** Request periodic meetings with the Relevant Directors, as well as the submittal of information related to the internal control and internal audit of the Company or other companies controlled by it. **(m)** Inform the Board of Directors of any material irregularities it detects during the performance of its duties and, if applicable, of the corrective actions adopted or suggest such actions that must be adopted. **(n)** Call Shareholder Meetings and request the inclusion in the agenda of those items that it deems pertinent. **(o)** Monitor that the Chief Executive Officer performs the resolutions adopted at the Shareholders' Meetings and the Board of Director Meetings, based on the instructions that, for such purposes, are dictated by such Meetings. **(p)** Monitor the establishment of mechanisms and internal controls that allow verifying that acts and transactions of the Company and other companies controlled by it are in compliance with the applicable Law, as well as implement methods that enable reviewing compliance of the aforementioned duties. **(q)** Perform all other duties established by the Law or in these by-laws pursuant the responsibilities provided herein. The annual report on the Audit and Corporate Practices Committees' activities shall be prepared by the Chairmen of such Committees and presented to the Board of Directors. The Audit and Corporate Practices Committees shall gather as many times as necessary, having the right to call such meetings the Chairman of the Board of Directors, 25% of the Board Members, The Chief Executive Officer, or the Chairman of such Committee. The decisions shall be made by majority of votes, having

the Chairman a deciding vote in case of a tie; and it shall require the attendance of the majority of its members in order to have a valid meeting. The Alternates of those Directors members of the Audit and Corporate Practices Committee, shall also have the same position regarding the integration of this Committee. In those Committee meetings where the Chairman and/or Secretary were absent, the attending members shall appoint among them, by majority vote, those who shall act as Chairman and Secretary for that particular meeting. The Committees shall keep a minute book of their meetings, where the minutes of every meeting shall be kept with the signature of whoever acted as Chairman and Secretary. One single Committee may perform the functions of both, the Audit and the Corporate Practices Committees. **ARTICLE 32. COMPENSATION OF THE BOARD.-** The Members of the Board of Directors and their Alternates, as well as the members of the Audit and Corporate Practices Committees, shall be remunerated for their services in the amounts determined by the General Shareholders' Meeting. **ARTICLE 33. SURVEILLANCE OF THE COMPANY.-** The surveillance of the management and execution of the Company's business shall be the responsibility of the Board of Directors, through the Audit and Corporate Practices Committee, as well as through the firm performing the external audit of the Company, each within the scope of their attributions. The Audit and Corporate Practices Committee, and the firm performing the external audit of the Company, shall perform those activities in accordance with the duties that the applicable Law imposes on them. **ARTICLE 34. FISCAL YEARS… ARTICLE 35.- USE OF NET PROFITS…"**

II.- Messrs. TEODORO RUIZ GONZALEZ and MIGUEL ARNULFO RAMOS SALGADO, prove the authority in which they are appearing on behalf of the banking institution named BANCO MERCANTIL DEL NORTE, SOCIEDAD ANONIMA, INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BANORTE, and state that such authority has not been revoked or limited in any way, and prove the legal existence and good standing of said banking institution, with the following documentation:

AUTHORITY OF TEODORO RUIZ GONZALEZ TO APPEAR TO THIS LEGAL ACT:

First Instrument of Public Deed Number 43,298 (forty three thousand two hundred ninety eight), dated as of September 20 (twenty), 2005 (two thousand and five), issued by Mr. Primitivo Carranza Acosta, Alternate Notary Public Number 72 (seventy two), office in

which the Notary Public is Mr. Javier Garcia Avila, residing in the city of Monterrey, Nuevo Leon; regarding the official formalization of the relevant contents of a meeting held as of July 25 (twenty-five), 2005 (two thousand five) of BANCO MERCANTIL DEL NORTE, SOCIEDAD ANONIMA, INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO BANORTE, in which it was resolved, among other items, to **GRANT POWERS OF** ATTORNEY in favor of **TEODORO RUIZ GONZALEZ.** The public deed was recorded in the Public Registry of Property and Commerce of the First District sitting in the city of Monterrey, Nuevo Leon, under Electronic File Number 81438*1 (eighty one thousand four hundred thirty eight asterisk one), Internal Control Number 56 (fifty six) dated as of October 6 (six), 2005 (two thousand and five).

From the above referenced public deed, I hereby transcribe the relevant parts as follows: "..... **AGENDA FOR THE MEETING:** ..... **IV.- GENERAL MATTERS.- ISSUANCE AND REVOCATION OF POWERS OF ATTORNEY**..... **RESOLUTION N° 315.9.-** The Company hereby appoints the following individuals as Trust Delegates of Banco Mercantil del Norte, Sociedad Anónima, Institución de Banca Múltiple, Grupo Financiero Banorte:.....**TEODORO RUIZ GONZALEZ.-** To each and every one of the appointed Trust Delegates, the Company hereby grants the following corporate authority and powers of attorney, to be exercised jointly or individually in Mexico or abroad: To engage in trust transactions as referred to in the General Law of Negotiable Instruments and credit Operations, and to carry on with mandates and commissions in accordance with the provisions of Articles 46 sections XV, XVI, XVII, XIX, XX, XXI, XXII and XXIII, 79, 80, 81, 83, 85 and other applicable provisions of the Credit Institutions Law (*Ley de Instituciones de Crédito*). In the pursuit of the transactions referred to above, the Trust Delegates shall have the following powers of attorney: a).- **GENERAL POWER FOR LAWSUITS AND COLLECTIONS** to represent the Company, with all general and special powers which by law require a special clause according to law without any limitation, as provided for in the first paragraph of Article Articles (2554) two thousand five hundred fifty four and (2587) two thousand five hundred eighty seven of the Civil Code for the Federal District in common matters and applicable in the whole Mexican Republic for federal matters, and their correlative articles (2448) two thousand four hundred forty eight and (2481) two thousand four hundred eighty one of the Civil Code of the State of Nuevo Leon, and their correlative articles of the Civil Codes of the other Mexican States.- b).- **GENERAL POWER FOR MANAGEMENT ACTS ,** further to the terms set forth in the second paragraph of Article (2554) two thousand five hundred fifty four of the Civil Code for the Federal District in

common matters and applicable in the whole Mexican Republic for federal matters, and its correlative article (2448) two thousand four hundred forty eight of the Civil Code of the State of Nuevo Leon, and its correlative article of the Civil Codes of the other Mexican States, with all the authority that require special clause in accordance to applicable law.- c).- **GENERAL POWER FOR OWNERSHIP ACTS** , further to the terms set forth in the third paragraph of Article (2554) two thousand five hundred fifty four of the Civil Code for the Federal District in common matters and applicable in the whole Mexican Republic for federal matters, and its correlative article (2448) two thousand four hundred forty eight of the Civil Code of the State of Nuevo Leon, and its correlative article of the Civil Codes of the other Mexican States, with all the authority that require special clause in accordance to applicable law.- d).- **GENERAL BANKING POWERS** further to Article (9) nine of the General Law of Negotiable Instruments to issue and subscribe negotiable instruments in the name and stead of the Company, and to engage in credit transactions as provided for in the applicable law.- e).- The appointed Trust Delegates shall be authorized, within the scope of their duties, to grant general or special powers of attorney to third parties subject to the terms of the trust agreements in which the Company acts as Trustee, but they shall not be authorized to appoint other Trust Delegates".....

AUTHORITY OF MIGUEL ARNULFO RAMOS SALGADO

TO APPEAR TO THIS LEGAL ACT:

First Instrument of Public Deed Number 34,780 (thirty four thousand seven hundred and eighty), dated as of October 9 (nine), 2002 (two thousand and two), issued by Mr. Primitivo Carranza Acosta, Alternate Notary Public Number 72 (seventy two), office in which the Notary Public is Mr. Javier Garcia Avila, residing in the city of Monterrey, Nuevo Leon; regarding the official formalization of the relevant contents of a meeting held as of July 25 (twenty-five), 2002 (two thousand two) of BANCO MERCANTIL DEL NORTE, SOCIEDAD ANONIMA, INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO BANORTE, in which it was resolved, among other items, to **GRANT POWERS OF** ATTORNEY in favor of **MIGUEL ARNULFO RAMOS SALGADO**. The public deed was recorded in the Public Registry of Property and Commerce of the First District sitting in the city of Monterrey, Nuevo Leon, under number 10012 (ten thousand twelve), Volume 3 (three), Book 1 (one), Public Registry of Commerce, as of October 14 (fourteen), 2002 (two thousand and two).

From the above referenced public deed, I hereby transcribe the relevant parts as follows: ". .... **AGENDA FOR THE MEETING:** ..... **11.9.- ISSUANCE AND REVOCATION OF POWERS OF ATTORNEY**..... **RESOLUTION N° 369.13** .- The Company hereby appoints the following individuals as Trust Delegates of Banco Mercantil del Norte, Sociedad Anónima, Institución de Banca Múltiple, Grupo Financiero Banorte: . ....**MIGUEL ARNULFO RAMOS SALGADO** .- To each and every one of the appointed Trust Delegates, the Company hereby grants the following corporate authority and powers of attorney, to be exercised jointly or individually in Mexico or abroad: To engage in trust transactions as referred to in the General Law of Negotiable Instruments and credit Operations, and to carry on with mandates and commissions in accordance with the provisions of Articles 46 sections XV, XVI, XVII, XIX, XX, XXI, XXII and XXIII, 79, 80, 81, 83, 85 and other applicable provisions of the Credit Institutions Law (*Ley de Instituciones de Crédito*). In the pursuit of the transactions referred to above, the Trust Delegates shall have the following powers of attorney: a).- **GENERAL POWER FOR LAWSUITS AND COLLECTIONS** to represent the Company, with all general and special powers which by law require a special clause according to law without any limitation, as provided for in the first paragraph of Article Articles (2554) two thousand five hundred fifty four and (2587) two thousand five hundred eighty seven of the Civil Code for the Federal District in common matters and applicable in the whole Mexican Republic for federal matters, and their correlative articles (2448) two thousand four hundred forty eight and (2481) two thousand four hundred eighty one of the Civil Code of the State of Nuevo Leon, and their correlative articles of the Civil Codes of the other Mexican States.- b).- **GENERAL POWER FOR MANAGEMENT ACTS** , further to the terms set forth in the second paragraph of Article (2554) two thousand five hundred fifty four of the Civil Code for the Federal District in common matters and applicable in the whole Mexican Republic for federal matters, and its correlative article (2448) two thousand four hundred forty eight of the Civil Code of the State of Nuevo Leon, and its correlative article of the Civil Codes of the other Mexican States, with all the authority that require special clause in accordance to applicable law.- c).- **GENERAL POWER FOR OWNERSHIP ACTS** , further to the terms set forth in the third paragraph of Article (2554) two thousand five hundred fifty four of the Civil Code for the Federal District in common matters and applicable in the whole Mexican Republic for federal matters, and its correlative article (2448) two thousand four hundred forty eight of the Civil Code of the State of Nuevo Leon, and its correlative article of the Civil Codes of

the other Mexican States, with all the authority that require special clause in accordance to applicable law.- d).- **GENERAL BANKING POWERS** further to Article (9) nine of the General Law of Negotiable Instruments to issue and subscribe negotiable instruments in the name and stead of the Company, and to engage in credit transactions as provided for in the applicable law.- e).- The appointed Trust Delegates shall be authorized, within the scope of their duties, to grant general or special powers of attorney to third parties subject to the terms of the trust agreements in which the Company acts as Trustee, but they shall not be authorized to appoint other Trust Delegates".....

LEGAL EXISTENCE AND GOOD STANDING OF THE BANKING INSTITUTION

a).- With public deed number 30,421 (thirty thousand four hundred twenty-one), dated as of March 16 (sixteen), 1945 (one thousand nine hundred forty five), issued by Mr. Fernando G. Arce, who was ascribed to the Notary Public Number 54 (fifty four) of the Federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under number sixty five, pages one hundred fourteen, volume one hundred ninety nine, third book, in which it was attested the INCORPORATION OF "BANCO RADIO CINEMATOGRAFICO", SOCIEDAD ANONIMA, INSTITUCION FINANCIERA , with domicile located in Mexico City, Federal District, in definitive term, and a capital stock of ONE MILLION PESOS, Mexican Currency.

b).- With public deed number 31,080 (thirty one thousand eighty), dated as of August 8 (eight), 1945 (one thousand nine hundred forty five), issued by Mr. Fernando G. Arce, who was ascribed to the Notary Public Number 54 (fifty four) of the Federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under number two hundred and sixty three, pages two hundred sixteen, volume two hundred thirty five, third book, in which it was officially formalized the minutes of the Extraordinary Shareholders Meeting of "BANCO RADIO CINEMATOGRAFICO", SOCIEDAD ANONIMA, INSTITUCION FINANCIERA, in which it was approved the CHANGE OF CORPORATE NAME to "BANCO REFACCIONARIO INDUSTRIAL", SOCIEDAD ANONIMA, INSTITUCION FINANCIERA.

c).- With public deed number 605 (six hundred and five), dated as of January 15 (fifteen), 1948 (one thousand nine hundred forty eight), issued by Mr. Joaquin F. Oceguera, Notary Public Number 99 (ninety nine) of the Federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under number thirty four, pages twenty eight, volume two hundred

forty five, third book, in which it was officially formalized the minutes of the Extraordinary Shareholders Meeting of “BANCO REFACCIONARIO INDUSTRIAL”, SOCIEDAD ANONIMA, INSTITUCION FINANCIERA, in which it was approved the CHANGE OF CORPORATE NAME to “CREDITO REFACCIONARIO INDUSTRIAL”, SOCIEDAD ANONIMA, INSTITUCION FINANCIERA, to increase its capital stock to the amount of TWO MILLION PESOS, Mexican Currency, and to amend articles first, seventh, eighth, thirty sixth and forty fourth of the by-laws.

d).- With public deed number 159,056 (one hundred fifty nine thousand and fifty six), dated as of December 6 (six), 1976 (one thousand nine hundred seventy six), issued by Mr. Tomás Lozano Molina, Notary Public Number 87 (eighty seven) of the Federal District, associated with Mr. Francisco Lozano Noriega, Notary Public Number 10 (ten) of the Federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under number one hundred ninety two, pages one hundred forty nine, volume one thousand five, third book, as of December 20 (twenty), 1976 (one thousand nine hundred seventy six) in which it was officially formalized the minutes of the Extraordinary Shareholders Meeting of “FINANCIERA Y FIDUCIARIA MEXICANA”, SOCIEDAD ANONIMA, “FINANCIERA COLON”, SOCIEDAD ANONIMA and “BANCO HIPOTECARIO METROPOLITANO”, SOCIEDAD ANONIMA “CREDITO REFACCIONARIO INDUSTRIAL”, SOCIEDAD ANONIMA, INSTITUCION FINANCIERA, in which it was approved TO MERGE with “CREDITO REFACCIONARIO INDUSTRIAL”, SOCIEDAD ANONIMA, surviving the later one, and changing the corporate name to “BANCO DE CREDITO Y SERVICIO”, SOCIEDAD ANONIMA, increasing its capital stock and amending in their entirety the by-laws of the company.

e).- With public deed number 165,003 (one hundred sixty thousand and three), dated as of December 8 (eight), 1977 (one thousand nine hundred seventy seven), issued by Mr. Francisco Lozano Noriega, Notary Public Number 10 (ten) of the Federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under number three hundred, pages three hundred ten, volume one thousand fifty, third book, as of January 2 (two), 1978 (one thousand nine hundred seventy eight) in which it was officially formalized the minutes of the Extraordinary Shareholders Meeting of BANCO DE CREDITO Y SERVICIO”, in which it was approved TO MERGE with “FINANCIERA DE FOMENTO”, SOCIEDAD ANONIMA and “FINANCIERA MONTERREY”, SOCIEDAD ANONIMA, as merged companies.

f).- With public deed number 171,500 (one hundred seventy one thousand five hundred), dated as of November 15 (fifteen), 1978 (one thousand nine hundred seventy eight), issued by Mr. Tomás Lozano Molina, Notary Public Number 87 (eighty seven) of the Federal District, associated with Mr. Francisco Lozano Noriega, Notary Public Number 10 (ten) of the Federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under number one hundred and six, pages eighty one, volume one thousand eighty five, third book, as of December 1 (one), 1978 (one thousand nine hundred seventy eight) in which it was officially formalized the minutes of the Extraordinary Shareholders Meeting of "BANCO DE CREDITO Y SERVICIO", SOCIEDAD ANONIMA, in which it was approved the AGREEMENT TO MERGE "FINANCIERA MEXICO", SOCIEDAD ANONIMA, surviving the first one, and ceasing to exist the later one.

g).- With public deed number 76,155 (seventy six thousand one hundred fifty five), dated as of August 22 (twenty two), 1985 (one thousand nine hundred eighty five), issued by Mr. Luis Felipe Del Valle Prieto, Notary Public Number 20 (twenty) of the Federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under commercial file number 81,513 (eighty thousand five hundred thirteen) as of October 7 (seven), 1985 (one thousand nine hundred eighty five) in which IT WAS OFFICIALLY FORMALIZED THE INTERNAL REGULATIONS OF "BANCO DE CREDITO Y SERVICIO", SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA MULTIPLE, published in the Official Newspaper of the Federation as of July twenty nine, one thousand nine hundred eighty five.

h).- With the decree published in the Official Newspaper of the Federation as of August twenty nine, one thousand nine hundred eighty three, effective as of September first of the same year, in which it was ordered the TRANSFORMATION of "BANCO DE CREDITO Y SERVICIO", SOCIEDAD ANONIMA, INSTITUCION DE BANCA MULTIPLE, into "BANCO DE CREDITO Y SERVICIO", SOCIEDAD NACIONAL DE CREDITO.

i).- With public deed number 192,905 (one hundred ninety two thousand nine hundred five), dated as of October 23 (twenty three), 1981 (one thousand nine hundred eighty one), issued by Mr. Tomás Lozano Molina, Notary Public Number 87 (eighty seven) of the Federal District, associated with Mr. Francisco Lozano Noriega, Notary Public Number 10 (ten) of the Federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under commercial file number 3234 (three thousand two hundred thirty four), as of December 1 (one), 1981 (one

thousand nine hundred eighty one), in which it was officially formalized the minutes of the extraordinary shareholders meeting of "BANCO DE CREDITO Y SERVICIO", SOCIEDAD ANONIMA, in which it was approved the MERGER of "POLIBANCA INNOVA", SOCIEDAD ANONIMA.

j).- With the decree published in the Official Newspaper of the Federation dated as of August 9 (nine), 1991 (one thousand nine hundred ninety one) in which it was ordered the TRANSFORMATION of "BANCO DE CREDITO Y SERVICIO" SOCIEDAD NACIONAL DE CREDITO, INSTITUCION DE BANCA MULTIPLE to "BANCO DE CREDITO Y SERVICIO", SOCIEDAD ANONIMA, being the transformation approved by the meeting of the Management Board of such credit institution, held as of July 22 (twenty two), 1991 (one thousand nine hundred ninety one), and approved by approval letter issued by the Mexican Ministry of Finance dated as of August 7 of the same year, and from such meeting, minutes were prepared and officially formalized in public deed number 15,752 (fifteen thousand seven hundred fifty two), as of August twenty nine, 1991 (one thousand nine hundred ninety one), issued by Antonio Velarde Violante, Notary Public Number One Hundred Seventy Four of the Federal District, which first instrument was recorded in the Public Registry of Commerce of Mexico City under Commercial File Number 74,441 (seventy four thousand four hundred forty one) dated as of September 30 (thirty), 1991 (one thousand nine hundred ninety one), and in such public deed, the approval letter and the decree were also officially formalized.

k).- With public deed number 16,276 (sixteen thousand two hundred seventy six), dated as of October 31 (thirty first), 1991 (one thousand nine hundred ninety one), issued by Mr. Andrés Jimenez Cruz, Notary Public Number 178 (one hundred seventy eight) of the Federal District, then alternate to Mr. Antonio Velarde Violante, Notary Public Number 164 (one hundred sixty four) of the federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under commercial file number 64,441 (sixty four thousand four hundred forty one), as of January 22 (twenty two), 1992 (one thousand nine hundred ninety two), in which it was officially formalized the minutes of the extraordinary shareholders meeting of "BANCO DE CREDITO Y SERVICIO", SOCIEDAD ANONIMA, held as of September 27, 1991 (one thousand nine hundred ninety one), in which it was approved to AMEND THE BY-LAWS IN THEIR ENTIRETY, keeping the same corporate name, term, domicile in Mexico City, Federal District, and a minimum fixed capital of FORTY THOUSAND MILLION PESOS, Mexican Currency, and a maximum capital without limit.

l).- With public deed number 44,598 (forty four thousand five hundred ninety eight), dated as of March 26 (twenty six), 1993 (one thousand nine hundred ninety three), issued by Mr. Luis De Angoitia y Gaxiola, Notary Public Number 109 (one hundred nine) of the Federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under commercial file number 64,441 (sixty four thousand four hundred forty one), as of October 7 (seven), 1993 (one thousand nine hundred ninety three), in which it was officially formalized the minutes of the extraordinary shareholders meeting of "BANCO DE CREDITO Y SERVICIO", SOCIEDAD ANONIMA, in which it was approved, among others, TO CHANGE THE CORPORATE NAME to "BANCRECER", SOCIEDAD ANONIMA, INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO BANCRECER.

m).- With public deed number 49,262 (forty nine thousand two hundred sixty two), dated as of April 22 (twenty two), 1996 (one thousand nine hundred ninety six), issued by Mr. Luis De Angoitia y Gaxiola, Notary Public Number 109 (one hundred nine) of the Federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under commercial file number 64,441 (sixty four thousand four hundred forty one), as of July 2 (two), 1996 (one thousand nine hundred ninety six), in which it was officially formalized the minutes of the extraordinary shareholders meeting of "BANCRECER", SOCIEDAD ANONIMA, INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO BANCRECER, held as of March 31 (thirty one), 1995 (one thousand nine hundred ninety five), in which it was approved among others, the INCREASE OF THE AUTHORIZED CAPITAL STOCK to the amount of ONE HUNDRED AND FIFTY MILLION PESOS, Mexican Currency, and the AMENDMENT TO ARTICLES seventh, ninth, tent eleventh, nineteenth, twentieth, twenty second, twenty fifth and thirtieth of the by-laws of the company.

n).- With public deed number 49,263 (forty nine thousand two hundred sixty three), dated as of April 22 (twenty two), 1996 (one thousand nine hundred ninety six), issued by Mr. Luis De Angoitia y Gaxiola, Notary Public Number 109 (one hundred nine) of the Federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under commercial file number 64,441 (sixty four thousand four hundred forty one), as of July 12 (twelve), 1996 (one thousand nine hundred ninety six), in which it was officially formalized the minutes of the extraordinary shareholders meeting of "BANCRECER", SOCIEDAD ANONIMA, INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO BANCRECER, held as of

August 29 (twenty nine), 1995 (one thousand nine hundred ninety five), in which it was approved among others, INCREASE OF THE AUTHORIZED CAPITAL STOCK in the amount of SEVEN HUNDRED AND FIFTY MILLION PESOS, Mexican Currency, and the AMENDMENT TO ARTICLES seventh, ninth, tent eleventh, nineteenth, twentieth, twenty second, twenty fifth and thirtieth of the by-laws of the company.

ñ).- With public deed number 100,262 (one hundred thousand two hundred sixty two), dated as of December 23 (twenty three), 1996 (one thousand nine hundred ninety six), issued by Mr. Ignacio R. Morales Lechuga, Notary Public Number 116 (one hundred sisteen) of the Federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under commercial file number 64,441 (sixty four thousand four hundred forty one), as of January 17 (seventeen), 1997 (one thousand nine hundred ninety seven), in which it was officially formalized the minutes of the extraordinary shareholders meeting of "BANCRECER", SOCIEDAD ANONIMA, INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO BANCRECER, held as of December 9 (nine), 1996 (one thousand nine hundred ninety six), in which it was approved, among others, the APPROVAL OF A MERGER of "BANORO", SOCIEDAD ANONIMA, INSTITUCION DE BANCA MULTIPLE, INTEGRANTE DE GRUPO FINANCIERO BANCRECER, as merged company, and "BANCRECER", SOCIEDAD ANONIMA, INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO BANCRECER, as merging company, ceasing to exist the first one, and surviving the second one; the increase of the authorized capital stock to the amount of TWO THOUSAND MILLION PESOS, Mexican Currency, and the amendment to clause seventh of the by-laws of the company.

o).- With public deed number 7,170 (seven thousand one hundred seventy), dated as of December 24 (twenty four), 1996 (one thousand nine hundred ninety six), issued by Mr. Jorge J. Chavez Castro, Notary Public Number 30 (thirty) of Culiacan, State of Sinaloa, which first instrument was recorded in the Public Registry of Property and Commerce of Culiacan, State of Sinaloa, as of January 16 (sixteen), 1997 (one thousand nine hundred ninety seven), in which it was officially formalized the minutes of the extraordinary shareholders meeting of "BANORO", SOCIEDAD ANONIMA, INSTITUCION DE BANCA MULTIPLE, INTEGRANTE DE GRUPO FINANCIERO BANCRECER, held as of December 9 (nine), 1996 (one thousand nine hundred ninety six), in which it was approved, among others, the APPROVAL OF A MERGER of "BANORO", SOCIEDAD ANONIMA, INSTITUCION DE BANCA MULTIPLE, INTEGRANTE DE GRUPO

FINANCIERO BANCRECER, as merged company, and “BANCRECER”, SOCIEDAD ANONIMA, INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO BANCRECER, as merging company, ceasing to exist the first one, and surviving the second one.

p).- With public deed number 1,669 (one thousand six hundred sixty nine), dated as of November 5 (five), 1999 (one thousand nine hundred ninety nine), issued by Mr. Alfredo Ayala Herrera, Notary Public Number 237 (two hundred thirty seven) of the Federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under commercial file number 64,441 (sixty four thousand four hundred forty one), as of November 18 (eighteen), 1999 (one thousand nine hundred ninety nine), in which it was officially formalized the minutes of the extraordinary shareholders meeting of “BANCRECER”, SOCIEDAD ANONIMA, INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO BANCRECER, held as of November 3 (three), 1999 (one thousand nine hundred ninety nine), in which it was approved, among others, THE AMENDMENT OF THE BY-LAWS IN THEIR ENTIRELY, TO ACCEPT, SUBSCRIBE AND PAYMENT OF TWENTY THREE MILLION FOUR HUNDRED THIRTY SIX THOUSAND ORDINARY SERIES “O” SHARES FOR THE INSTITUTO PARA LA PROTECCIÓN AL AHORRO BANCARIO AND THE APPOINTMENT OF FRANCISCO GONZALEZ MARTINEZ, AS MANAGING RECEIVER, keeping the same corporate name, term, domicile in Mexico City, Federal District, with a capital stock of TWO THOUSAND THREE HUNDRED FORTY THREE MILLION SIX HUNDRED THOUSAND PESOS, Mexican Currency, with foreign investors admission clause.

q).- With public deed number 6,411 (six thousand four hundred eleven), dated as of January 24 (twenty four), 2002 (two thousand two), issued by Mr. Alfredo Ayala Herrera, Notary Public Number 237 (two hundred thirty seven) of the Federal District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under commercial file number 64,441 (sixty four thousand four hundred forty one), as of April 18 (eighteen), 2002 (two thousand two), in which it was officially formalized the minutes of the extraordinary shareholders meeting of “BANCRECER”, SOCIEDAD ANONIMA, INSTITUCION DE BANCA MULTIPLE, GRUPO FINANCIERO BANCRECER, held as of December 3 (three), 2001 (two thousand one), in which it was approved, among others, the increase in the capital stock of the company in the amount of $2,343,600,000.00 (TWO THOUSAND THREE HUNDRED FORTY THREE MILLION SIX HUNDRED THOUSAND PESOS, 00/100 MEXICAN CURRENCY), to reach the amount of $4,687,200,000 (FOUR THOUSAND SIX HUNDRED EIGHTY SEVEN

MILLION TWO HUNDRED THOUSAND AND 00/100 MEXICAN CURRENCY), which was subscribed and partially paid, and amending consequently article seventh of the by-laws of the Company. Furthermore, the legal representative appearing before the notary stated that as of such date the capital stock duly paid is the amount of $2,500,000,000.00 (TWO THOUSAND FIVE HUNDRED MILLION PESOS 00/100 MEXICAN CURRENCY).

r).- With Public Deed Number 34,071 (thirty four thousand seventy one), dated as of April 24 (twenty four) 2002 (two thousand two), issued by Mr. Primitivo Carranza Acosta, Alternate Notary Public Number 72 (seventy two) residing in this Registrar District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under commercial file number 64,441 (sixty four thousand four hundred forty one), as of July 22 (twenty two), 2002 (two thousand two), and in the Public Registry of Property and Commerce of the city of Monterrey under number 7020 (seven thousand twenty), Volume 3 (three), First Book, dated as of July 22, 2002 (two thousand two), which contains the official formalization of (I) the minutes of the general extraordinary shareholders meetings of Banco Mercantil del Norte, Sociedad Anónima, Institución de Banca Múltiple, Grupo Financiero Banorte and Bancrecer, Sociedad Anónima, Institución de Banca Múltiple, held as of March 11, 2002 (two thousand two), (II) as well as the Merger Agreement executed the same date. Such documents contain the following legal acts: 1.- The merger of both credit institutions, the first one as merged company and ceasing to exist, and the second one as merging and surviving company.- 2.- The modification of the capital stock of Bancrecer, Sociedad Anónima, Institución de Banca Múltiple, to reach the amount of $2,273,482,963.00 (two thousand two hundred seventy three million four hundred eighty two thousand nine hundred sixty three pesos 00/100 Mexican Currency) and the amendment to article seventh of the by-laws of the Company.- 3.- The change of corporate name from Bancrecer, Sociedad Anónima, Institución de Banca Múltiple, to Banco Mercantil del Norte, Sociedad Anónima, Institución de Banca Múltiple, Grupo Financiero Banorte, and the amendment to article first of the by-laws of the Company.- 4.- The change of corporate domicile of Bancrecer, Sociedad Anónima, Institución de Banca Múltiple, from Mexico City, Federal District to the city of Monterrey, Nuevo Leon, and amendment of article fifth of the by-laws of the company.

s).- With Public Deed Number 34,085 (thirty four thousand eighty five), dated as of April 25 (twenty five) 2002 (two thousand two), issued by Mr. Primitivo Carranza Acosta, Alternate Notary Public Number 72 (seventy two) residing in this Registrar District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal

District, Commerce Section, under commercial file number 64,441 (sixty four thousand four hundred forty one), as of July 22 (twenty two), 2002 (two thousand two), and in the Public Registry of Property and Commerce of the city of Monterrey under number 7021 (seven thousand twenty one), Volume 3 (three), First Book, dated as of July 22, 2002 (two thousand two), which contains the official formalization of the permit number 0910,882 zero, nine, one, zero, comma, eight, eight, two, File 194509046150, one, nine, four, five, zero, nine, zero, four, six, one, five, zero, of page 2B6F0N08 two, letter “B”, six, letter “F”, zero, letter “N”, zero, eight, dated as of April 10 (ten), 2002 (two thousand two), issued by the Ministry of Foreign Affairs, authorizing the change of corporate name from Bancrecer, Sociedad Anónima, Institución de Banca Múltiple, to Banco Mercantil del Norte, Sociedad Anónima, Institución de Banca Múltiple, Grupo Financiero Banorte.

t).- With Public Deed Number 34,089 (thirty four thousand eighty nine), dated as of April 25 (twenty five) 2002 (two thousand two), issued by Mr. Primitivo Carranza Acosta, Alternate Notary Public Number 72 (seventy two) residing in this Registrar District, which first instrument was recorded in the Public Registry of Property of Mexico City, Federal District, Commerce Section, under commercial file number 64,441 (sixty four thousand four hundred forty one), as of July 22 (twenty two), 2002 (two thousand two), and in the Public Registry of Property and Commerce of the city of Monterrey under number 945 (nine hundred forty five), Volume 3 (three), Second Book, dated as of July 22, 2002 (two thousand two), which contains the SOLE RESPONSABILITIES AGREEMENT executed among GRUPO FINANCIERO BANORTE, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE; CASA DE BOLSA BANORTE, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE, GRUPO FINANCIERO BANORTE; ARRENDADORA BANORTE, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE, ORGANIZACIÓN AUXILIAR DEL CREDITO, GRUPO FINANCIERO BANORTE; FACTOR BANORTE, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE, ORGANIZACIÓN AUXILIAR DEL CREDITO, GRUPO FINANCIERO BANORTE; ALMACENADORA BANORTE, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE, ORGANIZACIÓN AUXILIAR DEL CREDITO, GRUPO FINANCIERO BANORTE; BANCO DEL CENTRO, SOCIEDAD ANÓNIMA, INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BANORTE; PENSIONES BANORTE GENERALI, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE, GRUPO FINANCIERO BANORTE; SEGUROS BANORTE GENERALI, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE; FIANZAS BANORTE, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE and BANCRECER, SOCIEDAD ANÓNIMA, INSTITUCIÓN DE BANCA MÚLTIPLE, eliminating BANCO

MERCANTIL DEL NORTE, SOCIEDAD ANÓNIMA, INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BANORTE, by virtue of its merger by BANCRECER, SOCIEDAD ANÓNIMA, INSTITUCIÓN DE BANCA MÚLTIPLE, and adding to the last one to GRUPO FINANCIERO BANORTE with its new corporate name BANCO MERCANTIL DEL NORTE, SOCIEDAD ANÓNIMA, INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BANORTE.

u).- With official letter 101.486 one, zero, one, dot, four, eight, six, dated as of April 24 (twenty four), 2002 (two thousand two) issued by the Ministry of Finance, which contains the approval of:- 1.- The merger of Banco Mercantil del Norte, Sociedad Anónima, Institución de Banca Múltiple with Bancrecer, Sociedad Anónima, Institución de Banca Múltiple, the first one as merged company and ceasing to exist, and the second one as merging and surviving company.- 2.- The modification of the capital stock of Bancrecer, Sociedad Anónima, Institución de Banca Múltiple, to reach the amount of $2,273,482,963.00 (two thousand two hundred seventy three million four hundred eighty two thousand nine hundred sixty three pesos 00/100 Mexican Currency) and the amendment to article seventh of the by-laws of the Company.- 3.- The change of corporate name from Bancrecer, Sociedad Anónima, Institución de Banca Múltiple, to Banco Mercantil del Norte, Sociedad Anónima, Institución de Banca Múltiple, Grupo Financiero Banorte, and the amendment to article first of the by-laws of the Company.-

v).- With official letter 101.823 one, zero, one, dot, eight, two, three, dated as of April 25 (twenty five), 2002 (two thousand two) issued by the Ministry of Finance, which contains the approval to incorporate Bancrecer, Sociedad Anónima, Institución de Banca Múltiple, under its new corporate name of Banco Mercantil del Norte, Sociedad Anónima, Institución de Banca Múltiple, Grupo Financiero Banorte, as a part of Grupo Financiero Banorte, Sociedad Anónima de Capital Variable.

w).- The official letters 101.486 one, zero, one, dot, four, eight, six and 101.823 one, zero, one, dot, eight, two, three, above referenced, have been duly recorded under commercial file number 64,441 (sixty four thousand four hundred forty one), as of July 22 (twenty two), 2002 in the Public Registry of Property of Mexico City, Federal District and in the Public Registry of Property and Commerce of the city of Monterrey under number 7020 (seven thousand twenty), Volume 3 (three), First Book, dated as of July 22, 2002 (two thousand two).

x).- With the First Instrument of Public Deed Number 34,836 (thirty four thousand eight hundred thirty six), dated as of November 1 (one) 2002 (two thousand two), issued by

Mr. Primitivo Carranza Acosta, Alternate Notary Public Number 72 (seventy two) residing in this Registrar District, which contains the official formalization of the minutes of the Board of Directors meeting of BANCO MERCANTIL DEL NORTE, SOCIEDAD ANÓNIMA, INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BANORTE held as of April 25 (twenty five), 2002 (two thousand two) in which it was approved, among other things, the appointment of AURORA CERVANTES MARTINEZ as Secretary of the Board of Directors, and such public deed was recorded in the Public Registry of Property and Commerce of the city of Monterrey under number 10,923 (ten thousand nine hundred twenty three), Volume 3 (three), First Book, dated as of November 5 (five), 2002 (two thousand two), which I transcribe the relevant parts as follows: "... 9.7 APPOINTMENT OF SECRETARY OF THE BOARD AND RATIFICATION OF ALTERNATE SECRETARY OF THE BOARD OF DIRECTORS.- The Chairman of the Board of Directors, Mr. Roberto González Barrera informed the directors the need to appoint a Secretary of the Board in accordance with article 27 of the By-laws of the Company since the resignation tendered by Mr. Emilio Yarto Sahagún, and proposed the appointment of Aurora Cervantes Martínez as new Secretary. In addition, it was proposed that Mr. Jorge Antonio García Garza, as Alternate Secretary to assist the Secretary and cover her absences.- Once the proposal was analyzed, the member of the board approved by unanimous decision the following: **RESOLUTION No 40.-** Further to the provisions of Article 27 of the By-laws of the Company, Aurora Cervantes Martínez be and hereby is appointed as Secretary of the Board of Directors, and Mr. Jorge Antonio García garza is ratified as Alternate Secretary, whom shall have the duties and obligations set forth in applicable law and the by-laws of the Company.- **RESOLUTION No 41.-** The appointment referred in the preceding Resolution shall be effective May 16th, 2002, and Mr. Emilio Yarto Sahagún is hereby authorized, as Secretary of the Board, to issue certifications of the adopted resolutions and any other written evidence with respect to the information under his custody, and he is authorized to attend before a Notary Public of his choice to officially formalized the powers of attorney granted during the meetings of the Board of Directors in which he acted as Secretary of the Board of Directors.....".

y).- With Public Deed Number 36,112 (thirty six thousand one hundred twelve), dated as of July 10 (ten) 2003 (two thousand three), issued by Mr. Primitivo Carranza Acosta, Alternate Notary Public Number 72 (seventy two), which contains the oficial formalization of the minutes of the General ordinary Shareholders Meeting held as of April 29 (twenty nine), 2003 (two thousand and three), which approved the restatement of the by-laws of

the Company, and such public deed was recorded in the Public Registry of Property and Commerce of the city of Monterrey under number 6732 (six thousand seven hundred thirty two), Volume 4 (four), First Book, dated as of July 15 (fifteen), 2003 (two thousand three).

z).- With Public Deed Number 36,117 (thirty six thousand one hundred seventeen), dated as of July 10 (ten) 2003 (two thousand three), issued by Mr. Primitivo Carranza Acosta, Alternate Notary Public Number 72 (seventy two), which contains the official formalization of the minutes of the General Ordinary Shareholders Meeting held as of April 29 (twenty nine), 2003 (two thousand and three), which approved the election of members of the board of directors for the 2003 fiscal year, and such public deed was recorded in the Public Registry of Property and Commerce of the city of Monterrey under number 6677 (six thousand six hundred seventy seven), Volume 4 (four), First Book, dated as of July 14 (fourteen), 2003 (two thousand three).

aa).- With Public Deed Number 38,626 (thirty eight thousand six hundred twenty six), dated as of July 7 (seven) 2004 (two thousand four), issued by Mr. Primitivo Carranza Acosta, Alternate Notary Public Number 72 (seventy two), which contains the official formalization of the minutes of the General Ordinary Shareholders Meeting, which approved the election of members of the board of directors for the 2004 fiscal year, and such public deed was recorded in the Public Registry of Property and Commerce of the city of Monterrey under the electronic commercial number 81438*1 (eighty one thousand four hundred thirty eight asterisk one), dated as of July 20 (twenty), 2004 (two thousand four), which I transcribe the relevant parts as follows: ".....III.- APPOINTMENT OF MEMBERS OF THE BOARD OF DIRECTORS AND STATUTORY AUDITORS OF THE COMPANY.- With respect to the third item of the Agenda for the Meeting, Mr. Roberto González Barrera, submitted to the consideration of the shareholders and representatives of the shareholders, a proposed board of directors.- In addition, stated that with respect to the proposal for statutory auditors, as of today, a special meeting was held, in which Series "O" statutory auditors were appointed, and a communication from the special delegate to such meeting was received informing of such appointments, and requested Aurora Cervantes Martínez to read such notification for purposes of integrating the surveillance body of the Company.- The Chairman of the Meeting reminded the shareholders and representatives of the shareholders of the need to determine in accordance with article Thirty Sixth of the By-laws, the amount of guarantee that the directors and statutory directors shall give to guarantee the performance of their duties.- Once the proposal was analyzed, the following resolutions were adopted by unanimous consent: RESOLUTIONS.-

FIRST:- The Board of Directors shall be formed by 12 directors and their respective alternates, and the following persons were appointed as directors and the persons next to their names will be appointed as their alternates for the 2004 fiscal year: DIRECTORS.- 1 Roberto González Barrera (Chairman) Equity.- 2. Rodolfo Barrera Villarreal (Vice-chairman) Equity.- 3. Jacobo Zaidenweber Cvilich. Independent.- 4. Alejandro Álvarez Figueroa. Independent.- 5. Eduardo Livas Cantú. Independent.- 6. José G. Garza Montemayor. Equity.- 7. Don Juan Diez-Canedo Ruiz. Independent.- 8. Luis Peña Kegel. Related.- 9. Francisco Alcalá de León. Independent.- 10. Bertha González Moreno. Equity.- 11. Richard Frank. Equity.- 12. Roberto González Moreno. Equity.- ALTERNATE DIRECTORS.- 1. Juan Manuel Quiroga Garza. Related.- 2. Jesús L. Barrera Lozano. Equity.- 3. Simón Nizri Cohen. Independent.- 4. César Verdes Quevedo. Independent.- 5. Germán Francisco Moreno Pérez. Independent.- 6. David Villarreal Montemayor. Equity.- 7.- Javier Vélez Bautista. Independent.- 8. Manuel Sescosse Varela. Related.- 9. Isaac Becker Kabacníc. Independent.- 10. Federico Abelardo Valenzuela Ochoa. Related.- 11. Alejandro Schwedhelm. Equity.- 12. José Antonio Díaz Vicente. Independent.- SECOND.- The surveillance body will be integrated by the following persons: Fernando Morales Gutiérrez. Statutory Auditor.- Carlos Arreola Enríquez. Alternate Statutory Auditor.- THIRD: In accordance with Article Thirty Sixth of the By-laws, it is noted that the members of the board and statutory auditor, expecting their appointment have guaranteed their performance by a cash deposit in the Company account in the amount of $1,326.30 which is equal to 30 times the current mínimum salary in the domicile of the Company.…….".

bb) With Public Deed Number 39,092 (thirty nine thousand ninety two), dated as of August 27 (twenty seven) 2004 (two thousand four), issued by Mr. Primitivo Carranza Acosta, Alternate Notary Public Number 72 (seventy two), which contains the official formalization of the minutes of the Meeting of the Board of Directors held as of July 28 (twenty eight), 2004 (two thousand four), which approved the appointment of Alternate Secretary for the 2004 fiscal year, and such public deed was recorded in the Public Registry of Property and Commerce of the city of Monterrey under the electronic commercial number 81438*1 (eighty one thousand four hundred thirty eight asterisk one), dated as of August 30 (thirty), 2004 (two thousand four), which I transcribe the relevant parts as follows: ".....**V. GENERAL MATTERS.-**.....**APPOINTMENT OF ALTERNATE SECRETARY OF THE BOARD OF DIRECTORS**- Aurora Cervantes Martínez requested approval to appoint as new Alternate Secretary, Mr. Miguel Angel Vera Barrera, who shall have the duties and responsibilities set forth in applicable law and the by-laws of the Company.- Once the

proposal was analyzed, the Board of Directors approved by unanimous decision the following: **RESOLUTION N° 247:-** Mr. Miguel Angel Vera Barrera be and hereby is appointed as Alternate Secretary of the Board of Directors, who shall have the duties set forth.- ....”

IN ACCORDANCE WITH THE FOREGOING, PART OF THE BY-LAWS OF THE COMPANY THAT ARE CURRENTLY IN EFFECT, ARE WRITTEN AS FOLLOWS:

“..... CHAPTER FIRST.- ARTICLE FIRST.- CORPORATE NAME.- The company is named Banco Mercantil del Norte. The corporate name shall be followed by the words Sociedad Anónima or their abbreviation S. A., Institución de Banca Múltiple, Grupo Financiero Banorte. ARTICLE SECOND.- CORPORATE PURPOSE.- The Company shall have as corporate purpose the rendering of the service of banking and credit in accordance with the Law of Credit Institutions, and consequently, the Company is entitled to engage in transactions and to render banking services as referred to in Article 46 of said law, in all their kinds, in accordance with the other applicable legal or administrative provision, and further to corporate health practices and in accordance with banking and commercial uses and customs. ARTICLE THIRD.- PURSUIT OF CORPORATE PURPOSE.- To pursuit the corporate purpose, the Company may: I.- Acquire, sale, own, lease and in general, to use and manage, under any title, any kind of rights and properties, either personal or real estate that are necessary or convenient for the corporate purposes; and II.- To engage in any legal acts that are necessary or convenient to carry on with corporate activities and the pursuit of the corporate purpose. ARTICLE FOURTH.- TERM.- The Company shall have no definitive term. ARTICLE FIFTH.- DOMICILE.- The domicile of the company is the city of Monterrey, Nuevo Leon, Mexico, which domicile may not be deemed to be changed if the company establishes branches or offices in any other place within the Mexican Republic or abroad. ARTICLE SIXTH.- NATIONALITY.- The company is Mexican. Any foreigner, that at the time of incorporation of the company or thereafter acquires a participation or becomes the owner of one or more shares of the company shall be considered as Mexican with respect to that participation or ownership, and may not invoke the protection of its own government. Failure to comply with the foregoing paragraph may result in the forfeiture of such participation or ownership in favor of the Mexican State.- CHAPTER SECOND- CAPITAL STOCK, SHAREHOLDERS AND SHARES.- ARTICLE SEVENTH.- CAPITAL STOCK.- The Company shall have a common capital stock of $2,273’482,963.00 M.N. (TWO THOUSAND TWO HUNDRED SEVENTY

THREE MILLION FOUR HUNDRED EIGHTY TWO THOUSAND NINE HUNDRED SIXTY THREE AND 00/100 MEXICAN CURRENCY) represented by 22,734’829,630 series “O” shares, with a par value of $0.10 (TEN CENTS MEXICAN CURRENCY) each. The Capital Stock may also be integrated by an additional portion, represented by series “L” shares with a par value of $0.10 (TEN CENTS MEXICAN CURRENCY) each, up to an amount equal to forty percent of the common capital stock.-..... CHAPTER FOURTH.- MANAGEMENT.- ARTICLE TWENTY FOURTH.- MANAGEMENT BODIES.- The direction and management of the Company shall be entrusted to a Board of Directors and a Chief Executive Officer, in their respective scope of authority. The corresponding appointments shall be made in accordance with the provisions of articles 22, 23 and 24 of the Law of Credit Institutions. The Board of Directors shall be formed by up to fifteen members and their respective alternates, which mayo r may not be Series “O” shareholders. The majority of the directors shall be Mexican or foreign residents in the Mexican Republic. ARTICLE TWENTY FIFTH.- APPOINTMENT AND TERM.- The Series “O” shareholders shall appoint all the directors and their respective alternates. The Series “O” shareholders that represent at least ten percent of the common capital stock of the Company shall have the right to appoint one director and its respective alternate. Once such appointment is made, the remaining members of the Board of Directors shall be appointed by a simple majority vote, without counting the minority shareholders that appointed a director or directors as set forth above. Notwithstanding the provisions of last paragraph of Article 24 and article 25 of the Law of Credit Institutions, the appointment of a minority director can only be revoked when all the appointments of directors of the same class are revoked. The members of the board of directors shall remain in office for one year and may be reelected; and shall remain in office until the new person takes office. ARTICLE TWENTY SEVENTH.- PRESIDENT AND SECRETARY.- The members of the board shall elect every year, among its members, a chairman and one of the two vice-chairmen, and the other directors in the order of their appointment shall cover the absences of the vice-chairman. The chairman shall be the president of the general shareholders meetings, the board of directors meetings and the executive committee of the board of directors, and shall execute the resolutions of such bodies without need of a special resolution in such respect. The board of directors shall appoint a Secretary, which may not be a director, as well as an Alternate Secretary to help the Secretary in its duties and cover the absences of the Secretary. ARTICLE TWENTY EIGHTH.- MEETINGS.- The Board of Directors shall meet whenever a call is issued by the Secretary or Alternate Secretary, by agreement of

the Chairman or the Statutory Auditor if applicable. The call shall be sent with a minimum of five business days in advance for the meeting at the last registered domiciles of the directors and the statutory auditor. It shall be validly installed a meeting of the Board of Directors with the presence of the majority of its members; the Board of Directors resolutions shall be valid if they are approved by majority of the attendant members, the President shall hold the casting vote in the event of a tie. The minutes of the board of directors meetings, meetings of regional boards and other internal committees shall be signed by the individual that chaired them, the Secretary and the attending statutory auditors, and shall be kept in special books, and the Secretary and Alternate Secretary shall be entitled to issue certified copies of the contents of such minutes. ARTICLE.- TWENTY NINTH.- AUTHORITY.- The Board of Directors shall have the authority that the applicable laws and these by-laws grant in general to this type of corporate bodies, including without limitation:: I.- represent the Company before any individual or moral person, and before any kind of Authority, either judicial (Civil or Criminal), Administrative or Labor, either federal or local, with the general power of attorney for law suits and collections, as provided for in the first paragraph of Article Articles (2554) two thousand five hundred fifty four and (2587) two thousand five hundred eighty seven of the Civil Code for the Federal District; and shall be empowered without limitation: A. to participate in any kind of judicial proceedings, either Civil, Commercial, Tax, Administrative, Criminal or Labor, including *Amparo* proceedings, to follow such lawsuits and drop them if convenient for the Company; B. to file and ratify accusations or complaints before criminal authorities; C. to establish the Company as co-party with the public prosecutor in criminal processes; D. to grant pardon when applicable; E. To make or take positions in any kind of proceedings, including labor proceedings, provided, however, that the right to absolve them is restricted to the persons designated by the Board of Directors as provided in paragraph VII of this Article; and F.- To appear before any kind of labor authority, either administrative or judicial, local or federal, to act in legal or extrajudicial proceedings, form the conciliation stage until the execution of the corresponding award; and to execute any kind of agreements as provided for Article 11, 787 and 876 of the Federal Labor Law; II.- To manage the business and corporate assets with the most ample power of attorney for management acts as provided for in 2554, first paragraph, of the Civil Code for the federal District; III.- To issue, subscribe, grant, accept, guarantee or endorse negotiable instruments as provided for in Article 9 th of the General Law of Negotiable Instruments and Credit Operations; IV.- To engage in ownership acts with respect to the assets of the

Company, as provided for in the third paragraph of article 2554 of the Civil Code of the Federal District, and other special authority as set forth in sections I, II and V of article 2587 of such civil code; V.- To establish the rules regarding the corporate structure, organization, integration, duties and rights of the regional boards, internal committees and working commissions deemed necessary, to appoint their members and to establish their compensation; VI.- As provided by article 145 of the General Law of Commercial Companies, to appoint and remove the Chief Executive Officer and the main officers of the Company, taking into consideration the provisions of Article 24 of the Law of Credit Institutions; to appoint trust delegates, the external auditor, the Secretary and Alternate Secretary and to establish their rights and obligations and determine their compensation; VII.- To grant powers of attorney deemed convenient to said officer or to any other person, and to revoke them; and as provided in applicable laws, to delegate its duties in the Chief Executive Officer or to one or more members of the Board of Directors or legal representatives, to carry on the business in the terms and conditions determined by the Board of Directors; VIII.- To delegate in the person or persons deemed convenient, the legal representation of the Company, to grant them the use of the corporate signature and to grant general powers of attorney for lawsuits and collections, with the most ample authority as provided for in Article 2554 of the Civil Code, including special clauses as required by law in accordance with paragraphs III, IV, VI, VII and VIII of article 2587 of such code, including without limitation: a).- to present themselves as legal representatives of the Company during any proceeding, either administrative, labor, judicial or extrajudicial, to participate in any stage of such proceedings, and to take and absolve positions in the name and stead of the Company; to present and accept conciliation measures, to make transactions, to take any kind of decisions and to execute any labor agreements with workers; b).- To enter into any kind of legal acts referred to in section I of this paragraph; c).- To substitute powers and authority, without limitation to its own authority, and to issue and revoke mandates, and IX.- In general, to carry on with the acts and operations necessary or convenient to pursuit the corporate purpose, except for the authority reserved by applicable law or these by-laws to the Shareholders Meeting. References made to provisions of the Civil Code of the Federal District shall be deemed made in the correlative articles of the civil codes of the other Mexican states where this authority is exercised. ARTICLE THIRTIETH. - COMPENSATION.- The members of the Board of Directors shall receive as compensations the amount determined by the Shareholders Meeting. The decisions regarding compensation shall be in effect until modify the resolution of the

shareholders meeting. ARTICLE THIRTY FIRST.- DISTRIBUTION OF COMPENSATION.- The fees referred to in Articles Twenty-Ninth, paragraph V and Thirtieth of these by-laws, shall be charged against the results of the fiscal year and shall be distributed accordingly among the members of the management bodies and among the members and alternate members of the Board of Directors, in proportion to the numbers of meetings that were attended.- CHAPTER FIFTH.- SURVEILLANCE.- ARTICLE THIRTY SECOND.- STATUTORY AUDITORS.- The surveillance of the operations of the Company shall be entrusted to at least one statutory auditor for the Series "O", and, to a statutory auditor appointed by the Series "L", and their respective alternates, which shall be elected during special shareholders meetings, by majority vote, and such statutory auditors may be shareholders of the Company or third parties, and shall have the authority and duties set forth in article 166 of the General law of Commercial Companies, and other applicable provisions of applicable laws.....".

III.- Mr. JOSE LEOPOLDO QUIROGA CASTAÑON proves the authority in which he is appearing on behalf of the company named **CEMEX MÉXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE**, and states that such authority has not been revoked or limited in any way, and proves the legal existence and good standing of said company, with the following documentation:

AUTHORITY TO APPEAR TO THIS LEGAL ACT:

With the first instrument of public deed number 29,669 (twenty nine thousand six hundred sixty nine), dated as of November 11 (eleven), 2002 (two thousand and two), issued by Mr. Francisco Garza Calderón, then Notary Public Number 75 (seventy five), and recorded in the Public Registry of Property and Commerce of the city of Monterrey, Nuevo Leon, under number 11,318 (eleven thousand three hundred eighteen), Volume 3 (three), Book First, Public Registry of Commerce, First District as of November 14 (fourteen), 2002 (two thousand and two), regarding the appointment of GENERAL ATTORNEYS-IN-FACT of the Company, among them the individual appearing to this act, Mr. **JOSE LEOPOLDO QUIROGA CASTAÑON**, and the issuance of corporate authority in his favor. The undersigned Notary hereby attest to have such document in front of me, and partially transcribe it as follows: ".....That before me appeared Mr. LORENZO H. ZAMBRANO, in his capacity of General Attorney-in-fact of "CEMEX MEXICO, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE"; and STATED: That intends to grant authority and appoint LEGAL REPRESENTATIVES in the following terms: GENERAL POWER OF

ATTORNEY FOR BANKING TRANSACTIONS AND GENERAL POWER OF ATTORNEY FOR MANAGEMENT ACTS IN FAVOR OF MESSRS. RODRIGO TREVIÑO MUGUERZA, RAMIRO VILLARREAL MORALES, RENE DELGADILLO GALVAN, HUMBERTO LOZANO VARGAS, HECTOR VELA DIB, JAVIER TORRES HERNANDEZ, VICTOR NARANJO BANDALA AND **JOSE LEOPOLDO QUIROGA CASTAÑON**, TO BE EXERCISED JOINTLY OR INDIVIDUALLY, IN THE NAME AND IN STEAD OF "CEMEX MEXICO, S.A. DE C.V.".- IN ACCORDANCE WITH THE FOREGOING, Mr. LORENZO H. ZAMBRANO, on behalf of "CEMEX MEXICO, S.A. DE C.V.", issues the following:- CLAUSES: FIRST.- In his capacity of GENERAL LEGAL REPRESENTATIVE OF THE COMPANY, and in accordance with the provisions of Article 10 (ten) of the General Law of Commercial Companies, hereby grants in favor of Messrs. RODRIGO TREVIÑO MUGUERZA, RAMIRO VILLARREAL MORALES, RENE DELGADILLO GALVAN, HUMBERTO LOZANO VARGAS, HECTOR VELA DIB, JAVIER TORRES HERNANDEZ, VICTOR NARANJO BANDALA and JOSE LEOPOLDO QUIROGA CASTAÑON, jointly or individually, General Powers of Attorney to execute any transactions related to the corporate purpose of the company "CEMEX MEXICO, S.A. DE C.V.", in accordance with the following terms, and such individuals shall act as LEGAL REPRESENTATIVES OF THE COMPANY.- A).- GENERAL BANKING AUTHORITY in connection with negotiable instruments in the name and stead of the Company, further to Article (9) nine of the General Law of Negotiable Instruments; to issue *avales*, Securities and in general to guarantee obligations of the company.- B).- GENERAL POWER FOR MANAGEMENT ACTS, further to the terms set forth in the second paragraph of Article (2448) two thousand four hundred forty eight of the Civil Code of the State of Nuevo Leon, and its correlative article of the Civil Codes of the other Mexican States and the Federal Civil Code.- SECOND.- Mr. LORENZO H. ZAMBRANO, hereby binds the Company "CEMEX MEXICO, S.A. DE C.V.", to ratify any and all acts entered by its GENERAL LEGAL REPRESENTATIVES Messrs. RODRIGO TREVIÑO MUGUERZA, RAMIRO VILLARREAL MORALES, RENE DELGADILLO GALVAN, HUMBERTO LOZANO VARGAS, HECTOR VELA DIB, JAVIER TORRES HERNANDEZ, VICTOR NARANJO BANDALA AND JOSE LEOPOLDO QUIROGA CASTAÑON, as a result of the authority hereby granted, within the authority hereby granted"

LEGAL EXISTENCE AND GOOD STANDING OF THE COMPANY

1).- First Instrument of Public Deed Number 1672 (one thousand six hundred seventy two), issued as of July 8 (eight), 1968 (one thousand nine hundred sixty-eight), issued by

Mr. Juan N de la Garza Evia Jr., Notary Public No. 10 (ten), with exercise in the city of Monterey, Nuevo Leon, and duly recorded in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, under number 55 fifty-five, Page 127 one hundred twenty-seven, Volume 186 (one hundred eighty six), Book No, 3 (three), Second Auxiliary Deeds of Commercial Corporations, Commerce Section, as of August 23 (twenty-three), 1968 (one thousand nine hundred sixty-eight), related to the incorporation of the company INSTALACIONES SANTOS, SOCIEDAD ANONIMA (currently known as CEMEX MEXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE), in accordance with the permit issued by the Secretary of Foreign Relations under number 10775 (ten thousand seven hundred seventy five), File No. 329843 (three hundred twenty nine thousand eight hundred forty three), dated as of June 10 (ten), 1968 (one thousand nine hundred sixty-eight).

2).- First Instrument of Public Deed Number 2026 (two thousand twenty six), issued as of June 18 (eighteen), 1970 (one thousand nine hundred seventy), issued by Mr. Juan N de la Garza Evia Jr., Notary Public No. 10 (ten), with exercise in the city of Monterey, Nuevo Leon, and duly recorded in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, under number 925 nine hundred twenty nine, Volume 33 (thirty-three), Book No, 4 (four), Third Auxiliary Commercial Agreements, Commerce Section, as of August 15 (fifteen), 1970 (one thousand nine hundred seventy), related to the official formalization of the Minutes of a Shareholders Meeting of the company INSTALACIONES SANTOS, SOCIEDAD ANONIMA (currently known as CEMEX MEXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE), in which it was agreed to increase the capital stock of the company to reach the amount of Ps.250,000.00 (TWO HUNDRED AND FIFTY THOUSAND PESOS, MEXICAN CURRENCY).

3).- First Instrument of Public Deed Number 588 (five hundred eighty-eight), issued as of July 29 (twenty-nine), 1976 (one thousand nine hundred seventy-six), issued by Mr. Fernando Treviño Lozano, Notary Public No. 55 (fifty-five), with exercise in the city of Monterey, Nuevo Leon, and duly recorded in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, under number 1913 one thousand thirteen, Volume 89 (eighty nine), Book No, 4 (four), Third Auxiliary Commercial Agreements, Commerce Section, as of October 20 (twenty), 1976 (one thousand nine hundred seventy-six), related to the official formalization of the Minutes of a Extraordinary Shareholders Meeting of the company INSTALACIONES

SANTOS, SOCIEDAD ANONIMA (currently known as CEMEX MEXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE), held as of May 28 twenty eight, 1976 one thousand nine hundred seventy-six, in which it was agreed to amend the corporate purpose of the Company, amending article 2 nd (second) of the By-laws of the Company, with the prior written consent of the Secretary of Foreign Affairs, in accordance to permit number 012039- zero-one-two-zero-three-nine, File number 329843 (three hundred and nine thousand eight hundred and forty three, dated as of April 29 (twenty-nine), 1976 (one thousand nine hundred seventy-six).

4).- First Instrument of Public Deed Number 1,087 (one thousand eight seven), issued as of May 16 (sixteen), 1979 (one thousand nine hundred seventy-nine), issued by Mr. Fernando Treviño Lozano, Notary Public No. 55 (fifty-five), with exercise in the city of Monterey, Nuevo Leon, and duly recorded in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, under number 1643 one thousand six hundred forty three, Volume 108 (one hundred eight), Book No, 4 (four), Third Auxiliary Commercial Agreements, Commerce Section, as of July 31 (thirty first), 1979 (one thousand nine hundred seventy-nine), related to the official formalization of the Minutes of a Extraordinary Shareholders Meeting of the company INSTALACIONES SANTOS, SOCIEDAD ANONIMA (currently known as CEMEX MEXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE), in which it was agreed to increase the capital stock of the Company to reach the amount of $3’000,000.00 (THREE MILLION PESOS, MEXICAN CURRENCY).

5).- First Instrument of Public Deed Number 1,141 (one thousand one hundred forty one), issued as of August 1 (one), 1979 (one thousand nine hundred seventy-nine), issued by Mr. Fernando Treviño Lozano, Notary Public No. 55 (fifty-five), with exercise in the city of Monterey, Nuevo Leon, and duly recorded in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, under number 2085 two thousand six eighty five, Volume 112 (one hundred twelve), Book No, 4 (four), Third Auxiliary Commercial Agreements, Commerce Section, as of September 30 (thirty), 1979 (one thousand nine hundred seventy-nine), related to the official formalization of the Minutes of a Extraordinary Shareholders Meeting of the company INSTALACIONES SANTOS, SOCIEDAD ANONIMA (currently known as CEMEX MEXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE), in which it was agreed to increase the capital stock of the Company to reach the amount of $4’200,000.00 (FOUR MILLION TWO HUNDRED THOUSAND PESOS, MEXICAN CURRENCY).

6).- First Instrument of Public Deed Number 1,283 (one thousand two hundred eighty-three), issued as of January 9 (nine), 1982 (one thousand nine hundred eighty-two), issued by Mr. Ramiro Bravo Rivera, Notary Public No. 18 (eighteen), with exercise in the city of Monterey, Nuevo Leon, and duly recorded in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, under number 120 one hundred twenty, Volume 132 (one hundred thirty-two), Book No, 4 (four), Third Auxiliary Commercial Agreements, Commerce Section, as of January 21 (twenty one), 1982 (one thousand nine hundred eighty-two), related to the official formalization of the Minutes of a Extraordinary Shareholders Meeting of the company INSTALACIONES SANTOS, SOCIEDAD ANONIMA (currently known as CEMEX MEXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE), held as of October 6 six, 1981 one thousand nine hundred eighty-one, in which it was agreed to increase the capital stock of the Company to reach the amount of Ps. 7,000,000.00 (SEVEN MILLION PESOS, MEXICAN CURRENCY), and to amend Articles 1 st (first), 2nd (second), 8th (eighth), 11th (eleventh), 17th (seventeenth), 24th (twenty fourth), 28th (twenty-eighth), 33rd (thirty third), 42nd (forty-second) and 49th (forty-ninth) of the By-laws, and the change of corporate name to “SERTO CONSTRUCCIONES, SOCIEDAD ANONIMA”, with the prior consent of the Secretary of Foreign Affairs, under permit number 67243 (seventy seven thousand two hundred and forty three, File number 329843 (three hundred twenty nine thousand eight hundred and forty three, dated as of December 1 st (first), 1981 (one thousand nine hundred eighty one).

7).- First Instrument of Public Deed Number 2,989 (two thousand nine hundred eighty-nine), issued as of October 15 (fifteen), 1984 (one thousand nine hundred eighty-four, issued by Mr. Ramiro Bravo Rivera, Notary Public No. 18 (eighteen), with exercise in the city of Monterey, Nuevo Leon, and duly recorded in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, under number 79 seventy-nine, Volume 153 (one hundred fifty-three), Book No, 4 (four), Third Auxiliary Commercial Agreements, Commerce Section, as of January 16 (sixteen), 1985 (one thousand nine hundred eighty-five), related to the official formalization of the Minutes of a Extraordinary Shareholders Meeting of the company SERTO CONSTRUCCIONES, SOCIEDAD ANONIMA (currently known as CEMEX MEXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE), held as of September 20 twenty, 1984 one thousand nine hundred eighty-four, in which it was agreed to increase the capital stock of the Company to reach the amount of Ps. 15,000,000.00 (FIFTEEN

MILLION PESOS, MEXICAN CURRENCY), and consequently to amend Articles 8 th (eighth) of the By-laws, with the prior consent of the Secretary of Foreign Affairs, under permit number 56339 (fifty six thousand three hundred and thirty nine, File number 329843 (three hundred twenty nine thousand eight hundred and forty three, dated as of October 5th (fifth), 1984 (one thousand nine hundred eighty four).

8).- First Instrument of Public Deed Number 236 (two hundred thirty six), issued as of August 12 (twelve), 1987 (one thousand nine hundred eighty-seven), issued by Mr. Esteban González Ardines, Notary Public No. 21 (twenty one), with exercise in the city of Monterey, Nuevo Leon, and duly recorded in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, under number 3346 (three thousand three hundred forty-six), Volume 187-67 (one hundred eighty seven dash sixty seven), Book No, 4 (four), Third Auxiliary Commercial Agreements, Commerce Section, as of September 25 (twenty five), 1987 (one thousand nine hundred eighty-seven), related to the official formalization of the Minutes of a Extraordinary Shareholders Meeting of the company SERTO CONSTRUCCIONES, SOCIEDAD ANONIMA, held as of April 9 nine, 1987 one thousand nine hundred eighty-seven, in which it was agreed to adopt the mode of SOCIEDAD ANONIMA DE CAPITAL VARIABLE, and to amend Articles 1st (first), 7th (seventh), 8th (eighth), 10th (tenth), 15th (fifteenth) and 51st (fifty-first) of the By-laws, with the prior consent of the Secretary of Foreign Affairs, under permit number 21570 (twenty one thousand five hundred and seventy, File number 329843 (three hundred twenty nine thousand eight hundred and forty three, dated as of April 7th (seventh), 1987 (one thousand nine hundred eighty seven), and consequently the corporate name of SERTO CONSTRUCCIONES, SOCIEDAD ANONIMA DE CAPITAL VARIABLE was adopted.

9).- First Instrument of Public Deed Number 18,108 (eighteen thousand one hundred and eight), issued as of June 27 (twenty seven), 1995 (one thousand nine hundred ninety-five), issued by Mr. Francisco Garza Calderón, Notary Public No. 75 (seventy five), with exercise in this city, and duly recorded in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, under number 10439 (ten thousand four hundred thirty nine), Volume 201-209 (two hundred one dash two hundred nine), Book No, 4 (four), Third Auxiliary Commercial Agreements, Commerce Section, as of June 29 (twenty nine), 1995 (one thousand nine hundred ninety-five), related to the official formalization of the Minutes of a Extraordinary Shareholders Meeting of the company SERTO CONSTRUCCIONES, SOCIEDAD

ANONIMA DE CAPITAL VARIABLE, held as of April 3 three, 1995 one thousand nine hundred ninety-five, in which it was agreed to amend in its entirety the By-laws of the Company, with the exception of the articles related to the corporate name and the nationality of the Company.

10).- First Instrument of Public Deed Number 6,902 (six thousand nine hundred and two), issued as of December 10 (ten), 1998 (one thousand nine hundred ninety-eight), issued by Mr. Héctor Villegas Olivares, Notary Public No. 122 (one hundred twenty two), with exercise in the city of Monterrey, Nuevo Leon, and duly recorded in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, under number 8558 (eight thousand five hundred fifty eight), Volume 207-174 (two hundred seven dash one hundred seventy four), Book No, 4 (four), Third Auxiliary Commercial Agreements, Commerce Section, as of December 14 (fourteen), 1998 (one thousand nine hundred ninety-eight), which contains the official formalization of the minutes of the General Extraordinary Shareholders Meetings held as of December 3 (three) and December 4 (four), 1998 (one thousand nine hundred ninety eight), in which it was agreed the merger by SERTO CONSTRUCCIONES, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, as merging and surviving company, and EMPRESAS TOLTECA DE MEXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, FOMENTO INDUSTRIAL, SOCIEDAD ANONIMA DE CAPITAL VARIABLE and CEGUSA, SOCIEDAD ANONIMA, as merged companies, ceasing to exist.

11).- First Instrument of Public Deed Number 67,541 (sixty seven thousand five hundred forty-one), issued as of December 14 (fourteen), 1999 (one thousand nine hundred ninety-nine), issued by Mr. Juan Manuel García García, Notary Public Number 129 (one hundred twenty nine), and duly recorded in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, under number 9086 (nine thousand eighty-six), Volume 209-176 (two hundred nine dash one hundred seventy-six), Book No, 4 (four), Third Auxiliary Commercial Agreements, Commerce Section, as of December 15 (fifteen), 1999 (one thousand nine hundred ninety-nine), related to the official formalization of the Minutes of a Extraordinary Shareholders Meeting of the company SERTO CONSTRUCCIONES, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, held as of December 8 eight, 1999 one thousand nine hundred ninety-nine, in which it was approved a Merger Agreement in which SERTO CONSTRUCCIONES, S.A. DE C.V., as Surviving Company, merged the following corporations: CEMENTO PORTLAND NACIONAL, S.A. DE C.V., CEMENTOS ATOYAC,

S.A. DE C.V., CEMENTOS DEL NORESTE, S.A. DE C.V., CEMENTOS DEL YAQUI, S.A. DE C.V., CEMENTOS MEXICANOS, S.A. DE C.V., CEMENTOS MONTERREY, S.A. DE C.V., CEMENTOS SINALOA, S.A. DE C.V., CEMENTOS TOLTECA, S.A. DE C.V., CEMEX COMERCIAL, S.A. DE C.V., COMERCIO Y PLANEACION FINANCIERA MEXICO, S.A. DE C.V., EXPLOTADORA DE CANTERAS, S.A. DE C.V., PRECONCRETO DE ALTA RESISTENCIA, S.A. DE C.V. and TOLMEX, S.A. DE C.V., all of them merged companies;

12).- First Instrument of Public Deed Number 67,623 (sixty seven thousand six hundred twenty-three), issued as of December 16 (sixteen), 1999 (one thousand nine hundred ninety-nine), issued by Mr. Juan Manuel García García, Notary Public Number 129 (one hundred twenty nine), and duly recorded in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, under number 56 (fifty six), Volume 211-02 (two hundred eleven dash two), Book No, 4 (four), Third Auxiliary Commercial Agreements, Commerce Section, as of January 6 (six), 2000 (two thousand), related to the official formalization of the Minutes of a Extraordinary Shareholders Meeting of the company SERTO CONSTRUCCIONES, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, held as of December 10 ten, 1999 one thousand nine hundred ninety-nine, in which it was approved to change the corporate name from SERTO CONSTRUCCIONES, S.A. DE C.V., to CEMEX MEXICO, S.A. DE C.V., and to amend Article First and Article Second of the By-laws of the Company.

13).- With the first instrument of public deed number (8,248) eight thousand two hundred forty eight, dated as of March 9 (nine), 2000 (two thousand), issued by Mr. Héctor Villegas Olivares, Notary Public Number 122 (one hundred twenty-two), residing in the city of Monterrey, Nuevo Leon, a recorded under number 3,364 (three thousand three hundred sixty four), Volume 211-67 (two hundred eleven dash sixty seven), Book 4 (Four), Third Auxiliary Commercial Agreements, Commerce Section, as of May 16 (sixteen), 2000 (two thousand) in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, which contains the minutes of the General Extraordinary Shareholders Meeting dated as of December 29 (twenty-nine), 1998 (one thousand nine hundred ninety eight, in which it was approved, among other things, to amend Article Twenty Second of the By-laws of the Company.

14).- With the first instrument of public deed number (70,035) seventy thousand thirty five, dated as of December 8 (eight), 2000 (two thousand), issued by Mr. Manuel García Cirilo, then the Notary Public Number 62 (sixty two), residing in this city, and duly recorded

under number 2,451 (two thousand four hundred fifty one), Volume 1 (one), First Book, Public Registry of Commerce, First District, dated as of September 14 (fourteen), 2000 (two thousand) in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, which contains the minutes of the General Extraordinary Shareholders Meeting held as of August 7 (seven), 2000 (two thousand), in which it was approved, among other things, to amend the corporate purpose and to modify Article Second of the By-laws of the Company.

15).- With the first instrument of Public Deed Number (28,366) twenty eight thousand three hundred sixty-six, dated as of November 29 (twenty nine), 2001 (two thousand and one), issued by Mr. Francisco Garza Calderón, then Notary Public Number 75, duly recorded under Number 12,961 twelve thousand nine hundred sixty one, Volume 2 two, Book First, Public Registry of Commerce, First District, dated as of December 29 (twenty eight), 2001 (two thousand and one), in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, which contains the minutes of the General Extraordinary Shareholders Meeting held as of October 28 (twenty-eight), 2001 (two thousand one), in which it was approved, among other things, to restructure the capital stock of the Company, increasing the fixed portion of the capital and to decrease the variable capital in the same amount, amending Article Sixth of the By-laws of the Company.

16).- With the first instrument of Public Deed Number (31,220) thirty one thousand two hundred twenty, dated as of October 2 (two), 2003 (two thousand and three), issued by Mr. Francisco Garza Calderón, then Notary Public Number 75, duly recorded under Number 9,948 nine thousand nine hundred forty eight, Volume 4 four, Book First, Public Registry of Commerce, First District, dated as of October 8 (eight), 2003 (two thousand and three), in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, which contains the minutes of the General Extraordinary Shareholders Meeting of CEMEX MEXICO, S.A. DE C.V. held as of April 28 (twenty eight), 2003 (two thousand three), in which it was approved, among other things, with respect to the term of the office of directors and examiners be yearly, and amending consequently Articles Twenty Second and Twenty Fourth of the By-laws of the Company.

17).- With the first instrument of Public Deed Number (33,948) thirty three thousand nine hundred forty eight, dated as of May 26 (twenty six), 2005 (two thousand and five), issued by Mr. Francisco Garza Calderón, then Notary Public Number 75, duly recorded

under electronic file number 7574*1 (seven thousand five hundred seventy four asterisk one), Internal Control Number 36 (thirty six) dated as of June 2 (two), 2005 (two thousand and five) in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, which contains the minutes of the General Extraordinary Shareholders Meeting of CEMEX MEXICO, S.A. DE C.V. held as of April 11 (eleven), 2005 (two thousand five), in which it was approved, among other things, to amend Article Twenty Ninth of the By-laws of the Company.

18).- With the first instrument of Public Deed Number (5,094) five thousand ninety four, dated as of June 23 (twenty three), 2007 (two thousand and seven), issued by Mr. Jose Luis Farias Montemayor, Notary Public Number 120 (one hundred and twenty) residing in the city of Monterrey, duly recorded under electronic file number 7574*1 (seven thousand five hundred seventy four asterisk one), Internal Control Number 82 (eighty two) dated as of June 27 (twenty seven), 2007 (two thousand and seven) in the Public Registry of Property of Commerce of the First District of the State of Nuevo Leon, sitting in the city of Monterrey, Nuevo Leon, which contains the minutes of the General Extraordinary Shareholders Meeting of CEMEX MEXICO, S.A. DE C.V. held as of April 23 (twenty three), 2007 (two thousand seven), in which it was approved, among other things, to amend Article Twenty Second of the By-laws of the Company.

From the foregoing instruments, I, the undersigned Notary, attest to have them in front of me, and I transcribe in the relevant parts the current by-laws of the company named “CEMEX MEXICO”, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, as follows:

“.....BY-LAWS.- FIRST. CORPORATE NAME.- The company shall be named “CEMEX MEXICO”, and this name shall always be followed by the words “SOCIEDAD ANONIMA DE CAPITAL VARIABLE” or their abbreviation, “S.A. de C.V.”.- SECOND.- CORPORATE PURPOSE.- The corporate purpose of the Company is: A) The manufacture, purchase and sale, marketing, transportation, importation, exportation, and industrial and commercial use of cement, and any kind of construction material.- B) The production, distribution, import, export, supply, transportation, to carry, to pump, consignation, purchase and sale, deposit, commission, use, marketing and commercial and industrial use of cement, concrete, mortar, clay, limestone, gypsum, gravel, sand, iron mineral, and any other raw material used to produce cement, and any other kind of construction material. - C) The manufacture, purchase, sale, distribution, pumping, transportation, importation, exportation, use of commercial or industrial aggregates, premixed concrete, additives and other components, and in general any kind of pieces and

objects made of concrete, pre-concrete, pipes and construction materials. - D) The manufacture, purchase, sale, distribution, importation, exportation, leasing, marketing, and the industrial or commercial use of any kind of commercial or industrial equipment, machinery, tools, spare parts, transportation equipment and any other product in the stream of commerce.- E) The rendering of handling, storage and safeguard of merchandise related to foreign trade, either of the property of the Company or third parties.- F) The transportation of merchandises and products as cargo, by means of the exploitation of the public service of cargo in general, or through the exploitation or use of the General Means of Communication or related services, or under the provisions of concessions or permits issued by the Federal Executive Branch if needed, or through concessions or permits received as contribution or transfer from shareholders and authorized by competent authorities.- G) The use of cargo services, in connection with concessions or permits issued by the authorities of the States of Mexico if necessary.- H) The acquisition, lease, charter and entering into any kind of agreements in connection with ships, either national or foreign, and to obtain the flag or registration number as Mexican ships of the ships that are needed.- I) To act as consignee agent for ships, and to engage in any activity related to such operation.- J) The use of the different kind of engineering services, either pure research or applied engineering, as well as project and construction of projects.- K) The execution of works agreements, design agreements, engineering agreements, professional services and technical services agreements, project development agreements, infrastructure installation agreements, mechanical installation and any other related services which are necessary or convenient for the development of its corporate purpose, including the participation of the Company is bidding, offers, either public or private, in Mexico or abroad.- L) To participate in commercial or civil corporations, partnerships and in any kind of national or foreign companies, by means of subscription and/or acquisition of their shares, equity interest, assets and rights and through any form to dispose and realize any kind of acts and commercial contracts with respect to those shares, equity interest, assets or rights.- M) To acquire, sale, manage, lease or to receive in commodatum, to exchange, encumber in any manner, exploit, to affect in trust or to be trustee and in general, to execute any legal act related to the acquisition, transfer or to affect as real guarantee related to any kind of personal property or real estate property, as deemed convenient or necessary for the purposes of the Company, or directly or directly related to the corporate purpose of the Company.- N) To build, planning, design, decoration, manage and operate in any way any kind of buildings, industries, warehouses,

houses or apartments, in its own account or on the account of third parties.- O) To render and receive any kind of technical services, management services, sale services, marketing, supervision, technical assistance and consulting services related to industrial, accounting, commercial, legal, tax, finance matters or any other matters.- P) To solicit, obtain, purchase, lease, assign or in any other manner to acquire or dispose of trademarks, commercial names, copyrights, patents, inventions or processes, and any licenses related to them.- Q) To enter into or execute operation of commercial brokerage, mediation, technical assistance, rendering or professional services, consulting, distribution, supply, leasing and financial leasing, securities brokerage and in general to enter into any kind of agreements related to services of, or in favor of third parties, including the use of human and material resources, as a consequence of obligations or rights obtained by the execution of the agreements referred to in this section.- R) To grant and obtain loans, either secured or unsecured, including the issuance of commercial instruments in private or public offerings representing debt with public investors.- S) To issue, accept, endorse, or guarantee negotiable instruments, and to enter into any kind of commercial or legal acts with respect to negotiable instruments, being empowered to contract with credit institutions, national or foreign, brokerage houses, investment firms or auxiliary institutions of credit, and with any kind of entity, corporation or group, any kind of operations deemed convenient or necessary for the corporate purpose, including to enter into sales in short, loans, trusts, mandates, commissions or any kind of contract or agreement related to the investment of funds, to obtain financing or as the case may be, to affect, assign or guarantee negotiable instruments or documents referred to in this section.- T) To guarantee, security or in general to guarantee with any kind of liens, including pledge or mortgage, obligations of its own or from third parties, with or without compensation.- U) To be the title holder of Mining Concessions to Explore and/or Exploit, in order to explore and/or exploit the minerals or substances regulated under the Mexican Mining Law, further to the provisions of article 11 of such law.- V) In general, the company may execute all acts and contracts, and perform any kind of acts, operations and agreements, either civil, commercial or of any kind, deemed necessary or convenient for carrying out the purpose of the Company.- THIRD. DOMICILE.- The domicile of the company is the city of Monterrey, Nuevo Leon, Mexico, which domicile may not be deemed to be changed if the company establishes branches or offices in any other place within the Mexican Republic or abroad.- FOURTH. TERM.- The duration of the company shall be 99 (ninety nine) years, beginning on July 8 (eight), 1968 (one thousand sixty eight), which is the date of inscription

of the Company's articles of incorporation in the Public Register of Commerce.- FIFTH. NATIONALITY.- The company is fully Mexican. Any foreigner, that at the time of incorporation of the company or thereafter acquires a participation or becomes the owner of one or more shares of the company shall be considered as Mexican with respect to that participation or ownership, and may not invoke the protection of its own government. Failure to comply with the foregoing paragraph may result in the forfeiture of such participation or ownership in favor of the Mexican State. The text of this article shall be transcribed in its entirely in the stock certificates or provisional stock certificates representing equity participation in the company.- SIXTH. CAPITAL STOCK.- The corporate capital of the company shall be variable. The fixed, not redeemable, part of such capital shall be the amount of $900,015,000.00 (NINE HUNDRED MILLION FIFTEEN THOUSAND AND 00/100 MEXICAN PESOS), represented by 900,015,000.00 (NINE HUNDRED MILLION FIFTEEN THOUSAND) common, nominative shares, without a par value. The variable capital, redeemable, shall be unlimited and shall be represented by common, nominative shares without par value. The corporate capital subscribed and duly paid shall be divided, whether in the fixed or the variable part, in the following Series: The Series "A" Minimum Fixed Capital and the Series "A" Variable Capital, denominated Mexican Series, shall represent at all times at least 51% (fifty-one percent) of the capital stock outstanding and shall only be subscribed by: individuals of Mexican nationality; b) immigrants not related to foreign economic decision centers and provided that such immigrants do not engage in activities reserved to Mexican individuals or Mexican entities with foreign investment exclusion clause or subject to specific regulations; and c) Mexican entities in which Mexican capital participate wholly or as a majority provided that foreign investors do not have by any mean control over its management. The Series "B" Minimum Fixed Capital and the Series "B" Variable Capital, denominated Free subscription Series and may be subscribed by individuals or entities, either Mexican or foreign, with the exception of sovereign or foreign governments or entities representing such governments, and the equity participation of such free subscription series shall not exceed 49% (forty-nine percent) of the capital stock outstanding. At all times, the aforesaid proportions in the capital stock of the company shall be observe. The Series "A" Variable Part and the Series "B" Variable Part shall be issued and circulated further to the terms and conditions set forth by the Shareholders Meeting or the Board of Directors..- SEVENTH. CAPITAL STOCK INCREASE AND DECREASE.- The capital of the Company may be increased or decreased further to the following provisions: a) The Minimum Fixed Capital of the

Company may be increased or decreased by a resolution of the Extraordinary Shareholders Meeting adopted further to the terms of these by-laws; b) New shares shall not be issued until all the shares issued have been subscribed and paid; c) The authorized, but unsubscribe, shares shall be kept in the treasury of the Company, and later they may be subscribed and paid further to the terms and conditions set forth by the shareholders meeting that approved such capital increase, or any subsequent shareholder meeting; d) only shares of stock duly subscribed and paid may be amortized or redeem; e) Further to the General Law of Commercial Companies, the Company shall keep a Ledgers in which it shall be recorded any increase or decrease in the capital stock, such records shall be signed by the Chairman or the Secretary of the Board of Directors; f) To exercise appraisal rights, the provisions of articles 220 and 221 of the General Law of Commercial Companies shall apply, provided that only the holders of duly paid shares shall have appraisal rights.- EIGHTH.- CAPITAL INCREASE.- In the event of a capital increase, whether in the Fixed part or the Variable part, the holders of Series “A” and Series “B” shares shall have the preferential right in proportion of their number of shares to subscribe the new shares of the same Series to be issued by the Company. The shareholders may exercise such rights within a period of 15 (fifteen) calendar days following the date of publication in the Official Gazette of the corporate domicile or in one of the newspapers of wide distribution in such domicile, of the resolutions adopted during the Shareholders Meeting or the Board of Directors, as the case may be, in which it was resolved such capital increase. Provided, however, that no publication shall be needed in the event that during such shareholders meeting that approved such capital increase it was represented all the shares of stock outstanding.- NINTH.- SHARE CERTIFICATES.- The certificates representing the shares of stock, whether provisional certificates or the definitive certificates, shall comply with the requirements set forth in Article 125 of the General Law of Commercial Companies and Article Fifth of these By-laws. All certificates shall contain the authentic signatures of either two directors appointed by the Shareholders Meeting or the Board of Directors; the Chairman and the Secretary of the Board of Directors may use facsimile signatures in accordance with the provisions of Article 125 of the General Law of Commercial Companies, section VIII. The Shareholders Meeting or the Board of Directors shall determine the other characteristics of the provisional certificates or the definitive certificates, such as the number of shares covered by each certificate, the coupons to be affixed to exercise dividend rights.- TENTH.- REISSUANCE OF SHARE CERTIFICATES.- In the event of lost, stolen, misplaced or destroyed share certificates, whether provisional

or definitive, the procedure set forth in General Law of Negotiable Instruments shall apply. Any and all duplicates of provisional certificates or definitive certificates shall indicate that they are duplicates, and that the original provisional or definitive certificates have been voided. ELEVENTH.- SHAREHOLDERS LEDGER.- The company shall keep a Shareholders Ledger which shall contain: a) The name, nationality and domicile of the shareholder, indicating the shares that such shareholder own, expressing the number, series, classes and any other information, b) the indication of payments made, and c) any assignments made further to Article 129 of the General Law of Commercial Companies. The Shareholders Ledger shall be signed by either the Chairman of the Board of Directors or the Secretary of the Board of Directors, or by any officer appointed by such effects by the Board of Directors. Except a judicial order stating otherwise, the Company shall recognize as a shareholder the person recorded in the Shareholders Ledger, and shall record upon request of any holder, the transfer of any shares.- TWELFTH.- GENERAL SHAREHOLDERS MEETINGS.- The General Shareholders Meeting shall be the supreme power of the Company, and the Meeting may resolve or ratify any and all acts of the Company. Its authority shall have limited only to the extent of applicable law and these by-laws. Its validly adopted resolutions shall be binding to all shareholders, even absent or dissenting shareholders, and shall be binding to management, the chief executive officer, directors, general manager, deputy general managers and representatives and shall be executed by the person or persons appointed for such effects as special delegates, and in absence of such appointment, by the Chairman of the Board of Directors.- THIRTEENTH.- ORDINARY AND EXTRAORDINARY SHAREHOLDERS MEETINGS.- General Shareholders Meetings may be ordinary, extraordinary or special, the later ones shall be held to discuss items related to each Series of stock. Any shareholders meeting shall be held in the corporate domicile, except in the case of force majeure. Extraordinary Shareholders Meetings shall gather to discuss the items set forth in Article 182 of the General Law of Commercial Companies. Ordinary Shareholders Meetings shall gather at any time to discuss the items not listed for the extraordinary meetings. Meetings will be held at least once a year within the four months following the close of the fiscal year, and will address, in addition to the items included in the agenda, the following matters: a) Discuss, approve or modify the report of the administrators referred to in the general provisions of article 172 of the General Law of Commercial Companies, taking into account the report of the Examiner; b) appoint every two years the members of the Board of Directors and the Examiner; c) Determine the compensation to be paid to the members of

the Board of Directors and the Examiner. Ordinary Shareholders Meetings and Extraordinary Shareholders Meetings will be held when called further to the provisions of these By-laws.- FOURTEENTH.- CALLS.- The shareholder meetings shall be called by means of a notice approved by the Board of Directors and shall be signed by the Secretary of the Board of Directors or the Examiner, notwithstanding the rights conferred to the shareholders in accordance with Articles 168, 184 and 185 of the General Law of Commercial Companies. The call shall be published in the Official Gazette of the corporate domicile or in a newspaper of wide circulation in such domicile, with at least 15 (fifteen) days before the date set for the meeting, and with at least 10 (ten) days if the event of a second call; during the stated time and regarding Meetings referred to in Article 181 of the General Law of Commercial Companies, the report and other documents referred to in Article 173 of such law, shall be available to the shareholders, in the other cases, reports and documents related to the items of the agenda shall be available to the shareholders. Publication of the call shall not en needed if during the Meeting, all the shares of stock outstanding are represented.- FIFTEENTH.- SHAREHOLDERS ATTENDANCE RIGHTS.- To have attendance rights in the Shareholders Meetings and to participate in such meetings, and to exercise the right to obtain information concerning to the shareholders as a result of the call to the meeting, the shareholders shall appear as shareholders of record in the Shareholders Ledger referred to in Article Eleventh of these by-laws. The Secretary, upon verification of the Shareholders Ledger, shall issue a statement showing the capacity of shareholder and the number of shares represented, and such statement shall be used as admission pass and right to participate during the Meeting. The Secretary shall make available to the Tellers appointed in the Meeting the documentation referred to in this article, in order for them to proceed, within the registry term, to prepare the Attendance List of the shareholders entitled to attend such meeting.- SIXTEENTH.- SHAREHOLDERS REPRESENTATION.- Any shareholder shall be entitled to attend Shareholders Meetings personally or by general or special legal representatives, and for the later event a simple proxy letter signed before two witnesses shall be sufficient. The respective proxy shall be delivered to the Secretary of the Company at least 48 (forty-eight) hours in advance to the date set for the meeting. The legal representatives, tutors, executors and trustees shall be entitled to attend the meetings in the name and stead of the shareholders by proving such capacity. The documentation shall be available to the Tellers appointed during the meeting. The directors and the examiner shall never be holders of any proxy to represent shareholders.- SEVENTEENTH.- MEETING INSTALLATION AND VOTING.- With respect

to attendance quorums and voting, the following provisions shall be followed: a) Ordinary Shareholders Meetings.- By virtue of first call, attendance quorum shall constitute the presence or representation of at least half of the capital stock outstanding. By virtue of second call, the Meeting shall be legally installed by any number of shares represented. Resolutions shall be validly adopted by simple majority vote of shares represented.- b) Extraordinary Shareholders Meetings.- By virtue of first call, attendance quorum shall constitute the presence or representation of at least three quarters of the capital stock outstanding. By virtue of second or later call, the Meeting shall be legally installed by the presence or representation of at least half of the capital stock outstanding. In any event, resolutions during Extraordinary Shareholders Meetings shall be adopted by the favorable vote of a number of shares representing at least half of the capital stock outstanding.- If any attendance quorum was not met in a Meeting during the first call, minutes shall be recorded in the Minute Book, stating such failure to meet the attendance quorum and such minutes shall be signed by the President and the Secretary, and the Examiner if present, and the appointed Tellers; the minutes shall contain the date of the newspaper in which it was published the call for the meeting; the appendix of such meeting shall be formed further to the provisions of these by-laws. In these cases, a second call shall be published once stating this fact, in the Official Gazette of the corporate domicile or in a newspaper of wide distribution in such domicile, with at least ten calendar days before the date set for the meeting.- The Tellers shall verify that the resolutions were adopted in accordance with the voting percentage requirement set forth in this article.- EIGHTEENTH.- PROCEDURE FOR THE MEETING.- The meeting shall be presided by the Chairman of the Board of Directors, or in his absence by the other directors in the order of their appointments; or in their absences by a shareholder appointed by the majority of attending shareholders. The Secretary of the Meeting shall be the Secretary of the Board of Directors, or in his absence by the other directors in the order of their appointments; or in their absences by a shareholder appointed by the majority of attending shareholders. The President of the Meeting shall appoint among the attendants two (2) tellers, the appointment of Tellers may be done in writing at the moment of publication of the call for the meeting. In the event of absence of the appointed Tellers during the meeting, the President shall make a new designation.- The attending Tellers shall certify the number of shares legally represented, using the documents available to them, the Shareholders Ledger and the attendance list prepare for such purposes.- NINETEENTH.- AGENDA FOR THE MEETING.- If by any event, not all the items contained in the Agenda for the Meeting were discussed, such

pending items shall be discussed in the preceding business days at the same time the first Meeting started, without need of a new call, until all the items of the Agenda are covered. The Meeting may be adjourned in the event set forth in Article 199 of the General Law of Commercial Companies.- TWENTIETH.- MINUTES OF THE MEETING.- The Secretary shall prepare minutes for each Shareholder Meeting, and shall contain the number of shares represented, the items discussed and the resolutions adopted. Such minutes shall be signed by the President, the Secretary, the Examiner if present during the meeting, and the appointed Tellers. Furthermore, from every meeting, a file shall be formed as Appendix for such meeting, and shall contain a duplicate in plain paper of the minutes, the attendance list signed by the attendants to the meeting duly certified by the appointed Tellers, the Official Gazette and/or the newspaper in which it was published the call for the meeting, and any other documents involved in the discussions. The certified copies of the minutes or extracts of the minutes needed to be issued for any purpose, shall be authorized by the Chairman or the Secretary of the Board of Directors.- TWENTY-FIRST.- RESOLUTIONS ADOPTED IN LIEU OF A MEETING.- Further to the provisions of Article 178 of the General Law of Commercial Companies, resolutions adopted in lieu of a meeting by the unanimous vote of shareholders representing all the shares with voting right, or the special category of shares involved, if applicable, shall have for all legal purposes the same validity as if they had been adopted during the holding of a regular or special meeting, respectively, provided that they are confirmed in writing. The provisions set forth in this article are valid without need of a previous call.- TWENTY-SECOND.- BOARD OF DIRECTORS.- Management of the Company shall be entrusted to a Board of Directors formed by the number of members determined by the respective shareholders meeting, provided that such number is an odd number not less than 3 (three) and not more than 9 (nine). The members of the Board may or may not be shareholders of the company, shall be appointed for a period of two years and may be reelected without limitation.- Notwithstanding, if by any circumstance there is no renovation in the Board, the acting members of the Board shall continue in their positions an exercising their authority until the person designated to substitute them take possession of the office.- At the time the Shareholders Meeting is electing the members of the Board of Directors, the Shareholders Meeting shall appoint the Chairman and the Secretary of the Board. If no election was made, the Chairman, the Secretary and the Alternate Secretary shall be elected by the Board of Directors during the first meeting of the Board after the Shareholders Meeting that appointed the members of the Board. The Chairman of the Board of Directors shall also be

the President of the Company, with the authority referred to in these by-laws. If there was no express appointment, the second appointed member of the Board shall be the Secretary of the Board. The other members of the Board shall hold the positions of vocals. Alternate directors to each member of the board shall be elected to cover the absences of them. TWENTY-THIRD.- ELECTION OF THE BOARD OF DIRECTORS.- During the election of members of the Board of Directors, any shareholder or group of shareholders holding at least 25% (twenty-five percent) of the shares of stock outstanding, and if they did not vote among the majority that appointed the members of the Board of Directors, shall have the right to appoint one additional member of the Board and the respective alternate, and such individuals shall have the same rights and authority than the other members of the Board. The alternate director shall only cover the absences of the minority director.- TWENTY-FOURTH.- GUARANTEE OF PERFORMANCE OF THE MEMBERS OF THE BOARD OF DIRECTORS.- When the Shareholders Meeting so resolves, the members of the Board of Directors, to guarantee its performance, shall each deposit an amount equal to N$100.00 (ONE HUNDRED AND 00/100 NEW MEXICAN PESOS) in the Treasury of the Company, or shall post a security or guaranty in favor of the Company by the same amount, further to the provisions of Article 152 of the General Law of Commercial Companies. Such deposit or guaranty shall be returned when the Shareholders Meeting approve the corresponding performance.- TWENTY-FIFTH.- COMPENSATION TO DIRECTORS.- The directors shall receive as compensation the amounts approved by the Shareholders Meeting, and such compensation shall be in effect until modified by the Shareholders Meeting.- TWENTY-SIXTH.- LIABILITY OF MANAGEMENT.- The members of management, as a result of their duties shall have the responsibilities referred to in Articles 156, 157, 158 and 159 of the General Law of Commercial Companies. When the members of management act further to a power of attorney granted and further to the corporate purpose, the company shall hold such individuals harmless from any loss or claim against their capital as a result of the exercise of such power of attorney.- TWENTY-SEVENTH.- HONORARY PRESIDENT.- When the Shareholders Meeting so resolves, it shall appoint one individual as Honorary President of the Company as a reward of its performance and merits within the Company.- TWENTY-EIGHTH.- IMPEDIMENTS FOR DIRECTORS AND EXAMINERS.- The following individuals shall not be appointed as Directors or Examiners of the Company: a) the individuals that do not have the legal capacity to bind themselves; b) individuals that are prohibited to engage in commerce, and c) the individuals that the Company has

outstanding or matured debts against them. If any Director after their designation falls into any of the events described above, shall cease in his function, and shall not act as directors again until a new election is made and provided the impediment has disappeared.- TWENTY-NINTH.- OPERATION OF THE BOARD OF DIRECTORS.- The Board of Directors shall meet whenever a call is issued by the President or the Secretary. Meetings shall take place in the corporate domicile, agencies, branches or representative offices of the Company, or elsewhere in Mexico or abroad as the Board of Directors determines. It shall be validly installed a meeting of the Board of Directors with the presence of the majority of its members; the Board of Directors resolutions shall be valid if they are approved by majority of the attendant members, the President shall hold the casting vote in the event of a tie. The absences of the President and the Secretary shall be covered by the next appointed member of the Board. Regarding permanent absences, the Shareholders Meeting shall proceed with a new election.- The minutes of all the Board of Directors meetings shall be prepared and shall give details of the attending directors and the resolutions approved, and such minutes shall be authorized by the President and the Secretary, or by directors acting as President and Secretary of the respective meeting. Furthermore, from every meeting, a file shall be formed as Appendix for such meeting, and shall contain a duplicate in plain paper of the minutes, the attendance list signed by the directors attending the meeting and duly certified by the Secretary of the Company, and any other documents involved in the discussions. The certified copies of the minutes or extracts of the minutes needed to be issued for any purpose, shall be authorized by the Chairman or the Secretary of the Board of Directors.- THIRTIETH.- RESOLUTIONS ADOPTED IN LIEU OF A MEETING.- Further to the provisions of Article 143 of the General Law of Commercial Companies, resolutions adopted in lieu of a meeting by the unanimous vote of all the directors, shall have for all legal purposes the same validity as if they had been adopted during the holding of board meeting, provided that they are confirmed in writing.- THIRTY-FIRST.- AUTHORITY, OBLIGATIONS, ATTRIBUTIONS AND POWERS OF THE BOARD OF DIRECTORS.- The Board of Directors shall have, except the modifications or restrictions approved by the Shareholders Meeting, the following authority, obligations, attributions and powers:- A) GENERAL POWER FOR LAWSUITS AND COLLECTIONS to represent the Company, with all general and special powers which by law require a special clause according to law without any limitation, as provided for in the first paragraph of Article Articles (2554) two thousand five hundred fifty four and (2587) two thousand five hundred eighty seven of the Civil Code for the Federal

District in common matters and applicable in the whole Mexican Republic for federal matters, and their correlative articles (2448) two thousand four hundred forty eight and (2481) two thousand four hundred eighty one of the Civil Code of the State of Nuevo Leon, and their correlative articles of the Civil Codes of the other Mexican States. Consequently, the BOARD OF DIRECTORS, THE LEGAL REPRESENTATIVE AND GENERAL ATTORNEY-IN-FACT shall be empowered to represent the Company before any individual or moral person, and before any kind of Authority, either judicial (Civil or Criminal), Administrative or Labor, either federal or local, throughout the Mexican Republic or abroad, during judicial proceedings or otherwise; and shall be empowered to participate in any kind of judicial proceedings, either Civil, Commercial, Tax, Administrative, Criminal or Labor, including *Amparo* proceedings, to follow such lawsuits and drop them if convenient for the Company; to file recourses against decision of authorities; to consent favorable rulings and appeal not favorable rulings; to present answers in any lawsuits filed against the Company, to file and ratify accusations or complaints before criminal authorities, being empowered to establish the Company as co-party with the public prosecutor in criminal processes and grant pardon when applicable; to recognize signatures, documents and argue as false the arguments presented by the other party; to present witnesses, and to see the other party presenting witnesses, and to question such witnesses; to make and answer depositions; to settle and agree in arbitral procedures; to impeach judges, justices and any judicial officers, administrative officers, without cause, with cause and under oath; and to appoint experts during such procedures.- B).- GENERAL POWER, by means of the delegation of the LEGAL REPRESENTATION OF THE COMPANY, to represent the Company during labor proceedings as set forth in Articles (11) eleven, (46) forty six, (47) forty seven, (134) one hundred thirty-four section III, (523) five hundred twenty-third, (694) six hundred ninety four, (695) six hundred ninety five, (786) seven hundred eighty six, (787) seven hundred eighty seven, (874) eight hundred seventy four, (876) eight hundred seventy six, (878) eight hundred seventy eight, (880) eight hundred eighty, (883) eight hundred eighty three, (884) eight hundred eighty four, (889) eight hundred eighty nine, with respect to the applicable provisions of Chapters XII and XVII of Title Fourteen of the Federal Labor Code, with the rights and attributions related to legal representation in accordance to such law. Furthermore, it is granted the LABOR REPRESENTATION in accordance with Article (11) eleven of said Federal Labor Code. The AUTHORITY hereby granted, the LABOR REPRESENTATION hereby delegated and the EMPLOYER REPRESENTATION hereby granted, shall be exercised by

the BOARD OF DIRECTORS AND THE GENERAL ATTORNEY-IN-FACT, with the following powers listed below without limitation. The BOARD OF DIRECTORS, the EMPLOYER LEGAL REPRESENTATIVE and THE GENERAL ATTORNEY-IN-FACT, may act before the Unions that the Company executed collective bargaining agreements, and regarding any labor conflict; may act before workers personally and regarding any individual conflicts; and in general in any matter regarding employer-workers matters, and such authority may be exercised before any Labor or Social Service authority referred to in Article (523) five hundred twenty-three of the Federal Labor Code; empowered to appear before the *Juntas de Conciliacion y Arbitraje*, either federal or local. Consequently, The BOARD OF DIRECTORS, the EMPLOYER LEGAL REPRESENTATIVE and THE GENERAL ATTORNEY-IN-FACT, in the name and stead of the Company, may appear before any labor proceeding with the powers and authority set forth in sections A), C) and F) of this Article as applicable, and furthermore, they shall bear the EMPLOYER REPRESENTATION for purposes of Article (11) eleven, (46) forty-six and (47) forty-seven, and the LEGAL REPRESENTATION of the Company to justify the corporate authority and legal capacity during court proceedings further to Articles (692) six hundred ninety two, sections II and III, may appear during the practice of confession evidence further to Articles (787) seven hundred eighty seven and (788) seven hundred eighty eight of the Federal Labor Code, with authority to make and answer questions and to participate in confession evidence; empowered to designate conventional domiciles further to Article (876) eight hundred seventy-six; may appear with the LEGAL REPRESENTATION at the hearing referred to in Article (873) eight hundred seventy-three during the three stages of conciliation, lawsuit and defenses, and evidence offering and admission further to Article (875) eight hundred seventy-five, (876) eight hundred seventy-six sections I and VI, (877) eight hundred seventy-seven, (878) eight hundred seventy-eight, (879) eight hundred seventy-nine, (880) eight hundred eighty; to appear in the evidence hearing further to Articles (873) eight hundred seventy-three and (874) eight hundred seventy four; all of them articles of the Federal Labor Code; furthermore, they are empowered to present and accept conciliation measures, to make transactions, to take any kind of decisions, to negotiate and to execute any kind of labor agreements, either judicial or extrajudicial; at the same time they are entitled to act as REPRESENTATIVE OF THE COMPANY in their capacity of Management regarding any class of labor judicial proceedings or procedures; either individual or collective, brought before any authority; may execute and terminate labor agreements, to offer reinstatements, answer any kind of lawsuits, claims or

summons, ratifying the Company any and all acts performed by the BOARD OF DIRECTORS, THE LEGAL REPRESENTATIVE AND THE GENERAL ATTORNEY-IN-FACT during such hearings.- C).- GENERAL POWER FOR MANAGEMENT ACTS, further to the terms set forth in the second paragraph of Article (2554) two thousand five hundred fifty four of the Civil Code for the Federal District in common matters and applicable in the whole Mexican Republic for federal matters, and its correlative article (2448) two thousand four hundred forty eight of the Civil Code of the State of Nuevo Leon, and its correlative article of the Civil Codes of the other Mexican States.- D).- GENERAL POWER FOR OWNERSHIP ACTS, further to the terms set forth in the third paragraph of Article (2554) two thousand five hundred fifty four of the Civil Code for the Federal District in common matters and applicable in the whole Mexican Republic for federal matters, and its correlative article (2448) two thousand four hundred forty eight of the Civil Code of the State of Nuevo Leon, and its correlative article of the Civil Codes of the other Mexican States; consequently, the BOARD OF DIRECTORS, THE LEGAL REPRESENTATIVE AND GENERAL ATTORNEY-IN-FACT shall be empowered with the most ample powers to dispose of real estate property, and any real or personal rights, including the power to carry on any kind of procedures to defend them, and to acquire or sale negotiable instruments further to the terms of the in the third paragraph of Article (2554) two thousand five hundred fifty four of the Civil Code for the Federal District in common matters and applicable in the whole Mexican Republic for federal matters, and its correlative article (2448) two thousand four hundred forty eight of the Civil Code of the State of Nuevo Leon, and its correlative article of the Civil Codes of the other Mexican States. Including the powers to contribute personal or real estate property of the Company to other companies within the group, either affiliates, subsidiaries, controlling or controlled companies, and to subscribe shares of stock or take equity interests in other companies, and to encumber in any way the property of the Company. - E) GENERAL POWER to issue, accept, certify, grant, subscribe, guarantee, release, endorse and assign any kind of negotiable instruments in the name and stead of the Company, further to Articles (9) nine section I, (85) eighty-five, and (174) one hundred seventy four of the General Law of Negotiable Instruments; to issue *avales*, Securities and in general to guarantee, including pledge and mortgage, obligations of third parties, with or without compensation, and consequently to subscribe negotiable instruments, agreements, contracts and other documents that are necessary or convenient to perfect such guarantees, including the power to issue checks to use the funds in bank accounts, deposit accounts in other institutions and to obligate the

Company in any way necessary within the operation of this authority. F) GENERAL POWER TO GRANT AND REVOKE GENERAL AND SPECIAL POWERS OF ATTORNEY, and to delegate its authority either totally or partially, granting to the attorney-in-fact the powers that it deems convenient within the authority of the Board of Directors; when substituting wholly or partially this authority, the Board of Directors, the Legal Representative and the General Attorney-in-fact, shall not lose their authority as MANDATORY of the Company. The substitute mandataries may also substitute by means of delegation each and every Powers and Authority granted to them, including the substitution authority.- G) To establish offices, agencies, branches and representative offices of the Company, and to make the installations that are necessary for the corporate purposes in the way it deems it convenient, allocating the employees in the places within or outside the corporate domicile, as it is deemed convenient.- H) To appoint the Chief Executive Officer, Officers, General Manager, Managers, Deputy Managers, Attorneys-in-fact and other employees of the Company, establishing their duties, obligations, authority, compensation, and to freely revoke such appointments. I) To hire technicians or contract with other companies the rendering of services, either consulting services or to manage any aspect of the administration.- J) To agree the acquisition or sale of shares of stock or equity interests, and the direction of the vote during Ordinary or Extraordinary Meetings in corporations in which the company is a shareholder, and to exercise the appraisal rights in the companies with variable capital.- K) To authorize the assignment of the shares issued by the Company of the legitimate holders, or as the case may be, to negate the assignment appointing a purchaser further to applicable law.- L) To deliver to the Examiner, monthly, a statement regarding the financial position and results of the Company.- M) To call for General Shareholders Meetings, rendering a report on the status of the operations of the Company.- N) To execute the resolutions of the Shareholders Meetings, and in general to perform the acts and operations deemed convenient or necessary to carry on the corporate purpose, except the acts and operations reserved to the Shareholders Meeting further to applicable law or these by-laws.- THIRTY-SECOND.- EXAMINER.- The surveillance of the operations of the Company shall be entrusted to one Examiner, which may or may not be shareholder of the Company, and appointed by the General Shareholders Meeting. The absence, for any reason, of the Examiner shall be covered further to the provisions of Article 168 (one hundred sixty-eight) of the General Law of Commercial Companies.- THIRTY-THIRD.- GUARANTEE OF PERFORMANCE OF THE EXAMINER.- When the Shareholders Meeting so resolves, the Examiner, in order

to guarantee its performance, shall each deposit an amount equal to N$100.00 (ONE HUNDRED AND 00/100 NEW MEXICAN PESOS) in the Treasury of the Company, or shall post a security or guaranty in favor of the Company by the same amount, further to the provisions of Article 152 of the General Law of Commercial Companies. Such deposit or guaranty shall be returned when the Shareholders Meeting approve the corresponding performance.- THIRTY-FOURTH.- TERM OF OFFICE OF EXAMINER.- The Examiner shall be in office for two years and shall continue in office until the person designated to substitute him take possession of the office. The Examiner may be reelected without limitation.- THIRTY-FIFTH.- COMPENSATION OF THE EXAMINER.- The Examiner or Examiners shall receive as compensation the amounts approved by the Shareholders Meeting, and shall be in effect until the Shareholders Meeting decides to modify such compensation. THIRTY-SIXTH.- FISCAL YEARS.- The fiscal year shall last one calendar year, running from January 1 st to December 31st of each year. Notwithstanding the foregoing, and provided that the applicable law allows it, the Shareholders Meeting or the Board of Directors may change the dates to open and close each fiscal year, without need to amend these by-laws. THIRTY-SEVENTH.- ANNUAL REPORT.- At the conclusion of each fiscal year, it shall be prepared an Annual Report that shall include at least, and further to the applicable laws, a balance sheet or a statement showing the financial position of the Company as of the end of the corresponding fiscal year, a statement sowing the results of the Company during such fiscal year, a statement showing the changes in the items that form the net worth of the Company during that year, and the notes that are necessary to complete or clarify the information contained in the financial information, together with the report of the Examiner, and shall be submitted to the consideration of the Annual Shareholders Meeting. THIRTY-EIGHTH.- EARNINGS ALLOCATION.- The net earnings of the Company obtained in each fiscal year, once deducted the necessary amounts for amortization, depreciation, penalties and income tax payments, shall be distributed as follows: A) An amount not less than 5% (FIVE PERCENT) shall be separated from the net earnings by the Shareholders Meeting to establish the legal reserve, until the amount of such legal reserve reaches 20% (TWENTY PERCENT) of the capital stock; B) An amount deemed convenient shall be separated from the net earnings by the Shareholders Meeting to establish special reserve funds; C) The balance shall be distributed a s a dividend and shall be distributed among the holders of common Series “A” shares and common Series “B” shares in proportion to the number of shares that they own, corresponding to every share an equal portion. Payment of dividends shall be done

further to the provisions of applicable law. If there are shares that are wholly paid since the beginning of the fiscal year and shares that were paid during the fiscal year or shares of stock partially paid, the last two shall have the right to receive dividends, in accordance with the value paid in proportion to the respective time. THIRTY-NINTH.- LOSSES REPORT. The shareholders shall not be liable for the losses of the company, except if there are pending contributions. The losses, if any, shall affect the shares equally up to their respective par value. FORTIETH.- RIGHTS OF THE FOUNDERS.- The founders of this company do not reserve any special participation or special benefits in the profits of the company. FORTY-FIRST.- DISSOLUTION OF THE COMPANY. The company shall be dissolved in any of the cases contemplated in Article 229 of The General Law of Commercial Companies.- FORTY-SECOND.- LIQUIDATOR. Once the company is dissolved, the Shareholders' Meeting by majority vote shall appoint one or more Liquidators. If there are several liquidators, their decisions shall be governed by the rules set forth for the Board of Directors meetings. The Shareholders' Meeting shall fix the time limits for the liquidation and the compensation the liquidators shall receive.- FORTY-THIRD.- DUTIES AND AUTHORITY OF THE LIQUIDATORS. The liquidator or liquidators shall have the sale authority as management during liquidation, and specifically the following duties: A). They shall conclude the pending business in the manner that they deem the most convenient; B) shall collect the amounts payable, paying the debts and selling the assets of the company that may be necessary for such purpose; C) The resulting liquid asset obtained from the final liquidation balance prepared by the liquidators and approved by the shareholders meeting shall be distributed among all of the company's shareholders. The distribution shall be in kind, or selling the remaining assets and distributing the proceeds or otherwise as resolved by the shareholders' meeting.- FORTY-FOURTH.- FUNCTIONS OF THE ORDINARY SHAREHOLDERS MEETING DURING LIQUIDATION. During the liquidation process the shareholders meeting shall have the necessary authority to determine the rules that, in addition to the authority set fort in applicable law of the provisions of these by-laws, shall govern the performance of the liquidator or liquidators, including the authority to revoke the appointment of liquidators and to appoint new ones.- FORTY-FIFTH.- CALLS FOR SHAREHOLDERS MEETING DURING LIQUIDATION. The calls for shareholders meetings during liquidation shall be done by the liquidators, or by the Examiners.- FORTY-SIXTH.-. FUNCTIONS OF THE EXAMINER DURING LIQUIDATION. During the liquidation the examiner or examiners shall have the same duties and obligations that they normally perform during the term of

the company, with respect to the board of directors.- FORTY-SEVENTH.- FUNCTIONS, OBLIGATIONS, DUTIES AND AUTHORITY OF OFFICERS DURING LIQUIDATION. While the appointment of the Liquidators is not recorded in the Public Registry of Commerce, and such Liquidators are not yet in office, the Board of Directors and the officers, the Chief Executive Officer, Directors, General Manager and/or deputy general managers of the company, shall continue to perform their respective positions, however, they shall not begin new operations after the shareholders adopted the resolution to liquidate the company, or if it is proven a legal cause for liquidation.- FORTY-EIGHTH.- SUBMIT TO JURISDICTION.- To resolve any and all matters arising between the company and its shareholders, or between the shareholders in their capacity of shareholders, the initial shareholders hereby agree and the future shareholders also shall agree to expressly submit themselves to the jurisdiction of the competent courts of the First Judicial District of the State of Nuevo Leon, sitting in the city of Monterrey."…"

IV.- Mr. JOSE LEOPOLDO QUIROGA CASTAÑON proves the authority in which he is appearing on behalf of the company named **EMPRESAS TOLTECA DE MÉXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE**, and states that such authority has not been revoked or limited in any way, and proves the legal existence and good standing of said company, with the following documentation:

AUTHORITY TO APPEAR TO THIS LEGAL ACT:

With the first instrument of public deed number 29,668 (twenty nine thousand six hundred sixty eight), dated as of November 11 (eleven), 2002 (two thousand and two), issued by Mr. Francisco Garza Calderón, then Notary Public Number 75 (seventy five), and recorded in the Public Registry of Property and Commerce of the city of Monterrey, Nuevo Leon, under number 11,366 (eleven thousand three hundred sixty-six), Volume 3 (three), Book First, Public Registry of Commerce, First District as of November 15 (fifteen), 2002 (two thousand and two), regarding the appointment of GENERAL ATTORNEYS-IN-FACT of the Company, among them the individual appearing to this act, Mr. **JOSE LEOPOLDO QUIROGA CASTAÑON**, and the issuance of corporate authority in his favor. The undersigned Notary hereby attest to have such document in front of me, and partially transcribe it as follows: ".....That before me appeared Mr. LORENZO H. ZAMBRANO, in his capacity of General Attorney-in-fact of "EMPRESAS TOLTECA DE MEXICO, SOCIEDAD ANÓNIMA DE CAPITAL VARIABLE", and STATED: That intends to grant authority and appoint LEGAL REPRESENTATIVES in the following terms: GENERAL

POWER OF ATTORNEY FOR BANKING TRANSACTIONS AND GENERAL POWER OF ATTORNEY FOR MANAGEMENT ACTS IN FAVOR OF MESSRS. RODRIGO TREVIÑO MUGUERZA, RAMIRO VILLARREAL MORALES, RENE DELGADILLO GALVAN, HUMBERTO LOZANO VARGAS, HECTOR VELA DIB, JAVIER TORRES HERNANDEZ, VICTOR NARANJO BANDALA AND**JOSE LEOPOLDO QUIROGA CASTAÑON**, TO BE EXERCISED JOINTLY OR INDIVIDUALLY, IN THE NAME AND IN STEAD OF "EMPRESAS TOLTECA DE MEXICO, S.A. DE C.V.".- IN ACCORDANCE WITH THE FOREGOING, Mr. LORENZO H. ZAMBRANO, on behalf of "EMPRESAS TOLTECA DE MEXICO, S.A. DE C.V.", issues the following:- CLAUSES: FIRST.- In his capacity of GENERAL LEGAL REPRESENTATIVE OF THE COMPANY, and in accordance with the provisions of Article 10 (ten) of the General Law of Commercial Companies, hereby grants in favor of Messrs. RODRIGO TREVIÑO MUGUERZA, RAMIRO VILLARREAL MORALES, RENE DELGADILLO GALVAN, HUMBERTO LOZANO VARGAS, HECTOR VELA DIB, JAVIER TORRES HERNANDEZ, VICTOR NARANJO BANDALA and JOSE LEOPOLDO QUIROGA CASTAÑON, jointly or individually, General Powers of Attorney to execute any transactions related to the corporate purpose of the company "EMPRESAS TOLTECA DE MEXICO, S.A. DE C.V.", in accordance with the following terms, and such individuals shall act as LEGAL REPRESENTATIVES OF THE COMPANY.- A).- GENERAL BANKING AUTHORITY in connection with negotiable instruments in the name and stead of the Company, further to Article (9) nine of the General Law of Negotiable Instruments; to issue *avales*, Securities and in general to guarantee obligations of the company.- B).- GENERAL POWER FOR MANAGEMENT ACTS, further to the terms set forth in the second paragraph of Article (2448) two thousand four hundred forty eight of the Civil Code of the State of Nuevo Leon, and its correlative article of the Civil Codes of the other Mexican States and the Federal Civil Code.- SECOND.- Mr. LORENZO H. ZAMBRANO, hereby binds the Company "EMPRESAS TOLTECA DE MEXICO, S.A. DE C.V.", to ratify any and all acts entered by its GENERAL LEGAL REPRESENTATIVES Messrs. RODRIGO TREVIÑO MUGUERZA, RAMIRO VILLARREAL MORALES, RENE DELGADILLO GALVAN, HUMBERTO LOZANO VARGAS, HECTOR VELA DIB, JAVIER TORRES HERNANDEZ, VICTOR NARANJO BANDALA AND JOSE LEOPOLDO QUIROGA CASTAÑON, as a result of the authority hereby granted, within the authority hereby granted"

LEGAL EXISTENCE AND GOOD STANDING OF THE COMPANY

a).- First Instrument of Public Deed Number 4,038 (four thousand thirty-eight), issued as of July 20 (twenty), 1989 (one thousand nine hundred eighty-nine), issued by Mr. Adolfo Cesar Guerra Hinojosa, Alternate Notary Public, ascribed to the Notary Public No. 70 (seventy), with exercise in the city of Monterey, Nuevo Leon, recorded under number 1508 (one thousand eight), Page 241 (two hundred forty-one), Volume 321 (three hundred twenty-one), Book No, 3 (three), Second Auxiliary Deeds of Commercial Corporations, Commerce Section, as of September 22 (twenty-two), 1989 (one thousand nine hundred eighty-nine) in the Public Registry of Property and Commerce of the city of Monterrey, related to the incorporation of the company CEMEX CONTROL, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, in accordance with the permit issued by the Secretary of Foreign Relations under number 001985 (zero, zero, one, nine, eight, five), File No. 09/32110/89 (zero, nine slash thirty two thousand eleven hundred slash eighty nine), Page 002632 (zero, zero, two thousand six hundred thirty two), as of July 13 (thirteen), 1989 (one thousand nine hundred eighty-nine).

b).- First Instrument of Public Deed Number 4,879 (four thousand eight hundred seventy-nine), issued as of December 4 (four), 1989 (one thousand nine hundred eighty-nine), issued by Mr. Francisco Garza Calderon, Notary Public No. 75 (seventy five), with exercise in this city, recorded under number 5510 (five thousand five hundred ten), Page.-.-, Volume 191-111 (one hundred ninety-one dash one hundred eleven), Book No, 4 (four), Third Auxiliary Acts and Agreements, Commerce Section, as of December 6 (six), 1989 (one thousand nine hundred eighty-nine) in the Public Registry of Property and Commerce of the city of Monterrey, related to the formalization of the minutes of the General Extraordinary Shareholders Meeting of CEMEX CONTROL, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, held on October 23 (twenty-third), 1989 First Instrument of Public Deed Number 4,038 (four thousand thirty-eight), issued as of July 20 (twenty), 1989 (one thousand nine hundred eighty-nine), issued by Mr. Adolfo Cesar Guerra Hinojosa, Alternate Notary Public, ascribed to the Notary Public No. 70 (seventy), with exercise in the city of Monterey, Nuevo Leon, recorded under number 1508 (one thousand eight), Page 241 (two hundred forty-one), Volume 321 (three hundred twenty-one), Book No, 3 (three), Second Auxiliary Deeds of Commercial Corporations, Commerce Section, as of September 22 (twenty-two), 1989 (one thousand nine hundred eighty-nine) in the Public Registry of Property and Commerce of the city of Monterrey, related to the incorporation of the company CEMEX CONTROL, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, in

accordance with the permit issued by the Secretary of Foreign Relations under number 001985 (zero, zero, one, nine, eight, five), File No. 09/32110/89 (zero, nine slash thirty two thousand eleven hundred slash eighty nine), Page 002632 (zero, zero, two thousand six hundred thirty two), as of July 13 (thirteen), 1989 (one thousand nine hundred eighty-nine), in which it was resolved to merge the corporations Arnisdale Investments Ltd and Culvain Investments Ltd, into CEMEX CONTROL, S.A. DE C.V., as surviving entity.

c).- First Instrument of Public Deed Number 66,236 (sixty six thousand two hundred thirty six), issued as of August 19 (nineteen), 1999 (one thousand nine hundred ninety-nine), issued by Mr. Juan Manuel García García, Notary Public No. 129 (one hundred twenty-nine), with exercise in the First District, recorded under number 6107 (six thousand one hundred seven), Volume 209-123 (two hundred nine dash one hundred twenty three), Book No, 4 (four), Third Auxiliary Acts and Agreements, Commerce Section, as of August 30 (thirty), 1999 (one thousand nine hundred ninety-nine) in the Public Registry of Property and Commerce of the city of Monterrey, related to the formalization of the minutes of the General Extraordinary Shareholders Meeting of CEMEX CONTROL, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, held on July 30 (thirty), 1999 (one thousand nine hundred ninety nine) in which it was approved among other things, the change of the corporate name from CEMEX CONTROL, S.A. DE C.V. to EMPRESAS TOLTECA DE MEXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, and consequently amending Article First of the By-laws of the Company.

d).- Copy of the First Instrument of Public Deed Number 73,814 (seventy three thousand eight hundred fourteen), issued as of December 13 (thirteen), 2001 (two thousand one), issued by Mr. Juan Manuel García García, Notary Public No. 129 (one hundred twenty-nine), with exercise in the First District, recorded under number 723 (seven hundred twenty three), Volume 3, Book No. 1 (one), Third Auxiliary Acts and Agreements, Commerce Section, as of January 28 (twenty eight), 2002 (two thousand two) in the Public Registry of Property and Commerce of the city of Monterrey, related to the formalization of the minutes of the General Extraordinary Shareholders Meeting of EMPRESAS TOLTECA DE MEXICO, SOCIEDAD ANONIMA DE CAPITAL VARIABLE, held on November 30 (thirty), 2001 (two thousand one) in which it was approved among other things, to restructure the capital stock of the Company, by decreasing the variable part of the capital stock of the Company in an amount equal to $800’000,000.00 (EIGHTH

HUNDRED MILLION PESOS 00/100 MEXICAN CURRENCY) and increasing the fixed part of the capital in an amount equal to $800’000,000.00 (EIGHTH HUNDRED MILLION PESOS 00/100 MEXICAN CURRENCY), reaching the total capital stock in the amount of $3,876’118,066.00 (THREE THOUSAND EIGTH HUNDRED SEVENTY SIX MILLION ONE HUNDRED EIGHTEEN THOUSAND SIXTY SIX PESOS 00/100 MEXICAN CURRENCY), and were designated for cancellation a total of 800’000,000 (eight hundred million) common ordinary nominative shares with a par value of $1.00 (ONE PESO 00/100 MEXICAN CURRENCY) each, all of them property of the shareholder Cemex México, S.A. de C.V., out of which 408’000,000 (four hundred and eight million) correspond to the Series “A”, and 392’000,000 (three hundred ninety two million) correspond to the Series “B”, all of them representative of the Variable Part of the capital Stock; in addition, it was approved to issue a total of 800’000,000 (eight hundred million) common ordinary nominative shares without par value, which shall be subscribed by the shareholder Cemex México, S.A. de C.V., out of which 408’000,000 (four hundred and eight million) correspond to the Series “A”, and 392’000,000 (three hundred ninety two million) correspond to the Series “B”, all of them representative of the Fixed Part of the capital Stock of the Company, and consequently, it was approved an amendment of Article Sixth of the By-laws of the Company.

From the foregoing documents, the By-laws of the Company that are currently in forcé within the Company, which I hereby partially transcribe as follows:

“..... BY-LAWS.- CHAPTER FIRST.- CORPORATE NAME, CORPORATE PURPOSE, DOMICILE, TERM AND NATIONALITY OF THE COMPANY.- ARTICLE FIRST CORPORATE NAME.- The company is commercial with variable capital and shall be named “EMPRESAS TOLTECA DE MEXICO”, and this name shall always be followed by the words “SOCIEDAD ANONIMA DE CAPITAL VARIABLE” or their abbreviation, “S.A. de C.V.”.- ARTICLE 2º.- CORPORATE PURPOSE. The purpose of the company shall be: a) To participate in commercial or civil corporations, partnerships and in any kind of national or foreign companies, by means of subscription and/or acquisition of their shares, equity interest, assets and rights and through any form to dispose and realize any kind of acts and commercial contracts with respect to those shares, equity interest, assets or rights.- (b) To promote, organize and manage any kind of commercial or civil companies.- (c) To acquire, sale, manage, lease or to receive in commodatum, to exchange, encumber in any manner, exploit, to affect in trust or to be trustee, and in general, to execute any

legal act related to the acquisition or transfer of property or possession rights, with respect to any kind of personal property or real estate property, industrial units and assets of other commercial or civil companies, regardless of their corporate purpose, as deemed convenient or necessary for the purposes of the Company, or directly or directly related to the corporate purpose of the Company.- (d) To manage, to grant or receive under a lease or sublease any kind of corporations or industrial or commercial companies.- (e) To build, planning, design, decoration, manage and operate in any way any kind of buildings, houses or apartments, in its own account or on the account of third parties.- (f) To carry on any and all operations related to the said purposes or that directly or indirectly favors their completion.- (g) To render and receive any kind of technical services, management services, sale services, marketing, supervision, technical assistance and consulting services related to industrial, accounting, commercial, legal, tax, finance matters or any other matters.- (h) To register, acquire, possess and dispose of trademarks, commercial names, patents, copyrights, inventions or processes, and any licenses related to them.- (i) To enter into or execute operations of commercial brokerage, mediation, technical assistance, rendering or professional services, consulting, distribution, supply, leasing and financial leasing, securities brokerage and in general to enter into any kind of agreements related to services of, or in favor of third parties, including the use of human and material resources, as a consequence of obligations or rights obtained by the execution of the agreements referred to in this section, being empowered to have representatives within the Mexican Republic or abroad.- (j) To grant and obtain loans, either secured or unsecured.- (k) To issue, accept, endorse, or guarantee negotiable instruments, and to enter into any kind of commercial or legal acts with respect to negotiable instruments, being empowered to contract with credit institutions, national or foreign, brokerage houses, investment firms or auxiliary institutions of credit, and with any kind of entity, corporation or group, any kind of operations deemed convenient or necessary for the corporate purpose, including to enter into sales in short, loans, trusts, mandates, commissions or any kind of contract or agreement related to the investment of funds, to obtain financing or as the case may be, to affect, assign or guarantee negotiable instruments or the shares or equity interests referred to in this section.- (l) To guarantee, secure or in general to guarantee with any kind of liens, including pledge or mortgage, obligations of its own or from third parties, with or without compensation, and consequently, to subscribe negotiable instruments, agreements and other documents that are necessary to perfect such guarantees.- (m) In general, the company may execute all acts and contracts, and perform any kind of acts,

operations and agreements, either civil, commercial or of any kind, deemed necessary or convenient for carrying out the purpose of the company.- ARTICLE 3º.- DOMICILE. The domicile of the company is the city of Monterrey, Nuevo Leon, Mexico, which domicile may not be deemed to be changed if the company establishes branches or offices in any other place within the Mexican Republic or abroad as determined by the Board of Directors.-.-. ARTICLE 4º.- DURATION. The duration of the company shall be 99 (ninety nine) years, beginning from its date of incorporation.--. ARTICLE 5º.- NATIONALITY. The company is fully Mexican. Any foreigner, that at the time of incorporation of the company or thereafter acquires a participation or becomes the owner of one or more shares of the company shall be considered as Mexican with respect to that participation or ownership, and may not invoke the protection of its own government. Failure to comply with the foregoing paragraph may result in the forfeiture of such participation or ownership in favor of the Mexican State. The text of this article shall be transcribed in its entirely in the stock certificates or provisional stock certificates representing equity participation in the company.--. CHAPTER SECOND.- CAPITAL STOCK.- "ARTICLE 6º.- CORPORATE CAPITAL.- The corporate capital of the company shall be variable.- The fixed, not redeemable, part of such capital shall be the amount of $800,001,000.00 (EIGHT HUNDRED MILLION ONE THOUSAND AND 00/100 MEXICAN PESOS), represented by 800,001,000 (EIGHT HUNDRED MILLION) common, nominative shares, without par value. The corporate capital subscribed and duly paid shall be divided, whether in the fixed or the variable part, in the following Series: The Series "A" Minimum Fixed Capital and the Series "A" Variable Capital, denominated Mexican Series, shall represent at all times at least 51% (fifty-one percent) of the capital stock outstanding and shall only be subscribed by: individuals of Mexican nationality; b) immigrants not related to foreign economic decision centers and provided that such immigrants do not engage in activities reserved to Mexican individuals or Mexican entities with foreign investment exclusion clause or subject to specific regulations; and c) Mexican entities in which Mexican capital participate wholly or as a majority provided that foreign investors do not have by any mean control over its management. The Series "B" Minimum Fixed Capital and the Series "B" Variable Capital, denominated Free subscription Series and may be subscribed by individuals or entities, either Mexican or foreign, with the exception of sovereign or foreign governments or entities representing such governments, and the equity participation of such free subscription series shall not exceed 49% (forty-nine percent) of the capital stock outstanding. At all times, the aforesaid proportions in the capital stock of the company shall

be observe. The Series “A” Variable Part and the Series “B” Variable Part shall be issued and circulated further to the terms and conditions set forth by the Shareholders Meeting or the Board of Directors..... CHAPTER THIRD.- GENERAL SHAREHOLDERS MEETINGS.- ARTICLE 13º.- GENERAL SHAREHOLDERS MEETINGS.- The General Shareholders Meeting shall be the supreme power of the Company, and the Meeting may resolve or ratify any and all acts of the Company. Its authority shall have limited only to the extent of applicable law and these by-laws. Its validly adopted resolutions shall be binding to all shareholders, even absent or dissenting shareholders, and shall be binding to management, the chief executive officer, directors, general manager, deputy general managers and representatives and shall be executed by the person or persons appointed for such effects as special delegates, and in absence of such appointment, by the Chairman of the Board of Directors.- ARTICLE 14º.- ORDINARY AND EXTRAORDINARY SHAREHOLDERS MEETINGS.- General Shareholders Meetings may be ordinary, extraordinary or special, the later ones shall be held to discuss items related to each Series of stock. Any shareholders meeting shall be held in the corporate domicile, except in the case of force majeure. Extraordinary Shareholders Meetings shall gather to discuss the items set forth in Article 182 of the General Law of Commercial Companies. Ordinary Shareholders Meetings shall gather at any time to discuss the items not listed for the extraordinary meetings. Meetings will be held at least once a year within the four months following the close of the fiscal year, and will address, in addition to the items included in the agenda, the following matters: a) Discuss, approve or modify the report of the administrators referred to in the general provisions of article 172 of the General Law of Commercial Companies, taking into account the report of the Examiner; b) appoint every two years the members of the Board of Directors and the Examiner; c) Determine the compensation to be paid to the members of the Board of Directors and the Examiner. Ordinary Shareholders Meetings and Extraordinary Shareholders Meetings will be held when called further to the provisions of these By-laws… CHAPTER FOURTH.- MANAGEMENT OF THE COMPANY.- ARTICLE 22º.- BOARD OF DIRECTORS.- Management of the Company shall be entrusted to a Board of Directors formed by the number of members determined by the respective shareholders meeting, provided that such number is an odd number not less than 3 (three). The members of the Board may or may not be shareholders of the company, shall be appointed for a period of two years and may be reelected without limitation.- Notwithstanding, if by any circumstance there is no renovation in the Board, the acting members of the Board shall continue in their positions

an exercising their authority until the person designated to substitute them take possession of the office.- At the time the Shareholders Meeting is electing the members of the Board of Directors, the Shareholders Meeting shall appoint the Chairman and the Secretary of the Board. If no election was made, the Chairman, the Secretary and the Alternate Secretary shall be elected by the Board of Directors during the first meeting of the Board after the Shareholders Meeting that appointed the members of the Board. The Chairman of the Board of Directors shall also be the President of the Company.- Furthermore, the Shareholders Meeting shall appoint the Secretary of the Board of Directors. If there was no express appointment, the second appointed member of the Board shall be the Secretary of the Board.- The other members of the Board shall hold the positions of vocals.- Alternate directors to each member of the board shall be elected to cover the absences of them.--. ARTICLE 30º.- AUTHORITY, OBLIGATIONS, ATTRIBUTIONS AND POWERS OF THE BOARD OF DIRECTORS.- The Board of Directors shall have, except the modifications or restrictions approved by the Shareholders Meeting, the following authority, obligations, attributions and powers: A) GENERAL POWER FOR LAWSUITS AND COLLECTIONS to represent the Company, with all general and special powers which by law require a special clause according to law without any limitation, as provided for in the first paragraph of Article Articles (2554) two thousand five hundred fifty four and (2587) two thousand five hundred eighty seven of the Civil Code for the Federal District in common matters and applicable in the whole Mexican Republic for federal matters, and their correlative articles (2448) two thousand four hundred forty eight and (2481) two thousand four hundred eighty one of the Civil Code of the State of Nuevo Leon, and their correlative articles of the Civil Codes of the other Mexican States. Consequently, the BOARD OF DIRECTORS, THE LEGAL REPRESENTATIVE AND GENERAL ATTORNEY-IN-FACT shall be empowered to represent the Company before any individual or moral person, and before any kind of Authority, either judicial (Civil or Criminal), Administrative or Labor, either federal or local, throughout the Mexican Republic or abroad, during judicial proceedings or otherwise; and shall be empowered to participate in any kind of judicial proceedings, either Civil, Commercial, Tax, Administrative, Criminal or Labor, including *Amparo* proceedings, to follow such lawsuits and drop them if convenient for the Company; to file recourses against decision of authorities; to consent favorable rulings and appeal not favorable rulings; to present answers in any lawsuits filed against the Company, to file and ratify accusations or complaints before criminal authorities, being empowered to establish the Company as co-party with the public prosecutor in criminal processes and grant pardon when applicable; to

recognize signatures, documents and argue as false the arguments presented by the other party; to present witnesses, and to see the other party presenting witnesses, and to question such witnesses; to make and answer depositions; to settle and agree in arbitral procedures; to impeach judges, justices and any judicial officers, administrative officers, without cause, with cause and under oath; and to appoint experts during such procedures.- B).- GENERAL POWER, by means of the delegation of the LEGAL REPRESENTATION OF THE COMPANY, to represent the Company during labor proceedings as set forth in Articles (11) eleven, (46) forty six, (47) forty seven, (134) one hundred thirty-four section III, (523) five hundred twenty-third, (694) six hundred ninety four, (695) six hundred ninety five, (786) seven hundred eighty six, (787) seven hundred eighty seven, (874) eight hundred seventy four, (876) eight hundred seventy six, (878) eight hundred seventy eight, (880) eight hundred eighty, (883) eight hundred eighty three, (884) eight hundred eighty four, (889) eight hundred eighty nine, with respect to the applicable provisions of Chapters XII and XVII of Title Fourteen of the Federal Labor Code, with the rights and attributions related to legal representation in accordance to such law. Furthermore, its is granted the LABOR REPRESENTATION in accordance with Article (11) eleven of said Federal Labor Code. The AUTHORITY hereby granted, the LABOR REPRESENTATION hereby delegated and the EMPLOYER REPRESENTATION hereby granted, shall be exercised by the BOARD OF DIRECTORS AND THE GENERAL ATTORNEY-IN-FACT, with the following powers listed below without limitation. The BOARD OF DIRECTORS, the EMPLOYER LEGAL REPRESENTATIVE and THE GENERAL ATTORNEY-IN-FACT, may act before the Unions that the Company executed collective bargaining agreements, and regarding any labor conflict; may act before workers personally and regarding any individual conflicts; an in general in any matter regarding employer-workers matters, and such authority may be exercised before any Labor or Social Service authority referred to in Article (523) five hundred twenty-three of the Federal Labor Code; empowered to appear before the *Juntas de Conciliacion y Arbitraje*, either federal or local. Consequently, The BOARD OF DIRECTORS, the EMPLOYER LEGAL REPRESENTATIVE and THE GENERAL ATTORNEY-IN-FACT, in the name and stead of the Company, may appear before any labor proceeding with the powers and authority set forth in sections A), C) and F) of this Article as applicable, and furthermore, they shall bear the EMPLOYER REPRESENTATION for purposes of Article (11) eleven, (46) forty-six and (47) forty-seven, and the LEGAL REPRESENTATION of the Company to justify the corporate authority and legal capacity during court proceedings further to Articles (692) six hundred ninety two,

sections II and III, may appear during the practice of confession evidence further to Articles (787) seven hundred eighty seven and (788) seven hundred eighty eight of the Federal Labor Code, with authority to make and answer questions and to participate in confession evidence; empowered to designate conventional domiciles further to Article (876) eight hundred seventy-six; may appear with the LEGAL REPRESENTATION at the hearing referred to in Article (873) eight hundred seventy-three during the three stages of conciliation, lawsuit and defenses, and evidence offering and admission further to Article (875) eight hundred seventy-five, (876) eight hundred seventy-six sections I and VI, (877) eight hundred seventy-seven, (878) eight hundred seventy-eight, (879) eight hundred seventy-nine, (880) eight hundred eighty; to appear in the evidence hearing further to Articles (873) eight hundred seventy-three and (874) eight hundred seventy four; all of them articles of the Federal Labor Code; furthermore, they are empowered to present and accept conciliation measures, to make transactions, to take any kind of decisions, to negotiate and to execute any kind of labor agreements, either judicial or extrajudicial; at the same time they are entitled to act as REPRESENTATIVE OF THE COMPANY in their capacity of Management regarding any class of labor judicial proceedings or procedures; either individual or collective, brought before any authority; may execute and terminate labor agreements, to offer reinstatements, answer any kind of lawsuits, claims or summons, ratifying the Company any and all acts performed by the BOARD OF DIRECTORS, THE LEGAL REPRESENTATIVE AND THE GENERAL ATTORNEY-IN-FACT during such hearings.- C).- GENERAL POWER FOR MANAGEMENT ACTS, further to the terms set forth in the second paragraph of Article (2554) two thousand five hundred fifty four of the Civil Code for the Federal District in common matters and applicable in the whole Mexican Republic for federal matters, and its correlative article (2448) two thousand four hundred forty eight of the Civil Code of the State of Nuevo Leon, and its correlative article of the Civil Codes of the other Mexican States. D).- GENERAL POWER FOR OWNERSHIP ACTS, further to the terms set forth in the third paragraph of Article (2554) two thousand five hundred fifty four of the Civil Code for the Federal District in common matters and applicable in the whole Mexican Republic for federal matters, and its correlative article (2448) two thousand four hundred forty eight of the Civil Code of the State of Nuevo Leon, and its correlative article of the Civil Codes of the other Mexican States; consequently, the BOARD OF DIRECTORS, THE LEGAL REPRESENTATIVE AND GENERAL ATTORNEY-IN-FACT shall be empowered with the most ample powers to dispose of real estate property, and any real or personal rights, including the power to

carry on any kind of procedures to defend them, and to acquire or sale negotiable instruments further to the terms of the in the third paragraph of Article (2554) two thousand five hundred fifty four of the Civil Code for the Federal District in common matters and applicable in the whole Mexican Republic for federal matters, and its correlative article (2448) two thousand four hundred forty eight of the Civil Code of the State of Nuevo Leon, and its correlative article of the Civil Codes of the other Mexican States. Including the powers to contribute personal or real estate property of the Company to other companies within the group, either affiliates, subsidiaries, controlling or controlled companies, and to subscribe shares of stock or take equity interests in other companies, and to encumber in any way the property of the Company.- E) GENERAL POWER to issue, accept, certify, grant, subscribe, guarantee, release, endorse and assign any kind of negotiable instruments in the name and stead of the Company, further to Articles (9) nine section I, (85) eighty-five, and (174) one hundred seventy four of the General Law of Negotiable Instruments; to issue *avales*, Securities and in general to guarantee, including pledge and mortgage, obligations of third parties, with or without compensation, and consequently to subscribe negotiable instruments, agreements, contracts and other documents that are necessary or convenient to perfect such guarantees, including the power to issue checks to use the funds in bank accounts, deposit accounts in other institutions and to obligate the Company in any way necessary within the operation of this authority.- F) GENERAL POWER TO GRANT AND REVOKE GENERAL AND SPECIAL POWERS OF ATTORNEY, and to delegate its authority either totally or partially, granting to the attorney-in-fact the powers that it deems convenient within the authority of the Board of Directors; when substituting wholly or partially this authority, the Board of Directors, the Legal Representative and the General Attorney-in-fact, shall not lose their authority as REPRESENTATIVE of the Company. The substitute mandataries may also substitute by means of delegation each and every Powers and Authority granted to them, including the substitution authority.....".

IT IS FIRST DEED, SECOND IN ORDER of the public deed number 992 (nine hundred ninety two), that I hereby issue for the use of BANCO MERCANTIL DEL NORTE, SOCIEDAD ANONIMA, INSTITUCIÓN DE BANCA MÚLTIPLE, GRUPO FINANCIERO BANORTE. It was taken from the originals that are kept in the Book and Pages above referred of my Official Book and the Appendix to such Book.- The deed is formed by 64

(sixty four) used sheets duly compared and corrected.- In the city of San Pedro Garza García, Nuevo León, as of December 10 (ten), 2009 (two thousand nine).- I ATTEST.

/s/ MR. IGNACIO GERARDO MARTINEZ GONZALEZ
NOTARY PUBLIC No. 75
MAGI-631216-KH8

IT IS FIRST DEED of the public deed number 992 (nine hundred ninety two), that I hereby issue for the use of CEMEX, SOCIEDAD ANONIMA BURSATIL DE CAPITAL VARIABLE It was taken from the originals that are kept in the Book and Pages above referred of my Official Book and the Appendix to such Book.- The deed is formed by 64 (sixty four) used sheets duly compared and corrected.- In the city of San Pedro Garza García, Nuevo León, as of December 10 (ten), 2009 (two thousand nine).- I ATTEST.

/s/ MR. IGNACIO GERARDO MARTINEZ GONZALEZ
NOTARY PUBLIC No. 75
MAGI-631216-KH8

PUBLIC REGISTRY OF PROPERTY AND COMMERCE

OF THE STATE OF NUEVO LEON

REGISTRY ENTRY

The legal act described in the present document was recorded under the Electronic File Number 76118*1.

Internal Control	Effective Date
6	December 10, 2009

Registry Background:
V5L3I12
Corporate Name:
CEMEX, S.A.B. DE C.V.

Legal Acts Affecting

Page	ID	Act	Registry Date	Registry
532	9	Security holders Meeting	10-12-2009	1

Registry Charges

Date	December 10, 2009	Payment Ticket No.:	14777964
Amount:	$1,200,000,000	Payment Ticket No.:	

Subsidy

THE COMMERCE REGISTRAR [SEAL OF THE REGISTRY OF COMMERCE]

(Signed)
CARLOS REYNALDO AYALA CALVO

CERTIFICATION

The undersigned, DAVID A. GONZALEZ VESSI, Official Translator authorized by the Superior Court of the State of Nuevo Leon, further to Approval number 861/2010 issued as of January 25, 2010, HEREBY CERTIFIES THAT:

The preceding document is a true and accurate translation from the Spanish language to the English language of Public Deed Number 992 dated as of December 10, 2009 issued by Mr. Ignacio Gerardo Martínez Gonzalez, Notary Public Number No. 75 residing in the city of San Pedro Garza Garcia, Nuevo Leon, Mexico. This certification is issued for any and all legal purposes.

Monterrey, N.L., as of June 1, 2010

DAVID A GONZALEZ VESSI

Exhibit 4.49
EXECUTION VERSION

CEMEX FINANCE LLC,

THE NOTE GUARANTORS PARTY HERETO

AND

THE BANK OF NEW YORK MELLON,

AS TRUSTEE

9.625% SENIOR SECURED NOTES DUE 2017

INDENTURE

(€ Denominated Notes)

Dated as of December 14, 2009

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INDENTURE, dated as of December 14, 2009, among CEMEX Finance LLC, a limited liability company organized and existing pursuant to the laws of the state of Delaware (the "Issuer"), CEMEX, S.A.B. de C.V., (the "Company"), CEMEX México, S.A. de C.V. ("CEMEX México"), CEMEX España, S.A. ("CEMEX España"), CEMEX Corp., CEMEX Concretos, S.A. de C.V. ("CEMEX Concretos"), Empresas Tolteca de México, S.A. de C.V. ("Empresas Tolteca") and New Sunward Holding B.V. ("New Sunward Holding"), as Note Guarantors of the Issuer's obligations under this Indenture and the Notes (the "Note Guarantors"), and The Bank of New York Mellon (the "Trustee"), as Trustee.

Each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the Holders of the Issuer's 9.625% Senior Secured Notes due 2017 issued hereunder.

ARTICLE I

DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.1 Definitions.

"Acquired Indebtedness" means Indebtedness of a Person or any of its Subsidiaries existing at the time such Person becomes a Restricted Subsidiary or at the time it merges or consolidates with the Company or any of its Restricted Subsidiaries or is assumed in connection with the acquisition of assets from such Person. Such Indebtedness will be deemed to have been Incurred at the time such Person becomes a Restricted Subsidiary or at the time it merges or consolidates with the Company or a Restricted Subsidiary or at the time such Indebtedness is assumed in connection with the acquisition of assets from such Person

"Acquired Subsidiary" means any Subsidiary acquired by the Company or any other Subsidiary after the Issue Date in an Acquisition, and any Subsidiaries of such Acquired Subsidiary on the date of such Acquisition.

"Acquiring Subsidiary" means any Subsidiary formed by the Company or one of its Subsidiaries solely for the purpose of participating as the acquiring party in any Acquisition, and any Subsidiaries of such Acquiring Subsidiary acquired in such Acquisition.

"Acquisition" means any merger, consolidation, acquisition or lease of assets, acquisition of securities or business combination or acquisition, or any two or more of such transactions, if, upon the completion of such transaction or transactions, the Company or any Restricted Subsidiary thereof has acquired an interest in any Person who would be deemed to be a Restricted Subsidiary under the Indenture and was not a Restricted Subsidiary prior thereto.

"Additional Amounts" has the meaning assigned to it in Section 3.22.

"Additional Note Certificate" has the meaning assigned to it in Section 2.14(b).

"Additional Note Guarantor" means Empresas Tolteca, CEMEX Concretos and/or New Sunward Holding.

"Additional Note Supplemental Indenture" means a supplement to this Indenture duly executed and delivered by the Issuer, each Note Guarantor and the Trustee pursuant to Article IX providing for the issuance of Additional Notes.

"Additional Notes" means the Notes originally issued after the Issue Date pursuant to Section 2.14, including any replacement Notes and any Exchange Notes as specified in the relevant Additional Note Certificate or Additional Note Supplemental Indenture issued therefor in accordance with this Indenture

"Affiliate" means, with respect to any specified Person, any other Person who directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, such specified Person. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings.

"Affiliate Transaction" has the meaning assigned to it in Section 3.18(a).

"Agent Members" has the meaning assigned to it in Section 2.7(b).

"Agents" means, collectively, the Registrar, any co-Registrar, the Paying Agents, the Luxembourg Transfer Agent and any other agent appointed by the Issuer hereunder.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in a Global Note, the rules and procedures of Euroclear and Clearstream that apply to such transfer or exchange.

"Asset Sale" means any direct or indirect sale, disposition, issuance, conveyance, transfer, lease (other than an operating lease entered into in the ordinary course of business), assignment or other transfer, including a Sale and Leaseback Transaction (each, a "disposition") by the Company or any Restricted Subsidiary of:

(a) any Capital Stock other than Capital Stock of the Company; or

(b) any property or assets (other than cash, Cash Equivalents or Capital Stock) of the Company or any Restricted Subsidiary;

Notwithstanding the preceding, the following will not be deemed to be Asset Sales:

(1) the disposition of all or substantially all of the assets of the Company and its Restricted Subsidiaries as permitted under Section 3.12;

(2) any disposition of equipment that is not usable or obsolete or worn out equipment in the ordinary course of business or any disposition of inventory or goods (or other assets) held for sale or no longer used in the ordinary course of business;

(3) dispositions of assets in any fiscal year with a Fair Market Value not to exceed U.S.$25 million in the aggregate;

(4) for purposes of Section 3.12 only, the making or disposition of a Permitted Investment or Restricted Payment permitted under Section 3.11;

(5) a disposition to the Company or a Restricted Subsidiary, including a Person that is or will become a Restricted Subsidiary immediately after the disposition;

(6) the creation of a Lien permitted under this Indenture (other than a deemed Lien in connection with a Sale and Leaseback Transaction);

(7) (i) the disposition of Receivables Assets pursuant to a Qualified Receivables Transaction and (ii) the disposition of other accounts receivable in the ordinary course of business;

(8) constituted by a license of intellectual property in the ordinary course of business;

(9) the disposition of inventory pursuant to an Inventory Financing or similar arrangement that is otherwise permitted under this Indenture;

(10) the disposition of any asset compulsorily acquired by a governmental authority; and

(11) sales, transfers and other dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements.

"Asset Sale Offer" has the meaning assigned to it in Section 3.12(c).

"Asset Sale Offer Amount" has the meaning assigned to it in Section 3.12(c).

"Asset Sale Offer Notice" means notice of an Asset Sale Offer made pursuant to Section 3.12(e) and Section 3.12(f), which shall be mailed first class, postage prepaid, to each record Holder as shown on the Note Register within 20 days following the 365th day after the receipt of Net Cash Proceeds of any Asset Sale, with a copy to the Trustee, which notice shall govern the terms of the Asset Sale Offer, and shall state:

(1) the circumstances of the Asset Sale or Sales, the Net Cash Proceeds of which are included in the Asset Sale Offer, that an Asset Sale Offer is being made pursuant to Section 3.12(c), and that all Notes that are timely tendered will be accepted for payment;

(2) the Asset Sale Offer Amount and the Asset Sale Offer Payment Date, which date shall be a Business Day no earlier than 30 days nor later than 60 days from the date the Asset Sale Offer notice is mailed (other than as may be required by law);

(3) that any Notes or portions thereof not tendered or accepted for payment will continue to accrue interest;

(4) that, unless the Company defaults in the payment of the Asset Sale Offer Amount with respect thereto, all Notes or portions thereof accepted for payment pursuant to the Asset Sale Offer shall cease to accrue interest from and after the Asset Sale Offer Payment Date;

(5) that any Holder electing to have any Notes or portions thereof purchased pursuant to the Asset Sale Offer will be required to surrender such Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of such Notes completed, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Asset Sale Offer Payment Date;

(6) that any Holder shall be entitled to withdraw such election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Asset Sale Offer Payment Date, a facsimile transmission or letter, setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing such Holder's election to have such Notes or portions thereof purchased pursuant to the Asset Sale Offer;

(7) that any Holder electing to have Notes purchased pursuant to the Asset Sale Offer must specify the principal amount that is being tendered for purchase, which principal amount must be €50,000 or an integral multiple of €1,000 in excess thereof;

(8) that any Holder of Certificated Notes whose Certificated Notes are being purchased only in part will be issued new Certificated Notes equal in principal amount to the unpurchased portion of the Certificated Note or Notes surrendered, which unpurchased portion will be equal in principal amount to €50,000 or an integral multiple of €1,000 in excess thereof;

(9) that the Trustee will return to the Holder of a Global Note that is being purchased in part, such Global Note with a notation on the schedule of increases or decreases thereof adjusting the principal amount thereof to be equal to the unpurchased portion of such Global Note; and

(10) any other information necessary to enable any Holder to tender Notes and to have such Notes purchased pursuant to Section 3.12.

"Asset Sale Offer Payment Date" has the meaning assigned to it in Section 3.12(f).

"Authenticating Agent" has the meaning assigned to it in Section 2.2(b).

"Authorized Agent" has the meaning assigned to it in Section 12.7(c).

"Axtel Share Forward Transactions" means (a) the Axtel share forward transaction that is governed by a long form Confirmation dated 22 January 2009, as from time to time amended, between Credit Suisse International and Centro Distribuidor de Cemento S.A. de C.V. (References: External ID: 16059563R3 - Risk ID: 10008383); and (b) the Axtel share forward transaction that is governed by a long form Confirmation dated 13 March 2009, as replaced by a long form Confirmation dated 22 September 200, between BBVA Bancomer S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer and Centro Distribuidor de Cemento S.A. de C.V. (Reference: EQS- 1428-MX479311).

"Bancomext Facility" means the U.S.$250,000,000 credit agreement (*Crédito Simple*), dated October 14, 2008, among CEMEX, S.A.B. de C.V., as borrower, Banco Nacional de Comercio Exterior, S.N.C., as lender, and CEMEX México, S.A. de C.V., as guarantor, and secured by a stock pledge of Cementos Chihuahua, S.A.B. de C.V. shares and mortgage of cement plants in Merida, Yucatan, Mexico and Ensenada, Baja California, Mexico.

"Bankruptcy Event of Default" means:

(1) the entry by a court of competent jurisdiction of: (i) a decree or order for relief in respect of any Bankruptcy Party in an involuntary case or proceeding under any Bankruptcy Law or (ii) a decree or order (A) adjudging any Bankruptcy Party a bankrupt or insolvent, (B) approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of, or in respect of, any Bankruptcy Party under any Bankruptcy Law, (C) appointing a Custodian of any Bankruptcy Party or of any substantial part of the property of any Bankruptcy Party, or (D) ordering the winding-up or liquidation of the affairs of any Bankruptcy Party, and in each case, the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive calendar days; or

(2) (i) the commencement by any Bankruptcy Party of a voluntary case or proceeding under any Bankruptcy Law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, (ii) the consent by any Bankruptcy Party to the entry of a decree or order for relief in respect of such Bankruptcy Party in an involuntary case or proceeding under any Bankruptcy Law or to the commencement of any bankruptcy or insolvency case or proceeding against any Bankruptcy Party, (iii) the filing by any Bankruptcy Party of a petition or answer or consent seeking reorganization or relief under any Bankruptcy Law, (iv) the consent by any Bankruptcy Party to the filing of such petition or to the appointment of or taking possession by a Custodian of any Bankruptcy Party or of any substantial part of the property of any Bankruptcy Party, (v) the making by any Bankruptcy Party of an assignment for the benefit of creditors, (vi) the

admission by any Bankruptcy Party in writing of its inability to pay its debts generally as they become due, or (vii) the approval by stockholders of any Bankruptcy Party of any plan or proposal for the liquidation or dissolution of such Bankruptcy Party, or (viii) the taking of corporate action by any Bankruptcy Party in furtherance of any action referred to in clauses (i) – (vii) above.

"Bankruptcy Law" means Title 11, U.S. Code or any similar Federal, state or non-U.S. law for the relief of debtors, including the Mexican *Ley de Concursos Mercantiles*.

"Bankruptcy Party" means the Company, the Issuer and any Significant Subsidiary of the Company or group of Subsidiaries that, taken together would constitute a Significant Subsidiary of the Company.

"Banobras Facility" means a revolving loan agreement (*Contrato de Apertura de Crédito en Cuenta Corriente*), dated April 22, 2009, among CEMEX Concretos, S.A. de C.V., as borrower and Banco Nacional de Obras y Servicios Públicos, Sociedad Nacional de Crédito, Institución de Banca de Desarrollo, as lender, as in effect on the Issue Date, and secured by a mortgage of Planta Yaqui in Hermosillo, Sonora, Mexico.

"Board of Directors" means, as to any Person, the board of directors, management committee or similar governing body of such Person or any duly authorized committee thereof.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City, Mexico City, Madrid or Amsterdam are authorized or required by law or other governmental action to remain closed; provided that, for purposes of payments to be made under this Indenture, a "Business Day" must also be a day on which the Trans-European Automated Real-time Gross Settlement Express Transfer (TARGET) payment system is open for the settlement of payments.

"Capitalized Lease Obligations" means, as to any Person, the obligations of such Person under a lease that are required to be classified and accounted for as capital lease obligations under GAAP. For purposes of the definition, the amount of such obligations at any date will be the capitalized amount of such obligations at such date, determined in accordance with GAAP.

"Capital Stock" means:

(1) with respect to any Person that is a corporation, any and all shares, interests, participations or other equivalents (however designated and whether or not voting) of corporate stock, including each class of Common Stock and Preferred Stock of such Person;

(2) with respect to any Person that is not a corporation, any and all partnership or other equity or ownership interests of such Person; and

(3) any warrants, rights or options to purchase any of the instruments or interests referred to in clause (1) or (2) above, but excluding any Indebtedness exchangeable into such equity interest in existence on the Issue Date Incurred pursuant to Section 3.9.

"Cash Equivalents" means:

(1) marketable direct obligations issued by, or unconditionally guaranteed by, the United States government, the United Kingdom or any member nation of the European Union or issued by any agency thereof and backed by the full faith and credit of the United States, the United Kingdom, such member nation of the European Union or any European Union central bank, in each case maturing within one year from the date of acquisition thereof;

(2) marketable direct obligations issued by the Mexican government, or issued by any agency thereof, including but not limited to, *Certificados de la Tesorería de la Federación* (Cetes) or *Bonos de Desarrollo del Gobierno Federal* (Bondes), in each case, issued by the government of Mexico and maturing not later than one year after the acquisition thereof;

(3) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof maturing within one year from the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from either S&P or Fitch or any successor thereto;

(4) commercial paper or corporate debt obligations maturing no more than one year from the date of creation thereof and, at the time of acquisition, having a rating of at least A-1 or AAA from S&P, at least F-1 or AAA from Fitch or P-1 or Aaa from Moody's;

(5) demand deposits, certificates of deposit, time deposits or bankers' acceptances or other short-term unsecured debt obligations (and any cash or deposits in transit in any of the foregoing) maturing within one year from the date of acquisition thereof issued by (a) any bank organized under the laws of the United States of America or any state thereof or the District of Columbia, the United Kingdom or any country of the European Union, (b) any U.S. branch of a non-U.S. bank having at the date of acquisition thereof combined capital and surplus of not less than U.S.$500 million, or (c) in the case of Mexican peso deposits, any financial institution in good standing with Banco de México organized under the laws of Mexico;

(6) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (1) and (2) above entered into with any bank meeting the qualifications specified in clause (5) above;

(7) investments in money market funds which invest substantially all of their assets in securities of the types described in clauses (1) through (6), (8) and (9);

(8) certificates of deposit issued by any of Nacional Financiera, S.N.C., Banco Nacional de Comercio Exterior, S.N.C., Banco Nacional de Obras y Servicios Públicos, S.N.C. or any other development bank controlled by the Mexican government;

(9) any other debt instrument rated "investment grade" (or the local equivalent thereof according to local criteria in a country in which the Company or a Restricted Subsidiary operates and in which local pensions are permitted by law to invest) with maturities of 12 months or less from the date of acquisition; and

(10) Investments in mutual funds, managed by banks, with a local currency credit rating of at least MxAA by S&P or other equally reputable local rating agency, that invest principally in marketable direct obligations issued by the Mexican Government, or issued by any agency or instrumentality thereof.

In the case of Investments by any Restricted Subsidiary, Cash Equivalents will also include (a) investments of the type and maturity described in clauses (1) through (10) of any Restricted Subsidiary outside of Mexico in the country in which such Restricted Subsidiary operates, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalents ratings from comparable foreign rating agencies, (b) local currencies and other short-term investments utilized by Restricted Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (1) through (10) and in this paragraph and (c) investments of the type described in clauses (1) through (9) maturing within one year of the Issue Date.

"CEMEX Corp." means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"CEMEX España" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"CEMEX México" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"Certificated Note" means any Note issued in fully registered form, other than a Global Note, which shall be substantially in the form of Exhibit A, with appropriate legends as specified in Section 2.7 and Exhibit A.

"Change of Control" means the beneficial ownership (within the meaning of Rule 13d-3 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended) of twenty percent (20%) or more in voting power of the outstanding voting stock of the Company is acquired by any Person; *provided* that the acquisition of beneficial ownership of Capital Stock of the Company by Lorenzo H. Zambrano or any member of his immediate family shall not constitute a Change of Control.

"Change of Control Notice" means notice of a Change of Control Offer made pursuant to Section 3.8, which shall be mailed first-class, postage prepaid, to each record Holder as shown on the Note Register within 30 days following the date upon which a Change of Control occurred, with a copy to the Trustee, which notice shall govern the terms of the Change of Control Offer and shall state:

(1) that a Change of Control has occurred, the circumstances or events causing such Change of Control and that a Change of Control Offer is being made pursuant to Section 3.8, and that all Notes that are timely tendered will be accepted for payment;

(2) the Change of Control Payment, and the Change of Control Payment Date, which date shall be a Business Day no earlier than 30 calendar days nor later than 60 calendar days subsequent to the date such notice is mailed (other than as may be required by law);

(3) that any Notes or portions thereof not tendered or accepted for payment will continue to accrue interest;

(4) that, unless the Issuer defaults in the payment of the Change of Control Payment with respect thereto, all Notes or portions thereof accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest from and after the Change of Control Payment Date;

(5) that any Holder electing to have any Notes or portions thereof purchased pursuant to a Change of Control Offer will be required to tender such Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of such Notes completed, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

(6) that any Holder shall be entitled to withdraw such election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Change of Control Payment Date, a facsimile transmission or letter, setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing such Holder's election to have such Notes or portions thereof purchased pursuant to the Change of Control Offer;

(7) that any Holder electing to have Notes purchased pursuant to the Change of Control Offer must specify the principal amount that is being tendered for purchase, which principal amount must be €50,000 or an integral multiple of €1,000 in excess thereof;

(8) that any Holder of Certificated Notes whose Certificated Notes are being purchased only in part will be issued new Certificated Notes equal in principal amount to the unpurchased portion of the Certificated Note or Notes surrendered, which unpurchased portion will be equal in principal amount to €50,000 or an integral multiple of €1,000 in excess thereof;

(9) that the Trustee will return to the Holder of a Global Note that is being purchased in part, such Global Note with a notation on Schedule A thereof adjusting the principal amount thereof to be equal to the unpurchased portion of such Global Note; and

(10) any other information necessary to enable any Holder to tender Notes and to have such Notes purchased pursuant to Section 3.8(b).

"Change of Control Offer" has the meaning assigned to it in Section 3.8(b).

"Change of Control Payment" has the meaning assigned to it in Section 3.8(a).

"Change of Control Payment Date" has the meaning assigned to it in Section 3.8(b).

"Clearstream" means Clearstream Banking, *société anonyme*, or the successor to its securities clearance and settlement operations.

"Code" means the Internal Revenue Code of 1986, as amended.

"Collateral" means (i) shares of CEMEX España, CEMEX México, Centro Distribuidor de Cemento, S.A. de C.V., Mexcement Holdings S.A. de C.V., Corporación Gouda S.A. de C.V., New Sunward Holding, and CEMEX Trademarks Holding Ltd; and (ii) all proceeds of such Collateral as set forth in the Intercreditor Agreement.

"Company" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"Commission" means the U.S. Securities and Exchange Commission.

"Commodity Price Purchase Agreement" means, in respect of any Person, any forward contract, commodity swap agreement, commodity option agreement or other similar agreement or arrangement designed to protect such Person from fluctuations in commodity prices.

"Common Depositary" means The Bank of New York Mellon Depositary (Nominees) Limited of 30, Cannon Street, London, EC4M 6XH, United Kingdom or registered assigns, as common depositary for Clearstream and/or Euroclear.

"Common Stock" of any Person means any and all shares, interests or other participations in, and other equivalents (however designated and whether voting or non-voting) of such Person's common equity interests, whether outstanding on the Issue Date or issued after the Issue Date, and includes, without limitation, all series and classes of such common equity interests.

"Company" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns, including any Successor Company which becomes such in accordance with Article IV.

"Compensation Related Hedging Obligations" means (i) the obligations of any Person pursuant to any equity option contract, equity forward contract, equity swap, warrant, rights or other similar agreement designed to hedge risks or obligations relating to employee, director or consultant compensation, pension, benefits or similar activities of the Company and/or any of its Subsidiaries and (ii) the obligations of any Person pursuant to any agreement that requires another Person to make payments or deliveries that are otherwise required to be made by the first Person relating to employee, director or consultant compensation, pension, benefits or similar activities of the Company and/or any of its Subsidiaries, in each case in the ordinary course of business.

"Consolidated EBITDA" means, for any Person for any period, Consolidated Net Income for such Person for such period, plus the following, without duplication, to the extent deducted or added in calculating such Consolidated Net Income:

(1) Consolidated Income Tax Expense for such Person for such period;

(2) Consolidated Interest Expense for such Person for such period net of consolidated interest income for such period;

(3) Consolidated Non-cash Charges for such Person for such period;

(4) the amount of any nonrecurring restructuring charge or reserve deducted in such period in computing Consolidated Net Income; and

(5) the net effect on income or loss in respect of Hedging Obligations or other derivative instruments, which shall include, for the avoidance of doubt, all amounts not excluded from Consolidated Net Income pursuant to the proviso in clause (9) thereof.

less (x) all non-cash credits and gains increasing Consolidated Net Income for such Person for such period and (y) all cash payments made by such Person and its Restricted Subsidiaries during such period relating to non-cash charges that were added back in determining Consolidated EBITDA in any prior period.

Notwithstanding the foregoing, the items specified in clauses (1) and (3) above for any Subsidiary (Restricted Subsidiary in the case of the Company) will be added to Consolidated Net Income in calculating Consolidated EBITDA for any period:

(a) in proportion to the percentage of the total Capital Stock of such Subsidiary (Restricted Subsidiary in the case of the Company) held directly or indirectly by such Person at the date of determination, and

(b) to the extent that a corresponding amount would be permitted at the date of determination to be distributed to such Person by such Restricted Subsidiary pursuant to its charter and bylaws and each law, regulation, agreement or judgment applicable to such distribution.

"Consolidated Fixed Charge Coverage Ratio" means, for any Person as of any date of determination (the "Fixed Charge Calculation Date"), the ratio of the aggregate amount of Consolidated EBITDA of such Person for the four most recent full fiscal quarters for which financial statements are available ending prior to the date of such determination (the "Four Quarter Period") to Consolidated Fixed Charges for such Person for such Four Quarter Period. For purposes of making the computation referred to above, Material Acquisitions and Material Dispositions (as determined in accordance with GAAP) that have been made by the Company or any of its Restricted Subsidiaries during the Four Quarter Period or subsequent to such Four Quarter Period and on or prior to or simultaneously with the Fixed Charge Calculation Date shall be calculated on a *pro forma* basis assuming that all such Material Acquisitions and Material Dispositions (and the change in any associated fixed charge obligations and the change in Consolidated EBITDA resulting therefrom) had occurred on the first day of the Four Quarter Period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any of its Restricted Subsidiaries since the beginning of such period shall have made any Material Acquisition or Material Disposition that would have required adjustment pursuant to this definition, then the Consolidated Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect thereto.

For purposes of this definition, whenever *pro forma* effect is to be given to a Material Acquisition or Material Disposition and the amount of income or earnings relating thereto or with respect to other *pro forma* calculations under this definition, such *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of the Company. If any Indebtedness bears a floating rate of interest and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a *pro forma* basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period except as set forth in the first paragraph of this definition. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Company may designate.

Furthermore, in calculating "Consolidated Fixed Charges" for purposes of determining the denominator (but not the numerator) of this "Consolidated Fixed Charge Coverage Ratio,"

(a) interest on outstanding Indebtedness determined on a fluctuating basis as of the date of determination and which will continue to be so determined thereafter will be deemed to have accrued at a fixed rate per annum equal to the rate of interest on such Indebtedness in effect on such date of determination;

(b) if interest on any Indebtedness actually Incurred on such date of determination may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rates, then the interest rate in effect on such date of determination will be deemed to have been in effect during the Four Quarter Period; and

(c) notwithstanding clause (a) above, interest on Indebtedness determined on a fluctuating basis, to the extent such interest is covered by Hedging Obligations, will be deemed to accrue at the rate per annum resulting after giving effect to the operation of such agreements.

"Consolidated Fixed Charges" means, for any Person for any period, the sum, without duplication, of:

(1) Consolidated Interest Expense for such Person for such period, plus

(2) to the extent not included in (1) above, payments during such period in respect of the financing costs of financial derivatives in the form of equity swaps, plus

(3) the product of:

(a) the amount of all cash and non-cash dividend payments on any series of Preferred Stock or Disqualified Capital Stock of such Person (other than dividends paid in Qualified Capital Stock) or any Subsidiary of such Person (Restricted Subsidiary in the case of the Company) paid, accrued or scheduled to be paid or accrued during such period, excluding dividend payments on Preferred Stock or Disqualified Capital Stock paid, accrued or scheduled to be paid to such Person or another Subsidiary (Restricted Subsidiary in the case of the Company), times

(b) a fraction, the numerator of which is one and the denominator of which is one minus the then current effective tax rate of such Person in its principal taxpaying jurisdiction (Mexico, in the case of the Company), expressed as a decimal.

"Consolidated Income Tax Expense" means, with respect to any Person for any period, the provision for federal, state and local income and asset taxes payable, including current and deferred taxes, by such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) for such period as determined on a consolidated basis in accordance with GAAP.

"Consolidated Interest Expense" means, for any Person for any period, the sum of, without duplication determined on a consolidated basis in accordance with GAAP:

(1) the aggregate of cash and non-cash interest expense of such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) for such period determined on a consolidated basis in accordance with GAAP, including, without limitation the following for such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) whether or not interest expense in accordance with GAAP:

(a) any amortization or accretion of debt discount or any interest paid on Indebtedness of such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) in the form of additional Indebtedness,

(b) any amortization of deferred financing costs; *provided* that any such amortization resulting from costs incurred prior to the Issue Date shall be excluded for the calculation of Consolidated Interest Expense,

(c) the net costs under Hedging Obligations relating to Indebtedness (including amortization of fees but excluding foreign exchange adjustments on the notional amounts of the Hedging Obligations),

(d) all capitalized interest,

(e) the interest portion of any deferred payment obligation,

(f) commissions, discounts and other fees and charges Incurred in respect of letters of credit or bankers' acceptances or in connection with sales or other dispositions of accounts receivable and related assets,

(g) any interest expense on Indebtedness of another Person that is Guaranteed by such Person or one of its Subsidiaries (Restricted Subsidiary in the case of the Company) or secured by a Lien on the assets of such Person or one of its Subsidiaries (Restricted Subsidiaries in the case of the Company), whether or not such Guarantee or Lien is called upon, and

(h) any interest accrued in respect of Indebtedness without a maturity date; and

(2) the interest component of Capitalized Lease Obligations paid, accrued and/or scheduled to be paid or accrued by such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) during such period.

"Consolidated Net Income" means, with respect to any Person for any period, the aggregate net income (or loss) of such Person and its Subsidiaries for such period on a consolidated basis (after deducting (i) the portion of such net income attributable to minority interests in Subsidiaries of such Person and (ii) any interest paid or accrued in respect of Indebtedness without a maturity date), determined in accordance with GAAP; *provided*, that there shall be excluded therefrom:

(1) net after-tax gains and losses from Asset Sale Transactions or abandonments or reserves relating thereto;

(2) net after-tax items classified as extraordinary gains or losses;

(3) the net income (but not loss) of any Subsidiary of such Person (Restricted Subsidiary in the case of the Company) to the extent that a corresponding amount could not be distributed to such Person at the date of determination as a result of any restriction pursuant to the constituent documents of such Subsidiary (Restricted Subsidiary in the case of the Company) or any law, regulation, agreement or judgment applicable to any such distribution;

(4) any net income (loss) of any Person (other than the Company) if such Person is not a Restricted Subsidiary, except that the Company's equity in the net income of any such Person for such period shall be included in such Consolidated Net Income up to the aggregate amount of cash distributed by such Person during such period to the Company or a Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend or other distribution to a Restricted Subsidiary, to the limitations contained in this clause);

(5) any increase or decrease in net income attributable to minority interests in any Subsidiary (Restricted Subsidiaries in the case of the Company);

(6) any restoration to income of any contingency reserve, except to the extent that provision for such reserve was made out of Consolidated Net Income accrued at any time following the Issue Date;

(7) any gain (or loss) from foreign exchange translation or change in net monetary position;

(8) any gain (or loss) from the cumulative effect of changes in accounting principles; and

(9) any net gain or loss (after any offset) resulting in such period from Hedging Obligations or other derivative instruments; *provided* that the net effect on income or loss (including in any prior periods) shall be included upon any termination or early extinguishment of such Hedging Obligations or other derivative instrument, other than any Hedging Obligations with respect to Indebtedness (that is not itself a Hedging Obligation) and that are extinguished concurrently with the termination or other prepayment of such Indebtedness.

"Consolidated Non-cash Charges" means, for any Person for any period, the aggregate depreciation, amortization (including amortization of goodwill and other Intangible Assets) and other non-cash expenses or losses of such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) for such period, determined on a consolidated basis in accordance with GAAP (excluding any such charge which constitutes an accrual of or a reserve for cash charges for any future period or the amortization of a prepaid cash expense paid in a prior period).

"Consolidated Tangible Assets" means, for any Person at any time, the total consolidated assets of such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) as set forth on the balance sheet as of the most recent fiscal quarter of such Person, prepared in accordance with GAAP, less Intangible Assets.

"Corporate Trust Office" means the principal office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at 101 Barclay Street, 4E, New York, New York 10286, Attention: Global Finance Americas, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company.

"Covenant Defeasance" has the meaning assigned to it in Section 8.1(c).

"Covenant Suspension Event" has the meaning assigned to it in Section 3.23(a).

"Custodian" means any receiver, trustee, assignee, liquidator, sequestrator or similar official under any Bankruptcy Law.

"Currency Agreement" means, in respect of any Person, any foreign exchange contract, currency swap agreement or other similar agreement as to which such Person is a party designed to hedge foreign currency risk of such Person.

"Default" means an event or condition the occurrence of which is, or with the lapse of time or the giving of notice or both would be, an Event of Default.

"Defaulted Interest" has the meaning assigned to it in Section 2.13 and Section 1, paragraph 2 of the Form of Reverse Side of Note contained in Exhibit A.

"Designated Non-cash Consideration" means the Fair Market Value of non-cash consideration received by the Company or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officer's Certificate setting forth the basis of such valuation.

"Designation" has the meaning assigned to it in Section 3.14.

"Designation Amount" has the meaning assigned to it in clause (iii) of Section 3.14(a).

"Distribution Compliance Period" means, in respect of any Regulation S Global Note (or Certificated Note issued in respect thereof pursuant to Section 2.7(c)), the 40 consecutive days beginning on and including the later of (a) the day on which any Notes represented thereby are offered to persons other than distributors (as defined in Regulation S) pursuant to Regulation S or (b) the issue date for such Notes.

"Disposition" means, with respect to any property, any sale, lease, Sale and Leaseback Transaction, assignment, conveyance, transfer or other disposition thereof.

"Disqualified Capital Stock" means that portion of any Capital Stock which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the Holder thereof), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the sole option of the Holder thereof, in any case, on or prior to the 91st day after the final maturity date of the Notes, but excluding with respect to Mexican companies, any shares of such Mexican company that are part of the variable portion of its Capital Stock and that are redeemable under the Mexican General Law of Business Corporations (*Ley General de Sociedades Mercantiles*).

"Euro" means the single currency of participating member states of the EMU.

"Euroclear" means Euroclear Bank S.A./N.V., as operator of the Euroclear System, or its successor in such capacity.

"European Government Obligations" means direct non-callable and non-redeemable obligations denominated in euros (in each case, with respect to the issuer thereof) of any member state of the European Union that is a member of the European Union as of the date of this Indenture.

"Event of Default" has the meaning assigned to it in Section 6.1.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fair Market Value" means, with respect to any asset, the price (after taking into account any liabilities relating to such assets) which could be negotiated in an arm's-length free market transaction, for cash, between a willing seller and a willing and able buyer, neither of which is under any compulsion to complete the transaction. Fair Market Value shall be determined, except as otherwise provided, by the Company in good faith.

"Financing Agreement" means the financing agreement, dated as of August 14, 2009, entered into among the Company and certain of its Subsidiaries, the financial institutions and noteholders party thereto, Citibank International PLC, as administrative agent, and Wilmington Trust (London) Limited, as security agent, as such agreement may be amended, modified or waived from time to time.

"Financing Agreement Indebtedness" means the Indebtedness that is subject to and outstanding under the Financing Agreement.

"Fitch" means Fitch Ratings and any successor to its rating agency business.

"Four Quarter Period" has the meaning assigned to it in the definition of "Consolidated Fixed Charge Coverage Ratio" above.

"GAAP" means Mexican Financial Reporting Standards as in effect on September 30, 2009. At any time after the Issue Date, the Company may elect to apply IFRS in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS as in effect on the date of such election; *provided* that any such election, once made, shall be irrevocable. The Company shall give notice of any such election to the Trustee.

"Global Note" means any Note issued in fully registered form to Euroclear or Clearstream (or its nominee), as depositary for the beneficial owners thereof, which shall be substantially in the form of Exhibit A, with appropriate legends as specified in Section 2.7 and Exhibit A.

"Guarantee" means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person:

(1) to purchase or pay, or advance or supply funds for the purchase or payment of, such Indebtedness of such other Person, whether arising by virtue of partnership arrangements, or by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise, or

(2) entered into for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof, in whole or in part,

provided that "Guarantee" will not include endorsements for collection or deposit in the ordinary course of business. "Guarantee" used as a verb has a corresponding meaning.

"Guaranteed Obligations" has the meaning assigned to it in Section 10.1(a).

"Hedging Obligations" means the obligations of any Person pursuant to any Interest Rate Agreement, Currency Agreement, Commodity Price Purchase Agreement or any Transportation Agreement, in each case, not entered into for speculative purposes.

"Holder" means the Person in whose name a Note is registered in the Note Register.

"IFRS" means the International Financial Reporting Standards as issued by the International Accounting Standards Board.

"Incur" means, with respect to any Indebtedness or other obligation of any Person, to create, issue, incur (including by conversion, exchange or otherwise), assume, Guarantee or otherwise become liable in respect of such Indebtedness or other obligation on the balance sheet of such Person (and "Incurrence," "Incurred" and "Incurring" will have meanings correlative to the preceding).

"Indebtedness" means with respect to any Person, without duplication:

(1) the principal amount (or, if less, the accreted value) of all obligations of such Person for borrowed money;

(2) the principal amount (or, if less, the accreted value) of all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, including any perpetual bonds, debenture notes or similar instruments without regard to maturity date;

(3) all Capitalized Lease Obligations of such Person;

(4) all obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale obligations and all payment obligations under any title retention agreement (but excluding trade accounts payable and other accrued liabilities accounted for as current liabilities (in accordance with GAAP) arising in the ordinary course of business) to the extent of any reimbursement obligations in respect thereof;

(5) reimbursement obligations with respect to letters of credit, banker's acceptances or similar credit transactions;

(6) Guarantees and other contingent obligations of such Person in respect of Indebtedness referred to in clauses (1) through (5) above and clauses (8) through (10) below;

(7) all Indebtedness of any other Person of the type referred to in clauses (1) through (6) which is secured by any Lien on any property or asset of the first Person, the amount of such Indebtedness being deemed to be the lesser of the Fair Market Value of such property or asset or the amount of the Indebtedness so secured;

(8) all obligations under Hedging Obligations or other derivatives of such Person;

(9) all liabilities (contingent or otherwise) of such Person in connection with a sale or other disposition of accounts receivable and related assets (not including Qualified Receivables Transactions, irrespective of their treatment under GAAP or IFRS; and

(10) all Disqualified Capital Stock issued by such Person with the amount of Indebtedness represented by such Disqualified Capital Stock being equal to the greater of its voluntary or involuntary liquidation preference and its maximum fixed repurchase price, but excluding accrued dividends, if any; *provided* that:

(a) if the Disqualified Capital Stock does not have a fixed repurchase price, such maximum fixed repurchase price will be calculated in accordance with the terms of the Disqualified Capital Stock as if the Disqualified Capital Stock were purchased on any date on which Indebtedness will be required to be determined pursuant to this Indenture, and

(b) if the maximum fixed repurchase price is based upon, or measured by, the fair market value of the Disqualified Capital Stock, the fair market value will be the Fair Market Value thereof.

"Indenture" means this Indenture as amended or supplemented from time to time, including the Exhibits hereto.

"Instructing Group" means (x) creditors under the Financing Agreement Indebtedness and any refinancing thereof representing at least 75% of the amounts owed in respect of such Financing Agreement Indebtedness and any refinancing thereof and (y) creditors under the Financing Agreement Indebtedness (excluding creditors under any refinancing thereof) representing at least 66 2/3% of the amounts owed in respect of such Financing Agreement Indebtedness (excluding any refinancing thereof).

"Intangible Assets" means with respect to any Person all unamortized debt discount and expense, unamortized deferred charges, goodwill, patents, trademarks, service marks, trade names, copyrights and all other items which would be treated as intangibles on the consolidated balance sheet of such Person prepared in accordance with GAAP.

"Intercreditor Agreement" means the intercreditor agreement, dated as of August 14, 2009, entered into among the Company and certain of its Subsidiaries, the financial institutions and noteholders party thereto, Citibank International PLC, as administrative agent, and Wilmington Trust (London) Limited, as security agent, as such agreement may be amended from time to time.

"Interest Payment Date" means the stated due date of an installment of interest on the Notes as specified in the Form of Face of Note contained in Exhibit A.

"Interest Rate Agreement" of any Person means any interest rate protection agreement (including, without limitation, interest rate swaps, caps, floors, collars, derivative instruments and similar agreements) and/or other types of hedging agreements designed to hedge interest rate risk of such Person.

"Inventory Financing" means a financing arrangement pursuant to which the Company or any of its Restricted Subsidiaries sells inventory to a bank or other institution (or a special purpose vehicle or partnership incorporated or established by or on behalf of such bank or other institution or an Affiliate of such bank or other institution) and has an obligation to repurchase such inventory to the extent that it is not sold to a third party within a specified period.

"Investment" means, with respect to any Person, any (1) direct or indirect loan, advance or other extension of credit (including, without limitation, a Guarantee) to any other Person, (2) capital contribution (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others) to any other Person, or (3) purchase or acquisition by such Person of any Capital Stock, bonds, notes, debentures or other securities or evidences of Indebtedness issued by any other Person. "Investment" will exclude accounts receivable, extensions of credit in connection with supplier or customer financings consistent with industry or past practice, advance payment of capital expenditures arising in the ordinary course of business, deposits arising in the ordinary course of business and transactions (other than (i) any sale, lease, license, transfer or other disposal and (ii) the granting or creation of a Lien or the incurring or permitting to subsist of Indebtedness) conducted in the ordinary course of business on arm's length terms.

For purposes of Section 3.11, the Company will be deemed to have made an "Investment" in an Unrestricted Subsidiary at the time of its Designation, which will be valued at the Fair Market Value of the sum of the net assets of such Unrestricted Subsidiary multiplied by the percentage equity ownership of the Company and its Restricted Subsidiaries in such Designated Unrestricted Subsidiary at the time of its Designation and the amount of any Indebtedness of such Unrestricted Subsidiary or owed to the Company or any Restricted Subsidiary immediately following such Designation. Any property transferred to or from an Unrestricted Subsidiary will be valued at its Fair Market Value at the time of such transfer. If the Company or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of a Restricted Subsidiary (including any issuance and sale of Capital Stock by a Restricted Subsidiary) such that, after giving effect to any such sale or disposition, such Restricted Subsidiary would cease to be a Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to sum of the Fair Market Value of the Capital Stock of such former Restricted Subsidiary held by the Company or any Restricted Subsidiary immediately following such sale or other disposition and the amount of any Indebtedness of such former Restricted Subsidiary Guaranteed by the Company or any Restricted Subsidiary or owed to the Company or any other Restricted Subsidiary immediately following such sale or other disposition. The acquisition by the Company or any Restricted Subsidiary of the Company of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Company or such Restricted Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person. Except as otherwise provided in the Indenture, the amount of an Investment will be determined at the time the Investment is made without giving effect to subsequent changes in value.

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

"Investment Return" means, in respect of any Investment (other than a Permitted Investment) made after the Issue Date by the Company or any Restricted Subsidiary:

(1) the cash proceeds received by the Company upon the sale, liquidation or repayment of such Investment or, in the case of a Guarantee, the amount of the Guarantee upon the unconditional release of the Company and its Restricted Subsidiaries in full, less any payments previously made by the Company or any Restricted subsidiary in respect of such Guarantee; and

(2) in the case of the Revocation of the Designation of an Unrestricted Subsidiary, an amount equal to the lesser of:

(a) the Company's Investment in such Unrestricted Subsidiary at the time of such Revocation;

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

(c) the Designation Amount with respect to such Unrestricted Subsidiary upon its Designation which was treated as a Restricted Payment; and

(3) in the event the Company or any Restricted Subsidiary makes any Investment in a Person that, as a result of or in connection with such Investment, becomes a Restricted Subsidiary, the existing Investment of the Company and its Restricted Subsidiaries in such Person,

in the case of each of (1), (2) and (3), up to the amount of such Investment that was treated as a Restricted Payment under Section 3.11 less the amount of any previous Investment Return in respect of such Investment.

"Issue Date" means the first date of issuance of Notes under this Indenture and following a Covenant Suspension Event, except under " *Optional Redemption for Changes in Withholding Taxes*" under clause (5) in Exhibit A, Section 3.23 and the definition of "Permitted Liens," the most recent Reversion Date.

"Issue Date Notes" means the €350,000,000 aggregate principal amount of Notes originally issued on the Issue Date, and any replacement Notes issued therefor in accordance with this Indenture.

"Issuer" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"Issuer Order" has the meaning assigned to it in Section 2.2(c).

"Legal Defeasance" has the meaning assigned to it in Section 8.1(b).

"Legal Holiday" has the meaning assigned to it in Section 12.6.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. The Company or any Restricted Subsidiary shall be deemed to own, subject to a Lien, any asset that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capitalized Lease Obligations or other title retention lease relating to such asset, or any account receivable transferred by it with recourse (including any such transfer subject to a holdback or similar arrangement that effectively imposes the risk of collectability on the transferor).

"Luxembourg" means the Grand Duchy of Luxembourg.

"Material Acquisition" means:

(1) an Investment by the Company or any Restricted Subsidiary in any other Person pursuant to which such Person will become a Restricted Subsidiary, or will be merged with or into the Company or any Restricted Subsidiary;

(2) the acquisition by the Company or any Restricted Subsidiary of the assets of any Person (other than a Subsidiary of the Company) which constitute all or substantially all of the assets of such Person or comprises any division or line of business of such Person or any other properties or assets of such Person other than in the ordinary course of business; or

(3) any Revocation with respect to an Unrestricted Subsidiary;

in each case which involves an Investment, Designation or payment of consideration in excess of U.S.$25,000,000 (or the equivalent in other currencies).

"Material Disposition" means any Asset Sale and, whether or not constituting an Asset Sale, (1) any sale or other disposition of Capital Stock, (2) any Designation with respect to an Unrestricted Subsidiary and (3) any sale or other disposition of property or assets excluded from the definition of Asset Sale by clause (4) of that definition, in each case which involves an Investment, Designation or payment of consideration in excess of U.S.$25,000,000 (or the equivalent in other currencies).

"Maturity Date" means December 14, 2017.

"Mexican Financial Reporting Standards" means Mexican financial reporting standards (*Normas de Información Financiera Aplicables en México*) as issued by the Mexican Financial Reporting Standards Board (*Consejo Mexicano para la Investigación y Desarrollo de Normas de Información Financiera*).

"Moody's" means Moody's Investors Service Inc., and any successor to its rating agency business.

"Net Cash Proceeds" means, with respect to any Asset Sale, the proceeds in the form of cash or Cash Equivalents, including payments in respect of deferred payment obligations when received in the form of cash or Cash Equivalents received by the Company or any of its Restricted Subsidiaries from such Asset Sale, net of:

(1) reasonable out-of-pocket expenses and fees relating to such Asset Sale (including, without limitation, legal, accounting and investment banking fees and sales commissions);

(2) taxes paid or payable in respect of such Asset Sale after taking into account any reduction in consolidated tax liability due to available tax credits or deductions and any tax sharing arrangements;

(3) repayment of Indebtedness secured by a Lien permitted under this Indenture that is required to be repaid in connection with such Asset Sale; and

(4) appropriate amounts to be provided by the Company or any Restricted Subsidiary, as the case may be, as a reserve, in accordance with GAAP, against any liabilities associated with such Asset Sale and retained by the Company or any Restricted Subsidiary, as the case may be, after such Asset Sale, including, without limitation, pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Asset Sale, but excluding any reserves with respect to Indebtedness.

"New Sunward Holding" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"Non-U.S. Person" means a person who is not a U.S. person, as defined in Regulation S.

"Note Custodian" means the custodian with respect to any Global Note appointed by Euroclear or Clearstream, or any successor Person thereto, and shall initially be The Bank of New York Mellon on behalf of the Common Depositary.

"Note Guarantee" means any guarantee of the Issuer's Obligations under this Indenture and the Notes by any Note Guarantor pursuant to Article X.

"Note Guarantor" has the meaning assigned to it in the introductory paragraph of this Indenture and any successor or assigns of any of the foregoing.

"Note Register" has the meaning assigned to it in Section 2.3(a).

"Notes" means any of the Company's 9.625% Senior Secured Notes due 2017 issued and authenticated pursuant to this Indenture.

"Obligations" means, with respect to any Indebtedness, any principal, interest (including, without limitation, Post-Petition Interest), penalties, fees, indemnifications, reimbursements, damages, and other liabilities payable under the documentation governing such Indebtedness, including in the case of the Notes and the Note Guarantees, this Indenture.

"Officer" means, when used in connection with any action to be taken by the Company or a Note Guarantor, as the case may be, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer, the Controller, the Secretary or an attorney-in-fact of the Company or such Note Guarantor, as the case may be.

"Officer's Certificate" means a certificate signed on behalf of a Person by an Officer of such Person, who must be the principal executive officer, the principal financial officer, the treasurer, the principal accounting officer or an attorney-in-fact of such Person, that meets the requirements set forth in this Indenture.

"Opinion of Counsel" means a written opinion of counsel, who, unless otherwise indicated in this Indenture, may be an employee of or counsel for the Issuer or any Note Guarantor, and who shall be reasonably acceptable to the Trustee.

"Outstanding" means, as of the date of determination, all Notes theretofor authenticated and delivered under this Indenture, except:

(1) Notes theretofor canceled by the Trustee or delivered to the Trustee for cancellation;

(2) Notes, or portions thereof, for the payment, redemption or, in the case of an Asset Sale Offer or Change of Control Offer, purchase of which, money in the necessary amount has been theretofor deposited with the Trustee or any Paying Agent (other than the Issuer, a Note Guarantor or an Affiliate of the Company) in trust or set aside and segregated in trust by the Issuer, a Note Guarantor or an Affiliate of the Company (if the Issuer, such Note Guarantor or such Affiliate is acting as the Paying Agent) for the Holders of such Notes; *provided* that, if Notes (or portions thereof) are to be redeemed or purchased, notice of such redemption or purchase has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;

(3) Notes which have been surrendered pursuant to Section 2.9 or Notes in exchange for which or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture, other than any such Notes in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Notes are held by a protected purchaser in whose hands such Notes are valid obligations of the Issuer; and

(4) solely to the extent provided in Article VIII, Notes which are subject to Legal Defeasance or Covenant Defeasance as provided in Article VIII;

provided, however, that in determining whether the Holders of the requisite aggregate principal amount of the Outstanding Notes have given any request, demand, authorization, direction,

notice, consent or waiver hereunder, Notes owned by the Issuer, a Note Guarantor or any other obligor upon the Notes or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Notes which a Trust Officer of the Trustee actually knows to be so owned shall be so disregarded. Notes so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Notes and that the pledgee is not the Issuer or any other obligor upon the Notes or any Affiliate of the Company or of such other obligor.

"Paying Agent" has the meaning assigned to it in Section 2.3(a).

"Permitted Asset Swap Transaction" means a transaction consisting substantially of the concurrent (i) disposition by the Company or any of its Restricted Subsidiaries of any asset, property or cash consideration (other than a Restricted Subsidiary) in exchange for assets, property or cash consideration transferred to the Company or a Restricted Subsidiary, to be used in a Permitted Business or (ii) disposition by the Company or any of its Restricted Subsidiaries of Capital Stock of a Restricted Subsidiary in exchange for Capital Stock of another Restricted Subsidiary or of Capital Stock of any Person that becomes a Restricted Subsidiary after giving effect to such transaction; *provided* that any cash or Cash Equivalents received in such a transaction shall constitute Net Cash Proceeds to be applied in accordance with Section 3.12.

"Permitted Business" means the business or businesses conducted by the Company and its Restricted Subsidiaries as of the Issue Date and any business ancillary, complementary or related thereto or any other business that would not constitute a substantial change to the general nature of its business from that carried on as of the Issue Date.

"Permitted Indebtedness" has the meaning set forth in Section 3.9.

"Permitted Investments" means:

(1) Investments by the Company or any Restricted Subsidiary in any Person that is, or that result in any Person becoming, immediately after such Investment, a Restricted Subsidiary or constituting a merger or consolidation of such Person into the Company or with or into a Restricted Subsidiary;

(2) any Investment in the Company;

(3) Investments in cash and Cash Equivalents;

(4) any extension, modification or renewal of any Investments existing as of the Issue Date (but not Investments involving additional advances, contributions or other investments of cash or property or other increases thereof, other than as a result of the accrual or accretion of interest or original issue discount or payment-in-kind pursuant to the terms of such Investment as of the Issue Date);

(5) Investments permitted pursuant to clause (ii), (vi) or (vii) of Section 3.18(b);

(6) Investments received as a result of the bankruptcy or reorganization of any Person or taken in settlement of or other resolution of claims or disputes, and, in each case, extensions, modifications and renewals thereof;

(7) Investments made by the Company or its Restricted Subsidiaries as a result of non-cash consideration permitted to be received in connection with an Asset Sale made in compliance with Section 3.12;

(8) Investments in the form of Hedging Obligations or Compensation Related Hedging Obligations permitted under clause (v) of Section 3.9(b);

(9) Investments in existence on the Issue Date or made pursuant to binding commitments in effect on the Issue Date or any Investment consisting of any extension, modification or renewal of any Investment existing on the Issue Date; *provided* that the amount of any such Investment may be increased (a) as required by the terms of such Investment as in existence on the Issue Date or (b) as otherwise permitted by this Indenture;

(10) Investments by the Company or any Restricted Subsidiary in a Receivables Entity in connection with a Qualified Receivables Transaction which does not constitute an Asset Sale by virtue of clause (7) of the definition thereof; *provided, however*, that any such Investments are made only in the form of Receivables Assets;

(11) Investments in marketable securities or instruments, to fund the Company's or a Restricted Subsidiary's pension and other employee-related obligations in the ordinary course of business pursuant to compensation arrangements approved by the Board of Directors or senior management of the Company;

(12) any Investment that:

(a) when taken together with all other Investments made pursuant to this clause (12) that are at the time outstanding (net of cash benefits to the Company or a Restricted Subsidiary from Investments pursuant to this clause (12)), does not exceed the greater of $250 million and 3% of Consolidated Tangible Assets; or

(b) when taken together with all other Investments made pursuant to this clause (12) in any fiscal year that are at the time outstanding, does not exceed U.S.$100 million in any fiscal year;

(13) Investments in the Capital Stock of any Person other than a Restricted Subsidiary that are required to be held pursuant to an involuntary governmental order of condemnation, nationalization, seizure or

expropriation or other similar order with respect to Capital Stock of such Person (prior to which order such Person was a Restricted Subsidiary); *provided* that such Person contests such order in good faith in appropriate proceedings;

(14) repurchases of the Notes;

(15) Investments in the SPV Perpetuals or the notes related thereto; *provided* that any payment or other contribution to one of the special purpose vehicles issuing the SPV Perpetuals in connection with such Investment is promptly paid or contributed to the Company or a Restricted Subsidiary following receipt thereof.

(16) any Investment that constitutes Indebtedness permitted under clause (viii) of Section 3.9(b); and

(17) (a) Investments to which the Company or any of its Restricted Subsidiaries is contractually committed as of the Issue Date in any Person other than a Subsidiary in which the Company or any of its Restricted Subsidiaries maintains an Investment in equity securities and (b) Investments in any Person other than a Subsidiary in which the Company or any of its Restricted Subsidiaries maintains an Investment in equity securities up to U.S.$100 million in any calendar year minus the amount of any guarantees under clause (xix) of Section 3.9(b).

"Permitted Liens" means any of the following:

(1) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP, shall have been made;

(2) Liens Incurred or deposits made in the ordinary course of business in connection with (i) workers' compensation, unemployment insurance and other types of social security or (ii) other insurance maintained by the Company and its Subsidiaries in compliance with the Financing Agreement;

(3) Liens for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP shall have been made;

(4) any attachment or judgment Lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(5) (i) Liens existing on the Issue Date other than in respect of the Collateral and (ii) Liens in respect of the Collateral to the extent equally and ratably securing the Notes, the U.S.$ Notes and the other Permitted Secured Obligations;

(6) any Lien on property acquired by the Company or its Restricted Subsidiaries after the Issue Date that was existing on the date of acquisition of such property; *provided* that such Lien was not incurred in anticipation of such acquisition, and any Lien created to secure all or any part of the purchase price, or to secure Indebtedness incurred or assumed to pay all or any part of the purchase price, of property acquired by the Company or any of its Restricted Subsidiaries after the Issue Date; *provided further*, that (A) any such Lien permitted pursuant to this clause (6) shall be confined solely to the item or items of property so acquired (including, in the case of any Acquisition of a corporation through the acquisition of 51% or more of the voting stock of such corporation, the stock and assets of any "Acquired Subsidiary" or "Acquiring Subsidiary") and, if required by the terms of the instrument originally creating such Lien, other property which is an improvement to, or is acquired for specific use with, such acquired property; and (B) if applicable, any such Lien shall be created within nine months after, in the case of property, its acquisition, or, in the case of improvements, their completion;

(7) any Liens renewing, extending or refunding any Lien permitted by clause (5)(i) above; *provided* that such Lien is not extended to other property (or, instead, is only extended to equivalent property) and the principal amount of Indebtedness secured by such Lien immediately prior thereto is not increased or the maturity thereof reduced, except that the principal amount secured by any such Lien in respect of:

(a) hedging obligations or other derivatives where there are fluctuations in mark-to-market exposures of those hedging obligations or other derivatives,

(b) Indebtedness consisting of any "*Certificados Bursátiles de Largo Plazo*" or the Bancomext Facility, or any Refinancing thereof, where principal may increase by virtue of capitalization of interest, and

(c) the Banobras Facility to the extent additional amounts are drawn thereunder, may be increased by the amount of such fluctuations, capitalization or drawings, as the case may be;

(8) Liens on Receivables Assets or Capital Stock of a Receivables Subsidiary, in each case granted in connection with a Qualified Receivables Transaction;

(9) Liens granted pursuant to or in connection with any netting or set-off arrangements entered into in the ordinary course of business;

(10) any Lien permitted by the Trustee, acting pursuant to the instructions of at least 50% of the Noteholders;

(11) any Lien granted by the Company or any of its Restricted Subsidiaries to secure Indebtedness under a Permitted Liquidity Facility; *provided* that: (i) such Lien is not granted in respect of the Collateral, and (ii) the maximum amount of such Indebtedness secured by such Lien does not exceed U.S.$500 million at any time; and

(12) in addition to the Liens permitted by the foregoing clauses (1) through (11), Liens securing obligations of the Company and its Restricted Subsidiaries that in the aggregate secure obligations in an amount not in excess of the greater of (i) 5% of Consolidated Tangible Assets and (ii) U.S.$700 million.

"Permitted Liquidity Facility" means a loan facility or facilities made available to the Company or any Restricted Subsidiary by one or more creditors under the Financing Agreement Indebtedness (or their respective Affiliates); provided that the aggregate principal amount of utilized and unutilized commitments under such facilities must not exceed U.S.$1 billion (or its equivalent in another currency) at any time.

"Permitted Merger Jurisdiction" has the meaning set forth in Section 4.1(a).

"Permitted Secured Obligations" means (i) the Financing Agreement Indebtedness and any refinancing thereof made in accordance with the Financing Agreement that is secured by the Collateral, (ii) notes (or similar instruments, including *Certificados Bursátiles*) outstanding on the date of the Financing Agreement required to be secured by the Collateral pursuant to their terms, or any refinancing thereof permitted by the Financing Agreement, and (iii) future Indebtedness secured by the Collateral to the extent permitted by the Financing Agreement.

"Person" means an individual, partnership, limited partnership, corporation, company, limited liability company, unincorporated organization, trust or joint venture, or a governmental agency or political subdivision thereof.

"Pesos" or "Ps" means the lawful money of Mexico.

"Private Placement Legend" has the meaning assigned to it in Section 2.8(b).

"Post-Petition Interest" means all interest accrued or accruing after the commencement of any insolvency or liquidation proceeding (and interest that would accrue but for the commencement of any insolvency or liquidation proceeding) in accordance with and at the contract rate (including, without limitation, any rate applicable upon default) specified in the agreement or instrument creating, evidencing or governing any Indebtedness, whether or not, pursuant to applicable law or otherwise, the claim for such interest is allowed as a claim in such insolvency or liquidation proceeding.

"Preferred Stock" of any Person means any Capital Stock of such Person that has preferential rights over any other Capital Stock of such Person with respect to dividends, distributions or redemptions or upon liquidation.

"Purchase Money Indebtedness" means Indebtedness Incurred for the purpose of financing all or any part of the purchase price or cost of construction of any property other than Capital Stock; *provided* that the aggregate principal amount of such Indebtedness does not exceed the lesser of the Fair Market Value of such property or such purchase price or cost, including any Refinancing of such Indebtedness that does not increase the aggregate principal amount (or accreted amount, if less) thereof as of the date of Refinancing.

"QIB" means a "qualified institutional buyer" as defined in Rule 144A.

"Qualified Capital Stock" means any Capital Stock that is not Disqualified Capital Stock and any warrants, rights or options to purchase or acquire Capital Stock that is not Disqualified Capital Stock that are not convertible into or exchangeable into Disqualified Capital Stock.

"Qualified Receivables Transaction" means any transaction or series of transactions that may be entered into by the Company or any Restricted Subsidiary pursuant to which the Company or any Restricted Subsidiary may sell, convey, assign or otherwise transfer to a Receivables Entity any Receivables Assets to obtain funding for the operations of the Company and its Restricted Subsidiaries:

(1) for which no term of any portion of the Indebtedness or any other obligations (contingent or otherwise) or securities Incurred or issued by any Person in connection therewith:

(a) directly or indirectly provides for recourse to, or any obligation of, the Company or any Restricted Subsidiary in any way, whether pursuant to a Guarantee or otherwise, except for Standard Undertakings,

(b) directly or indirectly subjects any property or asset of the Company or any Restricted Subsidiary (other than Capital Stock of a Receivables Subsidiary) to the satisfaction thereof, except for Standard Undertakings, or

(c) results in such Indebtedness, other obligations or securities constituting Indebtedness of the Company or a Restricted Subsidiary, including following a default thereunder, and

(2) for which the terms of any Affiliate Transaction between the Company or any Restricted Subsidiary, on the one hand, and any Receivables Entity, on the other, other than Standard Undertakings and Permitted Investments, are no less favorable than those that could reasonably be expected to be obtained in a comparable transaction at such time on an arm's length basis from a Person that is not an Affiliate of the Company, and

(3) in connection with which, neither the Company nor any Restricted Subsidiary has any obligation to maintain or preserve a Receivable Entity's financial condition, cause a Receivables Entity to achieve certain levels of operating results, fund losses of a Receivables Entity, or except in connection with Standard Undertakings, purchase assets of a Receivables Entity.

"Rating Agencies" mean Fitch, Moody's and S&P. In the event that Fitch, Moody's or S&P is no longer in existence or issuing ratings, such organization may be replaced by a nationally recognized statistical rating organization (as defined in Rule 15c3-1(c)(2)(vi)(F) of the Exchange Act or any successor provision) designated by the Company with notice to the Trustee.

"Receivables Assets" means:

(1) accounts receivable, leases, conditional sale agreements, instruments, chattel paper, installment sale contracts, obligations, general intangibles, and other similar assets, in each case relating to goods, inventory or services of the Company and its Subsidiaries,

(2) equipment and equipment residuals relating to any of the foregoing,

(3) contractual rights, Guarantees, letters of credit, Liens, insurance proceeds, collections and other similar assets, in each case related to the foregoing, and

(4) proceeds of all of the foregoing.

"Receivables Entity" means a Receivables Subsidiary or any other Person not an Affiliate of the Company, in each case whose sole business activity is to engage in Qualified Receivables Transactions, including to issue securities or other interests in connection with a Qualified Receivables Transaction.

"Receivables Subsidiary" means an Unrestricted Subsidiary of the Company that engages in no activities other than Qualified Receivables Transactions and activities related thereto and that is designated by the Issuer as a Receivables Subsidiary. Any such designation by the Issuer will be evidenced to the Trustee by filing with the Trustee an Officer's Certificate of the Issuer.

"Record Date" has the meaning assigned to it in the Form of Face of Note contained in Exhibit A.

"Redemption Date" means, with respect to any redemption of Notes, the date fixed for such redemption pursuant to this Indenture and the Notes.

"Refinance" means, in respect of any Indebtedness, to issue any Indebtedness in exchange for or to refinance, repay, redeem, replace, defease or refund such Indebtedness in whole or in part. "Refinanced" and "Refinancing" will have correlative meanings.

"Refinancing Indebtedness" means Indebtedness of the Company or any Restricted Subsidiary issued to Refinance any other Indebtedness of the Company or a Restricted Subsidiary so long as:

(1) the aggregate principal amount (or initial accreted value, if applicable) of such new Indebtedness as of the date of such proposed Refinancing does not exceed the aggregate principal amount (or accreted value as of such date, if applicable) of the Indebtedness being Refinanced (plus the amount of any premium required to be paid under the terms of the instrument governing such Indebtedness and the amount of reasonable expenses incurred by the Company in connection with such Refinancing);

(2) such new Indebtedness has:

(a) a Weighted Average Life to Maturity that is equal to or greater than the Weighted Average Life to Maturity of the Indebtedness being Refinanced, and

(b) a final maturity that is equal to or later than the final maturity of the Indebtedness being Refinanced or, in the case of Indebtedness without a stated maturity, the maturity of the Notes; and

(3) if the Indebtedness being Refinanced is:

(a) Indebtedness of the Issuer, then such Refinancing Indebtedness will be Indebtedness of the Issuer and/or any Note Guarantor,

(b) Indebtedness of a Note Guarantor, then such Refinancing Indebtedness will be Indebtedness of the Issuer and/or any Note Guarantor,

(c) Indebtedness of any of the Restricted Subsidiaries, then such Refinancing Indebtedness will be Indebtedness of such Restricted Subsidiary, the Issuer and/or any Note Guarantor, and

(d) Subordinated Indebtedness, then such Refinancing Indebtedness shall be subordinate to the Notes or the relevant Note Guarantee, if applicable, at least to the same extent and in the same manner as the Indebtedness being Refinanced.

Notwithstanding the foregoing, with respect to any hedging obligations or derivates outstanding on the Issue Date in respect of the Axtel Share Forward Transactions, "Refinancing Indebtedness" shall mean any replacements, amendments or renewals thereof that are entered into on then prevailing market terms with the underlying amounts not greater than the original underlying amounts.

"Registrar" has the meaning assigned to it in Section 2.3(a).

"Regulation S" means Regulation S under the Securities Act or any successor regulation.

"Regulation S Global Note" has the meaning assigned to it in Section 2.1(e).

"Regulation S Permanent Global Note" has the meaning assigned to it in Section 2.1(e).

"Regulation S Temporary Global Note" has the meaning assigned to it in Section 2.1(e).

"Resale Restriction Termination Date" means for any Restricted Note (or beneficial interest therein), other than a Regulation S Temporary Global Note, which shall not have a Resale Restriction Termination Date and shall remain subject to the transfer restrictions specified therefor in this Indenture until such Global Note is cancelled by the Trustee, that is (a) not a Regulation S Global Note, the date on which the Company instructs the Trustee in writing to remove the Private Placement Legend from the Restricted Notes in accordance with the procedures described in Section 2.9(h) (which instruction is expected to be given on or about the one year anniversary of the issuance of the Restricted Notes) and (b) a Regulation S Global Note (or Certificated Note issued in respect thereof pursuant to Section 2.7(c)) (other than a Regulation S Temporary Global Note), the date on which the Distribution Compliance Period therefor terminates.

"Restricted Note" means (a) any Regulation S Temporary Global Note (or beneficial interest therein) or any Certificated Note issued in respect thereof pursuant to Section 2.7(c) at any time and (b) any Issue Date Note (or beneficial interest therein) or any Additional Note (or beneficial interest therein) not originally issued and sold pursuant to an effective registration statement under the Securities Act other than, in each case, a Regulation S Permanent Global Note until, in the case of clause (b), such time as:

(i) the Resale Restriction Termination Date therefor has passed; or

(ii) in the case of a Regulation S Global Note (or Certificated Note issued in respect thereof pursuant to Section 2.7(c)), the expiration of the Distribution Compliance Period therefor; or

(iii) the Private Placement Legend therefor has otherwise been removed pursuant to Section 2.9 or, in the case of a beneficial interest in a Global Note, such beneficial interest has been exchanged for an interest in a Global Note not bearing a Private Placement Legend.

"Restricted Payment" has the meaning set forth in Section 3.11.

"Restricted Subsidiary" means any Subsidiary of the Company, which at the time of determination is not an Unrestricted Subsidiary.

"Reversion Date" has the meaning assigned to in Section 3.23(d).

"Revocation" has the meaning set forth in Section 3.14(c).

"Rule 144" means Rule 144 under the Securities Act (or any successor rule).

"Rule 144A" means Rule 144A under the Securities Act (or any successor rule).

"Rule 144A Global Note" has the meaning assigned to it in Section 2.1(d).

"S&P" means Standard & Poor's Ratings Group and any successor to its rating agency business.

"Sale and Leaseback Transaction" means any direct or indirect arrangement with any Person or to which any such Person is a party providing for the leasing to the Company or a Restricted Subsidiary of any property, whether owned by the Company or any Restricted Subsidiary at the Issue Date or later acquired, which has been or is to be sold or transferred by the Company or such Restricted Subsidiary to such Person or to any other Person by whom funds have been or are to be advanced on the security of such Property.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Security Agent" means Wilmington Trust (London) Limited, as Security Agent under the Intercreditor Agreement.

"Security Documents" has the meaning assigned to it in Section 7.13.

"Senior Indebtedness" means (i) the Notes and any other Indebtedness of the Company or any Note Guarantor that ranks equal in right of payment with the Notes or the relevant Note Guarantee, as the case may be or (ii) Indebtedness for borrowed money or constituting Capitalized Lease Obligations of any Restricted Subsidiary other than a Note Guarantor.

"Significant Subsidiary" means a Subsidiary of the Company constituting a "Significant Subsidiary" of the Company in accordance with Rule 1-02(w) of Regulation S-X under the Securities Act in effect on the date hereof.

"Similar Business" means (1) any business engaged in by the Company or any Restricted Subsidiary on the Issue Date, and (2) any business or other activities, including non-profit or charitable activities, that are reasonably similar, ancillary, complementary or related to, or a reasonable extension, development or expansion of, the businesses and activities in which the Company or any Restricted Subsidiary is engaged on the Issue Date, including, but not limited to, infrastructure projects, public works programs and consumer or supplier financing.

"Special Record Date" has the meaning assigned to it in Section 2.13(a).

"SPV Perpetuals" means the perpetual debentures issued by special purpose vehicles in December 2006, February 2007 and March 2007.

"Standard Undertakings" means representations, warranties, covenants, indemnities and similar obligations, including servicing obligations, entered into by the Company or any Subsidiary of the Company in connection with a Qualified Receivables Transaction, which are customary in similar non-recourse receivables securitization, purchase or financing transactions.

"Subordinated Indebtedness" means, with respect to the Company or any Note Guarantor, any Indebtedness of the Company or such Note Guarantor, as the case may be, which is expressly subordinated in right of payment to the Notes or the relevant Note Guarantee, as the case may be.

"Subsidiary" means with respect to any Person, any corporation, partnership, joint venture, limited liability company, trust, estate or other entity of which (or in which) more than fifty percent (50%) of (a) in the case of a corporation, the issued and outstanding Capital Stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time Capital Stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency that has not occurred and is not in the control of such Person), (b) in the case of a limited liability company, partnership or joint venture, the voting or other power to control the actions of such limited liability company, partnership or joint venture or (c) in the case of a trust or estate, the voting or other power to control the actions of such trust or estate, is at the time directly or indirectly owned or controlled by (X) such Person, (Y) such Person and one or more of its other Subsidiaries or (Z) one or more of such Person's other Subsidiaries. Unless the context otherwise requires, all references herein to a "Subsidiary" shall refer to a Subsidiary of the Company.

"Successor Company" has the meaning assigned to it in Section 4.1(b).

"Successor Guarantor" has the meaning assigned to it in Section 4.1(c).

"Successor Issuer" has the meaning assigned to it in Section 4.1(a).

"Suspended Covenants" has the meaning assigned to it in Section 3.23(a).

"Suspension Date" has the meaning assigned to it in Section 3.23(b).

"Suspension Period" means the period of time between the Suspension Date and the Reversion Date.

"Taxes" has the meaning assigned to it in Section 3.22(a).

"Taxing Jurisdiction" has the meaning assigned to it in Section 3.22.

"Transparency Directive" has the meaning assigned to it in Section 3.21.

"Transportation Agreements" means, in respect of any Person, any agreement or arrangement designed to protect such Person from fluctuations in prices related to transportation.

"Transfer Agent" has the meaning assigned to it in Section 2.3(a).

"Trustee" means the party named as such in the introductory paragraph to this Indenture until a successor replaces it in accordance with the terms of this Indenture and, thereafter, means the successor.

"Trust Officer" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, having direct responsibility for the administration of this Indenture, or any other officer of the Trustee to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject.

"U.S.$ Notes" means the U.S.$ Notes issued on the Issue Date and any "Additional Notes" as defined in the indenture governing the U.S.$ Notes.

"U.S. Person" means a U.S. Person as defined in Regulation S.

"Unrestricted Subsidiary" means any Subsidiary of the Company Designated as such pursuant to Section 3.14. Any such Designation may be revoked by the Issuer, subject to the provisions of such covenant.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years (calculated to the nearest one-twelfth) obtained by dividing:

(1) the sum of the products obtained by multiplying:

(a) the amount of each then remaining installment, sinking fund, serial maturity or other required payment of principal or liquidation preference, as the case may be, including payment at final maturity, in respect thereof, by

(b) the number of years (calculated to the nearest one-twelfth) which will elapse between such date and the making of such payment; by

(2) the then outstanding aggregate principal amount or liquidation preference, as the case may be, of such Indebtedness.

"Wholly Owned Subsidiary" means, for any Person, any Subsidiary (Restricted Subsidiary in the case of the Company) of which at least 99.5% of the outstanding Capital Stock (other than, in the case of a Subsidiary not organized in the United States, directors' qualifying shares or an immaterial amount of shares required to be owned by other Persons pursuant to applicable law) is owned by such Person or any other Person that satisfies this definition in respect of such Person.

Section 1.2 [Reserved].

Section 1.3 Rules of Construction. Unless the context otherwise requires:

(1) a term has the meaning assigned to it;

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(3) "or" is not exclusive;

(4) "including" means including without limitation;

(5) words in the singular include the plural and words in the plural include the singular; and

(6) references to the payment of principal of the Notes shall include applicable premium, if any.

ARTICLE II

THE NOTES

Section 2.1 Form and Dating.

(a) The Issue Date Notes are being originally offered and sold by the Company pursuant to a Purchase Agreement, dated as of December 9, 2009, among the Issuer, the Note Guarantors party hereto, Citigroup Global Markets Inc., BNP Paribas and the Royal Bank of Scotland plc, as Initial Purchasers with respect to the Notes. The Notes will initially be issued as one or more Global Notes in fully registered form without interest coupons, and only in denominations of €50,000 and integral multiples of €1,000 in excess thereof and each such Global Note shall constitute a single Note for all purposes under this Indenture. Certificated Notes, if issued pursuant to the terms hereof, will be issued in fully registered certificated form without coupons. The Notes may only be issued in definitive fully registered form without coupons and only in denominates of €1,000 and any integral multiple of €1,000 in excess thereof. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto.

(b) The terms and provisions of the Notes, the form of which is in Exhibit A, shall constitute, and are hereby expressly made, a part of this Indenture, and, to the extent applicable, the Issuer, the Note Guarantors and the Trustee, by their execution and delivery of

this Indenture, expressly agree to such terms and provisions and to be bound thereby. Except as otherwise expressly permitted in this Indenture, all Notes (including Additional Notes) shall be identical in all respects. Notwithstanding any differences among them, all Notes issued under this Indenture shall vote and consent together on all matters as one class and are otherwise treated as a single issue of securities.

(c) The Notes may have notations, legends or endorsements as specified in Section 2.7 or as otherwise required by law, stock exchange rule or Euroclear or Clearstream rule or usage. The Issuer and the Trustee shall approve the form of the Notes and any notation, legend or endorsement on them. Each Note shall be dated the date of its authentication.

(d) Notes originally offered and sold to QIBs in reliance on Rule 144A will be issued in the form of one or more permanent Global Notes (each, a "Rule 144A Global Note").

(e) Notes originally offered and sold outside the United States in reliance on Regulation S will be issued in the form of one or more temporary Global Notes (each, a "Regulation S Temporary Global Note"). Each Regulation S Temporary Global Note shall be deposited on behalf of the purchasers of the Notes represented thereby with the Note Custodian or its nominee, for credit to an account of an Agent Member. In no event shall any Person hold an interest in a Regulation S Temporary Global Note other than in or through accounts maintained by Euroclear or Clearstream. An interest in a Regulation S Temporary Global Note will be exchangeable for an interest in a permanent Global Note (a " Regulation S Permanent Global Note", and, together with the Regulation S Temporary Global Note, a "Regulation S Global Note") on or after the expiration of the Distribution Compliance Period upon receipt by the Registrar of an Officer's Certificate from the Issuer certifying that it has received certification of non-U.S. beneficial ownership of 100% of the aggregate principal amount of the Regulation S Temporary Global Note in form and substance satisfactory to it (a " Non-U.S. Beneficial Ownership Certification") (except to the extent of any beneficial owners thereof who acquired an interest therein during the Distribution Compliance Period pursuant to another exemption from registration under the Securities Act and who will take delivery of a beneficial ownership interest in a 144A Global Note bearing a Private Placement Legend, all as contemplated by Section 2.8 hereof).

(f) Upon receipt by the Registrar of an Officer's Certificate from the Company pursuant to the preceding paragraph, it shall remove the legend set forth in Section 2.8(c) and Exhibit A from the Regulation S Temporary Global Note, following which temporary beneficial interests in the Regulation S Temporary Global Note shall automatically become beneficial interests in the Regulation S Permanent Global Note pursuant to the Applicable Procedures. If no beneficial interests are held in the Regulation S Temporary Global Note on or after the expiration of the Distribution Compliance Period, at the instruction of the Issuer, the Registrar shall remove the legend set forth in Section 2.8(c) and Exhibit A from the Regulation S Temporary Global Note.

(g) The aggregate principal amount of a Regulation S Temporary Global Note and a Regulation S Permanent Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and Euroclear or Clearstream, or their respective nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

Section 2.2 Execution and Authentication.

(a) Any Officer of the Issuer may sign the Notes for the Issuer by manual or facsimile signature. If an Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

(b) A Note shall not be valid until manually authenticated by an authorized signatory of the Trustee or an agent appointed by the Trustee (and reasonably acceptable to the Issuer) for such purpose (an "Authenticating Agent"). The signature of an authorized signatory of the Trustee or an Authenticating Agent on a Note shall be conclusive evidence that such Note has been duly and validly authenticated and issued under this Indenture. Unless limited by the terms of its appointment, an Authenticating Agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by an Authenticating Agent.

(c) At any time and from time to time after the execution and delivery of this Indenture, the Trustee shall authenticate and make available for delivery Notes upon a written order of the Issuer signed by an Officer of the Issuer (the "Issuer Order"). An Issuer Order shall specify the amount of the Notes to be authenticated and the date on which the original issue of Notes is to be authenticated.

(d) In case a Successor Issuer has executed an indenture supplemental hereto with the Trustee pursuant to Article IV, any of the Notes authenticated or delivered prior to such transaction may, from time to time, at the request of the Successor Issuer be exchanged for other Notes executed in the name of the Successor Issuer with such changes in phraseology and form as may be appropriate, but otherwise identical to the Notes surrendered for such exchange and of like principal amount; and the Trustee, upon Issuer Order of the Successor Issuer, shall authenticate and deliver Notes as specified in such order for the purpose of such exchange. If Notes shall at any time be authenticated and delivered in any new name of a Successor Issuer pursuant to this Section 2.2 in exchange or substitution for or upon registration of transfer of any Notes, such Successor Issuer, at the option of the Holders but without expense to them, shall provide for the exchange of all Notes at the time Outstanding for Notes authenticated and delivered in such new name.

Section 2.3 Registrar, Paying Agent and Transfer Agent.

(a) The Issuer shall maintain an office or agency in the Borough of Manhattan, City of New York, where Notes may be presented or surrendered for registration of transfer or for exchange (the "Registrar"), where Notes may be presented for payment (the "Paying Agent") and for the service of notices and demands to or upon the Issuer in respect of the Notes and this Indenture. The Registrar shall keep a register of the Notes and of their transfer and exchange (the "Note Register"). The Issuer may have one or more co-Registrars and one or more additional paying agents. The term "Paying Agent" includes any additional paying agent. The Issuer shall maintain an office or agency (i) in London, England and (ii) for so long as the Notes are listed on the Euro MTF, a market of the Luxembourg Stock Exchange, and the rules of the Luxembourg Stock Exchange so require, in Luxembourg, in each case where the Notes may be presented for payment. So long as the Notes are listed on the Euro MTF, a market

of the Luxembourg Stock Exchange, and the rules of the Luxembourg Stock Exchange so require, the Issuer shall maintain an office or agency in Luxembourg, where Notes may be presented or surrendered for registration of transfer or for exchange (the " Transfer Agent").

(b) The Issuer shall enter into an appropriate agency agreement with any Registrar, Paying Agent or co-Registrar not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Issuer shall notify the Trustee of the name and address of each such agent. If the Issuer fails to maintain a Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.7. The Issuer, any Affiliate of the Company or any Note Guarantor may act as Paying Agent, Registrar or co-Registrar, or transfer agent.

(c) The Issuer initially designates the Corporate Trust Office of the Trustee as one such office or agency of the Issuer as required by Section 2.3(a) and appoints the Trustee as Registrar, Paying Agent and agent for service of demands and notices and the parties identified on the signature pages to this Indenture in such capacities as Paying Agents and Transfer Agent in connection with the Notes and this Indenture, until such time as another Person is appointed as such.

Section 2.4 Paying Agent to Hold Money in Trust. The Issuer shall require each Paying Agent (other than the Trustee) to agree in writing that such Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money held by such Paying Agent for the payment of principal of or interest on the Notes and shall notify the Trustee in writing of any Default by the Issuer or any Note Guarantor in making any such payment. If the Issuer or an Affiliate of the Company acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it as a separate trust fund. The Issuer at any time may require a Paying Agent (other than the Trustee) to pay all money held by it to the Trustee and to account for any funds disbursed by such Paying Agent. Upon complying with this Section 2.4, the Paying Agent (if other than the Issuer or any Affiliate of the Company or a Note Guarantor) shall have no further liability for the money delivered to the Trustee. Upon any proceeding under any Bankruptcy Law with respect to the Company or any Affiliate of the Company or the Note Guarantor, if the Issuer, or such Affiliate or a Note Guarantor is then acting as Paying Agent, the Trustee shall replace the Issuer, such Affiliate or such Note Guarantor as Paying Agent.

Section 2.5 Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. At any time that the Trustee is not the Registrar the Company shall furnish to the Trustee, in writing at least seven Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders.

Section 2.6 ISIN Numbers. The Issuer in issuing Notes may use "ISIN" numbers (if then generally in use), and, if so, the Trustee shall use for the Securities "ISIN" number in notices to the Holders as a convenience to such Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice and that reliance may be placed only on the other identification numbers printed on the Notes, and any such notice shall not be affected by any defect in or omission of such numbers. The Issuer will promptly notify the Trustee in writing of any changes in the "ISIN" numbers.

Section 2.7 Global Note Provisions.

(a) Each Global Note initially shall: (i) be registered in the name of Euroclear or Clearstream or the nominee of Euroclear or Clearstream, (ii) be delivered to the Note Custodian and (iii) bear the appropriate legends as set forth in Section 2.8 and Exhibit A. Any Global Note may be represented by one or more certificates. The aggregate principal amount of each Global Note may from time to time be increased or decreased by adjustments made on the records of the Note Custodian, as provided in this Indenture.

(b) Except as provided in clause (iii) of Section 2.7(c), members of, or participants in, Euroclear or Clearstream (" Agent Members") shall have no rights under this Indenture with respect to any Global Note held on their behalf by Euroclear or Clearstream or by the Note Custodian, and Euroclear or Clearstream may be treated by the Issuer, any Note Guarantor, the Trustee, the Paying Agent, the Transfer Agent, the Note Custodian, the Registrar and any of their respective agents as the absolute owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall (i) prevent the Issuer, the Trustee, the Paying Agent, the Transfer Agent, the Note Custodian, the Registrar or any of their respective agents from giving effect to any written certification, proxy or other authorization furnished by Euroclear or Clearstream or (ii) impair, as between Euroclear or Clearstream and its Agent Members, the operation of customary practices of Euroclear or Clearstream governing the exercise of the rights of an owner of a beneficial interest in any Global Note. The registered Holder of a Global Note may grant proxies and otherwise authorize any person, including Euroclear or Clearstream or its nominee, Agent Members and persons that may hold interests through Agent Members, to take any action that a Holder is entitled to take under this Indenture or the Notes.

(c) Except as provided in this Section 2.7(c), owners of beneficial interests in Global Notes will not be entitled to receive Certificated Notes in exchange for such beneficial interests.

(i) Certificated Notes shall be issued to all owners of beneficial interests in a Global Note in exchange for such beneficial interests if (A) Euroclear or Clearstream notifies the Issuer that it is unwilling or unable to continue as depositary for such Global Note or (B) Euroclear or Clearstream ceases to be a clearing agency registered under the Exchange Act, at a time when Euroclear or Clearstream is required to be so registered in order to act as depositary, and in each case a successor depositary is not appointed by the Issuer within 90 days of such notice; *provided*, *however*, that in no event shall a holder of a beneficial interest in a Regulation S Temporary Global Note receive Certificated Notes in exchange for such beneficial interest prior to the expiration of the Distribution Compliance Period therefor and receipt by the Registrar of a Non-U.S. Beneficial Ownership Certification with respect to such Holder. In connection with the exchange of an

entire Global Note for Certificated Notes pursuant to this clause (i) of this Section 2.7(c), such Global Note shall be deemed to be surrendered to the Trustee for cancellation, and the Issuer shall execute, and upon Issuer Order the Trustee shall authenticate and deliver to each beneficial owner identified by Euroclear or Clearstream in exchange for its beneficial interest in such Global Note, an equal aggregate principal amount of Certificated Notes of authorized denominations, and the Registrar shall register such exchanges in the Note Register.

(ii) The owner of a beneficial interest in a Global Note will be entitled to receive Certificated Notes in exchange for such interest if an Event of Default has occurred and is continuing; *provided*, *however*, that in no event shall a holder of a beneficial interest in a Regulation S Temporary Global Note receive Certificated Notes in exchange for such beneficial interest prior to the expiration of the Distribution Compliance Period therefor and receipt by the Registrar of a Non-U.S. Beneficial Ownership Certification with respect to such holder. If an Event of Default has occurred and is continuing, upon receipt by the Registrar of instructions from Agent Members on behalf the owner of a beneficial interest in a Global Note directing the Registrar to exchange such beneficial owner's beneficial interest in such Global Note for Certificated Notes, subject to and in accordance with the Applicable Procedures, the Issuer shall promptly execute, and upon Issuer Order the Trustee shall authenticate and make available for delivery to such beneficial owner, Certificated Notes in a principal amount equal to such beneficial interest in such Global Note.

(iii) If (A) an event described in clause (i) of Section 2.7(c) occurs and Certificated Notes are not issued promptly to all beneficial owners or (B) the Registrar receives from a beneficial owner the instructions described in clause (ii) of Section 2.7(c) and Certificated Notes are not issued promptly to any such beneficial owner, the Issuer expressly acknowledges, with respect to the right of any Holder to pursue a remedy pursuant to Section 6.6 hereof, the right of any beneficial owner of Notes to pursue such remedy with respect to the portion of the Global Note that represents such beneficial owner's Notes as if such Certificated Notes had been issued.

Section 2.8 Legends.

(a) Each Global Note shall bear the legend specified therefor in Exhibit A on the face thereof.

(b) Each Restricted Note shall bear the private placement legend specified therefor in Exhibit A on the face thereof (the "Private Placement Legend").

(c) Each Regulation S Temporary Global Note shall bear the legend specified therefor in Exhibit A on the face thereof.

Section 2.9 Transfer and Exchange.

(a) Transfers of Beneficial Interests in a Rule 144A Global Note. If the owner of a beneficial interest in a Rule 144A Global Note that is a Restricted Note wishes to transfer such interest (or portion thereof) to a Non-U.S. Person pursuant to Regulation S:

(i) upon receipt by the Registrar of:

(A) instructions from an Agent Member given to Euroclear or Clearstream in accordance with the Applicable Procedures directing Euroclear or Clearstream to credit or cause to be credited a beneficial interest in the Regulation S Temporary Global Note, in the case of a transfer made prior to the expiration of the Distribution Compliance Period, or the Regulation S Permanent Global Note in the case of a transfer made after the expiration of the Distribution Compliance Period, in either case, in a principal amount equal to the principal amount of the beneficial interest to be transferred,

(B) instructions given in accordance with the Applicable Procedures containing information regarding the account to be credited with such increase, and

(C) a certificate in the form of Exhibit C duly executed by the Rule 144A transferor;

(ii) the Note Custodian shall increase the Regulation S Temporary Global Note or the Regulation S Permanent Global Note, as the case may be, and decrease the Rule 144A Global Note in accordance with the foregoing, and the Registrar shall register the transfer in the Note Register.

(b) Transfers of Beneficial Interests in a Regulation S Global Note. Subject to the Applicable Procedures, the following provisions shall apply with respect to any proposed transfer of an interest in a Regulation S Global Note that is a Restricted Note:

(i) If the owner of a beneficial interest in a Regulation S Global Note that is a Restricted Note wishes to transfer such interest (or a portion thereof) to a QIB pursuant to Rule 144A:

(A) upon receipt by the Note Custodian and Registrar of:

(1) instructions from an Agent Member given to Euroclear or Clearstream in accordance with the Applicable Procedures directing Euroclear or Clearstream to credit or cause to be credited a beneficial interest in the Rule 144A Global Note in an amount equal to the beneficial interest being transferred,

(2) instructions given in accordance with the Applicable Procedures containing information regarding the account to be credited with such increase, and

(3) a certificate in the form of Exhibit B duly executed by the transferor;

(B) the Note Custodian shall increase the Rule 144A Global Note and decrease the Regulation S Global Note in accordance with the foregoing, and the Registrar shall register the transfer in the Note Register.

(ii) No interest in a Regulation S Temporary Global Note will be exchanged for an interest in the Regulation S Permanent Global Note except pursuant to Rule 144A and in accordance with the applicable provisions of this Section 2.9.

(c) Other Transfers. Any registration of transfer of Restricted Notes (including Certificated Notes) not described above (other than a transfer of a beneficial interest in a Global Note that does not involve an exchange of such interest for a Certificated Note or a beneficial interest in another Global Note, which must be effected in accordance with applicable law and the Applicable Procedures, but is not subject to any procedure required by this Indenture) shall be made only upon receipt by the Registrar of such opinions of counsel, certificates and such other evidence reasonably required by and satisfactory to it in order to ensure compliance with the Securities Act or in accordance with Section 2.9(d).

(d) Use and Removal of Private Placement Legends. Upon the registration of transfer, exchange or replacement of Notes (or beneficial interests in a Global Note) not bearing (or not required to bear upon such transfer, exchange or replacement) a Private Placement Legend, the Note Custodian and Registrar shall exchange such Notes (or beneficial interests) for beneficial interests in a Global Note or Certificated Notes if they have been issued pursuant to Section 2.7(c) that does not bear a Private Placement Legend. Upon the registration of transfer, exchange or replacement of Notes (or beneficial interests in a Global Note) bearing a Private Placement Legend, the Note Custodian and Registrar shall deliver only Notes (or beneficial interests in a Global Note) that bear a Private Placement Legend unless:

(i) such Notes (or beneficial interests) are transferred pursuant to Rule 144 upon delivery to the Registrar of a certificate of the transferor in the form of Exhibit C and an Opinion of Counsel reasonably satisfactory to the Registrar;

(ii) such Notes (or beneficial interests) are transferred, replaced or exchanged after the Resale Restriction Termination Date therefor and, in the case of any such Restricted Notes, the Issuer has complied with the applicable procedures for delegending in accordance with Section 2.9(h); or

(iii) in connection with such registration of transfer, exchange or replacement the Registrar shall have received an Opinion of Counsel, certificates and such other evidence reasonably satisfactory to the Issuer and the Registrar to the effect that neither such Private Placement Legend nor the related restrictions on transfer are required in order to maintain compliance with the provisions of the Securities Act.

The Holder of a Global Note bearing a Private Placement Legend may exchange an interest therein for an equivalent interest in a Global Note not bearing a Private Placement Legend (other than a Regulation S Global Note) upon transfer of such interest pursuant to this Section 2.9(d).

(e) Consolidation of Global Notes and Exchange of Certificated Notes for Beneficial Interests in Global Notes . If a Global Note not bearing a Private Placement Legend (other than a Regulation S Global Note) is Outstanding at the time of a removal of legends pursuant to Section 2.9(h), any interests in a Global Note delegended pursuant to Section 2.9(h) shall be exchanged for interests in such Outstanding Global Note, subject to the proviso at the end of Section 2.14(a).

(f) Retention of Documents. The Registrar and the Trustee shall retain copies of all letters, notices and other written communications received pursuant to this Article II and in accordance with the Trustee's record retention procedures. The Issuer shall have the right to inspect and make copies of all such letters, notices or other written communications at any reasonable time upon the giving of reasonable written notice to the Registrar or the Trustee, as the case may be.

(g) General Provisions Relating to Transfers and Exchanges.

(i) Subject to the other provisions of this Section 2.9, when Notes are presented to the Registrar or a co-Registrar with a request to register the transfer of such Notes or to exchange such Notes for an equal principal amount of Notes of other authorized denominations, the Registrar or co-Registrar shall register the transfer or make the exchange as requested if its requirements for such transaction are met; *provided* that any Notes presented or surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Registrar or co-Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing.

(ii) To permit registrations of transfers and exchanges and subject to the other terms and conditions of this Article II, the Issuer will execute and upon Issuer Order the Trustee will authenticate and make available for delivery Certificated Notes and Global Notes, as applicable, at the Registrar's or co-Registrar's request.

(iii) No service charge shall be made to a Holder for any registration of transfer or exchange, but the Issuer and the Trustee may require payment of a sum sufficient to cover any transfer tax, assessments, or similar governmental charge payable in connection therewith (other than any such transfer taxes, assessments or similar governmental charges payable upon exchange or transfer pursuant to Section 3.8, Section 3.9, Section 5.1 or Section 9.5).

(iv) The Registrar or co-Registrar shall not be required to register the transfer of or exchange of (x) any Note for a period beginning (1) 15 days before the mailing of a notice of an offer to repurchase or redeem Notes and ending at the close of business on the day of such mailing or (2) 15 days before an Interest Payment Date and ending on such Interest Payment Date and (y) any Note selected for repurchase or redemption, except the unrepurchased or unredeemed portion thereof, if any.

(v) Prior to the due presentation for registration of transfer of any Note, the Issuer, the Trustee, the Paying Agent, the Transfer Agent, the Registrar or any co-Registrar may deem and treat the Person in whose name a Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Note and for all other purposes whatsoever, whether or not such Note is overdue, and none of the Issuer, the Trustee, the Paying Agent, the Transfer Agent, the Registrar or any co-Registrar or the Note Custodian shall be affected by notice to the contrary.

(vi) All Notes issued upon any transfer or exchange pursuant to the terms of this Indenture shall evidence the same debt and shall be entitled to the same benefits under this Indenture as the Notes surrendered upon such transfer or exchange.

(vii) Subject to Section 2.7 and this Section 2.9, in connection with the exchange of a portion of a Certificated Note for a beneficial interest in a Global Note, the Trustee shall cancel such Certificated Note, and the Issuer shall execute, and upon Issuer Order the Trustee shall authenticate and make available for delivery to the exchanging Holder, a new Certificated Note representing the principal amount not so exchanged.

(h) Applicable Procedures for Delegending.

(i) Promptly after one year has elapsed following (A) the Issue Date or (B) if the Issuer has issued Additional Notes, with the same terms and

the same ISIN numbers as the Issue Date Notes pursuant to this Indenture within one year following the Issue Date, the date of original issuances of such Additional Notes if the relevant Notes are freely tradeable pursuant to Rule 144 under the Securities Act by Holders who are not Affiliates of the Issuer where no conditions of Rule 144 are then applicable (other than the holding period requirement in paragraph (d)(1)(ii) of Rule 144 so long as such holding period requirement is satisfied), the Issuer shall:

(1) instruct the Trustee in writing to remove the Private Placement Legend from such Notes by delivering to the Trustee a certificate in the form of Exhibit C hereto, and upon such instruction the Private Placement Legend shall be deemed removed from any Global Notes representing such Notes without further action on the part of Holders;

(2) notify Holders of such Notes that the Private Placement Legend has been removed or deemed removed; and

(3) instruct Euroclear or Clearstream to change the ISIN number for such Notes to the unrestricted ISIN number for the Notes.

In no event will the failure of the Issuer to provide any notice set forth in this paragraph or of the Trustee to remove the Private Placement Legend constitute a failure by the Issuer to comply with any of its covenants or agreements set forth in Section 6.1 or otherwise. Any Restricted Note (or security issued in exchange or substitution therefor) as to which such restrictions on transfer shall have expired in accordance with their terms may, upon surrender of such Restricted Note for exchange to the Registrar in accordance with the provisions of Article II of this Indenture, be exchanged for a new Note or Notes, of like tenor and aggregate principal amount, which shall not bear the Private Placement Legend. The Issuer shall notify the Trustee in writing upon occurrence of the Resale Restriction Termination Date for any Note.

(ii) Notwithstanding any provision herein to the contrary, in the event that Rule 144 as promulgated under the Securities Act (or any successor rule) is amended to change the one-year holding period thereunder (or the corresponding period under any successor rule), (A) each reference in this Section 2.9(h) to "one year" and in the Private Placement Legend described in Section 2.8(b) and Exhibit A to "ONE YEAR" shall be deemed for all purposes hereof to be references to such changed period, and (B) all corresponding references in this Indenture (including the definition of Resale Restriction Termination Date), the Notes and the Private Placement Legends thereon shall be deemed for all purposes hereof to be references to such changed period; *provided*

that such changes shall not become effective if they are otherwise prohibited by, or would otherwise cause a violation of, the then-applicable federal securities laws; *provided further* that if such change does not apply to existing Notes, all references to "one year" in this Indenture shall not be deemed for all purposes hereof to be references to such changed period. This Section 2.9(h) shall apply to successive amendments to Rule 144 (or any successor rule) changing the holding period thereunder.

(i) No Obligation of the Trustee.

(i) The Trustee shall have no responsibility or obligation to any beneficial owner of an interest in a Global Note, Agent Members or any other Persons with respect to the accuracy of the records of Euroclear or Clearstream or its nominee or of Agent Members, with respect to any ownership interest in the Notes or with respect to the delivery to any Agent Member, beneficial owner or other Person (other than Euroclear or Clearstream) of any notice (including any notice of redemption) or the payment of any amount or delivery of any Notes (or other security or property) under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to Holders in respect of the Notes shall be given or made only to or upon the order of the registered Holders (which shall be Euroclear or Clearstream or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through Euroclear or Clearstream subject to the applicable rules and procedures of Euroclear or Clearstream. The Trustee may rely and shall be fully protected in relying upon information furnished by Euroclear or Clearstream with respect to its Agent Members and any beneficial owners.

(ii) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Agent Members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Section 2.10 Mutilated, Destroyed, Lost or Stolen Notes.

(a) If a mutilated Note is surrendered to the Registrar or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Issuer shall execute and upon Issuer Order the Trustee shall authenticate and make available for delivery a replacement Note for such mutilated, lost or stolen Note, of like tenor and principal amount, bearing a number not contemporaneously Outstanding if:

(i) the requirements of Section 8-405 of the Uniform Commercial Code are met,

(ii) the Holder satisfies any other reasonable requirements of the Trustee, and

(iii) neither the Issuer nor the Trustee has received notice that such Note has been acquired by a protected purchaser.

If required by the Trustee or the Issuer, such Holder shall furnish an affidavit of loss and indemnity bond sufficient in the judgment of the Issuer and the Trustee to protect the Issuer, the Trustee, the Paying Agent, the Transfer Agent, the Registrar or any co-Registrar and the Note Custodian from any loss that any of them may suffer if a Note is replaced.

(b) Upon the issuance of any new Note under this Section 2.10, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) in connection therewith.

(c) Every new Note issued pursuant to this Section 2.10 in exchange for any mutilated Note, or in lieu of any destroyed, lost or stolen Note, shall constitute an original additional contractual obligation of the Issuer, any Note Guarantor and any other obligor upon the Notes, whether or not the mutilated, destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all benefits of this Indenture equally and proportionately with any and all other Notes duly issued hereunder.

Section 2.11 Temporary Notes. Until definitive Notes are ready for delivery, the Issuer may execute and upon Issuer Order the Trustee will authenticate and make available for delivery temporary Notes. Temporary Notes will be substantially in the form of definitive Notes but may have variations that the Issuer considers appropriate for temporary Notes. Without unreasonable delay, the Issuer will prepare and execute and upon Issuer Order the Trustee will authenticate and make available for delivery definitive Notes. After the preparation of definitive Notes, the temporary Notes will be exchangeable for definitive Notes upon surrender of the temporary Notes at any office or agency maintained by the Issuer for that purpose and such exchange shall be without charge to the Holder. Upon surrender for cancellation of any one or more temporary Notes, the Issuer will execute and upon Issuer Order the Trustee will authenticate and make available for delivery in exchange therefor one or more definitive Notes representing an equal principal amount of Notes. Until so exchanged, the Holder of temporary Notes shall in all respects be entitled to the same benefits under this Indenture as a Holder of definitive Notes.

Section 2.12 Cancellation. The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar, the Paying Agent and the Transfer Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel and dispose of cancelled Notes in accordance with its policy of disposal or upon written request of the Company, return to the Issuer all Notes surrendered for

registration of transfer, exchange, payment or cancellation. The Issuer may not issue new Notes to replace Notes it has paid or delivered to the Trustee for cancellation for any reason other than in connection with a registration of transfer or exchange upon Issuer Order.

Section 2.13 Defaulted Interest. When any installment of interest becomes Defaulted Interest on Notes, such installment shall forthwith cease to be payable to the Holders in whose names the Notes were registered on the Record Date applicable to such installment of interest. Defaulted Interest (including any interest on such Defaulted Interest) shall be paid by the Issuer, at its election, as provided in clause (a) or clause (b) below.

(a) The Issuer may elect to make payment of any Defaulted Interest (including any interest payable on such Defaulted Interest) to the Holders in whose names the Notes are registered at the close of business on a special record date for the payment of such Defaulted Interest (a " Special Record Date"), which shall be fixed in the following manner. The Issuer shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid and the date of the proposed payment, and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Holders entitled to such Defaulted Interest as provided in this Section 2.13(a). Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest, which shall be not more than 15 calendar days and not less than ten calendar days prior to the date of the proposed payment and not less than ten calendar days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Issuer of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be sent, first-class mail, postage prepaid, to each Holder at such Holder's address as it appears in the Note Register, not less than ten calendar days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Holders in whose names the Notes are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to clause (b) below; or

(b) The Issuer may make payment of any Defaulted Interest (including any interest on such Defaulted Interest) in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Issuer to the Trustee of the proposed payment pursuant to this Section 2.13(b), such manner of payment shall be deemed practicable by the Trustee. The Trustee shall in the name and at the expense of the Issuer cause prompt notice of the proposed payment and the date thereof to be sent, first-class mail, postage prepaid, to each Holder at such Holder's address as it appears in the Note Register.

Section 2.14 Additional Notes.

(a) The Issuer may, from time to time, subject to compliance with any other applicable provisions of this Indenture, without the consent of the Holders, create and issue pursuant to this Indenture additional notes (" Additional Notes") that shall have terms and conditions identical to those of the other Outstanding Notes, except with respect to:

(i) the issue date;

(ii) the amount of interest payable on the first Interest Payment Date therefor;

(iii) the issue price; and

(iv) any adjustments necessary in order to conform to and ensure compliance with the Securities Act (or other applicable securities laws) and any agreement applicable to such Additional Notes, which are not adverse in any material respect to the Holder of any Outstanding Notes (other than such Additional Notes).

The Notes issued on the Issue Date and any Additional Notes shall be treated as a single class for all purposes under this Indenture; *provided* that the Issuer may use different ISIN or other similar numbers among Issue Date Notes and Additional Notes to the extent required to comply with securities or tax law requirements, including to permit delegending pursuant to Section 2.9(h).

(b) With respect to any Additional Notes, the Issuer will set forth in an Officer's Certificate of the Issuer (the " Additional Note Certificate"), copies of which will be delivered to the Trustee, the following information:

(i) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Indenture;

(ii) the issue date and the issue price of such Additional Notes; *provided* that no Additional Notes may be issued at a price that would cause such Additional Notes to have "original issue discount" within the meaning of Section 1273 of the Code, unless such Additional Notes have a separate ISIN or other similar number from other Notes; and

(iii) whether such Additional Notes will be subject to transfer restrictions under the Securities Act (or other applicable securities laws).

ARTICLE III

COVENANTS

Section 3.1 Payment of Notes.

(a) The Issuer shall pay the principal of and interest (including Defaulted Interest) on the Notes in euros on the dates and in the manner provided in the Notes and in this Indenture. Prior to 3:00 p.m. London time on the Business Day prior to each Interest Payment Date and the Maturity Date, the Issuer shall deposit with the Paying Agent in immediately available funds euros sufficient to make cash payments due on such Interest Payment Date or

Maturity Date, as the case may be. If the Issuer, a Note Guarantor or an Affiliate of the Company is acting as Paying Agent, the Issuer, such Note Guarantor or such Affiliate shall, prior to 3:00 p.m. on the Business Day prior to each Interest Payment Date and the Maturity Date, segregate and hold in trust euros sufficient to make cash payments due on such Interest Payment Date or Maturity Date, as the case may be. Principal and interest shall be considered paid on the date due if on such date the Trustee or the Paying Agent (other than the Issuer, a Note Guarantor or an Affiliate of the Company) holds in accordance with this Indenture euros designated for and sufficient to pay all principal and interest then due and the Trustee or the Paying Agent, as the case may be, is not prohibited from paying such money to the Holders on that date pursuant to the terms of this Indenture.

(b) Notwithstanding anything to the contrary contained in this Indenture, the Issuer may, to the extent it is required to do so by law, deduct or withhold income or other similar taxes imposed by the United States of America from principal or interest payments hereunder.

Section 3.2 Maintenance of Office or Agency.

(a) The Issuer shall maintain each office or agency required under Section 2.3. The Issuer will give prompt written notice to the Trustee of any change in the location of any such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Issuer hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

(b) The Issuer may also from time to time designate one or more other offices or agencies (in or outside of The City of New York) where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind any such designation; *provided, however,* that no such designation or rescission shall in any manner relieve the Issuer of its obligation to maintain an office or agency in The City of New York and in any city selected by the Issuer within the European Union. So long as the Notes are listed on the Luxembourg Stock Exchange and the rules of the Luxembourg Stock Exchange so require, the Issuer shall also maintain an office or agency in Luxembourg, for such purposes. So long as the Issuer shall maintain an office or agency in Luxembourg for purposes of this Section 3.2, the Issuer shall not be required to maintain an office or agency in another city within the European Union. The Issuer will give prompt written notice to the Trustee of any such designation or rescission and any change in the location of any such other office or agency.

Section 3.3 Corporate Existence. Subject to Article IV, the Issuer will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

Section 3.4 Payment of Taxes and Other Claims. The Issuer will pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (i) all taxes, assessments and governmental charges levied or imposed upon the Company or any Restricted Subsidiary or for which it or any of them are otherwise liable, or upon the income, profits or property of the Company or any Restricted Subsidiary and (ii) all lawful claims for labor,

materials and supplies, which, if unpaid, might by law become a liability or Lien upon the property of the Company or any Restricted Subsidiary; *provided, however,* that the Company shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings and for which appropriate reserves, if necessary (in the good faith judgment of management of the Issuer, as the case may be, is being maintained in accordance with GAAP or where the failure to effect such payment will not be disadvantageous to the Holders.

Section 3.5 Compliance Certificate. The Issuer and each Note Guarantor shall deliver to the Trustee within 105 days after the end of each fiscal year of the Company (which fiscal year ends on December 31 of each year, subject to any change in fiscal year following the Issue Date) an Officer's Certificate stating that in the course of the performance by the signers of their duties as Officers of the Issuer or such Note Guarantor, as the case may be, they would normally have knowledge of any Default or Event of Default and whether or not the signers know of any Default or Event of Default that occurred during the previous fiscal year. If they do, the certificate shall describe the Default or Event of Default, its status and what action the Issuer or such Note Guarantor is taking or proposes to take with respect thereto.

Section 3.6 Further Instruments and Acts.

(a) The Issuer and each Note Guarantor will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper or as the Trustee may reasonably request to carry out more effectively the purpose of this Indenture.

(b) The Issuer and the Note Guarantors shall take, and shall cause their Subsidiaries party thereto to take, any and all actions required under the Intercreditor Agreement and the Security Documents to cause the Intercreditor Agreement and the Security Documents to create and maintain, as security for the Obligations of the Issuer and the Note Guarantors hereunder, a valid and enforceable perfected security interest on all the Collateral, in favor of the Security Agent for the equal and ratable benefit of the Holders of the Notes, the U.S. Notes and the other Permitted Secured Obligations, first in priority to any and all security interests at any time granted upon the Collateral, subject in all respects to Liens imposed by law and Liens for judgments, taxes, assessments or governmental charges.

Section 3.7 Waiver of Stay, Extension or Usury Laws. The Issuer and each Note Guarantor covenant (to the fullest extent permitted by applicable law) that they will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury law or other law that would prohibit or forgive the Issuer or such Note Guarantor from paying all or any portion of the principal of or interest on the Notes as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Indenture. The Issuer and each Note Guarantor hereby expressly waives (to the fullest extent permitted by applicable law) all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 3.8 Change of Control.

(a) Upon the occurrence of a Change of Control, each Holder will have the right to require that the Issuer purchase all or a portion (in integral multiples of €1,000) of the Holder's Notes at a purchase price equal to 101% of the principal amount thereof, plus accrued and unpaid interest thereon through the date of purchase (the "Change of Control Payment").

(b) Within 30 days following the date upon which the Change of Control occurred, the Issuer must send, by first-class mail, a notice to each Holder, with a copy to the Trustee, offering to purchase the Notes as described above (a "Change of Control Offer") and publish the Change of Control Offer in a newspaper having a general circulation in Luxembourg (which is expected to be the *Luxemburger Wort*). The Change of Control Offer shall state, among other things, the purchase date, which must be no earlier than 30 days nor later than 60 days from the date the notice is mailed, other than as may be required by law (the "Change of Control Payment Date").

(c) On the Change of Control Payment Date, the Issuer will, to the extent lawful:

(i) accept for payment all Notes or portions thereof properly tendered and not withdrawn pursuant to the Change of Control Offer;

(ii) deposit with the Paying Agent funds in an amount equal to the Change of Control Payment in respect of all Notes or portions thereof so tendered; and

(iii) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof being purchased by the Issuer.

(d) If only a portion of a Note is purchased pursuant to a Change of Control Offer, a new Note in a principal amount equal to the portion thereof not purchased will be issued in the name of the Holder thereof upon cancellation of the original Note (or appropriate adjustments to the amount and beneficial interests in a Global Note will be made, as appropriate); *provided* that each new Note shall be in a minimum principal amount of €50,000 or an integral multiple of €1,000 in excess thereof. Notes (or portions thereof) purchased pursuant to a Change of Control Offer will be cancelled and cannot be reissued.

(e) The Issuer will not be required to make a Change of Control Offer upon a Change of Control if:

(i) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Issuer and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer, or

(ii) notice of redemption has been given pursuant to this Indenture as described under Section 5.4 unless and until there is a default in payment of the applicable redemption price.

(f) The Issuer will comply with the requirements of Rule 14e-1 under the Exchange Act and any other applicable securities laws and regulations in connection with the purchase of Notes in connection with a Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with the "Change of Control" provisions of this Indenture, the Issuer will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Indenture by doing so.

Section 3.9 Limitation on Incurrence of Additional Indebtedness .

(a) The Company will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, Incur any Indebtedness, including Acquired Indebtedness, except that the Issuer and/or any of the Note Guarantors may Incur Indebtedness, including Acquired Indebtedness, if, at the time of and immediately after giving *pro forma* effect to the Incurrence thereof and the application of the proceeds therefrom, the Consolidated Fixed Charge Coverage Ratio of the Company is greater than or equal to 2.0 to 1.0.

(b) Notwithstanding clause (a) above, the Company and/or any of its Restricted Subsidiaries, as applicable, may Incur the following Indebtedness ("Permitted Indebtedness"):

(i) Indebtedness not to exceed €350 million in respect of the Notes, excluding Additional Notes;

(ii) Indebtedness not to exceed U.S.$1,250 million in respect of the U.S.$ Notes issued or outstanding on the Issue Date;

(iii) Guarantees by (A) any Note Guarantor of Indebtedness of the Issuer or another Note Guarantor permitted under this Indenture and (B) the Issuer of Indebtedness of any Note Guarantor; *provided* that, if any such Guarantee is of Subordinated Indebtedness, then the obligations of the Issuer under the Notes and this Indenture or the Note Guarantee of such Note Guarantor, as applicable, will be senior to the Guarantee of such Subordinated Indebtedness;

(iv) Indebtedness of the Company and/or any of its Restricted Subsidiaries outstanding on the Issue Date (excluding Indebtedness permitted under clauses (vi), (vii), (viii) or (xi) of this definition of Permitted Indebtedness);

(v) Hedging Obligations, Compensation Related Hedging Obligations and any Guarantees thereof and any reimbursement obligations with respect to letters of credit related thereto, in each case entered into by the Company and/or any of its Restricted Subsidiaries; *provided* that, upon the drawing of such letters of credit, such obligations are reimbursed within 30 days following such drawing;

(vi) intercompany Indebtedness between the Company and any Restricted Subsidiary or between any Restricted Subsidiaries; *provided* that, in the event that at any time any such Indebtedness ceases to be held by the Issuer or a Restricted Subsidiary, such Indebtedness shall be deemed to be Incurred and not permitted by this clause (vi) at the time such event occurs;

(vii) Indebtedness of the Company and/or any of its Restricted Subsidiaries arising from (A) the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds in the ordinary course of business; *provided* that such Indebtedness is extinguished within five Business Days of Incurrence; or (B) any cash pooling or other cash management agreements in place with a bank or financial institution but only to the extent of offsetting credit balances of the Company and/or its Restricted Subsidiaries pursuant to such cash pooling or other cash management agreement;

(viii) Indebtedness of the Company and/or any of its Restricted Subsidiaries represented by (A) endorsements of negotiable instruments in the ordinary course of business (excluding an *aval*), (B) documentary credits (including all forms of letter of credit), performance bonds or guarantees, advance payments, bank guarantees, bankers' acceptances, surety or appeal bonds or similar instruments for the account of, or guaranteeing performance by, the Company and/or any Restricted Subsidiary in the ordinary course of business, (C) reimbursement obligations with respect to letters of credit in the ordinary course of business (D) reimbursement obligations with respect to letters of credit and performance Guarantees in the ordinary course of business to the extent required pursuant to the terms of any Investment made pursuant to clause (12) of the definition of "Permitted Investment" and (E) other Guarantees by the Company and/or any Restricted Subsidiary in favor of a bank or financial institution in respect of obligations of that bank or financial institution to a third party in an amount not to exceed U.S.$500 million at any one time outstanding; *provided* that in the case of clauses (B), (C) and (D), upon the drawing of such letters of credit or the Incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or Incurrence;

(ix) Refinancing Indebtedness in respect of:

(A) Indebtedness (other than Indebtedness owed to the Company or any Subsidiary of the Company) Incurred pursuant to clause (a) above (it being understood that no Indebtedness outstanding on the Issue Date is Incurred pursuant to such clause (a) above), or

(B) Indebtedness Incurred pursuant to clause (i), (ii), (iii) or (iv) above or this clause (ix);

(x) Capitalized Lease Obligations, Sale and Leaseback Transactions, export credit facilities with a maturity of at least one year and Purchase Money Indebtedness of, including Guarantees of any of the foregoing by, the Company and/or any Restricted Subsidiary, in an aggregate principal amount at any one time outstanding not to exceed U.S.$1 billion;

(xi) Indebtedness arising from agreements entered into by the Company and/or a Restricted Subsidiary providing for bona fide indemnification, adjustment of purchase price or similar obligations not for financing purposes, in each case, Incurred or assumed in connection with the acquisition or disposition of any business, assets or Capital Stock of a Restricted Subsidiary (including minority interests); *provided* that, in the case of a disposition, the maximum aggregate liability in respect of such Indebtedness shall at no time exceed the gross proceeds actually received by the Company and its Restricted Subsidiaries in connection with such disposition;

(xii) Indebtedness of the Company and/or any of its Restricted Subsidiaries in an aggregate amount not to exceed U.S.$1 billion at any one time; outstanding; *provided* that no more than U.S.$250 million of such Indebtedness at any one time outstanding (excluding any Indebtedness under a Permitted Liquidity Facility) may be Incurred by Restricted Subsidiaries that are not the Issuer or Note Guarantors, which amount shall be increased by the corresponding amount of other Indebtedness of Restricted Subsidiaries other than the Issuer and the Note Guarantors outstanding on the Issue Date and subsequently repaid from time to time but in any event not to exceed U.S.$500 million at any one time outstanding; *provided, further, however*, that (A) the Company and/or any of its Restricted Subsidiaries may Incur Indebtedness under a Permitted Liquidity Facility and (B) in the event that the Company and/or any of its Restricted Subsidiaries shall have Incurred Indebtedness under a Permitted Liquidity Facility that increases the amount outstanding at such time pursuant to this clause (xii) in excess of U.S.$ 1 billion, then up to U.S.$1.2 billion may be Incurred pursuant to this clause (xii) at any one time outstanding;

(xiii) (A) Indebtedness of the Company and/or any of its Restricted Subsidiaries in respect of factoring arrangements or Inventory Financing arrangements or (B) other Indebtedness of the Company and/or any of its Restricted Subsidiaries with a maturity of 12 months

or less for working capital purposes, not to exceed in the aggregate at any one time (calculated as of the end of the most recent fiscal quarter for which consolidated financial information of the Company is available) the greater of:

(1) The sum of:

(x) 20% of the net book value of the inventory of the Company and its Restricted Subsidiaries and

(y) 20% of the net book value of the accounts receivable of the Company and its Restricted Subsidiaries (excluding accounts receivable pledged to secure Indebtedness or subject to a Qualified Receivables Transaction),

less, in each case, the amount of any permanent repayments or reductions of commitments in respect of such Indebtedness made with the Net Cash Proceeds of an Asset Sale in order to comply with Section 3.12; or

(2) U.S.$350 million;

(xiv) Indebtedness of the Issuer and/or any of the Note Guarantors Incurred to fund amounts payable upon the exercise of the put option (calculated according to the terms in effect on the Issue Date of the agreements giving rise to such obligations) requiring CEMEX, Inc. to purchase 50.01% of the Capital Stock of Ready Mix USA, LLC and/or 49.99% of the Capital Stock of CEMEX Southeast, LLC, the combined amount of which was estimated to be U.S.$472 million as of September 30, 2009, subject to subsequent adjustments;

(xv) Indebtedness of the Company and/or any of its Restricted Subsidiaries for taxes levied, assessments due and other governmental charges required to be paid as a matter of law or regulation in the ordinary course of business; *provided* that such Indebtedness shall be permitted to be Incurred only at such time that the Financing Agreement (or any refinancing thereof) shall contain an exception to allow the Incurrence of Indebtedness to pay taxes;

(xvi) Indebtedness Incurred pursuant to the Banobras Facility;

(xvii) Indebtedness of the Company and/or any of its Restricted Subsidiaries Incurred and/or issued to refinance Qualified Receivables Transactions in existence on the Issue Date;

(xviii) Acquired Indebtedness in an aggregate amount at any one time outstanding under this clause (xviii) not to exceed U.S.$100 million; and

(xix) (A) any Indebtedness that constitutes an Investment that the Company and/or any of its Restricted Subsidiaries is contractually committed to Incur as of the Issue Date in any Person (other than a Subsidiary) in which the Company or any of its Restricted Subsidiaries maintains an Investment in equity securities; and (B) Guarantees up to U.S.$100 million in any calendar year by the Company and/or any Restricted Subsidiary of Indebtedness of any Person in which the Company or any of its Restricted Subsidiaries maintains an equity Investment minus any Investment other than such guarantees in such Person during such calendar year pursuant to clause (17)(b) of the definition of "Permitted Investments."

(c) Notwithstanding anything to the contrary contained in this Section 3.9,

(i) The Company shall not, and shall not permit any Note Guarantor to, Incur any Indebtedness pursuant to this Section 3.9 if the proceeds thereof are used, directly or indirectly, to Refinance any Subordinated Indebtedness unless such Indebtedness shall be subordinated to the Notes or the applicable Note Guarantee, as the case may be, to at least the same extent as such Subordinated Indebtedness.

(ii) For purposes of determining compliance with, and the outstanding principal amount of, any particular Indebtedness Incurred pursuant to and in compliance with this Section 3.9, the amount of Indebtedness issued at a price that is less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined in accordance with GAAP. Accrual of interest, the accretion or amortization of original issue discount, the payment of regularly scheduled interest in the form of additional Indebtedness of the same instrument or the payment of regularly scheduled dividends on Disqualified Capital Stock in the form of additional Disqualified Capital Stock with the same terms will not be deemed to be an Incurrence of Indebtedness for purposes of this Section 3.9. For purposes of determining compliance with this Section 3.9, mark-to-market fluctuations of hedging obligations or derivatives outstanding on the Issue Date shall not constitute Incurrence of Indebtedness.

(iii) For purposes of determining compliance with this Section 3.9, the principal amount of Indebtedness denominated in foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; *provided* that if such Indebtedness is Incurred to refinance other Indebtedness denominated in foreign currency, and such refinancing would cause the applicable restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such restriction shall be deemed not to have

been exceeded so long as the principal amount of such Refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced. Notwithstanding any other provision of this Section 3.9, the maximum amount of Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

(iv) For purposes of determining compliance with this Section 3.9:

(A) in the event that an item of Indebtedness meets the criteria of more than one of the types of Indebtedness described above, including, without limitation, in Section 3.9(a), the Company, in its sole discretion, will classify such item of Indebtedness at the time of Incurrence and only be required to include the amount and type of such Indebtedness in one of the above clauses and may later reclassify all or a portion of such item of Indebtedness as having been Incurred pursuant to any other clause to the extent such Indebtedness could be Incurred pursuant to such clause at the time of such reclassification; and

(B) the Company will be entitled to divide and classify an item of Indebtedness in more than one of the types of Indebtedness described above, including, without limitation, Section 3.9(a).

Section 3.10 [Reserved].

Section 3.11 Limitation on Restricted Payments.

(a) The Company will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, take any of the following actions (each, a "Restricted Payment"):

(i) declare or pay any dividend or return of capital or make any distribution on or in respect of shares of Capital Stock of the Company or any Restricted Subsidiary to holders of such Capital Stock, other than:

(A) dividends, distributions or returns on capital payable in Qualified Capital Stock of the Company,

(B) dividends, distributions or returns on capital payable to the Company and/or a Restricted Subsidiary,

(C) dividends, distributions or returns of capital made on a *pro rata* basis to the Company and its Restricted Subsidiaries, on the one

hand, and minority holders of Capital Stock of a Restricted Subsidiary, on the other hand (or on less than a *pro rata* basis to any minority holder);

(ii) purchase, redeem or otherwise acquire or retire for value:

(A) any Capital Stock of the Company, or

(B) any Capital Stock of any Restricted Subsidiary held by an Affiliate of the Company or any Preferred Stock of a Restricted Subsidiary, except for:

(1) Capital Stock held by the Company or a Restricted Subsidiary, or

(2) purchases, redemptions, acquisitions or retirements for value of Capital Stock on a *pro rata* basis from the Company and/or any Restricted Subsidiaries, on the one hand, and minority holders of Capital Stock of a Restricted Subsidiary, on the other hand, according to their respective percentage ownership of the Capital Stock of such Restricted Subsidiary;

(iii) make any principal payment on, purchase, defease, redeem, prepay, decrease or otherwise acquire or retire for value, prior to any scheduled final maturity, scheduled repayment or scheduled sinking fund payment, as the case may be, any Subordinated Indebtedness or

(iv) make any Investment (other than Permitted Investments);

if at the time of the Restricted Payment immediately after giving effect thereto:

(A) a Default or an Event of Default shall have occurred and be continuing;

(B) the Company is not able to Incur at least U.S.$1.00 of additional Indebtedness pursuant to Section 3.9(a); or

(C) the aggregate amount (the amount expended for these purposes, if other than in cash, being the Fair Market Value of the relevant property at the time of the making thereof) of the proposed Restricted Payment and all other Restricted Payments made subsequent to the Issue Date up to the date thereof, less any Investment Return calculated as of the date thereof, shall exceed the sum of:

(1) 50% of cumulative Consolidated Net Income of the Company or, if cumulative Consolidated Net Income of the Company is a loss, minus (i) 100% of the loss, accrued during the period,

treated as one accounting period, beginning on the first full fiscal quarter after the Issue Date to the end of the most recent fiscal quarter for which consolidated financial information of the Company is available and (ii) the amount of cash benefits to the Company or a Restricted Subsidiary that is netted against Investments in Similar Businesses pursuant to clause (12) of the definition of "Permitted Investments"; plus

(2) 100% of the aggregate net cash proceeds received by the Company from any Person from any:

- contribution to the equity capital of the Company (not representing an interest in Disqualified Capital Stock) or issuance and sale of Qualified Capital Stock of the Company, in each case, subsequent to the Issue Date, or
- issuance and sale subsequent to the Issue Date (and, in the case of Indebtedness of a Restricted Subsidiary, at such time as it was a Restricted Subsidiary) of any Indebtedness for borrowed money of the Company or any Restricted Subsidiary that has been converted into or exchanged for Qualified Capital Stock of the Company,

excluding, in each case, any net cash proceeds:

- received from a Subsidiary of the Company;
- used to redeem Notes under Article V;
- used to acquire Capital Stock or other assets from an Affiliate of the Company; or
- applied in accordance with clause (ii)(B) or (iii)(A) of Section 3.11(b) below.

(b) Notwithstanding Section 3.11(a), this Section 3.11 does not prohibit:

(i) the payment of any dividend within 60 days after the date of declaration of such dividend if the dividend would have been permitted on the date of declaration pursuant to Section 3.11(a);

(ii) if no Default or Event of Default shall have occurred and be continuing, the acquisition of any shares of Capital Stock of the Company,

(A) in exchange for Qualified Capital Stock of the Company, or

(B) through the application of the net cash proceeds received by the Company from a substantially concurrent sale of Qualified Capital Stock of the Company or a contribution to the equity capital of the Company not representing an interest in Disqualified Capital Stock, in each case not received from a Subsidiary of the Company;

provided that the value of any such Qualified Capital Stock issued in exchange for such acquired Capital Stock and any such net cash proceeds shall be excluded from Section 3.11(a)(iv)(C)(2) (and were not included therein at any time);

(iii) if no Default or Event of Default shall have occurred and be continuing, the voluntary prepayment, purchase, defeasance, redemption or other acquisition or retirement for value of any Subordinated Indebtedness:

(A) solely in exchange for, or through the application of net cash proceeds of a substantially concurrent sale, other than to a Subsidiary of the Company, of Qualified Capital Stock of the Company, or

(B) solely in exchange for Refinancing Indebtedness for such Subordinated Indebtedness,

provided that the value of any Qualified Capital Stock issued in exchange for Subordinated Indebtedness and any net cash proceeds referred to above shall be excluded from Section 3.11(a)(iv)(C)(2) (and were not included therein at any time);

(iv) repurchases by the Company of Common Stock of the Company or options, warrants or other securities exercisable or convertible into Common Stock of the Company from employees or directors of the Company or any of its Subsidiaries or their authorized representatives upon the death, disability or termination of employment or directorship of the employees or directors, in an amount not to exceed U.S.$5 million in any calendar year and any repurchases other than in connection with compensation of Common Stock of the Company pursuant to binding written agreements in effect on the Issue Date;

(v) payments of dividends on Disqualified Capital Stock issued pursuant to the covenant described under Section 3.9; *provided, however*, that such dividends shall be excluded in the calculation of the amount of Restricted Payments;

(vi) non-cash repurchases of Capital Stock deemed to occur upon exercise of stock options, warrants or other similar rights if such Capital Stock represents a portion of the exercise price of such options, warrants or other similar rights;

(vii) cash payments in lieu of the issuance of fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock of the Company;

(viii) purchases of any Subordinated Indebtedness of the Company (A) at a purchase price not greater than 101% of the principal amount thereof (together with accrued and unpaid interest) in the event of the occurrence of a Change of Control or (B) at a purchase price not greater than 100% of the principal amount thereof (together with accrued and unpaid interest) in the event of an Asset Sale in accordance with provisions similar to those set forth under Section 3.12 *provided, however*, that prior to such purchase of any such Subordinated Indebtedness, the Company has made the Change of Control Offer as provided under Section 3.8 or Section 3.12, respectively, and has purchased all Notes validly tendered and not properly withdrawn pursuant thereto;

(ix) recapitalization of earnings on or in respect of the Qualified Capital Stock of the Company pursuant to which additional Qualified Capital Stock of the Company or the right to subscribe for additional Capital Stock of the Company is issued to the existing shareholders of the Company on a *pro rata* basis (which, for the avoidance of doubt, shall not allow any payment in cash to be made in respect of Qualified Capital Stock of the Company pursuant to this clause (ix)); and

(x) so long as (A) no Default or Event of Default shall have occurred and be continuing (or result therefrom) and (B) the Company could Incur at least US$1.00 of additional Debt pursuant to Section 3.11(a), payment of any dividends on Capital Stock (other than Disqualified Capital Stock) of the Company in an aggregate amount which, when taken together with all dividends paid pursuant to this clause (x), does not exceed U.S.$50 million in any calendar year; *provided* that such dividends shall be included in the calculation of the amount of Restricted Payments.

(xi) [Reserved]

In determining the aggregate amount of Restricted Payments made subsequent to the Issue Date, amounts expended pursuant to clauses (i) (without duplication for the declaration of the relevant dividend), (iv), (viii) and (x) above shall be included in such calculation and amounts expended pursuant to clauses (ii), (iii), (v), (vi), (vii) and (ix) above shall not be included in such calculation.

Section 3.12 Limitation on Asset Sales.

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(i) the Company or the applicable Restricted Subsidiary, as the case may be, receives consideration at the time of the Asset Sale at least equal to the Fair Market Value (to be determined as of the date on which such sale is contracted) of the assets sold or otherwise disposed of, and

(ii) other than in respect of Permitted Asset Swap Transactions, at least 80% of the consideration received for the assets sold by the Company or the Restricted Subsidiary, as the case may be, in the Asset Sale shall be in the form of cash or Cash Equivalents received at the time of such Asset Sale; *provided, however*, for the purposes of this clause (ii), the following are also deemed to be cash or Cash Equivalents:

(A) the assumption of Indebtedness (other than Subordinated Indebtedness) of the Company or any Restricted Subsidiary and the release of the Company or such Restricted Subsidiary from all liability on such Indebtedness in connection with such Asset Sale;

(B) any securities, notes or obligation received by the Company or any Restricted Subsidiary from the transferee that are, within 180 days after the Asset Sale, converted by the Company or such Restricted Subsidiary into cash, to the extent of cash received in that conversion;

(C) Capital Stock of a Person who is or who, after giving effect to such Asset Sale, becomes, a Restricted Subsidiary; and

(D) any Designated Non-cash Consideration received by the Company or such Restricted Subsidiary in connection with such Asset Sale having an aggregate Fair Market Value which, when taken together with the Fair Market Value of all other Designated Non-cash Consideration received pursuant to this clause (D) since the Issue Date, does not exceed the sum of (1) 3.0% of Consolidated Tangible Assets of the Company calculated as of the end of the most recent fiscal quarter for which consolidated financial information is available (with the Fair Market Value of each item of Designated Non-cash Consideration being measured as of the date it was received and without giving effect to subsequent changes in value of any such item of Designated Non-cash Consideration) and (2) the amount of cash or Cash Equivalents received in connection with a subsequent sale of such Designated Non-cash Consideration.

(b) The Company or any Restricted Subsidiary may apply the Net Cash Proceeds of any such Asset Sale within 365 days thereof to:

(i) repay any Senior Indebtedness for borrowed money or constituting a Capitalized Lease Obligation and permanently reduce the commitments with respect thereto, or

(ii) purchase:

(A) assets (except for current assets as determined in accordance with GAAP or Capital Stock) to be used by the Company or any Restricted Subsidiary in a Permitted Business, or

(B) substantially all of the assets of a Permitted Business or Capital Stock of a Person engaged in a Permitted Business that will become, upon purchase, a Restricted Subsidiary from a Person other than the Company and its Restricted Subsidiaries.

(c) To the extent all or a portion of the Net Cash Proceeds of any Asset Sale are not applied within the 365 days of the Asset Sale as described in clause (i) or (ii) of Section 3.12(b), the Company will make an offer to purchase Notes (the " Asset Sale Offer"), at a purchase price equal to 100% of the principal amount of the Notes to be purchased, plus accrued and unpaid interest thereon, to the date of purchase (the " Asset Sale Offer Amount"). The Company will purchase pursuant to an Asset Sale Offer from all tendering Holders on a *pro rata* basis, and, at the Company's option, on a *pro rata* basis with the holders of any other Senior Indebtedness with similar provisions requiring the Company to offer to purchase the other Senior Indebtedness with the proceeds of Asset Sales, that principal amount (or accreted value in the case of Indebtedness issued with original issue discount) of Notes and the other Senior Indebtedness to be purchased equal to such unapplied Net Cash Proceeds. The Company may satisfy its obligations under this Section 3.12 with respect to the Net Cash Proceeds of an Asset Sale by making an Asset Sale Offer prior to the expiration of the relevant 365-day period.

(d) Pending the final application of any Net Cash Proceeds pursuant to this Section 3.12, the holder of such Net Cash Proceeds may apply such Net Cash Proceeds temporarily to reduce Indebtedness outstanding under a revolving credit facility or otherwise invest such Net Cash Proceeds in any manner not prohibited by this Indenture.

(e) The purchase of Notes pursuant to an Asset Sale Offer shall occur not less than 20 Business Days following the date thereof, or any longer period as may be required by law, nor more than 45 days following the 365th day following the Asset Sale. The Company may, however, defer an Asset Sale Offer until there is an aggregate amount of unapplied Net Cash Proceeds from one or more Asset Sales equal to or in excess of U.S.$100 million. At that time, the entire amount of unapplied Net Cash Proceeds, and not just the amount in excess of U.S.$100 million, shall be applied as required pursuant to this Section 3.12.

(f) Each Asset Sale Offer Notice shall be mailed first class, postage prepaid, to the record Holders as shown on the Note Register within 20 days following such 365th day (or such earlier date as the Company shall have elected to make such Asset Sale Offer), with a copy to the Trustee offering to purchase the Notes as described above. Each notice of an Asset Sale Offer shall state, among other things, the purchase date, which must be no earlier than 30 days

nor later than 60 days from the date the notice is mailed, other than as may be required by law (the " Asset Sale Offer Payment Date"). Upon receiving notice of an Asset Sale Offer, Holders may elect to tender their Notes in whole or in part, in minimum denominations of €50,000 and any integral multiple of €1,000 in excess thereof, in exchange for cash.

(g) On the Asset Sale Offer Payment Date, the Company shall, to the extent lawful:

(i) accept for payment all Notes or portions thereof properly tendered pursuant to the Asset Sale Offer;

(ii) deposit with the Paying Agent funds in an amount equal to the Asset Sale Offer Amount in respect of all Notes or portions thereof so tendered; and

(iii) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof being purchased by the Company.

(h) To the extent holders of Notes and holders of other Senior Indebtedness, if any, which are the subject of an Asset Sale Offer properly tender and do not withdraw Notes or the other Senior Indebtedness in an aggregate amount exceeding the amount of unapplied Net Cash Proceeds, the Company shall purchase the Notes and the other Senior Indebtedness on a *pro rata* basis (based on amounts tendered). If only a portion of a Note is purchased pursuant to an Asset Sale Offer, a new Note in a principal amount equal to the portion thereof not purchased shall be issued in the name of the holder thereof upon cancellation of the original Note (or appropriate adjustments to the amount and beneficial interests in a global note shall be made, as appropriate). Notes (or portions thereof) purchased pursuant to an Asset Sale Offer shall be cancelled and cannot be reissued.

(i) The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other applicable securities laws in connection with the purchase of Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any applicable securities laws or regulations conflict with this Section 3.12, the Company shall comply with these laws and regulations and shall not be deemed to have breached its obligations under the "Asset Sale" provisions of this Indenture by doing so.

(j) Upon completion of an Asset Sale Offer, the amount of Net Cash Proceeds shall be reset at zero. Accordingly, to the extent that the aggregate amount of Notes and other Indebtedness tendered pursuant to an Asset Sale Offer is less than the aggregate amount of unapplied Net Cash Proceeds, the Company may use any remaining Net Cash Proceeds for general corporate purposes of the Company and its Restricted Subsidiaries.

(k) In the event of the transfer of substantially all (but not all) of the property and assets of the Company and its Restricted Subsidiaries as an entirety to a Person in a transaction permitted under Article IV, the Successor Company shall be deemed to have sold the properties and assets of the Company and its Restricted Subsidiaries not so transferred for purposes of this Section 3.12, and shall comply with the provisions of this Section 3.12 with

respect to the deemed sale as if it were an Asset Sale. In addition, the Fair Market Value of properties and assets of the Company or its Restricted Subsidiaries so deemed to be sold shall be deemed to be Net Cash Proceeds for purposes of this Section 3.12.

(l) If at any time any non-cash consideration received by the Company or any Restricted Subsidiary, as the case may be, in connection with any Asset Sale, is converted into or sold or otherwise disposed of for cash (other than interest received with respect to any non-cash consideration), the conversion or disposition shall be deemed to constitute an Asset Sale hereunder and the Net Cash Proceeds thereof shall be applied in accordance with this Section 3.12 within 365 days of conversion or disposition.

Section 3.13 Limitation on the Ownership of Capital Stock of Restricted Subsidiaries. The Company shall not permit any Person other than the Company or another Restricted Subsidiary to, directly or indirectly, own or control any Capital Stock of any Restricted Subsidiary, except for:

(i) Capital Stock owned by such Person on the Issue Date;

(ii) directors' qualifying shares;

(iii) the sale or Disposition of 100% of the shares of the Capital Stock of any Restricted Subsidiary (other than the Issuer) held by the Company and its Restricted Subsidiaries to any Person other than the Company or another Restricted Subsidiary effected in accordance with, as applicable, Section 3.12 and Article IV;

(iv) in the case of a Restricted Subsidiary other than a Restricted Subsidiary that is a Wholly Owned Subsidiary,

(A) the issuance by that Restricted Subsidiary of Capital Stock on a *pro rata* basis to the Company and its Restricted Subsidiaries, on the one hand, and minority holders of Capital Stock of such Restricted Subsidiary, on the other hand (or on less than a *pro rata* basis to any minority holder); or

(B) sales, transfers and other dispositions of Capital Stock in a Restricted Subsidiary to the extent required by, or made pursuant to, buy/sell, put/call or similar shareholder arrangements set forth in binding agreements in effect on the Issue Date; and

(v) the sale of Capital Stock of a Restricted Subsidiary (other than the Issuer) by the Company or another Restricted Subsidiary or the sale or issuance by a Restricted Subsidiary of its newly-issued Capital Stock if such sale or issuance is made in compliance with Section 3.12 and either:

(A) such Restricted Subsidiary is no longer a Subsidiary, and the continuing Investment of the Company and its Restricted Subsidiaries in such former Restricted Subsidiary is in compliance with Section 3.11, or

(B) such Restricted Subsidiary continues to be a Restricted Subsidiary.

Section 3.14 Limitation on Designation of Unrestricted Subsidiaries .

(a) The Company may designate after the Issue Date any Subsidiary of the Company other than the Issuer or a Note Guarantor as an Unrestricted Subsidiary under this Indenture (a "Designation") only if:

(i) no Default or Event of Default shall have occurred and be continuing at the time of or after giving effect to such Designation and any transactions between the Company or any of its Restricted Subsidiaries and such Unrestricted Subsidiary are in compliance with Section 3.18

(ii) at the time of and after giving effect to such Designation, the Company could Incur U.S.$1.00 of additional Indebtedness pursuant to Section 3.9(a);

(iii) the Company would be permitted to make an Investment at the time of Designation (assuming the effectiveness of such Designation and treating such Designation as an Investment at the time of Designation) as a Restricted Payment pursuant to Section 3.11(a) in an amount (the "Designation Amount") equal to the amount of the Company's Investment in such Subsidiary on such date; and

(iv) the terms of any Affiliate Transaction existing on the date of such Designation between the Subsidiary being Designated (and its Subsidiaries) and the Company or any Restricted Subsidiary would be permitted under Section 3.18 if entered into immediately following such Designation.

(b) Neither the Company nor any Restricted Subsidiary shall at any time:

(i) provide credit support for, subject any of its property or assets (other than the Capital Stock of any Unrestricted Subsidiary) to the satisfaction of, or Guarantee, any Indebtedness of any Unrestricted Subsidiary (including any undertaking, agreement or instrument evidencing such Indebtedness);

(ii) be directly or indirectly liable for any Indebtedness of any Unrestricted Subsidiary; or

(iii) be directly or indirectly liable for any Indebtedness which provides that the Holder thereof may (upon notice, lapse of time or both) declare a default thereon or cause the payment thereof to be accelerated or payable prior to its final scheduled maturity upon the occurrence of a default with respect to any Indebtedness of any Unrestricted Subsidiary.

(c) The Company may revoke any Designation of a Subsidiary as an Unrestricted Subsidiary (a " Revocation") only if:

(i) no Default or Event of Default shall have occurred and be continuing at the time of and after giving effect to such Revocation; and

(ii) all Liens and Indebtedness of such Unrestricted Subsidiary outstanding immediately following such Revocation, if Incurred at such time, would have been permitted to be Incurred for all purposes of this Indenture.

(d) The Designation of a Subsidiary of the Company as an Unrestricted Subsidiary shall be deemed to include the Designation of all of the Subsidiaries of such Subsidiary. All Designations and Revocations must be evidenced by an Officer's Certificate of the Issuer, delivered to the Trustee certifying compliance with the preceding provisions.

Section 3.15 Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries .

(a) Except as provided in clause (b) below, the Company shall not, and shall not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(i) pay dividends or make any other distributions on or in respect of its Capital Stock to the Company or any other Restricted Subsidiary or pay any Indebtedness owed to the Company or any other Restricted Subsidiary;

(ii) make loans or advances to, or make any Investment in, the Company or any other Restricted Subsidiary; or

(iii) transfer any of its property or assets to the Company or any other Restricted Subsidiary.

(b) Section 3.15(a) shall not apply to encumbrances or restrictions existing under or by reason of:

(i) applicable law, rule, regulation or order;

(ii) this Indenture;

(iii) any encumbrance or restriction pursuant to an agreement in effect at or entered into on the Issue Date, and any amendments, restatements, renewals, replacements or refinancings thereof; *provided* that any

amendment, restatement, renewal, replacement or refinancing is not materially more restrictive with respect to such encumbrances or restrictions than those in existence on the Issue Date as determined in good faith by the Company's senior management;

(iv) customary non-assignment provisions of any contract and customary provisions restricting assignment or subletting in any lease governing a leasehold interest of any Restricted Subsidiary, or any customary restriction on the ability of a Restricted Subsidiary to dividend, distribute or otherwise transfer any asset which secures Indebtedness secured by a Lien, in each case permitted to be Incurred under this Indenture;

(v) any instrument governing Acquired Indebtedness not Incurred in connection with, or in anticipation or contemplation of, the relevant acquisition, merger or consolidation, which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person or the properties or assets of the Person so acquired;

(vi) restrictions with respect to a Restricted Subsidiary of the Company imposed pursuant to a binding agreement which has been entered into for the sale or disposition of Capital Stock or assets of such Restricted Subsidiary; *provided* that such restrictions apply solely to the Capital Stock or assets of such Restricted Subsidiary being sold (and in the case of Capital Stock, its Subsidiaries);

(vii) customary restrictions imposed on the transfer of copyrighted or patented materials;

(viii) an agreement governing Indebtedness Incurred to Refinance the Indebtedness issued, assumed or Incurred pursuant to an agreement referred to in clause (iii) or (v) of this Section 3.15(b); *provided* that such Refinancing agreement is not materially more restrictive with respect to such encumbrances or restrictions than those contained in the agreement referred to in such clause (iii) or (v) as determined in good faith by the Company's senior management;

(ix) Liens permitted to be Incurred pursuant to the provisions of the covenant described under Section 3.17 that limit the right of any person to transfer the assets subject to such Liens;

(x) Purchase Money Indebtedness for property acquired in the ordinary course of business and Capitalized Lease Obligations that impose restrictions of the nature discussed in clause (iii) of this Section 3.15(b) above on the property so acquired;

(xi) restrictions on cash or other deposits imposed by customers under contracts or other arrangements entered into or agreed to in the ordinary course of business not materially more restrictive than those existing on the Issue Date as determined in good faith by the Company's senior management;

(xii) customary provisions in joint venture agreements relating to dividends or other distributions in respect of such joint venture or the securities, assets or revenues of such joint venture;

(xiii) restrictions in Indebtedness Incurred by a Restricted Subsidiary in compliance with the covenant described under Section 3.9; *provided* that such restrictions (A) are not materially more restrictive with respect to such encumbrances and restrictions than those such Restricted Subsidiary was subject to in agreements related to obligations referenced in clause (iii) above as determined in good faith by the Company's senior management or (B) constitute financial covenants or similar restrictions that limit the ability to pay dividends or make distributions upon the occurrence or continuance of a default or event of default or that would result in a default or event of default under such Indebtedness upon the declaration or payment of dividends or other distributions; and

(xiv) net worth provisions in leases entered into by the Company or any Restricted Subsidiary in the ordinary course of business not materially more restrictive than those existing on the Issue Date as determined in good faith by the Company's senior management.

Section 3.16 Limitation on Layered Indebtedness. The Company shall not, and shall not permit the Issuer or any other Note Guarantor to, directly or indirectly, Incur any Indebtedness that is subordinate in right of payment to any other Indebtedness, unless such Indebtedness is expressly subordinate in right of payment to the Notes or, in the case of a Note Guarantor, its Note Guarantee, to the same extent, on the same terms and for so long (except as a result of the provisions of the Intercreditor Agreement applicable to Financing Agreement Indebtedness and any refinancing thereof) as such Indebtedness is subordinate to such other Indebtedness.

Section 3.17 Limitation on Liens. The Company shall not, and shall not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, incur, grant, assume or suffer to exist any Liens of any kind (except for Permitted Liens) (a) against or upon any of their respective properties or assets, whether owned on the Issue Date or acquired after the Issue Date, or any proceeds therefrom, to secure any Indebtedness or trade payables or (b) deemed to exist in respect of Capitalized Lease Obligations (including any Capitalized Lease Obligations in respect of Sale and Leaseback Transactions), in each case unless contemporaneously therewith effective provision is made:

(i) in the case of any Restricted Subsidiary that is not a Note Guarantor, to secure the Notes and all other amounts due under this Indenture; and

(ii) in the case of a Note Guarantor, to secure such Note Guarantor's Note Guarantee of the Notes and all other amounts due under this Indenture,

in each case, equally and ratably with such Indebtedness or other obligation (or, in the event that such Indebtedness is subordinated in right of payment to the Notes or such Note Guarantee, as the case may be, prior to such Indebtedness or other obligation) with a Lien on the same properties and assets securing such Indebtedness or other obligation for so long as such Indebtedness or other obligation is secured by such Lien.

Section 3.18 Limitation on Transactions with Affiliates.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into any transaction or series of related transactions (including, without limitation, the purchase, sale, lease or exchange of any property or the rendering of any service) with, or for the benefit of, any Affiliate of the Company (each an "Affiliate Transaction"), unless the terms of such Affiliate Transaction are no less favorable than those that could reasonably be expected to be obtained in a comparable transaction at such time on an arm's-length basis from a Person that is not an Affiliate of the Company;

(b) The provisions of Section 3.18(a) above shall not apply to:

(i) Affiliate Transactions with or among the Company and any Restricted Subsidiary or between or among Restricted Subsidiaries;

(ii) reasonable fees and compensation paid to, and any indemnity provided on behalf of, officers, directors, employees, consultants or agents of the Company or any Restricted Subsidiary as determined in good faith by the Company's Board of Directors or, to the extent consistent with past practice, senior management;

(iii) Affiliate Transactions undertaken pursuant to any contractual obligations or rights in existence on the Issue Date (as in effect on the Issue Date with modifications, extensions and replacements thereof not materially adverse to the Company and its Restricted Subsidiaries) as determined in good faith by the Company's senior management;

(iv) any Restricted Payments in compliance with Section 3.11;

(v) payments and issuances of Qualified Capital Stock to any officers, directors and employees of the Company or any Restricted Subsidiary pursuant to any management equity plan or stock option plan or any other stock subscription or shareholder agreement, and any employment agreements, stock option plans or other compensatory arrangements (and any successor plans thereto) and any supplemental executive retirement benefit plans or arrangements with any such

officers, directors or employees that are, in each case, approved in good faith by the Board of Directors or, to the extent consistent with past practice, senior management of the Company;

(vi) loans and advances to officers, directors and employees of the Company or any Restricted Subsidiary for travel, entertainment, moving and other relocation expenses, in each case made in the ordinary course of business in amounts consistent with the past practice of the Company or such Restricted Subsidiary; and

(vii) loans made by the Company or any Restricted Subsidiary to employees or directors in an aggregate amount not to exceed U.S.$15 million (or its equivalent in another currency) at any time outstanding.

Section 3.19 Conduct of Business. The Company and its Restricted Subsidiaries shall not engage in any business other than a Permitted Business.

Section 3.20 Reports to Holders.

(a) Notwithstanding that the Company may not be subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, so long as any Notes remain outstanding, the Company shall:

(i) provide the Trustee and the Holders with:

(A) annual reports on Form 20-F (or any successor form) containing the information required to be contained therein (or such successor form) within the time period required under the rules of the Commission for the filing of Form 20-F (or any successor form) by "foreign private issuers" (as defined in Rule 3b-4 of the Exchange Act (or any successor rule));

(B) reports on Form 6-K (or any successor form) including, whether or not required, unaudited quarterly financial statements (which shall include at least a balance sheet, income statement and cash flow statement) including a discussion of financial condition and results of operations of the Company in accordance with past practice, within 45 days after the end of each of the first three fiscal quarters of each fiscal year;

(C) such other reports on Form 6-K (or any successor form) promptly from time to time after the occurrence of an event that would be required to be reported on a Form 6-K (or any successor form); and

(D) in case the Company continues to apply Mexican Financial Reporting Standards as in effect on September 30, 2009 for purposes of calculations under this Indenture (and not for purposes of the financial statements provided pursuant to (A) and (B)

above), no later than when due under (A) and (B), respectively, (1) a description of the differences between accounting principles in the financial statements provided pursuant to (A) or (B) above and used for calculations under this Indenture and (2) a quantitative reconciliation *provided, however*, that such description and reconciliation shall only be provided to the extent material to the calculation of any amounts under this Indenture; and

(ii) file with the Commission, to the extent permitted, the information, documents and reports referred to in clause (i) within the periods specified for such filings under the Exchange Act (whether or not applicable to the Company).

(b) In addition, at any time when the Company is not subject to or is not current in its reporting obligations under clause (ii) of Section 3.20(a), the Company shall make available, upon request, to any Holder and any prospective purchaser of Notes the information required pursuant to Rule 144A(d)(4) under the Securities Act. So long as the Notes are listed on the Official List of the Luxembourg Stock Exchange and admitted to trading on the Euro MTF market, the Company shall make available the information specified in Section 3.20(a) at the specified office of the Paying Agent for the Notes in Luxembourg.

(c) Notwithstanding anything in this Indenture to the contrary, the Company shall not be deemed to have failed to comply with any of its obligations hereunder for purposes of clause (iv) of Section 6.1(a) or for any other purpose hereunder until 75 days after the date any report hereunder is due.

(d) Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such reports shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

Section 3.21 Listing.

(a) In the event that the Notes are listed on Euro MTF, the alternative market of the Luxembourg Stock Exchange, the Issuer shall use its best efforts to maintain such listing; *provided* that if, as a result of the European Union regulated market amended Directive 2001/34/EC (the " Transparency Directive") or any legislation implementing the Transparency Directive the Issuer could be required to publish financial information either more regularly than it otherwise would be required to or according to accounting principles which are materially different from the accounting principles which the Issuer would otherwise use to prepare its published financial information, the Issuer may delist the Notes from the Euro MTF in accordance with the rules of the Luxembourg Stock Exchange and seek an alternative admission to listing, trading and/or quotation for the Note on a different section of the Luxembourg Stock Exchange or by such other listing authority, stock exchange and/or quotation system inside or outside the European Union as the Issuer may reasonably decide.

(b) From and after the date the Notes are listed on the Euro MTF, the alternative market of the Luxembourg Stock Exchange, and so long as it is required by the rules of such exchange, all notices to the Holders shall be published in English in accordance with Section 12.1(b).

Section 3.22 Payment of Additional Amounts .

(a) All payments made by the Issuer or the Note Guarantors under, or with respect to, the Notes shall be made free and clear of, and without withholding or deduction for or on account of any present or future tax, duty, levy, impost, assessment or other governmental charge (including penalties, interest and other liabilities related thereto) (collectively, "Taxes") imposed or levied by or on behalf of any government or jurisdiction (a " Taxing Jurisdiction") unless the Issuer or such Note Guarantor, as the case may be, is required to withhold or deduct Taxes by law or by the official interpretation or administration thereof.

(b) If the Issuer or any Note Guarantor is so required to withhold or deduct any amount for, or on account of, such Taxes from any payment made under or with respect to the Notes, the Issuer or such Note Guarantor, as the case may be, shall pay such additional amounts (" Additional Amounts") as may be necessary so that the net amount received by each Holder (including Additional Amounts) after such withholding or deduction shall not be less than the amount such Holder would have received if such Taxes had not been required to be withheld or deducted; *provided, however*, that the foregoing obligation to pay Additional Amounts does not apply to:

(i) any Taxes imposed solely because at any time there is or was a connection between the Holder and a Taxing Jurisdiction (other than the mere purchase of the Notes, or receipt of a payment or the ownership or holding of a Note),

(ii) any estate, inheritance, gift, sales, transfer, personal property or similar Tax imposed with respect to the Notes,

(iii) any Taxes imposed solely because the Holder or any other person fails to comply with any certification, identification or other reporting requirement concerning the nationality, residence, identity or connection with a Taxing Jurisdiction of the Holder or any beneficial owner of the Note if compliance is required by the applicable law of the Taxing Jurisdiction as a precondition to exemption from, or reduction in the rate of, the tax, assessment or other governmental charge and we have given the Holders at least 30 days' notice that Holders shall be required to provide such information and identification,

(iv) any Taxes payable otherwise than by deduction or withholding from payments on the Notes,

(v) any Taxes with respect to such Note presented for payment more than 30 days after the date on which the payment became due and payable

or the date on which payment thereof is duly provided for and notice thereof given to Holders, whichever occurs later, except to the extent that the Holders of such Note would have been entitled to such Additional Amounts on presenting such Note for payment on any date during such 30 day period, and

(vi) any payment on the Note to a Holder that is a fiduciary or partnership or a person other than the sole beneficial owner of any such payment, to the extent that a beneficiary or settlor with respect to such fiduciary, a member of such a partnership or the beneficial owner of the payment would not have been entitled to the Additional Amounts had the beneficiary, settlor, member or beneficial owner been the Holder of the Note.

(c) The obligations in Section 3.22(a) and Section 3.22(b) shall survive any termination or discharge of this Indenture and shall apply mutatis mutandis to any Taxing Jurisdiction with respect to any successor to the Issuer or any Note Guarantor, as the case may be. The Issuer or such Note Guarantor, as applicable, shall (i) make such withholding or deduction and (ii) remit the full amount deducted or withheld to the relevant Taxing Jurisdiction in accordance with applicable law. The Issuer or such Note Guarantor, as applicable, shall use all reasonable efforts to obtain certified copies of tax receipts evidencing the payment of any Taxes so deducted or withheld from each Taxing Jurisdiction imposing such Taxes and shall furnish such certified copies to the Trustee within 30 days after the date the payment of any Taxes so deducted or so withheld is due pursuant to applicable law or, if such tax receipts are not reasonably available to the Issuer, furnish such other documentation that provides reasonable evidence of such payment by the Issuer.

(d) In addition, clause (iii) of Section 3.22(b) does not require that any person, including any non-Mexican pension fund, retirement fund or financial institution, register with the Ministry of Finance and Public Credit to establish eligibility for an exemption from, or a reduction of, Mexican withholding tax.

(e) Any reference in this Indenture, any supplemental indenture or the Notes to principal, premium, interest or any other amount payable in respect of the Notes by the Issuer shall be deemed also to refer to any Additional Amount that may be payable with respect to that amount under the obligations referred to in this subsection.

(f) In the event that Additional Amounts actually paid with respect to the Notes pursuant to this Section 3.22 are based on rates of deduction or withholding of withholding taxes in excess of the appropriate rate applicable to the Holder of such Notes, and as a result thereof such Holder is entitled to make a claim for a refund or credit of such excess from the authority imposing such withholding tax, then such Holder shall, by accepting such Notes, and without any further action, be deemed to have assigned and transferred all right, title and interest to any such claim for a refund or credit of such excess to us. However, by making such assignment, the Holder makes no representation or warranty that we shall be entitled to receive such claim for a refund or credit and incurs no other obligation with respect thereto.

Section 3.23 Suspension of Covenants.

(a) During any period of time that (i) the Notes have Investment Grade Ratings from two of the Rating Agencies and (ii) no Default or Event of Default has occurred and is continuing (the occurrence of the events described in the foregoing clauses (i) and (ii) being collectively referred to as a " Covenant Suspension Event"), the Company and its Restricted Subsidiaries shall not be subject to the provisions of this Indenture described under Sections 3.9, 3.10, 3.11, 3.12, 3.13, 3.14(b), 3.15, 3.16, 3.18, 3.19, 4.1(a)(ii) and 4.1(b)(ii) (collectively, the "Suspended Covenants").

(b) No Subsidiary that is a Restricted Subsidiary on the date of the occurrence of a Covenant Suspension Event (the " Suspension Date") may be redesignated as an Unrestricted Subsidiary during the Suspension Period.

(c) The Additional Note Guarantors shall be released from their obligation to guarantee the Notes.

(d) In the event that the Company and its Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the foregoing, and on any subsequent date (the "Reversion Date") the Notes do not have Investment Grade Ratings from at least two of the Rating Agencies, then the Company and its Restricted Subsidiaries shall thereafter again be subject to the Suspended Covenants and the Notes will again be guaranteed by the Additional Note Guarantors (unless, solely with respect to any Additional Note Guarantors, the conditions for release as described under Section 10.2 are otherwise satisfied during the Suspension Period). The Issuer shall cause such Additional Note Guarantor shall promptly executed and deliver to the Trustee a supplemental indenture hereto in form and substance reasonably satisfactory to the Trustee in accordance with the provisions of Article IX, evidencing that such Additional Note Guarantor's guarantee on substantially the terms set forth in Article X. The period of time between the Suspension Date and the Reversion Date is referred to as the "Suspension Period." Notwithstanding that the Suspended Covenants and the guarantees by the Additional Note Guarantors may be reinstated, no Default or Event of Default shall be deemed to have occurred as a result of a failure to comply with the Suspended Covenants during the Suspension Period (or upon termination of the Suspension Period or after that time based solely on events that occurred during the Suspension Period).

(e) On the Reversion Date, all Indebtedness Incurred during the Suspension Period shall be classified to have been Incurred pursuant to the Section 3.9(a) or Section 3.9(b) (to the extent such Indebtedness would be permitted to be Incurred thereunder as of the Reversion Date and after giving effect to Indebtedness Incurred prior to the Suspension Period and outstanding on the Reversion Date). To the extent such Indebtedness would not be so permitted to be Incurred pursuant to Section 3.9(a) or 3.9(b), such Indebtedness shall be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under clause (iv) of Section 3.9(b). Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Section 3.11 shall be made as though Section 3.11 had been in effect since the Issue Date and throughout the Suspension Period. The Issuer will give the Trustee written notice of any Covenant Suspension Event and in any event not later than five (5) Business Days after such Covenant Suspension Event has occurred. In the absence of such

notice, the Trustee shall assume the Suspended Covenants apply and are in full force and effect. The Issuer will give the Trustee written notice of any occurrence of a Reversion Date not later than five (5) Business Days after such Reversion Date. After any such notice of the occurrence of a Reversion Date, the Trustee shall assume the Suspended Covenants apply and are in full force and effect. Accordingly, Restricted Payments made during the Suspension Period will reduce the amount available to be made as Restricted Payments under Section 3.11(a).

ARTICLE IV

SUCCESSOR COMPANY

Section 4.1 Merger, Consolidation and Sale of Assets.

(a) The Issuer shall not, in a single transaction or series of related transactions, consolidate or merge with or into any Person (whether or not the Issuer is the surviving or continuing Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the Issuer's properties and assets, to any Person unless:

(i) either:

(A) the Issuer shall be the surviving or continuing corporation, or

(B) the Person (if other than the Issuer) formed by such consolidation or into which the Issuer is merged or the Person which acquires by sale, assignment, transfer, lease, conveyance or other disposition the properties and assets of the Issuer substantially as an entirety (the "Successor Issuer"):

(1) shall be a corporation organized and validly existing under the laws of Mexico, the United States of America, any State thereof or the District of Columbia, Canada, France, Belgium, Germany, Italy, Luxembourg, the Netherlands, Portugal, Spain, Switzerland or the United Kingdom, or any political subdivision thereof (the "Permitted Merger Jurisdictions"); and

(2) shall expressly assume, by supplemental indenture (in form and substance satisfactory to the Trustee), executed and delivered to the Trustee, the due and punctual payment of the principal of, and premium, if any, and interest on all of the Notes and the performance and observance of every covenant of the Notes and this Indenture on the part of the Issuer to be performed or observed and provide the Trustee with an Officer's Certificate and Opinion of Counsel, and such transaction is otherwise in compliance with this Indenture;

(ii) immediately after giving effect to such transaction and the assumption contemplated by clause (i)(B)(2) of this Section 4.1(a) (including giving effect on a pro forma basis to any Indebtedness, including any Acquired Indebtedness, Incurred or anticipated to be Incurred or discharged in connection with or in respect of such transaction):

(A) the Company shall have a Consolidated Fixed Charge Coverage Ratio that shall be not less than the Consolidated Fixed Charge Coverage Ratio of the Company immediately prior to such transaction; or

(B) the Issuer or such Successor Issuer, as the case may be, shall be able to Incur at least U.S.$1.00 of additional Indebtedness pursuant to Section 3.9(a);

(iii) immediately before and immediately after giving effect to such transaction and the assumption contemplated by clause (i)(B)(2) of this Section 4.1(a) (including, without limitation, giving effect on a pro forma basis to any Indebtedness, including any Acquired Indebtedness, Incurred or anticipated to be Incurred or discharged and any Lien granted in connection with or in respect of the transaction), no Default or Event of Default shall have occurred or be continuing;

(iv) in the case of a transaction resulting in a Successor Issuer, each Note Guarantor has confirmed by supplemental indenture that its Note Guarantee shall apply for Obligations of the Successor Issuer in respect of this Indenture and the Notes; and

(v) if the Issuer merges with a corporation, or the Successor Issuer is, organized under the laws of any of the Permitted Merger Jurisdictions, the Issuer or the Successor Issuer shall have delivered to the Trustee an Opinion of Counsel that, as applicable:

(A) the Holders of the Notes shall not recognize income, gain or loss for the purposes of the income tax laws of the United States or the applicable Permitted Merger Jurisdiction as a result of the transaction and shall be taxed in the Holder's home jurisdiction in the same manner and on the same amounts (assuming solely for this purpose that no Additional Amounts are regarded to be paid on the Notes) and at the same times as would have been the case if the transaction had not occurred;

(B) any payment of interest or principal under or relating to the Notes or any Guarantees shall be paid in compliance with any requirements under Section 3.22; and

(C) no other taxes on income, including capital gains, shall be payable by Holders of the Notes under the laws of the United States or the applicable Permitted Merger Jurisdiction relating to the acquisition, ownership or disposition of the Notes, including the receipt of interest or principal thereon; *provided* that the Holder

does not use or hold, and is not deemed to use or hold the Notes in carrying on a business in the United States or the applicable Permitted Merger Jurisdiction.

The provisions of clauses (ii) and (iii) of this Section 4.1(a) will not apply to:

(x) any transfer of the properties or assets of the Company or a Restricted Subsidiary to the Issuer;

(y) any merger of the Company or a Restricted Subsidiary into the Issuer; or

(z) any merger of the Issuer into the Company or a Wholly Owned Subsidiary of the Company.

For purposes of this Section 4.1, the transfer (by lease, assignment, sale or otherwise, in a single transaction or series of transactions) of all or substantially all of the properties or assets of one or more Restricted Subsidiaries of the Issuer, the Capital Stock of which constitutes all or substantially all of the properties and assets of the Company (determined on a consolidated basis for the Issuer and its Restricted Subsidiaries), shall be deemed to be the transfer of all or substantially all of the properties and assets of the Issuer.

The Successor Issuer will succeed to, and be substituted for, such Issuer under this Indenture and the Notes, as applicable. For the avoidance of doubt, compliance with this Section 4.1 will not affect the obligations of the Issuer (including a Successor Issuer, if applicable) under Section 3.8 if applicable.

(b) The Company will not, in a single transaction or series of related transactions, consolidate or merge with or into any Person (whether or not the Company is the surviving or continuing Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the Company's properties and assets (determined on a consolidated basis for the Company and its Restricted Subsidiaries), to any Person unless:

(i) either:

(A) the Company shall be the surviving or continuing corporation, or

(B) the Person (if other than the Company) formed by such consolidation or into which the Company is merged or the Person which acquires by sale, assignment, transfer, lease, conveyance or other disposition the properties and assets of the Company and the Restricted Subsidiaries substantially as an entirety (the "Successor Company"):

(1) shall be a corporation organized and validly existing under the laws of a Permitted Merger Jurisdictions; and

(2) shall expressly assume all of the Obligations of the Company under this Indenture, the Notes and the Company's Note Guarantee by executing a supplemental indenture and provide the Trustee with an Officer's Certificate and Opinion of Counsel, and such transaction is otherwise in compliance this Indenture;

(ii) immediately after giving effect to such transaction and the assumption contemplated by clause (i)(B)(2) of this Section 4.1(b) (including giving effect on a pro forma basis to any Indebtedness, including any Acquired Indebtedness, Incurred or anticipated to be Incurred or discharged in connection with or in respect of such transaction), the Company or such Successor Company, as the case may be:

(A) will have a Consolidated Fixed Charge Coverage Ratio that will be not less than the Consolidated Fixed Charge Coverage Ratio of the Company immediately prior to such transaction; or

(B) will be able to Incur at least U.S.$1.00 of additional Indebtedness pursuant to Section 3.9(a); and

(iii) immediately before and immediately after giving effect to such transaction and the assumption contemplated by clause (i)(B)(2) of this Section 4.1(b) (including, without limitation, giving effect on a *pro forma* basis to any Indebtedness, including any Acquired Indebtedness, Incurred or anticipated to be Incurred or discharged and any Lien granted in connection with or in respect of the transaction), no Default or Event of Default shall have occurred or be continuing.

The provisions of clauses (ii) and (iii) of this Section 4.1(b) shall not apply to:

(x) any transfer of the properties or assets of a Restricted Subsidiary to the Company or a Note Guarantor;

(y) any merger of a Restricted Subsidiary into the Company or a Note Guarantor; or

(z) any merger of the Company into another Note Guarantor or a Wholly Owned Subsidiary of the Company.

The Successor Company shall succeed to, and be substituted for such Company under this Indenture, the Notes and/or the Note Guarantee, as applicable.

(c) Each Note Guarantor other than the Company shall not, and the Company shall not cause or permit any such Note Guarantor to, consolidate with or merge into, or sell or dispose of all or substantially all of its assets to, any Person (other than the Issuer) that is not a Note Guarantor unless:

(i) such Person (if such Person is the surviving entity) (the "Successor Guarantor") assumes all of the obligations of such Note Guarantor in respect of its Note Guarantee by executing a supplemental indenture and providing the Trustee with an Officer's Certificate and Opinion of Counsel, and stating that such transaction is otherwise in compliance with this Indenture;

(ii) such Note Guarantee is to be released as provided under Section 10.2(b); or

(iii) such sale or other disposition of substantially all of such Note Guarantor's assets is made in accordance with Section 3.12.

Subject to certain limitations described in this Indenture, the Successor Guarantor will succeed to, and be substitute for, such Note Guarantor under this Indenture and such Note Guarantor's Note Guarantee. The provisions of clauses (i), (ii) and (iii) of this Section 4.1(c) will not apply to:

(x) any transfer of the properties or assets of a Note Guarantor to the Issuer or another Note Guarantor;

(y) any merger of a Note Guarantor into the Issuer or another Note Guarantor; or

(z) any merger of a Note Guarantor into a Wholly Owned Subsidiary of the Company.

ARTICLE V

OPTIONAL REDEMPTION OF NOTES

Section 5.1 Optional Redemption. The Issuer may redeem the Notes, as a whole or from time to time in part, subject to the conditions and at the redemption prices specified in the Form of Note in Exhibit A.

Section 5.2 [Reserved].

Section 5.3 Notices to Trustee. If the Issuer elects to redeem Notes pursuant to the optional redemption provisions of Section 5.1 hereof, it shall furnish to the Trustee, at least 45 days but not more than 60 days before a redemption date, an Officer's Certificate setting forth: (a) the redemption date, (b) the principal amount of Notes to be redeemed, (c) the ISIN numbers of such Notes and (d) the redemption price.

Section 5.4 Notice of Redemption.

(a) The Issuer shall prepare and mail or cause to be mailed a notice of redemption, in the manner provided for in Section 12.1, not less than 30 nor more than 60 days prior to the Redemption Date, to each Holder of Notes to be redeemed.

(b) All notices of redemption shall state:

(i) the Redemption Date,

(ii) the redemption price and the amount of any accrued interest payable as provided in Section 5.7,

(iii) whether or not the Issuer is redeeming all Outstanding Notes,

(iv) if the Issuer is not redeeming all Outstanding Notes, the aggregate principal amount of Notes that the Issuer is redeeming and the aggregate principal amount of Notes that will be Outstanding after the partial redemption, as well as the identification of the particular Notes, or portions of the particular Notes, that the Issuer is redeeming,

(v) if the Issuer is redeeming only part of a Note, the notice that relates to that Note shall state that on and after the Redemption Date, upon surrender of that Note, the Holder will receive, without charge, a new Note or Notes of authorized denominations for the principal amount of the Note remaining unredeemed,

(vi) that on the Redemption Date the redemption price and any accrued interest payable to the Redemption Date as provided in Section 5.7 will become due and payable in respect of each Note, or the portion of each Note, to be redeemed, and, unless the Issuer defaults in making the redemption payment, that interest on each Note, or the portion of each Note, to be redeemed, will cease to accrue on and after the Redemption Date,

(vii) the place or places where a Holder must surrender Notes for payment of the redemption price and any accrued interest payable on the Redemption Date, and

(viii) the ISIN number, if any, listed in the notice or printed on the Notes, and that no representation is made as to the accuracy or correctness of such ISIN number.

(c) At the Issuer's request, the Trustee shall give the notice of redemption in the Issuer's names and at its expense; provided, however, that the Issuer shall have delivered to the Trustee, at least 45 days prior to the redemption date, an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding Section 5.4(b).

Section 5.5 Selection of Notes to Be Redeemed in Part.

(a) If the Issuer is not redeeming all Outstanding Notes, the Trustee shall select the Notes to be redeemed in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed or, if the Notes are not then listed on a

national securities exchange, on a pro rata basis, by lot or by any other method as the Trustee shall deem fair and appropriate; provided, however, that if a partial redemption is made with the proceeds of a Equity Offering, selection of the Notes, or portions of the Notes, for redemption shall be made by the Trustee only on a pro rata basis, or on as nearly a pro rata basis as is practicable (subject to the procedures of Euroclear or Clearstream), unless the method is otherwise prohibited. The Trustee shall make the selection from the Outstanding Notes not previously called for redemption. The Trustee shall promptly notify the Issuer in writing of the Notes selected for redemption and, in the case of any Notes selected for partial redemption, the principal amount of the Notes to be redeemed. In the event of a partial redemption by lot, the Trustee shall select the particular Notes to be redeemed not less than 30 nor more than 60 days prior to the relevant Redemption Date from the Outstanding Notes not previously called for redemption. No Notes of €50,000 principal amount or less shall be redeemed in part. The Trustee may select for redemption portions with minimum denominations of €50,000 or any integral multiple of €1,000 in excess thereof.

(b) For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to redemption of Notes shall relate, in the case of any Note redeemed or to be redeemed only in part, to the portion of the principal amount of that Note which has been or is to be redeemed.

Section 5.6 Deposit of Redemption Price. On or prior to 10 A.M. on the Business Day prior to the relevant Redemption Date, the Issuer shall deposit with the Trustee or with a Paying Agent (or, if the Issuer or a Note Guarantor is acting as the Paying Agent, segregate and hold in trust as provided in Section 2.4) an amount of money in immediately available funds sufficient to pay the redemption price of, and accrued interest on, all the Notes that the Issuer is redeeming on that date.

Section 5.7 Notes Payable on Redemption Date. If the Issuer, or the Trustee on behalf of the Issuer, gives notice of redemption in accordance with this Article V, the Notes, or the portions of Notes, called for redemption, shall, on the Redemption Date, become due and payable at the redemption price specified in the notice (together with accrued interest, if any, to the Redemption Date), and from and after the Redemption Date (unless the Issuer shall default in the payment of the redemption price and accrued interest) the Notes or the portions of Notes shall cease to bear interest. Upon surrender of any Note for redemption in accordance with the notice, the Issuer shall pay the Notes at the redemption price, together with accrued interest, if any, to the Redemption Date (subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant Interest Payment Date). If the Issuer shall fail to pay any Note called for redemption upon its surrender for redemption, the principal shall, until paid, bear interest from the Redemption Date at the rate borne by the Notes.

Section 5.8 Unredeemed Portions of Partially Redeemed Note. Upon surrender of a Note that is to be redeemed in part, the Issuer shall execute, and the Trustee shall authenticate and make available for delivery to the Holder of the Note, at the expense of the Company, a new Note or Notes, of any authorized denomination as requested by the Holder, in an aggregate principal amount equal to, and in exchange for, the unredeemed portion of the principal of the Note surrendered, *provided* that each new Note will be in a principal amount of €50,000 or integral multiple of €1,000.

ARTICLE VI

DEFAULTS AND REMEDIES

Section 6.1 Events of Default.

(a) Each of the following is an "Event of Default":

(i) default in the payment when due of the principal of or premium, if any, on any Notes, including the failure to make a required payment to purchase Notes tendered pursuant to an optional redemption, a Change of Control Offer or an Asset Sale Offer;

(ii) default for 30 days or more in the payment when due of interest or Additional Amounts on any Notes;

(iii) the failure to perform or comply with any of the provisions described under Article IV;

(iv) the failure by the Company or any Restricted Subsidiary to comply with, or in the case of non-guarantor Restricted Subsidiaries, to perform according to, any other covenant or agreement contained in this Indenture or in the Notes for 45 days or more after written notice to the Company from the Trustee or the Holders of at least 25% in aggregate principal amount of the Outstanding Notes;

(v) default by the Company or any Restricted Subsidiary under any Indebtedness which:

(A) is caused by a failure to pay principal of or premium, if any, when due or interest on such Indebtedness prior to the later of the expiration of any applicable grace period provided in such Indebtedness on the date of such default or five days past when due; or

(B) results in the acceleration of such Indebtedness prior to its stated maturity;

and the principal or accreted amount of Indebtedness covered by clauses (v)(A) or (v)(B) of this Section 6.1(a) at the relevant time, aggregates U.S.$50 million or more;

(vi) failure by the Company or any of its Restricted Subsidiaries to pay one or more final judgments against any of them, aggregating U.S.$50 million or more, which judgment(s) are not paid, discharged or stayed for a period of 60 days or more;

(vii) a Bankruptcy Event of Default; or

(viii) except as permitted herein, any Note Guarantee is held to be unenforceable or invalid in a judicial proceeding or ceases for any reason to be in full force and effect or any Note Guarantor, or any Person acting on behalf of any Note Guarantor, denies or disaffirms such Note Guarantor's obligations under its Note Guarantee.

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

(b) The Company shall deliver within 30 days to the Trustee written notice of any event which would constitute a Default or Event of Default, their status and what action the Company is taking or proposes to take in respect thereof.

Section 6.2 Acceleration.

(a) If an Event of Default (other than an Event of Default specified in clause (vii) of Section 6.1(a) above with respect to the Issuer or the Company) shall occur and be continuing, the Trustee or the Holders of at least 25% in principal amount of Outstanding Notes may declare the unpaid principal of (and premium, if any) and accrued and unpaid interest on all the Notes to be immediately due and payable by notice in writing to the Company and the Trustee specifying the Event of Default and that it is a "notice of acceleration." If an Event of Default specified in clause (vii) of Section 6.1(a) above occurs with respect to the Company, then the unpaid principal of (and premium, if any) and accrued and unpaid interest on all the Notes will become immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

(b) At any time after a declaration of acceleration with respect to the Notes as described in the preceding paragraph, the Holders of a majority in principal amount of the Notes may rescind and cancel such declaration and its consequences:

(i) if the rescission would not conflict with any judgment or decree;

(ii) if all existing Events of Default have been cured or waived, except nonpayment of principal or interest that has become due solely because of the acceleration;

(iii) to the extent the payment of such interest is lawful, interest on overdue installments of interest and overdue principal, which has become due otherwise than by such declaration of acceleration, has been paid; and

(iv) if the Company has paid the Trustee its reasonable compensation and reimbursed the Trustee for its reasonable expenses, disbursements and advances.

Section 6.3 Other Remedies.

(a) If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

(b) The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

Section 6.4 Waiver of Past Defaults. Subject to Section 6.2, the Holders of a majority in principal amount of the Notes may waive any existing Default or Event of Default, and its consequences, except a default in the payment of the principal of, premium, if any, or interest on any Notes.

Section 6.5 Control by Majority. The Holders of a majority in principal amount of the Outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. Subject to Section 7.1 and Section 7.2, however, the Trustee may refuse to follow any direction that conflicts with law or this Indenture; *provided, however*, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction.

Section 6.6 Limitation on Suits.

(a) No Holder of any Notes shall have any right to institute any proceeding with respect hereto or for any remedy hereunder, unless:

(i) such Holder gives to the Trustee written notice of a continuing Event of Default;

(ii) Holders of at least 25% in principal amount of the then Outstanding Notes make a written request to pursue the remedy;

(iii) such Holders of the Notes provide to the Trustee indemnity satisfactory to it;

(iv) the Trustee does not comply within 60 days; and

(v) during such 60 day period the Holders of a majority in principal amount of the Outstanding Notes do not give the Trustee a written direction which, in the opinion of the Trustee, is inconsistent with the request;

provided that a Holder of a Note may institute suit for enforcement of payment of the principal of and premium, if any, or interest on such Note on or after the respective due dates expressed in such Note.

Section 6.7 Rights of Holders to Receive Payment. Notwithstanding any other provision of this Indenture (including, without limitation, Section 6.6), the right of any Holder to receive payment of principal or interest on the Notes held by such Holder, on or after the respective due dates, Redemption Dates or repurchase date expressed in this Indenture or the Notes, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.8 Collection Suit by Trustee. If an Event of Default specified in clause (i) and (ii) of Section 6.1(a) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company and each Note Guarantor for the whole amount then due and owing (together with applicable interest on any overdue principal and, to the extent lawful, interest on overdue interest) and the amounts provided for in Section 7.7.

Section 6.9 Trustee May File Proofs of Claim, etc.

(a) The Trustee may (irrespective of whether the principal of the Notes is then due):

(i) file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders under this Indenture and the Notes allowed in any bankruptcy, insolvency, liquidation or other judicial proceedings relative to the Company, any Note Guarantor or any Subsidiary of the Company or their respective creditors or properties; and

(ii) collect and receive any monies or other property payable or deliverable in respect of any such claims and distribute them in accordance with this Indenture.

Any receiver, trustee, liquidator, sequestrator (or other similar official) in any such proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, taxes, disbursements and advances of the Trustee, its agent and counsel, and any other amounts due to the Trustee pursuant to Section 7.7.

(b) Nothing in this Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 Priorities. If the Trustee collects any money or property pursuant to this Article VI, it shall pay out the money or property in the following order:

FIRST: to the Trustee for amounts due under Section 7.7;

SECOND: if the Holders proceed against the Company directly without the Trustee in accordance with this Indenture, to Holders for their collection costs;

THIRD: to Holders for amounts due and unpaid on the Notes for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal and interest, respectively; and

FOURTH: to the Company or, to the extent the Trustee collects any amount pursuant to Article X hereof from any Note Guarantor, to such Note Guarantor, or to such party as a court of competent jurisdiction shall direct.

The Trustee may, upon notice to the Company, fix a record date and payment date for any payment to Holders pursuant to this Section 6.10.

Section 6.11 Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by the Company, a suit by a Holder pursuant to Section 6.7 or a suit by Holders of more than 10% in principal amount of Outstanding Notes.

ARTICLE VII

TRUSTEE

Section 7.1 Duties of Trustee.

(a) If a Default or an Event of Default has occurred and is continuing, the Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) Except during the continuance of a Default or an Event of Default:

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, in the case of any such certificates or opinions that by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall examine such certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(i) this clause (c) does not limit the effect of clause (b) of this Section 7.1;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.2, 6.4 or 6.5.

(d) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Issuer.

(e) Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

(f) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers, if it shall have reasonable grounds to believe that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(g) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article VII.

(h) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuer shall be sufficient if signed by an Officer of the Issuer.

(i) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses (including reasonable attorneys' fees and expenses) and liabilities that might be incurred by it in compliance with such request or direction.

Section 7.2 Rights of Trustee.

Subject to Section 7.1:

(a) The Trustee may rely on any document reasonably believed by it to be genuine and to have been signed or presented by the proper person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting at the direction of the Issuer or any Note Guarantor, it may require an Officer's Certificate or an Opinion of Counsel. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on an Officer's Certificate or Opinion of Counsel.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers; provided, however, that the Trustee's conduct does not constitute willful misconduct or negligence.

(e) The Trustee may consult with counsel of its selection, and the advice or opinion of counsel with respect to legal matters relating to this Indenture and the Notes shall be full and complete authorization and protection from liability in respect to any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(f) If the Trustee shall determine, it shall be entitled to examine the books, records and premises of the Issuer, personally or by agent or attorney.

(g) The Trustee shall not be deemed to have notice of any Default or Event of Default unless an Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each agent, custodian and other Person employed to act hereunder.

(i) The Trustee may request that the Issuer deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officer's Certificate may be signed by any Person authorized to sign an Officer's Certificate, including any Person specified as so authorized in any such certificate previously delivered and not superseded.

(j) The permissive rights of the Trustee enumerated herein shall not be construed as duties.

(k) In no event shall the Trustee be liable, directly or indirectly, for any special, indirect or consequential damages, even if the Trustee has been advised of the possibility of such damages.

(l) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; sabotage; epidemics; riots, interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; it being understood that the Trustee shall use its best efforts to resume performance as soon as practicable under the circumstances.

(m) The Trustee shall at no time have any responsibility or liability for or in respect to the legality, validity or enforceability of any Collateral or any arrangement or agreement between the Issuer or the Company and any other Person with respect thereto, or the perfection or priority of any security interest created in any of the Collateral or maintenance of any perfection and priority, or for or with respect to the sufficiency of the Collateral following an Event of Default.

Section 7.3 Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer, the Note Guarantors or any Affiliate of the Company with the same rights it would have if it were not Trustee. Any Paying Agent, Transfer Agent, Registrar or co-Registrar may do the same with like rights. However, the Trustee must comply with Section 7.10.

Section 7.4 Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Issuer's use of the proceeds from the Notes, and it shall not be responsible for any statement of the Issuer in this Indenture or in any document issued in connection with the sale of the Notes or in the Notes other than the Trustee's certificate of authentication.

Section 7.5 Notice of Defaults. If a Default or Event of Default occurs and is continuing and if a Trust Officer has actual knowledge thereof, the Trustee shall mail to each Holder notice of the Default or Event of Default within 90 days after the occurrence thereof. Except in the case of a Default or Event of Default in payment of principal or interest on any Note (including payments pursuant to the optional redemption or required repurchase provisions of such Note, if any), the Trustee may withhold the notice if and so long as a committee of its Trust Officers in good faith determines that withholding the notice is in the interests of the Holders.

Section 7.6 [Reserved].

Section 7.7 Compensation and Indemnity.

(a) The Issuer shall pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder as the Issuer and the Trustee shall from time to time agree in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred or made by it, including costs of collection, costs of preparing and reviewing reports, certificates and other

documents, costs of preparation and mailing of notices to Holders and reasonable costs of counsel retained by the Trustee in connection with the review, negotiation, execution and delivery of this Indenture or otherwise, in addition to the compensation for its services. Such expenses shall include the reasonable compensation and expenses, disbursements and advances of the Trustee's agents, counsel, accountants and experts.

(b) The Issuer and each Note Guarantor shall jointly and severally indemnify the Trustee against any and all loss, liability or expense (including reasonable attorneys' fees and expenses) incurred by it without negligence, willful misconduct or bad faith on its part in connection with the acceptance and administration of this trust and the performance of its duties hereunder, including the costs and expenses of enforcing this Indenture (including this Section 7.7) and of defending itself against any claims (whether asserted by any Holder, the Issuer, any Note Guarantor or otherwise). The Trustee shall notify the Issuer and each Note Guarantor promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Issuer or any Note Guarantor shall not relieve the Issuer or any Note Guarantor of its obligations hereunder. The Issuer shall defend the claim and the Trustee may have separate counsel and the Issuer shall pay the fees and expenses of such counsel; *provided* that the Issuer shall not be required to pay such fees and expenses if it assumes the Trustee's defense, and, in the reasonable judgment of outside counsel to the Trustee, there is no conflict of interest between the Issuer and the Trustee in connection with such defense. The Issuer need not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through the Trustee's own willful misconduct, negligence or bad faith.

(c) To secure the Issuer's payment obligations in this Section 7.7, the Trustee shall have a lien prior to the Notes on all money or property held or collected by the Trustee other than money or property held in trust to pay principal of and interest on particular Notes. The Trustee's right to receive payment of any amounts due under this Section 7.7 shall not be subordinate to any other liability or Indebtedness of the Issuer.

(d) The Issuer's payment obligations pursuant to this Section 7.7 shall survive the discharge of this Indenture and the resignation or removal of the Trustee. When the Trustee incurs expenses after the occurrence of a Bankruptcy Event of Default, the expenses are intended to constitute expenses of administration under any Bankruptcy Law; *provided, however*, that this shall not affect the Trustee's rights as set forth in this Section 7.7 or Section 6.10.

Section 7.8 Replacement of Trustee.

(a) The Trustee may resign at any time by so notifying the Issuer. The Holders of a majority in principal amount of the Outstanding Notes may remove the Trustee by so notifying the Trustee and may appoint a successor Trustee reasonably acceptable to the Issuer. The Issuer shall remove the Trustee if:

(i) the Trustee fails to comply with Section 7.10;

(ii) the Trustee is adjudged bankrupt or insolvent;

(iii) a receiver or other public officer takes charge of the Trustee or its property; or

(iv) the Trustee otherwise becomes incapable of acting.

(b) If the Trustee resigns or is removed by the Issuer or by the Holders of a majority in principal amount of the Outstanding Notes and such Holders do not reasonably promptly appoint a successor Trustee, or if a vacancy exists in the office of the Trustee for any reason (the Trustee in such event being referred to herein as the retiring Trustee), the Issuer shall promptly appoint a successor Trustee.

(c) A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 7.7(c).

(d) If a successor Trustee does not take office within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee or the Holders of 10% in principal amount of the Outstanding Notes may petition, at the Issuer's expense, any court of competent jurisdiction for the appointment of a successor Trustee.

(e) If the Trustee fails to comply with Section 7.10, any Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) Notwithstanding the replacement of the Trustee pursuant to this Section 7.8, the Issuer's obligations under Section 7.7 shall continue for the benefit of the retiring Trustee.

Section 7.9 Successor Trustee by Merger.

(a) If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets to, another corporation or banking association, the resulting, surviving or transferee corporation without any further act shall be the successor Trustee.

(b) In case at the time such successor or successors to the Trustee shall succeed to the trusts created by this Indenture, any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor to the Trustee; and in all such cases such certificates of authentication and such delivery shall be valid for purposes of this Indenture.

Section 7.10 Eligibility; Disqualification. The Trustee shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has, together with parent, a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition.

Section 7.11 [Reserved].

Section 7.12 [Reserved].

Section 7.13 Authorization and Instruction of the Trustee With Respect to the Collateral. Each Holder and the Issuer authorize and instruct the Trustee (a) to enter into (or cause an agent or grant such powers of attorney to enter into), on its own behalf and on behalf of the Holders of Notes, such documents (the "Security Documents") as are necessary or desirable (which shall be evidenced by a written instruction from the Company satisfactory to the Trustee) in order to create and maintain the security interest of the Trustee and the Holders of Notes in the Collateral as may from time to time be provided to equally and ratably secure the Notes, (b) to grant such powers of attorney and to do or cause to be done all such acts and things, on its own behalf and in the name and on behalf of the Holders of Notes, as are necessary or desirable (which shall be evidenced by a written instruction from the Company satisfactory to the Trustee) to create and maintain the security interest of the Trustee and the Holders of Notes in such Collateral, (c) to appoint the Security Agent to serve as direct representative of the Trustee and the Holders of Notes in connection with the creation and maintenance of the security interest of the Trustee and the Holders of Notes in such Collateral, (d) to accept the security interest in the Collateral on behalf of each Holder, and (e) to grant powers in favor of an attorney to execute an accession public deed before a Spanish notary public accepting the security interest in the Collateral on behalf of the Holders of Notes. It is understood and acknowledged that in certain circumstances the Security Documents may be amended, modified or waived without the consent of the Trustee or the Holders of Notes. It is understood and acknowledged that the Security Agent, in addition to being appointed by and acting on behalf of the Trustee and the Holders of Notes, has also been appointed by and is acting on behalf of (and may in the future be appointed by and act on behalf of) other creditors of the Company and its Subsidiaries. The Trustee will not have the right to cause the Security Agent to foreclose on the Collateral upon the occurrence of an Event of Default in respect of the Notes. The Trustee shall at no time have any responsibility or liability for or in respect to the legality, validity or enforceability of any Collateral or any arrangement or agreement between the Issuer or the Company and any other Person with respect thereto, or the perfection or priority of any security interest created in any of the Collateral or maintenance of any perfection and priority, or for or with respect to the sufficiency of the Collateral following an Event of Default.

ARTICLE VIII

DEFEASANCE; DISCHARGE OF INDENTURE

Section 8.1 Legal Defeasance and Covenant Defeasance.

(a) The Issuer may, at its option, at any time, elect to have either Section 8.1(b) or (c) be applied to all Outstanding Notes upon compliance with the conditions set forth in Section 8.2.

(b) Upon the Issuer's exercise under Section 8.1(a) of the option applicable to this clause (b), the Issuer shall, subject to the satisfaction of the conditions set forth in Section 8.2, be deemed to have been discharged from its obligations with respect to all Outstanding Notes on the date all of the conditions set forth in Section 8.2 are satisfied (hereinafter, "Legal Defeasance"). For this purpose, Legal Defeasance means that the Issuer shall be deemed to have paid and discharged the entire Indebtedness represented by the Outstanding Notes, which shall thereafter be deemed to be Outstanding only for the purposes of Section 8.3 hereof and the other sections of this Indenture referred to in subclause (i) or (ii) of this clause (b), and to have satisfied all its other obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Issuer, shall execute proper instruments acknowledging the same), except for the following provisions, which shall survive until otherwise terminated or discharged hereunder:

(i) the rights of Holders of Outstanding Notes to receive solely from the trust fund described in Section 8.3, and as more fully set forth in Section 2.4 payments in respect of the principal of, premium, if any, and interest on such Notes when such payments are due,

(ii) the Issuer's obligations with respect to such Notes under Article II and Section 3.2 hereof,

(iii) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Issuer's obligations in connection therewith, and

(iv) this Article VIII.

Subject to compliance with this Article VIII, the Issuer may exercise its option under this clause (b) notwithstanding the prior exercise of its option under Section 8.1(c) hereof.

(c) Upon the Issuer's exercise under Section 8.1(a) hereof of the option applicable to this clause (c), the Issuer shall, subject to the satisfaction of the applicable conditions set forth in Section 8.2, be released from its obligations under Sections 3.4, 3.5, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13, 3.14, 3.15, 3.16, 3.17, 3.18, 3.19, 3.20, 3.21, 3.22, 3.23, 4.1(a) and 4.1(b) hereof with respect to the Outstanding Notes on and after the date the conditions set forth below are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not Outstanding for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be Outstanding for all other purposes hereunder (it being understood that such Notes shall not be deemed Outstanding for accounting purposes). For this purpose, such Covenant Defeasance means that, with respect to the Outstanding Notes, the Issuer may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event or Default under clause (iii) of Section 6.1(a) (solely with respect to any failure to perform under or comply with clause (ii) or (iii) of Section 4.1(a)), clause (iv) of Section 6.1(a) or clause (v) of Section 6.1(a) hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby.

Section 8.2 Conditions to Defeasance. The Company or, as applicable, the Issuer, may exercise its Legal Defeasance option or its Covenant Defeasance option only if:

(a) the Issuer has irrevocably deposited with the Trustee, in trust, for the benefit of the Holders cash in euros, certain European Government Obligations, or a combination thereof, in such amounts as will be sufficient without reinvestment, in the opinion of a nationally recognized firm of independent public accountants, to pay the principal of, premium, if any, and interest (including Additional Amounts) on the Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be;

(b) in the case of Legal Defeasance, the Issuer has delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee (subject to customary exceptions and exclusions) and independent of the Issuer to the effect that:

(i) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling; or

(ii) since the Issue Date, there has been a change in the applicable U.S. federal income tax law,

in either case to the effect that, and based thereon such Opinion of Counsel shall state that, the Holders will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) in the case of Covenant Defeasance, the Issuer has delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee (subject to customary exceptions and exclusions) to the effect that the Holders will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) no Default or Event of Default shall have occurred and be continuing on the date of the deposit pursuant to Section 8.2(a) (except any Default or Event of Default resulting from the failure to comply with Section 3.9 as a result of the borrowing of the funds required to effect such deposit);

(e) the Trustee has received an Officer's Certificate stating that such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under this Indenture or any other material agreement or instrument to which the Issuer or any of its Subsidiaries is a party or by which the Issuer or any of its Subsidiaries is bound;

(f) the Issuer has delivered to the Trustee an Officer's Certificate stating that the deposit was not made by the Issuer with the intent of preferring the Holders over any other creditors of the Issuer or any Subsidiary of the Issuer or with the intent of defeating, hindering, delaying or defrauding any other creditors of the Issuer or others;

(g) the Issuer has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel from counsel reasonably acceptable to the Trustee (subject to customary exceptions and exclusions) and independent of the Issuer, each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance have been complied with; and

(h) the Issuer has delivered to the Trustee an Opinion of Counsel from counsel reasonably acceptable to the Trustee and independent of the Issuer to the effect that the trust resulting from the deposit does not constitute, or is qualified as, a regulated investment company under the Investment Company Act of 1940.

Section 8.3 Application of Trust Money. The Trustee shall hold in trust euros or European Government Obligations deposited with it pursuant to this Article VIII. It shall apply the deposited euros or European Government Obligations through the Paying Agent and in accordance with this Indenture to the payment of principal of and interest on the Notes.

Section 8.4 Repayment to Issuer.

(a) The Trustee and the Paying Agent shall promptly turn over to the Issuer upon request any excess money or securities held by them upon payment of all the obligations under this Indenture.

(b) Subject to any applicable abandoned property law, the Trustee and the Paying Agent shall pay to the Issuer upon request any money held by them for the payment of principal of, premium or interest on the Notes that remains unclaimed for two years, and, thereafter, Holders entitled to the money must look to the Issuer for payment as general creditors.

Section 8.5 Indemnity for European Government Obligations. The Issuer shall pay and shall indemnify the Trustee against any tax, fee or other charge imposed on or assessed against deposited European Government Obligations or the principal and interest received on such European Government Obligations.

Section 8.6 Reinstatement. If the Trustee or Paying Agent is unable to apply any euros or European Government Obligations in accordance with this Article VIII by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the obligations of the Issuer under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to this Article VIII until such time as the Trustee or Paying Agent is permitted to apply all such euros or European Government Obligations in accordance with this Article VIII; *provided, however*, that, if the Issuer has made any payment of principal of, premium or interest on any Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from euros or European Government Obligations held by the Trustee or Paying Agent.

Section 8.7 Satisfaction and Discharge. This Indenture will be discharged and will cease to be of further effect (except as to surviving rights of registration of transfer or exchange of the Notes, as expressly provided for in this Indenture) as to all Outstanding Notes when:

(a) either:

(i) all the Notes theretofor authenticated and delivered (except lost, stolen or destroyed Notes which have been replaced or paid and Notes for whose payment money has theretofor been deposited in trust or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from such trust) have been delivered to the Trustee for cancellation, or

(ii) all Notes not theretofor delivered to the Trustee for cancellation have become due and payable, and the Issuer has irrevocably deposited or caused to be deposited with the Trustee euros or European Government Obligations sufficient without reinvestment to pay and discharge the entire Indebtedness on the Notes not theretofor delivered to the Trustee for cancellation, for principal of, premium, if any, and interest on the Notes to the date of deposit, together with irrevocable instructions from the Issuer directing the Trustee to apply such funds to the payment;

(b) the Issuer has paid all other sums payable under this Indenture and the Notes by it; and

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

ARTICLE IX

AMENDMENTS

Section 9.1 Without Consent of Holders.

(a) The Issuer, the Note Guarantors and the Trustee may amend or supplement this Indenture, the Notes or the Note Guarantees without notice to or consent of any Holder:

(i) to cure any ambiguity, omission, defect or inconsistency;

(ii) to comply with Article IV in respect of the assumption by a Successor Issuer of the obligations of the Issuer under the Notes and this Indenture;

(iii) to provide for uncertificated Notes in addition to or in place of Certificated Notes; provided, however, that the uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Code;

(iv) to add guarantees with respect to the Notes or to secure the Notes;

(v) to add to the covenants of the Issuer or the Note Guarantors for the benefit of the Holders or to surrender any right or power herein conferred upon the Issuer or the Note Guarantors;

(vi) to make any change that does not, in the opinion of the Trustee, adversely affect the rights of any Holder in any material respect;

(vii) to conform the text of this Indenture, the Note Guarantees or the Notes to any provision of the section "Description of Notes" in the Offering Memorandum to the extent that such provision in such "Description of Notes" was intended to be a verbatim recitation of a provision of this Indenture or the Notes or Note Guarantees;

(viii) to comply with the requirements of any applicable securities depositary;

(ix) to provide for the issuance of Additional Notes as permitted by Section 2.2(c) and Section 2.14, which will have terms substantially identical to the other Outstanding Notes except as specified in Section 2.13, or Section 2.14, and which will be treated, together with any other Outstanding Notes, as a single issue of securities.

(b) After an amendment or supplement under this Section 9.1 becomes effective, the Issuer shall mail to Holders a notice briefly describing such amendment. The failure to give such notice to all Holders, or any defect therein, shall not impair or affect the validity of an amendment under this Section 9.1.

Section 9.2 With Consent of Holders.

(a) The Issuer, the Note Guarantors and the Trustee may amend or supplement this Indenture or the Notes without notice to any Holder but with the written consent of the Holders of at least a majority in principal amount of the Outstanding Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes). Subject to Section 6.4, the Holder or Holders of a majority in aggregate principal amount of the Outstanding Notes may waive compliance by the Issuer and the Note Guarantors with any provision of this Indenture or the Notes. However, without the consent of each Holder affected, an amendment, supplement or waiver may not:

(i) reduce the amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(ii) reduce the rate of or change or have the effect of changing the time for payment of interest, including Defaulted Interest, on any Notes;

(iii) reduce the principal of or change or have the effect of changing the fixed maturity of any Notes, or change the date on which any Notes may be subject to redemption, or reduce the redemption price therefor;

(iv) make any Notes payable in money other than that stated in the Notes;

(v) make any change in the provisions of this Indenture entitling each Holder to receive payment of principal of, premium, if any, and interest on such Notes on or after the due date thereof or to bring suit to enforce such payment, or permitting Holders of a majority in principal amount of Outstanding Notes to waive Defaults or Events of Default;

(vi) amend, change or modify in any material respect any obligations of the Company to make and consummate a Change of Control Offer in respect of a Change of Control that has occurred or make and consummate an Asset Sale Offer with respect to any Asset Sale that has been consummated;

(vii) make any change in the provisions of this Indenture described under Section 3.22 that adversely affects the rights of any Holder or amend the terms of the Notes in a way that would result in a loss of exemption from Taxes; or

(viii) make any change to the provisions of this Indenture or the Notes that adversely affect the ranking of the Notes.

(b) It shall not be necessary for the consent of the Holders under this Section 9.2 to approve the particular form of any proposed amendment, supplement or waiver but it shall be sufficient if such consent approves the substance thereof.

(c) After an amendment, supplement or waiver under this Section 9.2 becomes effective, the Company shall mail to Holders a notice briefly describing such amendment, supplement or waiver. The failure to give such notice to all Holders, or any defect therein, shall not impair or affect the validity of an amendment, supplement or waiver under this Section 9.2.

Section 9.3 [Reserved].

Section 9.4 Revocation and Effect of Consents and Waivers.

(a) A consent to an amendment, supplement or waiver by a Holder of a Note shall bind the Holder and every subsequent Holder of that Note or portion of the Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent or waiver is not made on the Note. However, any such Holder or subsequent Holder may revoke the consent or waiver as to such Holder's Note or portion of the Note if the Trustee receives the notice of revocation before the date the amendment, supplement or waiver becomes effective. After an amendment, supplement or waiver becomes effective, it shall bind every Holder, except

as otherwise provided in this Article IX. An amendment, supplement or waiver shall become effective upon receipt by the Trustee of the requisite number of written consents under Section 9.2.

(b) The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to give their consent or take any other action described above or required or permitted to be taken pursuant to this Indenture. If a record date is fixed, then notwithstanding the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to give such consent or to revoke any consent previously given or to take any such action, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 90 days after such record date.

Section 9.5 Notation on or Exchange of Notes. If an amendment or supplement changes the terms of a Note, the Trustee may require the Holder of the Note to deliver it to the Trustee. The Trustee may place an appropriate notation on the Note regarding the changed terms and return it to the Holder. Alternatively, if the Company or the Trustee so determines, the Company in exchange for the Note will execute and upon Issuer Order the Trustee will authenticate and make available for delivery a new Note that reflects the changed terms. Failure to make the appropriate notation or to issue a new Note shall not affect the validity of such amendment or supplement.

Section 9.6 Trustee to Sign Amendments and Supplements. The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article IX if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may but need not sign it. In signing such amendment, supplement or waiver, the Trustee shall be entitled to receive indemnity reasonably satisfactory to it and to receive, and (subject to Section 7.1 and Section 7.2) shall be fully protected in relying upon, in addition to the documents required by Section 12.4, an Opinion of Counsel and an Officer's Certificate each stating that such amendment, supplement or waiver is authorized or permitted by this Indenture and that all conditions precedent to the execution of such amendment, supplement or waiver have been complied with.

ARTICLE X

NOTE GUARANTEES

Section 10.1 Note Guarantees.

(a) Each Note Guarantor hereby fully and unconditionally guarantees, as primary obligor and not merely as surety, jointly and severally with each other Note Guarantor, to each Holder and the Trustee, the full and punctual payment when due, whether at maturity, by acceleration, by redemption or otherwise, of the Obligations (such guaranteed Obligations, the "Guaranteed Obligations"). Each Note Guarantor further agrees that its Note Guarantee herein constitutes a guarantee of payment when due (and not a guarantee of collection) and agrees to pay, in addition to the amounts stated in Section 10.1(f), any and all expenses (including reasonable counsel fees and expenses) incurred by the Trustee or the Holders in enforcing or exercising any rights under any Note Guarantee.

(b) In no event shall the Trustee or the Holders be obligated to take any action, obtain any judgment or file any claim prior to enforcing or exercising any rights under any Note Guarantee.

(c) Each Note Guarantor further agrees that its Note Guarantee constitutes an absolute and unconditional and continuing guarantee. Each Note Guarantor hereby waives, to the extent permitted by law:

(i) any claim as to the legality, validity, regularity or enforceability of this Indenture, the Notes or any other agreement;

(ii) any claim as to the lack of authority of the Issuer to execute or deliver this Indenture, the Notes or any other agreement;

(iii) diligence, presentation to, demand of payment from and protest to the Issuer of any of the Obligations and notice of protest for nonpayment;

(iv) the occurrence of any default or event of default under this Indenture, the Notes or any other agreement;

(v) notice of any default or event of default under this Indenture, the Notes or any other agreement;

(vi) the failure of the Trustee or any Holder to assert any claim or demand or to enforce any right or remedy against the Issuer or any other Person under this Indenture, the Notes or any other agreement;

(vii) any extension or renewal of the Obligations, this Indenture, the Notes or any other agreement;

(viii) any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Notes or any other agreement;

(ix) the existence of any bankruptcy, insolvency, reorganization or similar proceedings involving the Issuer;

(x) any setoff, counterclaim, recoupment, termination or defense of any kind or nature which may be available to or asserted by any Note Guarantor or the Issuer against the Holders or the Trustee;

(xi) any impairment, taking, furnishing, exchange or release of, or failure to perfect or obtain protection of any security interest in, any collateral securing this Indenture and the Notes and any right to require that any resort be had by the Trustee or any Holder to any such collateral;

(xii) the failure of the Trustee or any Holder to exercise any right or remedy against any other Note Guarantor;

(xiii) any change in the ownership of the Company ;

(xiv) any change in the laws, rules or regulations of any jurisdiction;

(xv) any present or future action of any governmental authority or court amending, varying, reducing or otherwise affecting, or purporting to amend, vary, reduce or otherwise affect, any of the obligations of the Issuer under this Indenture or the Notes or of any Note Guarantor under its Note Guarantee; and

(xvi) any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of each Note Guarantor or would otherwise operate as a discharge of such Note Guarantor as a matter of law or equity.

(d) Each of the Note Guarantors further expressly waives irrevocably and unconditionally:

(i) Any right it may have to first require any Holder to proceed against, initiate any actions before a court of law or any other judge or authority, or enforce any other rights or security or claim payment from the Issuer or any other Person (including any Note Guarantor or any other guarantor) before claiming from it under this Indenture;

(ii) Any right to which it may be entitled to have the assets of the Company or any other Person (including any Note Guarantor or any other guarantor) first be used, applied or depleted as payment of the Issuer's or the Note Guarantors' obligations hereunder, prior to any amount being claimed from or paid by any of the Note Guarantors hereunder;

(iii) Any right to which it may be entitled to have claims hereunder divided between the Note Guarantors;

(iv) To the extent applicable, the benefits of *orden*, *excusión*, *división*, *quita* and *espera* and any right specified in articles 2814, 2815, 2817, 2818, 2819, 2820, 2821, 2822, 2823, 2826, 2837, 2838, 2839, 2840, 2845, 2846, 2847 and any other related or applicable articles that are not explicitly set forth herein because of Note Guarantor's knowledge thereof of the *Código Civil Federal* of Mexico, and the *Código Civil* of each State of the Mexican Republic and the Federal District of Mexico.

(e) The obligations assumed by each Note Guarantor hereunder shall not be affected by the absence of judicial request of payment by a Holder to the Company or by

whether any such person takes timely action pursuant to articles 2848 and 2849 of the Código Civil Federal of Mexico and the Código Civil of each State of the Mexican Republic and the Federal District of Mexico and each Note Guarantor hereby expressly waives the provisions of such articles.

(f) The obligations of each Note Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason (other than payment of the Obligations in full), including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever or by reason of the invalidity, illegality or unenforceability of the Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of each Note Guarantor herein shall not be discharged or impaired or otherwise affected by the failure of any Holder to assert any claim or demand or to enforce any remedy under this Indenture, the Notes or any other agreement, by any waiver or modification of any thereof, by any default, failure or delay, willful or otherwise, in the performance of the Obligations, or by any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of such Note Guarantor or would otherwise operate as a discharge of such Note Guarantor as a matter of law or equity.

(g) Except as provided in Section 10.2, the obligations of each Note Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason other than payment of the Obligations in full.

(h) Each Note Guarantor further agrees that its Note Guarantee herein shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of or interest on any of the Obligations is rescinded or must otherwise be restored by any Holder upon the bankruptcy or reorganization of the Issuer or otherwise.

(i) In furtherance of the foregoing and not in limitation of any other right which the Trustee or any Holder has at law or in equity against each Note Guarantor by virtue hereof, upon the failure of the Issuer to pay any of the Obligations when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise, each Note Guarantor hereby promises to and will, upon receipt of written demand by the Trustee, forthwith pay, or cause to be paid, in cash, to the Holders an amount equal to the sum of:

(i) the unpaid amount of such Obligations then due and owing; and

(ii) accrued and unpaid interest on such Obligations then due and owing (but only to the extent not prohibited by law);

provided that any delay by the Trustee in giving such written demand shall in no event affect any Note Guarantor's obligations under its Note Guarantee.

(j) Each Note Guarantor further agrees that, as between such Note Guarantor, on the one hand, and the Holders, on the other hand:

(i) the maturity of the Obligations guaranteed hereby may be accelerated as provided in this Indenture for the purposes of its Note Guarantee

herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Obligations guaranteed hereby; and

(ii) in the event of any such declaration of acceleration of such Obligations, such Obligations (whether or not due and payable) shall forthwith become due and payable by the Note Guarantor for the purposes of this Note Guarantee.

Section 10.2 Limitation on Liability; Termination, Release and Discharge.

(a) The obligations of each Note Guarantor hereunder will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Note Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Note Guarantor in respect of the obligations of such other Note Guarantor under its Note Guarantee or pursuant to its contribution obligations under this Indenture, result in the obligations of such Note Guarantor under its Note Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law.

(b) A Note Guarantor will be released and relieved of its obligations under its Note Guarantee in the event that:

(i) with respect to any Note Guarantee other than the Company there is a Legal Defeasance of the Notes pursuant to Section 8.1 or Article VIII;

(ii) there is a sale or other disposition of Capital Stock of such Note Guarantor following which such Note Guarantor is no longer a direct or indirect Subsidiary of the Company;

(iii) such Note Guarantor is designated as an Unrestricted Subsidiary in accordance with Section 3.14;

(iv) solely with respect to any Additional Note Guarantor, either (A) the Financing Agreement Indebtedness has been repaid in full and such Additional Note Guarantor is not a guarantor of the Indebtedness Incurred to refinance such Financing Agreement Indebtedness or (B) at least 85% of the outstanding Indebtedness of the Company and its Restricted Subsidiaries is not guaranteed by such Additional Note Guarantor; or

(v) solely with respect to any Additional Note Guarantor, upon the occurrence of a Covenant Suspension Event until the occurrence of a Reversion Date at which time the guarantee of the Notes by such Additional Note Guarantor shall be reinstated unless such Additional Note Guarantor would have been released at any time during the Suspension Period pursuant to clause (i), (ii), (iii) or (iv) of this Section 10.2(b).

Section 10.3 Right of Contribution. Each Note Guarantor that makes a payment or distribution under a Note Guarantee will be entitled to a contribution from each other Note Guarantor in a *pro rata* amount, based on the net assets of each Note Guarantor determined in accordance with GAAP. The provisions of this Section 10.3 shall in no respect limit the obligations and liabilities of each Note Guarantor to the Trustee and the Holders and each Note Guarantor shall remain liable to the Trustee and the Holders for the full amount guaranteed by such Note Guarantor hereunder.

Section 10.4 No Subrogation. Each Note Guarantor agrees that it shall not be entitled to any right of subrogation in respect of any Guaranteed Obligations until payment in full in cash or Cash Equivalents of all Obligations. If any amount shall be paid to any Note Guarantor on account of such subrogation rights at any time when all of the Obligations shall not have been paid in full in cash or Cash Equivalents, such amount shall be held by such Note Guarantor in trust for the Trustee and the Holders, segregated from other funds of such Note Guarantor, and shall, forthwith upon receipt by such Note Guarantor, be turned over to the Trustee in the exact form received by such Note Guarantor (duly endorsed by such Note Guarantor to the Trustee, if required), to be applied against the Obligations.

ARTICLE XI

COLLATERAL

Section 11.1 The Collateral. Subject to Section 11.2, the Issuer and the Note Guarantors agree that the Notes will be at all times secured by a first-priority security interest in the Collateral on an equal and ratable basis with the Permitted Secured Obligations.

Section 11.2 Release of the Collateral.

(a) The Notes will cease to be secured by a security interest in the Collateral in accordance with the provisions of the Intercreditor Agreement.

(b) In addition to the Collateral release provisions set forth in the Intercreditor Agreement, the Notes will cease to be secured by a security interest on the Collateral upon:

(i) (A) payment in full of the principal of, any accrued and unpaid interest on, the Notes and all other amounts or Obligations that are due and payable at or prior to the time such principal, accrued and unpaid interest, if any, are paid, (B) a satisfaction and discharge of this Indenture or (C) a Legal Defeasance or Covenant Defeasance pursuant to Article VIII; or

(ii) a refinancing of the Financing Agreement Indebtedness in full as a result of which the Collateral does not secure Indebtedness Incurred to refinance such Financing Agreement Indebtedness.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Notices.

(a) Any notice or communication shall be in writing and delivered in person or mailed by first-class mail, postage prepaid, addressed as follows:

if to the Issuer and the Note Guarantors:

c/o CEMEX, S.A.B. de C.V.
Av. Ricardo Margáin Zozaya #325
Colonia Valle del Campestre
Garza García, Nuevo León
México 66265
Attention: Chief Financial Officer
Fax: +1 52 81 8888 4415

if to the Trustee:

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: International Corporate Trust
Fax: 212-815-5390 or 212-815-5366

The Issuer or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

(b) From and after the date the Notes are admitted to listing on the Official List of the Luxembourg Stock Exchange and to trading on the Euro MTF, a market of the Luxembourg Stock Exchange, and so long as it is required by the rules of such exchange, all notices to Holders of Notes shall be published in English:

(i) in a leading newspaper having a general circulation in Luxembourg (which is expected to be the Luxemburger Wort); or

(ii) if such Luxembourg publication is not practicable, in one other leading English language newspaper being published on each day in morning editions, whether or not it shall be published in Saturday, Sunday or holiday editions; or

(iii) on the website of the Luxembourg Stock Exchange, (which is currently at www.bourse.lu).

(c) Notices shall be deemed to have been given on the date of publication as aforesaid in Section 12.1(b) or, if published on different dates, on the date of the first such publication. In addition, notices shall be mailed to Holders of Notes at their registered addresses.

(d) Subject to Section 7.1(c) and Section 7.2(a), the Trustee shall accept electronic transmissions; *provided* that (i) the Trustee shall not have any duty or obligation to verify or confirm that the Person sending instructions, directions, reports, notices or other communications or information by electronic transmission is, in fact, a Person authorized to give such instructions, directions, reports, notices or other communications or information on behalf of the party purporting to send such electronic transmission; and the Trustee shall not have any liability for any losses, liabilities, costs or expenses incurred or sustained by any party as a result of such reliance upon or compliance with such instructions, directions, reports, notices or other communications or information and (ii) each other party agrees to assume all risks arising out of the use of electronic methods to submit instructions, directions, reports, notices or other communications or information to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, notices, reports or other communications or information, and the risk of interception and misuse by third parties.

(e) Any notice or communication mailed to a registered Holder shall be mailed to the Holder at the Holder's address as it appears on the Note Register and shall be sufficiently given if so mailed within the time prescribed.

(f) Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

(g) Any notice or communication delivered to the Company under the provisions herein shall constitute notice to the Note Guarantors.

Section 12.2 Communication by Holders with Other Holders. Holders may communicate with other Holders with respect to their rights under this Indenture (including the Note Guarantees) or the Notes.

Section 12.3 Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Company to the Trustee to take or refrain from taking any action under this Indenture, the Company shall furnish to the Trustee:

(a) an Officer's Certificate in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Section 12.4 Statements Required in Certificate or Opinion. Each certificate or opinion, including an Opinion of Counsel or Officer's Certificate, with respect to compliance with a covenant or condition provided for in this Indenture shall include:

(a) a statement that the individual making such certificate or opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether or not, in the opinion of such individual, such covenant or condition has been complied with.

In giving an Opinion of Counsel, counsel may rely as to factual matters on an Officer's Certificate or on certificates of public officials.

Section 12.5 Rules by Trustee, Paying Agent, Transfer Agent and Registrar . The Trustee may make reasonable rules for action by, or a meeting of, Holders. The Paying Agent, Transfer Agent and the Registrar may make reasonable rules for their functions.

Section 12.6 Legal Holidays. A "Legal Holiday" is a Saturday, a Sunday or other day on which commercial banking institutions are authorized or required to be closed in New York City, Mexico, Madrid and Amsterdam. If a payment date is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period. If a regular record date is a Legal Holiday, the record date shall not be affected.

Section 12.7 Governing Law, etc.

(a) THIS INDENTURE (INCLUDING EACH NOTE GUARANTEE) AND THE NOTES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. THE PARTIES HERETO EACH HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR EACH NOTE GUARANTEE OR ANY TRANSACTION RELATED HERETO OR THERETO TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

(b) Each of the parties hereto hereby:

(i) agrees that any suit, action or proceeding against it arising out of or relating to this Indenture (including the Note Guarantees) or the Notes, as the case may be, may be instituted in any Federal or state court sitting in The City of New York and in the courts of its own corporate domicile, in respect of actions brought against it as a defendant,

(ii) waives to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such

suit, action or proceeding, any claim that any suit, action or proceeding in such a court has been brought in an inconvenient forum, and any right to which it may be entitled, on account of place of residence or domicile,

(iii) irrevocably submits to the jurisdiction of such courts in any suit, action or proceeding,

(iv) agrees that final judgment in any such suit, action or proceeding brought in such a court shall be conclusive and binding may be enforced in the courts of the jurisdiction of which it is subject by a suit upon judgment, and

(v) agrees that service of process by mail to the addresses specified herein shall constitute personal service of such process on it in any such suit, action or proceeding.

(c) The Note Guarantors (other than CEMEX Corp.) have appointed CEMEX NY Corporation, 590 Madison Avenue (41st floor), New York, NY, 10022 (U.S.A.) as its authorized agent (the "Authorized Agent") upon whom all writs, process and summonses may be served in any suit, action or proceeding arising out of or based upon this Indenture or the Notes which may be instituted in any state or federal court in The City of New York, New York. The Note Guarantors (other than CEMEX Corp.) hereby represent and warrant that the Authorized Agent has accepted such appointment and has agreed to act as said agent for service of process, and the Note Guarantors (other than CEMEX Corp.) agree to take any and all action, including the filing of any and all documents, that may be necessary to continue each such appointment in full force and effect as aforesaid so long as the Notes remain outstanding. The Note Guarantors (other than CEMEX Corp.) agree that the appointment of the Authorized Agent shall be irrevocable so long as any of the Notes remain outstanding or until the irrevocable appointment by the Note Guarantors (other than CEMEX Corp.) of a successor agent in The City of New York, New York as each of their authorized agent for such purpose and the acceptance of such appointment by such successor. Service of process upon the Authorized Agent shall be deemed, in every respect, effective service of process upon the Note Guarantors (other than CEMEX Corp.).

(d) To the extent that any of the Issuer and the Note Guarantors have or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service or notice, attachment in aid or otherwise) with respect to itself or any of its property, the Issuer and the Note Guarantors hereby irrevocably waive and agree not to plead or claim such immunity in respect of their obligations under this Indenture or the Notes.

(e) Nothing in this Section 12.7 shall affect the right of the Trustee or any Holder of the Notes to serve process in any other manner permitted by law.

Section 12.8 No Recourse Against Others. An incorporator, director, officer, employee, stockholder or controlling person, as such, of the Issuer or any Note Guarantor shall

not have any liability for any obligations of the Issuer or any Note Guarantor under the Notes or this Indenture or for any claims based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Holder shall waive and release all such liability.

Section 12.9 Successors. All agreements of the Issuer and any Note Guarantor in this Indenture and the Notes shall bind their respective successors. All agreements of the Trustee in this Indenture shall bind its successors.

Section 12.10 Duplicate and Counterpart Originals. The parties may sign any number of copies of this Indenture. One signed copy is enough to prove this Indenture. This Indenture may be executed in any number of counterparts, each of which so executed shall be an original, but all of them together represent the same agreement.

Section 12.11 Severability. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 12.12 [Reserved].

Section 12.13 Currency Indemnity.

(a) The euro is the sole currency of account and payment for all sums payable by the Issuer and any Note Guarantor under or in connection with the Notes or this Indenture, including damages. Any amount received or recovered in currency other than euros in respect of the Notes (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the winding-up or dissolution of the Issuer, a Note Guarantor or any Subsidiary of the Issuer or otherwise) by any Holder of the Notes in respect of any sum expressed to be due to it from the Company or any Note Guarantor shall only constitute a discharge of them under the Notes and this Indenture only to the extent of the euro amount which the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that euro amount is less than the euro amount expressed to be due to the recipient under the Notes or this Indenture, the Issuer and the Note Guarantors shall jointly and severally indemnify and hold harmless the recipient against any loss or cost sustained by it in making any such purchase. For the purposes of this Section 12.13, it will be sufficient for the Holder of a Note to certify that it would have suffered a loss had an actual purchase of euro been made with the amount so received in that other currency on the date of receipt or recovery (or, if a purchase of euro on such date had not been practicable, on the first date on which it would have been practicable).

(b) The indemnities of the Issuer and the Note Guarantors contained in this Section 12.13, to the extent permitted by law: (i) constitute a separate and independent obligation from the other obligations of the Issuer and the Note Guarantors under this Indenture and the Notes; (ii) shall give rise to a separate and independent cause of action against the Issuer and the Note Guarantors; (iii) shall apply irrespective of any waiver granted by any Holder of the Notes or the Trustee from time to time; and (iv) shall continue in full force and effect notwithstanding any other judgment, order, claim or proof of claim for a liquidated amount in respect of any sum due under the Notes or this Indenture or any other judgment or order.

Section 12.14 Table of Contents; Headings. The table of contents and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

Section 12.15 USA Patriot Act. The parties hereto acknowledge that, in accordance with Section 326 of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law on October 26, 2001)) (as amended, modified or supplemented from time to time, the "USA Patriot Act"), the Trustee, like all financial institutions, is required to obtain, verify, and record information that identifies each person or legal entity that opens an account. The parties to this Agreement agree that they will provide the Trustee with such information as the Trustee may request in order for the Trustee to satisfy the requirements of the USA Patriot Act.

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

CEMEX Finance LLC, as Issuer

By: /s/ Hector Medina
Name: Hector Medina
Title: Attorney-in-Fact

CEMEX, S.A.B. de C.V., as Note Guarantor

By: /s/ Hector Medina
Name: Hector Medina
Title: Attorney-in-Fact

CEMEX México, S.A. de C.V., as Note Guarantor

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

Empresas Tolteca de México, S.A. de C.V., as Note Guarantor

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

CEMEX Concretos, S.A. de C.V., as Note Guarantor

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

New Sunward Holding B.V., as
Note Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

CEMEX España, S.A., as Note
Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

CEMEX Corp., as Note Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

THE BANK OF NEW YORK MELLON,
as Trustee

By: /s/ Joanne Adamis
Name: Joanne Adamis
Title: Vice President

Solely for the purposes of accepting the appointment of London Paying Agent and London Transfer Agent, together with the rights, protections and immunities granted to the Trustee under Article VII, which shall apply *mutatis mutandis* to the London Paying Agent,

THE BANK OF NEW YORK MELLON, acting out of its London office, as London Paying Agent and London Transfer Agent

By: /s/ Joanne Adamis
Name: Joanne Adamis
Title: Vice President

EXHIBIT A

FORM OF NOTE

[*Include the following legend for Global Notes only:*

"THIS IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE REFERRED TO HEREINAFTER.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE COMMON DEPOSITARY (AS DEFINED IN THE INDENTURE), TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF THE COMMON DEPOSITARY OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE COMMON DEPOSITARY (AND ANY PAYMENT IS MADE TO THE COMMON DEPOSITARY OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE COMMON DEPOSITARY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, THE COMMON DEPOSITARY HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF THE COMMON DEPOSITARY OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF."]

[*Include the following legend on all Notes that are Restricted Notes:*

"THE NOTES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A) (1) TO CEMEX FINANCE LLC, (2) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A AND TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS MADE IN RELIANCE ON RULE 144A, (3) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (4) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), OR (5) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES."]

[*Include the following legend on all Regulation S Temporary Global Notes:*

THIS GLOBAL NOTE IS A TEMPORARY GLOBAL NOTE FOR PURPOSES OF REGULATION S UNDER THE SECURITIES ACT. NEITHER THIS TEMPORARY GLOBAL NOTE NOR ANY INTEREST HEREIN MAY BE OFFERED, SOLD, DELIVERED OR EXCHANGED FOR AN INTEREST IN A PERMANENT GLOBAL NOTE OR OTHER NOTE EXCEPT UPON DELIVERY OF THE CERTIFICATIONS SPECIFIED IN THE INDENTURE.]

FORM OF FACE OF NOTE

9.625% Senior Secured Notes due 2017

No. [ ] Principal Amount €[ ]

[If the Note is a Global Note include the following two lines:
as revised by the Schedule of Increases and
Decreases in Global Note attached hereto]

ISIN NO. [1]

CEMEX Finance LLC a Delaware limited liability company (together with its successors and assigns, the " Issuer") promises to pay to [ ], or registered assigns, the principal sum of [ ] Dollars [*If the Note is a Global Note, add the following*, as revised by the Schedule of Increases and Decreases in Global Note attached hereto], on December 14, 2017.

Interest Payment Dates: June 14 and December 14
Record Dates: June 1 and December 1

[1] ISIN No. for Rule 144A Notes to be **XS0473870607**
ISIN No. for Regulation S Notes to be **XS0473787884**

Additional provisions of this Note are set forth on the other side of this Note.

CEMEX Finance LLC

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF
AUTHENTICATION

The Bank of New York Mellon
as Trustee, certifies
that this is one of
the Notes referred
to in the Indenture.

By: _____ Date: _____
Authorized Signatory

FORM OF REVERSE SIDE OF NOTE

9.625% Senior Secured Notes due 2017

Capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest

CEMEX Finance LLC, a Delaware limited liability company (together with its successors and assigns, the " Issuer") promises to pay interest on the principal amount of this Note at the rate per annum shown above.

The Issuer will pay interest semiannually in arrears on each Interest Payment Date of each year commencing June 14, 2010; *provided* that if any such Interest Payment Date is not a Business Day, then such payment shall be made on the next succeeding Business Day. Interest on the Notes will accrue from the most recent date to which interest has been paid on the Notes or, if no interest has been paid, from December 14, 2009; *provided* that if there is no existing Default or Event of Default on the payment of interest, and if this Note is authenticated between a Record Date referred to on the face hereof and the next succeeding Interest Payment Date (but after December 14, 2009), interest shall accrue from such next succeeding Interest Payment Date, except in the case of the original issuance of Notes, in which case interest shall accrue from December 14, 2009. The Issuer shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (" Defaulted Interest"), without regard to any applicable grace period, at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

All payments made by the Issuer in respect of the Notes will be made free and clear of and without deduction or withholding for or on account of any Taxes imposed or levied by or on behalf of any Taxing Authority, unless such withholding or deduction is required by law or by the interpretation or administration thereof. In that event, the Issuer will pay to each Holder of the Notes Additional Amounts as provided in the Indenture subject to the limitations set forth in the Indenture.

2. Method of Payment

By at least 3:00 p.m. (London time) on the Business Day prior to the date on which any principal of or interest on any Note is due and payable, the Issuer shall irrevocably deposit with the Trustee or the Paying Agent money sufficient to pay such principal and/or interest. The Issuer will pay interest (except Defaulted Interest) on the applicable Interest Payment Date to the Persons who are registered Holders of Notes at the close of business on the Record Date preceding the Interest Payment Date even if Notes are canceled, repurchased or redeemed after the Record Date and on or before the relevant Interest Payment Date, except as provided in Section 2.13 with respect to Defaulted Interest. Holders must surrender Notes to a Paying Agent to collect principal payments. The Issuer will pay principal and interest in euros.

Payments in respect of Notes represented by a Global Note (including principal and interest) will be made by the transfer of immediately available funds to the accounts specified by Euroclear or Clearstream. The Issuer will make all payments in respect of a Certificated Note (including principal and interest) by mailing a check to the registered address of each registered Holder thereof as set forth in the Note Register; *provided*, *however*, that payments on the Notes may also be made, in the case of a Holder of at least €50,000,000 aggregate principal amount of Notes, by wire transfer to an account maintained by the payee if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 15 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion).

3. Paying Agent and Registrar

Initially, The Bank of New York Mellon, the Trustee under the Indenture, will act as Trustee, Paying Agent and Registrar. The Issuer may appoint and change any Paying Agent, Registrar or co-Registrar without notice to any Holder. The Issuer, any Note Guarantor or any of their respective Affiliates may act as Paying Agent, Registrar or co-Registrar.

4. Indenture

The Company issued the Notes under an Indenture, dated as of December 14, 2009 (as it may be amended or supplemented from time to time in accordance with the terms thereof, the "Indenture"), among the Issuer, the Note Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture. The Notes are subject to all such terms, and Holders are referred to the Indenture for a statement of those terms. Each Holder, by accepting a Note, agrees to be bound by all of the terms and provisions of the Indenture, as amended or supplemented from time to time.

The Notes are general senior obligations, which are secured by a first priority security interest in the Collateral on an equal and ratable basis with the U.S.$ Notes and the other Permitted Secured Obligations, subject to the Collateral release provisions set forth in the Intercreditor Agreement. €350,000,000 in aggregate principal amount of Notes will be initially issued on the Issue Date. Subject to the conditions set forth in the Indenture and without the consent of the Holders, the Issuer may issue Additional Notes. All Notes will be treated as a single class of securities under the Indenture. The Indenture imposes certain limitations on, among other things, the ability of the Issuer and its Restricted Subsidiaries to: Incur Indebtedness, make Restricted Payments, incur Liens, designate Unrestricted Subsidiaries, make Asset Sales, enter into transactions with Affiliates, or consolidate or merge or transfer or convey all or substantially all of the Issuer's assets.

To guarantee the due and punctual payment of the principal of, premium and interest on the Notes and all other amounts payable by the Company under the Indenture and the Notes when and as the same shall be due and payable, whether at maturity, by acceleration or otherwise, according to the terms of the Notes and the Indenture, CEMEX, S.A.B. de C.V., CEMEX España, S.A., CEMEX México, S.A. de C.V., CEMEX Corp., Empresas Tolteca de México, S.A. de C.V., CEMEX Concretos, S.A. de C.V. and New Sunward Holding B.V. have unconditionally guaranteed, jointly and severally, such obligations pursuant to the terms of the Indenture. Each Note Guarantee will be subject to release as provided in the Indenture.

The obligations of each Note Guarantor in respect of its Note Guarantee will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Note Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Note Guarantor in respect of the obligations of such other Note Guarantor under its Note Guarantee or pursuant to its contribution obligations under the Indenture, result in the obligations of such Note Guarantor under its Note Guarantee not constituting a fraudulent conveyance, fraudulent transfer, or similar illegal transfer under federal or state law or the law of the jurisdiction or formation and incorporation of such Note Guarantors.

5. Optional Redemption

Except as stated below, the Issuer may not redeem the Notes. The Issuer may redeem the Notes, at its option, in whole at any time or in part from time to time, on and after December 14, 2013, at the following redemption prices, expressed as percentages of the principal amount thereof, if redeemed during the twelve-month period commencing on December 14 of any year set forth below, plus any accrued and unpaid interest on the principal amount of the Notes to the date of redemption:

Year	Percentage
2013	104.81250%
2014	102.40625%
2015 and thereafter	100.00000%

provided, however, that the Issuer shall not have the right to exercise any such optional redemption at any time when the Issuer is prohibited from having such an option under the Financing Agreement.

Prior to December 14, 2013, the Issuer will have the right, at its option, to redeem any of the Notes, in whole or in part, at any time or from time to time prior to their maturity at a redemption price equal to the greater of (1) 100% of the principal amount of such Notes and (2) the sum of the present value of each remaining scheduled payment of principal and interest thereon (exclusive of interest accrued to the date of redemption) discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Bund Rate plus 50 basis points (the "Make-Whole Amount"), plus in each case any accrued and unpaid interest on the principal amount of the Notes to the date of redemption.

"Bund Rate" means, as of any redemption date, the yield to maturity as of such redemption date of the Comparable German Bund Issue with a constant maturity most nearly equal to the period from the redemption date to the Stated Maturity assuming a price for the Comparable German Bund Issue (expressed as a percentage of its principal amount) equal to the Comparable German Bund Price for such redemption date.

"Comparable German Bund Issue" means the German Bundesanleihe security selected by any Reference German Bund Dealer as having a fixed maturity most nearly equal to the period from such redemption date to and that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues euro-denominated corporate debt securities in a principal amount approximately equal to the then outstanding principal amount of the Notes and of a maturity most nearly equal to December 14, 2017; provided, however, that, if the period from such redemption date to December 14, 2017 is not equal to the fixed maturity of the German Bundesanleihe security selected by such Reference German Bund Dealer, the Bund Rate shall be determined by linear interpolation (calculated to the nearest one-twelfth of a year) from the yields of German Bundesanleihe securities for which such yields are given, except that if the period from such redemption date to December 14, 2017 is less than one year, a fixed maturity of one year shall be used.

"Comparable German Bund Price" means, with respect to any redemption date, the average of all Reference German Bund Dealer Quotations for such date (which, in any event, must include at least two such quotations), after excluding the highest and lowest such Reference German Bund Dealer Quotations, or if the Issuer obtains fewer than four such Reference German Bund Dealer Quotations, the average of such quotations.

"Reference German Bund Dealer" means any dealer of German Bundesanleihe securities appointed by the Issuer in good faith.

"Reference German Bund Dealer Quotations" means, with respect to each Reference German Bund Dealer and any redemption date, the average as determined by the Issuer in good faith of the bid and offered prices for the Comparable German Bund Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Issuer by such Reference German Bund Dealer at 3:30 p.m. Frankfurt, Germany, time on the third Business Day preceding the redemption date.

Optional Redemption upon Equity Offerings . At any time, or from time to time, on or prior to December 14, 2012 the Issuer may, at its option, use the net cash proceeds of one or more Equity Offerings to redeem in the aggregate up to 35% of the aggregate principal amount of the Notes issued pursuant to the Indenture at a redemption price equal to 109.625% of the principal amount thereof plus any accrued and unpaid interest on the principal amount of the Notes to the date of redemption; *provided*, that:

- after giving effect to any such redemption at least 65% of the aggregate principal amount of the Notes issued under the Indenture remains outstanding; and
- the Issuer shall make such redemption not more than 90 days after the consummation of such Equity Offering;

provided, however, that the Issuer shall not have the right to exercise any such optional redemption at any time when the Issuer is prohibited from exercising such an option under the Financing Agreement.

"Equity Offering" means any public or private sale of Qualified Capital Stock after the Issue Date for cash other than issuances to any Subsidiary of the Company.

Optional Redemption for Changes in Withholding Taxes. If, as a result of any amendment to, or change in, the laws (or any rules or regulations thereunder) of a Taxing Jurisdiction affecting taxation, or any amendment to or change in an official interpretation or application of such laws, rules or regulations that has a general effect, which amendment to or change of such laws, rules or regulations becomes effective on or after the Issue Date (which, in the case of a merger, consolidation or other transaction permitted and described under Article IV shall be treated for this purpose as the date of such transaction) we would be obligated, after taking all reasonable measures to avoid this requirement, to pay Additional Amounts in excess of those attributable to a withholding tax rate of 10% with respect to the Notes (see "Additional Amounts"), then, at our option, all, but not less than all, of the Notes may be redeemed at any time on giving not less than 30 nor more than 60 days' notice, at a redemption price equal to 100% of the outstanding principal amount, plus any accrued and unpaid interest on the principal amount of the Notes to the date of redemption; *provided*, *however*, that (1) no notice of redemption for tax reasons may be given earlier than 90 days prior to the earliest date on which we would be obligated to pay these Additional Amounts if a payment on the Notes were then due, and (2) at the time such notice of redemption is given such obligation to pay such Additional Amounts remains in effect; *provided, further, however*, that the Issuer shall not have the right to exercise any such optional redemption at any time when the Issuer is prohibited from having such an option under the Financing Agreement.

Prior to the publication of any notice of redemption pursuant to this provision, we will deliver to the Trustee:

- an Officer's Certificate stating that we are entitled to effect the redemption and setting forth a statement of facts showing that the conditions precedent to our right to redeem have occurred, and
- an opinion of outside legal counsel of recognized standing in the affected Taxing Jurisdiction to the effect that we have or will become obligated to pay such Additional Amounts as a result of such change or amendment.

This notice, once delivered by us to the Trustee, will be irrevocable.

In the case of any partial redemption, selection of the Notes for redemption will be made in accordance with Article V of the Indenture. On and after the redemption date, interest will cease to accrue on Notes or portions thereof called for redemption as long as the Issuer has deposited with the Paying Agent funds in satisfaction of the applicable redemption price pursuant to the Indenture.

6. Mandatory Repurchase Provisions

Change Of Control Offer. Upon the occurrence of a Change of Control, each Holder of Notes will have the right to require that the Issuer purchase all or a portion (in integral multiples of €1,000) of the Holder's Notes at a purchase price equal to 101% of the principal amount thereof, plus accrued and unpaid interest through the date of purchase. Within 30 days

following the date upon which the Change of Control occurred, the Issuer must make a Change of Control Offer pursuant to a Change of Control Notice and publish the Change of Control Offer in a newspaper having general circulation in Luxembourg (including, without limitation, the *Luxemburger Wort*). As more fully described in the Indenture, the Change of Control Notice shall state, among other things, the Change of Control Payment Date, which must be no earlier than 30 days nor later than 60 days from the date the notice is mailed, other than as may be required by applicable law.

Asset Sale Offer. The Indenture imposes certain limitations on the ability of the Company and its Restricted Subsidiaries to make Asset Sales. In the event the proceeds from a permitted Asset Sale exceed certain amounts and are not applied as specified in the Indenture, the Company will be required to make an Asset Sale Offer to purchase to the extent of such remaining proceeds each Holder's Notes together with holders of certain other Indebtedness at 100% of the principal amount thereof, plus accrued interest (if any) to the Asset Sale Offer Payment Date, as more fully set forth in the Indenture.

7. Denominations; Transfer; Exchange

The Notes are in fully registered form without coupons, and only in denominations of principal amount of €50,000 and integral multiples of €1,000 in excess thereof. A Holder may transfer or exchange Notes in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements or transfer documents and to pay any taxes and fees required by law or permitted by the Indenture. The Registrar shall not be required to register the transfer or exchange of (x) any Note for a period beginning: (1) 15 days before the mailing of a notice of an offer to repurchase or redeem Notes and ending at the close of business on the day of such mailing or (2) 15 days before an Interest Payment Date and ending on such Interest Payment Date and (y) any Note selected for repurchase or redemption, except the unrepurchased or unredeemed portion thereof, if any.

8. Persons Deemed Owners

The registered holder of this Note may be treated as the owner of it for all purposes.

9. Unclaimed Money

If money for the payment of principal or interest remains unclaimed for two years, the Trustee or Paying Agent shall pay the money back to the Company at its request unless an abandoned property law designates another Person. After any such payment, Holders entitled to the money must look only to the Issuer and not to the Trustee for payment.

10. Discharge Prior to Redemption or Maturity

Subject to certain conditions set forth in the Indenture, the Issuer at any time may terminate some or all of its obligations under the Notes and the Indenture if the Issuer deposits with the Trustee euros or European Government Obligations for the payment of principal of and interest on the Notes to redemption or maturity, as the case may be.

11. Amendment, Waiver

Subject to certain exceptions set forth in the Indenture, (i) the Indenture or the Notes may be amended or supplemented with the written consent of the Holders of at least a majority in principal amount of the then Outstanding Notes and (ii) any default (other than with respect to nonpayment or in respect of a provision that cannot be amended or supplemented without the written consent of each Holder affected) or noncompliance with any provision may be waived with the written consent of the Holders of a majority in aggregate principal amount of the then Outstanding Notes. Subject to certain exceptions set forth in the Indenture, without the consent of any Holder, the Issuer and the Trustee may amend or supplement the Indenture or the Notes to, among other things, cure any ambiguity, omission, defect or inconsistency, or to comply with Article IV of the Indenture, or to provide for uncertificated Notes in addition to or in place of certificated Notes, or to add guarantees with respect to the Notes or to secure the Notes, or to add additional covenants or surrender rights and powers conferred on the Company, or to make any change that does not adversely affect the rights of any Holder, or to provide for the issuance of Additional Notes.

12. Defaults and Remedies

If an Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the Outstanding Notes may declare all the Notes to be due and payable immediately. A Bankruptcy Event of Default will result in the Notes being due and payable immediately upon the occurrence of such Bankruptcy Event of Default.

Holders may not enforce the Indenture or the Notes except as provided in the Indenture. The Trustee may refuse to enforce the Indenture or the Notes unless it receives reasonable indemnity or security. Subject to certain limitations, Holders of a majority in principal amount of the Outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders notice of any continuing Default or Event of Default (except a Default or Event of Default in payment of principal or interest) if it determines that withholding notice is in their interest.

13. Trustee Dealings with the Company and the Note Guarantors

Subject to certain limitations set forth in the Indenture, the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Issuer, any Note Guarantor or its Affiliates and may otherwise deal with the Issuer, any Note Guarantor or its Affiliates with the same rights it would have if it were not Trustee.

14. No Recourse Against Others

An incorporator, director, officer, employee, stockholder or controlling person, as such, of the Issuer or any Note Guarantor shall not have any liability for any obligations of the Issuer or any Note Guarantor under the Notes or the Indenture or for any claims based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each holder waives and releases all such liability.

15. Authentication

Any Officer of the Issuer may sign the Notes for the Issuer by manual or facsimile signature. This Note shall not be valid until an authorized signatory of the Trustee (or an Authenticating Agent) manually signs the certificate of authentication on the other side of this Note.

16. Abbreviations

Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (= tenants in common), TEN ENT (= tenants by the entirety), JT TEN (= joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian) and U/G/M/A (= Uniform Gift to Minors Act).

17. ISIN Numbers

Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures the Issuer has caused ISIN or other similar numbers to be printed on the Notes and has directed the Trustee to use ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

18. Governing Law

This Note shall be governed by, and construed in accordance with, the laws of the State of New York.

19. Currency of Account; Conversion of Currency .

Euro is the sole currency of account and payment for all sums payable by the Issuer and the Note Guarantors under or in connection with the Notes or the Indenture, including damages. The Issuer and the Note Guarantors will indemnify the Holders as provided in respect of the conversion of currency relating to the Notes and the Indenture.

20. Agent for Service; Submission to Jurisdiction; Waiver of Immunities .

The Issuer and the Note Guarantors have agreed that any suit, action or proceeding against the Issuer or any Note Guarantor brought by any Holder or the Trustee arising out of or based upon the Indenture or the Notes may be instituted in any state or federal court in The City of New York, New York. The Issuer and the Note Guarantors have irrevocably submitted to the jurisdiction of such courts for such purpose and waived, to the fullest extent permitted by law, trial by jury and any objection it may now or hereafter have to the laying of venue of any such proceeding, and any claim it may now or hereafter have that any proceeding in any such court is brought in an inconvenient forum. The Note Guarantors (other than CEMEX Corp.) have appointed CEMEX NY Corporation, 590 Madison Avenue (41st floor), New York, NY, 10022 (U.S.A.) as each of their authorized agent upon whom all writs, process and summonses may be served in any suit, action or proceeding arising out of or based

upon the Indenture or the Notes which may be instituted in any state or federal court in The City of New York, New York. To the extent that any of the Issuer and the Note Guarantors have or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service or notice, attachment in aid or otherwise) with respect to itself or any of its property, the Issuer and the Note Guarantors have irrevocably waived and agreed not to plead or claim such immunity in respect of its obligations under the Indenture or the Notes.

The Issuer will furnish to any Holder upon written request and without charge to the Holder a copy of the Indenture which has in it the text of this Note in larger type. Requests may be made to:

CEMEX Finance LLC

c/o CEMEX, S.A.B. de C.V.
Av. Ricardo Margáin Zozaya # 325
Colonia Valle del Campestre
Garza García, Nuevo León, México 66265
Tel: +5281-8888-8888

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to

_____

(Print or type assignee's name, address and zip code)

_____

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint as agent to transfer this Note on the books of the Issuer. The agent may substitute another to act for him.

Date: _____ Your Signature: _____

Signature Guarantee: _____

(Signature must be guaranteed)

Sign exactly as your name appears on the other side of this Note.

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

To be attached to Global Notes only:

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The following increases or decreases in this Global Note have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Note Custodian

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Issuer pursuant to Section 3.12 or 3.8 of the Indenture, check either box:

☐ **Section 3.12** ☐ **Section 3.8**

If you want to elect to have only part of this Note purchased by the Issuer pursuant to Section 3.12 of the Indenture, state the principal amount (which must be an integral multiple of €1,000): € _____

Date: _____ Your Signature _____
(Sign exactly as your name appears on the other side of the Note)

Signature Guarantee: _____
(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

EXHIBIT B

FORM OF CERTIFICATE FOR TRANSFER PURSUANT TO REGULATION S

[Date]

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: Global Finance Americas

Re: 9.625% Senior Secured Notes due 2017 (the "Notes") of CEMEX Finance LLC (the "Issuer")

Ladies and Gentlemen:

Reference is hereby made to the Indenture, dated as of December 14, 2009 (as amended and supplemented from time to time, the "Indenture"), among the Issuer, the Note Guarantors party thereto and The Bank of New York Mellon, as Trustee. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

In connection with our proposed sale of € aggregate principal amount of the Notes, which represent an interest in a 144A Global Note beneficially owned by the undersigned ("Transferor"), we confirm that such sale has been effected pursuant to and in accordance with Regulation S under the Securities Act of 1933, as amended (the "Securities Act") and, accordingly, we represent that:

(a) the offer of the Notes was not made to a person in the United States;

(b) either (i) at the time the buy order was originated, the transferee was outside the United States or we and any person acting on our behalf reasonably believed that the transferee was outside the United States or (ii) the transaction was executed in, on or through the facilities of a designated off-shore securities market and neither we nor any person acting on our behalf knows that the transaction has been pre-arranged with a buyer in the United States;

(c) no directed selling efforts have been made in the United States in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S, as applicable;

(d) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act; and

(e) we are the beneficial owner of the principal amount of Notes being transferred.

In addition, if the sale is made during a Distribution Compliance Period and the provisions of Rule 904(b)(1) or Rule 904(b)(2) of Regulation S are applicable thereto, we confirm that such sale has been made in accordance with the applicable provisions of Rule 904(b)(1) or Rule 904(b)(2), as the case may be.

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby. Terms used in this letter have the meanings set forth in Regulation S.

Very truly yours,

[Name of Transferor]

By: _____

_____

Authorized Signature]

Signature Guarantee: _____

(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

EXHIBIT C

FORM OF CERTIFICATION FOR TRANSFER PURSUANT TO RULE 144

[Date]

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: Global Finance Americas

Re: 9.625% [Senior Secured Notes due 2017 (the "Notes") of CEMEX Finance LLC (the "Issuer")

Ladies and Gentlemen:

Reference is hereby made to the Indenture, dated as of December 14, 2009 (as amended and supplemented from time to time, the "Indenture"), among the Issuer, the Note Guarantors named therein and The Bank of New York Mellon, as Trustee. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

In connection with our proposed sale of € aggregate principal amount of the Notes, which represent an interest in a 144A Global Note beneficially owned by the undersigned ("Transferor"), we confirm that such sale has been effected pursuant to and in accordance with Rule 144 under the Securities Act.

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

Very truly yours,

[Name of Transferor]

By: _____

_____
Authorized Signature

Signature Guarantee: _____
(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

Exhibit 4.50
EXECUTION VERSION

CEMEX FINANCE LLC,

THE NOTE GUARANTORS PARTY HERETO

AND

THE BANK OF NEW YORK MELLON,

AS TRUSTEE

9.50% SENIOR SECURED NOTES DUE 2016

INDENTURE

(U.S. $ Denominated Notes)

Dated as of December 14, 2009

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INDENTURE, dated as of December 14, 2009, among CEMEX Finance LLC, a limited liability company organized and existing pursuant to the laws of the state of Delaware (the "Issuer"), CEMEX, S.A.B. de C.V., (the "Company"), CEMEX México, S.A. de C.V. ("CEMEX México"), CEMEX España, S.A. ("CEMEX España"), CEMEX Corp., CEMEX Concretos, S.A. de C.V. ("CEMEX Concretos"), Empresas Tolteca de México, S.A. de C.V. ("Empresas Tolteca") and New Sunward Holding B.V. ("New Sunward Holding"), as Note Guarantors of the Issuer's obligations under this Indenture and the Notes (the "Note Guarantors"), and The Bank of New York Mellon (the "Trustee"), as Trustee.

Each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the Holders of the Issuer's 9.50% Senior Secured Notes due 2016 issued hereunder.

ARTICLE I

DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.1 Definitions.

"Acquired Indebtedness" means Indebtedness of a Person or any of its Subsidiaries existing at the time such Person becomes a Restricted Subsidiary or at the time it merges or consolidates with the Company or any of its Restricted Subsidiaries or is assumed in connection with the acquisition of assets from such Person. Such Indebtedness will be deemed to have been Incurred at the time such Person becomes a Restricted Subsidiary or at the time it merges or consolidates with the Company or a Restricted Subsidiary or at the time such Indebtedness is assumed in connection with the acquisition of assets from such Person

"Acquired Subsidiary" means any Subsidiary acquired by the Company or any other Subsidiary after the Issue Date in an Acquisition, and any Subsidiaries of such Acquired Subsidiary on the date of such Acquisition.

"Acquiring Subsidiary" means any Subsidiary formed by the Company or one of its Subsidiaries solely for the purpose of participating as the acquiring party in any Acquisition, and any Subsidiaries of such Acquiring Subsidiary acquired in such Acquisition.

"Acquisition" means any merger, consolidation, acquisition or lease of assets, acquisition of securities or business combination or acquisition, or any two or more of such transactions, if, upon the completion of such transaction or transactions, the Company or any Restricted Subsidiary thereof has acquired an interest in any Person who would be deemed to be a Restricted Subsidiary under the Indenture and was not a Restricted Subsidiary prior thereto.

"Additional Amounts" has the meaning assigned to it in Section 3.22.

"Additional Note Certificate" has the meaning assigned to it in Section 2.14(b).

"Additional Note Guarantor" means Empresas Tolteca, CEMEX Concretos and/or New Sunward Holding.

"Additional Note Supplemental Indenture" means a supplement to this Indenture duly executed and delivered by the Issuer, each Note Guarantor and the Trustee pursuant to Article IX providing for the issuance of Additional Notes.

"Additional Notes" means the Notes originally issued after the Issue Date pursuant to Section 2.14, including any replacement Notes and any Exchange Notes as specified in the relevant Additional Note Certificate or Additional Note Supplemental Indenture issued therefor in accordance with this Indenture

"Affiliate" means, with respect to any specified Person, any other Person who directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, such specified Person. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings.

"Affiliate Transaction" has the meaning assigned to it in Section 3.18(a).

"Agent Members" has the meaning assigned to it in Section 2.7(b).

"Agents" means, collectively, the Registrar, any co-Registrar, the Paying Agents, the Luxembourg Transfer Agent and any other agent appointed by the Issuer hereunder.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in a Global Note, the rules and procedures of DTC, Euroclear and Clearstream that apply to such transfer or exchange.

"Asset Sale" means any direct or indirect sale, disposition, issuance, conveyance, transfer, lease (other than an operating lease entered into in the ordinary course of business), assignment or other transfer, including a Sale and Leaseback Transaction (each, a "disposition") by the Company or any Restricted Subsidiary of:

(a) any Capital Stock other than Capital Stock of the Company; or

(b) any property or assets (other than cash, Cash Equivalents or Capital Stock) of the Company or any Restricted Subsidiary;

Notwithstanding the preceding, the following will not be deemed to be Asset Sales:

(1) the disposition of all or substantially all of the assets of the Company and its Restricted Subsidiaries as permitted under Section 3.12;

(2) any disposition of equipment that is not usable or obsolete or worn out equipment in the ordinary course of business or any disposition of inventory or goods (or other assets) held for sale or no longer used in the ordinary course of business;

(3) dispositions of assets in any fiscal year with a Fair Market Value not to exceed U.S.$25 million in the aggregate;

(4) for purposes of Section 3.12 only, the making or disposition of a Permitted Investment or Restricted Payment permitted under Section 3.11;

(5) a disposition to the Company or a Restricted Subsidiary, including a Person that is or will become a Restricted Subsidiary immediately after the disposition;

(6) the creation of a Lien permitted under this Indenture (other than a deemed Lien in connection with a Sale and Leaseback Transaction);

(7) (i) the disposition of Receivables Assets pursuant to a Qualified Receivables Transaction and (ii) the disposition of other accounts receivable in the ordinary course of business;

(8) constituted by a license of intellectual property in the ordinary course of business;

(9) the disposition of inventory pursuant to an Inventory Financing or similar arrangement that is otherwise permitted under this Indenture;

(10) the disposition of any asset compulsorily acquired by a governmental authority; and

(11) sales, transfers and other dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements.

"Asset Sale Offer" has the meaning assigned to it in Section 3.12(c).

"Asset Sale Offer Amount" has the meaning assigned to it in Section 3.12(c).

"Asset Sale Offer Notice" means notice of an Asset Sale Offer made pursuant to Section 3.12(e) and Section 3.12(f), which shall be mailed first class, postage prepaid, to each record Holder as shown on the Note Register within 20 days following the 365th day after the receipt of Net Cash Proceeds of any Asset Sale, with a copy to the Trustee, which notice shall govern the terms of the Asset Sale Offer, and shall state:

(1) the circumstances of the Asset Sale or Sales, the Net Cash Proceeds of which are included in the Asset Sale Offer, that an Asset Sale Offer is being made pursuant to Section 3.12(c), and that all Notes that are timely tendered will be accepted for payment;

(2) the Asset Sale Offer Amount and the Asset Sale Offer Payment Date, which date shall be a Business Day no earlier than 30 days nor later than 60 days from the date the Asset Sale Offer notice is mailed (other than as may be required by law);

(3) that any Notes or portions thereof not tendered or accepted for payment will continue to accrue interest;

(4) that, unless the Company defaults in the payment of the Asset Sale Offer Amount with respect thereto, all Notes or portions thereof accepted for payment pursuant to the Asset Sale Offer shall cease to accrue interest from and after the Asset Sale Offer Payment Date;

(5) that any Holder electing to have any Notes or portions thereof purchased pursuant to the Asset Sale Offer will be required to surrender such Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of such Notes completed, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Asset Sale Offer Payment Date;

(6) that any Holder shall be entitled to withdraw such election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Asset Sale Offer Payment Date, a facsimile transmission or letter, setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing such Holder's election to have such Notes or portions thereof purchased pursuant to the Asset Sale Offer;

(7) that any Holder electing to have Notes purchased pursuant to the Asset Sale Offer must specify the principal amount that is being tendered for purchase, which principal amount must be U.S.$100,000 or an integral multiple of U.S.$1,000 in excess thereof;

(8) that any Holder of Certificated Notes whose Certificated Notes are being purchased only in part will be issued new Certificated Notes equal in principal amount to the unpurchased portion of the Certificated Note or Notes surrendered, which unpurchased portion will be equal in principal amount to U.S.$100,000 or an integral multiple of U.S.$1,000 in excess thereof;

(9) that the Trustee will return to the Holder of a Global Note that is being purchased in part, such Global Note with a notation on the schedule of increases or decreases thereof adjusting the principal amount thereof to be equal to the unpurchased portion of such Global Note; and

(10) any other information necessary to enable any Holder to tender Notes and to have such Notes purchased pursuant to Section 3.12.

"Asset Sale Offer Payment Date" has the meaning assigned to it in Section 3.12(f).

"Authenticating Agent" has the meaning assigned to it in Section 2.2(b).

"Authorized Agent" has the meaning assigned to it in Section 12.7(c).

"Axtel Share Forward Transactions" means (a) the Axtel share forward transaction that is governed by a long form Confirmation dated 22 January 2009, as from time to time amended, between Credit Suisse International and Centro Distribuidor de Cemento S.A. de C.V. (References: External ID: 16059563R3 - Risk ID: 10008383); and (b) the Axtel share forward transaction that is governed by a long form Confirmation dated 13 March 2009, as replaced by a long form Confirmation dated 22 September 200, between BBVA Bancomer S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer and Centro Distribuidor de Cemento S.A. de C.V. (Reference: EQS- 1428-MX479311).

"Bancomext Facility" means the U.S.$250,000,000 credit agreement (*Crédito Simple*), dated October 14, 2008, among CEMEX, S.A.B. de C.V., as borrower, Banco Nacional de Comercio Exterior, S.N.C., as lender, and CEMEX México, S.A. de C.V., as guarantor, and secured by a stock pledge of Cementos Chihuahua, S.A.B. de C.V. shares and mortgage of cement plants in Merida, Yucatan, Mexico and Ensenada, Baja California, Mexico.

"Bankruptcy Event of Default" means:

(1) the entry by a court of competent jurisdiction of: (i) a decree or order for relief in respect of any Bankruptcy Party in an involuntary case or proceeding under any Bankruptcy Law or (ii) a decree or order (A) adjudging any Bankruptcy Party a bankrupt or insolvent, (B) approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of, or in respect of, any Bankruptcy Party under any Bankruptcy Law, (C) appointing a Custodian of any Bankruptcy Party or of any substantial part of the property of any Bankruptcy Party, or (D) ordering the winding-up or liquidation of the affairs of any Bankruptcy Party, and in each case, the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive calendar days; or

(2) (i) the commencement by any Bankruptcy Party of a voluntary case or proceeding under any Bankruptcy Law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, (ii) the consent by any Bankruptcy Party to the entry of a decree or order for relief in respect of such Bankruptcy Party in an involuntary case or proceeding under any Bankruptcy Law or to the commencement of any bankruptcy or insolvency case or proceeding against any Bankruptcy Party, (iii) the filing by any Bankruptcy Party of a petition or answer or consent seeking reorganization or relief under any Bankruptcy Law, (iv) the consent by any Bankruptcy Party to the filing of such petition or to the appointment of or taking possession by a Custodian of any Bankruptcy Party or of any substantial part of the property of any Bankruptcy Party, (v) the making by any Bankruptcy Party of an assignment for the benefit of creditors, (vi) the

admission by any Bankruptcy Party in writing of its inability to pay its debts generally as they become due, or (vii) the approval by stockholders of any Bankruptcy Party of any plan or proposal for the liquidation or dissolution of such Bankruptcy Party, or (viii) the taking of corporate action by any Bankruptcy Party in furtherance of any action referred to in clauses (i) – (vii) above.

"Bankruptcy Law" means Title 11, U.S. Code or any similar Federal, state or non-U.S. law for the relief of debtors, including the Mexican *Ley de Concursos Mercantiles*.

"Bankruptcy Party" means the Company, the Issuer and any Significant Subsidiary of the Company or group of Subsidiaries that, taken together would constitute a Significant Subsidiary of the Company.

"Banobras Facility" means a revolving loan agreement (*Contrato de Apertura de Crédito en Cuenta Corriente*), dated April 22, 2009, among CEMEX Concretos, S.A. de C.V., as borrower and Banco Nacional de Obras y Servicios Públicos, Sociedad Nacional de Crédito, Institución de Banca de Desarrollo, as lender, as in effect on the Issue Date, and secured by a mortgage of Planta Yaqui in Hermosillo, Sonora, Mexico.

"Board of Directors" means, as to any Person, the board of directors, management committee or similar governing body of such Person or any duly authorized committee thereof.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City, Mexico City, Madrid or Amsterdam are authorized or required by law or other governmental action to remain closed.

"Capitalized Lease Obligations" means, as to any Person, the obligations of such Person under a lease that are required to be classified and accounted for as capital lease obligations under GAAP. For purposes of the definition, the amount of such obligations at any date will be the capitalized amount of such obligations at such date, determined in accordance with GAAP.

"Capital Stock" means:

(1) with respect to any Person that is a corporation, any and all shares, interests, participations or other equivalents (however designated and whether or not voting) of corporate stock, including each class of Common Stock and Preferred Stock of such Person;

(2) with respect to any Person that is not a corporation, any and all partnership or other equity or ownership interests of such Person; and

(3) any warrants, rights or options to purchase any of the instruments or interests referred to in clause (1) or (2) above, but excluding any Indebtedness exchangeable into such equity interest in existence on the Issue Date Incurred pursuant to Section 3.9.

"Cash Equivalents" means:

(1) marketable direct obligations issued by, or unconditionally guaranteed by, the United States government, the United Kingdom or any member nation of the European Union or issued by any agency thereof and backed by the full faith and credit of the United States, the United Kingdom, such member nation of the European Union or any European Union central bank, in each case maturing within one year from the date of acquisition thereof;

(2) marketable direct obligations issued by the Mexican government, or issued by any agency thereof, including but not limited to, *Certificados de la Tesorería de la Federación* (Cetes) or *Bonos de Desarrollo del Gobierno Federal* (Bondes), in each case, issued by the government of Mexico and maturing not later than one year after the acquisition thereof;

(3) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof maturing within one year from the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from either S&P or Fitch or any successor thereto;

(4) commercial paper or corporate debt obligations maturing no more than one year from the date of creation thereof and, at the time of acquisition, having a rating of at least A-1 or AAA from S&P, at least F-1 or AAA from Fitch or P-1 or Aaa from Moody's;

(5) demand deposits, certificates of deposit, time deposits or bankers' acceptances or other short-term unsecured debt obligations (and any cash or deposits in transit in any of the foregoing) maturing within one year from the date of acquisition thereof issued by (a) any bank organized under the laws of the United States of America or any state thereof or the District of Columbia, the United Kingdom or any country of the European Union, (b) any U.S. branch of a non-U.S. bank having at the date of acquisition thereof combined capital and surplus of not less than U.S.$500 million, or (c) in the case of Mexican peso deposits, any financial institution in good standing with Banco de México organized under the laws of Mexico;

(6) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (1) and (2) above entered into with any bank meeting the qualifications specified in clause (5) above;

(7) investments in money market funds which invest substantially all of their assets in securities of the types described in clauses (1) through (6), (8) and (9);

(8) certificates of deposit issued by any of Nacional Financiera, S.N.C., Banco Nacional de Comercio Exterior, S.N.C., Banco Nacional de Obras y Servicios Públicos, S.N.C. or any other development bank controlled by the Mexican government;

(9) any other debt instrument rated "investment grade" (or the local equivalent thereof according to local criteria in a country in which the Company or a Restricted Subsidiary operates and in which local pensions are permitted by law to invest) with maturities of 12 months or less from the date of acquisition; and

(10) Investments in mutual funds, managed by banks, with a local currency credit rating of at least MxAA by S&P or other equally reputable local rating agency, that invest principally in marketable direct obligations issued by the Mexican Government, or issued by any agency or instrumentality thereof.

In the case of Investments by any Restricted Subsidiary, Cash Equivalents will also include (a) investments of the type and maturity described in clauses (1) through (10) of any Restricted Subsidiary outside of Mexico in the country in which such Restricted Subsidiary operates, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalents ratings from comparable foreign rating agencies, (b) local currencies and other short-term investments utilized by Restricted Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (1) through (10) and in this paragraph and (c) investments of the type described in clauses (1) through (9) maturing within one year of the Issue Date.

"CEMEX Corp." means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"CEMEX España" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"CEMEX México" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"Certificated Note" means any Note issued in fully registered form, other than a Global Note, which shall be substantially in the form of Exhibit A, with appropriate legends as specified in Section 2.7 and Exhibit A.

"Change of Control" means the beneficial ownership (within the meaning of Rule 13d-3 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended) of twenty percent (20%) or more in voting power of the outstanding voting stock of the Company is acquired by any Person; *provided* that the acquisition of beneficial ownership of Capital Stock of the Company by Lorenzo H. Zambrano or any member of his immediate family shall not constitute a Change of Control.

"Change of Control Notice" means notice of a Change of Control Offer made pursuant to Section 3.8, which shall be mailed first-class, postage prepaid, to each record Holder as shown on the Note Register within 30 days following the date upon which a Change of Control occurred, with a copy to the Trustee, which notice shall govern the terms of the Change of Control Offer and shall state:

(1) that a Change of Control has occurred, the circumstances or events causing such Change of Control and that a Change of Control Offer is being made pursuant to Section 3.8, and that all Notes that are timely tendered will be accepted for payment;

(2) the Change of Control Payment, and the Change of Control Payment Date, which date shall be a Business Day no earlier than 30 calendar days nor later than 60 calendar days subsequent to the date such notice is mailed (other than as may be required by law);

(3) that any Notes or portions thereof not tendered or accepted for payment will continue to accrue interest;

(4) that, unless the Issuer defaults in the payment of the Change of Control Payment with respect thereto, all Notes or portions thereof accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest from and after the Change of Control Payment Date;

(5) that any Holder electing to have any Notes or portions thereof purchased pursuant to a Change of Control Offer will be required to tender such Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of such Notes completed, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

(6) that any Holder shall be entitled to withdraw such election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Change of Control Payment Date, a facsimile transmission or letter, setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing such Holder's election to have such Notes or portions thereof purchased pursuant to the Change of Control Offer;

(7) that any Holder electing to have Notes purchased pursuant to the Change of Control Offer must specify the principal amount that is being tendered for purchase, which principal amount must be U.S.$100,000 or an integral multiple of U.S.$1,000 in excess thereof;

(8) that any Holder of Certificated Notes whose Certificated Notes are being purchased only in part will be issued new Certificated Notes equal in principal amount to the unpurchased portion of the Certificated Note or Notes surrendered, which unpurchased portion will be equal in principal amount to U.S.$100,000 or an integral multiple of U.S.$1,000 in excess thereof;

(9) that the Trustee will return to the Holder of a Global Note that is being purchased in part, such Global Note with a notation on Schedule A thereof adjusting the principal amount thereof to be equal to the unpurchased portion of such Global Note; and

(10) any other information necessary to enable any Holder to tender Notes and to have such Notes purchased pursuant to Section 3.8(b).

"Change of Control Offer" has the meaning assigned to it in Section 3.8(b).

"Change of Control Payment" has the meaning assigned to it in Section 3.8(a).

"Change of Control Payment Date" has the meaning assigned to it in Section 3.8(b).

"Clearstream" means Clearstream Banking, *société anonyme*, or the successor to its securities clearance and settlement operations.

"Code" means the Internal Revenue Code of 1986, as amended.

"Collateral" means (i) shares of CEMEX España, CEMEX México, Centro Distribuidor de Cemento, S.A. de C.V., Mexcement Holdings S.A. de C.V., Corporación Gouda S.A. de C.V., New Sunward Holding, and CEMEX Trademarks Holding Ltd; and (ii) all proceeds of such Collateral as set forth in the Intercreditor Agreement.

"Company" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"Commission" means the U.S. Securities and Exchange Commission.

"Commodity Price Purchase Agreement" means, in respect of any Person, any forward contract, commodity swap agreement, commodity option agreement or other similar agreement or arrangement designed to protect such Person from fluctuations in commodity prices.

"Common Stock" of any Person means any and all shares, interests or other participations in, and other equivalents (however designated and whether voting or non-voting) of such Person's common equity interests, whether outstanding on the Issue Date or issued after the Issue Date, and includes, without limitation, all series and classes of such common equity interests.

"Company" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns, including any Successor Company which becomes such in accordance with Article IV.

"Compensation Related Hedging Obligations" means (i) the obligations of any Person pursuant to any equity option contract, equity forward contract, equity swap, warrant, rights or other similar agreement designed to hedge risks or obligations relating to employee, director or consultant compensation, pension, benefits or similar activities of the Company and/or any of its Subsidiaries and (ii) the obligations of any Person pursuant to any agreement that requires another Person to make payments or deliveries that are otherwise required to be made by the first Person relating to employee, director or consultant compensation, pension, benefits or similar activities of the Company and/or any of its Subsidiaries, in each case in the ordinary course of business.

"Consolidated EBITDA" means, for any Person for any period, Consolidated Net Income for such Person for such period, plus the following, without duplication, to the extent deducted or added in calculating such Consolidated Net Income:

(1) Consolidated Income Tax Expense for such Person for such period;

(2) Consolidated Interest Expense for such Person for such period net of consolidated interest income for such period;

(3) Consolidated Non-cash Charges for such Person for such period;

(4) the amount of any nonrecurring restructuring charge or reserve deducted in such period in computing Consolidated Net Income; and

(5) the net effect on income or loss in respect of Hedging Obligations or other derivative instruments, which shall include, for the avoidance of doubt, all amounts not excluded from Consolidated Net Income pursuant to the proviso in clause (9) thereof.

less (x) all non-cash credits and gains increasing Consolidated Net Income for such Person for such period and (y) all cash payments made by such Person and its Restricted Subsidiaries during such period relating to non-cash charges that were added back in determining Consolidated EBITDA in any prior period.

Notwithstanding the foregoing, the items specified in clauses (1) and (3) above for any Subsidiary (Restricted Subsidiary in the case of the Company) will be added to Consolidated Net Income in calculating Consolidated EBITDA for any period:

(a) in proportion to the percentage of the total Capital Stock of such Subsidiary (Restricted Subsidiary in the case of the Company) held directly or indirectly by such Person at the date of determination, and

(b) to the extent that a corresponding amount would be permitted at the date of determination to be distributed to such Person by such Restricted Subsidiary pursuant to its charter and bylaws and each law, regulation, agreement or judgment applicable to such distribution.

"Consolidated Fixed Charge Coverage Ratio" means, for any Person as of any date of determination (the "Fixed Charge Calculation Date"), the ratio of the aggregate amount of Consolidated EBITDA of such Person for the four most recent full fiscal quarters for which financial statements are available ending prior to the date of such determination (the "Four Quarter Period") to Consolidated Fixed Charges for such Person for such Four Quarter Period. For purposes of making the computation referred to above, Material Acquisitions and Material Dispositions (as determined in accordance with GAAP) that have been made by the Company or any of its Restricted Subsidiaries during the Four Quarter Period or subsequent to such Four Quarter Period and on or prior to or simultaneously with the Fixed Charge Calculation Date shall be calculated on a *pro forma* basis assuming that all such Material Acquisitions and Material Dispositions (and the change in any associated fixed charge obligations and the change in Consolidated EBITDA resulting therefrom) had occurred on the first day of the Four Quarter Period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any of its Restricted Subsidiaries since the beginning of such period shall have made any Material Acquisition or Material Disposition that would have required adjustment pursuant to this definition, then the Consolidated Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect thereto.

For purposes of this definition, whenever *pro forma* effect is to be given to a Material Acquisition or Material Disposition and the amount of income or earnings relating thereto or with respect to other *pro forma* calculations under this definition, such *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of the Company. If any Indebtedness bears a floating rate of interest and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a *pro forma* basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period except as set forth in the first paragraph of this definition. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Company may designate.

Furthermore, in calculating "Consolidated Fixed Charges" for purposes of determining the denominator (but not the numerator) of this "Consolidated Fixed Charge Coverage Ratio,"

(a) interest on outstanding Indebtedness determined on a fluctuating basis as of the date of determination and which will continue to be so determined thereafter will be deemed to have accrued at a fixed rate per annum equal to the rate of interest on such Indebtedness in effect on such date of determination;

(b) if interest on any Indebtedness actually Incurred on such date of determination may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rates, then the interest rate in effect on such date of determination will be deemed to have been in effect during the Four Quarter Period; and

(c) notwithstanding clause (a) above, interest on Indebtedness determined on a fluctuating basis, to the extent such interest is covered by Hedging Obligations, will be deemed to accrue at the rate per annum resulting after giving effect to the operation of such agreements.

"Consolidated Fixed Charges" means, for any Person for any period, the sum, without duplication, of:

(1) Consolidated Interest Expense for such Person for such period, plus

(2) to the extent not included in (1) above, payments during such period in respect of the financing costs of financial derivatives in the form of equity swaps, plus

(3) the product of:

(a) the amount of all cash and non-cash dividend payments on any series of Preferred Stock or Disqualified Capital Stock of such Person (other than dividends paid in Qualified Capital Stock) or any Subsidiary of such Person (Restricted Subsidiary in the case of the Company) paid, accrued or scheduled to be paid or accrued during such period, excluding dividend payments on Preferred Stock or Disqualified Capital Stock paid, accrued or scheduled to be paid to such Person or another Subsidiary (Restricted Subsidiary in the case of the Company), times

(b) a fraction, the numerator of which is one and the denominator of which is one minus the then current effective tax rate of such Person in its principal taxpaying jurisdiction (Mexico, in the case of the Company), expressed as a decimal.

"Consolidated Income Tax Expense" means, with respect to any Person for any period, the provision for federal, state and local income and asset taxes payable, including current and deferred taxes, by such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) for such period as determined on a consolidated basis in accordance with GAAP.

"Consolidated Interest Expense" means, for any Person for any period, the sum of, without duplication determined on a consolidated basis in accordance with GAAP:

(1) the aggregate of cash and non-cash interest expense of such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) for such period determined on a consolidated basis in accordance with GAAP, including, without limitation the following for such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) whether or not interest expense in accordance with GAAP:

(a) any amortization or accretion of debt discount or any interest paid on Indebtedness of such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) in the form of additional Indebtedness,

(b) any amortization of deferred financing costs; *provided* that any such amortization resulting from costs incurred prior to the Issue Date shall be excluded for the calculation of Consolidated Interest Expense,

(c) the net costs under Hedging Obligations relating to Indebtedness (including amortization of fees but excluding foreign exchange adjustments on the notional amounts of the Hedging Obligations),

(d) all capitalized interest,

(e) the interest portion of any deferred payment obligation,

(f) commissions, discounts and other fees and charges Incurred in respect of letters of credit or bankers' acceptances or in connection with sales or other dispositions of accounts receivable and related assets,

(g) any interest expense on Indebtedness of another Person that is Guaranteed by such Person or one of its Subsidiaries (Restricted Subsidiary in the case of the Company) or secured by a Lien on the assets of such Person or one of its Subsidiaries (Restricted Subsidiaries in the case of the Company), whether or not such Guarantee or Lien is called upon, and

(h) any interest accrued in respect of Indebtedness without a maturity date; and

(2) the interest component of Capitalized Lease Obligations paid, accrued and/or scheduled to be paid or accrued by such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) during such period.

"Consolidated Net Income" means, with respect to any Person for any period, the aggregate net income (or loss) of such Person and its Subsidiaries for such period on a consolidated basis (after deducting (i) the portion of such net income attributable to minority interests in Subsidiaries of such Person and (ii) any interest paid or accrued in respect of Indebtedness without a maturity date), determined in accordance with GAAP; *provided*, that there shall be excluded therefrom:

(1) net after-tax gains and losses from Asset Sale Transactions or abandonments or reserves relating thereto;

(2) net after-tax items classified as extraordinary gains or losses;

(3) the net income (but not loss) of any Subsidiary of such Person (Restricted Subsidiary in the case of the Company) to the extent that a corresponding amount could not be distributed to such Person at the date of determination as a result of any restriction pursuant to the constituent documents of such Subsidiary (Restricted Subsidiary in the case of the Company) or any law, regulation, agreement or judgment applicable to any such distribution;

(4) any net income (loss) of any Person (other than the Company) if such Person is not a Restricted Subsidiary, except that the Company's equity in the net income of any such Person for such period shall be included in such Consolidated Net Income up to the aggregate amount of cash distributed by such Person during such period to the Company or a Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend or other distribution to a Restricted Subsidiary, to the limitations contained in this clause);

(5) any increase or decrease in net income attributable to minority interests in any Subsidiary (Restricted Subsidiaries in the case of the Company);

(6) any restoration to income of any contingency reserve, except to the extent that provision for such reserve was made out of Consolidated Net Income accrued at any time following the Issue Date;

(7) any gain (or loss) from foreign exchange translation or change in net monetary position;

(8) any gain (or loss) from the cumulative effect of changes in accounting principles; and

(9) any net gain or loss (after any offset) resulting in such period from Hedging Obligations or other derivative instruments; *provided* that the net effect on income or loss (including in any prior periods) shall be included upon any termination or early extinguishment of such Hedging Obligations or other derivative instrument, other than any Hedging Obligations with respect to Indebtedness (that is not itself a Hedging Obligation) and that are extinguished concurrently with the termination or other prepayment of such Indebtedness.

"Consolidated Non-cash Charges" means, for any Person for any period, the aggregate depreciation, amortization (including amortization of goodwill and other Intangible Assets) and other non-cash expenses or losses of such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) for such period, determined on a consolidated basis in accordance with GAAP (excluding any such charge which constitutes an accrual of or a reserve for cash charges for any future period or the amortization of a prepaid cash expense paid in a prior period).

"Consolidated Tangible Assets" means, for any Person at any time, the total consolidated assets of such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) as set forth on the balance sheet as of the most recent fiscal quarter of such Person, prepared in accordance with GAAP, less Intangible Assets.

"Corporate Trust Office" means the principal office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at 101 Barclay Street, 4E, New York, New York 10286, Attention: Global Finance Americas, or such other address as the Trustee may designate from time to time by notice to the Holders and the Company.

"Covenant Defeasance" has the meaning assigned to it in Section 8.1(c).

"Covenant Suspension Event" has the meaning assigned to it in Section 3.23(a).

"Custodian" means any receiver, trustee, assignee, liquidator, sequestrator or similar official under any Bankruptcy Law.

"Currency Agreement" means, in respect of any Person, any foreign exchange contract, currency swap agreement or other similar agreement as to which such Person is a party designed to hedge foreign currency risk of such Person.

"Default" means an event or condition the occurrence of which is, or with the lapse of time or the giving of notice or both would be, an Event of Default.

"Defaulted Interest" has the meaning assigned to it in Section 2.13 and Section 1, paragraph 2 of the Form of Reverse Side of Note contained in Exhibit A.

"Designated Non-cash Consideration" means the Fair Market Value of non-cash consideration received by the Company or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officer's Certificate setting forth the basis of such valuation.

"Designation" has the meaning assigned to it in Section 3.14.

"Designation Amount" has the meaning assigned to it in clause (iii) of Section 3.14(a).

"Distribution Compliance Period" means, in respect of any Regulation S Global Note (or Certificated Note issued in respect thereof pursuant to Section 2.7(c)), the 40

consecutive days beginning on and including the later of (a) the day on which any Notes represented thereby are offered to persons other than distributors (as defined in Regulation S) pursuant to Regulation S or (b) the issue date for such Notes.

"Disposition" means, with respect to any property, any sale, lease, Sale and Leaseback Transaction, assignment, conveyance, transfer or other disposition thereof.

"Disqualified Capital Stock" means that portion of any Capital Stock which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the Holder thereof), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the sole option of the Holder thereof, in any case, on or prior to the 91st day after the final maturity date of the Notes, but excluding with respect to Mexican companies, any shares of such Mexican company that are part of the variable portion of its Capital Stock and that are redeemable under the Mexican General Law of Business Corporations (*Ley General de Sociedades Mercantiles*).

"DTC" means The Depository Trust Company, its nominees and their respective successors and assigns, or such other depositary institution hereinafter appointed by the Company that is a clearing agency registered under the Exchange Act.

"Euroclear" means Euroclear Bank S.A./N.V., as operator of the Euroclear System, or its successor in such capacity.

"Euro Notes" means the Euro Notes issued on the Issue Date and "Additional Notes" as defined in the indenture governing the Euro Notes.

"Event of Default" has the meaning assigned to it in Section 6.1.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fair Market Value" means, with respect to any asset, the price (after taking into account any liabilities relating to such assets) which could be negotiated in an arm's-length free market transaction, for cash, between a willing seller and a willing and able buyer, neither of which is under any compulsion to complete the transaction. Fair Market Value shall be determined, except as otherwise provided, by the Company in good faith.

"Financing Agreement" means the financing agreement, dated as of August 14, 2009, entered into among the Company and certain of its Subsidiaries, the financial institutions and noteholders party thereto, Citibank International PLC, as administrative agent, and Wilmington Trust (London) Limited, as security agent, as such agreement may be amended, modified or waived from time to time.

"Financing Agreement Indebtedness" means the Indebtedness that is subject to and outstanding under the Financing Agreement.

"Fitch" means Fitch Ratings and any successor to its rating agency business.

"Four Quarter Period" has the meaning assigned to it in the definition of "Consolidated Fixed Charge Coverage Ratio" above.

"GAAP" means Mexican Financial Reporting Standards as in effect on September 30, 2009. At any time after the Issue Date, the Company may elect to apply IFRS in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS as in effect on the date of such election; *provided* that any such election, once made, shall be irrevocable. The Company shall give notice of any such election to the Trustee.

"Global Note" means any Note issued in fully registered form to DTC (or its nominee), as depositary for the beneficial owners thereof, which shall be substantially in the form of Exhibit A, with appropriate legends as specified in Section 2.7 and Exhibit A.

"Guarantee" means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person:

(1) to purchase or pay, or advance or supply funds for the purchase or payment of, such Indebtedness of such other Person, whether arising by virtue of partnership arrangements, or by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise, or

(2) entered into for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof, in whole or in part,

provided that "Guarantee" will not include endorsements for collection or deposit in the ordinary course of business. "Guarantee" used as a verb has a corresponding meaning.

"Guaranteed Obligations" has the meaning assigned to it in Section 10.1(a).

"Hedging Obligations" means the obligations of any Person pursuant to any Interest Rate Agreement, Currency Agreement, Commodity Price Purchase Agreement or any Transportation Agreement, in each case, not entered into for speculative purposes.

"Holder" means the Person in whose name a Note is registered in the Note Register.

"IFRS" means the International Financial Reporting Standards as issued by the International Accounting Standards Board.

"Incur" means, with respect to any Indebtedness or other obligation of any Person, to create, issue, incur (including by conversion, exchange or otherwise), assume, Guarantee or otherwise become liable in respect of such Indebtedness or other obligation on the balance sheet of such Person (and "Incurrence," "Incurred" and "Incurring" will have meanings correlative to the preceding).

"Indebtedness" means with respect to any Person, without duplication:

(1) the principal amount (or, if less, the accreted value) of all obligations of such Person for borrowed money;

(2) the principal amount (or, if less, the accreted value) of all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, including any perpetual bonds, debenture notes or similar instruments without regard to maturity date;

(3) all Capitalized Lease Obligations of such Person;

(4) all obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale obligations and all payment obligations under any title retention agreement (but excluding trade accounts payable and other accrued liabilities accounted for as current liabilities (in accordance with GAAP) arising in the ordinary course of business) to the extent of any reimbursement obligations in respect thereof;

(5) reimbursement obligations with respect to letters of credit, banker's acceptances or similar credit transactions;

(6) Guarantees and other contingent obligations of such Person in respect of Indebtedness referred to in clauses (1) through (5) above and clauses (8) through (10) below;

(7) all Indebtedness of any other Person of the type referred to in clauses (1) through (6) which is secured by any Lien on any property or asset of the first Person, the amount of such Indebtedness being deemed to be the lesser of the Fair Market Value of such property or asset or the amount of the Indebtedness so secured;

(8) all obligations under Hedging Obligations or other derivatives of such Person;

(9) all liabilities (contingent or otherwise) of such Person in connection with a sale or other disposition of accounts receivable and related assets (not including Qualified Receivables Transactions, irrespective of their treatment under GAAP or IFRS; and

(10) all Disqualified Capital Stock issued by such Person with the amount of Indebtedness represented by such Disqualified Capital Stock being equal to the greater of its voluntary or involuntary liquidation preference and its maximum fixed repurchase price, but excluding accrued dividends, if any; *provided* that:

(a) if the Disqualified Capital Stock does not have a fixed repurchase price, such maximum fixed repurchase price will be calculated in accordance with the terms of the Disqualified Capital Stock as if

the Disqualified Capital Stock were purchased on any date on which Indebtedness will be required to be determined pursuant to this Indenture, and

(b) if the maximum fixed repurchase price is based upon, or measured by, the fair market value of the Disqualified Capital Stock, the fair market value will be the Fair Market Value thereof.

"Indenture" means this Indenture as amended or supplemented from time to time, including the Exhibits hereto.

"Instructing Group" means (x) creditors under the Financing Agreement Indebtedness and any refinancing thereof representing at least 75% of the amounts owed in respect of such Financing Agreement Indebtedness and any refinancing thereof and (y) creditors under the Financing Agreement Indebtedness (excluding creditors under any refinancing thereof) representing at least 66 2/3% of the amounts owed in respect of such Financing Agreement Indebtedness (excluding any refinancing thereof).

"Intangible Assets" means with respect to any Person all unamortized debt discount and expense, unamortized deferred charges, goodwill, patents, trademarks, service marks, trade names, copyrights and all other items which would be treated as intangibles on the consolidated balance sheet of such Person prepared in accordance with GAAP.

"Intercreditor Agreement" means the intercreditor agreement, dated as of August 14, 2009, entered into among the Company and certain of its Subsidiaries, the financial institutions and noteholders party thereto, Citibank International PLC, as administrative agent, and Wilmington Trust (London) Limited, as security agent, as such agreement may be amended from time to time.

"Interest Payment Date" means the stated due date of an installment of interest on the Notes as specified in the Form of Face of Note contained in Exhibit A.

"Interest Rate Agreement" of any Person means any interest rate protection agreement (including, without limitation, interest rate swaps, caps, floors, collars, derivative instruments and similar agreements) and/or other types of hedging agreements designed to hedge interest rate risk of such Person.

"Inventory Financing" means a financing arrangement pursuant to which the Company or any of its Restricted Subsidiaries sells inventory to a bank or other institution (or a special purpose vehicle or partnership incorporated or established by or on behalf of such bank or other institution or an Affiliate of such bank or other institution) and has an obligation to repurchase such inventory to the extent that it is not sold to a third party within a specified period.

"Investment" means, with respect to any Person, any (1) direct or indirect loan, advance or other extension of credit (including, without limitation, a Guarantee) to any other Person, (2) capital contribution (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others) to any other Person, or (3)

purchase or acquisition by such Person of any Capital Stock, bonds, notes, debentures or other securities or evidences of Indebtedness issued by any other Person. "Investment" will exclude accounts receivable, extensions of credit in connection with supplier or customer financings consistent with industry or past practice, advance payment of capital expenditures arising in the ordinary course of business, deposits arising in the ordinary course of business and transactions (other than (i) any sale, lease, license, transfer or other disposal and (ii) the granting or creation of a Lien or the incurring or permitting to subsist of Indebtedness) conducted in the ordinary course of business on arm's length terms.

For purposes of Section 3.11, the Company will be deemed to have made an "Investment" in an Unrestricted Subsidiary at the time of its Designation, which will be valued at the Fair Market Value of the sum of the net assets of such Unrestricted Subsidiary multiplied by the percentage equity ownership of the Company and its Restricted Subsidiaries in such Designated Unrestricted Subsidiary at the time of its Designation and the amount of any Indebtedness of such Unrestricted Subsidiary or owed to the Company or any Restricted Subsidiary immediately following such Designation. Any property transferred to or from an Unrestricted Subsidiary will be valued at its Fair Market Value at the time of such transfer. If the Company or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of a Restricted Subsidiary (including any issuance and sale of Capital Stock by a Restricted Subsidiary) such that, after giving effect to any such sale or disposition, such Restricted Subsidiary would cease to be a Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to sum of the Fair Market Value of the Capital Stock of such former Restricted Subsidiary held by the Company or any Restricted Subsidiary immediately following such sale or other disposition and the amount of any Indebtedness of such former Restricted Subsidiary Guaranteed by the Company or any Restricted Subsidiary or owed to the Company or any other Restricted Subsidiary immediately following such sale or other disposition. The acquisition by the Company or any Restricted Subsidiary of the Company of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Company or such Restricted Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person. Except as otherwise provided in the Indenture, the amount of an Investment will be determined at the time the Investment is made without giving effect to subsequent changes in value.

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

"Investment Return" means, in respect of any Investment (other than a Permitted Investment) made after the Issue Date by the Company or any Restricted Subsidiary:

(1) the cash proceeds received by the Company upon the sale, liquidation or repayment of such Investment or, in the case of a Guarantee, the amount of the Guarantee upon the unconditional release of the Company and its Restricted Subsidiaries in full, less any payments previously made by the Company or any Restricted subsidiary in respect of such Guarantee; and

(2) in the case of the Revocation of the Designation of an Unrestricted Subsidiary, an amount equal to the lesser of:

(a) the Company's Investment in such Unrestricted Subsidiary at the time of such Revocation;

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

(c) the Designation Amount with respect to such Unrestricted Subsidiary upon its Designation which was treated as a Restricted Payment; and

(3) in the event the Company or any Restricted Subsidiary makes any Investment in a Person that, as a result of or in connection with such Investment, becomes a Restricted Subsidiary, the existing Investment of the Company and its Restricted Subsidiaries in such Person,

in the case of each of (1), (2) and (3), up to the amount of such Investment that was treated as a Restricted Payment under Section 3.11 less the amount of any previous Investment Return in respect of such Investment.

"Issue Date" means the first date of issuance of Notes under this Indenture and following a Covenant Suspension Event, except under " *Optional Redemption for Changes in Withholding Taxes*" under clause (5) in Exhibit A, Section 3.23 and the definition of "Permitted Liens," the most recent Reversion Date.

"Issue Date Notes" means the U.S.$1,250,000,000 aggregate principal amount of Notes originally issued on the Issue Date, and any replacement Notes issued therefor in accordance with this Indenture.

"Issuer" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"Issuer Order" has the meaning assigned to it in Section 2.2(c).

"Legal Defeasance" has the meaning assigned to it in Section 8.1(b).

"Legal Holiday" has the meaning assigned to it in Section 12.6.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. The Company or any Restricted Subsidiary shall be deemed to own, subject to a Lien, any asset that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capitalized Lease Obligations or other title retention lease relating to such asset, or any account receivable transferred by it with recourse (including any such transfer subject to a holdback or similar arrangement that effectively imposes the risk of collectability on the transferor).

"Luxembourg" means the Grand Duchy of Luxembourg.

"Material Acquisition" means:

(1) an Investment by the Company or any Restricted Subsidiary in any other Person pursuant to which such Person will become a Restricted Subsidiary, or will be merged with or into the Company or any Restricted Subsidiary;

(2) the acquisition by the Company or any Restricted Subsidiary of the assets of any Person (other than a Subsidiary of the Company) which constitute all or substantially all of the assets of such Person or comprises any division or line of business of such Person or any other properties or assets of such Person other than in the ordinary course of business; or

(3) any Revocation with respect to an Unrestricted Subsidiary;

in each case which involves an Investment, Designation or payment of consideration in excess of U.S.$25,000,000 (or the equivalent in other currencies).

"Material Disposition" means any Asset Sale and, whether or not constituting an Asset Sale, (1) any sale or other disposition of Capital Stock, (2) any Designation with respect to an Unrestricted Subsidiary and (3) any sale or other disposition of property or assets excluded from the definition of Asset Sale by clause (4) of that definition, in each case which involves an Investment, Designation or payment of consideration in excess of U.S.$25,000,000 (or the equivalent in other currencies).

"Maturity Date" means December 14, 2016.

"Mexican Financial Reporting Standards" means Mexican financial reporting standards (*Normas de Información Financiera Aplicables en México*) as issued by the Mexican Financial Reporting Standards Board (*Consejo Mexicano para la Investigación y Desarrollo de Normas de Información Financiera*).

"Moody's" means Moody's Investors Service Inc., and any successor to its rating agency business.

"Net Cash Proceeds" means, with respect to any Asset Sale, the proceeds in the form of cash or Cash Equivalents, including payments in respect of deferred payment obligations when received in the form of cash or Cash Equivalents received by the Company or any of its Restricted Subsidiaries from such Asset Sale, net of:

(1) reasonable out-of-pocket expenses and fees relating to such Asset Sale (including, without limitation, legal, accounting and investment banking fees and sales commissions);

(2) taxes paid or payable in respect of such Asset Sale after taking into account any reduction in consolidated tax liability due to available tax credits or deductions and any tax sharing arrangements;

(3) repayment of Indebtedness secured by a Lien permitted under this Indenture that is required to be repaid in connection with such Asset Sale; and

(4) appropriate amounts to be provided by the Company or any Restricted Subsidiary, as the case may be, as a reserve, in accordance with GAAP, against any liabilities associated with such Asset Sale and retained by the Company or any Restricted Subsidiary, as the case may be, after such Asset Sale, including, without limitation, pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Asset Sale, but excluding any reserves with respect to Indebtedness.

"New Sunward Holding" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"Non-U.S. Person" means a person who is not a U.S. person, as defined in Regulation S.

"Note Custodian" means the custodian with respect to any Global Note appointed by DTC, or any successor Person thereto, and shall initially be the Trustee.

"Note Guarantee" means any guarantee of the Issuer's Obligations under this Indenture and the Notes by any Note Guarantor pursuant to Article X.

"Note Guarantor" has the meaning assigned to it in the introductory paragraph of this Indenture and any successor or assigns of any of the foregoing.

"Note Register" has the meaning assigned to it in Section 2.3(a).

"Notes" means any of the Company's 9.50% Senior Secured Notes due 2016 issued and authenticated pursuant to this Indenture.

"Obligations" means, with respect to any Indebtedness, any principal, interest (including, without limitation, Post-Petition Interest), penalties, fees, indemnifications, reimbursements, damages, and other liabilities payable under the documentation governing such Indebtedness, including in the case of the Notes and the Note Guarantees, this Indenture.

"Officer" means, when used in connection with any action to be taken by the Company or a Note Guarantor, as the case may be, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer, the Controller, the Secretary or an attorney-in-fact of the Company or such Note Guarantor, as the case may be.

"Officer's Certificate" means a certificate signed on behalf of a Person by an Officer of such Person, who must be the principal executive officer, the principal financial officer, the treasurer, the principal accounting officer or an attorney-in-fact of such Person, that meets the requirements set forth in this Indenture.

"Opinion of Counsel" means a written opinion of counsel, who, unless otherwise indicated in this Indenture, may be an employee of or counsel for the Issuer or any Note Guarantor, and who shall be reasonably acceptable to the Trustee.

"Outstanding" means, as of the date of determination, all Notes theretofor authenticated and delivered under this Indenture, *except*:

(1) Notes theretofor canceled by the Trustee or delivered to the Trustee for cancellation;

(2) Notes, or portions thereof, for the payment, redemption or, in the case of an Asset Sale Offer or Change of Control Offer, purchase of which, money in the necessary amount has been theretofor deposited with the Trustee or any Paying Agent (other than the Issuer, a Note Guarantor or an Affiliate of the Company) in trust or set aside and segregated in trust by the Issuer, a Note Guarantor or an Affiliate of the Company (if the Issuer, such Note Guarantor or such Affiliate is acting as the Paying Agent) for the Holders of such Notes; *provided* that, if Notes (or portions thereof) are to be redeemed or purchased, notice of such redemption or purchase has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;

(3) Notes which have been surrendered pursuant to Section 2.9 or Notes in exchange for which or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture, other than any such Notes in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Notes are held by a protected purchaser in whose hands such Notes are valid obligations of the Issuer; and

(4) solely to the extent provided in Article VIII, Notes which are subject to Legal Defeasance or Covenant Defeasance as provided in Article VIII;

provided, however, that in determining whether the Holders of the requisite aggregate principal amount of the Outstanding Notes have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Notes owned by the Issuer, a Note Guarantor or any other obligor upon the Notes or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Notes which a Trust Officer of the Trustee actually knows to be so owned shall be so disregarded. Notes so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Notes and that the pledgee is not the Issuer or any other obligor upon the Notes or any Affiliate of the Company or of such other obligor.

"Paying Agent" has the meaning assigned to it in Section 2.3(a).

"Permitted Asset Swap Transaction" means a transaction consisting substantially of the concurrent (i) disposition by the Company or any of its Restricted Subsidiaries of any asset, property or cash consideration (other than a Restricted Subsidiary) in exchange for assets, property or cash consideration transferred to the Company or a Restricted Subsidiary, to be used in a Permitted Business or (ii) disposition by the Company or any of its Restricted Subsidiaries of Capital Stock of a Restricted Subsidiary in exchange for Capital Stock of another Restricted Subsidiary or of Capital Stock of any Person that becomes a Restricted Subsidiary after giving effect to such transaction; *provided* that any cash or Cash Equivalents received in such a transaction shall constitute Net Cash Proceeds to be applied in accordance with Section 3.12.

"Permitted Business" means the business or businesses conducted by the Company and its Restricted Subsidiaries as of the Issue Date and any business ancillary, complementary or related thereto or any other business that would not constitute a substantial change to the general nature of its business from that carried on as of the Issue Date.

"Permitted Indebtedness" has the meaning set forth in Section 3.9.

"Permitted Investments" means:

(1) Investments by the Company or any Restricted Subsidiary in any Person that is, or that result in any Person becoming, immediately after such Investment, a Restricted Subsidiary or constituting a merger or consolidation of such Person into the Company or with or into a Restricted Subsidiary;

(2) any Investment in the Company;

(3) Investments in cash and Cash Equivalents;

(4) any extension, modification or renewal of any Investments existing as of the Issue Date (but not Investments involving additional advances, contributions or other investments of cash or property or other increases thereof, other than as a result of the accrual or accretion of interest or original issue discount or payment-in-kind pursuant to the terms of such Investment as of the Issue Date);

(5) Investments permitted pursuant to clause (ii), (vi) or (vii) of Section 3.18(b);

(6) Investments received as a result of the bankruptcy or reorganization of any Person or taken in settlement of or other resolution of claims or disputes, and, in each case, extensions, modifications and renewals thereof;

(7) Investments made by the Company or its Restricted Subsidiaries as a result of non-cash consideration permitted to be received in connection with an Asset Sale made in compliance with Section 3.12;

(8) Investments in the form of Hedging Obligations or Compensation Related Hedging Obligations permitted under clause (v) of Section 3.9(b);

(9) Investments in existence on the Issue Date or made pursuant to binding commitments in effect on the Issue Date or any Investment consisting of any extension, modification or renewal of any Investment existing on the Issue Date; *provided* that the amount of any such Investment may be increased (a) as required by the terms of such Investment as in existence on the Issue Date or (b) as otherwise permitted by this Indenture;

(10) Investments by the Company or any Restricted Subsidiary in a Receivables Entity in connection with a Qualified Receivables Transaction which does not constitute an Asset Sale by virtue of clause (7) of the definition thereof; *provided, however*, that any such Investments are made only in the form of Receivables Assets;

(11) Investments in marketable securities or instruments, to fund the Company's or a Restricted Subsidiary's pension and other employee-related obligations in the ordinary course of business pursuant to compensation arrangements approved by the Board of Directors or senior management of the Company;

(12) any Investment that:

(a) when taken together with all other Investments made pursuant to this clause (12) that are at the time outstanding (net of cash benefits to the Company or a Restricted Subsidiary from Investments pursuant to this clause (12)), does not exceed the greater of $250 million and 3% of Consolidated Tangible Assets; or

(b) when taken together with all other Investments made pursuant to this clause (12) in any fiscal year that are at the time outstanding, does not exceed U.S.$100 million in any fiscal year;

(13) Investments in the Capital Stock of any Person other than a Restricted Subsidiary that are required to be held pursuant to an involuntary governmental order of condemnation, nationalization, seizure or expropriation or other similar order with respect to Capital Stock of such Person (prior to which order such Person was a Restricted Subsidiary); *provided* that such Person contests such order in good faith in appropriate proceedings;

(14) repurchases of the Notes;

(15) Investments in the SPV Perpetuals or the notes related thereto; *provided* that any payment or other contribution to one of the special purpose vehicles issuing the SPV Perpetuals in connection with such Investment is promptly paid or contributed to the Company or a Restricted Subsidiary following receipt thereof.

(16) any Investment that constitutes Indebtedness permitted under clause (viii) of Section 3.9(b); and

(17) (a) Investments to which the Company or any of its Restricted Subsidiaries is contractually committed as of the Issue Date in any Person other than a Subsidiary in which the Company or any of its Restricted Subsidiaries maintains an Investment in equity securities and (b) Investments in any Person other than a Subsidiary in which the Company or any of its Restricted Subsidiaries maintains an Investment in equity securities up to U.S.$100 million in any calendar year minus the amount of any guarantees under clause (xix) of Section 3.9(b).

"Permitted Liens" means any of the following:

(1) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP, shall have been made;

(2) Liens Incurred or deposits made in the ordinary course of business in connection with (i) workers' compensation, unemployment insurance and other types of social security or (ii) other insurance maintained by the Company and its Subsidiaries in compliance with the Financing Agreement;

(3) Liens for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP shall have been made;

(4) any attachment or judgment Lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(5) (i) Liens existing on the Issue Date other than in respect of the Collateral and (ii) Liens in respect of the Collateral to the extent equally and ratably securing the Notes, the Euro Notes and the other Permitted Secured Obligations;

(6) any Lien on property acquired by the Company or its Restricted Subsidiaries after the Issue Date that was existing on the date of acquisition of such property; *provided* that such Lien was not incurred in anticipation of such acquisition, and any Lien created to secure all or any part of the purchase price, or to secure Indebtedness incurred or assumed to pay all or any part of the purchase price, of property acquired by the Company or any of its Restricted Subsidiaries after the Issue Date; *provided further*, that (A) any such Lien permitted pursuant to this clause (6) shall be confined solely to the item or items of property so acquired (including, in the case of any Acquisition of a corporation through the acquisition of 51% or more of the voting stock of such corporation, the stock and assets of any "Acquired Subsidiary" or "Acquiring Subsidiary") and, if required by the terms of the instrument originally creating such Lien, other property which is an improvement to, or is acquired for specific use with, such acquired property; and (B) if applicable, any such Lien shall be created within nine months after, in the case of property, its acquisition, or, in the case of improvements, their completion;

(7) any Liens renewing, extending or refunding any Lien permitted by clause (5)(i) above; *provided* that such Lien is not extended to other property (or, instead, is only extended to equivalent property) and the principal amount of Indebtedness secured by such Lien immediately prior thereto is not increased or the maturity thereof reduced, except that the principal amount secured by any such Lien in respect of:

(a) hedging obligations or other derivatives where there are fluctuations in mark-to-market exposures of those hedging obligations or other derivatives,

(b) Indebtedness consisting of any "*Certificados Bursátiles de Largo Plazo*" or the Bancomext Facility, or any Refinancing thereof, where principal may increase by virtue of capitalization of interest, and

(c) the Banobras Facility to the extent additional amounts are drawn thereunder,

may be increased by the amount of such fluctuations, capitalization or drawings, as the case may be;

(8) Liens on Receivables Assets or Capital Stock of a Receivables Subsidiary, in each case granted in connection with a Qualified Receivables Transaction;

(9) Liens granted pursuant to or in connection with any netting or set-off arrangements entered into in the ordinary course of business;

(10) any Lien permitted by the Trustee, acting pursuant to the instructions of at least 50% of the Noteholders;

(11) any Lien granted by the Company or any of its Restricted Subsidiaries to secure Indebtedness under a Permitted Liquidity Facility; *provided* that: (i) such Lien is not granted in respect of the Collateral, and (ii) the maximum amount of such Indebtedness secured by such Lien does not exceed U.S.$500 million at any time; and

(12) in addition to the Liens permitted by the foregoing clauses (1) through (11), Liens securing obligations of the Company and its Restricted Subsidiaries that in the aggregate secure obligations in an amount not in excess of the greater of (i) 5% of Consolidated Tangible Assets and (ii) U.S.$700 million.

"Permitted Liquidity Facility" means a loan facility or facilities made available to the Company or any Restricted Subsidiary by one or more creditors under the Financing Agreement Indebtedness (or their respective Affiliates); provided that the aggregate principal amount of utilized and unutilized commitments under such facilities must not exceed U.S.$1 billion (or its equivalent in another currency) at any time.

"Permitted Merger Jurisdiction" has the meaning set forth in Section 4.1(a).

"Permitted Secured Obligations" means (i) the Financing Agreement Indebtedness and any refinancing thereof made in accordance with the Financing Agreement that is secured by the Collateral, (ii) notes (or similar instruments, including *Certificados Bursátiles*) outstanding on the date of the Financing Agreement required to be secured by the Collateral pursuant to their terms, or any refinancing thereof permitted by the Financing Agreement, and (iii) future Indebtedness secured by the Collateral to the extent permitted by the Financing Agreement.

"Person" means an individual, partnership, limited partnership, corporation, company, limited liability company, unincorporated organization, trust or joint venture, or a governmental agency or political subdivision thereof.

"Pesos" or "Ps" means the lawful money of Mexico.

"Private Placement Legend" has the meaning assigned to it in Section 2.8(b).

"Post-Petition Interest" means all interest accrued or accruing after the commencement of any insolvency or liquidation proceeding (and interest that would accrue but for the commencement of any insolvency or liquidation proceeding) in accordance with and at the contract rate (including, without limitation, any rate applicable upon default) specified in the agreement or instrument creating, evidencing or governing any Indebtedness, whether or not, pursuant to applicable law or otherwise, the claim for such interest is allowed as a claim in such insolvency or liquidation proceeding.

"Preferred Stock" of any Person means any Capital Stock of such Person that has preferential rights over any other Capital Stock of such Person with respect to dividends, distributions or redemptions or upon liquidation.

"Purchase Money Indebtedness" means Indebtedness Incurred for the purpose of financing all or any part of the purchase price or cost of construction of any property other than Capital Stock; *provided* that the aggregate principal amount of such Indebtedness does not exceed the lesser of the Fair Market Value of such property or such purchase price or cost, including any Refinancing of such Indebtedness that does not increase the aggregate principal amount (or accreted amount, if less) thereof as of the date of Refinancing.

"QIB" means a "qualified institutional buyer" as defined in Rule 144A.

"Qualified Capital Stock" means any Capital Stock that is not Disqualified Capital Stock and any warrants, rights or options to purchase or acquire Capital Stock that is not Disqualified Capital Stock that are not convertible into or exchangeable into Disqualified Capital Stock.

"Qualified Receivables Transaction" means any transaction or series of transactions that may be entered into by the Company or any Restricted Subsidiary pursuant to which the Company or any Restricted Subsidiary may sell, convey, assign or otherwise transfer to a Receivables Entity any Receivables Assets to obtain funding for the operations of the Company and its Restricted Subsidiaries:

(1) for which no term of any portion of the Indebtedness or any other obligations (contingent or otherwise) or securities Incurred or issued by any Person in connection therewith:

  (a) directly or indirectly provides for recourse to, or any obligation of, the Company or any Restricted Subsidiary in any way, whether pursuant to a Guarantee or otherwise, except for Standard Undertakings,

  (b) directly or indirectly subjects any property or asset of the Company or any Restricted Subsidiary (other than Capital Stock of a Receivables Subsidiary) to the satisfaction thereof, except for Standard Undertakings, or

  (c) results in such Indebtedness, other obligations or securities constituting Indebtedness of the Company or a Restricted Subsidiary, including following a default thereunder, and

(2) for which the terms of any Affiliate Transaction between the Company or any Restricted Subsidiary, on the one hand, and any Receivables Entity, on the other, other than Standard Undertakings and Permitted Investments, are no less favorable than those that could reasonably be expected to be obtained in a comparable transaction at such time on an arm's length basis from a Person that is not an Affiliate of the Company, and

(3) in connection with which, neither the Company nor any Restricted Subsidiary has any obligation to maintain or preserve a Receivable Entity's financial condition, cause a Receivables Entity to achieve certain levels of operating results, fund losses of a Receivables Entity, or except in connection with Standard Undertakings, purchase assets of a Receivables Entity.

"Rating Agencies" mean Fitch, Moody's and S&P. In the event that Fitch, Moody's or S&P is no longer in existence or issuing ratings, such organization may be replaced by a nationally recognized statistical rating organization (as defined in Rule 15c3-1(c)(2)(vi)(F) of the Exchange Act or any successor provision) designated by the Company with notice to the Trustee.

"Receivables Assets" means:

(1) accounts receivable, leases, conditional sale agreements, instruments, chattel paper, installment sale contracts, obligations, general intangibles, and other similar assets, in each case relating to goods, inventory or services of the Company and its Subsidiaries,

(2) equipment and equipment residuals relating to any of the foregoing,

(3) contractual rights, Guarantees, letters of credit, Liens, insurance proceeds, collections and other similar assets, in each case related to the foregoing, and

(4) proceeds of all of the foregoing.

"Receivables Entity" means a Receivables Subsidiary or any other Person not an Affiliate of the Company, in each case whose sole business activity is to engage in Qualified Receivables Transactions, including to issue securities or other interests in connection with a Qualified Receivables Transaction.

"Receivables Subsidiary" means an Unrestricted Subsidiary of the Company that engages in no activities other than Qualified Receivables Transactions and activities related thereto and that is designated by the Issuer as a Receivables Subsidiary. Any such designation by the Issuer will be evidenced to the Trustee by filing with the Trustee an Officer's Certificate of the Issuer.

"Record Date" has the meaning assigned to it in the Form of Face of Note contained in Exhibit A.

"Redemption Date" means, with respect to any redemption of Notes, the date fixed for such redemption pursuant to this Indenture and the Notes.

"Refinance" means, in respect of any Indebtedness, to issue any Indebtedness in exchange for or to refinance, repay, redeem, replace, defease or refund such Indebtedness in whole or in part. "Refinanced" and "Refinancing" will have correlative meanings.

"Refinancing Indebtedness" means Indebtedness of the Company or any Restricted Subsidiary issued to Refinance any other Indebtedness of the Company or a Restricted Subsidiary so long as:

(1) the aggregate principal amount (or initial accreted value, if applicable) of such new Indebtedness as of the date of such proposed Refinancing does not exceed the aggregate principal amount (or accreted value as of such date, if applicable) of the Indebtedness being Refinanced (plus the amount of any premium required to be paid under the terms of the instrument governing such Indebtedness and the amount of reasonable expenses incurred by the Company in connection with such Refinancing);

(2) such new Indebtedness has:

  (a) a Weighted Average Life to Maturity that is equal to or greater than the Weighted Average Life to Maturity of the Indebtedness being Refinanced, and

  (b) a final maturity that is equal to or later than the final maturity of the Indebtedness being Refinanced or, in the case of Indebtedness without a stated maturity, the maturity of the Notes; and

(3) if the Indebtedness being Refinanced is:

  (a) Indebtedness of the Issuer, then such Refinancing Indebtedness will be Indebtedness of the Issuer and/or any Note Guarantor,

  (b) Indebtedness of a Note Guarantor, then such Refinancing Indebtedness will be Indebtedness of the Issuer and/or any Note Guarantor,

  (c) Indebtedness of any of the Restricted Subsidiaries, then such Refinancing Indebtedness will be Indebtedness of such Restricted Subsidiary, the Issuer and/or any Note Guarantor, and

  (d) Subordinated Indebtedness, then such Refinancing Indebtedness shall be subordinate to the Notes or the relevant Note Guarantee, if applicable, at least to the same extent and in the same manner as the Indebtedness being Refinanced.

Notwithstanding the foregoing, with respect to any hedging obligations or derivates outstanding on the Issue Date in respect of the Axtel Share Forward Transactions, "Refinancing Indebtedness" shall mean any replacements, amendments or renewals thereof that are entered into on then prevailing market terms with the underlying amounts not greater than the original underlying amounts.

"Registrar" has the meaning assigned to it in Section 2.3(a).

"Regulation S" means Regulation S under the Securities Act or any successor regulation.

"Regulation S Global Note" has the meaning assigned to it in Section 2.1(e).

"Regulation S Permanent Global Note" has the meaning assigned to it in Section 2.1(e).

"Regulation S Temporary Global Note" has the meaning assigned to it in Section 2.1(e).

"Resale Restriction Termination Date" means for any Restricted Note (or beneficial interest therein), other than a Regulation S Temporary Global Note, which shall not have a Resale Restriction Termination Date and shall remain subject to the transfer restrictions specified therefor in this Indenture until such Global Note is cancelled by the Trustee, that is (a) not a Regulation S Global Note, the date on which the Company instructs the Trustee in writing to remove the Private Placement Legend from the Restricted Notes in accordance with the procedures described in Section 2.9(h) (which instruction is expected to be given on or about the one year anniversary of the issuance of the Restricted Notes) and (b) a Regulation S Global Note (or Certificated Note issued in respect thereof pursuant to Section 2.7(c)) (other than a Regulation S Temporary Global Note), the date on which the Distribution Compliance Period therefor terminates.

"Restricted Note" means (a) any Regulation S Temporary Global Note (or beneficial interest therein) or any Certificated Note issued in respect thereof pursuant to Section 2.7(c) at any time and (b) any Issue Date Note (or beneficial interest therein) or any Additional Note (or beneficial interest therein) not originally issued and sold pursuant to an effective registration statement under the Securities Act other than, in each case, a Regulation S Permanent Global Note until, in the case of clause (b), such time as:

(i) the Resale Restriction Termination Date therefor has passed; or

(ii) in the case of a Regulation S Global Note (or Certificated Note issued in respect thereof pursuant to Section 2.7(c)), the expiration of the Distribution Compliance Period therefor; or

(iii) the Private Placement Legend therefor has otherwise been removed pursuant to Section 2.9 or, in the case of a beneficial interest in a Global Note, such beneficial interest has been exchanged for an interest in a Global Note not bearing a Private Placement Legend.

"Restricted Payment" has the meaning set forth in Section 3.11.

"Restricted Subsidiary" means any Subsidiary of the Company, which at the time of determination is not an Unrestricted Subsidiary.

"Reversion Date" has the meaning assigned to in Section 3.23(d).

"Revocation" has the meaning set forth in Section 3.14(c).

"Rule 144" means Rule 144 under the Securities Act (or any successor rule).

"Rule 144A" means Rule 144A under the Securities Act (or any successor rule).

"Rule 144A Global Note" has the meaning assigned to it in Section 2.1(d).

"S&P" means Standard & Poor's Ratings Group and any successor to its rating agency business.

"Sale and Leaseback Transaction" means any direct or indirect arrangement with any Person or to which any such Person is a party providing for the leasing to the Company or a Restricted Subsidiary of any property, whether owned by the Company or any Restricted Subsidiary at the Issue Date or later acquired, which has been or is to be sold or transferred by the Company or such Restricted Subsidiary to such Person or to any other Person by whom funds have been or are to be advanced on the security of such Property.

"SEC" means the Securities and Exchange Commission.

"Securities Act" means the Securities Act of 1933, as amended.

"Security Agent" means Wilmington Trust (London) Limited, as Security Agent under the Intercreditor Agreement.

"Security Documents" has the meaning assigned to it in Section 7.13.

"Senior Indebtedness" means (i) the Notes and any other Indebtedness of the Company or any Note Guarantor that ranks equal in right of payment with the Notes or the relevant Note Guarantee, as the case may be or (ii) Indebtedness for borrowed money or constituting Capitalized Lease Obligations of any Restricted Subsidiary other than a Note Guarantor.

"Significant Subsidiary" means a Subsidiary of the Company constituting a "Significant Subsidiary" of the Company in accordance with Rule 1-02(w) of Regulation S-X under the Securities Act in effect on the date hereof.

"Similar Business" means (1) any business engaged in by the Company or any Restricted Subsidiary on the Issue Date, and (2) any business or other activities, including non-profit or charitable activities, that are reasonably similar, ancillary, complementary or related to, or a reasonable extension, development or expansion of, the businesses and activities in which the Company or any Restricted Subsidiary is engaged on the Issue Date, including, but not limited to, infrastructure projects, public works programs and consumer or supplier financing.

"Special Record Date" has the meaning assigned to it in Section 2.13(a).

"SPV Perpetuals" means the perpetual debentures issued by special purpose vehicles in December 2006, February 2007 and March 2007.

"Standard Undertakings" means representations, warranties, covenants, indemnities and similar obligations, including servicing obligations, entered into by the Company or any Subsidiary of the Company in connection with a Qualified Receivables Transaction, which are customary in similar non-recourse receivables securitization, purchase or financing transactions.

"Subordinated Indebtedness" means, with respect to the Company or any Note Guarantor, any Indebtedness of the Company or such Note Guarantor, as the case may be, which is expressly subordinated in right of payment to the Notes or the relevant Note Guarantee, as the case may be.

"Subsidiary" means with respect to any Person, any corporation, partnership, joint venture, limited liability company, trust, estate or other entity of which (or in which) more than fifty percent (50%) of (a) in the case of a corporation, the issued and outstanding Capital Stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time Capital Stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency that has not occurred and is not in the control of such Person), (b) in the case of a limited liability company, partnership or joint venture, the voting or other power to control the actions of such limited liability company, partnership or joint venture or (c) in the case of a trust or estate, the voting or other power to control the actions of such trust or estate, is at the time directly or indirectly owned or controlled by (X) such Person, (Y) such Person and one or more of its other Subsidiaries or (Z) one or more of such Person's other Subsidiaries. Unless the context otherwise requires, all references herein to a "Subsidiary" shall refer to a Subsidiary of the Company.

"Successor Company" has the meaning assigned to it in Section 4.1(b).

"Successor Guarantor" has the meaning assigned to it in Section 4.1(c).

"Successor Issuer" has the meaning assigned to it in Section 4.1(a).

"Suspended Covenants" has the meaning assigned to it in Section 3.23(a).

"Suspension Date" has the meaning assigned to it in Section 3.23(b).

"Suspension Period" means the period of time between the Suspension Date and the Reversion Date.

"Taxes" has the meaning assigned to it in Section 3.22(a).

"Taxing Jurisdiction" has the meaning assigned to it in Section 3.22.

"Transparency Directive" has the meaning assigned to it in Section 3.21.

"Transportation Agreements" means, in respect of any Person, any agreement or arrangement designed to protect such Person from fluctuations in prices related to transportation.

"Transfer Agent" has the meaning assigned to it in Section 2.3(a).

"Trustee" means the party named as such in the introductory paragraph to this Indenture until a successor replaces it in accordance with the terms of this Indenture and, thereafter, means the successor.

"Trust Officer" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, having direct responsibility for the administration of this Indenture, or any other officer of the Trustee to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject.

"U.S. Government Obligations" means direct obligations (or certificates representing an ownership interest in such obligations) of, or guaranteed by, the United States of America (including any agency or instrumentality thereof) for the payment of which the full faith and credit of the United States of America is pledged and which are not callable or redeemable at the issuer's option.

"U.S. Legal Tender" means such coin or currency of the United States of America, as at the time of payment shall be legal tender for the payment of public and private debts.

"U.S. Person" means a U.S. Person as defined in Regulation S.

"Unrestricted Subsidiary" means any Subsidiary of the Company Designated as such pursuant to Section 3.14. Any such Designation may be revoked by the Issuer, subject to the provisions of such covenant.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years (calculated to the nearest one-twelfth) obtained by dividing:

(1) the sum of the products obtained by multiplying:

  (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payment of principal or liquidation preference, as the case may be, including payment at final maturity, in respect thereof, by

  (b) the number of years (calculated to the nearest one-twelfth) which will elapse between such date and the making of such payment; by

(2) the then outstanding aggregate principal amount or liquidation preference, as the case may be, of such Indebtedness.

"Wholly Owned Subsidiary" means, for any Person, any Subsidiary (Restricted Subsidiary in the case of the Company) of which at least 99.5% of the outstanding Capital Stock (other than, in the case of a Subsidiary not organized in the United States, directors' qualifying shares or an immaterial amount of shares required to be owned by other Persons pursuant to applicable law) is owned by such Person or any other Person that satisfies this definition in respect of such Person.

Section 1.2 [Reserved].

Section 1.3 Rules of Construction. Unless the context otherwise requires:

(1) a term has the meaning assigned to it;

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(3) "or" is not exclusive;

(4) "including" means including without limitation;

(5) words in the singular include the plural and words in the plural include the singular; and

(6) references to the payment of principal of the Notes shall include applicable premium, if any.

ARTICLE II

THE NOTES

Section 2.1 Form and Dating.

(a) The Issue Date Notes are being originally offered and sold by the Company pursuant to a Purchase Agreement, dated as of December 9, 2009, among the Issuer, the Note Guarantors party hereto, Citigroup Global Markets Inc., Banc of America Securities LLC, Barclays Capital Inc. and J.P. Morgan Securities Inc., as Initial Purchasers with respect to the Notes. The Notes will initially be issued as one or more Global Notes in fully registered form without interest coupons, and only in denominations of U.S.$100,000 and integral multiples of U.S.$1,000 in excess thereof and each such Global Note shall constitute a single Note for all purposes under this Indenture. Certificated Notes, if issued pursuant to the terms hereof, will be issued in fully registered certificated form without coupons. The Notes may only be issued in definitive fully registered form without coupons and only in denominates of U.S.$1,000 and any integral multiple of U.S.$1,000 in excess thereof. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto.

(b) The terms and provisions of the Notes, the form of which is in Exhibit A, shall constitute, and are hereby expressly made, a part of this Indenture, and, to the extent applicable, the Issuer, the Note Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. Except as otherwise expressly permitted in this Indenture, all Notes (including Additional Notes) shall be identical in all respects. Notwithstanding any differences among them, all Notes issued under this Indenture shall vote and consent together on all matters as one class and are otherwise treated as a single issue of securities.

(c) The Notes may have notations, legends or endorsements as specified in Section 2.7 or as otherwise required by law, stock exchange rule or DTC rule or usage. The Issuer and the Trustee shall approve the form of the Notes and any notation, legend or endorsement on them. Each Note shall be dated the date of its authentication.

(d) Notes originally offered and sold to QIBs in reliance on Rule 144A will be issued in the form of one or more permanent Global Notes (each, a "Rule 144A Global Note").

(e) Notes originally offered and sold outside the United States in reliance on Regulation S will be issued in the form of one or more temporary Global Notes (each, a "Regulation S Temporary Global Note"). Each Regulation S Temporary Global Note shall be deposited on behalf of the purchasers of the Notes represented thereby with the Note Custodian and registered in the name of DTC or its nominee, for credit to the accounts maintained at DTC by or on behalf of Euroclear or Clearstream. In no event shall any Person hold an interest in a Regulation S Temporary Global Note other than in or through accounts maintained at DTC by or on behalf of Euroclear or Clearstream. An interest in a Regulation S Temporary Global Note will be exchangeable for an interest in a permanent Global Note (a "Regulation S Permanent Global Note", and, together with the Regulation S Temporary Global Note, a "Regulation S Global Note") on or after the expiration of the Distribution Compliance Period upon receipt by the Registrar of an Officer's Certificate from the Issuer certifying that it has received certification of non-U.S. beneficial ownership of 100% of the aggregate principal amount of the Regulation S Temporary Global Note in form and substance satisfactory to it (a "Non-U.S. Beneficial Ownership Certification") (except to the extent of any beneficial owners thereof who acquired an interest therein during the Distribution Compliance Period pursuant to another exemption from registration under the Securities Act and who will take delivery of a beneficial ownership interest in a 144A Global Note bearing a Private Placement Legend, all as contemplated by Section 2.8 hereof).

(f) Upon receipt by the Registrar of an Officer's Certificate from the Company pursuant to the preceding paragraph, it shall remove the legend set forth in Section 2.8(c) and Exhibit A from the Regulation S Temporary Global Note, following which temporary beneficial interests in the Regulation S Temporary Global Note shall automatically become beneficial interests in the Regulation S Permanent Global Note pursuant to the Applicable Procedures. If no beneficial interests are held in the Regulation S Temporary Global Note on or after the expiration of the Distribution Compliance Period, at the instruction of the Issuer, the Registrar shall remove the legend set forth in Section 2.8(c) and Exhibit A from the Regulation S Temporary Global Note.

(g) The aggregate principal amount of a Regulation S Temporary Global Note and a Regulation S Permanent Global Note may from time to time be increased or decreased by adjustments made on the records of the Trustee and DTC or its nominee, as the case may be, in connection with transfers of interest as hereinafter provided.

Section 2.2 Execution and Authentication.

(a) Any Officer of the Issuer may sign the Notes for the Issuer by manual or facsimile signature. If an Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

(b) A Note shall not be valid until manually authenticated by an authorized signatory of the Trustee or an agent appointed by the Trustee (and reasonably acceptable to the Issuer) for such purpose (an "Authenticating Agent"). The signature of an authorized signatory of the Trustee or an Authenticating Agent on a Note shall be conclusive evidence that such Note has been duly and validly authenticated and issued under this Indenture. Unless limited by the terms of its appointment, an Authenticating Agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by an Authenticating Agent.

(c) At any time and from time to time after the execution and delivery of this Indenture, the Trustee shall authenticate and make available for delivery Notes upon a written order of the Issuer signed by an Officer of the Issuer (the "Issuer Order"). An Issuer Order shall specify the amount of the Notes to be authenticated and the date on which the original issue of Notes is to be authenticated.

(d) In case a Successor Issuer has executed an indenture supplemental hereto with the Trustee pursuant to Article IV, any of the Notes authenticated or delivered prior to such transaction may, from time to time, at the request of the Successor Issuer be exchanged for other Notes executed in the name of the Successor Issuer with such changes in phraseology and form as may be appropriate, but otherwise identical to the Notes surrendered for such exchange and of like principal amount; and the Trustee, upon Issuer Order of the Successor Issuer, shall authenticate and deliver Notes as specified in such order for the purpose of such exchange. If Notes shall at any time be authenticated and delivered in any new name of a Successor Issuer pursuant to this Section 2.2 in exchange or substitution for or upon registration of transfer of any Notes, such Successor Issuer, at the option of the Holders but without expense to them, shall provide for the exchange of all Notes at the time Outstanding for Notes authenticated and delivered in such new name.

Section 2.3 Registrar, Paying Agent and Transfer Agent.

(a) The Issuer shall maintain an office or agency in the Borough of Manhattan, City of New York, where Notes may be presented or surrendered for registration of transfer or for exchange (the "Registrar"), where Notes may be presented for payment (the "Paying Agent") and for the service of notices and demands to or upon the Issuer in respect of the Notes and this Indenture. The Registrar shall keep a register of the Notes and of their transfer and exchange (the "Note Register"). The Issuer may have one or more co-Registrars and one or more additional paying agents. The term "Paying Agent" includes any additional paying agent. The Issuer shall maintain an office or agency (i) in London, England and (ii) for so long as the Notes are listed on the Euro MTF, a market of the Luxembourg Stock Exchange, and the rules of the Luxembourg Stock Exchange so require, in Luxembourg, in each case where the Notes may be presented for payment. So long as the Notes are listed on the Euro MTF, a market of the Luxembourg Stock Exchange, and the rules of the Luxembourg Stock Exchange so require, the Issuer shall maintain an office or agency in Luxembourg, where Notes may be presented or surrendered for registration of transfer or for exchange (the "Transfer Agent").

(b) The Issuer shall enter into an appropriate agency agreement with any Registrar, Paying Agent or co-Registrar not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Issuer shall notify the Trustee of the name and address of each such agent. If the Issuer fails to maintain a Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.7. The Issuer, any Affiliate of the Company or any Note Guarantor may act as Paying Agent, Registrar or co-Registrar, or transfer agent.

(c) The Issuer initially designates the Corporate Trust Office of the Trustee as one such office or agency of the Issuer as required by Section 2.3(a) and appoints the Trustee as Registrar, Paying Agent and agent for service of demands and notices and the parties identified on the signature pages to this Indenture in such capacities as Paying Agents and Transfer Agent in connection with the Notes and this Indenture, until such time as another Person is appointed as such.

Section 2.4 Paying Agent to Hold Money in Trust. The Issuer shall require each Paying Agent (other than the Trustee) to agree in writing that such Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money held by such Paying Agent for the payment of principal of or interest on the Notes and shall notify the Trustee in writing of any Default by the Issuer or any Note Guarantor in making any such payment. If the Issuer or an Affiliate of the Company acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it as a separate trust fund. The Issuer at any time may require a Paying Agent (other than the Trustee) to pay all money held by it to the Trustee and to account for any funds disbursed by such Paying Agent. Upon complying with this Section 2.4, the Paying Agent (if other than the Issuer or any Affiliate of the Company or a Note Guarantor) shall have no further liability for the money delivered to the Trustee. Upon any proceeding under any Bankruptcy Law with respect to the Company or any Affiliate of the Company or the Note Guarantor, if the Issuer, or such Affiliate or a Note Guarantor is then acting as Paying Agent, the Trustee shall replace the Issuer, such Affiliate or such Note Guarantor as Paying Agent.

Section 2.5 Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. At any time that the Trustee is not the Registrar the Company shall furnish to the Trustee, in writing at least seven Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders.

Section 2.6 CUSIP Numbers. The Issuer in issuing Notes may use "CUSIP" numbers (if then generally in use), and, if so, the Trustee shall use for the Securities "CUSIP" number in notices to the Holders as a convenience to such Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice and that reliance may be placed only on the other identification numbers printed on the Notes, and any such notice shall not be affected by any defect in or omission of such numbers. The Issuer will promptly notify the Trustee in writing of any changes in the "CUSIP" numbers.

Section 2.7 Global Note Provisions.

(a) Each Global Note initially shall: (i) be registered in the name of DTC or the nominee of DTC, (ii) be delivered to the Note Custodian and (iii) bear the appropriate legends as set forth in Section 2.8 and Exhibit A. Any Global Note may be represented by one or more certificates. The aggregate principal amount of each Global Note may from time to time be increased or decreased by adjustments made on the records of the Note Custodian, as provided in this Indenture.

(b) Except as provided in clause (iii) of Section 2.7(c), members of, or participants in, DTC ("Agent Members") shall have no rights under this Indenture with respect to any Global Note held on their behalf by DTC or by the Note Custodian, and DTC may be treated by the Issuer, any Note Guarantor, the Trustee, the Paying Agent, the Transfer Agent, the Note Custodian, the Registrar and any of their respective agents as the absolute owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall (i) prevent the Issuer, the Trustee, the Paying Agent, the Transfer Agent, the Note Custodian, the Registrar or any of their respective agents from giving effect to any written certification, proxy or other authorization furnished by DTC or (ii) impair, as between DTC and its Agent Members, the operation of customary practices of DTC governing the exercise of the rights of an owner of a beneficial interest in any Global Note. The registered Holder of a Global Note may grant proxies and otherwise authorize any person, including DTC or its nominee, Agent Members and persons that may hold interests through Agent Members, to take any action that a Holder is entitled to take under this Indenture or the Notes.

(c) Except as provided in this Section 2.7(c), owners of beneficial interests in Global Notes will not be entitled to receive Certificated Notes in exchange for such beneficial interests.

(i) Certificated Notes shall be issued to all owners of beneficial interests in a Global Note in exchange for such beneficial interests if (A) DTC notifies the Issuer that it is unwilling or unable to continue as depositary for such Global Note or (B) DTC ceases to be a clearing agency registered under the Exchange Act, at a time when DTC is required to be so registered in order to act as depositary, and in each case a successor depositary is not appointed by the Issuer within 90 days of such notice; *provided*, *however*, that in no event shall a holder of a beneficial interest in a Regulation S Temporary Global Note receive Certificated Notes in exchange for such beneficial interest prior to the expiration of the Distribution Compliance Period therefor and receipt by the Registrar of a Non-U.S. Beneficial Ownership Certification with respect to such Holder. In connection with the exchange of an entire Global Note for Certificated Notes pursuant to this clause (i) of this Section 2.7(c), such Global Note shall be deemed to be surrendered to the Trustee for cancellation, and the

Issuer shall execute, and upon Issuer Order the Trustee shall authenticate and deliver to each beneficial owner identified by DTC in exchange for its beneficial interest in such Global Note, an equal aggregate principal amount of Certificated Notes of authorized denominations, and the Registrar shall register such exchanges in the Note Register.

(ii) The owner of a beneficial interest in a Global Note will be entitled to receive Certificated Notes in exchange for such interest if an Event of Default has occurred and is continuing; *provided*, *however*, that in no event shall a holder of a beneficial interest in a Regulation S Temporary Global Note receive Certificated Notes in exchange for such beneficial interest prior to the expiration of the Distribution Compliance Period therefor and receipt by the Registrar of a Non-U.S. Beneficial Ownership Certification with respect to such holder. If an Event of Default has occurred and is continuing, upon receipt by the Registrar of instructions from Agent Members on behalf the owner of a beneficial interest in a Global Note directing the Registrar to exchange such beneficial owner's beneficial interest in such Global Note for Certificated Notes, subject to and in accordance with the Applicable Procedures, the Issuer shall promptly execute, and upon Issuer Order the Trustee shall authenticate and make available for delivery to such beneficial owner, Certificated Notes in a principal amount equal to such beneficial interest in such Global Note.

(iii) If (A) an event described in clause (i) of Section 2.7(c) occurs and Certificated Notes are not issued promptly to all beneficial owners or (B) the Registrar receives from a beneficial owner the instructions described in clause (ii) of Section 2.7(c) and Certificated Notes are not issued promptly to any such beneficial owner, the Issuer expressly acknowledges, with respect to the right of any Holder to pursue a remedy pursuant to Section 6.6 hereof, the right of any beneficial owner of Notes to pursue such remedy with respect to the portion of the Global Note that represents such beneficial owner's Notes as if such Certificated Notes had been issued.

Section 2.8 Legends.

(a) Each Global Note shall bear the legend specified therefor in Exhibit A on the face thereof.

(b) Each Restricted Note shall bear the private placement legend specified therefor in Exhibit A on the face thereof (the "Private Placement Legend").

(c) Each Regulation S Temporary Global Note shall bear the legend specified therefor in Exhibit A on the face thereof.

Section 2.9 Transfer and Exchange.

(a) Transfers of Beneficial Interests in a Rule 144A Global Note. If the owner of a beneficial interest in a Rule 144A Global Note that is a Restricted Note wishes to transfer such interest (or portion thereof) to a Non-U.S. Person pursuant to Regulation S:

(i) upon receipt by the Registrar of:

(A) instructions from an Agent Member given to DTC in accordance with the Applicable Procedures directing DTC to credit or cause to be credited a beneficial interest in the Regulation S Temporary Global Note, in the case of a transfer made prior to the expiration of the Distribution Compliance Period, or the Regulation S Permanent Global Note in the case of a transfer made after the expiration of the Distribution Compliance Period, in either case, in a principal amount equal to the principal amount of the beneficial interest to be transferred,

(B) instructions given in accordance with the Applicable Procedures containing information regarding the account to be credited with such increase, and

(C) a certificate in the form of Exhibit C duly executed by the Rule 144A transferor;

(ii) the Note Custodian shall increase the Regulation S Temporary Global Note or the Regulation S Permanent Global Note, as the case may be, and decrease the Rule 144A Global Note in accordance with the foregoing, and the Registrar shall register the transfer in the Note Register.

(b) Transfers of Beneficial Interests in a Regulation S Global Note. Subject to the Applicable Procedures, the following provisions shall apply with respect to any proposed transfer of an interest in a Regulation S Global Note that is a Restricted Note:

(i) If the owner of a beneficial interest in a Regulation S Global Note that is a Restricted Note wishes to transfer such interest (or a portion thereof) to a QIB pursuant to Rule 144A:

(A) upon receipt by the Note Custodian and Registrar of:

(1) instructions from an Agent Member given to DTC in accordance with the Applicable Procedures directing DTC to credit or cause to be credited a beneficial interest in the Rule 144A Global Note in an amount equal to the beneficial interest being transferred,

(2) instructions given in accordance with the Applicable Procedures containing information regarding the account to be credited with such increase, and

(3) a certificate in the form of Exhibit B duly executed by the transferor;

(B) the Note Custodian shall increase the Rule 144A Global Note and decrease the Regulation S Global Note in accordance with the foregoing, and the Registrar shall register the transfer in the Note Register.

(ii) No interest in a Regulation S Temporary Global Note will be exchanged for an interest in the Regulation S Permanent Global Note except pursuant to Rule 144A and in accordance with the applicable provisions of this Section 2.9.

(c) Other Transfers. Any registration of transfer of Restricted Notes (including Certificated Notes) not described above (other than a transfer of a beneficial interest in a Global Note that does not involve an exchange of such interest for a Certificated Note or a beneficial interest in another Global Note, which must be effected in accordance with applicable law and the Applicable Procedures, but is not subject to any procedure required by this Indenture) shall be made only upon receipt by the Registrar of such opinions of counsel, certificates and such other evidence reasonably required by and satisfactory to it in order to ensure compliance with the Securities Act or in accordance with Section 2.9(d).

(d) Use and Removal of Private Placement Legends. Upon the registration of transfer, exchange or replacement of Notes (or beneficial interests in a Global Note) not bearing (or not required to bear upon such transfer, exchange or replacement) a Private Placement Legend, the Note Custodian and Registrar shall exchange such Notes (or beneficial interests) for beneficial interests in a Global Note or Certificated Notes if they have been issued pursuant to Section 2.7(c) that does not bear a Private Placement Legend. Upon the registration of transfer, exchange or replacement of Notes (or beneficial interests in a Global Note) bearing a Private Placement Legend, the Note Custodian and Registrar shall deliver only Notes (or beneficial interests in a Global Note) that bear a Private Placement Legend unless:

(i) such Notes (or beneficial interests) are transferred pursuant to Rule 144 upon delivery to the Registrar of a certificate of the transferor in the form of Exhibit C and an Opinion of Counsel reasonably satisfactory to the Registrar;

(ii) such Notes (or beneficial interests) are transferred, replaced or exchanged after the Resale Restriction Termination Date therefor and, in the case of any such Restricted Notes, the Issuer has complied with the applicable procedures for delegending in accordance with Section 2.9(h); or

(iii) in connection with such registration of transfer, exchange or replacement the Registrar shall have received an Opinion of Counsel, certificates and such other evidence reasonably satisfactory to the Issuer and the Registrar to the effect that neither such Private Placement Legend nor the related restrictions on transfer are required in order to maintain compliance with the provisions of the Securities Act.

The Holder of a Global Note bearing a Private Placement Legend may exchange an interest therein for an equivalent interest in a Global Note not bearing a Private Placement Legend (other than a Regulation S Global Note) upon transfer of such interest pursuant to this Section 2.9(d).

(e) Consolidation of Global Notes and Exchange of Certificated Notes for Beneficial Interests in Global Notes . If a Global Note not bearing a Private Placement Legend (other than a Regulation S Global Note) is Outstanding at the time of a removal of legends pursuant to Section 2.9(h), any interests in a Global Note delegended pursuant to Section 2.9(h) shall be exchanged for interests in such Outstanding Global Note, subject to the proviso at the end of Section 2.14(a).

(f) Retention of Documents. The Registrar and the Trustee shall retain copies of all letters, notices and other written communications received pursuant to this Article II and in accordance with the Trustee's record retention procedures. The Issuer shall have the right to inspect and make copies of all such letters, notices or other written communications at any reasonable time upon the giving of reasonable written notice to the Registrar or the Trustee, as the case may be.

(g) General Provisions Relating to Transfers and Exchanges.

(i) Subject to the other provisions of this Section 2.9, when Notes are presented to the Registrar or a co-Registrar with a request to register the transfer of such Notes or to exchange such Notes for an equal principal amount of Notes of other authorized denominations, the Registrar or co-Registrar shall register the transfer or make the exchange as requested if its requirements for such transaction are met; *provided* that any Notes presented or surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Registrar or co-Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing.

(ii) To permit registrations of transfers and exchanges and subject to the other terms and conditions of this Article II, the Issuer will execute and upon Issuer Order the Trustee will authenticate and make available for delivery Certificated Notes and Global Notes, as applicable, at the Registrar's or co-Registrar's request.

(iii) No service charge shall be made to a Holder for any registration of transfer or exchange, but the Issuer and the Trustee may require payment of a sum sufficient to cover any transfer tax, assessments, or similar governmental charge payable in connection therewith (other than any such transfer taxes, assessments or similar governmental charges payable upon exchange or transfer pursuant to Section 3.8, Section 3.9, Section 5.1 or Section 9.5).

(iv) The Registrar or co-Registrar shall not be required to register the transfer of or exchange of (x) any Note for a period beginning (1) 15 days before the mailing of a notice of an offer to repurchase or redeem Notes and ending at the close of business on the day of such mailing or (2) 15 days before an Interest Payment Date and ending on such Interest Payment Date and (y) any Note selected for repurchase or redemption, except the unrepurchased or unredeemed portion thereof, if any.

(v) Prior to the due presentation for registration of transfer of any Note, the Issuer, the Trustee, the Paying Agent, the Transfer Agent, the Registrar or any co-Registrar may deem and treat the Person in whose name a Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Note and for all other purposes whatsoever, whether or not such Note is overdue, and none of the Issuer, the Trustee, the Paying Agent, the Transfer Agent, the Registrar or any co-Registrar or the Note Custodian shall be affected by notice to the contrary.

(vi) All Notes issued upon any transfer or exchange pursuant to the terms of this Indenture shall evidence the same debt and shall be entitled to the same benefits under this Indenture as the Notes surrendered upon such transfer or exchange.

(vii) Subject to Section 2.7 and this Section 2.9, in connection with the exchange of a portion of a Certificated Note for a beneficial interest in a Global Note, the Trustee shall cancel such Certificated Note, and the Issuer shall execute, and upon Issuer Order the Trustee shall authenticate and make available for delivery to the exchanging Holder, a new Certificated Note representing the principal amount not so exchanged.

(h) Applicable Procedures for Delegending.

(i) Promptly after one year has elapsed following (A) the Issue Date or (B) if the Issuer has issued Additional Notes, with the same terms and the same CUSIP numbers as the Issue Date Notes pursuant to this Indenture within one year following the Issue Date, the date of original issuances of such Additional Notes if the relevant Notes are freely

tradeable pursuant to Rule 144 under the Securities Act by Holders who are not Affiliates of the Issuer where no conditions of Rule 144 are then applicable (other than the holding period requirement in paragraph (d)(1)(ii) of Rule 144 so long as such holding period requirement is satisfied), the Issuer shall:

(1) instruct the Trustee in writing to remove the Private Placement Legend from such Notes by delivering to the Trustee a certificate in the form of Exhibit C hereto, and upon such instruction the Private Placement Legend shall be deemed removed from any Global Notes representing such Notes without further action on the part of Holders;

(2) notify Holders of such Notes that the Private Placement Legend has been removed or deemed removed; and

(3) instruct DTC to change the CUSIP number for such Notes to the unrestricted CUSIP number for the Notes.

In no event will the failure of the Issuer to provide any notice set forth in this paragraph or of the Trustee to remove the Private Placement Legend constitute a failure by the Issuer to comply with any of its covenants or agreements set forth in Section 6.1 or otherwise. Any Restricted Note (or security issued in exchange or substitution therefor) as to which such restrictions on transfer shall have expired in accordance with their terms may, upon surrender of such Restricted Note for exchange to the Registrar in accordance with the provisions of Article II of this Indenture, be exchanged for a new Note or Notes, of like tenor and aggregate principal amount, which shall not bear the Private Placement Legend. The Issuer shall notify the Trustee in writing upon occurrence of the Resale Restriction Termination Date for any Note.

(ii) Notwithstanding any provision herein to the contrary, in the event that Rule 144 as promulgated under the Securities Act (or any successor rule) is amended to change the one-year holding period thereunder (or the corresponding period under any successor rule), (A) each reference in this Section 2.9(h) to "one year" and in the Private Placement Legend described in Section 2.8(b) and Exhibit A to "ONE YEAR" shall be deemed for all purposes hereof to be references to such changed period, and (B) all corresponding references in this Indenture (including the definition of Resale Restriction Termination Date), the Notes and the Private Placement Legends thereon shall be deemed for all purposes hereof to be references to such changed period; *provided* that such changes shall not become effective if they are otherwise prohibited by, or would otherwise cause a violation of, the then-applicable federal securities laws; *provided further* that if such change

does not apply to existing Notes, all references to "one year" in this Indenture shall not be deemed for all purposes hereof to be references to such changed period. This Section 2.9(h) shall apply to successive amendments to Rule 144 (or any successor rule) changing the holding period thereunder.

(i) No Obligation of the Trustee.

(i) The Trustee shall have no responsibility or obligation to any beneficial owner of an interest in a Global Note, Agent Members or any other Persons with respect to the accuracy of the records of DTC or its nominee or of Agent Members, with respect to any ownership interest in the Notes or with respect to the delivery to any Agent Member, beneficial owner or other Person (other than DTC) of any notice (including any notice of redemption) or the payment of any amount or delivery of any Notes (or other security or property) under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to Holders in respect of the Notes shall be given or made only to or upon the order of the registered Holders (which shall be DTC or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through DTC subject to the applicable rules and procedures of DTC. The Trustee may rely and shall be fully protected in relying upon information furnished by DTC with respect to its Agent Members and any beneficial owners.

(ii) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Agent Members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Section 2.10 Mutilated, Destroyed, Lost or Stolen Notes.

(a) If a mutilated Note is surrendered to the Registrar or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Issuer shall execute and upon Issuer Order the Trustee shall authenticate and make available for delivery a replacement Note for such mutilated, lost or stolen Note, of like tenor and principal amount, bearing a number not contemporaneously Outstanding if:

(i) the requirements of Section 8-405 of the Uniform Commercial Code are met,

(ii) the Holder satisfies any other reasonable requirements of the Trustee, and

(iii) neither the Issuer nor the Trustee has received notice that such Note has been acquired by a protected purchaser.

If required by the Trustee or the Issuer, such Holder shall furnish an affidavit of loss and indemnity bond sufficient in the judgment of the Issuer and the Trustee to protect the Issuer, the Trustee, the Paying Agent, the Transfer Agent, the Registrar or any co-Registrar and the Note Custodian from any loss that any of them may suffer if a Note is replaced.

(b) Upon the issuance of any new Note under this Section 2.10, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) in connection therewith.

(c) Every new Note issued pursuant to this Section 2.10 in exchange for any mutilated Note, or in lieu of any destroyed, lost or stolen Note, shall constitute an original additional contractual obligation of the Issuer, any Note Guarantor and any other obligor upon the Notes, whether or not the mutilated, destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all benefits of this Indenture equally and proportionately with any and all other Notes duly issued hereunder.

Section 2.11 Temporary Notes. Until definitive Notes are ready for delivery, the Issuer may execute and upon Issuer Order the Trustee will authenticate and make available for delivery temporary Notes. Temporary Notes will be substantially in the form of definitive Notes but may have variations that the Issuer considers appropriate for temporary Notes. Without unreasonable delay, the Issuer will prepare and execute and upon Issuer Order the Trustee will authenticate and make available for delivery definitive Notes. After the preparation of definitive Notes, the temporary Notes will be exchangeable for definitive Notes upon surrender of the temporary Notes at any office or agency maintained by the Issuer for that purpose and such exchange shall be without charge to the Holder. Upon surrender for cancellation of any one or more temporary Notes, the Issuer will execute and upon Issuer Order the Trustee will authenticate and make available for delivery in exchange therefor one or more definitive Notes representing an equal principal amount of Notes. Until so exchanged, the Holder of temporary Notes shall in all respects be entitled to the same benefits under this Indenture as a Holder of definitive Notes.

Section 2.12 Cancellation. The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar, the Paying Agent and the Transfer Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel and dispose of cancelled Notes in accordance with its policy of disposal or upon written request of the Company, return to the Issuer all Notes surrendered for registration of transfer, exchange, payment or cancellation. The Issuer may not issue new Notes to replace Notes it has paid or delivered to the Trustee for cancellation for any reason other than in connection with a registration of transfer or exchange upon Issuer Order.

Section 2.13 Defaulted Interest. When any installment of interest becomes Defaulted Interest on Notes, such installment shall forthwith cease to be payable to the Holders in whose names the Notes were registered on the Record Date applicable to such installment of interest. Defaulted Interest (including any interest on such Defaulted Interest) shall be paid by the Issuer, at its election, as provided in clause (a) or clause (b) below.

(a) The Issuer may elect to make payment of any Defaulted Interest (including any interest payable on such Defaulted Interest) to the Holders in whose names the Notes are registered at the close of business on a special record date for the payment of such Defaulted Interest (a " Special Record Date"), which shall be fixed in the following manner. The Issuer shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid and the date of the proposed payment, and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Holders entitled to such Defaulted Interest as provided in this Section 2.13(a). Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest, which shall be not more than 15 calendar days and not less than ten calendar days prior to the date of the proposed payment and not less than ten calendar days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Issuer of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be sent, first-class mail, postage prepaid, to each Holder at such Holder's address as it appears in the Note Register, not less than ten calendar days prior to such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Holders in whose names the Notes are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to clause (b) below; or

(b) The Issuer may make payment of any Defaulted Interest (including any interest on such Defaulted Interest) in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Issuer to the Trustee of the proposed payment pursuant to this Section 2.13(b), such manner of payment shall be deemed practicable by the Trustee. The Trustee shall in the name and at the expense of the Issuer cause prompt notice of the proposed payment and the date thereof to be sent, first-class mail, postage prepaid, to each Holder at such Holder's address as it appears in the Note Register.

Section 2.14 Additional Notes.

(a) The Issuer may, from time to time, subject to compliance with any other applicable provisions of this Indenture, without the consent of the Holders, create and issue pursuant to this Indenture additional notes (" Additional Notes") that shall have terms and conditions identical to those of the other Outstanding Notes, except with respect to:

(i) the issue date;

(ii) the amount of interest payable on the first Interest Payment Date therefor;

(iii) the issue price; and

(iv) any adjustments necessary in order to conform to and ensure compliance with the Securities Act (or other applicable securities laws) and any agreement applicable to such Additional Notes, which are not adverse in any material respect to the Holder of any Outstanding Notes (other than such Additional Notes).

The Notes issued on the Issue Date and any Additional Notes shall be treated as a single class for all purposes under this Indenture; *provided* that the Issuer may use different CUSIP or other similar numbers among Issue Date Notes and Additional Notes to the extent required to comply with securities or tax law requirements, including to permit delegending pursuant to Section 2.9(h).

(b) With respect to any Additional Notes, the Issuer will set forth in an Officer's Certificate of the Issuer (the " Additional Note Certificate"), copies of which will be delivered to the Trustee, the following information:

(i) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Indenture;

(ii) the issue date and the issue price of such Additional Notes; *provided* that no Additional Notes may be issued at a price that would cause such Additional Notes to have "original issue discount" within the meaning of Section 1273 of the Code, unless such Additional Notes have a separate CUSIP or other similar number from other Notes; and

(iii) whether such Additional Notes will be subject to transfer restrictions under the Securities Act (or other applicable securities laws).

ARTICLE III

COVENANTS

Section 3.1 Payment of Notes.

(a) The Issuer shall pay the principal of and interest (including Defaulted Interest) on the Notes in U.S. Legal Tender on the dates and in the manner provided in the Notes and in this Indenture. Prior to 10:00 a.m. New York City time on the Business Day prior to each Interest Payment Date and the Maturity Date, the Issuer shall deposit with the Paying Agent in immediately available funds U.S. Legal Tender sufficient to make cash payments due on such Interest Payment Date or Maturity Date, as the case may be. If the Issuer, a Note Guarantor or an Affiliate of the Company is acting as Paying Agent, the Issuer, such Note Guarantor or such Affiliate shall, prior to 10:00 a.m. on the Business Day prior to each Interest Payment Date and the Maturity Date, segregate and hold in trust U.S. Legal Tender sufficient to make cash

payments due on such Interest Payment Date or Maturity Date, as the case may be. Principal and interest shall be considered paid on the date due if on such date the Trustee or the Paying Agent (other than the Issuer, a Note Guarantor or an Affiliate of the Company) holds in accordance with this Indenture U.S. Legal Tender designated for and sufficient to pay all principal and interest then due and the Trustee or the Paying Agent, as the case may be, is not prohibited from paying such money to the Holders on that date pursuant to the terms of this Indenture.

(b) Notwithstanding anything to the contrary contained in this Indenture, the Issuer may, to the extent it is required to do so by law, deduct or withhold income or other similar taxes imposed by the United States of America from principal or interest payments hereunder.

Section 3.2 Maintenance of Office or Agency.

(a) The Issuer shall maintain each office or agency required under Section 2.3. The Issuer will give prompt written notice to the Trustee of any change in the location of any such office or agency. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Issuer hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

(b) The Issuer may also from time to time designate one or more other offices or agencies (in or outside of The City of New York) where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind any such designation; *provided, however,* that no such designation or rescission shall in any manner relieve the Issuer of its obligation to maintain an office or agency in The City of New York or, so long as the Notes are listed on the Luxembourg Stock Exchange and the rules of the Luxembourg Stock Exchange so require, in Luxembourg, for such purposes. The Issuer will give prompt written notice to the Trustee of any such designation or rescission and any change in the location of any such other office or agency.

Section 3.3 Corporate Existence. Subject to Article IV, the Issuer will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

Section 3.4 Payment of Taxes and Other Claims. The Issuer will pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (i) all taxes, assessments and governmental charges levied or imposed upon the Company or any Restricted Subsidiary or for which it or any of them are otherwise liable, or upon the income, profits or property of the Company or any Restricted Subsidiary and (ii) all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a liability or Lien upon the property of the Company or any Restricted Subsidiary; *provided, however,* that the Company shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings and for which appropriate reserves, if necessary (in the good faith judgment of management of the Issuer, as the case may be, is being maintained in accordance with GAAP or where the failure to effect such payment will not be disadvantageous to the Holders.

Section 3.5 Compliance Certificate. The Issuer and each Note Guarantor shall deliver to the Trustee within 105 days after the end of each fiscal year of the Company (which fiscal year ends on December 31 of each year, subject to any change in fiscal year following the Issue Date) an Officer's Certificate stating that in the course of the performance by the signers of their duties as Officers of the Issuer or such Note Guarantor, as the case may be, they would normally have knowledge of any Default or Event of Default and whether or not the signers know of any Default or Event of Default that occurred during the previous fiscal year. If they do, the certificate shall describe the Default or Event of Default, its status and what action the Issuer or such Note Guarantor is taking or proposes to take with respect thereto.

Section 3.6 Further Instruments and Acts.

(a) The Issuer and each Note Guarantor will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper or as the Trustee may reasonably request to carry out more effectively the purpose of this Indenture.

(b) The Issuer and the Note Guarantors shall take, and shall cause their Subsidiaries party thereto to take, any and all actions required under the Intercreditor Agreement and the Security Documents to cause the Intercreditor Agreement and the Security Documents to create and maintain, as security for the Obligations of the Issuer and the Note Guarantors hereunder, a valid and enforceable perfected security interest on all the Collateral, in favor of the Security Agent for the equal and ratable benefit of the Holders of the Notes, the Euro Notes and the other Permitted Secured Obligations, first in priority to any and all security interests at any time granted upon the Collateral, subject in all respects to Liens imposed by law and Liens for judgments, taxes, assessments or governmental charges.

Section 3.7 Waiver of Stay, Extension or Usury Laws. The Issuer and each Note Guarantor covenant (to the fullest extent permitted by applicable law) that they will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury law or other law that would prohibit or forgive the Issuer or such Note Guarantor from paying all or any portion of the principal of or interest on the Notes as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Indenture. The Issuer and each Note Guarantor hereby expressly waives (to the fullest extent permitted by applicable law) all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 3.8 Change of Control.

(a) Upon the occurrence of a Change of Control, each Holder will have the right to require that the Issuer purchase all or a portion (in integral multiples of U.S.$1,000) of the Holder's Notes at a purchase price equal to 101% of the principal amount thereof, plus accrued and unpaid interest thereon through the date of purchase (the "Change of Control Payment").

(b) Within 30 days following the date upon which the Change of Control occurred, the Issuer must send, by first-class mail, a notice to each Holder, with a copy to the Trustee, offering to purchase the Notes as described above (a "Change of Control Offer") and publish the Change of Control Offer in a newspaper having a general circulation in Luxembourg (which is expected to be the *Luxemburger Wort*). The Change of Control Offer shall state, among other things, the purchase date, which must be no earlier than 30 days nor later than 60 days from the date the notice is mailed, other than as may be required by law (the "Change of Control Payment Date").

(c) On the Change of Control Payment Date, the Issuer will, to the extent lawful:

(i) accept for payment all Notes or portions thereof properly tendered and not withdrawn pursuant to the Change of Control Offer;

(ii) deposit with the Paying Agent funds in an amount equal to the Change of Control Payment in respect of all Notes or portions thereof so tendered; and

(iii) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof being purchased by the Issuer.

(d) If only a portion of a Note is purchased pursuant to a Change of Control Offer, a new Note in a principal amount equal to the portion thereof not purchased will be issued in the name of the Holder thereof upon cancellation of the original Note (or appropriate adjustments to the amount and beneficial interests in a Global Note will be made, as appropriate); *provided* that each new Note shall be in a minimum principal amount of U.S.$100,000 or an integral multiple of U.S.$1,000 in excess thereof. Notes (or portions thereof) purchased pursuant to a Change of Control Offer will be cancelled and cannot be reissued.

(e) The Issuer will not be required to make a Change of Control Offer upon a Change of Control if:

(i) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Issuer and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer, or

(ii) notice of redemption has been given pursuant to this Indenture as described under Section 5.4 unless and until there is a default in payment of the applicable redemption price.

(f) The Issuer will comply with the requirements of Rule 14e-1 under the Exchange Act and any other applicable securities laws and regulations in connection with the purchase of Notes in connection with a Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with the "Change of Control" provisions of this Indenture, the Issuer will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Indenture by doing so.

Section 3.9 Limitation on Incurrence of Additional Indebtedness .

(a) The Company will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, Incur any Indebtedness, including Acquired Indebtedness, except that the Issuer and/or any of the Note Guarantors may Incur Indebtedness, including Acquired Indebtedness, if, at the time of and immediately after giving *pro forma* effect to the Incurrence thereof and the application of the proceeds therefrom, the Consolidated Fixed Charge Coverage Ratio of the Company is greater than or equal to 2.0 to 1.0.

(b) Notwithstanding clause (a) above, the Company and/or any of its Restricted Subsidiaries, as applicable, may Incur the following Indebtedness ("Permitted Indebtedness"):

(i) Indebtedness not to exceed U.S.$1,250 million in respect of the Notes, excluding Additional Notes;

(ii) Indebtedness not to exceed €350 million in respect of the Euro Notes issued or outstanding on the Issue Date;

(iii) Guarantees by (A) any Note Guarantor of Indebtedness of the Issuer or another Note Guarantor permitted under this Indenture and (B) the Issuer of Indebtedness of any Note Guarantor; *provided* that, if any such Guarantee is of Subordinated Indebtedness, then the obligations of the Issuer under the Notes and this Indenture or the Note Guarantee of such Note Guarantor, as applicable, will be senior to the Guarantee of such Subordinated Indebtedness;

(iv) Indebtedness of the Company and/or any of its Restricted Subsidiaries outstanding on the Issue Date (excluding Indebtedness permitted under clauses (vi), (vii), (viii) or (xi) of this definition of Permitted Indebtedness);

(v) Hedging Obligations, Compensation Related Hedging Obligations and any Guarantees thereof and any reimbursement obligations with respect to letters of credit related thereto, in each case entered into by the Company and/or any of its Restricted Subsidiaries; *provided* that, upon the drawing of such letters of credit, such obligations are reimbursed within 30 days following such drawing;

(vi) intercompany Indebtedness between the Company and any Restricted Subsidiary or between any Restricted Subsidiaries; *provided* that, in

the event that at any time any such Indebtedness ceases to be held by the Issuer or a Restricted Subsidiary, such Indebtedness shall be deemed to be Incurred and not permitted by this clause (vi) at the time such event occurs;

(vii) Indebtedness of the Company and/or any of its Restricted Subsidiaries arising from (A) the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds in the ordinary course of business; *provided* that such Indebtedness is extinguished within five Business Days of Incurrence; or (B) any cash pooling or other cash management agreements in place with a bank or financial institution but only to the extent of offsetting credit balances of the Company and/or its Restricted Subsidiaries pursuant to such cash pooling or other cash management agreement;

(viii) Indebtedness of the Company and/or any of its Restricted Subsidiaries represented by (A) endorsements of negotiable instruments in the ordinary course of business (excluding an *aval*), (B) documentary credits (including all forms of letter of credit), performance bonds or guarantees, advance payments, bank guarantees, bankers' acceptances, surety or appeal bonds or similar instruments for the account of, or guaranteeing performance by, the Company and/or any Restricted Subsidiary in the ordinary course of business, (C) reimbursement obligations with respect to letters of credit in the ordinary course of business (D) reimbursement obligations with respect to letters of credit and performance Guarantees in the ordinary course of business to the extent required pursuant to the terms of any Investment made pursuant to clause (12) of the definition of "Permitted Investment" and (E) other Guarantees by the Company and/or any Restricted Subsidiary in favor of a bank or financial institution in respect of obligations of that bank or financial institution to a third party in an amount not to exceed U.S.$500 million at any one time outstanding; *provided* that in the case of clauses (B), (C) and (D), upon the drawing of such letters of credit or the Incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or Incurrence;

(ix) Refinancing Indebtedness in respect of:

(A) Indebtedness (other than Indebtedness owed to the Company or any Subsidiary of the Company) Incurred pursuant to clause (a) above (it being understood that no Indebtedness outstanding on the Issue Date is Incurred pursuant to such clause (a) above), or

(B) Indebtedness Incurred pursuant to clause (i), (ii), (iii) or (iv) above or this clause (ix);

(x) Capitalized Lease Obligations, Sale and Leaseback Transactions, export credit facilities with a maturity of at least one year and Purchase Money Indebtedness of, including Guarantees of any of the foregoing by, the Company and/or any Restricted Subsidiary, in an aggregate principal amount at any one time outstanding not to exceed U.S.$1 billion;

(xi) Indebtedness arising from agreements entered into by the Company and/or a Restricted Subsidiary providing for bona fide indemnification, adjustment of purchase price or similar obligations not for financing purposes, in each case, Incurred or assumed in connection with the acquisition or disposition of any business, assets or Capital Stock of a Restricted Subsidiary (including minority interests); *provided* that, in the case of a disposition, the maximum aggregate liability in respect of such Indebtedness shall at no time exceed the gross proceeds actually received by the Company and its Restricted Subsidiaries in connection with such disposition;

(xii) Indebtedness of the Company and/or any of its Restricted Subsidiaries in an aggregate amount not to exceed U.S.$1 billion at any one time; outstanding; *provided* that no more than U.S.$250 million of such Indebtedness at any one time outstanding (excluding any Indebtedness under a Permitted Liquidity Facility) may be Incurred by Restricted Subsidiaries that are not the Issuer or Note Guarantors, which amount shall be increased by the corresponding amount of other Indebtedness of Restricted Subsidiaries other than the Issuer and the Note Guarantors outstanding on the Issue Date and subsequently repaid from time to time but in any event not to exceed U.S.$500 million at any one time outstanding; *provided, further, however*, that (A) the Company and/or any of its Restricted Subsidiaries may Incur Indebtedness under a Permitted Liquidity Facility and (B) in the event that the Company and/or any of its Restricted Subsidiaries shall have Incurred Indebtedness under a Permitted Liquidity Facility that increases the amount outstanding at such time pursuant to this clause (xii) in excess of U.S.$ 1 billion, then up to U.S.$1.2 billion may be Incurred pursuant to this clause (xii) at any one time outstanding;

(xiii) (A) Indebtedness of the Company and/or any of its Restricted Subsidiaries in respect of factoring arrangements or Inventory Financing arrangements or (B) other Indebtedness of the Company and/or any of its Restricted Subsidiaries with a maturity of 12 months or less for working capital purposes, not to exceed in the aggregate at any one time (calculated as of the end of the most recent fiscal quarter for which consolidated financial information of the Company is available) the greater of:

(1) The sum of:

(x) 20% of the net book value of the inventory of the Company and its Restricted Subsidiaries and

(y) 20% of the net book value of the accounts receivable of the Company and its Restricted Subsidiaries (excluding accounts receivable pledged to secure Indebtedness or subject to a Qualified Receivables Transaction),

less, in each case, the amount of any permanent repayments or reductions of commitments in respect of such Indebtedness made with the Net Cash Proceeds of an Asset Sale in order to comply with Section 3.12; or

(2) U.S.$350 million;

(xiv) Indebtedness of the Issuer and/or any of the Note Guarantors Incurred to fund amounts payable upon the exercise of the put option (calculated according to the terms in effect on the Issue Date of the agreements giving rise to such obligations) requiring CEMEX, Inc. to purchase 50.01% of the Capital Stock of Ready Mix USA, LLC and/or 49.99% of the Capital Stock of CEMEX Southeast, LLC, the combined amount of which was estimated to be U.S.$472 million as of September 30, 2009, subject to subsequent adjustments;

(xv) Indebtedness of the Company and/or any of its Restricted Subsidiaries for taxes levied, assessments due and other governmental charges required to be paid as a matter of law or regulation in the ordinary course of business; *provided* that such Indebtedness shall be permitted to be Incurred only at such time that the Financing Agreement (or any refinancing thereof) shall contain an exception to allow the Incurrence of Indebtedness to pay taxes;

(xvi) Indebtedness Incurred pursuant to the Banobras Facility;

(xvii) Indebtedness of the Company and/or any of its Restricted Subsidiaries Incurred and/or issued to refinance Qualified Receivables Transactions in existence on the Issue Date;

(xviii) Acquired Indebtedness in an aggregate amount at any one time outstanding under this clause (xviii) not to exceed U.S.$100 million; and

(xix) (A) any Indebtedness that constitutes an Investment that the Company and/or any of its Restricted Subsidiaries is contractually committed to Incur as of the Issue Date in any Person (other than a Subsidiary) in which the Company or any of its Restricted Subsidiaries maintains an Investment in equity securities; and (B) Guarantees up to U.S.$100 million in any calendar year by the Company and/or any Restricted

Subsidiary of Indebtedness of any Person in which the Company or any of its Restricted Subsidiaries maintains an equity Investment minus any Investment other than such guarantees in such Person during such calendar year pursuant to clause (17)(b) of the definition of "Permitted Investments."

(c) Notwithstanding anything to the contrary contained in this Section 3.9,

(i) The Company shall not, and shall not permit any Note Guarantor to, Incur any Indebtedness pursuant to this Section 3.9 if the proceeds thereof are used, directly or indirectly, to Refinance any Subordinated Indebtedness unless such Indebtedness shall be subordinated to the Notes or the applicable Note Guarantee, as the case may be, to at least the same extent as such Subordinated Indebtedness.

(ii) For purposes of determining compliance with, and the outstanding principal amount of, any particular Indebtedness Incurred pursuant to and in compliance with this Section 3.9, the amount of Indebtedness issued at a price that is less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined in accordance with GAAP. Accrual of interest, the accretion or amortization of original issue discount, the payment of regularly scheduled interest in the form of additional Indebtedness of the same instrument or the payment of regularly scheduled dividends on Disqualified Capital Stock in the form of additional Disqualified Capital Stock with the same terms will not be deemed to be an Incurrence of Indebtedness for purposes of this Section 3.9. For purposes of determining compliance with this Section 3.9, mark-to-market fluctuations of hedging obligations or derivatives outstanding on the Issue Date shall not constitute Incurrence of Indebtedness.

(iii) For purposes of determining compliance with this Section 3.9, the principal amount of Indebtedness denominated in foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; *provided* that if such Indebtedness is Incurred to refinance other Indebtedness denominated in foreign currency, and such refinancing would cause the applicable restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such restriction shall be deemed not to have been exceeded so long as the principal amount of such Refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced. Notwithstanding any other provision of this Section 3.9, the maximum amount of Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the

currency exchange rate applicable to the currencies in which such Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

(iv) For purposes of determining compliance with this Section 3.9:

(A) in the event that an item of Indebtedness meets the criteria of more than one of the types of Indebtedness described above, including, without limitation, in Section 3.9(a), the Company, in its sole discretion, will classify such item of Indebtedness at the time of Incurrence and only be required to include the amount and type of such Indebtedness in one of the above clauses and may later reclassify all or a portion of such item of Indebtedness as having been Incurred pursuant to any other clause to the extent such Indebtedness could be Incurred pursuant to such clause at the time of such reclassification; and

(B) the Company will be entitled to divide and classify an item of Indebtedness in more than one of the types of Indebtedness described above, including, without limitation, Section 3.9(a).

Section 3.10 [Reserved].

Section 3.11 Limitation on Restricted Payments.

(a) The Company will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, take any of the following actions (each, a "Restricted Payment"):

(i) declare or pay any dividend or return of capital or make any distribution on or in respect of shares of Capital Stock of the Company or any Restricted Subsidiary to holders of such Capital Stock, other than:

(A) dividends, distributions or returns on capital payable in Qualified Capital Stock of the Company,

(B) dividends, distributions or returns on capital payable to the Company and/or a Restricted Subsidiary,

(C) dividends, distributions or returns of capital made on a *pro rata* basis to the Company and its Restricted Subsidiaries, on the one hand, and minority holders of Capital Stock of a Restricted Subsidiary, on the other hand (or on less than a *pro rata* basis to any minority holder);

(ii) purchase, redeem or otherwise acquire or retire for value:

(A) any Capital Stock of the Company, or

(B) any Capital Stock of any Restricted Subsidiary held by an Affiliate of the Company or any Preferred Stock of a Restricted Subsidiary, except for:

(1) Capital Stock held by the Company or a Restricted Subsidiary, or

(2) purchases, redemptions, acquisitions or retirements for value of Capital Stock on a *pro rata* basis from the Company and/or any Restricted Subsidiaries, on the one hand, and minority holders of Capital Stock of a Restricted Subsidiary, on the other hand, according to their respective percentage ownership of the Capital Stock of such Restricted Subsidiary;

(iii) make any principal payment on, purchase, defease, redeem, prepay, decrease or otherwise acquire or retire for value, prior to any scheduled final maturity, scheduled repayment or scheduled sinking fund payment, as the case may be, any Subordinated Indebtedness or

(iv) make any Investment (other than Permitted Investments);

if at the time of the Restricted Payment immediately after giving effect thereto:

(A) a Default or an Event of Default shall have occurred and be continuing;

(B) the Company is not able to Incur at least U.S.$1.00 of additional Indebtedness pursuant to Section 3.9(a); or

(C) the aggregate amount (the amount expended for these purposes, if other than in cash, being the Fair Market Value of the relevant property at the time of the making thereof) of the proposed Restricted Payment and all other Restricted Payments made subsequent to the Issue Date up to the date thereof, less any Investment Return calculated as of the date thereof, shall exceed the sum of:

(1) 50% of cumulative Consolidated Net Income of the Company or, if cumulative Consolidated Net Income of the Company is a loss, minus (i) 100% of the loss, accrued during the period, treated as one accounting period, beginning on the first full fiscal quarter after the Issue Date to the end of the most recent fiscal quarter for which consolidated financial information of the Company is available and (ii) the amount of cash benefits to the Company or a Restricted Subsidiary that is netted against Investments in Similar Businesses pursuant to clause (12) of the definition of "Permitted Investments"; plus

(2) 100% of the aggregate net cash proceeds received by the Company from any Person from any:

- contribution to the equity capital of the Company (not representing an interest in Disqualified Capital Stock) or issuance and sale of Qualified Capital Stock of the Company, in each case, subsequent to the Issue Date, or
- issuance and sale subsequent to the Issue Date (and, in the case of Indebtedness of a Restricted Subsidiary, at such time as it was a Restricted Subsidiary) of any Indebtedness for borrowed money of the Company or any Restricted Subsidiary that has been converted into or exchanged for Qualified Capital Stock of the Company,

excluding, in each case, any net cash proceeds:

- received from a Subsidiary of the Company;
- used to redeem Notes under Article V;
- used to acquire Capital Stock or other assets from an Affiliate of the Company; or
- applied in accordance with clause (ii)(B) or (iii)(A) of Section 3.11(b) below.

(b) Notwithstanding Section 3.11(a), this Section 3.11 does not prohibit:

(i) the payment of any dividend within 60 days after the date of declaration of such dividend if the dividend would have been permitted on the date of declaration pursuant to Section 3.11(a);

(ii) if no Default or Event of Default shall have occurred and be continuing, the acquisition of any shares of Capital Stock of the Company,

(A) in exchange for Qualified Capital Stock of the Company, or

(B) through the application of the net cash proceeds received by the Company from a substantially concurrent sale of Qualified Capital Stock of the Company or a contribution to the equity capital of the Company not representing an interest in Disqualified Capital Stock, in each case not received from a Subsidiary of the Company;

provided that the value of any such Qualified Capital Stock issued in exchange for such acquired Capital Stock and any such net cash proceeds shall be excluded from Section 3.11(a)(iv)(C)(2) (and were not included therein at any time);

(iii) if no Default or Event of Default shall have occurred and be continuing, the voluntary prepayment, purchase, defeasance, redemption or other acquisition or retirement for value of any Subordinated Indebtedness:

(A) solely in exchange for, or through the application of net cash proceeds of a substantially concurrent sale, other than to a Subsidiary of the Company, of Qualified Capital Stock of the Company, or

(B) solely in exchange for Refinancing Indebtedness for such Subordinated Indebtedness,

provided that the value of any Qualified Capital Stock issued in exchange for Subordinated Indebtedness and any net cash proceeds referred to above shall be excluded from Section 3.11(a)(iv)(C)(2) (and were not included therein at any time);

(iv) repurchases by the Company of Common Stock of the Company or options, warrants or other securities exercisable or convertible into Common Stock of the Company from employees or directors of the Company or any of its Subsidiaries or their authorized representatives upon the death, disability or termination of employment or directorship of the employees or directors, in an amount not to exceed U.S.$5 million in any calendar year and any repurchases other than in connection with compensation of Common Stock of the Company pursuant to binding written agreements in effect on the Issue Date;

(v) payments of dividends on Disqualified Capital Stock issued pursuant to the covenant described under Section 3.9; *provided, however*, that such dividends shall be excluded in the calculation of the amount of Restricted Payments;

(vi) non-cash repurchases of Capital Stock deemed to occur upon exercise of stock options, warrants or other similar rights if such Capital Stock represents a portion of the exercise price of such options, warrants or other similar rights;

(vii) cash payments in lieu of the issuance of fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock of the Company;

(viii) purchases of any Subordinated Indebtedness of the Company (A) at a purchase price not greater than 101% of the principal amount thereof (together with accrued and unpaid interest) in the event of the occurrence of a Change of Control or (B) at a purchase price not greater than 100% of the principal amount thereof (together with accrued and unpaid interest) in the event of an Asset Sale in accordance with provisions similar to those set forth under Section 3.12 *provided, however*, that prior to such purchase of any such Subordinated Indebtedness, the Company has made the Change of Control Offer as provided under Section 3.8 or Section 3.12, respectively, and has purchased all Notes validly tendered and not properly withdrawn pursuant thereto;

(ix) recapitalization of earnings on or in respect of the Qualified Capital Stock of the Company pursuant to which additional Qualified Capital Stock of the Company or the right to subscribe for additional Capital Stock of the Company is issued to the existing shareholders of the Company on a *pro rata* basis (which, for the avoidance of doubt, shall not allow any payment in cash to be made in respect of Qualified Capital Stock of the Company pursuant to this clause (ix)); and

(x) so long as (A) no Default or Event of Default shall have occurred and be continuing (or result therefrom) and (B) the Company could Incur at least US$1.00 of additional Debt pursuant to Section 3.11(a), payment of any dividends on Capital Stock (other than Disqualified Capital Stock) of the Company in an aggregate amount which, when taken together with all dividends paid pursuant to this clause (x), does not exceed U.S.$50 million in any calendar year; *provided* that such dividends shall be included in the calculation of the amount of Restricted Payments.

(xi) [Reserved]

In determining the aggregate amount of Restricted Payments made subsequent to the Issue Date, amounts expended pursuant to clauses (i) (without duplication for the declaration of the relevant dividend), (iv), (viii) and (x) above shall be included in such calculation and amounts expended pursuant to clauses (ii), (iii), (v), (vi), (vii) and (ix) above shall not be included in such calculation.

Section 3.12 Limitation on Asset Sales.

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(i) the Company or the applicable Restricted Subsidiary, as the case may be, receives consideration at the time of the Asset Sale at least equal to the Fair Market Value (to be determined as of the date on which such sale is contracted) of the assets sold or otherwise disposed of, and

(ii) other than in respect of Permitted Asset Swap Transactions, at least 80% of the consideration received for the assets sold by the Company or the Restricted Subsidiary, as the case may be, in the Asset Sale shall be in the form of cash or Cash Equivalents received at the time of such Asset Sale; *provided, however*, for the purposes of this clause (ii), the following are also deemed to be cash or Cash Equivalents:

(A) the assumption of Indebtedness (other than Subordinated Indebtedness) of the Company or any Restricted Subsidiary and the release of the Company or such Restricted Subsidiary from all liability on such Indebtedness in connection with such Asset Sale;

(B) any securities, notes or obligation received by the Company or any Restricted Subsidiary from the transferee that are, within 180 days after the Asset Sale, converted by the Company or such Restricted Subsidiary into cash, to the extent of cash received in that conversion;

(C) Capital Stock of a Person who is or who, after giving effect to such Asset Sale, becomes, a Restricted Subsidiary; and

(D) any Designated Non-cash Consideration received by the Company or such Restricted Subsidiary in connection with such Asset Sale having an aggregate Fair Market Value which, when taken together with the Fair Market Value of all other Designated Non-cash Consideration received pursuant to this clause (D) since the Issue Date, does not exceed the sum of (1) 3.0% of Consolidated Tangible Assets of the Company calculated as of the end of the most recent fiscal quarter for which consolidated financial information is available (with the Fair Market Value of each item of Designated Non-cash Consideration being measured as of the date it was received and without giving effect to subsequent changes in value of any such item of Designated Non-cash Consideration) and (2) the amount of cash or Cash Equivalents received in connection with a subsequent sale of such Designated Non-cash Consideration.

(b) The Company or any Restricted Subsidiary may apply the Net Cash Proceeds of any such Asset Sale within 365 days thereof to:

(i) repay any Senior Indebtedness for borrowed money or constituting a Capitalized Lease Obligation and permanently reduce the commitments with respect thereto, or

(ii) purchase:

(A) assets (except for current assets as determined in accordance with GAAP or Capital Stock) to be used by the Company or any Restricted Subsidiary in a Permitted Business, or

(B) substantially all of the assets of a Permitted Business or Capital Stock of a Person engaged in a Permitted Business that will become, upon purchase, a Restricted Subsidiary from a Person other than the Company and its Restricted Subsidiaries.

(c) To the extent all or a portion of the Net Cash Proceeds of any Asset Sale are not applied within the 365 days of the Asset Sale as described in clause (i) or (ii) of Section 3.12(b), the Company will make an offer to purchase Notes (the " Asset Sale Offer"), at a purchase price equal to 100% of the principal amount of the Notes to be purchased, plus accrued and unpaid interest thereon, to the date of purchase (the " Asset Sale Offer Amount"). The Company will purchase pursuant to an Asset Sale Offer from all tendering Holders on a *pro rata* basis, and, at the Company's option, on a *pro rata* basis with the holders of any other Senior Indebtedness with similar provisions requiring the Company to offer to purchase the other Senior Indebtedness with the proceeds of Asset Sales, that principal amount (or accreted value in the case of Indebtedness issued with original issue discount) of Notes and the other Senior Indebtedness to be purchased equal to such unapplied Net Cash Proceeds. The Company may satisfy its obligations under this Section 3.12 with respect to the Net Cash Proceeds of an Asset Sale by making an Asset Sale Offer prior to the expiration of the relevant 365-day period.

(d) Pending the final application of any Net Cash Proceeds pursuant to this Section 3.12, the holder of such Net Cash Proceeds may apply such Net Cash Proceeds temporarily to reduce Indebtedness outstanding under a revolving credit facility or otherwise invest such Net Cash Proceeds in any manner not prohibited by this Indenture.

(e) The purchase of Notes pursuant to an Asset Sale Offer shall occur not less than 20 Business Days following the date thereof, or any longer period as may be required by law, nor more than 45 days following the 365th day following the Asset Sale. The Company may, however, defer an Asset Sale Offer until there is an aggregate amount of unapplied Net Cash Proceeds from one or more Asset Sales equal to or in excess of U.S.$100 million. At that time, the entire amount of unapplied Net Cash Proceeds, and not just the amount in excess of U.S.$100 million, shall be applied as required pursuant to this Section 3.12.

(f) Each Asset Sale Offer Notice shall be mailed first class, postage prepaid, to the record Holders as shown on the Note Register within 20 days following such 365th day (or such earlier date as the Company shall have elected to make such Asset Sale Offer), with a copy to the Trustee offering to purchase the Notes as described above. Each notice of an Asset Sale Offer shall state, among other things, the purchase date, which must be no earlier than 30 days

nor later than 60 days from the date the notice is mailed, other than as may be required by law (the " Asset Sale Offer Payment Date"). Upon receiving notice of an Asset Sale Offer, Holders may elect to tender their Notes in whole or in part, in minimum denominations of U.S.$100,000 and any integral multiple of U.S.$1,000 in excess thereof, in exchange for cash.

(g) On the Asset Sale Offer Payment Date, the Company shall, to the extent lawful:

(i) accept for payment all Notes or portions thereof properly tendered pursuant to the Asset Sale Offer;

(ii) deposit with the Paying Agent funds in an amount equal to the Asset Sale Offer Amount in respect of all Notes or portions thereof so tendered; and

(iii) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof being purchased by the Company.

(h) To the extent holders of Notes and holders of other Senior Indebtedness, if any, which are the subject of an Asset Sale Offer properly tender and do not withdraw Notes or the other Senior Indebtedness in an aggregate amount exceeding the amount of unapplied Net Cash Proceeds, the Company shall purchase the Notes and the other Senior Indebtedness on a *pro rata* basis (based on amounts tendered). If only a portion of a Note is purchased pursuant to an Asset Sale Offer, a new Note in a principal amount equal to the portion thereof not purchased shall be issued in the name of the holder thereof upon cancellation of the original Note (or appropriate adjustments to the amount and beneficial interests in a global note shall be made, as appropriate). Notes (or portions thereof) purchased pursuant to an Asset Sale Offer shall be cancelled and cannot be reissued.

(i) The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other applicable securities laws in connection with the purchase of Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any applicable securities laws or regulations conflict with this Section 3.12, the Company shall comply with these laws and regulations and shall not be deemed to have breached its obligations under the "Asset Sale" provisions of this Indenture by doing so.

(j) Upon completion of an Asset Sale Offer, the amount of Net Cash Proceeds shall be reset at zero. Accordingly, to the extent that the aggregate amount of Notes and other Indebtedness tendered pursuant to an Asset Sale Offer is less than the aggregate amount of unapplied Net Cash Proceeds, the Company may use any remaining Net Cash Proceeds for general corporate purposes of the Company and its Restricted Subsidiaries.

(k) In the event of the transfer of substantially all (but not all) of the property and assets of the Company and its Restricted Subsidiaries as an entirety to a Person in a transaction permitted under Article IV, the Successor Company shall be deemed to have sold the properties and assets of the Company and its Restricted Subsidiaries not so transferred for purposes of this Section 3.12, and shall comply with the provisions of this Section 3.12 with

respect to the deemed sale as if it were an Asset Sale. In addition, the Fair Market Value of properties and assets of the Company or its Restricted Subsidiaries so deemed to be sold shall be deemed to be Net Cash Proceeds for purposes of this Section 3.12.

(l) If at any time any non-cash consideration received by the Company or any Restricted Subsidiary, as the case may be, in connection with any Asset Sale, is converted into or sold or otherwise disposed of for cash (other than interest received with respect to any non-cash consideration), the conversion or disposition shall be deemed to constitute an Asset Sale hereunder and the Net Cash Proceeds thereof shall be applied in accordance with this Section 3.12 within 365 days of conversion or disposition.

Section 3.13 Limitation on the Ownership of Capital Stock of Restricted Subsidiaries. The Company shall not permit any Person other than the Company or another Restricted Subsidiary to, directly or indirectly, own or control any Capital Stock of any Restricted Subsidiary, except for:

(i) Capital Stock owned by such Person on the Issue Date;

(ii) directors' qualifying shares;

(iii) the sale or Disposition of 100% of the shares of the Capital Stock of any Restricted Subsidiary (other than the Issuer) held by the Company and its Restricted Subsidiaries to any Person other than the Company or another Restricted Subsidiary effected in accordance with, as applicable, Section 3.12 and Article IV;

(iv) in the case of a Restricted Subsidiary other than a Restricted Subsidiary that is a Wholly Owned Subsidiary,

(A) the issuance by that Restricted Subsidiary of Capital Stock on a *pro rata* basis to the Company and its Restricted Subsidiaries, on the one hand, and minority holders of Capital Stock of such Restricted Subsidiary, on the other hand (or on less than a *pro rata* basis to any minority holder); or

(B) sales, transfers and other dispositions of Capital Stock in a Restricted Subsidiary to the extent required by, or made pursuant to, buy/sell, put/call or similar shareholder arrangements set forth in binding agreements in effect on the Issue Date; and

(v) the sale of Capital Stock of a Restricted Subsidiary (other than the Issuer) by the Company or another Restricted Subsidiary or the sale or issuance by a Restricted Subsidiary of its newly-issued Capital Stock if such sale or issuance is made in compliance with Section 3.12 and either:

(A) such Restricted Subsidiary is no longer a Subsidiary, and the continuing Investment of the Company and its Restricted Subsidiaries in such former Restricted Subsidiary is in compliance with Section 3.11, or

(B) such Restricted Subsidiary continues to be a Restricted Subsidiary.

Section 3.14 Limitation on Designation of Unrestricted Subsidiaries .

(a) The Company may designate after the Issue Date any Subsidiary of the Company other than the Issuer or a Note Guarantor as an Unrestricted Subsidiary under this Indenture (a "Designation") only if:

(i) no Default or Event of Default shall have occurred and be continuing at the time of or after giving effect to such Designation and any transactions between the Company or any of its Restricted Subsidiaries and such Unrestricted Subsidiary are in compliance with Section 3.18

(ii) at the time of and after giving effect to such Designation, the Company could Incur U.S.$1.00 of additional Indebtedness pursuant to Section 3.9(a);

(iii) the Company would be permitted to make an Investment at the time of Designation (assuming the effectiveness of such Designation and treating such Designation as an Investment at the time of Designation) as a Restricted Payment pursuant to Section 3.11(a) in an amount (the "Designation Amount") equal to the amount of the Company's Investment in such Subsidiary on such date; and

(iv) the terms of any Affiliate Transaction existing on the date of such Designation between the Subsidiary being Designated (and its Subsidiaries) and the Company or any Restricted Subsidiary would be permitted under Section 3.18 if entered into immediately following such Designation.

(b) Neither the Company nor any Restricted Subsidiary shall at any time:

(i) provide credit support for, subject any of its property or assets (other than the Capital Stock of any Unrestricted Subsidiary) to the satisfaction of, or Guarantee, any Indebtedness of any Unrestricted Subsidiary (including any undertaking, agreement or instrument evidencing such Indebtedness);

(ii) be directly or indirectly liable for any Indebtedness of any Unrestricted Subsidiary; or

(iii) be directly or indirectly liable for any Indebtedness which provides that the Holder thereof may (upon notice, lapse of time or both) declare a default thereon or cause the payment thereof to be accelerated or payable prior to its final scheduled maturity upon the occurrence of a default with respect to any Indebtedness of any Unrestricted Subsidiary.

(c) The Company may revoke any Designation of a Subsidiary as an Unrestricted Subsidiary (a " Revocation") only if:

(i) no Default or Event of Default shall have occurred and be continuing at the time of and after giving effect to such Revocation; and

(ii) all Liens and Indebtedness of such Unrestricted Subsidiary outstanding immediately following such Revocation, if Incurred at such time, would have been permitted to be Incurred for all purposes of this Indenture.

(d) The Designation of a Subsidiary of the Company as an Unrestricted Subsidiary shall be deemed to include the Designation of all of the Subsidiaries of such Subsidiary. All Designations and Revocations must be evidenced by an Officer's Certificate of the Issuer, delivered to the Trustee certifying compliance with the preceding provisions.

Section 3.15 Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries .

(a) Except as provided in clause (b) below, the Company shall not, and shall not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(i) pay dividends or make any other distributions on or in respect of its Capital Stock to the Company or any other Restricted Subsidiary or pay any Indebtedness owed to the Company or any other Restricted Subsidiary;

(ii) make loans or advances to, or make any Investment in, the Company or any other Restricted Subsidiary; or

(iii) transfer any of its property or assets to the Company or any other Restricted Subsidiary.

(b) Section 3.15(a) shall not apply to encumbrances or restrictions existing under or by reason of:

(i) applicable law, rule, regulation or order;

(ii) this Indenture;

(iii) any encumbrance or restriction pursuant to an agreement in effect at or entered into on the Issue Date, and any amendments, restatements, renewals, replacements or refinancings thereof; *provided* that any

amendment, restatement, renewal, replacement or refinancing is not materially more restrictive with respect to such encumbrances or restrictions than those in existence on the Issue Date as determined in good faith by the Company's senior management;

(iv) customary non-assignment provisions of any contract and customary provisions restricting assignment or subletting in any lease governing a leasehold interest of any Restricted Subsidiary, or any customary restriction on the ability of a Restricted Subsidiary to dividend, distribute or otherwise transfer any asset which secures Indebtedness secured by a Lien, in each case permitted to be Incurred under this Indenture;

(v) any instrument governing Acquired Indebtedness not Incurred in connection with, or in anticipation or contemplation of, the relevant acquisition, merger or consolidation, which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person or the properties or assets of the Person so acquired;

(vi) restrictions with respect to a Restricted Subsidiary of the Company imposed pursuant to a binding agreement which has been entered into for the sale or disposition of Capital Stock or assets of such Restricted Subsidiary; *provided* that such restrictions apply solely to the Capital Stock or assets of such Restricted Subsidiary being sold (and in the case of Capital Stock, its Subsidiaries);

(vii) customary restrictions imposed on the transfer of copyrighted or patented materials;

(viii) an agreement governing Indebtedness Incurred to Refinance the Indebtedness issued, assumed or Incurred pursuant to an agreement referred to in clause (iii) or (v) of this Section 3.15(b); *provided* that such Refinancing agreement is not materially more restrictive with respect to such encumbrances or restrictions than those contained in the agreement referred to in such clause (iii) or (v) as determined in good faith by the Company's senior management;

(ix) Liens permitted to be Incurred pursuant to the provisions of the covenant described under Section 3.17 that limit the right of any person to transfer the assets subject to such Liens;

(x) Purchase Money Indebtedness for property acquired in the ordinary course of business and Capitalized Lease Obligations that impose restrictions of the nature discussed in clause (iii) of this Section 3.15(b) above on the property so acquired;

(xi) restrictions on cash or other deposits imposed by customers under contracts or other arrangements entered into or agreed to in the ordinary course of business not materially more restrictive than those existing on the Issue Date as determined in good faith by the Company's senior management;

(xii) customary provisions in joint venture agreements relating to dividends or other distributions in respect of such joint venture or the securities, assets or revenues of such joint venture;

(xiii) restrictions in Indebtedness Incurred by a Restricted Subsidiary in compliance with the covenant described under Section 3.9; *provided* that such restrictions (A) are not materially more restrictive with respect to such encumbrances and restrictions than those such Restricted Subsidiary was subject to in agreements related to obligations referenced in clause (iii) above as determined in good faith by the Company's senior management or (B) constitute financial covenants or similar restrictions that limit the ability to pay dividends or make distributions upon the occurrence or continuance of a default or event of default or that would result in a default or event of default under such Indebtedness upon the declaration or payment of dividends or other distributions; and

(xiv) net worth provisions in leases entered into by the Company or any Restricted Subsidiary in the ordinary course of business not materially more restrictive than those existing on the Issue Date as determined in good faith by the Company's senior management.

Section 3.16 Limitation on Layered Indebtedness. The Company shall not, and shall not permit the Issuer or any other Note Guarantor to, directly or indirectly, Incur any Indebtedness that is subordinate in right of payment to any other Indebtedness, unless such Indebtedness is expressly subordinate in right of payment to the Notes or, in the case of a Note Guarantor, its Note Guarantee, to the same extent, on the same terms and for so long (except as a result of the provisions of the Intercreditor Agreement applicable to Financing Agreement Indebtedness and any refinancing thereof) as such Indebtedness is subordinate to such other Indebtedness.

Section 3.17 Limitation on Liens. The Company shall not, and shall not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, incur, grant, assume or suffer to exist any Liens of any kind (except for Permitted Liens) (a) against or upon any of their respective properties or assets, whether owned on the Issue Date or acquired after the Issue Date, or any proceeds therefrom, to secure any Indebtedness or trade payables or (b) deemed to exist in respect of Capitalized Lease Obligations (including any Capitalized Lease Obligations in respect of Sale and Leaseback Transactions), in each case unless contemporaneously therewith effective provision is made:

(i) in the case of any Restricted Subsidiary that is not a Note Guarantor, to secure the Notes and all other amounts due under this Indenture; and

(ii) in the case of a Note Guarantor, to secure such Note Guarantor's Note Guarantee of the Notes and all other amounts due under this Indenture,

in each case, equally and ratably with such Indebtedness or other obligation (or, in the event that such Indebtedness is subordinated in right of payment to the Notes or such Note Guarantee, as the case may be, prior to such Indebtedness or other obligation) with a Lien on the same properties and assets securing such Indebtedness or other obligation for so long as such Indebtedness or other obligation is secured by such Lien.

Section 3.18 Limitation on Transactions with Affiliates.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into any transaction or series of related transactions (including, without limitation, the purchase, sale, lease or exchange of any property or the rendering of any service) with, or for the benefit of, any Affiliate of the Company (each an "Affiliate Transaction"), unless the terms of such Affiliate Transaction are no less favorable than those that could reasonably be expected to be obtained in a comparable transaction at such time on an arm's-length basis from a Person that is not an Affiliate of the Company;

(b) The provisions of Section 3.18(a) above shall not apply to:

(i) Affiliate Transactions with or among the Company and any Restricted Subsidiary or between or among Restricted Subsidiaries;

(ii) reasonable fees and compensation paid to, and any indemnity provided on behalf of, officers, directors, employees, consultants or agents of the Company or any Restricted Subsidiary as determined in good faith by the Company's Board of Directors or, to the extent consistent with past practice, senior management;

(iii) Affiliate Transactions undertaken pursuant to any contractual obligations or rights in existence on the Issue Date (as in effect on the Issue Date with modifications, extensions and replacements thereof not materially adverse to the Company and its Restricted Subsidiaries) as determined in good faith by the Company's senior management;

(iv) any Restricted Payments in compliance with Section 3.11;

(v) payments and issuances of Qualified Capital Stock to any officers, directors and employees of the Company or any Restricted Subsidiary pursuant to any management equity plan or stock option plan or any other stock subscription or shareholder agreement, and any employment agreements, stock option plans or other compensatory arrangements (and any successor plans thereto) and any supplemental executive retirement benefit plans or arrangements with any such

officers, directors or employees that are, in each case, approved in good faith by the Board of Directors or, to the extent consistent with past practice, senior management of the Company;

(vi) loans and advances to officers, directors and employees of the Company or any Restricted Subsidiary for travel, entertainment, moving and other relocation expenses, in each case made in the ordinary course of business in amounts consistent with the past practice of the Company or such Restricted Subsidiary; and

(vii) loans made by the Company or any Restricted Subsidiary to employees or directors in an aggregate amount not to exceed U.S.$15 million (or its equivalent in another currency) at any time outstanding.

Section 3.19 Conduct of Business. The Company and its Restricted Subsidiaries shall not engage in any business other than a Permitted Business.

Section 3.20 Reports to Holders.

(a) Notwithstanding that the Company may not be subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, so long as any Notes remain outstanding, the Company shall:

(i) provide the Trustee and the Holders with:

(A) annual reports on Form 20-F (or any successor form) containing the information required to be contained therein (or such successor form) within the time period required under the rules of the Commission for the filing of Form 20-F (or any successor form) by "foreign private issuers" (as defined in Rule 3b-4 of the Exchange Act (or any successor rule));

(B) reports on Form 6-K (or any successor form) including, whether or not required, unaudited quarterly financial statements (which shall include at least a balance sheet, income statement and cash flow statement) including a discussion of financial condition and results of operations of the Company in accordance with past practice, within 45 days after the end of each of the first three fiscal quarters of each fiscal year;

(C) such other reports on Form 6-K (or any successor form) promptly from time to time after the occurrence of an event that would be required to be reported on a Form 6-K (or any successor form); and

(D) in case the Company continues to apply Mexican Financial Reporting Standards as in effect on September 30, 2009 for purposes of calculations under this Indenture (and not for purposes of the financial statements provided pursuant to (A) and (B)

above), no later than when due under (A) and (B), respectively, (1) a description of the differences between accounting principles in the financial statements provided pursuant to (A) or (B) above and used for calculations under this Indenture and (2) a quantitative reconciliation *provided, however*, that such description and reconciliation shall only be provided to the extent material to the calculation of any amounts under this Indenture; and

(ii) file with the Commission, to the extent permitted, the information, documents and reports referred to in clause (i) within the periods specified for such filings under the Exchange Act (whether or not applicable to the Company).

(b) In addition, at any time when the Company is not subject to or is not current in its reporting obligations under clause (ii) of Section 3.20(a), the Company shall make available, upon request, to any Holder and any prospective purchaser of Notes the information required pursuant to Rule 144A(d)(4) under the Securities Act. So long as the Notes are listed on the Official List of the Luxembourg Stock Exchange and admitted to trading on the Euro MTF market, the Company shall make available the information specified in Section 3.20(a) at the specified office of the Paying Agent for the Notes in Luxembourg.

(c) Notwithstanding anything in this Indenture to the contrary, the Company shall not be deemed to have failed to comply with any of its obligations hereunder for purposes of clause (iv) of Section 6.1(a) or for any other purpose hereunder until 75 days after the date any report hereunder is due.

(d) Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such reports shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

Section 3.21 Listing.

(a) In the event that the Notes are listed on Euro MTF, the alternative market of the Luxembourg Stock Exchange, the Issuer shall use its best efforts to maintain such listing; *provided* that if, as a result of the European Union regulated market amended Directive 2001/34/EC (the " Transparency Directive") or any legislation implementing the Transparency Directive the Issuer could be required to publish financial information either more regularly than it otherwise would be required to or according to accounting principles which are materially different from the accounting principles which the Issuer would otherwise use to prepare its published financial information, the Issuer may delist the Notes from the Euro MTF in accordance with the rules of the Luxembourg Stock Exchange and seek an alternative admission to listing, trading and/or quotation for the Note on a different section of the Luxembourg Stock Exchange or by such other listing authority, stock exchange and/or quotation system inside or outside the European Union as the Issuer may reasonably decide.

(b) From and after the date the Notes are listed on the Euro MTF, the alternative market of the Luxembourg Stock Exchange, and so long as it is required by the rules of such exchange, all notices to the Holders shall be published in English in accordance with Section 12.1(b).

Section 3.22 Payment of Additional Amounts .

(a) All payments made by the Issuer or the Note Guarantors under, or with respect to, the Notes shall be made free and clear of, and without withholding or deduction for or on account of any present or future tax, duty, levy, impost, assessment or other governmental charge (including penalties, interest and other liabilities related thereto) (collectively, "Taxes") imposed or levied by or on behalf of any government or jurisdiction (a " Taxing Jurisdiction") unless the Issuer or such Note Guarantor, as the case may be, is required to withhold or deduct Taxes by law or by the official interpretation or administration thereof.

(b) If the Issuer or any Note Guarantor is so required to withhold or deduct any amount for, or on account of, such Taxes from any payment made under or with respect to the Notes, the Issuer or such Note Guarantor, as the case may be, shall pay such additional amounts (" Additional Amounts") as may be necessary so that the net amount received by each Holder (including Additional Amounts) after such withholding or deduction shall not be less than the amount such Holder would have received if such Taxes had not been required to be withheld or deducted; *provided, however*, that the foregoing obligation to pay Additional Amounts does not apply to:

(i) any Taxes imposed solely because at any time there is or was a connection between the Holder and a Taxing Jurisdiction (other than the mere purchase of the Notes, or receipt of a payment or the ownership or holding of a Note),

(ii) any estate, inheritance, gift, sales, transfer, personal property or similar Tax imposed with respect to the Notes,

(iii) any Taxes imposed solely because the Holder or any other person fails to comply with any certification, identification or other reporting requirement concerning the nationality, residence, identity or connection with a Taxing Jurisdiction of the Holder or any beneficial owner of the Note if compliance is required by the applicable law of the Taxing Jurisdiction as a precondition to exemption from, or reduction in the rate of, the tax, assessment or other governmental charge and we have given the Holders at least 30 days' notice that Holders shall be required to provide such information and identification,

(iv) any Taxes payable otherwise than by deduction or withholding from payments on the Notes,

(v) any Taxes with respect to such Note presented for payment more than 30 days after the date on which the payment became due and payable

or the date on which payment thereof is duly provided for and notice thereof given to Holders, whichever occurs later, except to the extent that the Holders of such Note would have been entitled to such Additional Amounts on presenting such Note for payment on any date during such 30 day period, and

(vi) any payment on the Note to a Holder that is a fiduciary or partnership or a person other than the sole beneficial owner of any such payment, to the extent that a beneficiary or settlor with respect to such fiduciary, a member of such a partnership or the beneficial owner of the payment would not have been entitled to the Additional Amounts had the beneficiary, settlor, member or beneficial owner been the Holder of the Note.

(c) The obligations in Section 3.22(a) and Section 3.22(b) shall survive any termination or discharge of this Indenture and shall apply mutatis mutandis to any Taxing Jurisdiction with respect to any successor to the Issuer or any Note Guarantor, as the case may be. The Issuer or such Note Guarantor, as applicable, shall (i) make such withholding or deduction and (ii) remit the full amount deducted or withheld to the relevant Taxing Jurisdiction in accordance with applicable law. The Issuer or such Note Guarantor, as applicable, shall use all reasonable efforts to obtain certified copies of tax receipts evidencing the payment of any Taxes so deducted or withheld from each Taxing Jurisdiction imposing such Taxes and shall furnish such certified copies to the Trustee within 30 days after the date the payment of any Taxes so deducted or so withheld is due pursuant to applicable law or, if such tax receipts are not reasonably available to the Issuer, furnish such other documentation that provides reasonable evidence of such payment by the Issuer.

(d) In addition, clause (iii) of Section 3.22(b) does not require that any person, including any non-Mexican pension fund, retirement fund or financial institution, register with the Ministry of Finance and Public Credit to establish eligibility for an exemption from, or a reduction of, Mexican withholding tax.

(e) Any reference in this Indenture, any supplemental indenture or the Notes to principal, premium, interest or any other amount payable in respect of the Notes by the Issuer shall be deemed also to refer to any Additional Amount that may be payable with respect to that amount under the obligations referred to in this subsection.

(f) In the event that Additional Amounts actually paid with respect to the Notes pursuant to this Section 3.22 are based on rates of deduction or withholding of withholding taxes in excess of the appropriate rate applicable to the Holder of such Notes, and as a result thereof such Holder is entitled to make a claim for a refund or credit of such excess from the authority imposing such withholding tax, then such Holder shall, by accepting such Notes, and without any further action, be deemed to have assigned and transferred all right, title and interest to any such claim for a refund or credit of such excess to us. However, by making such assignment, the Holder makes no representation or warranty that we shall be entitled to receive such claim for a refund or credit and incurs no other obligation with respect thereto.

Section 3.23 Suspension of Covenants.

(a) During any period of time that (i) the Notes have Investment Grade Ratings from two of the Rating Agencies and (ii) no Default or Event of Default has occurred and is continuing (the occurrence of the events described in the foregoing clauses (i) and (ii) being collectively referred to as a " Covenant Suspension Event"), the Company and its Restricted Subsidiaries shall not be subject to the provisions of this Indenture described under Sections 3.9, 3.10, 3.11, 3.12, 3.13, 3.14(b), 3.15, 3.16, 3.18, 3.19, 4.1(a)(ii) and 4.1(b)(ii) (collectively, the "Suspended Covenants").

(b) No Subsidiary that is a Restricted Subsidiary on the date of the occurrence of a Covenant Suspension Event (the " Suspension Date") may be redesignated as an Unrestricted Subsidiary during the Suspension Period.

(c) The Additional Note Guarantors shall be released from their obligation to guarantee the Notes.

(d) In the event that the Company and its Restricted Subsidiaries are not subject to the Suspended Covenants for any period of time as a result of the foregoing, and on any subsequent date (the "Reversion Date") the Notes do not have Investment Grade Ratings from at least two of the Rating Agencies, then the Company and its Restricted Subsidiaries shall thereafter again be subject to the Suspended Covenants and the Notes will again be guaranteed by the Additional Note Guarantors (unless, solely with respect to any Additional Note Guarantors, the conditions for release as described under Section 10.2 are otherwise satisfied during the Suspension Period). The Issuer shall cause such Additional Note Guarantor shall promptly executed and deliver to the Trustee a supplemental indenture hereto in form and substance reasonably satisfactory to the Trustee in accordance with the provisions of Article IX, evidencing that such Additional Note Guarantor's guarantee on substantially the terms set forth in Article X. The period of time between the Suspension Date and the Reversion Date is referred to as the "Suspension Period." Notwithstanding that the Suspended Covenants and the guarantees by the Additional Note Guarantors may be reinstated, no Default or Event of Default shall be deemed to have occurred as a result of a failure to comply with the Suspended Covenants during the Suspension Period (or upon termination of the Suspension Period or after that time based solely on events that occurred during the Suspension Period).

(e) On the Reversion Date, all Indebtedness Incurred during the Suspension Period shall be classified to have been Incurred pursuant to the Section 3.9(a) or Section 3.9(b) (to the extent such Indebtedness would be permitted to be Incurred thereunder as of the Reversion Date and after giving effect to Indebtedness Incurred prior to the Suspension Period and outstanding on the Reversion Date). To the extent such Indebtedness would not be so permitted to be Incurred pursuant to Section 3.9(a) or 3.9(b), such Indebtedness shall be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under clause (iv) of Section 3.9(b). Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Section 3.11 shall be made as though Section 3.11 had been in effect since the Issue Date and throughout the Suspension Period. The Issuer will give the Trustee written notice of any Covenant Suspension Event and in any event not later than five (5) Business Days after such Covenant Suspension Event has occurred. In the absence of such

notice, the Trustee shall assume the Suspended Covenants apply and are in full force and effect. The Issuer will give the Trustee written notice of any occurrence of a Reversion Date not later than five (5) Business Days after such Reversion Date. After any such notice of the occurrence of a Reversion Date, the Trustee shall assume the Suspended Covenants apply and are in full force and effect. Accordingly, Restricted Payments made during the Suspension Period will reduce the amount available to be made as Restricted Payments under Section 3.11(a).

ARTICLE IV

SUCCESSOR COMPANY

Section 4.1 Merger, Consolidation and Sale of Assets.

(a) The Issuer shall not, in a single transaction or series of related transactions, consolidate or merge with or into any Person (whether or not the Issuer is the surviving or continuing Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the Issuer's properties and assets, to any Person unless:

(i) either:

(A) the Issuer shall be the surviving or continuing corporation, or

(B) the Person (if other than the Issuer) formed by such consolidation or into which the Issuer is merged or the Person which acquires by sale, assignment, transfer, lease, conveyance or other disposition the properties and assets of the Issuer substantially as an entirety (the "Successor Issuer"):

(1) shall be a corporation organized and validly existing under the laws of Mexico, the United States of America, any State thereof or the District of Columbia, Canada, France, Belgium, Germany, Italy, Luxembourg, the Netherlands, Portugal, Spain, Switzerland or the United Kingdom, or any political subdivision thereof (the "Permitted Merger Jurisdictions"); and

(2) shall expressly assume, by supplemental indenture (in form and substance satisfactory to the Trustee), executed and delivered to the Trustee, the due and punctual payment of the principal of, and premium, if any, and interest on all of the Notes and the performance and observance of every covenant of the Notes and this Indenture on the part of the Issuer to be performed or observed and provide the Trustee with an Officer's Certificate and Opinion of Counsel, and such transaction is otherwise in compliance with this Indenture;

(ii) immediately after giving effect to such transaction and the assumption contemplated by clause (i)(B)(2) of this Section 4.1(a) (including giving effect on a pro forma basis to any Indebtedness, including any Acquired Indebtedness, Incurred or anticipated to be Incurred or discharged in connection with or in respect of such transaction):

(A) the Company shall have a Consolidated Fixed Charge Coverage Ratio that shall be not less than the Consolidated Fixed Charge Coverage Ratio of the Company immediately prior to such transaction; or

(B) the Issuer or such Successor Issuer, as the case may be, shall be able to Incur at least U.S.$1.00 of additional Indebtedness pursuant to Section 3.9(a);

(iii) immediately before and immediately after giving effect to such transaction and the assumption contemplated by clause (i)(B)(2) of this Section 4.1(a) (including, without limitation, giving effect on a pro forma basis to any Indebtedness, including any Acquired Indebtedness, Incurred or anticipated to be Incurred or discharged and any Lien granted in connection with or in respect of the transaction), no Default or Event of Default shall have occurred or be continuing;

(iv) in the case of a transaction resulting in a Successor Issuer, each Note Guarantor has confirmed by supplemental indenture that its Note Guarantee shall apply for Obligations of the Successor Issuer in respect of this Indenture and the Notes; and

(v) if the Issuer merges with a corporation, or the Successor Issuer is, organized under the laws of any of the Permitted Merger Jurisdictions, the Issuer or the Successor Issuer shall have delivered to the Trustee an Opinion of Counsel that, as applicable:

(A) the Holders of the Notes shall not recognize income, gain or loss for the purposes of the income tax laws of the United States or the applicable Permitted Merger Jurisdiction as a result of the transaction and shall be taxed in the Holder's home jurisdiction in the same manner and on the same amounts (assuming solely for this purpose that no Additional Amounts are regarded to be paid on the Notes) and at the same times as would have been the case if the transaction had not occurred;

(B) any payment of interest or principal under or relating to the Notes or any Guarantees shall be paid in compliance with any requirements under Section 3.22; and

(C) no other taxes on income, including capital gains, shall be payable by Holders of the Notes under the laws of the United States or the applicable Permitted Merger Jurisdiction relating to the acquisition, ownership or disposition of the Notes, including the receipt of interest or principal thereon; *provided* that the Holder

does not use or hold, and is not deemed to use or hold the Notes in carrying on a business in the United States or the applicable Permitted Merger Jurisdiction.

The provisions of clauses (ii) and (iii) of this Section 4.1(a) will not apply to:

(x) any transfer of the properties or assets of the Company or a Restricted Subsidiary to the Issuer;

(y) any merger of the Company or a Restricted Subsidiary into the Issuer; or

(z) any merger of the Issuer into the Company or a Wholly Owned Subsidiary of the Company.

For purposes of this Section 4.1, the transfer (by lease, assignment, sale or otherwise, in a single transaction or series of transactions) of all or substantially all of the properties or assets of one or more Restricted Subsidiaries of the Issuer, the Capital Stock of which constitutes all or substantially all of the properties and assets of the Company (determined on a consolidated basis for the Issuer and its Restricted Subsidiaries), shall be deemed to be the transfer of all or substantially all of the properties and assets of the Issuer.

The Successor Issuer will succeed to, and be substituted for, such Issuer under this Indenture and the Notes, as applicable. For the avoidance of doubt, compliance with this Section 4.1 will not affect the obligations of the Issuer (including a Successor Issuer, if applicable) under Section 3.8 if applicable.

(b) The Company will not, in a single transaction or series of related transactions, consolidate or merge with or into any Person (whether or not the Company is the surviving or continuing Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the Company's properties and assets (determined on a consolidated basis for the Company and its Restricted Subsidiaries), to any Person unless:

(i) either:

(A) the Company shall be the surviving or continuing corporation, or

(B) the Person (if other than the Company) formed by such consolidation or into which the Company is merged or the Person which acquires by sale, assignment, transfer, lease, conveyance or other disposition the properties and assets of the Company and the Restricted Subsidiaries substantially as an entirety (the "Successor Company"):

(1) shall be a corporation organized and validly existing under the laws of a Permitted Merger Jurisdictions; and

(2) shall expressly assume all of the Obligations of the Company under this Indenture, the Notes and the Company's Note Guarantee by executing a supplemental indenture and provide the Trustee with an Officer's Certificate and Opinion of Counsel, and such transaction is otherwise in compliance this Indenture;

(ii) immediately after giving effect to such transaction and the assumption contemplated by clause (i)(B)(2) of this Section 4.1(b) (including giving effect on a pro forma basis to any Indebtedness, including any Acquired Indebtedness, Incurred or anticipated to be Incurred or discharged in connection with or in respect of such transaction), the Company or such Successor Company, as the case may be:

(A) will have a Consolidated Fixed Charge Coverage Ratio that will be not less than the Consolidated Fixed Charge Coverage Ratio of the Company immediately prior to such transaction; or

(B) will be able to Incur at least U.S.$1.00 of additional Indebtedness pursuant to Section 3.9(a); and

(iii) immediately before and immediately after giving effect to such transaction and the assumption contemplated by clause (i)(B)(2) of this Section 4.1(b) (including, without limitation, giving effect on a *pro forma* basis to any Indebtedness, including any Acquired Indebtedness, Incurred or anticipated to be Incurred or discharged and any Lien granted in connection with or in respect of the transaction), no Default or Event of Default shall have occurred or be continuing.

The provisions of clauses (ii) and (iii) of this Section 4.1(b) shall not apply to:

(x) any transfer of the properties or assets of a Restricted Subsidiary to the Company or a Note Guarantor;

(y) any merger of a Restricted Subsidiary into the Company or a Note Guarantor; or

(z) any merger of the Company into another Note Guarantor or a Wholly Owned Subsidiary of the Company.

The Successor Company shall succeed to, and be substituted for such Company under this Indenture, the Notes and/or the Note Guarantee, as applicable.

(c) Each Note Guarantor other than the Company shall not, and the Company shall not cause or permit any such Note Guarantor to, consolidate with or merge into, or sell or dispose of all or substantially all of its assets to, any Person (other than the Issuer) that is not a Note Guarantor unless:

(i) such Person (if such Person is the surviving entity) (the "Successor Guarantor") assumes all of the obligations of such Note Guarantor in respect of its Note Guarantee by executing a supplemental indenture and providing the Trustee with an Officer's Certificate and Opinion of Counsel, and stating that such transaction is otherwise in compliance with this Indenture;

(ii) such Note Guarantee is to be released as provided under Section 10.2(b); or

(iii) such sale or other disposition of substantially all of such Note Guarantor's assets is made in accordance with Section 3.12.

Subject to certain limitations described in this Indenture, the Successor Guarantor will succeed to, and be substitute for, such Note Guarantor under this Indenture and such Note Guarantor's Note Guarantee. The provisions of clauses (i), (ii) and (iii) of this Section 4.1(c) will not apply to:

(x) any transfer of the properties or assets of a Note Guarantor to the Issuer or another Note Guarantor;

(y) any merger of a Note Guarantor into the Issuer or another Note Guarantor; or

(z) any merger of a Note Guarantor into a Wholly Owned Subsidiary of the Company.

ARTICLE V

OPTIONAL REDEMPTION OF NOTES

Section 5.1 Optional Redemption. The Issuer may redeem the Notes, as a whole or from time to time in part, subject to the conditions and at the redemption prices specified in the Form of Note in Exhibit A.

Section 5.2 [Reserved].

Section 5.3 Notices to Trustee. If the Issuer elects to redeem Notes pursuant to the optional redemption provisions of Section 5.1 hereof, it shall furnish to the Trustee, at least 45 days but not more than 60 days before a redemption date, an Officer's Certificate setting forth: (a) the redemption date, (b) the principal amount of Notes to be redeemed, (c) the CUSIP numbers of such Notes and (d) the redemption price.

Section 5.4 Notice of Redemption.

(a) The Issuer shall prepare and mail or cause to be mailed a notice of redemption, in the manner provided for in Section 12.1, not less than 30 nor more than 60 days prior to the Redemption Date, to each Holder of Notes to be redeemed.

(b) All notices of redemption shall state:

(i) the Redemption Date,

(ii) the redemption price and the amount of any accrued interest payable as provided in Section 5.7,

(iii) whether or not the Issuer is redeeming all Outstanding Notes,

(iv) if the Issuer is not redeeming all Outstanding Notes, the aggregate principal amount of Notes that the Issuer is redeeming and the aggregate principal amount of Notes that will be Outstanding after the partial redemption, as well as the identification of the particular Notes, or portions of the particular Notes, that the Issuer is redeeming,

(v) if the Issuer is redeeming only part of a Note, the notice that relates to that Note shall state that on and after the Redemption Date, upon surrender of that Note, the Holder will receive, without charge, a new Note or Notes of authorized denominations for the principal amount of the Note remaining unredeemed,

(vi) that on the Redemption Date the redemption price and any accrued interest payable to the Redemption Date as provided in Section 5.7 will become due and payable in respect of each Note, or the portion of each Note, to be redeemed, and, unless the Issuer defaults in making the redemption payment, that interest on each Note, or the portion of each Note, to be redeemed, will cease to accrue on and after the Redemption Date,

(vii) the place or places where a Holder must surrender Notes for payment of the redemption price and any accrued interest payable on the Redemption Date, and

(viii) the CUSIP number, if any, listed in the notice or printed on the Notes, and that no representation is made as to the accuracy or correctness of such CUSIP number.

(c) At the Issuer's request, the Trustee shall give the notice of redemption in the Issuer's names and at its expense; provided, however, that the Issuer shall have delivered to the Trustee, at least 45 days prior to the redemption date, an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding Section 5.4(b).

Section 5.5 Selection of Notes to Be Redeemed in Part.

(a) If the Issuer is not redeeming all Outstanding Notes, the Trustee shall select the Notes to be redeemed in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed or, if the Notes are not then listed on a

national securities exchange, on a pro rata basis, by lot or by any other method as the Trustee shall deem fair and appropriate; provided, however, that if a partial redemption is made with the proceeds of a Equity Offering, selection of the Notes, or portions of the Notes, for redemption shall be made by the Trustee only on a pro rata basis, or on as nearly a pro rata basis as is practicable (subject to the procedures of DTC), unless the method is otherwise prohibited. The Trustee shall make the selection from the Outstanding Notes not previously called for redemption. The Trustee shall promptly notify the Issuer in writing of the Notes selected for redemption and, in the case of any Notes selected for partial redemption, the principal amount of the Notes to be redeemed. In the event of a partial redemption by lot, the Trustee shall select the particular Notes to be redeemed not less than 30 nor more than 60 days prior to the relevant Redemption Date from the Outstanding Notes not previously called for redemption. No Notes of U.S.$100,000 principal amount or less shall be redeemed in part. The Trustee may select for redemption portions with minimum denominations of U.S.$100,000 or any integral multiple of U.S.$1,000 in excess thereof.

(b) For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to redemption of Notes shall relate, in the case of any Note redeemed or to be redeemed only in part, to the portion of the principal amount of that Note which has been or is to be redeemed.

Section 5.6 Deposit of Redemption Price. On or prior to 10 A.M. on the Business Day prior to the relevant Redemption Date, the Issuer shall deposit with the Trustee or with a Paying Agent (or, if the Issuer or a Note Guarantor is acting as the Paying Agent, segregate and hold in trust as provided in Section 2.4) an amount of money in immediately available funds sufficient to pay the redemption price of, and accrued interest on, all the Notes that the Issuer is redeeming on that date.

Section 5.7 Notes Payable on Redemption Date. If the Issuer, or the Trustee on behalf of the Issuer, gives notice of redemption in accordance with this Article V, the Notes, or the portions of Notes, called for redemption, shall, on the Redemption Date, become due and payable at the redemption price specified in the notice (together with accrued interest, if any, to the Redemption Date), and from and after the Redemption Date (unless the Issuer shall default in the payment of the redemption price and accrued interest) the Notes or the portions of Notes shall cease to bear interest. Upon surrender of any Note for redemption in accordance with the notice, the Issuer shall pay the Notes at the redemption price, together with accrued interest, if any, to the Redemption Date (subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant Interest Payment Date). If the Issuer shall fail to pay any Note called for redemption upon its surrender for redemption, the principal shall, until paid, bear interest from the Redemption Date at the rate borne by the Notes.

Section 5.8 Unredeemed Portions of Partially Redeemed Note. Upon surrender of a Note that is to be redeemed in part, the Issuer shall execute, and the Trustee shall authenticate and make available for delivery to the Holder of the Note, at the expense of the Company, a new Note or Notes, of any authorized denomination as requested by the Holder, in an aggregate principal amount equal to, and in exchange for, the unredeemed portion of the principal of the Note surrendered, *provided* that each new Note will be in a principal amount of U.S.$100,000 or integral multiple of U.S.$1,000.

ARTICLE VI

DEFAULTS AND REMEDIES

Section 6.1 Events of Default.

(a) Each of the following is an "Event of Default":

(i) default in the payment when due of the principal of or premium, if any, on any Notes, including the failure to make a required payment to purchase Notes tendered pursuant to an optional redemption, a Change of Control Offer or an Asset Sale Offer;

(ii) default for 30 days or more in the payment when due of interest or Additional Amounts on any Notes;

(iii) the failure to perform or comply with any of the provisions described under Article IV;

(iv) the failure by the Company or any Restricted Subsidiary to comply with, or in the case of non-guarantor Restricted Subsidiaries, to perform according to, any other covenant or agreement contained in this Indenture or in the Notes for 45 days or more after written notice to the Company from the Trustee or the Holders of at least 25% in aggregate principal amount of the Outstanding Notes;

(v) default by the Company or any Restricted Subsidiary under any Indebtedness which:

(A) is caused by a failure to pay principal of or premium, if any, when due or interest on such Indebtedness prior to the later of the expiration of any applicable grace period provided in such Indebtedness on the date of such default or five days past when due; or

(B) results in the acceleration of such Indebtedness prior to its stated maturity;

and the principal or accreted amount of Indebtedness covered by clauses (v)(A) or (v)(B) of this Section 6.1(a) at the relevant time, aggregates U.S.$50 million or more;

(vi) failure by the Company or any of its Restricted Subsidiaries to pay one or more final judgments against any of them, aggregating U.S.$50 million or more, which judgment(s) are not paid, discharged or stayed for a period of 60 days or more;

(vii) a Bankruptcy Event of Default; or

(viii) except as permitted herein, any Note Guarantee is held to be unenforceable or invalid in a judicial proceeding or ceases for any reason to be in full force and effect or any Note Guarantor, or any Person acting on behalf of any Note Guarantor, denies or disaffirms such Note Guarantor's obligations under its Note Guarantee.

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

(b) The Company shall deliver within 30 days to the Trustee written notice of any event which would constitute a Default or Event of Default, their status and what action the Company is taking or proposes to take in respect thereof.

Section 6.2 Acceleration.

(a) If an Event of Default (other than an Event of Default specified in clause (vii) of Section 6.1(a) above with respect to the Issuer or the Company) shall occur and be continuing, the Trustee or the Holders of at least 25% in principal amount of Outstanding Notes may declare the unpaid principal of (and premium, if any) and accrued and unpaid interest on all the Notes to be immediately due and payable by notice in writing to the Company and the Trustee specifying the Event of Default and that it is a "notice of acceleration." If an Event of Default specified in clause (vii) of Section 6.1(a) above occurs with respect to the Company, then the unpaid principal of (and premium, if any) and accrued and unpaid interest on all the Notes will become immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

(b) At any time after a declaration of acceleration with respect to the Notes as described in the preceding paragraph, the Holders of a majority in principal amount of the Notes may rescind and cancel such declaration and its consequences:

(i) if the rescission would not conflict with any judgment or decree;

(ii) if all existing Events of Default have been cured or waived, except nonpayment of principal or interest that has become due solely because of the acceleration;

(iii) to the extent the payment of such interest is lawful, interest on overdue installments of interest and overdue principal, which has become due otherwise than by such declaration of acceleration, has been paid; and

(iv) if the Company has paid the Trustee its reasonable compensation and reimbursed the Trustee for its reasonable expenses, disbursements and advances.

Section 6.3 Other Remedies.

(a) If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

(b) The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

Section 6.4 Waiver of Past Defaults. Subject to Section 6.2, the Holders of a majority in principal amount of the Notes may waive any existing Default or Event of Default, and its consequences, except a default in the payment of the principal of, premium, if any, or interest on any Notes.

Section 6.5 Control by Majority. The Holders of a majority in principal amount of the Outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. Subject to Section 7.1 and Section 7.2, however, the Trustee may refuse to follow any direction that conflicts with law or this Indenture; *provided, however*, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction.

Section 6.6 Limitation on Suits.

(a) No Holder of any Notes shall have any right to institute any proceeding with respect hereto or for any remedy hereunder, unless:

(i) such Holder gives to the Trustee written notice of a continuing Event of Default;

(ii) Holders of at least 25% in principal amount of the then Outstanding Notes make a written request to pursue the remedy;

(iii) such Holders of the Notes provide to the Trustee indemnity satisfactory to it;

(iv) the Trustee does not comply within 60 days; and

(v) during such 60 day period the Holders of a majority in principal amount of the Outstanding Notes do not give the Trustee a written direction which, in the opinion of the Trustee, is inconsistent with the request;

provided that a Holder of a Note may institute suit for enforcement of payment of the principal of and premium, if any, or interest on such Note on or after the respective due dates expressed in such Note.

Section 6.7 Rights of Holders to Receive Payment. Notwithstanding any other provision of this Indenture (including, without limitation, Section 6.6), the right of any Holder to receive payment of principal or interest on the Notes held by such Holder, on or after the respective due dates, Redemption Dates or repurchase date expressed in this Indenture or the Notes, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.8 Collection Suit by Trustee. If an Event of Default specified in clause (i) and (ii) of Section 6.1(a) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company and each Note Guarantor for the whole amount then due and owing (together with applicable interest on any overdue principal and, to the extent lawful, interest on overdue interest) and the amounts provided for in Section 7.7.

Section 6.9 Trustee May File Proofs of Claim, etc.

(a) The Trustee may (irrespective of whether the principal of the Notes is then due):

(i) file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders under this Indenture and the Notes allowed in any bankruptcy, insolvency, liquidation or other judicial proceedings relative to the Company, any Note Guarantor or any Subsidiary of the Company or their respective creditors or properties; and

(ii) collect and receive any monies or other property payable or deliverable in respect of any such claims and distribute them in accordance with this Indenture.

Any receiver, trustee, liquidator, sequestrator (or other similar official) in any such proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, taxes, disbursements and advances of the Trustee, its agent and counsel, and any other amounts due to the Trustee pursuant to Section 7.7.

(b) Nothing in this Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 Priorities. If the Trustee collects any money or property pursuant to this Article VI, it shall pay out the money or property in the following order:

FIRST: to the Trustee for amounts due under Section 7.7;

SECOND: if the Holders proceed against the Company directly without the Trustee in accordance with this Indenture, to Holders for their collection costs;

THIRD: to Holders for amounts due and unpaid on the Notes for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal and interest, respectively; and

FOURTH: to the Company or, to the extent the Trustee collects any amount pursuant to Article X hereof from any Note Guarantor, to such Note Guarantor, or to such party as a court of competent jurisdiction shall direct.

The Trustee may, upon notice to the Company, fix a record date and payment date for any payment to Holders pursuant to this Section 6.10.

Section 6.11 Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by the Company, a suit by a Holder pursuant to Section 6.7 or a suit by Holders of more than 10% in principal amount of Outstanding Notes.

ARTICLE VII

TRUSTEE

Section 7.1 Duties of Trustee.

(a) If a Default or an Event of Default has occurred and is continuing, the Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) Except during the continuance of a Default or an Event of Default:

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, in the case of any such certificates or opinions that by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall examine such certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(i) this clause (c) does not limit the effect of clause (b) of this Section 7.1;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.2, 6.4 or 6.5.

(d) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Issuer.

(e) Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

(f) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers, if it shall have reasonable grounds to believe that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(g) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article VII.

(h) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuer shall be sufficient if signed by an Officer of the Issuer.

(i) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses (including reasonable attorneys' fees and expenses) and liabilities that might be incurred by it in compliance with such request or direction.

Section 7.2 Rights of Trustee.

Subject to Section 7.1:

(a) The Trustee may rely on any document reasonably believed by it to be genuine and to have been signed or presented by the proper person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting at the direction of the Issuer or any Note Guarantor, it may require an Officer's Certificate or an Opinion of Counsel. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on an Officer's Certificate or Opinion of Counsel.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers; provided, however, that the Trustee's conduct does not constitute willful misconduct or negligence.

(e) The Trustee may consult with counsel of its selection, and the advice or opinion of counsel with respect to legal matters relating to this Indenture and the Notes shall be full and complete authorization and protection from liability in respect to any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(f) If the Trustee shall determine, it shall be entitled to examine the books, records and premises of the Issuer, personally or by agent or attorney.

(g) The Trustee shall not be deemed to have notice of any Default or Event of Default unless an Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each agent, custodian and other Person employed to act hereunder.

(i) The Trustee may request that the Issuer deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officer's Certificate may be signed by any Person authorized to sign an Officer's Certificate, including any Person specified as so authorized in any such certificate previously delivered and not superseded.

(j) The permissive rights of the Trustee enumerated herein shall not be construed as duties.

(k) In no event shall the Trustee be liable, directly or indirectly, for any special, indirect or consequential damages, even if the Trustee has been advised of the possibility of such damages.

(l) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; sabotage; epidemics; riots, interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; it being understood that the Trustee shall use its best efforts to resume performance as soon as practicable under the circumstances.

(m) The Trustee shall at no time have any responsibility or liability for or in respect to the legality, validity or enforceability of any Collateral or any arrangement or agreement between the Issuer or the Company and any other Person with respect thereto, or the perfection or priority of any security interest created in any of the Collateral or maintenance of any perfection and priority, or for or with respect to the sufficiency of the Collateral following an Event of Default.

Section 7.3 Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer, the Note Guarantors or any Affiliate of the Company with the same rights it would have if it were not Trustee. Any Paying Agent, Transfer Agent, Registrar or co-Registrar may do the same with like rights. However, the Trustee must comply with Section 7.10.

Section 7.4 Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Issuer's use of the proceeds from the Notes, and it shall not be responsible for any statement of the Issuer in this Indenture or in any document issued in connection with the sale of the Notes or in the Notes other than the Trustee's certificate of authentication.

Section 7.5 Notice of Defaults. If a Default or Event of Default occurs and is continuing and if a Trust Officer has actual knowledge thereof, the Trustee shall mail to each Holder notice of the Default or Event of Default within 90 days after the occurrence thereof. Except in the case of a Default or Event of Default in payment of principal or interest on any Note (including payments pursuant to the optional redemption or required repurchase provisions of such Note, if any), the Trustee may withhold the notice if and so long as a committee of its Trust Officers in good faith determines that withholding the notice is in the interests of the Holders.

Section 7.6 [Reserved].

Section 7.7 Compensation and Indemnity.

(a) The Issuer shall pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder as the Issuer and the Trustee shall from time to time agree in writing. The Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred or made by it, including costs of collection, costs of preparing and reviewing reports, certificates and other

documents, costs of preparation and mailing of notices to Holders and reasonable costs of counsel retained by the Trustee in connection with the review, negotiation, execution and delivery of this Indenture or otherwise, in addition to the compensation for its services. Such expenses shall include the reasonable compensation and expenses, disbursements and advances of the Trustee's agents, counsel, accountants and experts.

(b) The Issuer and each Note Guarantor shall jointly and severally indemnify the Trustee against any and all loss, liability or expense (including reasonable attorneys' fees and expenses) incurred by it without negligence, willful misconduct or bad faith on its part in connection with the acceptance and administration of this trust and the performance of its duties hereunder, including the costs and expenses of enforcing this Indenture (including this Section 7.7) and of defending itself against any claims (whether asserted by any Holder, the Issuer, any Note Guarantor or otherwise). The Trustee shall notify the Issuer and each Note Guarantor promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Issuer or any Note Guarantor shall not relieve the Issuer or any Note Guarantor of its obligations hereunder. The Issuer shall defend the claim and the Trustee may have separate counsel and the Issuer shall pay the fees and expenses of such counsel; *provided* that the Issuer shall not be required to pay such fees and expenses if it assumes the Trustee's defense, and, in the reasonable judgment of outside counsel to the Trustee, there is no conflict of interest between the Issuer and the Trustee in connection with such defense. The Issuer need not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through the Trustee's own willful misconduct, negligence or bad faith.

(c) To secure the Issuer's payment obligations in this Section 7.7, the Trustee shall have a lien prior to the Notes on all money or property held or collected by the Trustee other than money or property held in trust to pay principal of and interest on particular Notes. The Trustee's right to receive payment of any amounts due under this Section 7.7 shall not be subordinate to any other liability or Indebtedness of the Issuer.

(d) The Issuer's payment obligations pursuant to this Section 7.7 shall survive the discharge of this Indenture and the resignation or removal of the Trustee. When the Trustee incurs expenses after the occurrence of a Bankruptcy Event of Default, the expenses are intended to constitute expenses of administration under any Bankruptcy Law; *provided, however*, that this shall not affect the Trustee's rights as set forth in this Section 7.7 or Section 6.10.

Section 7.8 Replacement of Trustee.

(a) The Trustee may resign at any time by so notifying the Issuer. The Holders of a majority in principal amount of the Outstanding Notes may remove the Trustee by so notifying the Trustee and may appoint a successor Trustee reasonably acceptable to the Issuer. The Issuer shall remove the Trustee if:

(i) the Trustee fails to comply with Section 7.10;

(ii) the Trustee is adjudged bankrupt or insolvent;

(iii) a receiver or other public officer takes charge of the Trustee or its property; or

(iv) the Trustee otherwise becomes incapable of acting.

(b) If the Trustee resigns or is removed by the Issuer or by the Holders of a majority in principal amount of the Outstanding Notes and such Holders do not reasonably promptly appoint a successor Trustee, or if a vacancy exists in the office of the Trustee for any reason (the Trustee in such event being referred to herein as the retiring Trustee), the Issuer shall promptly appoint a successor Trustee.

(c) A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 7.7(c).

(d) If a successor Trustee does not take office within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee or the Holders of 10% in principal amount of the Outstanding Notes may petition, at the Issuer's expense, any court of competent jurisdiction for the appointment of a successor Trustee.

(e) If the Trustee fails to comply with Section 7.10, any Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) Notwithstanding the replacement of the Trustee pursuant to this Section 7.8, the Issuer's obligations under Section 7.7 shall continue for the benefit of the retiring Trustee.

Section 7.9 Successor Trustee by Merger.

(a) If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets to, another corporation or banking association, the resulting, surviving or transferee corporation without any further act shall be the successor Trustee.

(b) In case at the time such successor or successors to the Trustee shall succeed to the trusts created by this Indenture, any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor to the Trustee; and in all such cases such certificates of authentication and such delivery shall be valid for purposes of this Indenture.

Section 7.10 Eligibility; Disqualification. The Trustee shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has, together with parent, a combined capital and surplus of at least $50,000,000 as set forth in its most recent published annual report of condition.

Section 7.11 [Reserved].

Section 7.12 [Reserved].

Section 7.13 Authorization and Instruction of the Trustee With Respect to the Collateral. Each Holder and the Issuer authorize and instruct the Trustee (a) to enter into (or cause an agent or grant such powers of attorney to enter into), on its own behalf and on behalf of the Holders of Notes, such documents (the "Security Documents") as are necessary or desirable (which shall be evidenced by a written instruction from the Company satisfactory to the Trustee) in order to create and maintain the security interest of the Trustee and the Holders of Notes in the Collateral as may from time to time be provided to equally and ratably secure the Notes, (b) to grant such powers of attorney and to do or cause to be done all such acts and things, on its own behalf and in the name and on behalf of the Holders of Notes, as are necessary or desirable (which shall be evidenced by a written instruction from the Company satisfactory to the Trustee) to create and maintain the security interest of the Trustee and the Holders of Notes in such Collateral, (c) to appoint the Security Agent to serve as direct representative of the Trustee and the Holders of Notes in connection with the creation and maintenance of the security interest of the Trustee and the Holders of Notes in such Collateral, (d) to accept the security interest in the Collateral on behalf of each Holder, and (e) to grant powers in favor of an attorney to execute an accession public deed before a Spanish notary public accepting the security interest in the Collateral on behalf of the Holders of Notes. It is understood and acknowledged that in certain circumstances the Security Documents may be amended, modified or waived without the consent of the Trustee or the Holders of Notes. It is understood and acknowledged that the Security Agent, in addition to being appointed by and acting on behalf of the Trustee and the Holders of Notes, has also been appointed by and is acting on behalf of (and may in the future be appointed by and act on behalf of) other creditors of the Company and its Subsidiaries. The Trustee will not have the right to cause the Security Agent to foreclose on the Collateral upon the occurrence of an Event of Default in respect of the Notes. The Trustee shall at no time have any responsibility or liability for or in respect to the legality, validity or enforceability of any Collateral or any arrangement or agreement between the Issuer or the Company and any other Person with respect thereto, or the perfection or priority of any security interest created in any of the Collateral or maintenance of any perfection and priority, or for or with respect to the sufficiency of the Collateral following an Event of Default.

ARTICLE VIII

DEFEASANCE; DISCHARGE OF INDENTURE

Section 8.1 Legal Defeasance and Covenant Defeasance.

(a) The Issuer may, at its option, at any time, elect to have either Section 8.1(b) or (c) be applied to all Outstanding Notes upon compliance with the conditions set forth in Section 8.2.

(b) Upon the Issuer's exercise under Section 8.1(a) of the option applicable to this clause (b), the Issuer shall, subject to the satisfaction of the conditions set forth in Section 8.2, be deemed to have been discharged from its obligations with respect to all Outstanding Notes on the date all of the conditions set forth in Section 8.2 are satisfied (hereinafter, "Legal Defeasance"). For this purpose, Legal Defeasance means that the Issuer shall be deemed to have paid and discharged the entire Indebtedness represented by the Outstanding Notes, which shall thereafter be deemed to be Outstanding only for the purposes of Section 8.3 hereof and the other sections of this Indenture referred to in subclause (i) or (ii) of this clause (b), and to have satisfied all its other obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Issuer, shall execute proper instruments acknowledging the same), except for the following provisions, which shall survive until otherwise terminated or discharged hereunder:

(i) the rights of Holders of Outstanding Notes to receive solely from the trust fund described in Section 8.3, and as more fully set forth in Section 2.4 payments in respect of the principal of, premium, if any, and interest on such Notes when such payments are due,

(ii) the Issuer's obligations with respect to such Notes under Article II and Section 3.2 hereof,

(iii) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Issuer's obligations in connection therewith, and

(iv) this Article VIII.

Subject to compliance with this Article VIII, the Issuer may exercise its option under this clause (b) notwithstanding the prior exercise of its option under Section 8.1(c) hereof.

(c) Upon the Issuer's exercise under Section 8.1(a) hereof of the option applicable to this clause (c), the Issuer shall, subject to the satisfaction of the applicable conditions set forth in Section 8.2, be released from its obligations under Sections 3.4, 3.5, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13, 3.14, 3.15, 3.16, 3.17, 3.18, 3.19, 3.20, 3.21, 3.22, 3.23, 4.1(a) and 4.1(b) hereof with respect to the Outstanding Notes on and after the date the conditions set forth below are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not Outstanding for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be Outstanding for all other purposes hereunder (it being understood that such Notes shall not be deemed Outstanding for accounting purposes). For this purpose, such Covenant Defeasance means that, with respect to the Outstanding Notes, the Issuer may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other document and such omission to comply shall not constitute a Default or an Event or Default under clause (iii) of Section 6.1(a) (solely with respect to any failure to perform under or comply with clause (ii) or (iii) of Section 4.1(a)), clause (iv) of Section 6.1(a) or clause (v) of Section 6.1(a) hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby.

Section 8.2 Conditions to Defeasance. The Company or, as applicable, the Issuer, may exercise its Legal Defeasance option or its Covenant Defeasance option only if:

(a) the Issuer has irrevocably deposited with the Trustee, in trust, for the benefit of the Holders cash in U.S. dollars, certain direct non-callable obligations of, or guaranteed by, the United States, or a combination thereof, in such amounts as will be sufficient without reinvestment, in the opinion of a nationally recognized firm of independent public accountants, to pay the principal of, premium, if any, and interest (including Additional Amounts) on the Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be;

(b) in the case of Legal Defeasance, the Issuer has delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee (subject to customary exceptions and exclusions) and independent of the Issuer to the effect that:

(i) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling; or

(ii) since the Issue Date, there has been a change in the applicable U.S. federal income tax law,

in either case to the effect that, and based thereon such Opinion of Counsel shall state that, the Holders will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) in the case of Covenant Defeasance, the Issuer has delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee (subject to customary exceptions and exclusions) to the effect that the Holders will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) no Default or Event of Default shall have occurred and be continuing on the date of the deposit pursuant to Section 8.2(a) (except any Default or Event of Default resulting from the failure to comply with Section 3.9 as a result of the borrowing of the funds required to effect such deposit);

(e) the Trustee has received an Officer's Certificate stating that such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under this Indenture or any other material agreement or instrument to which the Issuer or any of its Subsidiaries is a party or by which the Issuer or any of its Subsidiaries is bound;

(f) the Issuer has delivered to the Trustee an Officer's Certificate stating that the deposit was not made by the Issuer with the intent of preferring the Holders over any other creditors of the Issuer or any Subsidiary of the Issuer or with the intent of defeating, hindering, delaying or defrauding any other creditors of the Issuer or others;

(g) the Issuer has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel from counsel reasonably acceptable to the Trustee (subject to customary exceptions and exclusions) and independent of the Issuer, each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance have been complied with; and

(h) the Issuer has delivered to the Trustee an Opinion of Counsel from counsel reasonably acceptable to the Trustee and independent of the Issuer to the effect that the trust resulting from the deposit does not constitute, or is qualified as, a regulated investment company under the Investment Company Act of 1940.

Section 8.3 Application of Trust Money. The Trustee shall hold in trust U.S. Legal Tender or U.S. Government Obligations deposited with it pursuant to this Article VIII. It shall apply the deposited U.S. Legal Tender or U.S. Government Obligations through the Paying Agent and in accordance with this Indenture to the payment of principal of and interest on the Notes.

Section 8.4 Repayment to Issuer.

(a) The Trustee and the Paying Agent shall promptly turn over to the Issuer upon request any excess money or securities held by them upon payment of all the obligations under this Indenture.

(b) Subject to any applicable abandoned property law, the Trustee and the Paying Agent shall pay to the Issuer upon request any money held by them for the payment of principal of, premium or interest on the Notes that remains unclaimed for two years, and, thereafter, Holders entitled to the money must look to the Issuer for payment as general creditors.

Section 8.5 Indemnity for U.S. Government Obligations. The Issuer shall pay and shall indemnify the Trustee against any tax, fee or other charge imposed on or assessed against deposited U.S. Government Obligations or the principal and interest received on such U.S. Government Obligations.

Section 8.6 Reinstatement. If the Trustee or Paying Agent is unable to apply any U.S. Legal Tender or U.S. Government Obligations in accordance with this Article VIII by reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the obligations of the Issuer under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to this Article VIII until such time as the Trustee or Paying Agent is permitted to apply all such U.S. Legal Tender or U.S. Government Obligations in accordance with this Article VIII; *provided, however*, that, if the Issuer has made any payment of principal of, premium or interest on any Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from U.S. Legal Tender or U.S. Government Obligations held by the Trustee or Paying Agent.

Section 8.7 Satisfaction and Discharge. This Indenture will be discharged and will cease to be of further effect (except as to surviving rights of registration of transfer or exchange of the Notes, as expressly provided for in this Indenture) as to all Outstanding Notes when:

(a) either:

(i) all the Notes theretofor authenticated and delivered (except lost, stolen or destroyed Notes which have been replaced or paid and Notes for whose payment money has theretofor been deposited in trust or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from such trust) have been delivered to the Trustee for cancellation, or

(ii) all Notes not theretofor delivered to the Trustee for cancellation have become due and payable, and the Issuer has irrevocably deposited or caused to be deposited with the Trustee U.S. Legal Tender or U.S. Government Obligations sufficient without reinvestment to pay and discharge the entire Indebtedness on the Notes not theretofor delivered to the Trustee for cancellation, for principal of, premium, if any, and interest on the Notes to the date of deposit, together with irrevocable instructions from the Issuer directing the Trustee to apply such funds to the payment;

(b) the Issuer has paid all other sums payable under this Indenture and the Notes by it; and

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

ARTICLE IX

AMENDMENTS

Section 9.1 Without Consent of Holders.

(a) The Issuer, the Note Guarantors and the Trustee may amend or supplement this Indenture, the Notes or the Note Guarantees without notice to or consent of any Holder:

(i) to cure any ambiguity, omission, defect or inconsistency;

(ii) to comply with Article IV in respect of the assumption by a Successor Issuer of the obligations of the Issuer under the Notes and this Indenture;

(iii) to provide for uncertificated Notes in addition to or in place of Certificated Notes; provided, however, that the uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Code;

(iv) to add guarantees with respect to the Notes or to secure the Notes;

(v) to add to the covenants of the Issuer or the Note Guarantors for the benefit of the Holders or to surrender any right or power herein conferred upon the Issuer or the Note Guarantors;

(vi) to make any change that does not, in the opinion of the Trustee, adversely affect the rights of any Holder in any material respect;

(vii) to conform the text of this Indenture, the Note Guarantees or the Notes to any provision of the section "Description of Notes" in the Offering Memorandum to the extent that such provision in such "Description of Notes" was intended to be a verbatim recitation of a provision of this Indenture or the Notes or Note Guarantees;

(viii) to comply with the requirements of any applicable securities depositary;

(ix) to provide for the issuance of Additional Notes as permitted by Section 2.2(c) and Section 2.14, which will have terms substantially identical to the other Outstanding Notes except as specified in Section 2.13, or Section 2.14, and which will be treated, together with any other Outstanding Notes, as a single issue of securities.

(b) After an amendment or supplement under this Section 9.1 becomes effective, the Issuer shall mail to Holders a notice briefly describing such amendment. The failure to give such notice to all Holders, or any defect therein, shall not impair or affect the validity of an amendment under this Section 9.1.

Section 9.2 With Consent of Holders.

(a) The Issuer, the Note Guarantors and the Trustee may amend or supplement this Indenture or the Notes without notice to any Holder but with the written consent of the Holders of at least a majority in principal amount of the Outstanding Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes). Subject to Section 6.4, the Holder or Holders of a majority in aggregate principal amount of the Outstanding Notes may waive compliance by the Issuer and the Note Guarantors with any provision of this Indenture or the Notes. However, without the consent of each Holder affected, an amendment, supplement or waiver may not:

(i) reduce the amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(ii) reduce the rate of or change or have the effect of changing the time for payment of interest, including Defaulted Interest, on any Notes;

(iii) reduce the principal of or change or have the effect of changing the fixed maturity of any Notes, or change the date on which any Notes may be subject to redemption, or reduce the redemption price therefor;

(iv) make any Notes payable in money other than that stated in the Notes;

(v) make any change in the provisions of this Indenture entitling each Holder to receive payment of principal of, premium, if any, and interest on such Notes on or after the due date thereof or to bring suit to enforce such payment, or permitting Holders of a majority in principal amount of Outstanding Notes to waive Defaults or Events of Default;

(vi) amend, change or modify in any material respect any obligations of the Company to make and consummate a Change of Control Offer in respect of a Change of Control that has occurred or make and consummate an Asset Sale Offer with respect to any Asset Sale that has been consummated;

(vii) make any change in the provisions of this Indenture described under Section 3.22 that adversely affects the rights of any Holder or amend the terms of the Notes in a way that would result in a loss of exemption from Taxes; or

(viii) make any change to the provisions of this Indenture or the Notes that adversely affect the ranking of the Notes.

(b) It shall not be necessary for the consent of the Holders under this Section 9.2 to approve the particular form of any proposed amendment, supplement or waiver but it shall be sufficient if such consent approves the substance thereof.

(c) After an amendment, supplement or waiver under this Section 9.2 becomes effective, the Company shall mail to Holders a notice briefly describing such amendment, supplement or waiver. The failure to give such notice to all Holders, or any defect therein, shall not impair or affect the validity of an amendment, supplement or waiver under this Section 9.2.

Section 9.3 [Reserved].

Section 9.4 Revocation and Effect of Consents and Waivers.

(a) A consent to an amendment, supplement or waiver by a Holder of a Note shall bind the Holder and every subsequent Holder of that Note or portion of the Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent or waiver is not made on the Note. However, any such Holder or subsequent Holder may revoke

the consent or waiver as to such Holder's Note or portion of the Note if the Trustee receives the notice of revocation before the date the amendment, supplement or waiver becomes effective. After an amendment, supplement or waiver becomes effective, it shall bind every Holder, except as otherwise provided in this Article IX. An amendment, supplement or waiver shall become effective upon receipt by the Trustee of the requisite number of written consents under Section 9.2.

(b) The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to give their consent or take any other action described above or required or permitted to be taken pursuant to this Indenture. If a record date is fixed, then notwithstanding the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to give such consent or to revoke any consent previously given or to take any such action, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 90 days after such record date.

Section 9.5 Notation on or Exchange of Notes. If an amendment or supplement changes the terms of a Note, the Trustee may require the Holder of the Note to deliver it to the Trustee. The Trustee may place an appropriate notation on the Note regarding the changed terms and return it to the Holder. Alternatively, if the Company or the Trustee so determines, the Company in exchange for the Note will execute and upon Issuer Order the Trustee will authenticate and make available for delivery a new Note that reflects the changed terms. Failure to make the appropriate notation or to issue a new Note shall not affect the validity of such amendment or supplement.

Section 9.6 Trustee to Sign Amendments and Supplements. The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article IX if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may but need not sign it. In signing such amendment, supplement or waiver, the Trustee shall be entitled to receive indemnity reasonably satisfactory to it and to receive, and (subject to Section 7.1 and Section 7.2) shall be fully protected in relying upon, in addition to the documents required by Section 12.4, an Opinion of Counsel and an Officer's Certificate each stating that such amendment, supplement or waiver is authorized or permitted by this Indenture and that all conditions precedent to the execution of such amendment, supplement or waiver have been complied with.

ARTICLE X

NOTE GUARANTEES

Section 10.1 Note Guarantees.

(a) Each Note Guarantor hereby fully and unconditionally guarantees, as primary obligor and not merely as surety, jointly and severally with each other Note Guarantor, to each Holder and the Trustee, the full and punctual payment when due, whether at maturity, by acceleration, by redemption or otherwise, of the Obligations (such guaranteed Obligations, the "Guaranteed Obligations"). Each Note Guarantor further agrees that its Note Guarantee herein

constitutes a guarantee of payment when due (and not a guarantee of collection) and agrees to pay, in addition to the amounts stated in Section 10.1(f), any and all expenses (including reasonable counsel fees and expenses) incurred by the Trustee or the Holders in enforcing or exercising any rights under any Note Guarantee.

(b) In no event shall the Trustee or the Holders be obligated to take any action, obtain any judgment or file any claim prior to enforcing or exercising any rights under any Note Guarantee.

(c) Each Note Guarantor further agrees that its Note Guarantee constitutes an absolute and unconditional and continuing guarantee. Each Note Guarantor hereby waives, to the extent permitted by law:

(i) any claim as to the legality, validity, regularity or enforceability of this Indenture, the Notes or any other agreement;

(ii) any claim as to the lack of authority of the Issuer to execute or deliver this Indenture, the Notes or any other agreement;

(iii) diligence, presentation to, demand of payment from and protest to the Issuer of any of the Obligations and notice of protest for nonpayment;

(iv) the occurrence of any default or event of default under this Indenture, the Notes or any other agreement;

(v) notice of any default or event of default under this Indenture, the Notes or any other agreement;

(vi) the failure of the Trustee or any Holder to assert any claim or demand or to enforce any right or remedy against the Issuer or any other Person under this Indenture, the Notes or any other agreement;

(vii) any extension or renewal of the Obligations, this Indenture, the Notes or any other agreement;

(viii) any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Notes or any other agreement;

(ix) the existence of any bankruptcy, insolvency, reorganization or similar proceedings involving the Issuer;

(x) any setoff, counterclaim, recoupment, termination or defense of any kind or nature which may be available to or asserted by any Note Guarantor or the Issuer against the Holders or the Trustee;

(xi) any impairment, taking, furnishing, exchange or release of, or failure to perfect or obtain protection of any security interest in, any collateral securing this Indenture and the Notes and any right to require that any resort be had by the Trustee or any Holder to any such collateral;

(xii) the failure of the Trustee or any Holder to exercise any right or remedy against any other Note Guarantor;

(xiii) any change in the ownership of the Company;

(xiv) any change in the laws, rules or regulations of any jurisdiction;

(xv) any present or future action of any governmental authority or court amending, varying, reducing or otherwise affecting, or purporting to amend, vary, reduce or otherwise affect, any of the obligations of the Issuer under this Indenture or the Notes or of any Note Guarantor under its Note Guarantee; and

(xvi) any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of each Note Guarantor or would otherwise operate as a discharge of such Note Guarantor as a matter of law or equity.

(d) Each of the Note Guarantors further expressly waives irrevocably and unconditionally:

(i) Any right it may have to first require any Holder to proceed against, initiate any actions before a court of law or any other judge or authority, or enforce any other rights or security or claim payment from the Issuer or any other Person (including any Note Guarantor or any other guarantor) before claiming from it under this Indenture;

(ii) Any right to which it may be entitled to have the assets of the Company or any other Person (including any Note Guarantor or any other guarantor) first be used, applied or depleted as payment of the Issuer's or the Note Guarantors' obligations hereunder, prior to any amount being claimed from or paid by any of the Note Guarantors hereunder;

(iii) Any right to which it may be entitled to have claims hereunder divided between the Note Guarantors;

(iv) To the extent applicable, the benefits of *orden*, *excusión*, *división*, *quita* and *espera* and any right specified in articles 2814, 2815, 2817, 2818, 2819, 2820, 2821, 2822, 2823, 2826, 2837, 2838, 2839, 2840, 2845, 2846, 2847 and any other related or applicable articles that are not explicitly set forth herein because of Note Guarantor's knowledge thereof of the *Código Civil Federal* of Mexico, and the *Código Civil* of each State of the Mexican Republic and the Federal District of Mexico.

(e) The obligations assumed by each Note Guarantor hereunder shall not be affected by the absence of judicial request of payment by a Holder to the Company or by whether any such person takes timely action pursuant to articles 2848 and 2849 of the Código Civil Federal of Mexico and the Código Civil of each State of the Mexican Republic and the Federal District of Mexico and each Note Guarantor hereby expressly waives the provisions of such articles.

(f) The obligations of each Note Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason (other than payment of the Obligations in full), including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever or by reason of the invalidity, illegality or unenforceability of the Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of each Note Guarantor herein shall not be discharged or impaired or otherwise affected by the failure of any Holder to assert any claim or demand or to enforce any remedy under this Indenture, the Notes or any other agreement, by any waiver or modification of any thereof, by any default, failure or delay, willful or otherwise, in the performance of the Obligations, or by any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of such Note Guarantor or would otherwise operate as a discharge of such Note Guarantor as a matter of law or equity.

(g) Except as provided in Section 10.2, the obligations of each Note Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason other than payment of the Obligations in full.

(h) Each Note Guarantor further agrees that its Note Guarantee herein shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of or interest on any of the Obligations is rescinded or must otherwise be restored by any Holder upon the bankruptcy or reorganization of the Issuer or otherwise.

(i) In furtherance of the foregoing and not in limitation of any other right which the Trustee or any Holder has at law or in equity against each Note Guarantor by virtue hereof, upon the failure of the Issuer to pay any of the Obligations when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise, each Note Guarantor hereby promises to and will, upon receipt of written demand by the Trustee, forthwith pay, or cause to be paid, in cash, to the Holders an amount equal to the sum of:

(i) the unpaid amount of such Obligations then due and owing; and

(ii) accrued and unpaid interest on such Obligations then due and owing (but only to the extent not prohibited by law);

provided that any delay by the Trustee in giving such written demand shall in no event affect any Note Guarantor's obligations under its Note Guarantee.

(j) Each Note Guarantor further agrees that, as between such Note Guarantor, on the one hand, and the Holders, on the other hand:

(i) the maturity of the Obligations guaranteed hereby may be accelerated as provided in this Indenture for the purposes of its Note Guarantee herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Obligations guaranteed hereby; and

(ii) in the event of any such declaration of acceleration of such Obligations, such Obligations (whether or not due and payable) shall forthwith become due and payable by the Note Guarantor for the purposes of this Note Guarantee.

Section 10.2 Limitation on Liability; Termination, Release and Discharge.

(a) The obligations of each Note Guarantor hereunder will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Note Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Note Guarantor in respect of the obligations of such other Note Guarantor under its Note Guarantee or pursuant to its contribution obligations under this Indenture, result in the obligations of such Note Guarantor under its Note Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law.

(b) A Note Guarantor will be released and relieved of its obligations under its Note Guarantee in the event that:

(i) with respect to any Note Guarantee other than the Company there is a Legal Defeasance of the Notes pursuant to Section 8.1 or Article VIII;

(ii) there is a sale or other disposition of Capital Stock of such Note Guarantor following which such Note Guarantor is no longer a direct or indirect Subsidiary of the Company;

(iii) such Note Guarantor is designated as an Unrestricted Subsidiary in accordance with Section 3.14;

(iv) solely with respect to any Additional Note Guarantor, either (A) the Financing Agreement Indebtedness has been repaid in full and such Additional Note Guarantor is not a guarantor of the Indebtedness Incurred to refinance such Financing Agreement Indebtedness or (B) at least 85% of the outstanding Indebtedness of the Company and its Restricted Subsidiaries is not guaranteed by such Additional Note Guarantor; or

(v) solely with respect to any Additional Note Guarantor, upon the occurrence of a Covenant Suspension Event until the occurrence of a Reversion Date at which time the guarantee of the Notes by such Additional Note Guarantor shall be reinstated unless such Additional Note Guarantor would have been released at any time during the Suspension Period pursuant to clause (i), (ii), (iii) or (iv) of this Section 10.2(b).

Section 10.3 Right of Contribution. Each Note Guarantor that makes a payment or distribution under a Note Guarantee will be entitled to a contribution from each other Note Guarantor in a *pro rata* amount, based on the net assets of each Note Guarantor determined in accordance with GAAP. The provisions of this Section 10.3 shall in no respect limit the obligations and liabilities of each Note Guarantor to the Trustee and the Holders and each Note Guarantor shall remain liable to the Trustee and the Holders for the full amount guaranteed by such Note Guarantor hereunder.

Section 10.4 No Subrogation. Each Note Guarantor agrees that it shall not be entitled to any right of subrogation in respect of any Guaranteed Obligations until payment in full in cash or Cash Equivalents of all Obligations. If any amount shall be paid to any Note Guarantor on account of such subrogation rights at any time when all of the Obligations shall not have been paid in full in cash or Cash Equivalents, such amount shall be held by such Note Guarantor in trust for the Trustee and the Holders, segregated from other funds of such Note Guarantor, and shall, forthwith upon receipt by such Note Guarantor, be turned over to the Trustee in the exact form received by such Note Guarantor (duly endorsed by such Note Guarantor to the Trustee, if required), to be applied against the Obligations.

ARTICLE XI

COLLATERAL

Section 11.1 The Collateral. Subject to Section 11.2, the Issuer and the Note Guarantors agree that the Notes will be at all times secured by a first-priority security interest in the Collateral on an equal and ratable basis with the Permitted Secured Obligations.

Section 11.2 Release of the Collateral.

(a) The Notes will cease to be secured by a security interest in the Collateral in accordance with the provisions of the Intercreditor Agreement.

(b) In addition to the Collateral release provisions set forth in the Intercreditor Agreement, the Notes will cease to be secured by a security interest on the Collateral upon:

(i) (A) payment in full of the principal of, any accrued and unpaid interest on, the Notes and all other amounts or Obligations that are due and payable at or prior to the time such principal, accrued and unpaid interest, if any, are paid, (B) a satisfaction and discharge of this Indenture or (C) a Legal Defeasance or Covenant Defeasance pursuant to Article VIII; or

(ii) a refinancing of the Financing Agreement Indebtedness in full as a result of which the Collateral does not secure Indebtedness Incurred to refinance such Financing Agreement Indebtedness.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Notices.

(a) Any notice or communication shall be in writing and delivered in person or mailed by first-class mail, postage prepaid, addressed as follows:

if to the Issuer and the Note Guarantors:

c/o CEMEX, S.A.B. de C.V.
Av. Ricardo Margáin Zozaya #325
Colonia Valle del Campestre
Garza García, Nuevo León
México 66265
Attention: Chief Financial Officer
Fax: +1 52 81 8888 4415

if to the Trustee:

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: International Corporate Trust
Fax: 212-815-5390 or 212-815-5366

The Issuer or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

(b) From and after the date the Notes are admitted to listing on the Official List of the Luxembourg Stock Exchange and to trading on the Euro MTF, a market of the Luxembourg Stock Exchange, and so long as it is required by the rules of such exchange, all notices to Holders of Notes shall be published in English:

(i) in a leading newspaper having a general circulation in Luxembourg (which is expected to be the Luxemburger Wort); or

(ii) if such Luxembourg publication is not practicable, in one other leading English language newspaper being published on each day in morning editions, whether or not it shall be published in Saturday, Sunday or holiday editions; or

(iii) on the website of the Luxembourg Stock Exchange, (which is currently at www.bourse.lu).

(c) Notices shall be deemed to have been given on the date of publication as aforesaid in Section 12.1(b) or, if published on different dates, on the date of the first such publication. In addition, notices shall be mailed to Holders of Notes at their registered addresses.

(d) Subject to Section 7.1(c) and Section 7.2(a), the Trustee shall accept electronic transmissions; *provided* that (i) the Trustee shall not have any duty or obligation to verify or confirm that the Person sending instructions, directions, reports, notices or other communications or information by electronic transmission is, in fact, a Person authorized to give such instructions, directions, reports, notices or other communications or information on behalf of the party purporting to send such electronic transmission; and the Trustee shall not have any liability for any losses, liabilities, costs or expenses incurred or sustained by any party as a result of such reliance upon or compliance with such instructions, directions, reports, notices or other communications or information and (ii) each other party agrees to assume all risks arising out of the use of electronic methods to submit instructions, directions, reports, notices or other communications or information to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, notices, reports or other communications or information, and the risk of interception and misuse by third parties.

(e) Any notice or communication mailed to a registered Holder shall be mailed to the Holder at the Holder's address as it appears on the Note Register and shall be sufficiently given if so mailed within the time prescribed.

(f) Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

(g) Any notice or communication delivered to the Company under the provisions herein shall constitute notice to the Note Guarantors.

Section 12.2 Communication by Holders with Other Holders. Holders may communicate with other Holders with respect to their rights under this Indenture (including the Note Guarantees) or the Notes.

Section 12.3 Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Company to the Trustee to take or refrain from taking any action under this Indenture, the Company shall furnish to the Trustee:

(a) an Officer's Certificate in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Section 12.4 Statements Required in Certificate or Opinion. Each certificate or opinion, including an Opinion of Counsel or Officer's Certificate, with respect to compliance with a covenant or condition provided for in this Indenture shall include:

(a) a statement that the individual making such certificate or opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether or not, in the opinion of such individual, such covenant or condition has been complied with.

In giving an Opinion of Counsel, counsel may rely as to factual matters on an Officer's Certificate or on certificates of public officials.

Section 12.5 Rules by Trustee, Paying Agent, Transfer Agent and Registrar . The Trustee may make reasonable rules for action by, or a meeting of, Holders. The Paying Agent, Transfer Agent and the Registrar may make reasonable rules for their functions.

Section 12.6 Legal Holidays. A "Legal Holiday" is a Saturday, a Sunday or other day on which commercial banking institutions are authorized or required to be closed in New York City, Mexico, Madrid and Amsterdam. If a payment date is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period. If a regular record date is a Legal Holiday, the record date shall not be affected.

Section 12.7 Governing Law, etc.

(a) THIS INDENTURE (INCLUDING EACH NOTE GUARANTEE) AND THE NOTES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. THE PARTIES HERETO EACH HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR EACH NOTE GUARANTEE OR ANY TRANSACTION RELATED HERETO OR THERETO TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

(b) Each of the parties hereto hereby:

(i) agrees that any suit, action or proceeding against it arising out of or relating to this Indenture (including the Note Guarantees) or the Notes, as the case may be, may be instituted in any Federal or state court sitting in The City of New York and in the courts of its own corporate domicile, in respect of actions brought against it as a defendant,

(ii) waives to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such

suit, action or proceeding, any claim that any suit, action or proceeding in such a court has been brought in an inconvenient forum, and any right to which it may be entitled, on account of place of residence or domicile,

(iii) irrevocably submits to the jurisdiction of such courts in any suit, action or proceeding,

(iv) agrees that final judgment in any such suit, action or proceeding brought in such a court shall be conclusive and binding may be enforced in the courts of the jurisdiction of which it is subject by a suit upon judgment, and

(v) agrees that service of process by mail to the addresses specified herein shall constitute personal service of such process on it in any such suit, action or proceeding.

(c) The Note Guarantors (other than CEMEX Corp.) have appointed CEMEX NY Corporation, 590 Madison Avenue (41st floor), New York, NY, 10022 (U.S.A.) as its authorized agent (the "Authorized Agent") upon whom all writs, process and summonses may be served in any suit, action or proceeding arising out of or based upon this Indenture or the Notes which may be instituted in any state or federal court in The City of New York, New York. The Note Guarantors (other than CEMEX Corp.) hereby represent and warrant that the Authorized Agent has accepted such appointment and has agreed to act as said agent for service of process, and the Note Guarantors (other than CEMEX Corp.) agree to take any and all action, including the filing of any and all documents, that may be necessary to continue each such appointment in full force and effect as aforesaid so long as the Notes remain outstanding. The Note Guarantors (other than CEMEX Corp.) agree that the appointment of the Authorized Agent shall be irrevocable so long as any of the Notes remain outstanding or until the irrevocable appointment by the Note Guarantors (other than CEMEX Corp.) of a successor agent in The City of New York, New York as each of their authorized agent for such purpose and the acceptance of such appointment by such successor. Service of process upon the Authorized Agent shall be deemed, in every respect, effective service of process upon the Note Guarantors (other than CEMEX Corp.).

(d) To the extent that any of the Issuer and the Note Guarantors have or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service or notice, attachment in aid or otherwise) with respect to itself or any of its property, the Issuer and the Note Guarantors hereby irrevocably waive and agree not to plead or claim such immunity in respect of their obligations under this Indenture or the Notes.

(e) Nothing in this Section 12.7 shall affect the right of the Trustee or any Holder of the Notes to serve process in any other manner permitted by law.

Section 12.8 No Recourse Against Others. An incorporator, director, officer, employee, stockholder or controlling person, as such, of the Issuer or any Note Guarantor shall

not have any liability for any obligations of the Issuer or any Note Guarantor under the Notes or this Indenture or for any claims based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Holder shall waive and release all such liability.

Section 12.9 Successors. All agreements of the Issuer and any Note Guarantor in this Indenture and the Notes shall bind their respective successors. All agreements of the Trustee in this Indenture shall bind its successors.

Section 12.10 Duplicate and Counterpart Originals. The parties may sign any number of copies of this Indenture. One signed copy is enough to prove this Indenture. This Indenture may be executed in any number of counterparts, each of which so executed shall be an original, but all of them together represent the same agreement.

Section 12.11 Severability. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 12.12 [Reserved].

Section 12.13 Currency Indemnity.

(a) U.S. Legal Tender is the sole currency of account and payment for all sums payable by the Issuer and any Note Guarantor under or in connection with the Notes or this Indenture, including damages. Any amount received or recovered in currency other than U.S. Legal Tender in respect of the Notes (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the winding-up or dissolution of the Issuer, a Note Guarantor or any Subsidiary of the Issuer or otherwise) by any Holder of the Notes in respect of any sum expressed to be due to it from the Company or any Note Guarantor shall only constitute a discharge of them under the Notes and this Indenture only to the extent of the U.S. Legal Tender amount which the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that U.S. Legal Tender amount is less than the U.S. Legal Tender amount expressed to be due to the recipient under the Notes or this Indenture, the Issuer and the Note Guarantors shall jointly and severally indemnify and hold harmless the recipient against any loss or cost sustained by it in making any such purchase. For the purposes of this Section 12.13, it will be sufficient for the Holder of a Note to certify that it would have suffered a loss had an actual purchase of U.S. Legal Tender been made with the amount so received in that other currency on the date of receipt or recovery (or, if a purchase of U.S. Legal Tender on such date had not been practicable, on the first date on which it would have been practicable).

(b) The indemnities of the Issuer and the Note Guarantors contained in this Section 12.13, to the extent permitted by law: (i) constitute a separate and independent obligation from the other obligations of the Issuer and the Note Guarantors under this Indenture and the Notes; (ii) shall give rise to a separate and independent cause of action against the Issuer and the Note Guarantors; (iii) shall apply irrespective of any waiver granted by any Holder of the Notes or the Trustee from time to time; and (iv) shall continue in full force and effect notwithstanding any other judgment, order, claim or proof of claim for a liquidated amount in respect of any sum due under the Notes or this Indenture or any other judgment or order.

Section 12.14 Table of Contents; Headings. The table of contents and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

Section 12.15 USA Patriot Act. The parties hereto acknowledge that, in accordance with Section 326 of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law on October 26, 2001)) (as amended, modified or supplemented from time to time, the "USA Patriot Act"), the Trustee, like all financial institutions, is required to obtain, verify, and record information that identifies each person or legal entity that opens an account. The parties to this Agreement agree that they will provide the Trustee with such information as the Trustee may request in order for the Trustee to satisfy the requirements of the USA Patriot Act.

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

CEMEX Finance LLC, as Issuer

By: /s/ Hector Medina
Name: Hector Medina
Title: Attorney-in-Fact

CEMEX, S.A.B. de C.V.,
as Note Guarantor

By: /s/ Hector Medina
Name: Hector Medina
Title: Attorney-in-Fact

CEMEX México, S.A. de C.V.,
as Note Guarantor

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

Empresas Tolteca de México, S.A. de C.V.,
as Note Guarantor

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

CEMEX Concretos, S.A. de C.V.,
as Note Guarantor

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

New Sunward Holding B.V.,
as Note Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

CEMEX España, S.A.,
as Note Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

CEMEX Corp., as Note Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

THE BANK OF NEW YORK MELLON, as Trustee

By: /s/ Joanne Adamis

Name: Joanne Adamis
Title: Vice President

Solely for the purposes of accepting the appointment of Luxembourg Paying Agent and Luxembourg Transfer Agent, together with the rights, protections and immunities granted to the Trustee under Article VII, which shall apply *mutatis mutandis* to the Luxembourg Paying Agent,

THE BANK OF NEW YORK MELLON (LUXEMBOURG) S.A., as Luxembourg Paying Agent and Luxembourg Transfer Agent

By: /s/ Joanne Adamis

Name: Joanne Adamis
Title: Vice President

EXHIBIT A

FORM OF NOTE

[Include the following legend for Global Notes only:

"THIS IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE REFERRED TO HEREINAFTER.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), NEW YORK, NEW YORK, TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF."]

[Include the following legend on all Notes that are Restricted Notes:

"THE NOTES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A) (1) TO CEMEX FINANCE LLC, (2) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A AND TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS MADE IN RELIANCE ON RULE 144A, (3) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (4) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), OR (5) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES."]

[Include the following legend on all Regulation S Temporary Global Notes:

THIS GLOBAL NOTE IS A TEMPORARY GLOBAL NOTE FOR PURPOSES OF REGULATION S UNDER THE SECURITIES ACT. NEITHER THIS TEMPORARY GLOBAL NOTE NOR ANY INTEREST HEREIN MAY BE OFFERED, SOLD, DELIVERED OR EXCHANGED FOR AN INTEREST IN A PERMANENT GLOBAL NOTE OR OTHER NOTE EXCEPT UPON DELIVERY OF THE CERTIFICATIONS SPECIFIED IN THE INDENTURE.]

FORM OF FACE OF NOTE

9.50% Senior Secured Notes due 2016

No. [ ] Principal Amount U.S.$[ ]

[If the Note is a Global Note include the following two lines:
as revised by the Schedule of Increases and
Decreases in Global Note attached hereto]

CUSIP NO. [1]

CEMEX Finance LLC a Delaware limited liability company (together with its successors and assigns, the " Issuer") promises to pay to [ ], or registered assigns, the principal sum of [ ] Dollars [*If the Note is a Global Note, add the following*, as revised by the Schedule of Increases and Decreases in Global Note attached hereto], on December 14, 2016.

Interest Payment Dates: June 14 and December 14
Record Dates: June 1 and December 1

[1] CUSIP No. for Rule 144A Note: **12516UAA3**

CUSIP No. for Regulation S Note: **U12763 AA3**

Additional provisions of this Note are set forth on the other side of this Note.

CEMEX Finance LLC

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

The Bank of New York Mellon as Trustee, certifies that this is one of the Notes referred to in the Indenture.

By: _____ Date: _____
Authorized Signatory

FORM OF REVERSE SIDE OF NOTE

9.50% Senior Secured Notes due 2016

Capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest

CEMEX Finance LLC, a Delaware limited liability company (together with its successors and assigns, the " Issuer") promises to pay interest on the principal amount of this Note at the rate per annum shown above.

The Issuer will pay interest semiannually in arrears on each Interest Payment Date of each year commencing June 14, 2010; *provided* that if any such Interest Payment Date is not a Business Day, then such payment shall be made on the next succeeding Business Day. Interest on the Notes will accrue from the most recent date to which interest has been paid on the Notes or, if no interest has been paid, from December 14, 2009; *provided* that if there is no existing Default or Event of Default on the payment of interest, and if this Note is authenticated between a Record Date referred to on the face hereof and the next succeeding Interest Payment Date (but after December 14, 2009), interest shall accrue from such next succeeding Interest Payment Date, except in the case of the original issuance of Notes, in which case interest shall accrue from December 14, 2009. The Issuer shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (" Defaulted Interest"), without regard to any applicable grace period, at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

All payments made by the Issuer in respect of the Notes will be made free and clear of and without deduction or withholding for or on account of any Taxes imposed or levied by or on behalf of any Taxing Authority, unless such withholding or deduction is required by law or by the interpretation or administration thereof. In that event, the Issuer will pay to each Holder of the Notes Additional Amounts as provided in the Indenture subject to the limitations set forth in the Indenture.

2. Method of Payment

By at least 10:00 a.m. (New York City time) on the Business Day prior to the date on which any principal of or interest on any Note is due and payable, the Issuer shall irrevocably deposit with the Trustee or the Paying Agent money sufficient to pay such principal and/or interest. The Issuer will pay interest (except Defaulted Interest) on the applicable Interest Payment Date to the Persons who are registered Holders of Notes at the close of business on the Record Date preceding the Interest Payment Date even if Notes are canceled, repurchased or redeemed after the Record Date and on or before the relevant Interest Payment Date, except as provided in Section 2.13 with respect to Defaulted Interest. Holders must surrender Notes to a Paying Agent to collect principal payments. The Issuer will pay principal and interest in U.S. Legal Tender.

Payments in respect of Notes represented by a Global Note (including principal and interest) will be made by the transfer of immediately available funds to the accounts specified by the DTC. The Issuer will make all payments in respect of a Certificated Note (including principal and interest) by mailing a check to the registered address of each registered Holder thereof as set forth in the Note Register; *provided*, *however*, that payments on the Notes may also be made, in the case of a Holder of at least U.S.$1,000,000 aggregate principal amount of Notes, by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 15 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion).

3. Paying Agent and Registrar

Initially, The Bank of New York Mellon, the Trustee under the Indenture, will act as Trustee, Paying Agent and Registrar. The Issuer may appoint and change any Paying Agent, Registrar or co-Registrar without notice to any Holder. The Issuer, any Note Guarantor or any of their respective Affiliates may act as Paying Agent, Registrar or co-Registrar.

4. Indenture

The Company issued the Notes under an Indenture, dated as of December 14, 2009 (as it may be amended or supplemented from time to time in accordance with the terms thereof, the "Indenture"), among the Issuer, the Note Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture. The Notes are subject to all such terms, and Holders are referred to the Indenture for a statement of those terms. Each Holder, by accepting a Note, agrees to be bound by all of the terms and provisions of the Indenture, as amended or supplemented from time to time.

The Notes are general senior obligations, which are secured by a first priority security interest in the Collateral on an equal and ratable basis with the Euro Notes and the other Permitted Secured Obligations, subject to the Collateral release provisions set forth in the Intercreditor Agreement. U.S.$1,250,000,000 in aggregate principal amount of Notes will be initially issued on the Issue Date. Subject to the conditions set forth in the Indenture and without the consent of the Holders, the Issuer may issue Additional Notes. All Notes will be treated as a single class of securities under the Indenture. The Indenture imposes certain limitations on, among other things, the ability of the Issuer and its Restricted Subsidiaries to: Incur Indebtedness, make Restricted Payments, incur Liens, designate Unrestricted Subsidiaries, make Asset Sales, enter into transactions with Affiliates, or consolidate or merge or transfer or convey all or substantially all of the Issuer's assets.

To guarantee the due and punctual payment of the principal of, premium and interest on the Notes and all other amounts payable by the Company under the Indenture and the Notes when and as the same shall be due and payable, whether at maturity, by acceleration or otherwise, according to the terms of the Notes and the Indenture, CEMEX, S.A.B. de C.V., CEMEX España, S.A., CEMEX México, S.A. de C.V., CEMEX Corp., Empresas Tolteca de México, S.A. de C.V., CEMEX Concretos, S.A. de C.V. and New Sunward Holding B.V. have unconditionally guaranteed, jointly and severally, such obligations pursuant to the terms of the Indenture. Each Note Guarantee will be subject to release as provided in the Indenture.

The obligations of each Note Guarantor in respect of its Note Guarantee will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Note Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Note Guarantor in respect of the obligations of such other Note Guarantor under its Note Guarantee or pursuant to its contribution obligations under the Indenture, result in the obligations of such Note Guarantor under its Note Guarantee not constituting a fraudulent conveyance, fraudulent transfer, or similar illegal transfer under federal or state law or the law of the jurisdiction or formation and incorporation of such Note Guarantors.

5. Optional Redemption

Except as stated below, the Issuer may not redeem the Notes. The Issuer may redeem the Notes, at its option, in whole at any time or in part from time to time, on and after December 14, 2013, at the following redemption prices, expressed as percentages of the principal amount thereof, if redeemed during the twelve-month period commencing on December 14 of any year set forth below, plus any accrued and unpaid interest on the principal amount of the Notes to the date of redemption:

Year	Percentage
2013	104.750%
2014	102.375%
2015 and thereafter	100.000%

provided, however, that the Issuer shall not have the right to exercise any such optional redemption at any time when the Issuer is prohibited from having such an option under the Financing Agreement.

Prior to December 14, 2013, the Issuer will have the right, at its option, to redeem any of the Notes, in whole or in part, at any time or from time to time prior to their maturity at a redemption price equal to the greater of (1) 100% of the principal amount of such Notes and (2) the sum of the present value of each remaining scheduled payment of principal and interest thereon (exclusive of interest accrued to the date of redemption) discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate plus 50 basis points (the "Make-Whole Amount"), plus in each case any accrued and unpaid interest on the principal amount of the Notes to the date of redemption.

"Treasury Rate" means, with respect to any redemption date, the rate per annum equal to the semi-annual equivalent yield to maturity or interpolated maturity (on a day count basis) of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such redemption date.

"Comparable Treasury Issue" means the United States Treasury security or securities selected by an Independent Investment Banker as having an actual or interpolated maturity comparable to the remaining term of the Notes to be redeemed that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of a comparable maturity to the remaining term of such Notes.

"Independent Investment Banker" means one of the Reference Treasury Dealers appointed by the Issuer.

"Comparable Treasury Price" means, with respect to any redemption date (1) the average of the Reference Treasury Dealer Quotations for such redemption date, after excluding the highest and lowest such Reference Treasury Dealer Quotation or (2) if the Trustee obtains fewer than four such Reference Treasury Dealer Quotations, the average of all such quotations.

"Reference Treasury Dealer" means Citibank N.A. or its affiliates which are primary United States government securities dealers and not less than two other leading primary United States government securities dealers in New York City reasonably designated by the Issuer; *provided, however*, that if any of the foregoing shall cease to be a primary United States government securities dealer in New York City (a " Primary Treasury Dealer"), the Issuer will substitute therefore another Primary Treasury Dealer.

"Reference Treasury Dealer Quotation" means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the Trustee, of the bid and asked price for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by such Reference Treasury Dealer at 3:30 pm New York time on the third business day preceding such redemption date.

Optional Redemption upon Equity Offerings . At any time, or from time to time, on or prior to December 14, 2012, the Issuer may, at its option, use the net cash proceeds of one or more Equity Offerings to redeem in the aggregate up to 35% of the aggregate principal amount of the Notes issued pursuant to the Indenture at a redemption price equal to109.500% of the principal amount thereof plus any accrued and unpaid interest on the principal amount of the Notes to the date of redemption; *provided*, that:

- after giving effect to any such redemption at least 65% of the aggregate principal amount of the Notes issued under the Indenture remains outstanding; and
- the Issuer shall make such redemption not more than 90 days after the consummation of such Equity Offering;

provided, however, that the Issuer shall not have the right to exercise any such optional redemption at any time when the Issuer is prohibited from exercising such an option under the Financing Agreement.

"Equity Offering" means any public or private sale of Qualified Capital Stock after the Issue Date for cash other than issuances to any Subsidiary of the Company.

Optional Redemption for Changes in Withholding Taxes. If, as a result of any amendment to, or change in, the laws (or any rules or regulations thereunder) of a Taxing Jurisdiction affecting taxation, or any amendment to or change in an official interpretation or application of such laws, rules or regulations that has a general effect, which amendment to or change of such laws, rules or regulations becomes effective on or after the Issue Date (which, in the case of a merger, consolidation or other transaction permitted and described under Article IV shall be treated for this purpose as the date of such transaction) we would be obligated, after taking all reasonable measures to avoid this requirement, to pay Additional Amounts in excess of those attributable to a withholding tax rate of 10% with respect to the Notes (see "Additional Amounts"), then, at our option, all, but not less than all, of the Notes may be redeemed at any time on giving not less than 30 nor more than 60 days' notice, at a redemption price equal to 100% of the outstanding principal amount, plus any accrued and unpaid interest on the principal amount of the Notes to the date of redemption; *provided*, *however*, that (1) no notice of redemption for tax reasons may be given earlier than 90 days prior to the earliest date on which we would be obligated to pay these Additional Amounts if a payment on the Notes were then due, and (2) at the time such notice of redemption is given such obligation to pay such Additional Amounts remains in effect; *provided, further, however*, that the Issuer shall not have the right to exercise any such optional redemption at any time when the Issuer is prohibited from having such an option under the Financing Agreement.

Prior to the publication of any notice of redemption pursuant to this provision, we will deliver to the Trustee:

- an Officer's Certificate stating that we are entitled to effect the redemption and setting forth a statement of facts showing that the conditions precedent to our right to redeem have occurred, and
- an opinion of outside legal counsel of recognized standing in the affected Taxing Jurisdiction to the effect that we have or will become obligated to pay such Additional Amounts as a result of such change or amendment.

This notice, once delivered by us to the Trustee, will be irrevocable.

In the case of any partial redemption, selection of the Notes for redemption will be made in accordance with Article V of the Indenture. On and after the redemption date, interest will cease to accrue on Notes or portions thereof called for redemption as long as the Issuer has deposited with the Paying Agent funds in satisfaction of the applicable redemption price pursuant to the Indenture.

6. Mandatory Repurchase Provisions

Change Of Control Offer. Upon the occurrence of a Change of Control, each Holder of Notes will have the right to require that the Issuer purchase all or a portion (in integral multiples of U.S.$1,000) of the Holder's Notes at a purchase price equal to 101% of the principal amount thereof, plus accrued and unpaid interest through the date of purchase. Within 30 days

following the date upon which the Change of Control occurred, the Issuer must make a Change of Control Offer pursuant to a Change of Control Notice and publish the Change of Control Offer in a newspaper having general circulation in Luxembourg (including, without limitation, the *Luxemburger Wort*). As more fully described in the Indenture, the Change of Control Notice shall state, among other things, the Change of Control Payment Date, which must be no earlier than 30 days nor later than 60 days from the date the notice is mailed, other than as may be required by applicable law.

Asset Sale Offer. The Indenture imposes certain limitations on the ability of the Company and its Restricted Subsidiaries to make Asset Sales. In the event the proceeds from a permitted Asset Sale exceed certain amounts and are not applied as specified in the Indenture, the Company will be required to make an Asset Sale Offer to purchase to the extent of such remaining proceeds each Holder's Notes together with holders of certain other Indebtedness at 100% of the principal amount thereof, plus accrued interest (if any) to the Asset Sale Offer Payment Date, as more fully set forth in the Indenture.

7. Denominations; Transfer; Exchange

The Notes are in fully registered form without coupons, and only in denominations of principal amount of U.S.$100,000 and integral multiples of U.S.$1,000 in excess thereof. A Holder may transfer or exchange Notes in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements or transfer documents and to pay any taxes and fees required by law or permitted by the Indenture. The Registrar shall not be required to register the transfer or exchange of (x) any Note for a period beginning: (1) 15 days before the mailing of a notice of an offer to repurchase or redeem Notes and ending at the close of business on the day of such mailing or (2) 15 days before an Interest Payment Date and ending on such Interest Payment Date and (y) any Note selected for repurchase or redemption, except the unrepurchased or unredeemed portion thereof, if any.

8. Persons Deemed Owners

The registered holder of this Note may be treated as the owner of it for all purposes.

9. Unclaimed Money

If money for the payment of principal or interest remains unclaimed for two years, the Trustee or Paying Agent shall pay the money back to the Company at its request unless an abandoned property law designates another Person. After any such payment, Holders entitled to the money must look only to the Issuer and not to the Trustee for payment.

10. Discharge Prior to Redemption or Maturity

Subject to certain conditions set forth in the Indenture, the Issuer at any time may terminate some or all of its obligations under the Notes and the Indenture if the Issuer deposits with the Trustee U.S. Legal Tender or U.S. Government Obligations for the payment of principal of and interest on the Notes to redemption or maturity, as the case may be.

11. Amendment, Waiver

Subject to certain exceptions set forth in the Indenture, (i) the Indenture or the Notes may be amended or supplemented with the written consent of the Holders of at least a majority in principal amount of the then Outstanding Notes and (ii) any default (other than with respect to nonpayment or in respect of a provision that cannot be amended or supplemented without the written consent of each Holder affected) or noncompliance with any provision may be waived with the written consent of the Holders of a majority in aggregate principal amount of the then Outstanding Notes. Subject to certain exceptions set forth in the Indenture, without the consent of any Holder, the Issuer and the Trustee may amend or supplement the Indenture or the Notes to, among other things, cure any ambiguity, omission, defect or inconsistency, or to comply with Article IV of the Indenture, or to provide for uncertificated Notes in addition to or in place of certificated Notes, or to add guarantees with respect to the Notes or to secure the Notes, or to add additional covenants or surrender rights and powers conferred on the Company, or to make any change that does not adversely affect the rights of any Holder, or to provide for the issuance of Additional Notes.

12. Defaults and Remedies

If an Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the Outstanding Notes may declare all the Notes to be due and payable immediately. A Bankruptcy Event of Default will result in the Notes being due and payable immediately upon the occurrence of such Bankruptcy Event of Default.

Holders may not enforce the Indenture or the Notes except as provided in the Indenture. The Trustee may refuse to enforce the Indenture or the Notes unless it receives reasonable indemnity or security. Subject to certain limitations, Holders of a majority in principal amount of the Outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders notice of any continuing Default or Event of Default (except a Default or Event of Default in payment of principal or interest) if it determines that withholding notice is in their interest.

13. Trustee Dealings with the Company and the Note Guarantors

Subject to certain limitations set forth in the Indenture, the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Issuer, any Note Guarantor or its Affiliates and may otherwise deal with the Issuer, any Note Guarantor or its Affiliates with the same rights it would have if it were not Trustee.

14. No Recourse Against Others

An incorporator, director, officer, employee, stockholder or controlling person, as such, of the Issuer or any Note Guarantor shall not have any liability for any obligations of the Issuer or any Note Guarantor under the Notes or the Indenture or for any claims based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each holder waives and releases all such liability.

15. Authentication

Any Officer of the Issuer may sign the Notes for the Issuer by manual or facsimile signature. This Note shall not be valid until an authorized signatory of the Trustee (or an Authenticating Agent) manually signs the certificate of authentication on the other side of this Note.

16. Abbreviations

Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (= tenants in common), TEN ENT (= tenants by the entirety), JT TEN (= joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian) and U/G/M/A (= Uniform Gift to Minors Act).

17. CUSIP Numbers

Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures the Issuer has caused CUSIP or other similar numbers to be printed on the Notes and has directed the Trustee to use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

18. Governing Law

This Note shall be governed by, and construed in accordance with, the laws of the State of New York.

19. Currency of Account; Conversion of Currency .

U.S. Legal Tender is the sole currency of account and payment for all sums payable by the Issuer and the Note Guarantors under or in connection with the Notes or the Indenture, including damages. The Issuer and the Note Guarantors will indemnify the Holders as provided in respect of the conversion of currency relating to the Notes and the Indenture.

20. Agent for Service; Submission to Jurisdiction; Waiver of Immunities .

The Issuer and the Note Guarantors have agreed that any suit, action or proceeding against the Issuer or any Note Guarantor brought by any Holder or the Trustee arising out of or based upon the Indenture or the Notes may be instituted in any state or federal court in The City of New York, New York. The Issuer and the Note Guarantors have irrevocably submitted to the jurisdiction of such courts for such purpose and waived, to the fullest extent permitted by law, trial by jury and any objection it may now or hereafter have to the laying of venue of any such proceeding, and any claim it may now or hereafter have that any proceeding in any such court is brought in an inconvenient forum. The Note Guarantors (other than CEMEX Corp.) have appointed CEMEX NY Corporation, 590 Madison Avenue (41st floor), New York, NY, 10022 (U.S.A.) as each of their authorized agent upon whom all writs, process and summonses may be served in any suit, action or proceeding arising out of or based

upon the Indenture or the Notes which may be instituted in any state or federal court in The City of New York, New York. To the extent that any of the Issuer and the Note Guarantors have or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service or notice, attachment in aid or otherwise) with respect to itself or any of its property, the Issuer and the Note Guarantors have irrevocably waived and agreed not to plead or claim such immunity in respect of its obligations under the Indenture or the Notes.

The Issuer will furnish to any Holder upon written request and without charge to the Holder a copy of the Indenture which has in it the text of this Note in larger type. Requests may be made to:

CEMEX Finance LLC

c/o CEMEX, S.A.B. de C.V.
Av. Ricardo Margáin Zozaya # 325
Colonia Valle del Campestre
Garza García, Nuevo León, México 66265
Tel: +5281-8888-8888

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to

_____

(Print or type assignee's name, address and zip code)

_____

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint as agent to transfer this Note on the books of the Issuer. The agent may substitute another to act for him.

Date: _____ Your Signature: _____

Signature Guarantee: _____

(Signature must be guaranteed)

Sign exactly as your name appears on the other side of this Note.

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

To be attached to Global Notes only:

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The following increases or decreases in this Global Note have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Note Custodian

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Issuer pursuant to Section 3.12 or 3.8 of the Indenture, check either box:

☐ **Section 3.12** ☐ **Section 3.8**

If you want to elect to have only part of this Note purchased by the Issuer pursuant to Section 3.12 of the Indenture, state the principal amount (which must be an integral multiple of U.S.$1,000): U.S.$ _____

Date: _____ Your Signature _____
(Sign exactly as your name appears on the other side of the Note)

Signature Guarantee: _____
(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

EXHIBIT B

FORM OF CERTIFICATE FOR TRANSFER PURSUANT TO REGULATION S

[Date]

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: Global Finance Americas

Re: 9.50% Senior Secured Notes due 2016 (the "Notes") of CEMEX Finance LLC (the "Issuer")

Ladies and Gentlemen:

Reference is hereby made to the Indenture, dated as of December 14, 2009 (as amended and supplemented from time to time, the "Indenture"), among the Issuer, the Note Guarantors party thereto and The Bank of New York Mellon, as Trustee. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

In connection with our proposed sale of U.S.$ aggregate principal amount of the Notes, which represent an interest in a 144A Global Note beneficially owned by the undersigned ("Transferor"), we confirm that such sale has been effected pursuant to and in accordance with Regulation S under the Securities Act of 1933, as amended (the "Securities Act") and, accordingly, we represent that:

(a) the offer of the Notes was not made to a person in the United States;

(b) either (i) at the time the buy order was originated, the transferee was outside the United States or we and any person acting on our behalf reasonably believed that the transferee was outside the United States or (ii) the transaction was executed in, on or through the facilities of a designated off-shore securities market and neither we nor any person acting on our behalf knows that the transaction has been pre-arranged with a buyer in the United States;

(c) no directed selling efforts have been made in the United States in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S, as applicable;

(d) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act; and

(e) we are the beneficial owner of the principal amount of Notes being transferred.

In addition, if the sale is made during a Distribution Compliance Period and the provisions of Rule 904(b)(1) or Rule 904(b)(2) of Regulation S are applicable thereto, we confirm that such sale has been made in accordance with the applicable provisions of Rule 904(b)(1) or Rule 904(b)(2), as the case may be.

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby. Terms used in this letter have the meanings set forth in Regulation S.

Very truly yours,

[Name of Transferor]

By: _____

_____

Authorized Signature]

Signature Guarantee: _____

(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

EXHIBIT C

FORM OF CERTIFICATION FOR TRANSFER PURSUANT TO RULE 144

[Date]

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: Global Finance Americas

Re: 9.50% Senior Secured Notes due 2016 (the "Notes") of CEMEX Finance LLC (the "Issuer")

Ladies and Gentlemen:

Reference is hereby made to the Indenture, dated as of December 14, 2009 (as amended and supplemented from time to time, the "Indenture"), among the Issuer, the Note Guarantors named therein and The Bank of New York Mellon, as Trustee. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

In connection with our proposed sale of U.S.$ aggregate principal amount of the Notes, which represent an interest in a 144A Global Note beneficially owned by the undersigned ("Transferor"), we confirm that such sale has been effected pursuant to and in accordance with Rule 144 under the Securities Act.

You and the Company are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

Very truly yours,

[Name of Transferor]

By: _____

_____
Authorized Signature

Signature Guarantee: _____
(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

Exhibit 4.50.1
Execution Version

SUPPLEMENTAL INDENTURE NO. 1

SUPPLEMENTAL INDENTURE No. 1, dated as of January 19, 2010 by and between CEMEX Finance LLC, a limited liability company organized and existing pursuant to the laws of the state of Delaware (the "Company"), the Note Guarantors party thereto (the "Note Guarantors"), and The Bank of New York Mellon, as trustee (the "Trustee").

W I T N E S S E T H:

WHEREAS, the Company and the Trustee previously have entered into an indenture, dated as of December 14, 2009 (the "Original Indenture", and as supplemented by this Supplemental Indenture No. 1 and any further amendments or supplements thereto, the "Indenture"), providing for the issuance of 9.50% Senior Secured Notes due 2016;

WHEREAS, the Indenture provides for, among other things, that, subsequent to the execution of the Original Indenture, the Company and the Trustee may without the consent of holders of the outstanding 9.50% Senior Secured Notes due 2016 enter into one or more indentures supplemental to the Original Indenture to provide for the issuance of Additional Notes in accordance with Section 2.14 thereof;

WHEREAS, on November 30, 2009, the Sole Manager of the Company has authorized the issuance of up to U.S.$2,500,000,000 (or its equivalent in other currencies) of aggregate principal amount of notes, which includes the Additional Notes;

WHEREAS, each of the Note Guarantors has been duly authorized to issue its Note Guarantee in connection with the Additional Notes;

WHEREAS, the Company has requested that the Trustee join in the execution of this Supplemental Indenture No. 1; and

WHEREAS, all things necessary to make this Supplemental Indenture No. 1 a valid agreement of the parties and a valid supplement to the Indenture have been done.

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants contained herein and in the Indenture and for other good and valuable consideration, the receipt and sufficiency of which are herein acknowledged, the Company, the Note Guarantors and the Trustee hereby agree, for the equal and ratable benefit of all Holders, as follows:

ARTICLE ONE

DEFINITIONS

Section 1.01 Defined Terms. All capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Indenture, as supplemented and amended hereby. All definitions in the Original Indenture shall be read in a manner consistent with the terms of this Supplemental Indenture No. 1.

ARTICLE TWO

ADDITIONAL NOTES

Section 2.01 The Additional Notes. Pursuant to Section 2.14 of the Original Indenture, the Company hereby creates and issues $500,000,000 aggregate principal amount of its 9.50% Senior Secured Notes due 2016 (the " Additional Notes"). These Additional Notes will be consolidated to form a single series, and be fully fungible, with the Company's outstanding 9.50% Senior Secured Notes due 2016 issued on December 14, 2009, to which the Additional Notes are identical in all terms and conditions except issue date and issue price. Interest on the Additional Notes shall accrue from December 14, 2009. All Additional Notes issued under the Indenture will, when issued, be considered Notes for all purposes thereunder and will be subject to and take the benefit of all of the terms, conditions and provisions of the Indenture.

Section 2.02 Execution and Authentication of the Additional Notes . The Trustee shall, pursuant to an Authentication Order, authenticate the Additional Notes.

ARTICLE THREE

MISCELLANEOUS

Section 3.01. Effect of This Supplemental Indenture No. 1 . This Supplemental Indenture No. 1 supplements the Original Indenture and shall be a part, and subject to all the terms, thereof. The Original Indenture, as supplemented and amended by this Supplemental Indenture No. 1, is in all respects ratified and confirmed, and the Original Indenture and this Supplemental Indenture No. 1 shall be read, taken and construed as one and the same instrument. All provisions included in this Supplemental Indenture No. 1 supersede any conflicting provisions included in the Original Indenture, unless not permitted by law.

Section 3.02 Governing Law. This Supplemental Indenture No. 1 shall be governed by, and construed in accordance with, the laws of the State of New York.

Section 3.03 Effect of Headings. The section headings herein are for convenience only and shall not affect the construction of this Supplemental Indenture No. 1.

Section 3.04 Counterparts. The parties may sign any number of copies of this Supplemental Indenture No. 1. Each signed copy shall be an original, but all of them shall represent the same agreement.

Section 3.05 The Trustee. The Trustee shall not be responsible in any manner whatsoever for or in respect of the validity or sufficiency of this Supplemental Indenture No. 1 or for or in respect of the recitals contained herein, all of which are made solely by the Company and the Note Guarantors. In entering into this Supplemental Indenture No. 1, the Trustee shall be entitled to the benefit of every provision of the Indenture relating to the conduct or affecting the liability or affording protection to the Trustee whether or not elsewhere herein so provided. The Company and the Note Guarantors expressly reaffirm and confirm their obligations to indemnify the Trustee in connection with the Indenture and all the actions contemplated hereby, all in accordance with the terms of the Indenture.

[SIGNATURE PAGE TO FOLLOW IMMEDIATELY]

SIGNATURES

Dated as of January 19, 2010

CEMEX Finance LLC, as Issuer

By: /s/ Hector Medina
Name: Hector Medina
Title: Attorney-in-Fact

CEMEX, S.A.B. de C.V., as Note Guarantor

By: /s/ Lorenzo H. Zambrano
Name: Lorenzo H. Zambrano
Title: Attorney-in-Fact

CEMEX México, S.A. de C.V., as Note Guarantor

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

Empresas Tolteca de México, S.A.
de C.V., as Note Guarantor

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

CEMEX Concretos, S.A. de C.V., as Note Guarantor

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

New Sunward Holding B.V., as Note Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

CEMEX España, S.A., as Note Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

CEMEX Corp., as Note Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

THE BANK OF NEW YORK
MELLON, as Trustee

By: /s/ Joanne Adamis
Name: Joanne Adamis
Title: Vice President

Signature page to Supplemental Indenture No. 1

Exhibit 4.51

CEMEX Finance LLC

U.S.$500,000,000
9.50% SENIOR SECURED NOTES DUE 2016

PURCHASE AGREEMENT

January 13, 2010

Banc of America Securities LLC
Barclays Capital Inc.
Citigroup Global Markets Inc.
J.P. Morgan Securities Inc.
As Representatives of the Initial Purchasers
c/o Banc of America Securities LLC
One Bryant Park
New York, New York, 10036

Ladies and Gentlemen:

CEMEX Finance LLC, a Delaware limited liability company (the "Issuer"), an indirect subsidiary of CEMEX, S.A.B. de C.V., a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) organized under the laws of Mexico (the "Company"), proposes to issue and sell to the several parties named in Schedule I hereto (the "Initial Purchasers"), for whom you (the "Representatives") are acting as representatives, U.S.$500,000,000 principal amount of its 9.50% Senior Secured Notes due 2016 (the "Securities"). The Securities will be unconditionally guaranteed (the "Guarantees") by each of (i) the Company, CEMEX México, S.A. de C.V., Empresas Tolteca de México, S.A. de C.V. and CEMEX Concretos, S.A. de C.V. (collectively, the "Mexican Note Guarantors"), (ii) New Sunward Holding B.V. ("New Sunward"), (iii) CEMEX España, S.A. ("CEMEX España"); and (iv) CEMEX Corp. (the "U.S. Note Guarantor" and together with the Mexican Note Guarantors, CEMEX España and New Sunward, the "Note Guarantors"), and are to be issued under an indenture dated as of December 14, 2009 (as supplemented by the supplemental indenture no. 1 to be dated as of the Closing Date, the "Indenture"), among the Issuer, the Note Guarantors and The Bank of New York Mellon, a New York banking corporation, as trustee (the "Trustee"). To the extent there are no additional parties listed on Schedule I other than you, the term Representatives as used herein shall mean you as the Initial Purchasers, and the terms Representatives and Initial Purchasers shall mean either the singular or plural as the context requires. The use of the neuter in this Agreement shall include the feminine and masculine wherever appropriate. Certain terms used herein are defined in Section 25 hereof.

The Securities will be secured in accordance with the terms of the Intercreditor Agreement, by a first-priority security interest in the Collateral, but holding a Security will not grant its holders the right to direct the foreclosure or the right to foreclose on the Collateral.

The sale of the Securities to the Initial Purchasers will be made without registration of the Securities under the Act in reliance upon exemptions from the registration requirements of the Act.

In connection with the sale of the Securities, the Company has prepared a preliminary supplement to offering memorandum dated as of the date hereof (as amended or supplemented at the date hereof, including any and all exhibits thereto (including the final offering memorandum dated as of December 9, 2009 (the "Base Offering Memorandum") and any information incorporated by reference therein, the "Preliminary Memorandum"), and a final supplement to offering memorandum dated as of the date hereof (as amended or supplemented at the Execution Time, including any and all exhibits thereto (including the Base Offering Memorandum), and any information incorporated by reference therein, the "Final Memorandum"). Each of the Preliminary Memorandum and the Final Memorandum sets forth certain information concerning the Company and the Securities. The Company hereby confirms that it has authorized the use of the Disclosure Package, the Preliminary Memorandum and the Final Memorandum, and any amendment or supplement thereto, in connection with the offer and sale of the Securities by the Initial Purchasers. Unless stated to the contrary, any references herein to the terms "amend", "amendment" or "supplement" with respect to the Disclosure Package, the Preliminary Memorandum and the Final Memorandum shall be deemed to refer to and include any information filed under the Exchange Act subsequent to the Execution Time that is incorporated by reference therein.

It is understood that on December 9, 2009, the Issuer entered into a purchase agreement (the "Original Purchase Agreement") with the several initial purchasers hereunder providing for the sale by the Issuer of an aggregate of U.S.$1,250,000,000 principal amount of its 9.50% Senior Secured Notes due 2016 (the "Original Securities"). In connection with the sale of the Original Securities, the Company prepared a preliminary offering memorandum dated as of December 1, 2009 (the "December Preliminary Memorandum"), and the Base Offering Memorandum. The Original Securities share in the Collateral and benefit from the same guarantees as the Securities.

It is further understood that on December 9, 2009, the Issuer entered into a purchase agreement (the "Euro Purchase Agreement") with the several initial purchasers thereunder providing for the sale by the Issuer of an aggregate of € 350,000,000 principal amount of its 9.625% Senior Secured Notes due 2017 (the "Euro Denominated Securities"). In connection with the sale of the Euro Denominated Securities, the Company prepared a preliminary offering memorandum, dated December 7, 2009, and a final offering memorandum, dated December 9, 2009, substantially in the same form as the December Preliminary Memorandum and the Base Offering Memorandum. The Euro Denominated Securities share in the Collateral and benefit from the same guarantees as the Securities.

1. Representations and Warranties. The Issuer represents and warrants to each Initial Purchaser as set forth below in this Section 1:

(a) The Preliminary Memorandum, at the date thereof, did not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not

misleading. At the Execution Time and on the Closing Date the Final Memorandum did not and will not (and any amendment or supplement thereto, at the date thereof and at the Closing Date, will not) contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the Issuer makes no representation or warranty as to the information contained in or omitted from the Preliminary Memorandum or the Final Memorandum, or any amendment or supplement thereto, in reliance upon and in conformity with information furnished in writing to the Issuer by or on behalf of the Initial Purchasers through the Representatives specifically for inclusion therein, it being understood and agreed that the only such information furnished by or on behalf of any Initial Purchaser consists of the information described as such in Section 8(b) hereof.

(b) The Disclosure Package, as of the Execution Time, does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The preceding sentence does not apply to statements in or omissions from the Disclosure Package based upon and in conformity with written information furnished to the Issuer by any Initial Purchaser through the Representatives specifically for use therein, it being understood and agreed that the only such information furnished by or on behalf of any Initial Purchaser consists of the information described as such in Section 8(b) hereof.

(c) None of the Issuer, any of the Note Guarantors or any person acting on its or their behalf has, directly or indirectly, made offers or sales of any security, or solicited offers to buy, any security under circumstances that would require the registration of the Securities under the Act.

(d) None of the Issuer, any of the Note Guarantors or any person acting on its or their behalf has: (i) engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with any offer or sale of the Securities or (ii) engaged in any directed selling efforts (within the meaning of Regulation S) with respect to the Securities; and each of the Issuer, the Note Guarantors and each person acting on its or their behalf has complied with the offering restrictions requirement of Regulation S.

(e) The Securities satisfy the eligibility requirements of Rule 144A(d)(3) under the Act.

(f) No registration of the Securities under the Act is required for the offer and sale of the Securities to or by the Initial Purchasers in the manner contemplated herein, in the Disclosure Package and in the Final Memorandum.

(g) Neither the Issuer nor any of the Note Guarantors is, and after giving effect to the offering and sale of the Securities and the application of the proceeds thereof as described in the Disclosure Package and the Final Memorandum, will not be, an “investment company” as defined in the Investment Company Act.

(h) Neither the Issuer nor any of the Note Guarantors has paid or agreed to pay to any person any compensation for soliciting another to purchase any securities of the Issuer or such Note Guarantor (except as contemplated in this Agreement).

(i) Neither the Issuer nor any of the Note Guarantors has taken, directly or indirectly, any action designed to or that has constituted or that might reasonably be expected to cause or result, under the Exchange Act or otherwise, in stabilization or manipulation of the price of any security of the Issuer or such Note Guarantor to facilitate the sale or resale of the Securities.

(j) The Issuer and each of the Note Guarantors have been duly organized and are validly existing and, if applicable, in good standing under the laws of the jurisdiction in which they are chartered or organized with power and authority to own or lease, as the case may be, and to operate their properties and conduct their businesses as described in the Disclosure Package and the Final Memorandum, and, if applicable, are duly qualified to do business as foreign corporations and are in good standing under the laws of each jurisdiction that requires such qualification or such person is subject to no material liability or disability by reason of the failure to be so qualified.

(k) All the outstanding shares of capital stock or other equity interests of the Company have been duly authorized and validly issued and are fully paid and nonassessable, and, except as otherwise set forth in the Disclosure Package and the Final Memorandum, all outstanding shares of capital stock or other equity interests of the subsidiaries of the Company are owned directly or indirectly by the Company either directly or through wholly-owned and majority-owned subsidiaries, except as set forth in the Disclosure Package and the Final Memorandum, free and clear of any security interest, claim, lien or encumbrance; except for the security interest created under the Transaction Security Documents.

(l) (i) The statements in the Preliminary Memorandum and the Final Memorandum under the headings “Important Federal Tax Considerations” and “Description of Notes”; and (ii) the statements in the Preliminary Memorandum and the Final Memorandum under the heading “Recent Developments - Recent Developments Relating to Our Regulatory Matters and Legal Proceedings”, taken together with the statements in the Company’s annual report on Form 20-F for the year ended December 31, 2008 under the heading “Regulatory Matters and Legal Proceedings”, as updated by the statements in the Company’s report on Form 6-K, filed with the Commission on September 21, 2009 under the heading “Recent developments relating to our regulatory matters and legal proceedings”, in each case incorporated by reference therein; insofar as they purport to describe the provisions of the laws and documents referred to therein, fairly summarize the matters therein described in all material respects.

(m) This Agreement has been duly authorized, executed and delivered by the Issuer and each of the Note Guarantors; the Indenture, including the Guarantees provided for therein by each of the Note Guarantors, has been duly authorized by the Issuer and each of the Note Guarantors and, assuming due authorization, execution and delivery thereof by the Trustee, when executed and delivered by the Issuer and each of the Note Guarantors, will constitute a legal, valid, binding instrument enforceable against the Issuer and each of the Note Guarantors in accordance with its terms (subject, as to the enforcement of remedies, to applicable bankruptcy,

reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity); and the Securities have been duly authorized, and, when executed, authenticated and issued in accordance with the provisions of the Indenture and delivered to and paid for by the Initial Purchasers, will have been duly executed and delivered by the Issuer and will constitute the legal, valid and binding obligations of the Issuer entitled to the benefits of the Indenture (subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity).

(n) As of the Closing Date, the Securities are duly secured by a first-priority security interest in the Collateral on an equal and ratable basis with (i) the indebtedness under the Financing Agreement, (ii) the Original Securities, (iii) the Euro Denominated Securities: and (iv) the notes (or similar instruments, including *certificados bursátiles*) outstanding on the date of the Financing Agreement which are not subject to the Financing Agreement but are required to be secured pursuant to their terms, but holding a Security will not grant its holders the right to direct the foreclosure or the right to foreclose on the Collateral.

(o) The shares that constitute the Collateral are fully paid and non assessable and not subject to any option to purchase or similar rights and are free and clear of any lien, pledge, security interest or encumbrance, except for the security interest created under the Transaction Security Documents. The constitutional documents of the companies whose shares are subject to the Collateral do not and could not restrict or inhibit any transfer of those shares on creation or enforcement of the Collateral. There are no agreements in force which provide for the issue or allotment of, any share or loan capital of the Company or any of its subsidiaries (including any option or right of pre-emption or conversion) other than pre-emptive rights (i) arising under applicable law in favor of shareholders generally; and (ii) arising under any obligation in respect of any stock option plan, restricted stock plan or retirement plan which the Company or any of its subsidiaries customarily provides to its employees, consultants and directors.

(p) Under the Transaction Security Documents, the Collateral is granted over all the issued share capital in each of the Company and its subsidiaries whose shares are subject to the Collateral except:

(i) in the case of CEMEX España:

  (A) 0.3602% of the issued share capital, comprised of shares owned by subsidiaries of CEMEX España; and

  (B) 0.1716% of the issues share capital, comprised of shares owned by persons that are not subsidiaries or affiliates of the Company;

(ii) in the case of CEMEX Trademarks Holding Ltd., 0.4326% of the issues share capital, comprised of shares owned by CEMEX Inc.;

(iii) in the case of each Mexican company whose shares are the subject to the Collateral (except in the case of CEMEX México, S.A. de C.V.), the single share held by a minority shareholder that is either the Company or any of its subsidiaries;

(iv) in the case of CEMEX México, S.A. de C.V., 0.1245% of the issued share capital, comprised of shares owned by CEMEX, Inc.;

(v) in the case of CEMEX Concretos, S.A. de C.V., 0.0357% of the issued share capital, comprised of shares owned by CEMEX, Inc. and 0.0131% of the issued share capital comprised of shares owned by third parties.

(q) No consent, approval, authorization, filing with or order of any court or governmental agency or body is required in connection with the transactions contemplated herein or in the Indenture, except (i) such as may be required under the blue sky laws or other state securities laws of any jurisdiction in which the Securities are offered and sold and, (ii) for the approval of the Securities for listing on the Luxembourg Stock Exchange.

(r) None of the execution and delivery of this Agreement, the Indenture, the issuance and sale of the Securities, the Financing Agreement, and the Transaction Security Documents or the consummation of any other of the transactions herein or therein contemplated, or the fulfillment of the terms hereof or thereof will conflict with, or result in a breach or violation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries (other than the Collateral), pursuant to (i) the organizational documents of the Company or any of its subsidiaries; (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which the Company or any of its subsidiaries is a party or bound or to which its or their property is subject (including the Financing Agreement, the Transaction Security Documents, the Original Purchase Agreement and the Euro Purchase Agreement); or (iii) any statute, law, rule, regulation, judgment, order or decree of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company's or any of its subsidiaries' properties, which conflict, breach, violation or imposition would, in the case of clauses (ii) and (iii) above, either individually or in the aggregate with all other conflicts, breaches, violations and impositions referred to in this paragraph (r) (if any), have (x) a Material Adverse Effect (as defined below) or (y) a material adverse effect upon the transactions contemplated herein or any Initial Purchaser.

(s) The consolidated historical financial statements and schedules of the Company and its consolidated subsidiaries included or incorporated by reference in the Disclosure Package and the Final Memorandum present fairly in all material respects the financial condition, results of operations and cash flows of the Company and its consolidated subsidiaries as of the dates and for the periods indicated and have been prepared in conformity with Mexican FRS applied on a consistent basis throughout the periods involved (except as otherwise noted therein); the selected financial data set forth under the caption "Selected Financial Information" in the Preliminary Memorandum and the Final Memorandum fairly present, on the basis stated in the Preliminary Memorandum and the Final Memorandum, the information included therein.

(t) No action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries or their respective property is pending or, to the best knowledge of the Issuer, threatened that (i) could reasonably be expected to have a material adverse effect on the performance of this Agreement, the Indenture, the Financing Agreement and the Transaction Security Documents or the consummation of any of the transactions contemplated hereby or thereby or (ii) could reasonably be expected to have a material adverse effect on the condition (financial or otherwise), prospects, earnings, business or properties of the Company and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business (a "Material Adverse Effect"), except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(u) Each of the Company and its subsidiaries owns or leases all such properties as are necessary to the conduct of its operations as presently conducted except (i) for such properties the loss of which would not reasonably be expected to result in a Material Adverse Effect and (ii) as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement).

(v) Neither the Company nor any of its subsidiaries is in violation or default of (i) any provision of its organizational documents; (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which it is a party or bound or to which its property is subject (including the Financing Agreement, the Transaction Security Documents, the Original Purchase Agreement and the Euro Purchase Agreement); or (iii) any statute, law, rule, regulation, judgment, order or decree applicable to the Company or any of its subsidiaries of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company or any of its subsidiaries or any of their respective properties, as applicable, except for such violations or defaults which, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(w) KPMG Cárdenas Dosal, S.C., which has certified certain financial statements of the Company and its consolidated subsidiaries and delivered its report with respect to the audited consolidated financial statements and schedules included or incorporated by reference in the Disclosure Package and the Final Memorandum, are independent auditors with respect to the Company in accordance with local accounting rules, which are substantially the same as those contemplated by Rule 10A of the Code of Professional Conduct of the American Institute of Certified Public Accountants.

(x) There are no stamp or other issuance or transfer taxes or duties or other similar fees or charges required to be paid in connection with the execution and delivery of this Agreement or the issuance or sale by the Issuer of the Securities.

(y) The Company and each of its subsidiaries have filed all applicable tax returns that are required to be filed by them or have requested extensions of the period applicable for the filing of such returns (except in any case in which the failure so to file would not have a Material Adverse Effect and except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto)) and have paid all

taxes required to be paid by them and any other assessment, fine or penalty levied against them, to the extent that any of the foregoing is due and payable, except for any such tax, assessment, fine or penalty that is currently being contested in good faith or as would not have a Material Adverse Effect and except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(z) No labor problem or dispute with the employees of the Company or any of its subsidiaries exists or is threatened or imminent, and the Issuer is not aware of any existing or imminent labor disturbance by the employees of any of its subsidiaries' principal suppliers, contractors or customers, except as would not have a Material Adverse Effect and except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(aa) No subsidiary of the Company is currently prohibited, directly or indirectly, from paying any dividends to the Company, from making any other distribution on such subsidiary's capital stock or ownership interest, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such subsidiary's property or assets to the Company or any other subsidiary of the Company, except as described in or contemplated in the Disclosure Package or the Final Memorandum (in each case, exclusive of any amendment or supplement thereto).

(bb) The Company and each of its subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged; all policies of insurance and fidelity or surety bonds insuring the Company or any of its subsidiaries or any of their respective businesses, assets, employees, officers and directors are in full force and effect; the Company and its subsidiaries are in compliance in all material respects with the terms of such policies and instruments; there are no material claims by the Company or any of its subsidiaries under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause; neither the Company nor any of its subsidiaries has been refused any material insurance coverage sought or applied for; and neither the Company nor any of its subsidiaries has reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(cc) The Company and each of its subsidiaries possess all licenses, certificates, permits and other authorizations issued by all applicable authorities necessary to conduct their respective businesses, except to the extent that the failure to have such license, certificate, permit or authorization would not reasonably be expected to have a Material Adverse Effect and except, as described in or contemplated in the Disclosure Package or the Final Memorandum (exclusive of any amendment or supplement thereto), and neither the Company nor any of its subsidiaries have received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a Material Adverse Effect, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(dd) The Company and each of its subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with Mexican FRS and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. The Company's and each of its subsidiaries' internal controls over financial reporting are effective, and neither the Company nor any of its subsidiaries is aware of any material weakness in its internal control over financial reporting. The Company and each of its subsidiaries maintains "disclosure controls and procedures" (as such term is defined in Rule 13a-15(e) under the Exchange Act) and such disclosure controls and procedures are effective.

(ee) Each of the Company and its subsidiaries (i) is in compliance with any and all applicable laws and regulations relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants ("Environmental Laws"); (ii) has received and is in compliance with all permits, licenses or other approvals required under applicable Environmental Laws to conduct its businesses; and (iii) has not received notice of any actual or potential liability under any Environmental Law, except where such non-compliance with Environmental Laws, failure to receive required permits, licenses or other approvals, or liability would not, individually or in the aggregate, have a Material Adverse Effect, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto). Except as set forth in the Disclosure Package and the Final Memorandum, neither the Company nor any of its subsidiaries has been named as a "potentially responsible party" under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

(ff) In the ordinary course of its business, the Company periodically reviews the effect of Environmental Laws on the business, operations and properties of the Company and its subsidiaries, in the course of which it identifies and evaluates associated costs and liabilities (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws, or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties); on the basis of such review, the Company has reasonably concluded that such associated costs and liabilities would not, singly or in the aggregate, have a Material Adverse Effect, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(gg) The operations of the Company and each of its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements and the money laundering statutes and the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

(hh) None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee or Affiliate of the Company or any of its subsidiaries is currently subject to any sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC"); and the Issuer will not directly or indirectly use the proceeds of the offering of the Securities hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC. There is and has been no failure on the part of the Company and or of the Company's directors or officers, in their capacities as such, to comply with any provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the "Sarbanes-Oxley Act"), including Section 402 relating to loans and Sections 302 and 906 relating to certifications.

(ii) None of the Company, any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or Affiliate of the Company is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "FCPA"), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA; and the Company, its subsidiaries and, to the knowledge of the Company, its Affiliates have conducted their respective businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(jj) Any certificate signed by any officer of the Company or any of its subsidiaries and delivered to the Representatives or counsel for the Initial Purchasers in connection with the offering of the Securities shall be deemed a representation and warranty by the Issuer, as to matters covered thereby, to each Initial Purchaser.

2. Purchase and Sale. Subject to the terms and conditions and in reliance upon the representations and warranties herein set forth, the Issuer agrees to sell to each Initial Purchaser, and each Initial Purchaser agrees, severally and not jointly, to purchase from the Issuer, at a purchase price of 104.75% of the principal amount thereof, plus accrued interest from December 14, 2009 to the Closing Date, the principal amount of Securities set forth opposite such Initial Purchaser's name in Schedule I hereto. The Initial Purchasers may acquire the Securities through any of their Affiliates.

3. Delivery and Payment. Delivery of and payment for the Securities shall be made at 10:00 A.M., New York City time, on January 19, 2010, or at such time on such later date not more than three Business Days after the foregoing date as the Representatives shall designate, which date and time may be postponed by agreement between the Representatives and the Issuer or as provided in Section 9 hereof (such date and time of delivery and payment for the Securities being herein called the "Closing Date"). Delivery of the Securities shall be made to the Representatives for the respective accounts of the several Initial Purchasers against payment by the several Initial Purchasers through the Representatives of the purchase price thereof to or upon the order of the Company by wire transfer payable in same-day funds to the account specified by the Company. Delivery of the Securities shall be made through the facilities of The Depository Trust Company and any other relevant clearing system unless the Representatives shall otherwise instruct.

4. Offering by Initial Purchasers. (a) Each Initial Purchaser acknowledges that the Securities have not been and will not be registered under the Act and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Act.

(b) Each Initial Purchaser, severally and not jointly, represents and warrants to and agrees with the Issuer that:

(i) it has not offered or sold, and will not offer or sell, any Securities within the United States or to, or for the account or benefit of, U.S. persons (x) as part of their distribution at any time or (y) otherwise until 40 days after the later of the commencement of the offering and the date of the closing of the offering except:

(A) to those it reasonably believes to be "qualified institutional buyers" (as defined in Rule 144A under the Act) or

(B) in accordance with Rule 903 of Regulation S;

(ii) neither it nor any person acting on its behalf has made or will make offers or sales of the Securities in the United States by means of any form of general solicitation or general advertising (within the meaning of Regulation D);

(iii) in connection with each sale pursuant to Section 4(b)(i)(A), it has taken or will take reasonable steps to ensure that the purchaser of such Securities is aware that such sale may be made in reliance on Rule 144A;

(iv) neither it, nor any of its Affiliates nor any person acting on its or their behalf has engaged or will engage in any directed selling efforts (within the meaning of Regulation S) with respect to the Securities;

(v) it is an "accredited investor" (as defined in Rule 501(a) of Regulation D);

(vi) it has complied and will comply with the offering restrictions requirement of Regulation S;

(vii) at or prior to the confirmation of sale of Securities (other than a sale of Securities pursuant to Section 4(b)(i)(A) of this Agreement), it shall have sent to each distributor, dealer or person receiving a selling concession, fee or other remuneration that purchases Securities from it during the distribution compliance period (within the meaning of Regulation S) a confirmation or notice to substantially the following effect:

"The Securities covered hereby have not been registered under the U.S. Securities Act of 1933 (the "Act") and may not be offered or sold within the United States or to, or for the account or benefit of, U.S. persons (i) as part of their distribution at any time or (ii) otherwise until 40 days after the later of the commencement of the offering and the date of closing of the offering, except in either case in accordance with Regulation S or Rule 144A under the Act. Terms used in this paragraph have the meanings given to them by Regulation S.";

(viii) it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 (the "FSMA")) received by it in connection with the issue or sale of any Securities, in circumstances in which Section 21(1) of the FSMA does not apply to the Issuer;

(ix) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Securities in, from or otherwise involving the United Kingdom; and

(x) in relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a "Relevant Member State"), it has not made and will not make an offer to the public of any Securities which are the subject of the offering contemplated by this Agreement in that Relevant Member State, except that it may make an offer to the public in that Relevant Member State of any Securities at any time under the following exemptions under the Prospectus Directive, if they have been implemented in that Relevant Member State:

(A) to legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;

(B) to any legal entity which has two or more of (i) an average of at least 250 employees during the last financial year, (ii) a total balance sheet of more than €43,000,000 and (iii) an annual turnover of more than €50,000,000, as shown in its last annual or consolidated accounts;

(C) to fewer than 100 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior written consent of the Representatives for any such offer; or

(D) in any other circumstances falling within Article 3(2) of the Prospectus Directive;

provided that no such offer of Securities shall result in a requirement for the publication by the Issuer or any Initial Purchaser of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an "offer to the public" in relation to any Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Securities to be offered so as to enable an investor to decide to purchase any Securities, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression "Prospectus Directive" means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

5. Agreements. The Issuer and the Note Guarantors agree, jointly and severally, in each case with each Initial Purchaser that:

(a) The Company will furnish to each Initial Purchaser and to counsel for the Initial Purchasers, without charge, during the Distribution Period (as defined in Section 5(c) below), as many copies of the materials contained in the Disclosure Package and the Final Memorandum and any amendments and supplements thereto as they may reasonably request.

(b) The Company will prepare a final term sheet, containing solely a description of final terms of the Securities and the offering thereof, in the form approved by you attached as Schedule II hereto.

(c) The Company will not amend or supplement the Disclosure Package or the Final Memorandum other than by filing documents under the Exchange Act that are incorporated by reference therein, without the prior written consent of the Representatives, which consent, following the Closing Date, may not be unreasonably withheld; provided, however, that prior to the earlier of (i) the completion of the distribution of the Securities by the Initial Purchasers (as determined by the Representatives and communicated to the Company) and (ii) twelve (12) months after the date of the Final Memorandum (the "Distribution Period"), the Company will not file any document under the Exchange Act that is incorporated by reference in the Disclosure Package or the Final Memorandum unless, prior to such proposed filing, the Company has furnished the Representatives with a copy of such document for their review and the Representatives have not reasonably objected to the filing of such document. The Issuer will promptly advise the Representatives when any document filed under the Exchange Act that is incorporated by reference in the Disclosure Package or the Final Memorandum shall have been filed with the Commission.

(d) If at any time during the Distribution Period, any event occurs as a result of which the Disclosure Package or the Final Memorandum, as then amended or supplemented, would include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made or the circumstances then prevailing, not misleading, or if it should be necessary to amend or supplement the Disclosure Package or the Final Memorandum to comply with applicable law, the Company will promptly (i) notify the Representatives of any such event; (ii) subject to the requirements of Section 5(c), prepare an amendment or supplement that will correct such statement or omission or effect such compliance; and (iii) supply any supplemented or amended Disclosure Package or Final Memorandum to the several Initial Purchasers and counsel for the Initial Purchasers without charge in such quantities as they may reasonably request.

(e) Without the prior written consent of the Representatives, the Issuer and each of the Note Guarantors will not give to any prospective purchaser of the Securities any written information concerning the offering of the Securities other than materials contained in the Disclosure Package, the Final Memorandum or any other offering materials prepared by or with the prior written consent of the Representatives.

(f) The Issuer will arrange, if necessary, for the qualification of the Securities for sale by the Initial Purchasers under the laws of such jurisdictions as the Representatives may designate (including Japan and certain provinces of Canada) and will maintain such qualifications in effect so long as required for the sale of the Securities; provided that in no event shall the Issuer be obligated to qualify to do business in any jurisdiction where it is not now so qualified or to take any action that would subject it to service of process in suits, other than those arising out of the offering or sale of the Securities, in any jurisdiction where it is not now so subject. The Issuer will promptly advise the Representatives of the receipt by the Issuer of any notification with respect to the suspension of the qualification of the Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose.

(g) The Issuer will not, and will not permit any of its Affiliates to, resell any Securities that have been acquired by any of them, except for Securities resold after the "40-day distribution compliance period" within the meaning of Rule 903 of Regulation S, (i) in a transaction registered under the Securities Act or (ii) in a transaction exempt from the registration requirements under the Securities Act if such transaction does not cause the holding periods under Rule 144 under the Securities Act to be extended for other holders of Securities.

(h) None of the Issuer, its Affiliates, or any person acting on its or their behalf will, directly or indirectly, make offers or sales of any security, or solicit offers to buy any security, under circumstances that would require the registration of the Securities under the Act.

(i) None of the Issuer, its Affiliates, or any person acting on its or their behalf will engage in any directed selling efforts (within the meaning of Regulation S) with respect to the Securities; and each of them will comply with the offering restrictions requirement of Regulation S.

(j) None of the Issuer, its Affiliates, or any person acting on its or their behalf will engage in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with any offer or sale of the Securities in the United States.

(k) For so long as any of the Securities are outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the Act, the Company, during any period in which it is not subject to and in compliance with Section 13 or 15(d) of the Exchange Act or it is not exempt from such reporting requirements pursuant to and in compliance with Rule 12g3-2(b) under the Exchange Act, will provide to each holder of such restricted securities and to each prospective purchaser (as designated by such holder) of such restricted securities, upon the request of such holder or prospective purchaser, any information required to be provided by Rule 144A(d)(4) under the Act. This covenant is intended to be for the benefit of the holders, and the prospective purchasers designated by such holders, from time to time of such restricted securities.

(l) The Issuer will cooperate with the Representatives and use its best efforts to permit the Securities to be eligible for clearance and settlement through The Depositary Trust Company ("DTC"), Euroclear Bank S.A./N.V. ("Euroclear") and Clearstream Banking, S.A. ("Clearstream"), as applicable, and any other relevant clearing system.

(m) Each of the Securities will bear, to the extent applicable, the legend contained in "Transfer Restrictions" in the Preliminary Memorandum and the Final Offering Memorandum for the time period and upon the other terms stated therein.

(n) Neither the Issuer nor any of the Note Guarantors will, for a period of 90 days following the Execution Time, without the prior written consent of the Representatives, which consent shall not be unreasonably withheld, offer, sell, contract to sell, pledge or otherwise dispose of or enter into any transaction which is designed to, or might reasonably be expected to, result in the disposition (whether by actual disposition or effective economic disposition due to cash settlement or otherwise) by the Issuer or any of the Note Guarantors or any person in privity with the Issuer or any of the Note Guarantors, directly or indirectly, or announce the offering of, any debt securities in the international capital markets that are issued or guaranteed by the Issuer or any of the Note Guarantors (other than the Securities). For the avoidance of doubt, the foregoing will not restrict the ability of the Issuer or any of the Note Guarantors to offer, sell, contract to sell, pledge or otherwise dispose of or announce an offering in the international capital markets of debt securities convertible into shares, CPOs or ADSs of CEMEX, the offering of *certificados bursátiles* and the Convertible Securities (as defined in the Preliminary Memorandum and the Final Memorandum) in the local Mexican market and to enter into securitization transactions.

(o) The Company will not take, directly or indirectly, any action designed to, or that has constituted or that might reasonably be expected to, cause or result, under the Exchange Act or otherwise, in stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities.

(p) The Company will, for a period of twelve months following the Execution Time, furnish to the Representatives (i) all reports or other communications (financial or other) generally made available to its shareholders, and deliver such reports and communications to the Representatives as soon as they are available, unless such documents are furnished to or filed with the Commission or any securities exchange on which any class of securities of the Company is listed and generally made available to the public and (ii) such additional information concerning the business and financial condition of the Company as the Representatives may from time to time reasonably request (such statements to be on a consolidated basis to the extent the accounts of the Company and its subsidiaries are consolidated in reports furnished to its shareholders).

(q) The Company will comply with all applicable securities and other laws, rules and regulations, including, without limitation, the Sarbanes-Oxley Act, and use its best efforts to cause the Company's directors and officers, in their capacities as such, to comply with such laws, rules and regulations, including, without limitation, the provisions of the Sarbanes-Oxley Act.

(r) The Issuer and the Note Guarantors agree, jointly and severally, to pay the costs and expenses relating to the following matters: (i) the preparation of the Indenture and the issuance of the Securities and the fees of the Trustee; (ii) the preparation, printing or reproduction of the materials contained in the Disclosure Package and the Final Memorandum and each amendment or supplement to either of them; (iii) the printing (or reproduction) and delivery (including postage, air freight charges and charges for counting and packaging) of such copies of the materials contained in the Disclosure Package and the Final Memorandum, and all amendments or supplements to either of them, as may, in each case, be reasonably requested for use in connection with the offering and sale of the Securities; (iv) the issuance and delivery of the Securities; (v) any stamp or transfer taxes in connection with the original issuance and sale of the Securities; (vi) the printing (or reproduction) and delivery of this Agreement, any blue sky memorandum and all other agreements or documents printed (or reproduced) and delivered in connection with the offering of the Securities; (vii) any registration or qualification of the Securities for offer and sale under the securities or blue sky laws of the several states, Japan, the provinces of Canada and any other jurisdictions specified pursuant to Section 5(f) (including filing fees and the reasonable fees and expenses of counsel for the Initial Purchasers relating to such registration and qualification); (viii) the transportation and other expenses incurred by or on behalf of the Company representatives in connection with presentations to prospective purchasers of the Securities; (ix) the fees and expenses of the Company's accountants and the fees and expenses of counsel (including local and special counsel) for the Company; (x) fees and expenses incurred in connection with listing the Securities on the Luxembourg Stock Exchange; (xi) the fees and expenses incurred in connection with the rating of the Securities by Standard & Poor's and Fitch Ratings; and (xii) all other costs and expenses incident to the performance by the Issuer of its obligations hereunder.

(s) The Issuer and the Note Guarantors agree, jointly and severally, to reimburse the Representatives, on behalf of the Initial Purchasers, for all their reasonable expenses incurred in connection with the sale of the Securities provided for herein (including, without limitation, reasonable fees, disbursements and expenses of legal advisors for the Initial Purchasers).

(t) The Issuer will apply the aggregate net proceeds from the offering of the Securities in the manner specified in the Final Memorandum under the heading "Use of Proceeds".

6. Conditions to the Obligations of the Initial Purchasers. The obligations of the Initial Purchasers to purchase the Securities shall be subject to the accuracy of the representations and warranties of the Issuer contained herein at the Execution Time and the Closing Date, to the accuracy of the statements of the Issuer made in any certificates pursuant to the provisions hereof, to the performance by the Issuer of its obligations hereunder and to the following additional conditions:

(a) The Issuer shall have requested and caused Skadden, Arps, Slate, Meagher & Flom LLP, special U.S. counsel for the Company, to furnish to the Representatives its opinion, tax opinion and negative assurance letter, each dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule III attached hereto.

(b) The Issuer shall have requested and caused Mr. Ramiro G. Villarreal, General Counsel for the Company, to furnish to the Representatives his opinion, subject to certain applicable exceptions, qualifications and conditions acceptable to the Representatives, dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule IV attached hereto.

(c) The Issuer shall have requested and caused Clifford Chance SL, special Spanish counsel to the Company, to furnish to the Representatives its opinion, subject to certain applicable exceptions, qualifications and conditions acceptable to the Representatives, dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule V attached hereto.

(d) The Issuer shall have requested and caused Warendorf, special Dutch counsel to the Company, to furnish to the Representatives its opinion, subject to certain applicable exceptions, qualifications and conditions acceptable to the Representatives, dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule VI attached hereto.

(e) The Issuer shall have requested and caused GHR Rechtsanwälte AG, special Swiss counsel to the Company, to furnish to the Representatives its opinion, subject to certain applicable exceptions, qualifications and conditions acceptable to the Representatives, dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule VII attached hereto.

(f) The Representatives shall have received from Cleary Gottlieb Steen & Hamilton LLP and Ritch Mueller, S.C., counsel for the Initial Purchasers, such opinion or opinions, dated the Closing Date and addressed to the Representatives, with respect to the issuance and sale of the Securities, the Indenture, the Disclosure Package, the Final Memorandum (as amended or supplemented at the Closing Date) and other related matters as the Representatives may reasonably require, and the Company shall have furnished to such counsel such documents as they request for the purpose of enabling them to pass upon such matters.

(g) The Company shall have furnished to the Representatives a certificate, signed by an executive officer of the Company, dated as of the Closing Date, substantially in the form of Schedule VIII attached hereto.

(h) At the Execution Time and at the Closing Date, the Company shall have requested and caused KPMG Cárdenas Dosal, S.C. to furnish to the Representatives, letters, dated respectively as of the Execution Time and as of the Closing Date, in form and substance satisfactory to the Representatives and confirming that they are independent auditors within the meaning of the Exchange Act and the applicable published rules and regulations thereunder substantially in the form of Schedule IX attached hereto.

(i) Any and all applicable amendments, supplements or modifications to the Financing Agreement, any of the Transaction Security Documents, the Intercreditor Agreement and any other documents derived therefrom and in connection therewith, as applicable, shall have been made and shall constitute legal, valid and binding obligations to each party thereof.

(j) The Trustee shall be entitled to all rights and benefits provided in the Intercreditor Agreement as an Additional Notes Trustee (as such term is defined in the Intercreditor Agreement) and the Initial Purchasers, and/or each of the subsequent holders of the Securities, shall be entitled to all rights and benefits provided therein as Additional Notes Creditors (as such term is defined in the Intercreditor Agreement).

(k) Subsequent to the Execution Time or, if earlier, the dates as of which information is given in the Disclosure Package (exclusive of any amendment or supplement thereto) and the Final Memorandum (exclusive of any amendment or supplement thereto), there shall not have been (i) any change, increase or decrease specified in the letter or letters referred to in paragraph (h) of this Section 6; or (ii) any change, or any development involving a prospective change, in or affecting the condition (financial or otherwise), prospects, earnings, business or properties of the Company and its subsidiaries taken as a whole, whether or not arising from transactions in the ordinary course of business, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto), the effect of which, in any case referred to in clause (i) or (ii) above, is, in the sole judgment of the Representatives, so material and adverse as to make it impractical or inadvisable to proceed with the offering or delivery of the Securities as contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(l) The Securities shall be eligible for clearance and settlement through DTC, Euroclear and Clearstream, as applicable, and any other relevant clearing system.

(m) Subsequent to the Execution Time, there shall not have been any decrease in the rating of any of the Company's or any of its subsidiaries' debt securities by Standard & Poor's and Fitch Ratings or any notice given of any intended or potential decrease in any such rating. For the avoidance of doubt, any reiteration or reissuance of the outlook of a rating agency that was in place at the Execution Time shall not be considered a notice of an intended or potential decrease in a rating.

(n) Prior to the Closing Date, the Company shall have furnished to the Representatives such further information, certificates and documents as the Representatives may reasonably request.

If any of the conditions specified in this Section 6 shall not have been fulfilled when and as provided in this Agreement, or if any of the opinions and certificates mentioned above or elsewhere in this Agreement shall not be reasonably satisfactory in form and substance to the Representatives and counsel for the Initial Purchasers, this Agreement and all obligations of the Initial Purchasers hereunder may be cancelled at, or at any time prior to, the Closing Date by the Representatives. Notice of such cancellation shall be given to the Issuer in writing or by telephone or facsimile confirmed in writing.

The documents required to be delivered under this Section 6 will be delivered at the office of counsel for the Initial Purchasers, at Cleary Gottlieb Steen & Hamilton LLP, One Liberty Plaza, New York, New York, 10006, Attention: Duane McLaughlin, Esq., on the Closing Date.

7. Reimbursement of Expenses. If the sale of the Securities provided for herein is not consummated because any condition to the obligations of the Initial Purchasers set forth in Section 6 hereof is not satisfied, because of any termination pursuant to Section 10 hereof or because of any refusal, inability or failure on the part of the Company to perform any agreement herein or comply with any provision hereof other than by reason of a default by any of the Initial Purchasers, the Issuer will reimburse the Initial Purchasers severally through BAML on demand for all expenses (including reasonable fees and disbursements of counsel) that shall have been incurred by them in connection with the proposed purchase and sale of the Securities.

8. Indemnification and Contribution. (a) The Issuer and the Note Guarantors, jointly and severally, agree to indemnify and hold harmless each Initial Purchaser, the directors, officers, employees, Affiliates and agents of each Initial Purchaser and each person who controls any Initial Purchaser within the meaning of either the Act or the Exchange Act against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Act, the Exchange Act or other U.S. federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, damages or liabilities or actions in respect thereof arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Preliminary Memorandum, the Final Memorandum, any Issuer Written Information or any other written information used by or on behalf of the Company in connection with the offer or sale of the Securities, or in any amendment or supplement thereto, or arise out of or are based upon the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and agrees to reimburse each such indemnified party, as incurred, for any legal or other expenses reasonably incurred by it in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that neither the Issuer nor any of the Note Guarantors will be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made in the Preliminary Memorandum or the Final Memorandum, or in any amendment thereof or supplement thereto, in reliance upon and in conformity with written information furnished to the Company by or on behalf of any Initial Purchaser through the Representatives specifically for inclusion therein. This indemnity agreement will be in addition to any liability that the Issuer or any of the Note Guarantors may otherwise have.

(b) Each Initial Purchaser severally, and not jointly, agrees to indemnify and hold harmless the Issuer, each of its directors, each of its officers, and each person who controls the Issuer within the meaning of either the Act or the Exchange Act, to the same extent as the foregoing indemnity to each Initial Purchaser, but only with reference to written information relating to such Initial Purchaser furnished to the Issuer by or on behalf of such Initial Purchaser through the Representatives specifically for inclusion in the Preliminary Memorandum or the Final Memorandum (or in any amendment or supplement thereto). This indemnity agreement will be in addition to any liability that any Initial Purchaser may otherwise have. The Issuer acknowledges that (i) the statements set forth in the last paragraph of the cover page regarding delivery of the Securities and (ii), under the heading "Plan of Distribution", (A) the table of Initial Purchasers, and (B) the eighth and ninth paragraphs in the Preliminary Memorandum and the Final Memorandum constitute the only information furnished in writing by or on behalf of the Initial Purchasers for inclusion in the Preliminary Memorandum or the Final Memorandum or in any amendment or supplement thereto.

(c) Promptly after receipt by an indemnified party under this Section 8 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 8, notify the indemnifying party in writing of the commencement thereof; but the failure so to notify the indemnifying party (i) will not relieve it from liability under paragraph (a) or (b) above unless and to the extent it did not otherwise learn of such action and such failure results in the forfeiture by the indemnifying party of substantial rights and defenses and (ii) will not, in any event, relieve the indemnifying party from any obligations to any indemnified party other than the indemnification obligation provided in paragraph (a) or (b) above. The indemnifying party shall be entitled to appoint counsel (including local counsel) of the indemnifying party's choice at the indemnifying party's expense to represent the indemnified party in any action for which indemnification is sought (in which case the indemnifying party shall not thereafter be responsible for the fees and expenses of any separate counsel, other than local counsel if not appointed by the indemnifying party, retained by the indemnified party or parties except as set forth below); provided, however, that such counsel shall be satisfactory to the indemnified party. Notwithstanding the indemnifying party's election to appoint counsel (including local counsel) to represent the indemnified party in an action, the indemnified party shall have the right to employ separate counsel (including local counsel), and the indemnifying party shall bear the reasonable fees, costs and expenses of such separate counsel if (i) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with a conflict of interest; (ii) the actual or potential defendants in, or targets of, any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there may be legal defenses available to it that are different from or additional to those available to the indemnifying party and/or other indemnified parties; (iii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of the institution of such action; or (iv) the indemnifying party shall authorize the indemnified party to employ separate counsel at the expense of the indemnifying party. If none of the conditions in clauses (i) through (iv) in the preceding sentence are satisfied as to any indemnified party, it is understood that the Issuer shall, in connection with any one such action be liable for the reasonable fees and expenses of only one separate firm of attorneys in each jurisdiction (and in addition to any local counsel) at any time (other than reasonable overlapping of engagements) for all such indemnified parties. An indemnifying party will not, without the

prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding.

(d) In the event that the indemnity provided in paragraph (a) or (b) of this Section 8 is unavailable to, or insufficient to hold harmless, an indemnified party for any reason, the Issuer and the Initial Purchasers severally agree to contribute to the aggregate losses, claims, damages and liabilities (including legal or other expenses reasonably incurred in connection with investigating or defending any loss, claim, damage, liability or action) (collectively "Losses") to which the Issuer and one or more of the Initial Purchasers may be subject in such proportion as is appropriate to reflect the relative benefits received by the Issuer on the one hand and by the Initial Purchasers on the other from the offering of the Securities; provided, however, that in no case shall any Initial Purchaser be responsible for any amount in excess of the purchase discount or commission applicable to the Securities purchased by such Initial Purchaser hereunder. If the allocation provided by the immediately preceding sentence is unavailable for any reason, the Issuer and the Initial Purchasers severally shall contribute in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Issuer on the one hand and the Initial Purchasers on the other in connection with the statements or omissions that resulted in such Losses, as well as any other relevant equitable considerations. Benefits received by the Issuer shall be deemed to be equal to the total net proceeds from the offering (before deducting expenses) received by it, and benefits received by the Initial Purchasers shall be deemed to be equal to the total purchase discounts and commissions. Relative fault shall be determined by reference to, among other things, whether any untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information provided by the Issuer on the one hand or the Initial Purchasers on the other, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The Issuer and the Initial Purchasers agree that it would not be just and equitable if contribution were determined by pro rata allocation or any other method of allocation that does not take account of the equitable considerations referred to above. Notwithstanding the provisions of this paragraph (d), no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 8, each person who controls an Initial Purchaser within the meaning of either the Act or the Exchange Act and each director, officer, employee, Affiliate and agent of an Initial Purchaser shall have the same rights to contribution as such Initial Purchaser, and each person who controls the Issuer within the meaning of either the Act or the Exchange Act and each officer and director of the Issuer shall have the same rights to contribution as the Issuer, subject in each case to the applicable terms and conditions of this paragraph (d).

9. Default by an Initial Purchaser. If any one or more Initial Purchasers shall fail to purchase and pay for any of the Securities agreed to be purchased by such Initial Purchaser hereunder and such failure to purchase shall constitute a default in the performance of its or their obligations under this Agreement, the remaining Initial Purchasers shall be obligated severally to take up and pay for (in the respective proportions which the principal amount of Securities set

forth opposite their names in Schedule I hereto bears to the aggregate principal amount of Securities set forth opposite the names of all the remaining Initial Purchasers) the Securities which the defaulting Initial Purchaser or Initial Purchasers agreed but failed to purchase; provided, however, that in the event that the aggregate principal amount of Securities which the defaulting Initial Purchaser or Initial Purchasers agreed but failed to purchase shall exceed 10% of the aggregate principal amount of Securities set forth in Schedule I hereto, the remaining Initial Purchasers shall have the right to purchase all, but shall not be under any obligation to purchase any, of the Securities, and if such non-defaulting Initial Purchasers do not purchase all the Securities, this Agreement will terminate without liability to any non-defaulting Initial Purchaser or the Issuer. In the event of a default by any Initial Purchaser as set forth in this Section 9, the Closing Date shall be postponed for such period, not exceeding five Business Days, as the Representatives and the Issuer shall determine in order that the required changes in the Final Memorandum or in any other documents or arrangements may be effected. Nothing contained in this Agreement shall relieve any defaulting Initial Purchaser of its liability, if any, to the Issuer or any non-defaulting Initial Purchaser for damages occasioned by its default hereunder.

10. Termination. This Agreement shall be subject to termination in the absolute discretion of the Representatives, by notice given to the Issuer prior to delivery of and payment for the Securities, if at any time prior to such time (i) trading in securities generally on the Mexican Stock Exchange (*Bolsa Mexicana de Valores, S.A.B. de C.V.*) or the New York Stock Exchange shall have been suspended or limited or minimum prices shall have been established on either such exchange; (ii) a banking moratorium shall have been declared either by Mexican, U.S. federal or New York State authorities; or (iii) there shall have occurred any outbreak or escalation of hostilities, declaration by Mexico or the United States of a national emergency or war or other calamity or crisis the effect of which on financial markets is such as to make it, in the sole judgment of the Representatives, impractical or inadvisable to proceed with the offering or delivery of the Securities as contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

11. Representations and Indemnities to Survive . The respective agreements, representations, warranties, indemnities and other statements of the Issuer or its officers and of the Initial Purchasers set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation made by or on behalf of the Initial Purchasers or the Issuer or any of the indemnified persons referred to in Section 8 hereof, and will survive delivery of and payment for the Securities. The provisions of Sections 7 and 8 hereof shall survive the termination or cancellation of this Agreement.

12. Notices. All communications hereunder will be in writing and effective only on receipt, and, if sent to the Representatives, will be mailed, delivered or telefaxed to BAML's Legal Department (fax no.: 212-901-7881) and confirmed to BAML at One Bryant Park, New York, New York, 10036, Attention: Legal Department; or, if sent to the Issuer, will be mailed, delivered or telefaxed to +5281-8888-4399 and confirmed to it at CEMEX, S.A.B. de C.V., Av. Ricardo Margáin, Zozaya #325, Colonia Valle del Campestre, Garza García, Nuevo León, México 66265. Attention: Legal Department.

13. Successors. This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and the indemnified persons referred to in Section 8 hereof and their respective successors, and, except as expressly set forth in Section 5(k) hereof, no other person will have any right or obligation hereunder.

14. Jurisdiction. Each of the parties hereto agrees that any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in any State or U.S. federal court in The City of New York and County of New York and in the courts of its own domicile in respect of actions brought against such party as a defendant, and waives any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the jurisdiction of such courts in any suit, action or proceeding and waives the right to any other jurisdiction that it may be entitled to by reason of its present or future , and waives any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the jurisdiction of such courts in any suit, action or proceeding and waives the right to any other jurisdiction that it may be entitled to by reason of domicile or other reason. Each of the Mexican Note Guarantors, CEMEX España and New Sunward hereby appoints CEMEX NY Corporation, 590 Madison Avenue, 41st Floor, New York, NY 10022, U.S.A., Attention: Legal Counsel; telephone: (212) 317-6000, as its authorized agent (the "Authorized Agent") upon whom process may be served in any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated herein that may be instituted in any of such courts. Each of the parties appointing the Authorized Agent as provided herein hereby represents and warrants that the Authorized Agent has accepted such appointment and has agreed to act as said agent for service of process, and the Issuer agrees to take, and have each of the Mexican Note Guarantors, CEMEX España and New Sunward take, any and all action, including the execution and filing of any and all documents that may be necessary to continue such appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent shall be deemed, in every respect, effective service of process upon each of the Mexican Note Guarantors, CEMEX España and New Sunward. Notwithstanding the foregoing, any action arising out of or based upon this Agreement may be instituted by any Initial Purchaser, the directors, officers, employees, Affiliates and agents of any Initial Purchaser, or by any person who controls any Initial Purchaser, in any court of competent jurisdiction in Mexico.

15. Integration. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the Initial Purchasers, or any of them, with respect to the subject matter hereof.

16. Applicable Law. This Agreement will be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed within the State of New York.

17. Waiver of Jury Trial. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

18. No Fiduciary Duty. The Issuer hereby acknowledges that (a) the purchase and sale of the Securities pursuant to this Agreement is an arm's-length commercial transaction between the Issuer, on the one hand, and the Initial Purchasers and any Affiliates through which they may be acting, on the other, (b) the Initial Purchasers are acting as principal and not as an agent or fiduciary of the Issuer and (c) the Issuer's engagement of the Initial Purchasers in connection with the offering and the process leading up to the offering is as independent contractors and not in any other capacity. Furthermore, the Issuer agrees that it is solely responsible for making its own judgments in connection with the offering (irrespective of whether any of the Initial Purchasers has advised or is currently advising the Issuer on related or other matters). The Issuer agrees that it will not claim that the Initial Purchasers have rendered advisory services of any nature or respect, or owe an agency, fiduciary or similar duty to the Issuer, in connection with such transaction or the process leading thereto.

19. Currency. Each reference in this Agreement to U.S. dollars (the "relevant currency"), including by use of the symbol "U.S.$", is of the essence. To the fullest extent permitted by law, the obligation of the parties in respect of any amount due under this Agreement will, notwithstanding any payment in any other currency (whether pursuant to a judgment or otherwise), be discharged only to the extent of the amount in the relevant currency that the party entitled to receive such payment may, in accordance with its normal procedures, purchase with the sum paid in such other currency (after any premium and costs of exchange) on the Business Day immediately following the day on which such party receives such payment. If the amount in the relevant currency that may be so purchased for any reason falls short of the amount originally due, the obligated party will pay such additional amounts, in the relevant currency, as may be necessary to compensate for the shortfall. Any obligation of the obligated party not discharged by such payment will, to the fullest extent permitted by applicable law, be due as a separate and independent obligation and, until discharged as provided herein, will continue in full force and effect.

20. Waiver of Immunity. To the extent that the Issuer or any of the Note Guarantors has or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service or notice, attachment in aid or otherwise) with respect to itself or any of its property, the Issuer and each of the Note Guarantors hereby irrevocably waives and agrees not to plead or claim such immunity in respect of its obligations under this Agreement.

21. Waiver of Tax Confidentiality. Notwithstanding anything herein to the contrary, purchasers of the Securities (and each employee, representative or other agent of a purchaser) may disclose to any and all persons, without limitation of any kind, the U.S. tax treatment and U.S. tax structure of any transaction contemplated herein and all materials of any kind (including opinions or other tax analyses) that are provided to the purchasers of the Securities relating to such U.S. tax treatment and U.S tax structure, other than any information for which nondisclosure is reasonably necessary in order to comply with applicable securities laws.

22. Taxes. Each payment of fees or other amounts due to the Initial Purchasers under this Agreement shall, except as required by applicable law, be made without withholding or deduction for or on account of any taxes imposed by any jurisdiction. If any taxes are required to be withheld or deducted from any such payment, the Issuer and the Note Guarantors shall, jointly and severally, pay such additional amounts as may be necessary to ensure that the net amount actually received by the Initial Purchasers after such withholding or deduction is equal to the amount that the Initial Purchasers would have received had no such withholding or deduction been required.

23. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

24. Headings. The section headings used herein are for convenience only and shall not affect the construction hereof.

25. Definitions. The terms that follow, when used in this Agreement, shall have the meanings indicated.

"Act" shall mean the Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Affiliate" shall have the meaning specified in Rule 501(b) of Regulation D.

"BAML" shall mean Banc of America Securities LLC.

"Business Day" shall mean any day other than a Saturday, a Sunday or a legal holiday or a day on which banking institutions or trust companies are authorized or obligated by law to close in The City of New York, Mexico City, Madrid or Amsterdam.

"Code" shall mean the Internal Revenue Code of 1986, as amended.

"Collateral" shall mean the security created or expressed to be created in favor of the Security Agent pursuant to the Transaction Security Documents that consists of (i) shares of the following entities: CEMEX México, S.A. de C.V.; Centro Distribuidor de Cemento, S.A. de C.V.; Mexcement Holdings S.A. de C.V.; Corporación Gouda, S.A. de C.V.; New Sunward; CEMEX Trademarks Holding Ltd and CEMEX España; and (ii) all proceeds thereof.

"Commission" shall mean the Securities and Exchange Commission.

"Disclosure Package" shall mean (i) the Preliminary Memorandum, as amended or supplemented at the Execution Time, (ii) the final term sheet prepared pursuant to Section 5(b) hereto and in the form attached as Schedule II hereto, and (iii) any Issuer Written Information.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Execution Time" shall mean the date and time that this Agreement is executed and delivered by the parties hereto.

"Financing Agreement" shall mean the Financing Agreement dated August 14, 2009, as amended, between the Company, the Financial Institutions and Noteholders named therein, as participating creditors, Citibank International PLC, as administrative agent and Wilmington Trust (London) Limited, as security agent.

"Intercreditor Agreement" shall mean the Intercreditor Agreement dated August 14, 2009, as amended, between Citibank International PLC, as administrative agent, the participating creditors named therein, the Company and certain of its subsidiaries named therein, as original borrowers, original guarantors and original security providers, Wilmington Trust (London) Limited, as security agent, and others.

"Investment Company Act" shall mean the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Issuer Written Information" shall mean any writings in addition to the Preliminary Memorandum, the final term sheet prepared pursuant to Section 5(b) hereto in the form attached as Schedule II hereto that the parties expressly agree in writing to treat as part of the Disclosure Package and which are identified on Schedule X hereto.

"Mexican FRS" shall mean the Mexican financial reporting standards (*Normas de Información Financiera aplicables en Mexico*) as in effect from time to time issued by the Mexican Financial Reporting Standards Board (*Consejo Mexicano para la Investigación y Desarrollo de Normas de Información Financiera*).

"Regulation D" shall mean Regulation D under the Act.

"Regulation S" shall mean Regulation S under the Act.

"Security Agent" shall mean Wilmington Trust (London) Limited, as security agent under the Financing Agreement.

"Transaction Security Documents" means any document, as amended from time to time, entered by any of the Company or its subsidiaries creating or expressed to create any security over all or any part of its assets in respect of their obligations under the Financing Agreement or any other document derived therefrom, or in connection therewith.

"Trust Indenture Act" shall mean the Trust Indenture Act of 1939, as amended, and the rules and regulations of the Commission promulgated thereunder.

[Signature pages follow]

If the foregoing is in accordance with your understanding of our agreement, please sign and return to us the enclosed duplicate hereof, whereupon this letter and your acceptance shall represent a binding agreement between the Issuer and the several Initial Purchasers.

Very truly yours,

CEMEX Finance LLC

By: /s/ Héctor Medina
Name:
Title:

EACH OF THE NOTE GUARANTORS LISTED BELOW

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

By: /s/ Lorenzo H. Zambrano
Name: Lorenzo H. Zambrano
Title: Attorney-in-Fact

CEMEX México, S.A. de C.V.

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

Empresas Tolteca de México, S.A. de C.V.

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

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

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

New Sunward Holding B.V.

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

CEMEX España, S.A.

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

CEMEX Corp.

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

The foregoing Agreement is hereby confirmed and accepted as of the date first above written.

Banc of America Securities LLC

By: /s/ Alastair M. Berthwick
Name: Alastair M. Berthwick
Title: Managing Director

Barclays Capital Inc.

By: /s/ Carlos Mauleon
Name: Carlos Mauleon
Title: Managing Director

Citigroup Global Markets Inc.

By: /s/ Adrian Guzzoni
Name: Adrian Guzzoni
Title: Director

J.P. Morgan Securities Inc.

By: /s/ Roberto D'Auola
Name: Roberto D'Auola
Title: Executive Director

For themselves and the other several Initial Purchasers named in Schedule I to the foregoing Agreement.

SCHEDULE I

Initial Purchasers	Principal Amount of Securities to be Purchased
Banc of America Securities LLC	U.S.$125,000,000
Barclays Capital Inc.	U.S.$125,000,000
Citigroup Global Markets Inc.	U.S.$125,000,000
J.P. Morgan Securities Inc.	U.S.$125,000,000
Total	U.S.$ 500,000,000

SCHEDULE II

Pricing Term Sheet

Pricing Term Sheet
January 13, 2010

CEMEX Finance LLC
9.50% Senior Secured Notes Due 2016 (the "Notes")

Issuer	CEMEX Finance LLC
Security Description	Senior Secured Notes
Note Guarantors	CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V., CEMEX España, S.A., CEMEX Corp., CEMEX Concretos, S.A. de C.V., Empresas Tolteca de México, S.A. de C.V. and New Sunward Holding B.V. (together, the "Note Guarantors").
Security	First-priority security interest over (i) the shares of CEMEX México, S.A. de C.V., Centro Distribuidor de Cemento, S.A. de C.V., Mexcement Holdings, S.A. de C.V., Corporación Gouda, S.A. de C.V., CEMEX Trademarks Holding Ltd., New Sunward Holding B.V. and CEMEX España, S.A., or the Collateral, and (ii) all proceeds of such Collateral. Holders will not be entitled to direct the foreclosure on, or foreclose on, the Collateral. The Notes will cease to be secured in accordance with the provisions of the Intercreditor Agreement.
Further Issue:	These notes will be issued as additional notes and will constitute part of the same series as, vote together as a single class with, and be fungible with the US$1,250,000,000 9.50% Senior Secured Notes due 2016 originally issued on December 14, 2009
Format	144A Global Notes / Regulation S Global Notes
Global Coordinator	Banc of America Securities LLC
Joint Bookrunners	Banc of America Securities LLC Barclays Capital Inc. Citigroup Capital Markets Inc. J.P. Morgan Securities Inc.
Identifiers (144 A Notes)	CUSIP 12516U AA3 ISIN US12516UAA34
Identifiers (Reg S Notes)	CUSIP U12763 AB1 (temporary) ISIN USU12763AB10 (temporary) CUSIP U12763 AA3 ISIN USU12763AA37
Issue amount	U.S.$500,000,000

Settlement date	January 19, 2010
Final maturity	December 14, 2016
Interest payment	June 14 and December 14, beginning on June 14, 2010
Day count convention	360-day year consisting of twelve 30-day months
Coupon	9.500%
Issue price	105.250% of principal amount, plus accrued interest from December 14, 2009 (106.173611% including accrued interest)
Issue yield to Maturity	8.477%
Optional Redemption	• Make-whole call prior to December 14, 2013, at greater of (1) 100% of principal amount of the Notes, and (2) a Make-Whole Amount. • On or after December 14, 2013, at the prices indicated below for a redemption during the twelve-month period beginning on December 14 of each of the years indicated below: 2013 — 104.750% 2014 — 102.375% 2015 and thereafter — 100.000% • Prior to December 14, 2012, redemption of up to 35% of original principal amount at 109.500% of principal amount of the Notes with proceeds from equity offerings. • In the event of certain changes in the withholding tax treatment relating to payments on the Notes, at 100% of their principal amount. The Issuer shall not have the right to exercise any optional redemption at any time when the Issuer is prohibited from exercising such an option under the Financing Agreement.
Use of Proceeds	The estimated net proceeds from the offering of the Notes will be approximately U.S.$527.6 million. The Issuer intends to use U.S.$411 million of the net proceeds from the offerings to repay indebtedness outstanding under the Financing Agreement and the remaining net proceeds for general corporate purposes, which may include additional repayments of indebtedness, including indebtedness under the Financing Agreement. CEMEX's total secured indebtedness will increase by approximately U.S.$116.6 million as a result of cash proceeds from the offering being retained for general corporate purposes and to the extent not applied to repay secured indebtedness.
Denominations	U.S.$100,000 and integral multiples of U.S.$1,000
Governing law	New York
Listing	Luxembourg Stock Exchange – EURO MTF

Clearing	The Depositary Trust Company, Euroclear and Clearstream
Clear Market Provision	CEMEX, S.A.B de C.V. has agreed that, for a period of 90 days following the date hereof, it will not, without the prior written consent of the initial purchasers, which consent shall not be unreasonably withheld, offer, sell, contract to sell, pledge or otherwise dispose of or enter into any transaction which is designed to, or might reasonably be expected to, result in the disposition (whether by actual disposition or effective economic disposition due to cash settlement or otherwise) by it or any person in privity with it, directly or indirectly, or announce the offering of, any debt securities in the international capital markets that are issued or guaranteed by CEMEX, S.A.B de C.V. However, CEMEX, S.A.B de C.V. may at any time offer, sell, contract to sell, pledge or otherwise dispose of or announce an offering in the international capital markets of debt securities convertible into shares, CPOs or ADSs of CEMEX, S.A.B de C.V., the offering of CBs in the local Mexican market and to enter into securitization transactions.

* * *

This communication is intended for the sole use of the person to whom it is provided by the sender.

These securities have not been registered under the Securities Act of 1933, as amended, and may only be sold to qualified institutional buyers pursuant to Rule 144A or pursuant to another applicable exemption from registration.

The information in this term sheet supplements the Company's preliminary supplement dated January 13, 2010 (the "Preliminary Supplement") to offering memorandum dated December 9, 2009 (the "Preliminary Memorandum"). This term sheet is qualified in its entirety by reference to the Preliminary Supplement and the Preliminary Memorandum. Terms used herein but not defined herein shall have the respective meanings as set forth in the Preliminary Supplement and the Preliminary Memorandum.

ANY DISCLAIMERS OR OTHER NOTICES THAT MAY APPEAR BELOW ARE NOT APPLICABLE TO THIS COMMUNICATION AND SHOULD BE DISREGARDED. SUCH DISCLAIMERS OR OTHER NOTICES WERE AUTOMATICALLY GENERATED AS A RESULT OF THIS COMMUNICATION BEING SENT VIA BLOOMBERG OR ANOTHER EMAIL SYSTEM.

SCHEDULE III

Forms of Opinions of Skadden, Arps, Slate, Meagher & Flom LLP,
special U.S. counsel to the Company

SCHEDULE IV

Form of Opinion of Ramiro G. Villarreal, General Counsel of the Company

[INTRODUCTORY PARAGRAPH AND RELIANCE SECTIONS]

In rendering this opinion, I have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to me as originals, the conformity to original documents of all documents submitted to me as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. In making my examination of executed documents, I have assumed that the parties thereto (other than the Company and the Mexican Subsidiaries) had the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties (other than the Company and the Mexican Subsidiaries) of such documents and the validity and binding effect thereof on such parties. I have also assumed that each of the parties (other than the Company and the Mexican Subsidiaries) to the Transaction Documents (as defined herein) has been duly organized and is validly existing in good standing, if applicable, and has requisite legal status and legal capacity, under the laws of its jurisdiction of organization and that each of such parties has complied and will comply with all aspects of the laws of all relevant jurisdictions (including the laws of its jurisdiction of organization) in connection with the transactions contemplated by, and the performance of its obligations under, the Transaction Documents, other than the laws of Mexico insofar as I express my opinions herein.

In rendering this opinion I have reviewed originals or copies of the following documents (referred to herein collectively as the " Transaction Documents"):

(a) an executed copy of the Purchase Agreement;

(b) the Preliminary Memorandum, the documents incorporated by reference therein and the final term sheet, dated January 13, 2010 (the "Final Term Sheet");

(c) the Final Memorandum and the documents incorporated by reference therein;

(d) an executed copy of the Indenture;

(e) the Securities in global form as executed by the Issuer and each of the Mexican Note Guarantors and authenticated by the Trustee;

(f) an executed copy of the Financing Agreement dated August 14, 2009 (the "Financing Agreement") between CEMEX, S.A.B. de C.V., the financial institutions and noteholders named therein, as participating creditors, Citibank International PLC, as administrative agent, and Wilmington Trust (London) Limited, as security agent (the "Security Agent");

(g) an executed copy of each of the Transaction Security Documents (as such term is defined in the Financing Agreement) (the "Transaction Security Documents"); including without limitation, an executed copy of the security trust agreement (*contrato de fideicomiso de garantía*) entered into among (i) the Mexican Note Guarantors, Impra Café, S.A. de C.V., Interamerican Investments, Inc. and Centro Distribuidor de Cemento, S.A. de C.V., as settlors; (ii) CEMEX México, S.A. de C.V., Centro Distribuidor de Cemento, S.A. de C.V., Mexcement Holdings, S.A. de C.V. and Corporación Gouda, S.A. de C.V., as issuers; (iii) Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, as trustee; and (iv) the Security Agent (the "Mexican Security Trust"); and

(h) the documents executed and delivered by each of the Mexican Note Guarantors at the closing pursuant to the Purchase Agreement.

Based upon the foregoing, and subject to the further qualifications set forth below, I am of the opinion that:

1. Each of the Mexican Note Guarantors has been duly incorporated and is validly existing as a corporation under the laws of Mexico, with full corporate power and authority to own or lease, as the case may be, and to operate their properties and conduct their businesses as described in the Disclosure Package and the Final Memorandum.

2. All the outstanding shares of capital stock of each Mexican Note Guarantor has been duly authorized and validly issued and are fully paid and nonassessable, and, except as otherwise set forth in the Disclosure Package and the Final Memorandum, all outstanding shares of capital stock of the Subsidiaries are owned by the Company either directly or through wholly owned subsidiaries free and clear of any perfected security interest and, to the knowledge of such counsel, after due inquiry, any other security interest, claim, lien or encumbrance.

3. Each of the Transaction Documents to which each of the Mexican Note Guarantors is a party, has been duly authorized, executed and delivered by the applicable Mexican Note Guarantors and constitutes a legal, valid and binding agreement, enforceable against each of the applicable Mexican Note Guarantors in accordance with its terms.

4. The Mexican Security Trust creates in favor of the Security Agent, for the benefit of holders of the Securities, valid security interests in the Collateral for the payment of the Securities.

5. Neither the execution and delivery of the Transaction Documents, nor the consummation of any other of the transactions therein contemplated, nor the fulfillment of the terms thereof will conflict with, result in a breach or violation of, or imposition of any lien, charge or encumbrance upon any property or asset of any of the Mexican Note Guarantors pursuant to, (i) the charter or by laws (*estatutos sociales*) of any of the Mexican Note Guarantors; (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which each of the Mexican Note Guarantors is a party or bound or to which their property is subject; or (iii) any statute, law, rule, regulation, judgment, order or decree applicable to the Mexican Note Guarantors of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Mexican Note Guarantors or any of their respective properties.

6. No consent, approval, authorization, filing with, order of, notice to, or qualification with any Mexican governmental or regulatory authority or court is required for the execution, delivery and performance by each of the Mexican Note Guarantors of the Purchase Agreement, the Indenture, the issuance and sale of the Securities, and the consummation of the transactions contemplated therein.

7. The choice of New York state law as the governing law of the Purchase Agreement, the Indenture, and the issuance and sale of the Securities, is legal, valid and binding to each of the Mexican Note Guarantors under the laws of Mexico and there is no reason why the courts of Mexico would not give effect to the choice of New York law as the proper law of the Purchase Agreement, the Indenture, and the Securities; each of the Mexican Note Guarantors has the legal capacity to sue and be sued in its own name under the laws of Mexico; each of the Mexican Note Guarantors has the power to submit, and has irrevocably submitted, to the jurisdiction of the New York courts and each of the Mexican Note Guarantors has validly and irrevocably appointed CEMEX NY Corporation as its authorized agent under the laws of Mexico for service of process under the Purchase Agreement, the Indenture and the Securities; the irrevocable submission of each of the Mexican Note Guarantors to the jurisdiction of the New York courts and the waivers by each of the Mexican Note Guarantors of any immunity and any objection to the venue of the proceeding in a New York court in the Purchase Agreement, in the Indenture, and in the Securities, are legal, valid and binding under the laws of Mexico and there is no reason why the courts of Mexico would not give effect to such submission and waivers; and the courts in Mexico will recognize as valid and final, and will enforce, any final and conclusive judgment against each of the Mexican Note Guarantors obtained in a New York court arising out of or in relation to the obligations of each Mexican Note Guarantor under the Purchase Agreement, the Indenture, or the Securities, without re-examination of the issues pursuant to Articles 569 and 571 of the Mexican Federal Code of Civil Procedure and Article 1347A of the Mexican Commerce Code, which provide, *inter alia*, that any judgment rendered outside of Mexico may be enforced by Mexican Courts, provided that:

(i) such judgment is obtained in compliance with (a) all legal requirements of the jurisdiction of the court rendering such judgment, and (b) all legal requirements of the Purchase Agreement;

(ii) such judgment is not rendered in a real action (*acción real*);

(iii) such judgment is final, non-appealable and authenticated by the appropriate governmental authorities, and is strictly for the payment of a certain sum of money, provided that, under Mexican Monetary Law, payments that should be made in Mexico in foreign currency, whether by agreement or upon a judgment of a Mexican Court, may be discharged in Mexican currency at a rate of exchange for such currency prevailing at the time of payment;

(iv) the court rendering such judgment is competent to render such judgment in accordance with applicable rules under international law and such rules are compatible with the rules adopted under the Mexican Code of Commerce;

(v) service of process was made personally on the Company and each Mexican Note Guarantor, as applicable, or on an appropriate Process Agent of the Company and each Mexican Note Guarantor, as applicable;

(vi) such judgment does not contravene Mexican public policy or laws (and we have no reason to believe that a judgment based upon the Transaction Documents would contravene Mexican public policy);

(vii) the applicable procedure under the laws of Mexico with respect to the enforcement for foreign judgments (including the issuance of a letter rogatory by the competent authority of such jurisdiction requesting enforcement of such judgment and the certification of such judgment as authentic by the corresponding authorities of such jurisdiction in accordance with the laws thereof) is complied with;

(viii) the courts of such jurisdiction recognize the principles of reciprocity in connection with the enforcement of Mexican judgments in such jurisdiction; and

(ix) the cause of action in connection with which such judgment is rendered is not the same cause of action between the same parties that is pending before a Mexican court.

8. Except as described in the Disclosure Package and the Final Memorandum, with respect to non-residents of Mexico, no stamp or other issuance or transfer taxes or duties and no capital gains, income, withholding or other taxes are payable by or on behalf of the Initial Purchasers to Mexico or to any political subdivision or taxing authority thereof or therein in connection with the sale and delivery by the Issuer of the Securities as contemplated in the Purchase Agreement to the Initial Purchasers or the sale and delivery by the Initial Purchasers of the Securities as contemplated in the Purchase Agreement.

9. Other than as described in the Disclosure Package and the Final Memorandum, under the current laws and regulations of Mexico, all payments of principal, premium (if any) and interest on the Securities may be paid, if applicable, by each Mexican Note Guarantor to the registered holder thereof in U.S. dollars (that may be obtained through conversion of Mexican Pesos) that may be freely transferred out of Mexico, and all such payments and other distributions made to holders of the Securities who are non-residents of Mexico, will not be subject to Mexican income, withholding or other taxes under the laws and regulations of Mexico and are otherwise free and clear of any other tax, duty withholding or deduction in Mexico and without the necessity of obtaining any governmental authorization in Mexico.

10. It is not necessary in order to enable the Initial Purchasers, the Trustee or the holders of the Securities to exercise or enforce its rights under the Purchase Agreement, the Indenture or the Securities in Mexico or by reason of the entry into and/or the performance of the Purchase Agreement and the Indenture, that the Initial Purchasers should be licensed or qualified to do business in Mexico. The Initial Purchasers and the non-Mexican holders of the Securities will not be deemed resident, domiciled, carrying on business or subject to taxation in Mexico solely by reason of the execution, delivery, performance or enforcement of the Purchase Agreement.

11. Except as disclosed in the Disclosure Package and the Final Memorandum, there is no pending or, to the best of our knowledge, threatened action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries or its or their property that is not adequately disclosed in the Disclosure Package and the Final Memorandum, except in each case (A) for such proceedings that, if the subject of an unfavorable decision, ruling or finding would not singly or in the aggregate, have a Material Adverse Effect; and (B) (i) the statements in the Preliminary Memorandum and the Final Memorandum under the headings "Important Federal Tax Considerations" and "Description of Notes"; and (ii) the statements in the Preliminary Memorandum and the Final Memorandum under the heading "Recent Developments - Recent Developments Relating to Our Regulatory Matters and Legal Proceedings", taken together with the statements in the Company's annual report on Form 20-F for the year ended December 31, 2008 under the heading "Regulatory Matters and Legal Proceedings", as updated by the statements in the Company's report on Form 6-K, filed with the Commission on September 21, 2009 under the heading "Recent developments relating to our regulatory matters and legal proceedings"; fairly summarize the matters therein described.

12. There is no reason to believe that the Disclosure Package, as amended or supplemented at the Execution Time, contained any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading (in each case, other than the financial statements and other financial information contained therein, as to which such counsel need express no opinion).

13. There is no reason to believe that the Final Memorandum, as of its date or on the Closing Date, contained or contains any untrue statement of a material fact or omitted or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (in each case, other than the financial statements and other financial information contained therein, as to which such counsel need express no opinion).

I express no opinion as to any laws other than the laws of Mexico. In rendering my opinion, I have relied, (i) as to matters governed by United States Federal and New York law, upon the opinion of Skadden, Arps, Slate, Meagher & Flom LLP delivered pursuant to the Purchase Agreement and (ii) as to matters of fact, on certificates of responsible officers of each of the Mexican Note Guarantors and public officials that are furnished to the Initial Purchasers.

This opinion is subject to the following qualifications:

a. Enforcement of the Transaction Documents may be limited by *concurso mercantil,* bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar laws or general principles of equity affecting the rights of creditors generally;

b. Labor claims, claims of tax authorities for unpaid taxes, social security quotas, worker's housing fund quotas, retirement fund quotas, as well as claims from secured or privileged creditors, will have priority over claims of the parties to the Purchase Agreement, the Indenture and the Securities;

c. In the event that proceedings are brought in Mexico seeking performance of the obligations of the Mexican Note Guarantors in Mexico, pursuant to the Mexican Monetary Law, such entity may discharge its obligations by paying any sums due in a currency other than Mexican currency, in Mexican currency at the rate of exchange prevailing in Mexico on the date when payment is made;

d. In the event that any legal proceedings are brought in the courts of Mexico, a Spanish translation of the documents required in such proceedings prepared by a court-approved translator would have to be approved by the court after the defendant has been given an opportunity to be heard with respect to the accuracy of the translation, and proceedings would thereafter be based upon the translated documents;

e. In the event of foreclosure of the Mexican Security Trust, the purchaser or purchasers of any transferred shares of a Mexican entity may require the approval of each of the Mexican Competition Commission (*Comisión Federal de Competencia*) and the Mexican Foreign Investment Commission (*Comisión Nacional de Inversiones Extranjeras*);

f. Claims may become barred under the statutes of limitation, which are not waivable under Mexican law, or may become subject to defenses or set-off or counterclaim;

g. A Mexican court may stay proceedings held in such court if concurrent proceedings are being held elsewhere;

h. Under the laws of Mexico, the obligations of a guarantor are not independent from, and may not exceed, the obligations of the main obligor;

i. With respect to the provisions contained in each of the Transaction Documents in connection with service of process, it should be noted that service of process by mail does not constitute personal service of process under Mexican law and, since such service is considered to be a basic procedural requirement, if for purposes of proceedings outside Mexico service of process is made by mail, a final judgment based on such process would not be enforced by the courts of Mexico; and

j. An obligation to pay interest on interest may not be enforceable in Mexico.

This opinion is furnished only to you as representative of the Initial Purchasers and is solely for the Initial Purchasers' benefit in connection with the closing occurring today and the offering of the Securities, in each case pursuant to the Purchase Agreement. Without my prior written consent, this opinion may not be used, circulated, quoted or otherwise referred to for any other purpose or relied upon by, or assigned to, any other person for any purpose, including any other person that acquires any Securities or that seeks to assert your rights in respect of this opinion (other than an Initial Purchaser's successor in interest by means of merger, consolidation, transfer of a business or other similar transaction), except that Skadden, Arps, Slate, Meagher & Flom LLP may rely upon this opinion as to matters of the laws of the Mexico in rendering their opinion pursuant to Section 6(a) of the Purchase Agreement.

SCHEDULE V

Form of Opinion of Clifford Chance SL

SCHEDULE VI

Form of Opinion of Warendorf

SCHEDULE VII

Form of Opinion of GHR Rechtsanwälte AG

SCHEDULE VIII

Matters to be addressed in the Officer's Certificate of the Issuer:

1. He/She has carefully examined the Disclosure Package and the Final Memorandum and any supplements or amendments thereto, and the Purchase Agreement;

2. To the best of his/her knowledge, the representations and warranties of the Issuer in the Purchase Agreement are true and correct on and as of the Closing Date with the same effect as if made on the Closing Date, and the Issuer has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date; and

3. To the best of his/her knowledge, since the date of the most recent financial statements included or incorporated by reference in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto), there has been no material adverse change in the condition (financial or otherwise), prospects, earnings, business or properties of the Company and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

SCHEDULE IX

Form of Comfort Letter by KPMG Cárdenas Dosal, S.C.

SCHEDULE X

1. Issuer Written Information (included in the Disclosure Package)

   (a) Final term sheet, dated January 13, 2010.

2. Other Information Included in the Disclosure Package

   (a) The following information is also included in the General Disclosure Package:

   None.

Exhibit 4.52

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

U.S.$650,000,000
4.875% CONVERTIBLE SUBORDINATED NOTES DUE 2015

PURCHASE AGREEMENT

March 24, 2010.

Citigroup Global Markets, Inc.
Banco Bilbao Vizcaya Argentaria, S.A.
BNP Paribas Securities Corp.
Merrill Lynch, Pierce, Fenner & Smith Incorporated
HSBC Securities (USA) Inc.
J.P. Morgan Securities Inc.
RBS Securities Inc.
Santander Investment Securities Inc.
Barclays Capital Inc.
As Representatives of the Initial Purchasers
c/o Citigroup Global Markets, Inc.
388 Greenwich Street
New York, New York 10013

Ladies and Gentlemen:

CEMEX, S.A.B. de C.V., a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) organized under the laws of Mexico (the "Company"), proposes to issue and sell to the several parties named in Schedule I hereto (the "Initial Purchasers"), for whom you (the "Representatives") are acting as representatives, U.S.$650,000,000 principal amount of its 4.875% Convertible Subordinated Notes due 2015 (the "Firm Securities"). The Company also proposes to grant to the Initial Purchasers an option to purchase up to U.S.$65,000,000 additional principal amount of such Securities to cover over-allotments, if any (the "Option Securities" and, together with the Firm Securities, the "Securities"). The Securities are convertible into ADSs of the Company at the conversion rate set forth herein. The Securities are to be issued under an indenture (the "Indenture"), to be dated as of the Closing Date, among the Company, The Bank of New York Mellon, a New York banking corporation, as trustee (the "Trustee"), and, for certain limited purposes to comply with Mexican applicable law, The Bank of New York Mellon, S.A., Institución de Banca Múltiple, as co-trustee. To the extent there are no additional parties listed on Schedule I other than you, the term Representatives as used herein shall mean you as the Initial Purchasers, and the terms Representatives and Initial Purchasers shall mean either the singular or plural as the context requires. The use of the neuter in this Agreement shall include the feminine and masculine wherever appropriate. Certain terms used herein are defined in Section 26 hereof.

The sale of the Securities to the Initial Purchasers will be made without registration of the Securities or the ADSs issuable upon conversion thereof under the Act in reliance upon exemptions from the registration requirements of the Act.

In connection with the sale of the Securities, the Company has prepared a preliminary offering memorandum, dated March 23, 2010 (as amended or supplemented at the date thereof, including any and all exhibits thereto and any information incorporated by reference therein, the "Preliminary Memorandum"), and a final offering memorandum, dated March 24, 2010 (as amended or supplemented at the Execution Time, including any and all exhibits thereto and any information incorporated by reference therein, the "Final Memorandum"). Each of the Preliminary Memorandum and the Final Memorandum sets forth certain information concerning the Company, the Securities and the ADSs issuable upon conversion thereof. The Company hereby confirms that it has authorized the use of the Disclosure Package, the Preliminary Memorandum and the Final Memorandum, and any amendment or supplement thereto, in connection with the offer and sale of the Securities by the Initial Purchasers. Unless stated to the contrary, any references herein to the terms "amend", "amendment" or "supplement" with respect to the Disclosure Package, the Preliminary Memorandum and the Final Memorandum shall be deemed to refer to and include any information filed under the Exchange Act subsequent to the Execution Time that is incorporated by reference therein.

1. Representations and Warranties. The Company represents and warrants to each Initial Purchaser as set forth below in this Section 1:

(a) The Preliminary Memorandum, at the date thereof, did not contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading. At the Execution Time, and on the Closing Date, the Final Memorandum did not and will not (together with any amendment or supplement thereto, at the date thereof and at the Closing Date, will not) contain any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided, however, that the Company makes no representation or warranty as to the information contained in or omitted from the Preliminary Memorandum or the Final Memorandum, or any amendment or supplement thereto, in reliance upon and in conformity with information furnished in writing to the Company by or on behalf of the Initial Purchasers through the Representatives specifically for inclusion therein, it being understood and agreed that the only such information furnished by or on behalf of any Initial Purchaser consists of the information described as such in Section 8(b) hereof.

(b) The Disclosure Package, as of the Execution Time, does not contain any untrue statement of a material fact or omit to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading. The preceding sentence does not apply to statements in or omissions from the Disclosure Package based upon and in conformity with written information furnished to the Company by any Initial Purchaser through the Representatives specifically for use therein, it being understood and agreed that the only such information furnished by or on behalf of any Initial Purchaser consists of the information described as such in Section 8(b) hereof.

(c) None of the Company nor any person acting on its behalf has directly or indirectly, made offers or sales of any security, or solicited offers to buy, any security under circumstances that would require the registration of the Securities or the ADSs issuable upon conversion thereof under the Act.

(d) None of the Company nor any person acting on its behalf has engaged in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with any offer or sale of the Securities.

(e) The Securities satisfy the eligibility requirements of Rule 144A(d)(3) under the Act.

(f) No registration under the Act of the Securities or the ADSs issuable upon conversion thereof is required for the offer and sale of the Securities to or by the Initial Purchasers in the manner contemplated herein, in the Disclosure Package and the Final Memorandum.

(g) The Company is not, and after giving effect to the offering and sale of the Securities and the application of the proceeds thereof as described in the Disclosure Package and the Final Memorandum will not be, an "investment company" as defined in the Investment Company Act.

(h) The Company has not paid or agreed to pay to any person any compensation for soliciting another to purchase any securities of the Company (except as contemplated in this Agreement).

(i) The Company has not taken, directly or indirectly, any action designed to or that has constituted or that might reasonably be expected to cause or result, under the Exchange Act or otherwise, in stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities.

(j) The Company has been duly incorporated and is validly existing as a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) under the laws of Mexico with full corporate power and authority to own or lease, as the case may be, and to operate its properties and conduct its business as described in the Disclosure Package and the Final Memorandum, and is duly qualified to do business as a foreign corporation and is in good standing under the laws of each jurisdiction that requires such qualification or such person is subject to no material liability or disability by reason of the failure to be so qualified.

(k) (i) The Company's authorized equity capitalization is as set forth, and conforms to the description thereof contained, in the Disclosure Package and the Final Memorandum; (ii) the outstanding ordinary shares of the Company have been duly authorized and validly issued and are fully paid and nonassessable; (iii) the outstanding CPOs of the Company have been duly authorized and validly issued in accordance with the CPO Trust and the CPO Deed; (iv) the outstanding ADSs of the Company have been, and the ADSs issuable upon conversion of the Securities will be, duly authorized and validly issued pursuant to the ADS Deposit Agreement; (v) based on the initial conversion rate and without considering any

fundamental change or antidilution adjustment that may occur subsequent to the Closing Date as provided in the Indenture, the Company has duly and validly issued a sufficient number of ordinary shares, free of preemptive or similar rights, and has a sufficient number of CPOs available to be released and delivered by the CPO Trustee, for issuance of ADSs upon conversion of the Securities, (vi) following the occurrence of a fundamental change or antidilution adjustment after the Closing Date as provided in the Indenture, any ordinary shares issued, and any CPOs released and delivered by the CPO Trustee, for the issuance of ADSs upon conversion of the Securities against payment of the conversion price, will be duly and validly issued pursuant to the Company's bylaws, the CPO Trust and the CPO Deed, free of preemptive or similar rights; (vii) except as set forth in the Disclosure Package and the Final Memorandum, no options, warrants or other rights to purchase, agreements or other obligations to issue, or rights to convert any obligations into or exchange any securities for, ownership interests, ordinary shares, CPOs or ADSs in the Company are outstanding, and (viii) except as otherwise set forth in the Disclosure Package and the Final Memorandum, all outstanding shares of capital stock or other equity interests of the Company's significant subsidiaries are owned by the Company either directly or through wholly owned and majority-owned subsidiaries free and clear of any security interest, claim, lien or encumbrance.

(l) (i) The statements in the Preliminary Memorandum and the Final Memorandum under the headings "Important Federal Tax Considerations," "Description of Common Stock," "Description of CPOs" and "Description of ADSs" and (ii) the statements in the Preliminary Memorandum and the Final Memorandum under the heading "Recent Developments," "Management's Discussion and Analysis of Financial Condition and Results of Operations – Recent Developments" and "Regulatory Matters and Legal Proceedings"; insofar as they purport to describe the provisions of the laws and documents referred to therein, fairly summarize the matters therein described in all material respects.

(m) This Agreement has been duly authorized, executed and delivered by the Company; the Indenture and the Capped Call Transaction Documents have been duly authorized and, assuming due authorization, execution and delivery thereof by the counterparties thereto, when executed and delivered by the Company, will constitute legal, valid, binding instruments enforceable against the Company in accordance with their terms (subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity); the Securities have been duly authorized, and, when executed and authenticated in accordance with the provisions of the Indenture and delivered to and paid for by the Initial Purchasers, will have been duly executed and delivered by the Company and will constitute the legal, valid and binding obligations of the Company entitled to the benefits of the Indenture (subject, as to the enforcement of remedies, to applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting creditors' rights generally from time to time in effect and to general principles of equity) and will be convertible into ADSs in accordance with their terms.

(n) The Amendment has been duly authorized, executed and delivered by the Company and it constitutes a legal, valid, and binding obligation enforceable against each party thereto in accordance with its terms.

(o) No consent, approval, authorization, filing with or order of any court or governmental agency or body is required in connection with the transactions contemplated herein, in the Indenture, in the Capped Call Transaction Documents, except (i) such as may be required under the blue sky laws or any other state or foreign securities laws of any jurisdiction in which the Securities are offered and sold, including without limitation, the notice to, and filing with, the Luxembourg authorities of the terms of the offering and sale of the Securities; (ii) for the notice to be given to the Mexican National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*) under Article 7 of the Securities Market Law, in respect of the issuance of the Securities, and (iii) for the notarization of a Spanish translation of the Indenture, to be effected on or prior to the Closing Date, and its subsequent filing with the Public Registry of Property and Commerce (*Registro Público de la Propiedad y del Comercio*) of Monterrey Nuevo León, México.

(p) None of the execution and delivery of the Indenture, the Capped Call Transaction Documents or this Agreement, the issuance and sale of the Securities or the issuance of the shares of common stock, the CPOs representing such shares of common stock or the ADSs representing such CPOs, upon conversion of the Securities, or the consummation of any other of the transactions herein or therein contemplated, or the fulfillment of the terms hereof or thereof will conflict with, result in a breach or violation or imposition of any lien, charge or encumbrance upon any property or assets of the Company or any of its subsidiaries pursuant to, (i) the charter or by-laws or comparable constituting documents of the Company or any of its subsidiaries; (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which the Company or any of its subsidiaries is a party or bound or to which its or their property is subject (including the Financing Agreement, the Transaction Security Documents, the CPO Trust and the ADS Deposit Agreement); or (iii) any statute, law, rule, regulation, judgment, order or decree of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company or any of its subsidiaries or any of its or their properties, which conflict, breach, violation or imposition would, in the case of clauses (ii) and (iii) above, either individually or in the aggregate with all other conflicts, breaches, violations and impositions referred to in this paragraph (p) (if any), have (x) a Material Adverse Effect (as defined below) or (y) a material adverse effect upon the transactions contemplated herein;

(q) The consolidated historical financial statements and schedules of the Company and its consolidated subsidiaries included or incorporated by reference in the Disclosure Package and the Final Memorandum present fairly in all material respects the financial condition, results of operations and cash flows of the Company and its consolidated subsidiaries as of the dates and for the periods indicated, and have been prepared in conformity with Mexican FRS applied on a consistent basis throughout the periods involved (except as otherwise noted therein); the selected financial data set forth under the caption "Selected Consolidated Financial Information" in the Preliminary Memorandum and the Final Memorandum fairly present, on the basis stated in the Preliminary Memorandum and the Final Memorandum, the information included therein.

(r) No action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries or its or their property is pending or, to the best knowledge of the Company, threatened that (i) could reasonably be expected to have a material adverse effect on the performance of this Agreement, the Indenture, the Capped Call Transaction Documents, the Financing Agreement, the Transaction Security Documents, the CPO Trust, the ADS Deposit Agreement, or the consummation of any of the transactions contemplated hereby or thereby or (ii) could reasonably be expected to have a material adverse effect on the condition (financial or otherwise), prospects, earnings, business or properties of the Company and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business (collectively the events described in (i) and (ii) above, a "Material Adverse Effect"), except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(s) Each of the Company and its subsidiaries owns or leases all such properties as are necessary to the conduct of its operations as presently conducted except (i) for such properties the loss of which would not reasonably be expected to result in a Material Adverse Effect and (ii) as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement).

(t) Neither the Company nor any of its subsidiaries is in violation or default of (i) any provision of its charter or bylaws or comparable constituting documents; (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which it is a party or bound or to which its property is subject (including the Financing Agreement, the Transaction Security Documents, the CPO Trust and the ADS Deposit Agreement); or (iii) any statute, law, rule, regulation, judgment, order or decree applicable to the Company or any of its subsidiaries of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company or such subsidiary or any of its properties, as applicable, except for such violations or defaults which, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

(u) KPMG Cárdenas Dosal, S.C., who have audited certain financial statements of the Company and its consolidated subsidiaries and delivered their report with respect to the audited consolidated financial statements and schedules included or incorporated by reference in the Disclosure Package and the Final Memorandum, are independent auditors with respect to the Company in accordance with Article 2.21 of the Mexican Institute of Public Accountants' Code of Professional Conduct and within the meaning in the Act and the applicable rules and regulations thereunder adopted by the Commission and the Public Company Accounting Oversight Board (United States).

(v) There are no stamp or other issuance or transfer taxes or duties or other similar fees or charges required to be paid in connection with the execution and delivery of this Agreement or the issuance or sale of the Securities or upon the issuance of ADSs upon the conversion thereof, except as disclosed in the Disclosure Package and the Final Memorandum.

(w) The Company and each of its subsidiaries have filed all applicable tax returns that are required to be filed by them or have requested extensions of the period applicable for the filing of such returns (except in any case in which the failure so to file would not have a Material

Adverse Effect and except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto)) and have paid all taxes required to be paid by them and any other assessment, fine or penalty levied against them, to the extent that any of the foregoing is due and payable, except for any such tax, assessment, fine or penalty that is currently being contested in good faith or as would not have a Material Adverse Effect and except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(x) No labor problem or dispute with the employees of the Company or any of its subsidiaries exists or is threatened or imminent, and the Company is not aware of any existing or imminent labor disturbance by the employees of any of its or its subsidiaries' principal suppliers, contractors or customers, except as would not have a Material Adverse Effect, and except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(y) No subsidiary of the Company is currently prohibited, directly or indirectly, from paying any dividends to the Company, from making any other distribution on such subsidiary's capital stock or ownership interest, from repaying to the Company any loans or advances to such subsidiary from the Company or from transferring any of such subsidiary's property or assets to the Company or any other subsidiary of the Company, except for contractual prohibitions provided in joint venture or shareholders' agreements to which the Company is a party (none of which prohibitions are material individually or in the aggregate), and except as described in or contemplated in the Disclosure Package or the Final Memorandum (in each case, exclusive of any amendment or supplement thereto).

(z) The Company and each of its subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged; all policies of insurance and fidelity or surety bonds insuring the Company or any of its subsidiaries or their respective businesses, assets, employees, officers and directors are in full force and effect; the Company and its subsidiaries are in compliance in all material respects with the terms of such policies and instruments; there are no material claims by the Company or any of its subsidiaries under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause; neither the Company nor any of its subsidiaries has been refused any material insurance coverage sought or applied for; and neither the Company nor any of its subsidiaries has any reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(aa) The Company and each of its subsidiaries possess all licenses, certificates, permits and other authorizations issued by all applicable authorities necessary to conduct their respective businesses, except to the extent that the failure to have such license, certificate, permit or authorization would not reasonably be expected to have a Material Adverse Effect and except, as described in or contemplated in the Disclosure Package or the Final Memorandum (exclusive of any amendment or supplement thereto), and neither the Company nor any of its subsidiaries

have received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a Material Adverse Effect, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(bb) The Company and each of its subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with Mexican FRS and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. The Company's and each of its subsidiaries' internal controls over financial reporting are effective, and neither the Company nor any of its subsidiaries is aware of any material weakness in its internal control over financial reporting. The Company and each of its subsidiaries maintains "disclosure controls and procedures" (as such term is defined in Rule 13a-15(e) under the Exchange Act) and such disclosure controls and procedures are effective.

(cc) Each of the Company and its subsidiaries (i) is in compliance with any and all applicable laws and regulations relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants ("Environmental Laws"); (ii) has received and is in compliance with all permits, licenses or other approvals required under applicable Environmental Laws to conduct its businesses; and (iii) has not received notice of any actual or potential liability under any Environmental Law, except where such non-compliance with Environmental Laws, failure to receive required permits, licenses or other approvals, or liability would not, individually or in the aggregate, have a Material Adverse Effect, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto). Except as set forth in the Disclosure Package and the Final Memorandum, neither the Company nor any of its subsidiaries has been named as a "potentially responsible party" under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

(dd) In the ordinary course of its business, the Company periodically reviews the effect of Environmental Laws on the business, operations and properties of the Company and its subsidiaries, in the course of which it identifies and evaluates associated costs and liabilities (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws, or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties); on the basis of such review, the Company has reasonably concluded that such associated costs and liabilities would not, singly or in the aggregate, have a Material Adverse Effect, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(ee) The operations of the Company and each of its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements and the money laundering statutes and the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the "Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of the Company, threatened.

(ff) None of the Company, any of its subsidiaries or, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company or any of its subsidiaries is currently subject to any sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC"); and the Company will not directly or indirectly use the proceeds of the offering of the Securities hereunder, or lend, contribute or otherwise make available such proceeds to any subsidiary, joint venture partner or other person or entity, for the purpose of financing the activities of any person currently subject to any U.S. sanctions administered by OFAC. There is and has been no failure on the part of the Company and or of the Company's directors or officers, in their capacities as such, to comply with any provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the "Sarbanes-Oxley Act"), including Section 402 relating to loans and Sections 302 and 906 relating to certifications.

(gg) None of the Company, any of its subsidiaries nor, to the knowledge of the Company, any director, officer, agent, employee or affiliate of the Company is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "FCPA"), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA; and the Company, its subsidiaries and, to the knowledge of the Company, its affiliates have conducted their respective businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(hh) Any certificate signed by any officer of the Company and delivered to the Representatives or counsel for the Initial Purchasers in connection with the offering of the Securities shall be deemed a representation and warranty by the Company, as to matters covered thereby, to each Initial Purchaser.

2. Purchase and Sale. (a) Subject to the terms and conditions and in reliance upon the representations and warranties herein set forth, (i) the Company agrees to sell to each Initial Purchaser, and each Initial Purchaser agrees, severally and not jointly, to purchase from the Company, at a purchase price of 100% of the principal amount thereof, *plus* accrued interest, if any, from March 30, 2010 to the Closing Date, the principal amount of Firm Securities set forth opposite such Initial Purchaser's name in Schedule I hereto; and (ii) in connection therewith, the Company agrees to pay to each Initial Purchaser fees and commissions in the amount of 1.88% of the principal amount of Firm Securities set forth opposite such Initial Purchaser's name in Schedule I (in addition to any other amounts otherwise payable under this Agreement).

(b) Subject to the terms and conditions and in reliance upon the representations and warranties herein set forth, the Company hereby grants an option to the several Initial Purchasers to purchase, severally and not jointly, the Option Securities at the same purchase price as Initial Purchasers shall pay for the Firm Securities, *plus* accrued interest, if any, from March 30, 2010 to the settlement date for the Option Securities. The option may be exercised only to cover over-allotments in the sale of the Firm Securities by the Initial Purchasers. The option may be exercised in whole or in part at any time or from time to time on or before the 30th day after the date of the Final Memorandum upon written or telegraphic notice by the Representatives to the Company setting forth the principal amount of Option Securities as to which the several Initial Purchasers are exercising the option and the settlement date. Delivery of the Option Securities, and payment therefor, shall be made as provided in Section 3 hereof. The principal amount of Option Securities to be purchased by each Initial Purchaser shall be the same percentage of the total principal amount of Option Securities to be purchased by the several Initial Purchasers as such Initial Purchaser is purchasing of the Firm Securities, subject to such adjustments as you in your absolute discretion shall make to eliminate any fractional Securities.

3. Delivery and Payment. (a) Delivery of and payment for the Firm Securities and the Option Securities (if the option provided for in Section 2(b) hereof shall have been exercised on or before the first Business Day immediately preceding the Closing Date) shall be made at 10:00 A.M., New York City time, on March 30, 2010, or at such time on such later date not more than three Business Days after the foregoing date as the Representatives shall designate, which date and time may be postponed by agreement between the Representatives and the Company or as provided in Section 9 hereof (such date and time of delivery and payment for the Securities being herein called the "Closing Date"). Delivery of the Securities shall be made to the Representatives for the respective accounts of the several Initial Purchasers against payment by the several Initial Purchasers through the Representatives of the purchase price thereof to or upon the order of the Company by wire transfer payable in same-day funds to the account specified by the Company. Delivery of the Securities shall be made through the facilities of The Depository Trust Company ("DTC") and any other relevant clearing system unless the Representatives shall otherwise instruct.

(b) If the option provided for in Section 2(b) hereof is exercised after the first Business Day immediately preceding the Closing Date, the Company will deliver the Option Securities (at the expense of the Company) to the Representatives on the date specified by the Representatives (which shall be within three Business Days after exercise of said option) for the respective accounts of the several Initial Purchasers, against payment by the several Initial Purchasers through the Representatives of the purchase price thereof to or upon the order of the Company by wire transfer payable in same-day funds to the account specified by the Company. If settlement for the Option Securities occurs after the Closing Date, the Company will deliver to the Representatives on the settlement date for the Option Securities, and the obligation of the Initial Purchasers to purchase the Option Securities shall be conditioned upon receipt of, supplemental opinions, certificates and letters confirming as of such date the opinions, certificates and letters delivered on the Closing Date pursuant to Section 6 hereof.

4. Offering by Initial Purchasers. (a) Each Initial Purchaser acknowledges that the Securities and the ADSs issuable upon conversion thereof have not been and will not be registered under the Act and may not be offered or sold within the United States, except pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Act.

(b) Each Initial Purchaser, severally and not jointly, represents and warrants to and agrees with the Company that:

(i) it has not offered or sold, and will not offer or sell, any Securities within the United States except to those it reasonably believes to be "qualified institutional buyers" (as defined in Rule 144A under the Act);

(ii) neither it nor any person acting on its behalf has made or will make offers or sales of the Securities in the United States by means of any form of general solicitation or general advertising (within the meaning of Regulation D) in the United States;

(iii) in connection with each sale pursuant to Section 4(b)(i)(A), it has taken or will take reasonable steps to ensure that the purchaser of such Securities is aware that such sale may be made in reliance on Rule 144A;

(iv) it is an "accredited investor" (as defined in Rule 501(a) of Regulation D);

(v) it has only communicated or caused to be communicated and will only communicate or cause to be communicated any invitation or inducement to engage in investment activity (within the meaning of Section 21 of the Financial Services and Markets Act 2000 (the "FSMA")) received by it in connection with the issue or sale of any Securities, in circumstances in which Section 21(1) of the FSMA does not apply to the Company;

(vi) it has complied and will comply with all applicable provisions of the FSMA with respect to anything done by it in relation to the Securities in, from or otherwise involving the United Kingdom; and

(vii) in relation to each Member State of the European Economic Area which has implemented the Prospectus Directive (each, a "Relevant Member State"), it has not made and will not make an offer to the public of any Securities which are the subject of the offering contemplated by this Agreement in that Relevant Member State, except that it may make an offer to the public in that Relevant Member State of any Securities at any time under the following exemptions under the Prospectus Directive, if they have been implemented in that Relevant Member State:

(A) to legal entities which are authorized or regulated to operate in the financial markets or, if not so authorized or regulated, whose corporate purpose is solely to invest in securities;

(B) to any legal entity which has two or more of (i) an average of at least 250 employees during the last financial year, (ii) a total balance sheet of more than €43,000,000 and (iii) an annual turnover of more than €50,000,000, as shown in its last annual or consolidated accounts;

(C) to fewer than 100 natural or legal persons (other than qualified investors as defined in the Prospectus Directive) subject to obtaining the prior written consent of the representatives for any such offer; or

(D) in any other circumstances falling within Article 3(2) of the Prospectus Directive;

provided that no such offer of Securities shall result in a requirement for the publication by the Company or any Initial Purchaser of a prospectus pursuant to Article 3 of the Prospectus Directive.

For the purposes of this provision, the expression an "offer to the public" in relation to any Securities in any Relevant Member State means the communication in any form and by any means of sufficient information on the terms of the offer and the Securities to be offered so as to enable an investor to decide to purchase any Securities, as the same may be varied in that Member State by any measure implementing the Prospectus Directive in that Member State and the expression "Prospectus Directive" means Directive 2003/71/EC and includes any relevant implementing measure in each Relevant Member State.

5. Agreements. The Company agrees with each Initial Purchaser that:

(a) The Company will furnish to each Initial Purchaser and to counsel for the Initial Purchasers, without charge, during the Distribution Period (as defined in Section 5(c) below), as many copies of the materials contained in the Disclosure Package and the Final Memorandum and any amendments and supplements thereto as they may reasonably request.

(b) The Company will prepare a final term sheet, containing solely a description of final terms of the Securities and the offering thereof, in the form approved by you attached as Schedule II hereto.

(c) The Company will not amend or supplement the Disclosure Package or the Final Memorandum, other than by filing documents under the Exchange Act that are incorporated by reference therein, without the prior written consent of the Representatives, which consent, following the Closing Date, may not be unreasonably withheld; provided, however, that prior to the earlier of (i) the completion of the distribution of the Securities by the Initial Purchasers (as determined by the Representatives and communicated to the Company) and (ii) twelve (12) months after the date of the Final Memorandum (the "Distribution Period"), the Company will not file any document under the Exchange Act that is incorporated by reference in the Disclosure Package or the Final Memorandum unless, prior to such proposed filing, the Company has furnished the Representatives with a copy of such document for their review and

the Representatives have not reasonably objected to the filing of such document. The Company will promptly advise the Representatives when any document filed under the Exchange Act that is incorporated by reference in the Disclosure Package or the Final Memorandum shall have been filed with the Commission.

(d) If at any time prior to the completion of the Distribution Period, any event occurs as a result of which the Disclosure Package or the Final Memorandum, as then amended or supplemented, would include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made or the circumstances then prevailing, not misleading, or if it should be necessary to amend or supplement the Disclosure Package or the Final Memorandum to comply with applicable law, the Company will promptly (i) notify the Representatives of any such event; (ii) subject to the requirements of Section 5(c), prepare an amendment or supplement that will correct such statement or omission or effect such compliance; and (iii) supply any supplemented or amended Disclosure Package or Final Memorandum to the several Initial Purchasers and counsel for the Initial Purchasers without charge in such quantities as they may reasonably request.

(e) Without the prior written consent of the Representatives, the Company has not given and will not give to any prospective purchaser of the Securities any written information concerning the offering of the Securities other than materials contained in the Disclosure Package, the Final Memorandum or any other offering materials prepared by or with the prior written consent of the Representatives. For the avoidance of doubt, the foregoing shall not apply to any written information or other materials provided to any related party in connection with the preparation, execution and delivery of the Amendment.

(f) The Company will arrange, if necessary, for the qualification of the Securities for sale by the Initial Purchasers under the laws of such jurisdictions as the Representatives may designate and will maintain such qualifications in effect so long as required for the sale of the Securities; provided that in no event shall the Company be obligated to qualify to do business in any jurisdiction where it is not now so qualified or to take any action that would subject it to service of process in suits, other than those arising out of the offering or sale of the Securities, in any jurisdiction where it is not now so subject. The Company will promptly advise the Representatives of the receipt by the Company of any notification with respect to the suspension of the qualification of the Securities for sale in any jurisdiction or the initiation or threatening of any proceeding for such purpose.

(g) As required under Article 7 of the Mexican Securities Market Law (*Ley del Mercado de Valores*), the Company will, no later than one Business Day after the Closing Date, notify the Mexican National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*) of the offering of the Securities as set forth herein, in the Disclosure Package and in the Final Memorandum.

(h) The Company shall cause to have ADSs to be delivered upon conversion of the Securities to be approved for listing on the New York Stock Exchange.

(i) The Company will not, and will not permit any of its Affiliates to, resell any Securities or ADSs issued upon conversion thereof that have been acquired by any of them except for, (i) in a transaction registered under the Act or (ii) in a transaction exempt from the registration requirements under the Act if such transaction does not cause the holding periods under Rule 144 under the Act to be extended for other holders of Securities.

(j) None of the Company, its Affiliates, or any person acting on its or their behalf will, directly or indirectly, make offers or sales of any security, or solicit offers to buy any security, under circumstances that would require the registration of the Securities or ADSs issuable upon conversion thereof under the Act.

(k) Any information provided by the Company, its Affiliates or any person acting on its or their behalf to publishers of publicly available databases about the terms of the Securities shall include a statement that the Securities have not been registered under the Act and are subject to restrictions under Rule 144A under the Act;

(l) None of the Company, its Affiliates, or any person acting on its or their behalf will engage in any form of general solicitation or general advertising (within the meaning of Regulation D) in connection with any offer or sale of the Securities in the United States.

(m) For so long as any of the Securities are outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the Act, the Company, during any period in which it is not subject to and in compliance with Section 13 or 15(d) of the Exchange Act or it is not exempt from such reporting requirements pursuant to and in compliance with Rule 12g3-2(b) under the Exchange Act, will provide to each holder of such restricted securities and to each prospective purchaser (as designated by such holder) of such restricted securities, upon the request of such holder or prospective purchaser, any information required to be provided by Rule 144A(d)(4) under the Act. This covenant is intended to be for the benefit of the holders, and the prospective purchasers designated by such holders, from time to time of such restricted securities.

(n) The Company will cooperate with the Representatives and use its best efforts to permit the Securities to be eligible for clearance and settlement through DTC, and any other relevant clearing system.

(o) Each of the Securities and the ADSs issuable upon conversion thereof will bear, to the extent applicable, the legend contained in "Transfer Restrictions" in the Preliminary Memorandum and the Final Offering Memorandum for the time period and upon the other terms stated therein.

(p) The Company will not, for a period of 90 days following the Execution Time, without the prior written consent of Citigroup Global Markets, Inc., directly or indirectly, (i) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, or file with the Commission a registration under the Act or with the *Comisión Nacional Bancaria y de Valores* a prospectus under Mexican securities laws relating to, any of the Company's ADSs, CPOs or ordinary shares or any securities convertible

into or exercisable or exchangeable for the Company's ADSs, CPOs or ordinary shares (other than the Securities), or publicly disclose the intention to make any of the foregoing, or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Company's ADSs, CPOs or ordinary shares, or such other securities, whether any such transaction described in clause (i) or (ii) above is to be settled by delivery of the Company's ADSs, CPOs or ordinary shares or such other securities, in cash or otherwise, other than (i) securities convertible into or exchangeable for the Company's ADSs, CPOs or ordinary shares pursuant to any stock option plan, stock ownership plan or dividend reinvestment plan of the Company described in the Disclosure Package and the Final Memorandum and in effect at the Execution Time; and (ii) any of the Company's ADSs, CPOs or ordinary shares issued upon the exercise of options outstanding as of the Execution Time, including upon conversion of mandatory convertible securities of the Company outstanding as of the Execution Time, in both cases described in the Disclosure Package and the Final Memorandum.

(q) The Company will not take, directly or indirectly, any action designed to or that has constituted, or that might reasonably be expected to cause or result, under the Exchange Act or otherwise, in stabilization or manipulation of the price of any security of the Company to facilitate the sale or resale of the Securities.

(r) Between the date hereof and the Closing Date, the Company will not do or authorize any act or thing that would result in an adjustment of the conversion price of the Securities.

(s) The Company will, for a period of twelve months following the Execution Time, furnish to the Representatives (i) all reports or other communications (financial or other) generally made available to stockholders, and deliver such reports and communications to the Representatives as soon as they are available, unless such documents are furnished to or filed with the Commission or any securities exchange on which any class of securities of the Company is listed and generally made available to the public and (ii) such additional information concerning the business and financial condition of the Company as the Representatives may from time to time reasonably request (such statements to be on a consolidated basis to the extent the accounts of the Company and its subsidiaries are consolidated in reports furnished to stockholders).

(t) The Company will comply with all applicable securities and other laws, rules and regulations, including, without limitation, the Sarbanes-Oxley Act, and use its best efforts to cause the Company's directors and officers, in their capacities as such, to comply with such laws, rules and regulations, including, without limitation, the provisions of the Sarbanes-Oxley Act.

(u) The Company agrees to pay the costs and expenses relating to the following matters: (i) the preparation of the Indenture, the Capped Call Transaction Documents, the issuance of the Securities, the fees of the Trustee and the issuance of the ADSs (including fees of the depositary under the ADSs Deposit Agreement for the creation and delivery of such ADSs) upon conversion of the Securities; (ii) the preparation, printing or reproduction of the materials contained in the Disclosure Package and the Final Memorandum and each amendment or supplement to either of them; (iii) the printing (or reproduction) and delivery (including postage,

air freight charges and charges for counting and packaging) of such copies of the materials contained in the Disclosure Package and the Final Memorandum, and all amendments or supplements to either of them, as may, in each case, be reasonably requested for use in connection with the offering and sale of the Securities; (iv) the preparation, printing, authentication, issuance and delivery of the Securities; (v) any stamp or transfer taxes in connection with the original issuance and sale of the Securities; (vi) the printing (or reproduction) and delivery of this Agreement, any blue sky memorandum and all other agreements or documents printed (or reproduced) and delivered in connection with the offering of the Securities; (vii) any registration or qualification of the Securities for offer and sale under the securities or blue sky laws of the several states, and any other jurisdictions specified pursuant to Section 5(f) (including filing fees and the reasonable fees and expenses of counsel for the Initial Purchasers relating to such registration and qualification); (viii) the transportation and other expenses incurred by or on behalf of Company representatives in connection with presentations to prospective purchasers of the Securities; (ix) the fees and expenses of the Company's accountants and the fees and expenses of counsel (including local and special counsel) for the Company; (x) fees and expenses incurred in connection with any notice to be provided to the Luxembourg regulatory authorities, including the Luxembourg Stock Exchange; and (xi) all other costs and expenses incident to the performance by the Company of its obligations hereunder.

(v) The Company agrees to reimburse the Representatives, on behalf of the Initial Purchasers, for all their reasonable expenses incurred in connection with the sale of the Securities provided for herein (including, without limitation, reasonable fees, disbursements and expenses of legal advisors for the Initial Purchasers). The reimbursement obligations of the Company in respect of the legal advisors for the Initial Purchasers pursuant to this Section 5(v) and Section 7 hereof will be limited to U.S.$900,000 (excluding reimbursements in respect of disbursements and expenses of such legal advisors).

(w) The Company will apply the aggregate net proceeds from the offering of the Securities in the manner specified in the Final Memorandum under the heading "Use of Proceeds."

6. Conditions to the Obligations of the Initial Purchasers. The obligations of the Initial Purchasers to purchase the Firm Securities and the Option Securities, as the case may be, shall be subject to the accuracy of the representations and warranties of the Company contained herein at the Execution Time, the Closing Date and any settlement date pursuant to Section 3 hereof, to the accuracy of the statements of the Company made in any certificates pursuant to the provisions hereof, to the performance by the Company of its obligations hereunder and to the following additional conditions:

(a) The Company shall have requested and caused Skadden, Arps, Slate, Meagher & Flom LLP, special U.S. counsel for the Company, to furnish to the Representatives its opinion, tax opinion and negative assurance letter, each dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule III attached hereto.

(b) The Company shall have requested and caused Mr. Ramiro G. Villarreal, General Counsel for the Company, to furnish to the Representatives his opinion, subject to certain applicable exceptions, qualifications and conditions acceptable to the Representatives, dated as of the Closing Date and addressed to the Representatives, substantially in the form of Schedule IV attached hereto.

(c) The Representatives shall have received from Cleary Gottlieb Steen & Hamilton LLP and Ritch Mueller, S.C., counsel for the Initial Purchasers, such opinion or opinions, dated the Closing Date and addressed to the Representatives, with respect to the issuance and sale of the Securities, the Indenture, the Capped Call Transaction Documents, the Disclosure Package, the Final Memorandum (as amended or supplemented at the Closing Date) and other related matters as the Representatives may reasonably require, and the Company shall have furnished to such counsel such documents as they request for the purpose of enabling them to pass upon such matters.

(d) The Company shall have requested and caused Elvinger, Hoss & Prussen, special Luxembourg counsel for the Company, to furnish such opinion or opinions, dated the Closing Date, providing, among other related matters as the Representatives may reasonably require, that the issuance and sale of the Securities as provided in the General Disclosure Package and the Final Memorandum, constitutes a public offering under the laws of Luxembourg, and the Company shall have furnished to such counsel such documents as they request for the purpose of enabling them to pass upon such matters; *provided, however*, that, prior to the delivery of such opinion on the Closing Date, Citigroup Global Markets, Inc. agrees to furnish a representation letter to Elvinger, Hoss & Prussen to the effect that Citigroup Global Markets, Inc. has offered the Securities to at least five persons within the Grand Duchy of Luxembourg.

(e) The Company shall have furnished to the Representatives a certificate of the Company, signed by an executive officer of the Company, dated as of the Closing Date, substantially in the form of Schedule V attached hereto.

(f) At the Execution Time and at the Closing Date, the Company shall have requested and caused KPMG Cárdenas Dosal, S.C. to furnish to the Representatives, letters, dated respectively as of the Execution Time and as of the Closing Date, in form and substance satisfactory to the Representatives and confirming that they are independent auditors within the meaning of Article 2.21 of the Mexican Institute of Public Accountants' Code of Professional Conduct and within the meaning in the Act and the applicable rules and regulations thereunder adopted by the Commission and the Public Company Accounting Oversight Board (United States), substantially in the form of Schedule VI attached hereto.

(g) Subsequent to the Execution Time or, if earlier, the dates as of which information is given in the Disclosure Package (exclusive of any amendment or supplement thereto) and the Final Memorandum (exclusive of any amendment or supplement thereto), there shall not have been (i) any change or decrease specified in the letter or letters referred to in paragraph (d) of this Section 6; or (ii) any change, or any development involving a prospective change, in or affecting the condition (financial or otherwise), prospects, earnings, business or properties of the Company and its subsidiaries taken as a whole, whether or not arising from transactions in the ordinary course of business, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement

thereto), the effect of which, in any case referred to in clause (i) or (ii) above, is, in the sole judgment of the Representatives, so material and adverse as to make it impractical or inadvisable to proceed with the offering or delivery of the Securities as contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

(h) The Securities shall be eligible for clearance and settlement through DTC and any other relevant clearing system.

(i) Subsequent to the Execution Time, there shall not have been any decrease in the rating of any of the Company's or any of its subsidiaries' debt securities by Standard & Poor's and Fitch Ratings or any notice given of any intended or potential decrease in any such rating. For the avoidance of doubt, any reiteration or reissuance of the outlook of a rating agency that was in place at the Execution Time shall not be considered a notice of an intended or potential decrease in a rating.

(j) Prior to the Closing Date, the Company shall have filed a supplemental listing application to have the ADSs issuable upon conversion of the Securities to be approved for listing, subject to issuance, on the New York Stock Exchange.

(k) Prior to the Closing Date, the Company shall have furnished to the Representatives a letter substantially in the form of Exhibit A hereto, duly executed by each of the officers of the Company named on Exhibit B hereto, and addressed to the Representatives.

(l) Prior to the Closing Date, the Company shall have furnished to the Representatives such further information, certificates and documents as the Representatives may reasonably request.

If any of the conditions specified in this Section 6 shall not have been fulfilled when and as provided in this Agreement, or if any of the opinions and certificates mentioned above or elsewhere in this Agreement shall not be reasonably satisfactory in form and substance to the Representatives and counsel for the Initial Purchasers, this Agreement and all obligations of the Initial Purchasers hereunder may be cancelled at, or at any time prior to, the Closing Date by the Representatives. Notice of such cancellation shall be given to the Company in writing or by telephone or facsimile confirmed in writing.

The documents required to be delivered under this Section 6 will be delivered at the office of counsel for the Initial Purchasers, at Cleary Gottlieb Steen & Hamilton LLP, One Liberty Plaza, New York, New York, 10006, Attention: Duane McLaughlin, Esq., on the Closing Date.

7. Reimbursement of Expenses. If the sale of the Securities provided for herein is not consummated because any condition to the obligations of the Initial Purchasers set forth in Section 6 hereof is not satisfied, because of any termination pursuant to Section 10 hereof or because of any refusal, inability or failure on the part of the Company to perform any agreement herein or comply with any provision hereof other than by reason of a default by any of the Initial Purchasers, the Company will reimburse the Initial Purchasers severally through Citigroup on demand for all expenses (including reasonable fees and disbursements of counsel subject to the limit set forth in Section 5(v) above) that shall have been incurred by them in connection with the proposed purchase and sale of the Securities.

8. Indemnification and Contribution. (a) The Company agrees to indemnify and hold harmless each Initial Purchaser, the directors, officers, employees, Affiliates and agents of each Initial Purchaser and each person who controls any Initial Purchaser within the meaning of either the Act or the Exchange Act against any and all losses, claims, damages or liabilities, joint or several, to which they or any of them may become subject under the Act, the Exchange Act or other U.S. federal or state statutory law or regulation, at common law or otherwise, insofar as such losses, claims, damages or liabilities (or actions in respect thereof) arise out of or are based upon any untrue statement or alleged untrue statement of a material fact contained in the Preliminary Memorandum, the Final Memorandum, any Issuer Written Information or any other written information used by or on behalf of the Company in connection with the offer or sale of the Securities, or in any amendment or supplement thereto, or arise out of, or are based upon, the omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, and agrees to reimburse each such indemnified party, as incurred, for any legal or other expenses reasonably incurred by it in connection with investigating or defending any such loss, claim, damage, liability or action; provided, however, that the Company will not be liable in any such case to the extent that any such loss, claim, damage or liability arises out of or is based upon any such untrue statement or alleged untrue statement or omission or alleged omission made in the Preliminary Memorandum, the Final Memorandum, or in any amendment thereof or supplement thereto, in reliance upon and in conformity with written information furnished to the Company by or on behalf of any Initial Purchaser through the Representatives specifically for inclusion therein. This indemnity agreement will be in addition to any liability that the Company may otherwise have.

(b) Each Initial Purchaser severally, and not jointly, agrees to indemnify and hold harmless the Company, each of its directors, each of its officers, and each person who controls the Company within the meaning of either the Act or the Exchange Act, to the same extent as the foregoing indemnity to each Initial Purchaser, but only with reference to written information relating to such Initial Purchaser furnished to the Company by or on behalf of such Initial Purchaser through the Representatives specifically for inclusion in the Preliminary Memorandum, the Final Memorandum or in any amendment or supplement thereto. This indemnity agreement will be in addition to any liability that any Initial Purchaser may otherwise have. The Company acknowledges that (i) the statements set forth in the last paragraph of the cover page regarding delivery of the Securities, and (ii), under the heading “Plan of Distribution”, (A) the table of Initial Purchasers, and (B) the eighth and ninth paragraphs, in the Preliminary Memorandum and the Final Memorandum constitute the only information furnished in writing by or on behalf of the Initial Purchasers for inclusion in the Preliminary Memorandum or the Final Memorandum or in any amendment or supplement thereto.

(c) Promptly after receipt by an indemnified party under this Section 8 of notice of the commencement of any action, such indemnified party will, if a claim in respect thereof is to be made against the indemnifying party under this Section 8, notify the indemnifying party in writing of the commencement thereof; but the failure so to notify the indemnifying party (i) will not relieve it from liability under paragraph (a) or (b) above unless and to the extent it did not

otherwise learn of such action and such failure results in the forfeiture by the indemnifying party of substantial rights and defenses and (ii) will not, in any event, relieve the indemnifying party from any obligations to any indemnified party other than the indemnification obligation provided in paragraph (a) or (b) above. The indemnifying party shall be entitled to appoint counsel (including local counsel) of the indemnifying party's choice at the indemnifying party's expense to represent the indemnified party in any action for which indemnification is sought (in which case the indemnifying party shall not thereafter be responsible for the fees and expenses of any separate counsel, other than local counsel if not appointed by the indemnifying party, retained by the indemnified party or parties except as set forth below); provided, however, that such counsel shall be satisfactory to the indemnified party. Notwithstanding the indemnifying party's election to appoint counsel (including local counsel) to represent the indemnified party in an action, the indemnified party shall have the right to employ separate counsel (including local counsel), and the indemnifying party shall bear the reasonable fees, costs and expenses of such separate counsel if (i) the use of counsel chosen by the indemnifying party to represent the indemnified party would present such counsel with a conflict of interest; (ii) the actual or potential defendants in, or targets of, any such action include both the indemnified party and the indemnifying party and the indemnified party shall have reasonably concluded that there may be legal defenses available to it and/or other indemnified parties that are different from or additional to those available to the indemnifying party; (iii) the indemnifying party shall not have employed counsel satisfactory to the indemnified party to represent the indemnified party within a reasonable time after notice of the institution of such action; or (iv) the indemnifying party shall authorize the indemnified party to employ separate counsel at the expense of the indemnifying party. If none of the conditions in clauses (i) through (iv) in the preceding sentence are satisfied as to any indemnified party, it is understood that the Company shall, in connection with any one such action be liable for the reasonable fees and expenses of only one separate firm of attorneys in each jurisdiction (and in addition to any local counsel) at any time (other than reasonable overlapping of engagements) for all such indemnified parties. An indemnifying party will not, without the prior written consent of the indemnified parties, settle or compromise or consent to the entry of any judgment with respect to any pending or threatened claim, action, suit or proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified parties are actual or potential parties to such claim or action) unless such settlement, compromise or consent includes an unconditional release of each indemnified party from all liability arising out of such claim, action, suit or proceeding.

(d) In the event that the indemnity provided in paragraph (a) or (b) of this Section 8 is unavailable to or insufficient to hold harmless an indemnified party for any reason, the Company and the Initial Purchasers severally agree to contribute to the aggregate losses, claims, damages and liabilities (including legal or other expenses reasonably incurred in connection with investigating or defending any loss, claim, damage, liability or action) (collectively "Losses") to which the Company and one or more of the Initial Purchasers may be subject in such proportion as is appropriate to reflect the relative benefits received by the Company on the one hand and by the Initial Purchasers on the other from the offering of the Securities; provided, however, that in no case shall any Initial Purchaser be responsible for any amount in excess of the purchase discount or commission applicable to the Securities purchased by such Initial Purchaser hereunder. If the allocation provided by the immediately preceding sentence is unavailable for any reason, the Company and the Initial Purchasers severally shall contribute in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the

Company on the one hand and the Initial Purchasers on the other in connection with the statements or omissions that resulted in such Losses, as well as any other relevant equitable considerations. Benefits received by the Company shall be deemed to be equal to the total net proceeds from the offering (before deducting expenses) received by it, and benefits received by the Initial Purchasers shall be deemed to be equal to the total purchase discounts and commissions. Relative fault shall be determined by reference to, among other things, whether any untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information provided by the Company on the one hand or the Initial Purchasers on the other, the intent of the parties and their relative knowledge, access to information and opportunity to correct or prevent such untrue statement or omission. The Company and the Initial Purchasers agree that it would not be just and equitable if contribution were determined by pro rata allocation or any other method of allocation that does not take account of the equitable considerations referred to above. Notwithstanding the provisions of this paragraph (d), no person guilty of fraudulent misrepresentation (within the meaning of Section 11(f) of the Act) shall be entitled to contribution from any person who was not guilty of such fraudulent misrepresentation. For purposes of this Section 8, each person who controls an Initial Purchaser within the meaning of either the Act or the Exchange Act and each director, officer, employee, Affiliate and agent of an Initial Purchaser shall have the same rights to contribution as such Initial Purchaser, and each person who controls the Company within the meaning of either the Act or the Exchange Act and each officer and director of the Company shall have the same rights to contribution as the Company, subject in each case to the applicable terms and conditions of this paragraph (d).

9. Default by an Initial Purchaser. If any one or more Initial Purchasers shall fail to purchase and pay for any of the Securities agreed to be purchased by such Initial Purchaser hereunder and such failure to purchase shall constitute a default in the performance of its or their obligations under this Agreement, the remaining Initial Purchasers shall be obligated severally to take up and pay for (in the respective proportions which the principal amount of Securities set forth opposite their names in Schedule I hereto bears to the aggregate principal amount of Securities set forth opposite the names of all the remaining Initial Purchasers) the Securities which the defaulting Initial Purchaser or Initial Purchasers agreed but failed to purchase; provided, however, that in the event that the aggregate principal amount of Securities which the defaulting Initial Purchaser or Initial Purchasers agreed but failed to purchase shall exceed 10% of the aggregate principal amount of Securities set forth in Schedule I hereto, the remaining Initial Purchasers shall have the right to purchase all, but shall not be under any obligation to purchase any, of the Securities, and if such non-defaulting Initial Purchasers do not purchase all the Securities, this Agreement will terminate without liability to any non-defaulting Initial Purchaser or the Company. In the event of a default by any Initial Purchaser as set forth in this Section 9, the Closing Date shall be postponed for such period, not exceeding five Business Days, as the Representatives and the Company shall determine in order that the required changes in the Final Memorandum or in any other documents or arrangements may be effected. Nothing contained in this Agreement shall relieve any defaulting Initial Purchaser of its liability, if any, to the Company or any non-defaulting Initial Purchaser for damages occasioned by its default hereunder.

10. Termination. This Agreement shall be subject to termination in the absolute discretion of the Representatives, by notice given to the Company prior to delivery of, and payment for, the Securities, if at any time prior to such delivery and payment (i) trading in the Company's CPOs in the Mexican Stock Exchange (*Bolsa Mexicana de Valores, S.A.B. de C.V.*) shall have been suspended; (ii) trading in the Company's ADSs in the New York Stock Exchange shall have been suspended; (iii) trading in securities generally on the Mexican Stock Exchange (*Bolsa Mexicana de Valores, S.A.B. de C.V.*) or the New York Stock Exchange shall have been suspended or limited or minimum prices shall have been established on either such exchanges; (iv) a banking moratorium shall have been declared either by Mexican, U.S. federal or New York State authorities; or (iv) there shall have occurred any outbreak or escalation of hostilities, declaration by Mexico or the United States of a national emergency or war or other calamity or crisis the effect of which on financial markets is such as to make it, in the sole judgment of the Representatives, impractical or inadvisable to proceed with the offering or delivery of the Securities as contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

11. Representations and Indemnities to Survive . The respective agreements, representations, warranties, indemnities and other statements of the Company or its officers and of the Initial Purchasers set forth in or made pursuant to this Agreement will remain in full force and effect, regardless of any investigation made by or on behalf of the Initial Purchasers or the Company or any of the indemnified persons referred to in Section 8 hereof, and will survive delivery of and payment for the Securities. The provisions of Sections 7 and 8 hereof shall survive the termination or cancellation of this Agreement.

12. Notices. All communications hereunder will be in writing and effective only on receipt, and, if sent to the Representatives, will be mailed, delivered or telefaxed to the Citigroup General Counsel (fax no.: (212) 816-7912) and confirmed to Citigroup at 388 Greenwich Street, New York, New York 10013, Attention: General Counsel; or, if sent to the Company, will be mailed, delivered or telefaxed to +5281-8888-4399 and confirmed to it at CEMEX, S.A.B. de C.V., Av. Ricardo Margáin, Zozaya #325, Colonia Valle del Campestre, Garza García, Nuevo León, México 66265. Attention: Legal Department.

13. Successors. This Agreement will inure to the benefit of and be binding upon the parties hereto and their respective successors and the indemnified persons referred to in Section 8 hereof and their respective successors, and, except as expressly set forth in Section 5(m) hereof, no other person will have any right or obligation hereunder.

14. Jurisdiction. Each of the parties hereto agrees that any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in any State or U.S. federal court in The City of New York and County of New York and in the courts of its own domicile in respect of actions brought against such party as a defendant, and waives any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the jurisdiction of such courts in any suit, action or proceeding and waives the right to any other jurisdiction that it may be entitled to by reason of its present or future, domicile or any other reason. The Company hereby appoints Corporate Creations Network Inc., 1040 Avenue of the Americas # 2400, New York, NY 10018, U.S.A.; fax: (561) 694-1639; telephone: (212) 382-4699, as its authorized agent (the "Authorized Agent") upon whom process may be served in any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated herein that may be instituted in any

of such courts. The Company hereby represents and warrants that the Authorized Agent has accepted such appointment and has agreed to act as said agent for service of process, and the Company agrees to take any and all action, including the execution and filing of any and all documents that may be necessary to continue such appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent shall be deemed, in every respect, effective service of process upon the Company. Notwithstanding the foregoing, any action arising out of or based upon this Agreement may be instituted by any Initial Purchaser, the directors, officers, employees, Affiliates and agents of any Initial Purchaser, or by any person who controls any Initial Purchaser, in any court of competent jurisdiction in Mexico.

15. Internet Document Service. The Company hereby agrees that Citigroup may provide copies of the Preliminary Memorandum and Final Memorandum and any other agreement or document relating to the offer and sale of the Securities, including, without limitation, the Indenture, to Xtract Research LLC ("Xtract") following the Closing Date for inclusion in an online research service sponsored by Xtract, access to which is restricted to "qualified institutional buyers" (as defined in Rule 144A under the Act); it being understood and agreed that the Company shall have no obligation to update or supplement any such documents provided to Xtract.

16. Integration. This Agreement supersedes all prior agreements and understandings (whether written or oral) between the Company and the Initial Purchasers, or any of them, with respect to the subject matter hereof.

17. Applicable Law. This Agreement will be governed by and construed in accordance with the laws of the State of New York applicable to contracts made and to be performed within the State of New York.

18. Waiver of Jury Trial. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by applicable law, any and all right to trial by jury in any legal proceeding arising out of or relating to this Agreement or the transactions contemplated hereby.

19. No Fiduciary Duty. The Company hereby acknowledges that (a) the purchase and sale of the Securities pursuant to this Agreement is an arm's-length commercial transaction between the Company, on the one hand, and the Initial Purchasers and any Affiliate through which it may be acting, on the other, (b) the Initial Purchasers are acting as principal and not as an agent or fiduciary of the Company and (c) the Company's engagement of the Initial Purchasers in connection with the offering and the process leading up to the offering is as independent contractors and not in any other capacity. Furthermore, the Company agrees that it is solely responsible for making its own judgments in connection with the offering (irrespective of whether any of the Initial Purchasers has advised or is currently advising the Company on related or other matters). The Company agrees that it will not claim that the Initial Purchasers have rendered advisory services of any nature or respect, or owe an agency, fiduciary or similar duty to the Company in connection with such transaction or the process leading thereto.

20. Currency. Each reference in this Agreement to U.S. dollars (the "relevant currency"), including by use of the symbol "US$", is of the essence. To the fullest extent permitted by law, the obligation of the Company in respect of any amount due under this

Agreement will, notwithstanding any payment in any other currency (whether pursuant to a judgment or otherwise), be discharged only to the extent of the amount in the relevant currency that the party entitled to receive such payment may, in accordance with its normal procedures, purchase with the sum paid in such other currency (after any premium and costs of exchange) on the Business Day immediately following the day on which such party receives such payment. If the amount in the relevant currency that may be so purchased for any reason falls short of the amount originally due, the Company will pay such additional amounts, in the relevant currency, as may be necessary to compensate for the shortfall. Any obligation of the Company not discharged by such payment will, to the fullest extent permitted by applicable law, be due as a separate and independent obligation and, until discharged as provided herein, will continue in full force and effect.

21. Waiver of Immunity. To the extent that the Company has or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service or notice, attachment in aid or otherwise) with respect to itself or any of its property, the Company hereby irrevocably waives and agrees not to plead or claim such immunity in respect of its obligations under this Agreement.

22. Waiver of Tax Confidentiality. Notwithstanding anything herein to the contrary, purchasers of the Securities (and each employee, representative or other agent of a purchaser) may disclose to any and all persons, without limitation of any kind, the U.S. tax treatment and U.S. tax structure of any transaction contemplated herein and all materials of any kind (including opinions or other tax analyses) that are provided to the purchasers of the Securities relating to such U.S. tax treatment and U.S tax structure, other than any information for which nondisclosure is reasonably necessary in order to comply with applicable securities laws.

23. Taxes. Any and all payments of fees or other amounts due to the Initial Purchasers under this Agreement shall, except as required by applicable law, be made without withholding or deduction for or on account of any taxes imposed by any jurisdiction. If any taxes are required to be withheld or deducted from any such payment, the Company shall pay such additional amounts as may be necessary to ensure that the net amount actually received by the Initial Purchasers after such withholding or deduction is equal to the amount that the Initial Purchasers would have received had no such withholding or deduction been required. At the reasonable request of the Initial Purchasers, the Company shall provide evidence of payment of taxes when due.

24. Counterparts. This Agreement may be signed in one or more counterparts, each of which shall constitute an original and all of which together shall constitute one and the same agreement.

25. Headings. The section headings used herein are for convenience only and shall not affect the construction hereof.

26. Definitions. The terms that follow, when used in this Agreement, shall have the meanings indicated.

"Act" means the U.S. Securities Act of 1933, as amended, and the rules and regulations of the Commission promulgated thereunder.

"ADS" means the American Depositary Shares which represent ten (10) CPOs. ADSs are evidenced by American Depositary Receipts or ADRs.

"ADS Deposit Agreement" means the Second Amended and Restated Deposit Agreement, dated as of August 10, 1999, as amended by Amendment No. 1 thereto, dated as of July 1, 2005, by and among Citibank, N.A., as depositary, the Company and the holders and beneficial owners from time to time of ADSs.

"Affiliate" shall have the meaning specified in Rule 501(b) of Regulation D.

"Amendment" means the Amendment Agreement dated March 18, 2010 between the Company, acting for itself and as agent on behalf of each Obligor (as defined therein), and Citibank International PLC, acting for itself and as Administrative Agent (as defined therein) on behalf of the Finance Parties (as defined therein), relating to the Financing Agreement dated August 14, 2009, as amended.

"Business Day" means any day other than a Saturday, a Sunday or a legal holiday or a day on which banking institutions or trust companies are authorized or obligated by law to close in The City of New York or Mexico.

"Capped Call Transaction Documents" means (i) the Master Terms and Conditions for Capped Call Transactions dated March 24, 2010, (ii) any Transaction Confirmation thereunder and (iii) the Security Agreement to be dated as of the Closing Date, in each case entered into by and between Citibank, N.A. and the Company and the Collateral Agreement, to be dated as of the Closing Date between Citibank, N.A., Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, acting solely as trustee under trust No. 111339-7 and the Company (each, a "Security Agreement" and collectively the "Security Agreements").

"Citigroup" means Citigroup Global Markets, Inc.

"Commission" means the Securities and Exchange Commission.

"CPO" means the Ordinary Participation Certificates (*Certificados de Participación Ordinaria*), which represent two (2) Series A shares and one (1) Series B share of the Company.

"CPO Deed" means the CPO deed (*Acta de Emisión*) executed from time to time by the Company and the CPO Trustee for the issuance of CPOs pursuant to the terms of the CPO Trust.

"CPO Trust" means the Trust Agreement number 111033-9 dated September 6, 1999, entered into by and among the Company, in its capacity as settlor, and the CPO Trustee.

"CPO Trustee" means Grupo Financiero Banamex, División Fiduciaria, in its capacity as trustee under the CPO Trust.

"Disclosure Package" means (i) the Preliminary Memorandum, as amended or supplemented at the Execution Time, (ii) the final term sheet prepared pursuant to Section 5(b) hereto and in the form attached as Schedule II hereto and (iii) any Issuer Written Information.

"Exchange Act" means the U.S. Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Execution Time" means the date and time that this Agreement is executed and delivered by the parties hereto.

"Financing Agreement" means the Financing Agreement dated August 14, 2009, as amended, between the Company, the Financial Institutions and Noteholders named therein, as participating creditors, Citibank International PLC, as administrative agent and Wilmington Trust (London) Limited, as security agent.

"Intercreditor Agreement" means the Intercreditor Agreement dated August 14, 2009, as amended, between Citibank International PLC, as administrative agent, the participating creditors named therein, the Company and certain of its subsidiaries named therein, as original borrowers, original guarantors and original security providers, Wilmington Trust (London) Limited, as security agent, and others.

"Investment Company Act" means the U.S. Investment Company Act of 1940, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Issuer Written Information" means any writings in addition to the Preliminary Memorandum, the final term sheet prepared pursuant to Section 5(b) hereto in the form attached as Schedule II hereto that the parties expressly agree in writing to treat as part of the Disclosure Package and which are identified on Schedule VII hereto.

"Mexican FRS" means the Mexican financial reporting standards (*Normas de Información Financiera aplicables en Mexico*) as in effect from time to time issued by the Mexican Financial Reporting Standards Board (*Consejo Mexicano para la Investigación y Desarrollo de Normas de Información Financiera, A.C.*).

"Regulation D" means Regulation D under the Act.

"Regulation S" means Regulation S under the Act.

"Transaction Security Documents" means any document, as amended from time to time, entered by any of the Company or its subsidiaries creating or expressed to create any security over all or any part of its assets in respect of their obligations under the Financing Agreement or any other document derived therefrom, or in connection therewith.

[Signature Pages Follow]

If the foregoing is in accordance with your understanding of our agreement, please sign and return to us the enclosed duplicate hereof, whereupon this letter and your acceptance shall represent a binding agreement between the Company and the several Initial Purchasers.

Very truly yours,

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

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Chief Financial Officer

The foregoing Agreement is hereby confirmed
and accepted as of the date first above written.

Citigroup Global Markets, Inc.

By: /s/ R. Blacket
Name: J. R. Blacket
Title: Managing Director

Banco Bilbao Vizcaya Argentaria, S.A.

By: /s/ Isabel Bermejo
Name: Isabel Bermejo
Title: Managing Director

By: /s/ Angel Sanchez Aristi
Name: Angel Sanchez Aristi
Title: Managing Director

Barclays Capital Inc.

By: /s/ Jose A. Gonzales
Name: Jose A. Gonzales
Title: MD

BNP Paribas Securities Corp.

By: /s/ Michael W. Murphy
Name: Michael W. Murphy
Title: Managing Director

HSBC Securities (USA) Inc.

By: /s/ Mauda Poc
Name: Mauda Poc
Title: Director

J.P. Morgan Securities Inc.

By: /s/ Jeffrey Zajkowski
Name: Jeffrey Zajkowski
Title: Managing Director

Merrill Lynch, Pierce, Fenner & Smith Incorporated

By: /s/ Frank Maturo
Name: Frank Maturo
Title: Managing Director

RBS Securities Inc.

By: /s/ Illegible
Name:
Title:

Signature page to
Purchase Agreement

Santander Investment Securities Inc.

By: /s/ Iñigo Gaytan de Ayala
Name: Iñigo Gaytan de Ayala
Title: Managing Director

By: /s/ Ignacio Mendive
Name: Ignacio Mendive
Title: Managing Director

For themselves and the other several Initial Purchasers named in Schedule I to the foregoing Agreement.

SCHEDULE I

Initial Purchasers	Principal Amount of Securities to be Purchased
Citigroup Global Markets, Inc.	U.S.$432,180,851
Banco Bilbao Vizcaya Argentaria, S.A.	U.S.$ 24,202,128
BNP Paribas Securities Corp.	U.S.$ 24,202,128
Merrill Lynch, Pierce, Fenner & Smith Incorporated	U.S.$ 24,202,128
HSBC Securities (USA) Inc.	U.S.$ 24,202,128
J.P. Morgan Securities Inc.	U.S.$ 24,202,128
RBS Securities Inc.	U.S.$ 24,202,128
Santander Investment Securities Inc.	U.S.$ 24,202,128
Barclays Capital Inc.	U.S.$ 17,287,233
ING Financial Markets LLC	U.S.$ 10,372,340
Scotia Capital (USA) Inc.	U.S.$ 10,372,340
The Williams Capital Group, L.P.	U.S.$ 10,372,340
Total	U.S.$ 650,000,000

SCHEDULE II

Pricing Term Sheet

Pricing Term Sheet
March 24, 2010

CEMEX, S.A.B. de C.V.
4.875% Convertible Subordinated Notes Due 2015 (the "Notes")

The information in this pricing term sheet supplements CEMEX, S.A.B. de C.V.'s preliminary offering memorandum, dated March 23, 2010 (the "Preliminary Offering Memorandum"), and supersedes the information in the Preliminary Offering Memorandum to the extent inconsistent with the information in the Preliminary Offering Memorandum. In all other respects, this term sheet is qualified in its entirety by reference to the Preliminary Offering Memorandum. Terms used herein but not defined herein shall have the respective meanings as set forth in the Preliminary Offering Memorandum. All references to dollar amounts are references to U.S. dollars. References to ADSs are to ADSs of the Issuer. Unless specifically stated otherwise, the information in this pricing term sheet assumes the initial purchasers do not exercise their over-allotment option.

Issuer	CEMEX, S.A.B. de C.V. (the "Issuer")
Security Description	4.875% Convertible Subordinated Notes due 2015
Format	144A Global Notes
Sole Global Coordinator, Sole Structuring Agent and Active Bookrunner	Citigroup Global Markets Inc.
Joint Passive Bookrunners	Barclays Capital Inc. Banco Bilbao Vizcaya Argentaria, S.A. BNP Paribas Securities Corp. Merrill Lynch, Pierce, Fenner & Smith Incorporated HSBC Securities (USA) Inc. J.P. Morgan Securities Inc. RBS Securities Inc. Santander Investment Securities Inc.
Co-Managers	ING Scotia Capital The Williams Capital Group, L.P.
Identifiers (144A Notes)	CUSIP 151290 AU7 ISIN US151290AU79 CUSIP 151290 AV5 (unrestricted) ISIN US151290AV52 (unrestricted)
Aggregate principal amount offered	U.S.$650,000,000
Over-allotment option	U.S.$65,000,000 of Notes
Settlement date	March 30, 2010
Final maturity	March 15, 2015

Interest payment	March 15 and September 15, beginning on September 15, 2010
Day count convention	360-day year consisting of twelve 30-day months
Annual interest rate	The Notes will bear interest at a rate equal to 4.875% per annum from March 30, 2010
Offering price	The Notes will be issued at a price of 100% of their principal amount, *plus* accrued interest, if any, from March 30, 2010
Initial conversion price	Approximately $13.60 per ADS
Conversion rate	73.5402 ADSs per $1,000 principal amount of Notes
NYSE last reported sale price on March 24, 2010	$10.46 per ADS
Conversion premium	Approximately 30% above the last NYSE last reported sale price on March 24, 2010
Denomination	U.S.$100,000 and integral multiples of U.S.$1,000 in excess thereof
Additional Interest	As described in the Preliminary Offering Memorandum, additional interest will accrue at the rate of 0.50% per annum on the outstanding principal amount of the Notes under the circumstances described therein.
Conversion Rights	Holders may convert their Notes into the Issuer's ADSs (which represent CPOs, which in turn represent ordinary shares) at an initial conversion rate of 73.5402 ADSs per $1,000 principal amount of Notes at any time prior to the close of business on the fourth Business Day (as defined in the Preliminary Offering Memorandum) immediately preceding the maturity date for the Notes. The conversion rate is equivalent to an initial conversion price of approximately U.S.$13.60 per ADS. The indenture governing the Notes contains a covenant requiring the Issuer to issue sufficient Series A shares and Series B shares in order to fulfill its obligations to deliver ADSs, within the time limits set forth in the indenture, following a conversion.
Anti-Dilution Adjustments	The conversion rate may be adjusted if certain events occur.
Make Whole Conversion upon Fundamental Change	If a fundamental change (as defined in the Preliminary Offering Memorandum) occurs and a holder elects to convert its Notes in connection with such fundamental change, the Issuer will, under certain circumstances, increase the conversion rate for the Notes so surrendered for conversion. The table below sets forth the number of additional shares to be added to the conversion rate per $1,000 principal amount of the Notes in connection with a fundamental change as described in the Preliminary Offering Memorandum, based on the ADS price and effective date of the fundamental change.

	ADS Price											
Effective Date	$10.46	$12.50	$15.00	$17.50	$20.00	$22.50	$25.00	$27.50	$30.00	$35.00	$40.00	$60.00
March 30, 2010	22.0620	15.1881	10.9489	9.0373	7.8003	6.8418	6.0749	5.4475	4.9246	4.1031	3.4869	2.0502
March 15, 2011	22.0620	14.0443	9.3704	7.3958	6.3724	5.5928	4.9691	4.4588	4.0335	3.3653	2.8641	1.6949
March 15, 2012	22.0620	12.9112	7.7587	5.6012	4.7884	4.2052	3.7386	3.3569	3.0387	2.5388	2.1639	1.2890
March 15, 2013	22.0620	11.6472	5.9563	3.6617	3.0209	2.6545	2.3613	2.1214	1.9215	1.6074	1.3718	0.8221
March 15, 2014	22.0620	9.9100	3.5857	1.3775	1.0468	0.9201	0.8188	0.7358	0.6667	0.5582	0.4767	0.2867
March 15, 2015	22.0620	6.4598	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

The exact ADS prices and effective dates may not be set forth in the table above, in which case if the ADS price is:

- between two adjacent ADS price amounts in the table or the effective date is between two adjacent effective dates in the table, the number of additional ADSs by which the conversion rate will be determined by a straight-line interpolation between the number of additional ADSs set forth for the higher and lower ADS price amounts and the two dates based on a 365-day year, as applicable.
- greater than U.S.$60.00 per ADS (subject to adjustment in the same manner as the ADS prices set forth in the column headings of the table above), no additional ADSs will be issued upon conversion.
- less than U.S.$10.46 per ADS (subject to adjustment in the same manner as the ADS prices set forth in the column headings of the table above), no additional ADSs will be issued upon conversion.

Notwithstanding the foregoing, in no event will the total number of ADSs issuable upon conversion exceed 95.6022 per U.S.$1,000 principal amount of Notes, although that maximum is subject to adjustment in the same manner as the conversion rate as set forth under “Description of Notes—Conversion Rate Adjustments” in the Preliminary Offering Memorandum.

Repurchase at Option of Holder

- Other than in the event of a change of control, Holders may not require the Issuer to repurchase any Notes prior to their stated maturity date.
- If a change of control occurs at any time, each Holder will have the right, at that holder’s option, to require the Issuer to purchase all or part of their Notes for cash at a repurchase price equal to 100% of their principal amount, plus accrued and unpaid interest (including additional interest, if any) and additional amounts, if any, up to, but excluding, the repurchase date.

Redemptions

- Other than in the event of a tax redemption, the Issuer may not redeem any Notes prior to their stated maturity date.
- In the event of certain changes in the withholding tax treatment relating to payments on the Notes, at 100% of their principal amount plus any accrued and unpaid interest to the date fixed for redemption and any additional amounts that may be payable, so long as the Issuer is not prohibited from having such an option under the Financing Agreement.

	• Upon the Issuer giving notice that it will redeem the Notes because of such a change in the withholding tax treatment, holders will have the option to convert their notes as if a fundamental change had occurred.
Use of Proceeds	The estimated net proceeds from this offering, after deducting the initial purchasers' discounts and commissions and estimated offering expenses, will be approximately U.S.$635.5 million, assuming the initial purchasers do not exercise their over-allotment option, and approximately U.S.$699.3 million if they exercise their over-allotment option in full. The Issuer intends to use approximately U.S.$95.4 million of the net proceeds from this offering to pay the cost of the capped call transaction described in the Preliminary Offering Memorandum and expect to use a portion of the net proceeds from the sale of additional Notes in the event the initial purchasers exercise their over-allotment option to increase the number of ADSs underlying the capped call transaction on a proportionate basis, and the Issuer intends to use the remaining net proceeds for general corporate purposes and to repay indebtedness, which may include indebtedness under the Financing Agreement.
Capped Call Option	In connection with this offering, the Issuer expects to enter into a capped call transaction with a counterparty, which is an affiliate of Citigroup Global Markets Inc., covering, subject to customary anti-dilution adjustments, approximately 47,801,130 of the Issuer's ADSs, assuming the initial purchasers do not exercise their over-allotment option. If the initial purchasers exercise their option to purchase additional Notes to cover over-allotments, the Issuer expects to increase the number of ADSs underlying the capped call transaction on a proportionate basis. Because the capped call transaction is cash settled, it does not provide an offset to any ADSs the Issuer may deliver to holders upon conversion of the Notes. The capped call transaction has a cap price 80% higher than the closing price of the Issuer's ADSs on March 24, 2010.
New York Stock Exchange Symbol for the Issuer's ADSs	CX
Governing law	New York
Clearing	The Depositary Trust Company

Additional Information

1. As of December 31, 2009, on a pro forma basis after giving effect to the issuance and sale of U.S.$500 million additional aggregate principal amount of the U.S. Dollar-denominated Notes in January 2010 and the application of the net proceeds therefrom and from this offering (without including approximately Ps39,859 million (U.S.$3,045 million) of notes issued in connection with the Issuer's perpetual debentures to which the Notes will also be subordinated and without giving effect to any repayment of indebtedness with the net proceeds of this offering and assuming the initial purchasers do not exercise their over-allotment option):
    - the Issuer, excluding its Subsidiaries, would have had approximately Ps63,247 million (U.S.$4,832 million) of senior indebtedness outstanding that would have been senior in right of payment to the Notes, approximately Ps53,813 million (U.S.$4,111 million) of which would have been secured, and

- the Issuer's Subsidiaries would have had approximately Ps155,670 million (U.S.$11,893 million) of indebtedness that would have been structurally senior in right of payment to the Notes excluding guarantees of the Issuer's debt, trade payables and intercompany debt.

2. Capitalization of CEMEX

The following table sets forth the Issuer's consolidated cash and temporary investments, indebtedness and capitalization as of December 31, 2009 (1) on an actual basis; (2) as adjusted to give effect to the issuance and sale in January 2010 of U.S.$500 million aggregate principal amount of 9.50% Senior Secured Notes due 2016 and the application of the net proceeds from such offering; and (3) as further adjusted to give effect to the issuance and sale in this offering of U.S.$650 million aggregate principal amount of the Notes, the payment of the initial purchasers' discounts and commissions and the estimated expenses in connection with this offering, and the application of the estimated net proceeds as described under "Use of Proceeds" in the Preliminary Offering Memorandum and as described above.

The financial information set forth below is based on information derived from the Issuer's financial statements, which have been prepared in accordance with MFRS, which differ in significant respects from U.S. GAAP. For further information about the Issuer's financial presentation, see "Selected Consolidated Financial Information" in the Preliminary Offering Memorandum.

	As of December 31, 2009				
	Actual	As adjusted (1)		As further adjusted (2)	
	(in millions of Pesos and Dollars)				
Short-term debt (3)					
Secured					
Banobras (4)	Ps 422	Ps 422	U.S.$ 32	Ps 422	U.S.$ 32
Bancomext (4)	240	240	19	240	19
Other secured (5)	2,895	2,895	221	2,895	221
Unsecured					
Other unsecured	3,836	3,836	293	3,836	293
Total short-term debt	7,393	7,393	565	7,393	565
Long-term debt					
Secured by the Collateral					
Financing Agreement	141,625	134,005	10,237	134,005	10,237
CBs (6)	16,153	16,153	1,234	16,153	1,234
Senior Secured Notes (7)(8)	22,921	29,806	2,277	29,806	2,277
Other secured					
Banobras	641	641	49	641	49
Bancomext	2,343	2,343	179	2,343	179
Unsecured					
CEMEX España Euro Notes (9)	16,860	16,860	1,288	16,860	1,288
Other unsecured	3,208	3,208	245	3,208	245
The Notes (10)	—	—	—	8,509	650
Total long-term debt	203,751	203,016	15,509	211,525	16,159
Total debt	211,144	210,409	16,074	218,918	16,724
Liability component of Mandatory Convertible Notes (11)	2,090	2,090	160	2,090	160
Stockholders' equity					
Non-controlling interest					

	As of December 31, 2009				
	Actual	As adjusted (1)		As further adjusted (2)	
		(in millions of Pesos and Dollars)			
Perpetual debentures (12)	39,859	39,859	3,045	39,859	3,045
Other	3,838	3,838	293	3,838	293
Controlling interest (11)	213,873	213,598	16,318	213,408	16,303
Total stockholders' equity	257,570	257,295	19,656	257,105	19,641
Total capitalization (13)	Ps 470,804	Ps 469,794	U.S.$ 35,890	Ps 478,113	U.S.$36,525

(1) Reflects the application of the net proceeds from the issuance of U.S.$500,000,000 additional aggregate principal amount of Senior Secured Notes in January 2010, and U.S.$26,250,000 from premiums related to such issuance under the Financing Agreement of the Senior Secured Notes, which were issued at a price of U.S.$105.25 per U.S.$100 principal amount of interest from December 14, 2009, yielding 8.477%. As permitted under the Financing Agreement, CEMEX retained approximately U.S.$115.5 million of such net proceeds from the issuance of Senior Secured Notes in January 2010 for general corporate purposes, including to repay financial obligations outside the Financing Agreement. Also includes a mandatory pre-payment of U.S.$173.4 million under the Financing Agreement on January 13, 2010 in relation to the December U.S. Dollar-denominated and Euro-denominated note issuances. See "Summary—Recent Developments—Reopening of U.S. Dollar-denominated Senior Secured Notes in January 2010."

(2) Reflects additional application of the net proceeds from this offering. Assumes approximately U.S.$635.5 million of cash retained for general corporate purposes and to repay indebtedness, which may include indebtedness under the Financing Agreement. Also assumes the initial purchasers do not exercise their over-allotment option. Amounts in Dollars have been converted from Pesos at an exchange rate of Ps13.09 to U.S.$1.00, the CEMEX accounting rate as of December 31, 2009.

(3) Includes current portion of long-term debt.

(4) Obligations with Mexican development banks which were secured by fixed assets and shares of affiliates not pledged as Collateral.

(5) Represent long-term CBs with maturities during 2010. Short-term CBs are included under Unsecured.

(6) The Issuer had long term CBs of approximately U.S.$1,454.7 million as of December 31, 2009.

(7) Includes U.S.$1,250,000,000 aggregate principal amount of 9.50% Senior Secured Notes due 2016 and €350,000,000 aggregate principal amount of 9.625% Senior Secured Notes due 2017 issued by CEMEX Finance LLC on December 14, 2009; also includes in the adjusted columns the U.S.$500,000,000 additional aggregate principal amount of 9.50% Senior Secured Notes due 2016 issued by CEMEX Finance LLC on January 19, 2010.

(8) Amounts in Dollars have been converted from Euros at an exchange rate of U.S.$1.43 to €1.00, the CEMEX foreign exchange rate as of December 31, 2009.

(9) Issued by CEMEX Finance Europe B.V., a special purpose vehicle and wholly-owned subsidiary of CEMEX España, S.A., and solely guaranteed by CEMEX España, S.A.

(10) Under MFRS, the Notes offered hereby will be recorded as debt in the Issuer's balance sheet; however, the Notes will not be considered as debt for purposes of the leverage ratio calculations under the Financing Agreement.

(11) Under MFRS, the Mandatory Convertible Securities issued in Mexico on December 10, 2009 in exchange for CBs represent a combined instrument with liability and equity components. The liability component, approximately Ps2,090 million (U.S.$160 million) as of December 31, 2009, corresponds to the net present value of interest payments due under the Mandatory Convertible Securities, assuming no early conversion, and was recognized under "Other Financial Obligations" in the Issuer's balance sheet. The equity component, approximately Ps1,971 million (U.S.$151 million) as of December 31, 2009, represents the difference between principal amount and the liability component, and was recognized within "Other equity reserves" net of commissions in the Issuer's balance sheet. See notes 13(A) and 17(B) to the Issuer's consolidated financial statements included elsewhere in this offering memorandum. Although the Issuer has not completed the Issuer's U.S. GAAP reconciliation of the Issuer's 2009 financial statements, the Issuer currently anticipates that there will be a new reconciliation item in the Issuer's U.S. GAAP reconciliation of the Issuer's 2009 financial statements in respect of the Mandatory Convertible Securities, which the Issuer expects will be recorded as debt until conversion. The Issuer cannot assure you that the Issuer will not identify additional reconciliation items or that this reconciliation item will be reflected therein in accordance with the Issuer's current expectations.

(12) Issued by special purpose vehicles. In accordance with MFRS, these securities are accounted for as equity due to the fact that they do not have a specified maturity date and the Issuer's option to defer payment of interest. However, for purposes of the Issuer's U.S. GAAP reconciliation, the Issuer record these debentures as debt and interest payments thereon as part of financial expenses in the Issuer's consolidated income statement.

(13) As used in this table, total capitalization equals short- and long-term debt plus the Mandatory Convertible Notes plus the Notes and plus total stockholders' equity.

* * *

This communication is intended for the sole use of the person to whom it is provided by the sender.

These securities have not been registered under the Securities Act of 1933, as amended, and may only be sold to qualified institutional buyers pursuant to Rule 144A or pursuant to another applicable exemption from registration.

ANY DISCLAIMERS OR OTHER NOTICES THAT MAY APPEAR BELOW ARE NOT APPLICABLE TO THIS COMMUNICATION AND SHOULD BE DISREGARDED. SUCH DISCLAIMERS OR OTHER NOTICES WERE AUTOMATICALLY GENERATED AS A RESULT OF THIS COMMUNICATION BEING SENT VIA BLOOMBERG OR ANOTHER EMAIL SYSTEM.

SCHEDULE III

**Form of Opinions of Skadden, Arps, Slate, Meagher & Flom LLP,
special U.S. counsel to the Company**

[*See attached*]

SCHEDULE IV

Form of Opinion of Ramiro G. Villarreal, General Counsel of the Company

[INTRODUCTORY PARAGRAPH AND RELIANCE SECTIONS]

In rendering this opinion, I have assumed the legal capacity of all natural persons, the genuineness of all signatures, the authenticity of all documents submitted to me as originals, the conformity to original documents of all documents submitted to me as facsimile, electronic, certified or photostatic copies, and the authenticity of the originals of such copies. In making my examination of executed documents, I have assumed that the parties thereto (other than the Company) had the power, corporate or other, to enter into and perform all obligations thereunder and have also assumed the due authorization by all requisite action, corporate or other, and the execution and delivery by such parties (other than the Company) of such documents and the validity and binding effect thereof on such parties. I have also assumed that each of the parties (other than the Company) to the Transaction Documents (as defined herein) has been duly organized and is validly existing in good standing, if applicable, and has requisite legal status and legal capacity, under the laws of its jurisdiction of organization and that each of such parties has complied and will comply with all aspects of the laws of all relevant jurisdictions (including the laws of its jurisdiction of organization) in connection with the transactions contemplated by, and the performance of its obligations under, the Transaction Documents, other than the laws of Mexico insofar as I express my opinions herein.

In rendering this opinion I have reviewed originals or copies of the following documents (referred to herein collectively as the " Transaction Documents"):

(a) an executed copy of the Purchase Agreement;

(b) the Preliminary Memorandum, the documents incorporated by reference therein and the final term sheet, dated March 24, 2010 (the " Final Term Sheet");

(c) the Final Memorandum and the documents incorporated by reference therein;

(d) an executed copy of the Indenture;

(e) a copy of the Spanish translation of the Indenture, notarized before a Mexican Notary Public;

(f) the Securities in global form as executed by the Company and authenticated by the Trustee;

(g) an executed copy of the Capped Call Transaction Documents;

(h) an executed copy of the Amendment; and

(i) the documents executed and delivered by the Company at the closing pursuant to the Purchase Agreement.

Based upon the foregoing, and subject to the further qualifications set forth below, I am of the opinion that:

1. The Company has been duly incorporated and is validly existing as a corporation under the laws of Mexico, with full corporate power and authority to own or lease, as the case may be, and to operate their properties and conduct their businesses as described in the Disclosure Package and the Final Memorandum and to execute and deliver, and to perform its obligations under, the Transaction Documents and any transaction contemplated thereunder.

2. (i) The Company's authorized equity capitalization is as set forth, and conforms to the description thereof contained, in the Disclosure Package and the Final Memorandum; (ii) the outstanding ordinary shares of the Company have been duly authorized and validly issued and are fully paid and nonassessable; (iii) the outstanding CPOs of the Company have been duly authorized and validly issued in accordance with the CPO Trust and the CPO Deed; (iv) the outstanding ADSs of the Company have been, and the ADSs issuable upon conversion of the Securities will be, duly authorized and validly issued pursuant to the ADS Deposit Agreement; (v) based on the initial conversion rate and without considering any fundamental change or antidilution adjustment that may occur subsequent to the Closing Date as provided in the Indenture, the Company has duly and validly issued a sufficient number of ordinary shares, free of preemptive or similar rights, and has a sufficient number of CPOs available to be released and delivered by the CPO Trustee, for issuance of ADSs upon conversion of the Securities, (vi) following the occurrence of a fundamental change or antidilution adjustment after the Closing Date as provided in the Indenture, any ordinary shares issued, and any CPOs released and delivered by the CPO Trustee, for the issuance of ADSs upon conversion of the Securities against payment of the conversion price, will be duly and validly issued pursuant to the Company's bylaws, the CPO Trust and the CPO Deed, free of preemptive or similar rights; (vii) except as set forth in the Disclosure Package and the Final Memorandum, no options, warrants or other rights to purchase, agreements or other obligations to issue, or rights to convert any obligations into or exchange any securities for, ownership interests, ordinary shares, CPOs or ADSs in the Company are outstanding, and (viii) except as otherwise set forth in the Disclosure Package and the Final Memorandum, all outstanding shares of capital stock or other equity interests of the Company's significant subsidiaries are owned by the Company either directly or through wholly owned and majority-owned subsidiaries free and clear of any security interest, claim, lien or encumbrance.

3. Each of the Transaction Documents to which the Company is a party, has been duly authorized, executed and delivered by the Company and constitutes a legal, valid and binding agreement, enforceable against the Company in accordance with its terms; and, in the case of the notarized Spanish translation of the Indenture, it has also been duly filed for registration with the Public Registry of Commerce of Monterrey, Nuevo León.

4. Neither the execution and delivery of the Transaction Documents, nor the consummation of any other of the transactions therein contemplated, nor the fulfillment of the terms thereof will conflict with, result in a breach or violation of, or imposition of any lien, charge or encumbrance (except for the security interest created pursuant to the security agreement in the Capped Call Transaction Documents) upon any property or asset of the Company pursuant to, (i) the charter or by laws (*estatutos sociales*) of the Company; (ii) the

terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which the Company is a party or bound or to which its property is subject; or (iii) any statute, law, rule, regulation, judgment, order or decree applicable to the Company of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Company or any of its respective properties.

5. No consent, approval, authorization, filing with, order of, notice to, or qualification with any Mexican governmental or regulatory authority or court is required for the execution, delivery and performance by the Company of the Purchase Agreement, the Indenture, the Capped Call Transaction Documents (including the creation and perfection of the security interest contemplated thereby), the issuance and sale of the Securities, and the consummation of the transactions contemplated therein, except for (i) the notice to be given to the Mexican National Banking and Securities Commission (*Comisión Nacional Bancaria y de Valores*), on or before the Closing Date, under Article 7 of the Securities Market Law, in respect of the issuance of the Securities, and (ii) the notarization of a Spanish translation of the Indenture, to be effected on or prior to the Closing Date, and its subsequent filing with the Public Registry of Property and Commerce (*Registro Público de la Propiedad y del Comercio*) of Monterrey Nuevo León, México, which does not affect it validity or enforceability.

6. The choice of New York state law as the governing law of the Purchase Agreement, the Indenture, the Capped Call Transaction Documents and the issuance and sale of the Securities, is legal, valid and binding to the Company under the laws of Mexico and there is no reason why the courts of Mexico would not give effect to the choice of New York law as the proper law of the Purchase Agreement, the Indenture, the Capped Call Transaction Documents, and the Securities; the Company has the legal capacity to sue and be sued in its own name under the laws of Mexico; the Company has the power to submit, and has irrevocably submitted, to the jurisdiction of the New York courts and the Company has validly and irrevocably appointed Corporate Creations Network Inc. as its authorized agent under the laws of Mexico for service of process under the Purchase Agreement, the Indenture, the Capped Call Transaction Documents, and the Securities; the irrevocable submission of the Company to the jurisdiction of the New York courts and the waiver by the Company of any immunity and any objection to the venue of the proceeding in a New York court in the Purchase Agreement, in the Indenture, the Capped Call Transaction Documents, and in the Securities, are legal, valid and binding under the laws of Mexico and there is no reason why the courts of Mexico would not give effect to such submission and waiver; and the courts in Mexico will recognize as valid and final, and will enforce, any final and conclusive judgment against the Company obtained in a New York court arising out of or in relation to the obligations of the Company under the Purchase Agreement, the Indenture, the Capped Call Transaction Documents, or the Securities, without re-examination of the issues pursuant to Articles 569 and 571 of the Mexican Federal Code of Civil Procedure and Article 1347A of the Mexican Commerce Code, which provide, *inter alia*, that any judgment rendered outside of Mexico may be enforced by Mexican Courts, provided that:

(i) such judgment is obtained in compliance with (a) all legal requirements of the jurisdiction of the court rendering such judgment, and (b) all legal requirements of the relevant Transaction Documents;

(ii) such judgment is not rendered in a real action (*acción real*);

(iii) such judgment is final, non-appealable and authenticated by the appropriate governmental authorities, and is strictly for the payment of a certain sum of money, provided that, under Mexican Monetary Law, payments that should be made in Mexico in foreign currency, whether by agreement or upon a judgment of a Mexican Court, may be discharged in Mexican currency at a rate of exchange for such currency prevailing at the time of payment;

(iv) the court rendering such judgment is competent to render such judgment in accordance with applicable rules under international law and such rules are compatible with the rules adopted under the Mexican Code of Commerce;

(v) service of process was made personally on the Company or on an appropriate Process Agent of the Company;

(vi) such judgment does not contravene Mexican public policy or laws (and we have no reason to believe that a judgment based upon the Transaction Documents would contravene Mexican public policy);

(vii) the applicable procedure under the laws of Mexico with respect to the enforcement for foreign judgments (including the issuance of a letter rogatory by the competent authority of such jurisdiction requesting enforcement of such judgment and the certification of such judgment as authentic by the corresponding authorities of such jurisdiction in accordance with the laws thereof) is complied with;

(viii) the courts of such jurisdiction recognize the principles of reciprocity in connection with the enforcement of Mexican judgments in such jurisdiction; and

(ix) the cause of action in connection with which such judgment is rendered is not the same cause of action between the same parties that is pending before a Mexican court.

7. Except as described in the Disclosure Package and the Final Memorandum, with respect to non-residents of Mexico, no stamp or other issuance or transfer taxes or duties and no capital gains, income, withholding or other taxes are payable by or on behalf of the Initial Purchasers to Mexico or to any political subdivision or taxing authority thereof or therein in connection with the sale and delivery by the Company of the Securities as contemplated in the Purchase Agreement to the Initial Purchasers, the sale and delivery by the Initial Purchasers of the Securities as contemplated in the Purchase Agreement or the entering into or performance of the terms of the Purchase Agreement.

8. Other than as described in the Disclosure Package and the Final Memorandum, under the current laws and regulations of Mexico, all payments of principal, premium (if any) and interest on the Securities may be paid, if applicable, by the Company to the registered holder thereof in U.S. dollars (that may be obtained through conversion of Mexican

Pesos) that may be freely transferred out of Mexico, and all such payments and other distributions made to holders of the Securities who are non-residents of Mexico, will not be subject to Mexican income, withholding or other taxes under the laws and regulations of Mexico and are otherwise free and clear of any other tax, duty withholding or deduction in Mexico and without the necessity of obtaining any governmental authorization in Mexico.

9. It is not necessary in order to enable the Initial Purchasers, the Trustee, the counterparty to the Capped Call Transaction Documents or the holders of the Securities to exercise or enforce any of their rights under the Purchase Agreement, the Indenture, the Capped Call Transaction Documents, or the Securities in Mexico or by reason of the entry into and/or the performance of the Purchase Agreement, the Indenture, and the Capped Call Transaction Documents, that the Initial Purchasers or the counterparty to the Capped Call Transaction Documents should be licensed or qualified to do business in Mexico. The Initial Purchasers, the counterparty to the Capped Call Transaction Documents and the non-Mexican holders of the Securities will not be deemed resident, domiciled, carrying on business or subject to taxation in Mexico solely by reason of the execution, delivery, performance or enforcement of the Purchase Agreement or the Capped Call Transaction Documents.

10. Except as disclosed in the Disclosure Package and the Final Memorandum, there is no pending or, to the best of our knowledge, threatened action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving the Company or any of its subsidiaries or its or their property that is not adequately disclosed in the Disclosure Package and the Final Memorandum, except in each case (A) for such proceedings that, if the subject of an unfavorable decision, ruling or finding would not singly or in the aggregate, have a Material Adverse Effect; and (B) (i) the statements in the Preliminary Memorandum and the Final Memorandum under the headings "Recent Developments," "Management's Discussion and Analysis of Financial Condition and Results of Operations – Recent Developments," "Regulatory Matters and Legal Proceedings," "Important Federal Tax Considerations," "Description of Common Stock," "Description of CPOs" and "Description of ADSs," fairly summarize the matters therein described.

11. There is no reason to believe that the Disclosure Package, as amended or supplemented at the Execution Time, contained any untrue statement of a material fact or omitted to state any material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading (in each case, other than the financial statements and other financial information contained therein, as to which such counsel need express no opinion).

12. There is no reason to believe that the Final Memorandum, as of its date or on the Closing Date, contained or contains any untrue statement of a material fact or omitted or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading (in each case, other than the financial statements and other financial information contained therein, as to which such counsel need express no opinion).

I express no opinion as to any laws other than the laws of Mexico. In rendering my opinion, I have relied, (i) as to matters governed by United States Federal and New York law, upon the opinion of Skadden, Arps, Slate, Meagher & Flom LLP delivered pursuant to the Purchase Agreement and (ii) as to matters of fact, on certificates of responsible officers of the Company and public officials that are furnished to the Initial Purchasers.

This opinion is subject to the following qualifications:

a. Enforcement of the Transaction Documents may be limited by *concurso mercantil,* bankruptcy, insolvency, liquidation, reorganization, moratorium and other similar laws or general principles of equity affecting the rights of creditors generally;

b. Labor claims, claims of tax authorities for unpaid taxes, social security quotas, worker's housing fund quotas, retirement fund quotas, as well as claims from secured or privileged creditors, will have priority over claims of the parties to, or in connection with, the Purchase Agreement, the Indenture, the Capped Call Transaction Documents, and the Securities;

c. In the event that proceedings are brought in Mexico seeking performance of the obligations of the Company in Mexico, pursuant to the Mexican Monetary Law, such entity may discharge its obligations by paying any sums due in a currency other than Mexican currency, in Mexican currency at the rate of exchange prevailing in Mexico on the date when payment is made;

d. In the event that any legal proceedings are brought in the courts of Mexico, a Spanish translation of the documents required in such proceedings prepared by a court-approved translator would have to be approved by the court after the defendant has been given an opportunity to be heard with respect to the accuracy of the translation, and proceedings would thereafter be based upon the translated documents;

e. Claims may become barred under the statutes of limitation, which are not waivable under Mexican law, or may become subject to defenses or set-off or counterclaim;

f. A Mexican court may stay proceedings held in such court if concurrent proceedings are being held elsewhere;

g. With respect to the provisions contained in each of the Transaction Documents in connection with service of process, it should be noted that service of process by mail does not constitute personal service of process under Mexican law and, since such service is considered to be a basic procedural requirement, if for purposes of proceedings outside Mexico service of process is made by mail, a final judgment based on such process would not be enforced by the courts of Mexico; and

h. An obligation to pay interest on interest may not be enforceable in Mexico.

This opinion is furnished only to you as representative of the Initial Purchasers and is solely for the Initial Purchasers' benefit in connection with the closing occurring today and the offering of the Securities, in each case pursuant to the Purchase Agreement and for Citibank, N.A. as counterparty under the Capped Call Transaction Documents. Without my prior written consent, this opinion may not be used, circulated, quoted or otherwise referred to for any other purpose or relied upon by, or assigned to, any other person for any purpose, including any

other person that acquires any Securities or that seeks to assert your rights in respect of this opinion (other than an Initial Purchaser's successor in interest by means of merger, consolidation, transfer of a business or other similar transaction), except that Skadden, Arps, Slate, Meagher & Flom LLP may rely upon this opinion as to matters of the laws of the Mexico in rendering their opinion pursuant to Section 6(a) of the Purchase Agreement.

SCHEDULE V

Matters to be addressed in the Officer's Certificate of the Company:

1. He/She has carefully examined the Disclosure Package and the Final Memorandum and any supplements or amendments thereto, and the Purchase Agreement;

2. To the best of his/her knowledge, the representations and warranties of the Company in the Purchase Agreement are true and correct on and as of the Closing Date with the same effect as if made on the Closing Date, and the Company has complied with all the agreements and satisfied all the conditions on its part to be performed or satisfied hereunder at or prior to the Closing Date; and

3. To the best of his/her knowledge, since the date of the most recent financial statements included or incorporated by reference in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto), there has been no material adverse change in the condition (financial or otherwise), prospects, earnings, business or properties of the Company and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business, except as set forth in or contemplated in the Disclosure Package and the Final Memorandum (exclusive of any amendment or supplement thereto).

SCHEDULE VI

Form of Comfort Letter by KPMG Cárdenas Dosal, S.C.

[*See attached*]

SCHEDULE VII

1. Issuer Written Information (included in the Disclosure Package)

   (a) Final term sheet, dated March 24, 2010.

2. Other Information Included in the Disclosure Package

   (a) The following information is also included in the General Disclosure Package:

   None

EXHIBIT A

[Letterhead of officer of the Company]

[Date]

Citigroup Global Markets, Inc.
Banco Bilbao Vizcaya Argentaria, S.A.
BNP Paribas Securities Corp.
Merrill Lynch, Pierce, Fenner & Smith Incorporated
HSBC Securities (USA) Inc.
J.P. Morgan Securities Inc.
RBS Securities Inc.
Santander Investment Securities Inc.
Barclays Capital Inc.
As Representatives of the Initial Purchasers
c/o Citigroup Global Markets, Inc.
388 Greenwich Street
New York, New York 10013

Ladies and Gentlemen:

This letter is being delivered to you in connection with a proposed Purchase Agreement (the "Purchase Agreement") between CEMEX, S.A.B. de C.V., a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) organized under the laws of Mexico (the "Company") and each of you as representatives of a group of Initial Purchasers named therein, relating to an offering of 4.875% Convertible Subordinated Notes due 2015 (the "Securities"), which will be convertible into American Depositary Shares ("ADS"), of the Company. Capitalized terms used but not otherwise defined herein, shall have the meanings ascribed to such terms in the Purchase Agreement.

In order to induce you and the other Initial Purchasers to enter into the Purchase Agreement, the undersigned will not, for a period of 90 days following the Execution Time, without the prior written consent of Citigroup Global Markets, Inc., directly or indirectly, (i) offer, pledge, announce the intention to sell, sell, contract to sell, sell any option or contract to purchase, purchase any option or contract to sell, grant any option, right or warrant to purchase, or otherwise transfer or dispose of, or file with the Commission a registration under the Securities Act or with the *Comisión Nacional Bancaria y de Valores* a prospectus under Mexican securities laws relating to, any of the Company's ADSs, CPOs or ordinary shares or any securities convertible into or exercisable or exchangeable for the Company's ADSs, CPOs or ordinary shares (other than the Securities) (including without limitation, ADSs, CPOs or ordinary shares or such other securities which may be deemed to be beneficially owned by the undersigned in accordance with the rules and regulations of the U.S. Securities and Exchange Commission and securities which may be issued upon exercise of a stock option or warrant), or publicly disclose the intention to make any of the foregoing, or (ii) enter into any swap or other agreement that transfers, in whole or in part, any of the economic consequences of ownership of the Company's ADSs, CPOs or ordinary shares or such other securities, whether any such

transaction described in clause (i) or (ii) above is to be settled by delivery of the Company's ADSs, CPOs or ordinary shares or such other securities, in cash or otherwise; or (iii) make any demand for or exercise any right with respect to the registration of any of the Company's ADSs, CPOs or ordinary shares or any security convertible into or exercisable or exchangeable for the Company's ADSs, CPOs or ordinary shares (other than the Securities), in each case other than (A) any sale of the Company's ADSs, CPOs or ordinary shares made concurrently with the purchase of any option or contract to purchase any of the Company's ADSs, CPOs or ordinary shares, (B) transfers of the Company's ADSs, CPOs or ordinary shares made as a *bona fide* gift or gifts, (C) transfers of the Company's ADSs, CPOs or ordinary shares to any immediate family member of the undersigned or trust for the direct or indirect benefit of the undersigned and/or any immediate family member of the undersigned, and (D) upon the death of the undersigned, transfers of the Company's ADSs, CPOs or ordinary shares by the estate of the undersigned; provided that in the case of any transfer or distribution pursuant to clause (B), (C) or (D), each donee or distributee shall execute and deliver to the Representatives a lock-up letter agreement in the form of this letter agreement; and provided, further, that in the case of any transfer or distribution pursuant to clause (B), (C) or (D), no filing by any party (donor, donee, transferor or transferee) under the U.S. Securities Exchange Act of 1934, as amended, or other public announcement shall be required or shall be made voluntarily in connection with such transfer or distribution.

In furtherance of the foregoing, the Company, and any duly appointed transfer agent for the registration or transfer of the securities described herein, are hereby authorized to decline to make any transfer of securities if such transfer would constitute a violation or breach of this letter agreement.

The undersigned hereby represents and warrants that the undersigned has full power and authority to enter into this letter agreement. All authority herein conferred or agreed to be conferred and any obligations of the undersigned shall be binding upon the successors, assigns, heirs or personal representatives of the undersigned.

The undersigned understands that, if the Purchase Agreement does not become effective, or if the Purchase Agreement (other than the provisions thereof that survive termination) shall terminate or be terminated prior to payment for and delivery of the Securities to be sold thereunder, the undersigned shall be released from all obligations under this letter agreement. The undersigned understands that the Representatives are entering into the Purchase Agreement and proceeding with the purchasing of the Securities in reliance upon this letter agreement.

This letter agreement shall be governed by and construed in accordance with the laws of the State of New York.

Very truly yours,

By: _____

Name:
Title:

EXHIBIT B

Officers

1. Lorenzo H. Zambrano Treviño
2. Fernando A. Gonzalez Olivieri
3. Francisco J. Garza Zambrano
4. Victor M. Romo Muñoz
5. Juan Romero Torres
6. Rodrigo Treviño Muguerza
7. Ramiro G. Villareal Morales
8. Rafael Garza Lozano

Exhibit 4.53
Execution Version

MASTER TERMS AND CONDITIONS FOR CAPPED CALL TRANSACTIONS
BETWEEN CITIBANK, N.A. AND CEMEX, S.A.B. de C.V.

The purpose of this Master Terms and Conditions for Capped Call Transactions (this "Master Confirmation"), dated as of March 24, 2010, is to set forth certain terms and conditions for capped call option transactions that CEMEX, S.A.B. de C.V. ("Counterparty") will enter into with Citibank, N.A. ("Citibank"). Each such transaction (a "Transaction") entered into between Citibank and Counterparty that is to be subject to this Master Confirmation shall be evidenced by a written confirmation substantially in the form of Exhibit A hereto, with such modifications thereto as to which Counterparty and Citibank mutually agree (a "Confirmation"). This Master Confirmation and each Confirmation together constitute a "Confirmation" as referred to in the Agreement specified below.

This Master Confirmation and a Confirmation evidence a complete binding agreement between you and us as to the terms of the Transaction to which this Master Confirmation and such Confirmation relates. This Master Confirmation and each Confirmation hereunder shall supplement, form a part of, and be subject to an agreement in the form of the 1992 ISDA Master Agreement (Multicurrency – Cross Border) as if we had executed an agreement in such form (with a Schedule that had the provisions in Section 15 of this Master Confirmation and the other elections set forth in this Master Confirmation) on the Trade Date and such agreement shall be considered the "Agreement" hereunder.

The Transactions governed by this Master Confirmation shall be the sole Transactions under the Agreement. If there exists any ISDA Master Agreement between Citibank and Counterparty or any confirmation or other agreement between Citibank and Counterparty pursuant to which an ISDA Master Agreement is deemed to exist between Citibank and Counterparty, then notwithstanding anything to the contrary in such ISDA Master Agreement, such confirmation or agreement or any other agreement to which Citibank and Counterparty are parties, the Transactions governed by this Master Confirmation shall not be considered Transactions under, or otherwise governed by, such existing or deemed ISDA Master Agreement.

The definitions and provisions contained in the 2002 ISDA Equity Derivatives Definitions as supplemented by the 2007 Partial Lookthrough Depository Receipt Supplement to the 2002 ISDA Equity Derivatives Definitions (as amended in this Master Confirmation, the "DR Supplement" and the 2002 ISDA Equity Derivatives Definitions as so supplemented, the "Definitions"), each as published by ISDA are incorporated into this Master Confirmation.

THIS MASTER CONFIRMATION WILL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF NEW YORK, WITHOUT REFERENCE TO CHOICE OF LAW DOCTRINE. THE PARTIES HERETO IRREVOCABLY SUBMIT TO THE EXCLUSIVE JURISDICTION OF THE COURTS OF THE STATE OF NEW YORK AND THE UNITED STATES COURT FOR THE SOUTHERN DISTRICT OF NEW YORK IN CONNECTION WITH ALL MATTERS RELATING HERETO AND WAIVE ANY OBJECTION TO THE LAYING OF VENUE IN, AND ANY CLAIM OF INCONVENIENT FORUM WITH RESPECT TO, THESE COURTS.

1. In the event of any inconsistency between this Master Confirmation, on the one hand, and the Definitions or the Agreement, on the other hand, this Master Confirmation will control for the purpose of the Transaction to which a Confirmation relates. In the event of any inconsistency between the Definitions, the Agreement and this Master Confirmation, on the one hand, and a Confirmation, on the other hand, the Confirmation will govern. With respect to a Transaction, capitalized terms used herein that are not otherwise defined shall have the meaning assigned to them in the Confirmation relating to such Transaction.

2. Each party will make each payment specified in this Master Confirmation or a Confirmation as being payable by such party, not later than the due date for value on that date in the place of the account specified below or otherwise specified in writing, in freely transferable funds and in a manner customary for payments in the required currency.

3. Confirmations and General Terms:

This Master Confirmation and the Agreement, together with the Confirmation relating to a Transaction, shall constitute the written agreement between Counterparty and Citibank with respect to such Transaction.

Each Transaction to which a Confirmation relates is a Capped Call Option Transaction, which shall be considered a Share Option Transaction for purposes of the Definitions (with references to "Strike Price" therein deemed to include "Lower Strike Price" and/or "Upper Strike Price", as applicable), and shall have the following terms:

Option Style:	European
Option Type:	Call
Seller:	Citibank
Buyer:	Counterparty
Shares:	American depository shares (Symbol: CX), each representing ten Ordinary Participation Certificates (*Certificados de Participación Ordinarios*) of Counterparty.
Trade Date:	As set forth in the Confirmation for such Transaction
Tranches:	Each Transaction will be divided into individual Tranches, each with the terms set forth in this Master Confirmation and the Confirmation for such Transaction, and in particular with the Number of Options and Expiration Date set forth in the Confirmation for such Transaction. The payments and deliveries to be made upon settlement of each Transaction will be determined separately for each Tranche as if each Tranche were a separate Transaction under the Agreement.
Number of Options:	For each Tranche of such Transaction, as set forth in the Confirmation for such Transaction
Option Entitlement:	One Share per Option
Lower Strike Price:	As set forth in the Confirmation for such Transaction
Upper Strike Price:	As set forth in the Confirmation for such Transaction
Premium:	As set forth in the Confirmation for such Transaction
Premium Payment Date:	As set forth in the Confirmation for such Transaction
Exchange:	New York Stock Exchange
Related Exchanges:	All Exchanges
Calculation Agent:	Citibank, which shall make all calculations, adjustments and determinations required pursuant to a Transaction in a good faith and commercially reasonable manner, and upon request of Counterparty shall provide to Counterparty written support (without disclosing any of Citibank's proprietary models) as to any such calculations, adjustments and determinations required pursuant to a Transaction.

4. Procedure for Exercise and Valuation:

In respect of any Tranche:

Expiration Time:	The Valuation Time
Expiration Date:	As provided in the relevant Confirmation (or, if such date is not a Scheduled Trading Day, the next following Scheduled Trading Day that is not already an Expiration Date for another Tranche); provided that if that date is a Disrupted Day, the Expiration Date for such Tranche shall be the first succeeding Scheduled Trading Day that is not a Disrupted Day and is not or is not deemed to be an Expiration Date in respect of any other Tranche of any Transaction hereunder; and provided further that if the Expiration Date has not occurred pursuant to the preceding proviso as of the Final Disruption Date, the Final Disruption Date shall be the Expiration Date (irrespective of whether such date is an Expiration Date in respect of any other Tranche for the Transaction). Notwithstanding the foregoing and anything to the contrary in the Definitions, if a Market Disruption Event occurs on any Expiration Date, the Calculation Agent may determine that such Expiration Date is a Disrupted Day only in part, in which case the Calculation Agent shall determine that such day shall be the Expiration Date for a portion of the Number of Options for the relevant Tranche and shall designate the Scheduled Trading Day determined in the manner described in the immediately preceding sentence as the Expiration Date for the remaining Options for such Tranche. Section 6.6 of the Definitions shall not apply to any Valuation Date and the final sentence of Section 3.1(f) of the Definitions shall not apply to any Expiration Date.
Automatic Exercise:	Applicable
Seller's Telephone Number, Facsimile Number and Contact Details for Purpose of Giving Notice:	Citibank, N.A. 390 Greenwich Street New York, NY 10013 Attention: Equity Derivatives Facsimile: (212) 723-8328 Telephone: (212) 723-7357
VWAP Price:	The volume-weighted average price per Share on the Valuation Date as displayed under the heading "Bloomberg VWAP" on Bloomberg page "CX US <equity> VAP" (or any successor thereto), or if such price is not so reported on such Valuation Date for any reason or is, in the Calculation Agent's reasonable discretion following notice in reasonable detail to, and consultation with, Counterparty, erroneous, or

	such Valuation Date is a Disrupted Day in whole or in part, the VWAP Price shall be as reasonably determined by the Calculation Agent using, except in the case of the Final Disruption Date, a substantially similar volume-weighted method.
Valuation Time:	As defined in Section 6.1 of the Definitions.
Valuation Date:	The Expiration Date
Final Disruption Date:	As set forth in the Confirmation for such Transaction
Market Disruption Event:	The third and fourth lines of Section 6.3(a) of the Definitions are hereby amended by deleting the words "during the one hour period that ends at the relevant Valuation Time" and replacing them with "at any time prior to the relevant Valuation Time". Section 6.3(d) of the Definitions is hereby amended by deleting the remainder of the provision following the term "Scheduled Closing Time" in the fourth line thereof.

5. Settlement Terms:

In respect of any Tranche:

Settlement Method:	Cash Settlement
Settlement Currency:	USD
Cash Settlement:	Settlement shall occur in accordance with Section 8.1 of the Definitions.
Cash Settlement Payment Date:	For each Tranche, the third Currency Business Day after the Valuation Date for such Tranche.
Strike Price Differential:	An amount equal to the lesser of: (i) the greater of (a) the VWAP Price minus the Lower Strike Price and (b) zero; and (ii) the Upper Strike Price minus the Lower Strike Price.

6. Dividends:

In respect of any Tranche:

Dividend Adjustments:	If at any time during the period from and including the date that is one Settlement Cycle following the Trade Date to but excluding the date that is one Settlement Cycle following the Expiration Date a record date for a distribution, dividend or recapitalization of retained earnings by an Underlying Issuer occurs, then, and upon consultation with Buyer which shall be taken into account in good faith by the Calculation Agent, (i)

if such event (including, for the avoidance of doubt, a recapitalization of retained earnings by an Underlying Issuer) results in a corresponding record date (whether or not falling on the same date) for a Share dividend (excluding a Share dividend in connection with a circumstance described in clause (ii) below), the Calculation Agent (x) shall make an adjustment to the Lower Strike Price and the Option Entitlement that corresponds to the adjustment methodology for such type of dividend set forth in the Indenture (as set forth in the Confirmation for such Transaction) and (y) shall make a proportionate adjustment to the Upper Strike Price on the same basis as the adjustment to the Lower Strike Price described above, and (ii) if (1) such event results in a corresponding record date for a cash dividend on the Shares or both a Share dividend and a cash dividend on the Shares, (2) the holders of the Shares would be entitled to elect the form of consideration they receive, including the right to acquire Shares with a cash dividend, or would not be entitled to receive the entire distribution of Underlying Shares in Shares with respect to a corresponding record date for such event, (3) such event results in both (x) a change to the number of Underlying Shares represented, directly or indirectly, by a Share and (y) an adjustment to the "Conversion Rate" (as defined in the Indenture) for the Convertible Notes (as set forth in the Confirmation for such Transaction) and/or (4) with respect to such event, Counterparty makes a discretionary adjustment to the "Conversion Rate" (as defined in the Indenture) for the Convertible Notes or determines under the Indenture that the adjustments set forth in the Indenture do not provide a fair and equitable result, then the Calculation Agent (A) shall make an adjustment to the Lower Strike Price and the Option Entitlement that corresponds to the adjustment methodology for such type of dividend set forth in the Indenture and (B) shall make adjustments consistent with the Calculation Agent Adjustment provision in Section 11.2(c) of the Definitions (as modified herein) to the Upper Strike Price and/or any other term of the Transaction (except the Lower Strike Price and Option Entitlement) to preserve the fair value of the Transaction to Citibank and Counterparty after taking into account the effect of such event (including whether such event, taken as a whole, effectively resulted in a Share dividend) and any adjustment made pursuant to clause (ii)(A) above; provided that, notwithstanding the foregoing, if Counterparty does not initially make an adjustment to the "Conversion Rate" with respect to such event due to the prescribed adjustment not reaching the one percent threshold for such adjustments described in the Indenture, no adjustment will be made pursuant to clauses (i) or (ii) with respect to such event until any such time as such adjustments occur pursuant to the Indenture. Counterparty shall provide to Citibank written notice (such notice, a "Conversion Rate Adjustment Notice") as soon as reasonably practicable but in any event prior to the corresponding record date for such an event that would lead to a change in the "Conversion Rate" (as defined in the Indenture) (a " Conversion Rate Adjustment Event"),

which Conversion Rate Adjustment Notice shall set forth in reasonable detail the adjustment to the "Conversion Rate" resulting from such Conversion Rate Adjustment Event. In connection with the delivery of any Conversion Rate Adjustment Notice to Citibank, unless all information included in such Conversion Rate Adjustment Notice has previously been provided to holders of the Convertible Notes, Counterparty shall, concurrently with or prior to such delivery, (x) publicly announce and disclose the Conversion Rate Adjustment Event and the resulting adjustment to the "Conversion Rate" or (y) represent and warrant that the information set forth in such Conversion Rate Adjustment Notice does not constitute material non-public information with respect to Counterparty, the Shares or the Underlying Shares.

7. Share Adjustments:

Method of Adjustment: Calculation Agent Adjustment; provided, however, that the Definitions shall be amended by (i) replacing the words "diluting or concentrative" in Sections 11.2(a), 11.2(c) (in two instances) and 11.2(e)(vii), and Section 2(a) of the DR Supplement, with the word "material", (ii) by adding the words "or the Transaction" after the words "theoretical value of the relevant Shares" in Sections 11.2(a), 11.2(c) and 11.2(e)(vii), and Section 2(a) of the DR Supplement, and (iii) replacing the words "the Strike Price," in Section 11.2(c)(A) with the words "the Lower Strike Price, the Upper Strike Price,"; provided, further, that adjustments may be made to account for changes in volatility, expected dividends, stock loan rate and liquidity relative to the relevant Share or the Transaction.

8. Extraordinary Events:

New Shares: For purposes of Merger Events and Tender Offers affecting the Issuer or Shares only (as such terms would be defined absent any modification in the DR Supplement), in the definition of New Shares in Section 12.1(i) of the Definitions, (a) the text in clause (i) thereof shall be deleted in its entirety (including the word "and" following clause (i)) and replaced with "publicly quoted, traded or listed on any of the New York Stock Exchange, the American Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors)," and (b) the phrase "and (iii) of an entity or person organized under the laws of the United States, any State thereof or the District of Columbia" shall be inserted immediately prior to the period.

Consequences of Merger Events:

(a) Share-for-Share: Modified Calculation Agent Adjustment

(b) Share-for-Other: Cancellation and Payment (Calculation Agent Determination)

(c) Share-for-Combined:	Component Adjustment
Tender Offer:	Applicable; provided that Sections 12.1(d), 12.1(e) and 12.1(l)(ii) of the Definitions are hereby amended by replacing "voting shares" with "Shares" prior to the application of the DR Amendment.
Consequences of Tender Offers:	
(a) Share-for-Share:	Modified Calculation Agent Adjustment
(b) Share-for-Other:	Cancellation and Payment (Calculation Agent Determination)
(c) Share-for-Combined:	Component Adjustment
Composition of Combined Consideration:	Not Applicable
Nationalization, Insolvency or Delisting:	Cancellation and Payment (Calculation Agent Determination); provided that Insolvency shall not be applicable if Counterparty is a debtor (or similar participant) with respect to such Insolvency. In addition to the provisions of Section 12.6(a)(iii) of the Definitions, it will also constitute a Delisting if the Exchange is located in the United States and the Shares are not immediately re-listed, re-traded or re-quoted on any of the New York Stock Exchange, the American Stock Exchange, The NASDAQ Global Select Market or The NASDAQ Global Market (or their respective successors); if the Shares are immediately re-listed, re-traded or re-quoted on any such exchange or quotation system, such exchange or quotation system shall thereafter be deemed to be the Exchange.

9. Additional Disruption Events:

Change in Law:	Applicable; provided that Section 12.9(a)(ii) of the Definitions is hereby amended by (i) replacing the phrase "the interpretation" in the third line thereof with the phrase "or announcement of the formal or informal interpretation" and (ii) immediately following the word "Transaction" in clause (X) thereof, adding the phrase "in the manner contemplated by the Hedging Party on the Trade Date".
Insolvency Filing:	Applicable, except if Counterparty is a debtor (or similar participant) with respect to such Insolvency Filing
Hedging Disruption:	Applicable
Increased Cost of Hedging:	Applicable
Hedging Party:	For all applicable Additional Disruption Events, Citibank
Determining Party:	For all applicable Additional Disruption Events, Citibank

10. Acknowledgments:

Non-Reliance:	Applicable
Agreements and Acknowledgments Regarding Hedging Activities:	Applicable
Additional Acknowledgments:	Applicable

11. Representations, Warranties and Agreements:

(a) In connection with this Master Confirmation, each Confirmation, each Transaction to which a Confirmation relates and any other documentation relating to the Agreement, each party to this Master Confirmation represents and warrants to, and agrees with, the other party that:

(i) it is an "accredited investor" as defined in Section 2(a)(15)(ii) of the Securities Act of 1933, as amended (the " Securities Act"); and

(ii) it is an "eligible contract participant" as defined in Section 1a(12) of the Commodity Exchange Act, as amended (the " CEA"), and this Master Confirmation and each Transaction hereunder are subject to individual negotiation by the parties and have not been executed or traded on a "trading facility" as defined in Section 1a(33) of the CEA.

(b) Counterparty represents and warrants to, and agrees with, Citibank on the Trade Date of each Transaction that:

(i) its financial condition is such that it has no need for liquidity with respect to its investment in such Transaction and no need to dispose of any portion thereof to satisfy any existing or contemplated undertaking or indebtedness, its investments in and liabilities in respect of such Transaction, which it understands are not readily marketable, are not disproportionate to its net worth, and it is able to bear any loss in connection with such Transaction, including the loss of its entire investment in such Transaction;

(ii) it understands that Citibank has no obligation or intention to register such Transaction under the Securities Act or any state securities law or other applicable federal or non-U.S. securities laws;

(iii) it understands that no obligations of Citibank to it hereunder will be entitled to the benefit of deposit insurance and that such obligations will not be guaranteed by any Affiliate of Citibank or any governmental agency;

(iv) IT UNDERSTANDS THAT SUCH TRANSACTION IS SUBJECT TO COMPLEX RISKS THAT MAY ARISE WITHOUT WARNING AND MAY AT TIMES BE VOLATILE AND THAT LOSSES MAY OCCUR QUICKLY AND IN UNANTICIPATED MAGNITUDE AND IS WILLING TO ACCEPT SUCH TERMS AND CONDITIONS AND ASSUME (FINANCIALLY AND OTHERWISE) SUCH RISKS;

(v) (A) Counterparty is not aware of any material non-public information regarding Counterparty, the Shares or the Underlying Shares and (B) each of its filings under the Securitie to be filed since January 1, 2009 have been filed and as of the date of this representation, when considered as a whole (with the more recent such reports and documents deemed to amend inconsistent statements contained in any earlier such report or document), there is no misstatement of material fact contained therein or omission of a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading;

(vi) on the Trade Date, transactions in the Shares or the Underlying Shares are not prohibited by Regulation M under the Exchange Act ("Regulation M") as a result of such transactions meeting the requirements of the exceptions set forth in Rules 101(b)(10) and 102(b)(7) of Regulation M;

(vii) it is not entering into, or exercising any right under, any Transaction to create, and will not engage in any other securities or derivatives transactions to create, actual or apparent trading activity in the Shares or the Underlying Shares (or any security convertible into or exchangeable for Shares or Underlying Shares) or to raise or depress or to manipulate the price of the Shares or the Underlying Shares (or any security convertible into or exchangeable for Shares or Underlying Shares) or to otherwise violate any applicable laws or other restrictions applicable to Counterparty;

(viii) it shall deliver to Citibank opinions of counsel, dated as of the Effective Date, with respect to the matters set forth in Section 3(a) of the Agreement;

(ix) on the Trade Date, other than purchases from, by or on behalf of directors, officers and employees of Counterparty and its affiliates that are not "Rule 10b-18 purchases" as such term is defined in Rule 10b-18 under the Exchange Act (" Rule 10b-18"), neither Counterparty nor any "affiliated purchaser" (as defined in Rule 10b-18) shall directly or indirectly purchase, offer to purchase, place any bid or limit order that would effect a purchase of, or commence any tender offer relating to, any Shares or Underlying Shares;

(x) on the Trade Date and the Premium Payment Date for such Transaction (A) the assets of Counterparty at their fair valuation exceed the liabilities of Counterparty, including contingent liabilities, (B) the capital of Counterparty is adequate to conduct the business of Counterparty, and (C) Counterparty has the ability to pay its debts and obligations as such debts mature and does not intend to, or does not believe that it will, incur debt beyond its ability to pay as such debts mature;

(xi) it is not, and after giving effect to the transactions contemplated hereby will not be, and "investment company" as such term is defined in the Investment Company Act of 1940, as amended; and

(xii) it is not on the Trade Date for such Transaction engaged in a distribution, as such term is used in Regulation M, of any securities of Counterparty (other than a distribution meeting the requirements of the exception set forth in Rules 101(b)(10) and 102(b)(7) of Regulation M) and shall not, until the second Scheduled Trading Day immediately following the Effective Date (as set forth in the Confirmation for a Transaction), engage in any such distribution.

12. Miscellaneous:

(a) Early Termination. The parties agree that Second Method and Loss will apply to each Transaction under this Master Confirmation as such terms are defined under the 1992 ISDA Master Agreement (Multicurrency-Cross Border).

(b) Repurchase Notices. Counterparty shall, on any day on which Counterparty effects any repurchase of Shares or Underlying Shares, promptly give Citibank a written notice of such repurchase (a " Repurchase Notice") on such day if, following such repurchase, the Ratio Equity Percentage as determined on such day is (i) equal to or greater than 8.0% and (ii) greater by 0.5% than the Ratio Equity Percentage included in the immediately preceding Repurchase Notice (or, in the case of the first such Repurchase Notice, greater by 0.5% than the Ratio Equity Percentage as of the date hereof). The " Ratio Equity Percentage" as of any day is the fraction the numerator of which is the aggregate of the Base Amounts for (1) all Tranches for all Transactions hereunder, (2) all transactions of the type described in the definition of "Specified Transactions" relating to Shares or Underlying Shares between Citibank and Counterparty or their respective Affiliates and (3) all transactions of the type described in the definition of "Specified Transactions" relating to Shares or Underlying Shares between Citibank or its Affiliates and trusts or other entities with respect to which the beneficiaries or grantors (however described) are Counterparty, its Affiliates and/or employees of Counterparty or its Affiliates (the transactions described in clauses

(1), (2) and (3) collectively, the "Specified Portfolio") and the denominator of which is the number of Underlying Shares outstanding on such day and the "Base Amount" for a Tranche or a transaction is an amount equal to the product of the Number of Shares (or similar term in the relevant transaction) for such Tranche or transaction, as applicable and, if such Tranche or transaction is denominated in Shares, the number of Underlying Shares represented by a Share.

(c) Section 16 Indemnity. If Counterparty ceases to be a "foreign private issuer" (as defined Rule 3b-4 under the Exchange Act) at any time during the term of this Transaction, Counterparty agrees to indemnify and hold harmless Citibank and its Affiliates and their respective officers, directors and controlling persons (each, a "Section 16 Indemnified Person") from and against any and all losses (including losses relating to Citibank's hedging activities as a consequence of becoming, or of the risk of becoming, subject to the reporting and profit disgorgement provisions of Section 16 of the Exchange Act, including without limitation, any forbearance from hedging activities or cessation of hedging activities and any losses in connection therewith with respect to any Transaction), claims, damages, judgments, liabilities and expenses (including reasonable attorney's fees), joint or several, to which a Section 16 Indemnified Person may become subject, as a result of Counterparty's failure to provide Citibank with a Repurchase Notice on the day and in the manner specified in this paragraph (b), and to reimburse, upon written request, each such Section 16 Indemnified Person for any reasonable legal or other expenses incurred in connection with investigating, preparing for, providing testimony or other evidence in connection with or defending any of the foregoing. If any suit, action, proceeding (including any governmental or regulatory investigation), claim or demand shall be brought or asserted against any Section 16 Indemnified Person, such Section 16 Indemnified Person shall promptly notify Counterparty in writing, and Counterparty, upon request of such Section 16 Indemnified Person, shall retain counsel reasonably satisfactory to such Section 16 Indemnified Person to represent such Section 16 Indemnified Person and any others Counterparty may designate in such proceeding and shall pay the fees and expenses of such counsel related to such proceeding. Counterparty shall be relieved from liability to the extent that such Section 16 Indemnified Person fails to promptly notify Counterparty of any action commenced against it in respect of which indemnity may be sought hereunder; provided that failure to notify Counterparty (i) shall not relieve Counterparty from any liability hereunder to the extent it is not materially prejudiced as a result thereof and (ii) shall not, in any event, relieve Counterparty from any liability that it may have otherwise than on account of this paragraph (c). Counterparty shall not be liable for any settlement of any proceeding effected without its written consent, but if settled with such consent or if there be a final judgment for the plaintiff, Counterparty agrees to indemnify any Section 16 Indemnified Person from and against any loss or liability by reason of such settlement or judgment. Counterparty shall not, without the prior written consent of each Section 16 Indemnified Person, effect any settlement of any pending or threatened proceeding in respect of which any Section 16 Indemnified Person is or could have been a party and indemnity could have been sought hereunder by any such Section 16 Indemnified Person, unless such settlement includes an unconditional release of each such Section 16 Indemnified Person from all liability on claims that are the subject matter of such proceeding on terms reasonably satisfactory to each such Section 16 Indemnified Person. If the indemnification provided for in this paragraph (c) is unavailable to a Section 16 Indemnified Person or insufficient in respect of any losses, claims, damages or liabilities referred to therein, then Counterparty, in lieu of indemnifying such Section 16 Indemnified Person thereunder, shall contribute to the amount paid or payable by such Section 16 Indemnified Person as a result of such losses, claims, damages or liabilities. The remedies provided for in this paragraph (c) are not exclusive and shall not limit any rights or remedies that may otherwise be available to any Section 16 Indemnified Person at law or in equity. The indemnity and contribution agreements contained in this paragraph (c) shall remain operative and in full force and effect regardless of the termination of any Transaction.

(d) Transfer or Assignment. Citibank may, with Counterparty's prior written consent (not to be unreasonably withheld or delayed), transfer or assign all (but not less than all) of its rights and obligations under any Transaction to any of its Affiliates with a rating (or whose guarantor has a rating) for its long term, unsecured and unsubordinated indebtedness equal to or better than A- by Standard & Poor's Ratings Services or its successor (" S&P"), or A3 by Moody's Investors Service, Inc. or its successor ("Moody's") or, if either S&P or Moody's ceases to rate such debt, at least an equivalent rating or better by a substitute rating agency mutually agreed by Counterparty and Citibank. Counterparty may, with Citibank's prior written consent (not to be unreasonably withheld or delayed) sell or pledge to any third party all (but not less than all) of its rights and obligations under any Transaction at a time when such Transaction is not subject to a security interest in favor of Citibank or any of its Affiliates. If, as determined in Citibank's sole discretion, (a) at any time (1) the Equity Percentage exceeds 8.5%,

(2) Citibank, Citibank Group (as defined below) or any person whose ownership position would be aggregated with that of Citibank or Citibank Group (Citibank, Citibank Group or any such person, a "Citibank Person") under U.S. federal, non-U.S., state or local laws, regulations or regulatory orders applicable to ownership of Shares or Underlying Shares ("Applicable Laws"), owns, beneficially owns, constructively owns, controls, holds the power to vote or otherwise meets a relevant definition of ownership, or could be reasonably viewed as meeting any of the foregoing, in excess of a number of Shares or Underlying Shares, as applicable, equal to (x) the number of Shares or Underlying Shares, as applicable, that would give rise to reporting, registration, filing or notification obligations or other requirements (including obtaining prior approval by a state, U.S. federal or non-U.S. regulator) of a Citibank Person under Applicable Laws and with respect to which such requirements have not been met or the relevant approval has not been received *minus* (y) 1% of the number of Shares or Underlying Shares, as applicable, outstanding on the date of determination or (3) the Ratio Equity Percentage exceeds 9.9% (any such condition described in clause (1), (2) or (3), an "Excess Ownership Position"), and (b) Citibank is unable, after commercially reasonable efforts, to effect a transfer or assignment on pricing and terms and within a time period reasonably acceptable to it of all or a portion of one or more Transactions pursuant to the preceding paragraph such that an Excess Ownership Position no longer exists, Citibank may designate any Scheduled Trading Day as an Early Termination Date with respect to a portion (the "Terminated Portion") of any Transaction(s), such that an Excess Ownership Position no longer exists following such partial termination. In the event that Citibank so designates an Early Termination Date with respect to a portion of any Transaction(s), a payment shall be made pursuant to Section 6 of the Agreement as if (i) an Early Termination Date had been designated in respect of a Transaction having terms identical to the Terminated Portion of the Transaction(s), (ii) Counterparty shall be the sole Affected Party with respect to such partial termination and (iii) such portion of the Transaction(s) shall be the only Terminated Transaction. The "Equity Percentage" as of any day is the fraction, expressed as a percentage, (A) the numerator of which is the number of Underlying Shares that Citibank and any of its affiliates subject to aggregation with Citibank for purposes of the "beneficial ownership" test under Section 13 of the Exchange Act and all persons who may form a "group" (within the meaning of Rule 13d-5(b)(1) under the Exchange Act) with Citibank (collectively, "Citibank Group") "beneficially own" (within the meaning of Section 13 of the Exchange Act) in connection with transactions in the Specified Portfolio without duplication on such day and (B) the denominator of which is the number of Underlying Shares outstanding on such day.

(e) Severability; Illegality. If compliance by either party with any provision of a Transaction would be unenforceable or illegal, (i) the parties shall negotiate in good faith to resolve such unenforceability or illegality in a manner that preserves the economic benefits of the transactions contemplated hereby and (ii) the other provisions of the Transaction shall not be invalidated, but shall remain in full force and effect.

(f) Waiver of Trial by Jury. EACH OF COUNTERPARTY AND CITIBANK HEREBY IRREVOCABLY WAIVES (ON ITS OWN BEHALF AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS STOCKHOLDERS) ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO ANY TRANSACTION OR THIS MASTER CONFIRMATION OR THE ACTIONS OF CITIBANK OR ITS AFFILIATES IN THE NEGOTIATION, PERFORMANCE OR ENFORCEMENT THEREOF.

(g) Confidentiality. Notwithstanding any provision in this Master Confirmation, any Confirmation or the Agreement, in connection with Section 1.6011-4 of the Treasury Regulations, the parties hereby agree that each party (and each employee, representative, or other agent of such party) may disclose to any and all persons, without limitation of any kind, the U.S. tax treatment and U.S. tax structure of the Transaction and all materials of any kind (including opinions or other tax analyses) that are provided to such party relating to such U.S. tax treatment and U.S. tax structure, other than any information for which nondisclosure is reasonably necessary in order to comply with applicable securities laws.

(h) Securities Contract; Swap Agreement. The parties hereto intend for: (i) each Transaction hereunder to be a "securities contract" and a "swap agreement" as defined in the Bankruptcy Code (Title 11 of the United States Code) (the "Bankruptcy Code"), the Agreement to be a "master netting agreement" and the parties hereto to be entitled to the protections afforded by, among other Sections, Sections 362(b)(6), 362(b)(17), 362(o), 546(e), 546(g), 546(j), 548(d), 555, 560 and 561 of the Bankruptcy Code; (ii) a party's right to liquidate a

Transaction and to exercise any other remedies upon the occurrence of any Event of Default under the Agreement with respect to the other party to constitute a "contractual right … to cause the liquidation, termination or acceleration" and any payments owed under this Transaction or the Agreement with respect thereto to be a "termination value", "payment amount" or "other transfer obligation", in each case as described in the Bankruptcy Code; (iii) all payments for, under or in connection with a Transaction to constitute "margin payments", "settlement payments" and/or "transfers" under a "securities contract" and/or "swap agreement" as defined in the Bankruptcy Code; and (iv) each party hereto to be a "master netting agreement participant", "financial institution", "swap participant" and/or a "financial participant" as defined in the Bankruptcy Code.

(i) Extension of Settlement. Citibank may postpone any Expiration Date, postpone the Final Disruption Date and/or add additional Expiration Dates with respect to some or all of the Options under any Tranche hereunder (provided that none of such postponed or added Expiration Dates shall occur later than the 20th Scheduled Trading Day immediately succeeding the last Expiration Date (determined without regard to this provision) for the relevant Transaction) if Citibank determines, in its reasonable discretion, that such extension is necessary or advisable to preserve Citibank's hedging activity hereunder in light of existing liquidity conditions or to enable Citibank to effect purchases or sales of Shares or Underlying Shares in connection with its hedging activity hereunder in a manner that would, if Citibank were Counterparty or an affiliated purchaser of Counterparty, be in compliance with applicable legal and regulatory requirements or self-regulatory requirements, or with related reasonable policies and procedures applicable to Citibank.

(j) Registration. Counterparty hereby agrees that if the Shares or Underlying Shares (the " Hedge Shares") acquired by Citibank for the purpose of hedging its obligations pursuant to the Transaction, in Citibank's sole judgment, cannot be sold in the U.S. public market (including by depositing such Underlying Shares with the Depository in exchange for Shares) by Citibank without registration under the Securities Act, Counterparty shall, at its election: (i) in order to allow Citibank to sell the Hedge Shares in a registered offering, make available to Citibank an effective registration statement under the Securities Act to cover the resale of such Hedge Shares and (A) enter into an agreement, in form and substance satisfactory to Citibank and Counterparty, substantially in the form of an underwriting agreement for a registered secondary offering, (B) provide accountant's "comfort" letters in customary form for registered offerings of equity securities, (C) provide disclosure opinions of nationally recognized outside counsel to Counterparty reasonably acceptable to Citibank, (D) provide other customary opinions, certificates and closing documents customary in form for registered offerings of equity securities and (E) afford Citibank a reasonable opportunity to conduct a "due diligence" investigation with respect to Counterparty customary in scope for underwritten offerings of equity securities; provided that if Citibank, in its sole reasonable discretion, is not satisfied with access to due diligence materials, the results of its due diligence investigation, or the procedures and documentation for the registered offering referred to above, then, subject to the conditions set forth therein, clause (ii) or (iii) of this section shall apply at the election of Counterparty; (ii) in order to allow Citibank to sell the Hedge Shares in a private placement, enter into a private placement agreement substantially similar to private placement Underwriting Agreements customary for private placements of equity securities, in form and substance satisfactory to Citibank and Counterparty, including customary representations, covenants, blue sky and other governmental filings and/or registrations, indemnities to Citibank, due diligence rights (for Citibank or any designated buyer of the Hedge Shares from Citibank), opinions and certificates and such other documentation as is customary for private placements agreements, all reasonably acceptable to Citibank (in which case, the Calculation Agent shall make any adjustments to the terms of the Transaction that are necessary, in its reasonable judgment, to compensate Citibank for any discount from the public market price of the Shares incurred on the sale of Hedge Shares in a private placement); or (iii) to the extent that such purchases would not violate any applicable law or other restriction applicable to Counterparty, purchase the Hedge Shares from Citibank at the VWAP Price on such Exchange Business Days (with references to "Valuation Date" in the definition of "VWAP Price" deemed to be references to such Exchange Business Days for this purpose), and in such amounts, requested by Citibank. This paragraph (j) shall survive the termination, expiration or early unwind of the Transaction.

(k) Early Unwind. In the event the sale of Convertible Notes for the Transaction (as set forth in the Confirmation for such Transaction) is not consummated with the initial purchasers for any reason by the close of business in New York City on the Early Unwind Date set forth in the Confirmation for such Transaction, such Transaction shall automatically terminate on such Early Unwind Date and (i) such Transaction and all of the respective rights and obligations of Citibank and Counterparty under such Transaction shall be cancelled and

terminated and (ii) each party shall be released and discharged by the other party from and agrees not to make any claim against the other party with respect to any obligations or liabilities of the other party arising out of and to be performed in connection with such Transaction either prior to or after such Early Unwind Date; provided that, if such failure is due to a breach or default on the part of Counterparty under the Purchase Agreement dated as of March 24, 2010 between CEMEX, S.A.B. de C.V. and Citigroup Global Markets Inc., as representative of the "Initial Purchasers" (as defined therein), Counterparty shall assume, or reimburse the cost of, derivatives or other transactions entered into by Citibank or one or more of its Affiliates in connection with hedging such Transaction. The amount paid by Counterparty shall be Citibank's actual cost of such derivatives or other transactions as Citibank informs Counterparty and shall be paid in immediately available funds on such Early Unwind Date.

(l) Acknowledgment of Pledge. Counterparty's rights under the Agreement may, from time to time, be pledged to Citibank to secure Counterparty's obligations to Citibank arising under other agreements in accordance with such terms as the parties may separately agree.

(m) Optional Early Termination. (i) At any time during the term of this Transaction, Counterparty may, by written notice to Citibank, designate, with respect to one or more specified Tranches, an Early Termination Date to occur on the third Scheduled Trading Day following the date such notice is effective, in which case an Additional Termination Event shall be deemed to have occurred in respect of which (1) Counterparty shall be the sole Affected Party and (2) the portion of the relevant Transaction represented by such Tranche(s) shall be the sole Affected Transaction.

(ii) Counterparty may, prior to electing to terminate any Tranche pursuant to subparagraph (i) above, request a quotation (which may be in the form of a grid of percentages that depends on the price of the Shares or Underlying Shares over a specified period) from Citibank as to the applicable terms of such termination, and Citibank shall be bound by the terms of such quotation if Counterparty then makes such election within one full Scheduled Trading Day.

(iii) By providing the notice referred to in this paragraph, Counterparty shall be deemed to repeat, on the date such notice is effective, the representations in clauses (v), (vi), (vii) and (ix) of Section 11(b).

(n) Counterparty's Obligation to Pay Cancellation Amounts and Early Termination Amounts. Seller and Counterparty hereby agree that, notwithstanding anything to the contrary herein or in the Agreement, following Seller's receipt from Counterparty of the Premium on the Premium Payment Date, in the event that (a) an Early Termination Date (whether as a result of an Event of Default or a Termination Event) occurs or is designated with respect to a Transaction and, as a result, Counterparty owes to Seller an amount under Section 6(e) of the Agreement or (b) Counterparty owes to Seller, pursuant to Section 12.7 or Section 12.9 of the Definitions, a Cancellation Amount, such amount shall be deemed to be zero. If Counterparty pays the Premium on the Premium Payment Date, then under no circumstances shall Counterparty be required to pay any amount in addition to the Premium under the Transaction. For the avoidance of doubt, the preceding sentence shall not be construed as limiting any damages that may be payable by Counterparty as a result of a breach of, or an indemnity under, this Master Confirmation or the Agreement.

(o) Modifications to DR Supplement. The DR Supplement is hereby amended as follows:

(i) The definitions of the following terms in Section 1 thereof are hereby deleted and replaced as follows:

"Depository" means, in relation to the Shares or the Underlying Shares, the Issuer of the Shares or the Underlying Shares, as applicable.

"Deposit Agreement" means, in relation to the Shares or the Underlying Shares, the agreements, deeds or other instruments constituting the Shares or Underlying Shares, as applicable, as from time to time amended or supplemented in accordance with their terms.

"Underlying Shares" means, in relation to the applicable Deposit Agreement, the shares or other securities which are the subject of such Deposit Agreement.

"Underlying Shares Issuer" means, in relation to the applicable Underlying Shares, the issuer of such Underlying Shares.

(ii) Section 2(c) thereof is hereby deleted in its entirety.

(iii) Section 3(a) thereof is hereby amended by adding in the second line therein after the term "'Share-for-Combined'" the following parenthetical: "(including defined terms used in such definitions)".

13. Addresses for Notice:

If to Citibank:	Citibank, N.A. 390 Greenwich Street New York, NY 10013 Attention: Equity Derivatives Facsimile: (212) 723-8328 Telephone: (212) 723-7357
with a copy to:	Citibank, N.A. 250 West Street, 10th Floor New York, NY 10013 Attention: GCIB Legal Group—Derivatives Facsimile: (212) 816-7772 Telephone: (212) 816-2211
If to Counterparty:	CEMEX, S.A.B. de C.V. Avenida Ricardo Margain Zozaya 325 Colonia Valle del Campestre San Pedro Garza Garcia, Nuevo Leon 66265 Attention: Francisco Javier Contreras Navarro Financial Operations Manager - Corporate Treasury - Mexico Office : +52(81)88884093 Fax: +52(81)88884519 e-Mail: franciscojavier.contreras@cemex.com

14. Accounts for Payment:

To Citibank:	Citibank, N.A. ABA #021000089 DDA 00167679 Ref: Equity Derivatives

To Counterparty:	Beneficiary:	CEMEX, S.A.B. de C.V.
	Bank:	Citibank, NY
	Account:	36964215
	ABA:	021000089
	SWIFT:	CITIUS33

15. Schedule Provisions:

(a) Process Agent. For the purpose of Section 13(c) of the Agreement:

Counterparty appoints as its Process Agent:

Corporate Creations Network Inc.
1040 Avenue of the Americas #2400
New York, NY 10018
Fax: (561) 694-1639
Tel: (212) 382-4699

(b) Delivery of Tax Forms. For the purposes of Section 4(a)(i) of the Agreement, Counterparty agrees to deliver such documents as Citibank may request in order to allow Citibank to make a payment under this Transaction without any deduction or withholding for or on account of any Tax or with such deduction or withholding at a reduced rate including, without limitation, an executed United States Internal Revenue Service Form W-8BEN (or any successor thereto), (i) upon execution of this Transaction; (ii) promptly upon reasonable demand by Citibank; and (iii) promptly upon learning that any such document, including Form W-8BEN (or any successor thereto), previously provided by Counterparty has become obsolete or incorrect.

[Signature page follows]

Yours sincerely,

CITIBANK, N.A.

By: /s/ James Heathcote
Name: James Heathcote
Title: Authorized Signatory

Confirmed as of the date first above written:

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

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

EXHIBIT A
FORM OF CAPPED CALL OPTION
TRANSACTION CONFIRMATION

CONFIRMATION

Date:	March [ ], 2010
To:	CEMEX, S.A.B. de C.V. ("Counterparty")
Telefax No.:	+52(81)88884519
Attention:	Francisco Javier Contreras Navarro - Financial Operations Manager - Corporate Treasury - Mexico
From:	Citibank, N.A. ("Citibank")
Telefax No.:	212-615-8985

Transaction Reference Number: _____

The purpose of this communication (this "Confirmation") is to set forth the terms and conditions of the above-referenced Transaction (the "Transaction") entered into on the Trade Date specified below between you and us. This Confirmation supplements, forms a part of, and is subject to the Master Terms and Conditions for Capped Call Transactions dated as of March 24, 2010 and as amended from time to time (the " Master Confirmation") between you and us.

1. The definitions and provisions contained in the Definitions (as such term is defined in the Master Confirmation) and in the Master Confirmation are incorporated into this Confirmation. In the event of any inconsistency between those definitions and provisions and this Confirmation, this Confirmation will govern.

2. The particular Transaction to which this Confirmation relates shall have the following terms:

Trade Date:	March [ ], 2010
Effective Date:	The closing date of the initial issuance of the Convertible Notes.
Lower Strike Price:	USD [ ].
Upper Strike Price:	USD [ ].
Initial Reference Price:	USD [Insert Exchange closing price per share for the Shares on the Trade Date]
Premium:	USD [ ].
Premium Payment Date:	The Effective Date
Convertible Notes:	[ ] % Convertible Subordinated Notes of Counterparty due 2015, offered pursuant to an Offering Memorandum to be dated [ ].
Indenture:	The indenture governing the issuance of the Convertible Notes to be dated as of the closing date of the initial issuance of the Convertible Notes, by and between Counterparty and The Bank of New York

	Mellon, as trustee (as may be amended, modified or supplemented from time to time, but only if such amendment, modification or supplement is consented to by Citibank in writing, which consent shall not be unreasonably withheld or delayed).
Early Unwind Date:	March [ ], 2010, or such later date as agreed by the parties hereto.
Final Disruption Date:	[ ]

[Remainder of page intentionally left blank]

The Number of Options and Expiration Date for each Tranche of the Transaction are set forth below.

Tranche Number	Number of Options	Expiration Date
1.	[ ]	[ ]
2.	[ ]	[ ]
3.	[ ]	[ ]
4.	[ ]	[ ]
5.	[ ]	[ ]
6.	[ ]	[ ]
7.	[ ]	[ ]
8.	[ ]	[ ]
9.	[ ]	[ ]
10.	[ ]	[ ]
11.	[ ]	[ ]
12.	[ ]	[ ]
13.	[ ]	[ ]
14.	[ ]	[ ]
15.	[ ]	[ ]
16.	[ ]	[ ]
17.	[ ]	[ ]
18.	[ ]	[ ]
19.	[ ]	[ ]
20.	[ ]	[ ]
21.	[ ]	[ ]
22.	[ ]	[ ]
23.	[ ]	[ ]
24.	[ ]	[ ]
25.	[ ]	[ ]
26.	[ ]	[ ]
27.	[ ]	[ ]
28.	[ ]	[ ]
29.	[ ]	[ ]
30.	[ ]	[ ]
31.	[ ]	[ ]
32.	[ ]	[ ]
33.	[ ]	[ ]
34.	[ ]	[ ]
35.	[ ]	[ ]
36.	[ ]	[ ]
37.	[ ]	[ ]
38.	[ ]	[ ]
39.	[ ]	[ ]
40.	[ ]	[ ]
41.	[ ]	[ ]
42.	[ ]	[ ]
43.	[ ]	[ ]
44.	[ ]	[ ]
45.	[ ]	[ ]
46.	[ ]	[ ]
47.	[ ]	[ ]
48.	[ ]	[ ]
49.	[ ]	[ ]
50.	[ ]	[ ]
51.	[ ]	[ ]

52.	[ ]	[ ]
53.	[ ]	[ ]
54.	[ ]	[ ]
55.	[ ]	[ ]
56.	[ ]	[ ]
57.	[ ]	[ ]
58.	[ ]	[ ]
59.	[ ]	[ ]
60.	[ ]	[ ]

3. Counterparty hereby agrees (a) to check this Confirmation promptly upon receipt so that errors or discrepancies can be promptly identified and rectified and (b) to confirm that the foregoing correctly sets forth the terms of the agreement between us with respect to the particular Transaction to which this Confirmation relates, by manually signing this Confirmation and providing any other information requested herein or in the Master Confirmation and immediately returning an executed copy to Confirmation Unit via 212-615-8985. Hard copies should be returned to Citibank, N.A., 333 West 34 th Street, 2nd Floor, New York, New York 10001, Attention: Confirmation Unit.

Yours sincerely,

CITIBANK, N.A.

By: _____
Name:
Title:

Confirmed as of the
date first above written:

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

By: _____
Name:
Title:

Exhibit 4.54
Execution Version

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

THE BANK OF NEW YORK MELLON

AS TRUSTEE

AND

THE BANK OF NEW YORK MELLON, S.A., INSTITUCIÓN DE BANCA MÚLTIPLE

AS MEXICAN TRUSTEE

4.875% CONVERTIBLE SUBORDINATED NOTES DUE 2015

Indenture

Dated as of March 30, 2010

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THIS INDENTURE, dated as of March 30, 2010, is between CEMEX, S.A.B. de C.V. a publicly traded variable capital corporation (*sociedad anónima bursátil de capital variable*) organized under the laws of Mexico (the "Issuer"), The Bank of New York Mellon, as trustee (the "Trustee") and, solely for compliance with certain Mexican law requirements set forth in Section 7.01(b) and Section 7.06, The Bank of New York Mellon, S.A., Institución de Banca Múltiple (the "Mexican Trustee"). The Issuer has duly authorized the creation of its 4.875% Convertible Subordinated Notes due 2015 (the " Notes") and to provide therefor the Issuer, the Trustee and the Mexican Trustee have duly authorized the execution and delivery of this Indenture. Each party agrees as follows for the benefit of the other party and for the equal and ratable benefit of the Holders from time to time of the Notes:

ARTICLE I

DEFINITIONS

SECTION 1.01. Definitions.

"Additional Interest" means any interest payable pursuant to Section 4.09 or Section 6.02(b).

"ADR" means American Depositary Receipts representing ADS.

"ADS" means American Depositary Shares of the Issuer created pursuant to the Second Amended and Restated Deposit Agreement (A and B share CPOs), dated August 10, 1999, among CEMEX, S.A.B. de C.V., Citibank, N.A. and holders and beneficial owners of American Depositary Shares, as the same may be amended, modified or replaced.

"Affiliate" means, with respect to any specified Person, any other Person who directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, such specified Person. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. For purposes of this definition, the terms "controlling", "controlled by" and "under common control with" have correlative meanings.

"Agent" means any Registrar, Paying Agent, Conversion Agent or co-registrar.

"Agent Member" means any member of, or participant in, the Depositary.

"Applicable Procedures" means, with respect to any transfer or transaction involving a Global Security or beneficial interest therein, or to the delegending of Global Securities or ADSs, the rules and procedures of the Depositary for such Global Security to the extent applicable to such transaction and as in effect from time to time.

"Available Treasury Shares" means Ordinary Shares of the Issuer available in treasury, and for which the Issuer has obtained any regulatory or other approval (including satisfaction or waiver of preemptive rights), taken such corporate action and made such contractual arrangements necessary such that, at the time at which Notes could be converted, the Issuer will

be able to deliver such Ordinary Shares to timely satisfy its conversion obligations relating to the Notes *provided* that Available Treasury Shares shall not include the number of Ordinary Shares available in treasury needed to satisfy any and all of the Issuer's contingent or non-contingent obligations to deliver Ordinary Shares (other than in connection with a conversion of the Notes), including, without limitation, in connection with any employee compensation arrangements and the settlement of conversions of securities convertible into Ordinary Shares (including, without limitation, the mandatory convertible securities of the Issuer issued on December 10, 2009). When "Available Treasury Shares" is referred to in comparison to the number of ADSs necessary to satisfy conversion obligations at a certain point in time, in order to facilitate such comparison, "Available Treasury Shares" shall be expressed as the number of ADSs that would represent the number of Available Treasury Shares held by the Issuer at such time (through the intermediary of CPOs).

"Bankruptcy Event of Default" means:

(1) the entry by a court of competent jurisdiction of: (i) a decree, order for relief or declaration in respect of any Bankruptcy Party in an involuntary case or proceeding under any Bankruptcy Law, or (ii) a decree or order (A) adjudging or declaring any Bankruptcy Party a bankrupt or insolvent, (B) approving as properly filed a petition seeking reorganization, arrangement, adjustment, *concurso mercantil*, *quiebra* or composition of, or in respect of, any Bankruptcy Party under any Bankruptcy Law, (C) appointing a Custodian of any Bankruptcy Party or of any substantial part of the property of any Bankruptcy Party, or (D) ordering the winding-up, liquidation, dissolution or *quiebra* of the affairs of any Bankruptcy Party, and in each case, the continuance of any such decree or order unstayed and in effect for a period of 60 consecutive calendar days; or

(2) (i) the commencement by any Bankruptcy Party of a voluntary case or proceeding under any Bankruptcy Law (including *concurso mercantil* and *quiebra*) or of any other case or proceeding to be adjudicated of declared a bankrupt or insolvent, (ii) the consent by any Bankruptcy Party to the entry of a decree, declaration or order for relief in respect of such Bankruptcy Party in an involuntary case or proceeding under any Bankruptcy Law or to the commencement of any bankruptcy, insolvency case, liquidation or dissolution action or proceeding against any Bankruptcy Party, (iii) the filing by any Bankruptcy Party of a petition or answer or consent seeking reorganization or relief under any Bankruptcy Law, (iv) the consent by any Bankruptcy Party to the filing of such petition or to the appointment of or management or taking possession by a Custodian of any Bankruptcy Party or of any substantial part of the property of any Bankruptcy Party, (v) the making by any Bankruptcy Party of an assignment for the benefit of creditors, (vi) the admission by any Bankruptcy Party in writing of its inability to pay its debts generally as they become due, (vii) the approval by stockholders of any Bankruptcy Party of any plan or proposal for the liquidation or dissolution of such Bankruptcy Party, or (viii) the taking of corporate action by any Bankruptcy Party in furtherance of any action referred to in clauses (i) – (vii) above.

"Bankruptcy Law" means Title 11, U.S. Code or any similar Federal, state or non-U.S. law for the relief of debtors and the Mexican *Ley de Concursos Mercantiles*.

"Bankruptcy Party" means the Issuer and any Significant Subsidiary of the Issuer or group of Subsidiaries that, taken together would constitute a Significant Subsidiary of the Issuer.

"Beneficial Owner" will be determined in accordance with Rule 13d-3 under the Exchange Act as in effect on the date of the Indenture, and "Beneficially Own", "Beneficially Owned" and "Beneficial Ownership" have meanings correlative to that of Beneficial Owner.

"Board of Directors" means, as to any Person, the board of directors, any duly authorized management committee or similar governing body of such Person, or any duly authorized committee thereof.

"Capital Stock" of any Person means any and all ordinary shares, interests, rights to purchase, warrants, options, participations or other equivalents of or interests in (however designated) equity of such Person, but excluding any debt securities convertible into, or exchangeable for, such equity.

"Capitalized Lease Obligations" means, as to any Person, the obligations of such Person under a lease that are required to be classified and accounted for as capital lease obligations under GAAP. For purposes of the definition, the amount of such obligations at any date will be the capitalized amount of such obligations at such date, determined in accordance with GAAP.

"*Certificados Bursátiles*" means Mexican law governed debt securities issued by the Issuer guaranteed (*por aval*) by CEMEX México, S.A. de C.V. and Empresas Tolteca de Mexico, S.A. de C.V., wholly owned Subsidiaries of the Issuer, and placed in the Mexican capital markets with the approval of the Mexican National Banking and Securities Commission and listed on the Mexican Stock Exchange.

"Change of Control" means acquisition of the Beneficial Ownership of twenty percent (20%) or more in voting power of the Issuer's outstanding Voting Stock by any Person; provided that the acquisition of Beneficial Ownership of the Issuer's Capital Stock by Lorenzo H. Zambrano or any member of his immediate family shall not constitute a "Change of Control."

"Commission" means the United States Securities and Exchange Commission.

"Commodity Price Purchase Agreement" means, in respect of any Person, any forward contract, commodity swap agreement, commodity option agreement or other similar agreement or arrangement designed to protect such Person from fluctuations in commodity prices.

"Conversion Rate" means the initial conversion rate specified in the Form of Note attached hereto as Exhibit A in paragraph 15 of such form, as adjusted in accordance with the provisions of Article XII.

"Corporate Trust Office" means the designated office of the Trustee at which, at any particular time, its duties under this Indenture shall be administered, which office at the date of original execution of this Indenture is located at 101 Barclay Street, 4E, New York, NY 10286,

or such other address as the Trustee may designate from time to time by notice to the Holders and the Issuer, or the principal corporate trust office of any successor Trustee (or such other address as such successor Trustee may designate from time to time by notice to the Holders and the Issuer).

"CPO" means an ordinary participation certificate (*certificado de participación ordinario*) having Ordinary Shares as underlying securities.

"Currency Agreement" means, in respect of any Person, any foreign exchange contract, currency swap agreement or other similar agreement as to which such Person is a party designed to hedge foreign currency risk of such Person.

"Custodian" means any receiver, trustee, assignee, *conciliador*, *síndico*, liquidator or similar official under Bankruptcy Law.

"Default" means an event or condition the occurrence of which is, or with the lapse of time or the giving of notice or both would be, an Event of Default.

"Depositary" means, with respect to any Global Securities, a clearing agency that is registered as such under the Exchange Act and is designated by the Issuer to act as Depositary for such Global Securities (or any successor securities clearing agency so registered), which shall initially be DTC.

"Designated Senior Indebtedness" means (i) the Issuer's obligations under the Financing Agreement and in respect of the Indebtedness subject thereto and (ii) any other Senior Indebtedness which, on the date of a payment default or the delivery of a Payment Blockage Notice, has an aggregate amount outstanding of, or under which, on such date, the holders thereof are committed to lend up to, at least U.S.$50 million.

"DTC" means The Depository Trust Company, a New York corporation.

"Dual Currency Notes" means the (i) EUR 730,000,000 Callable Perpetual Dual-Currency Notes, (ii) U.S.$350,000,000 Callable Perpetual Dual-Currency Notes, (iii) U.S.$750,000,000 Callable Perpetual Dual-Currency Notes and (iv) U.S.$900,000,000 Callable Perpetual Dual-Currency Notes, in each case, issued by New Sunward Holding Financial Ventures B.V., a wholly owned Subsidiary of the Issuer.

"Ex-Dividend Date" means the first date on which ADSs trade on the applicable exchange or in the applicable market, in a regular way, without the right attached to Ordinary Shares to receive the issuance or distribution in question.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, or any successor statute or statues thereto together with, in either case, the rules and regulations promulgated thereunder.

"Financing Agreement" means the financing agreement, dated as of August 14, 2009, entered into among the Issuer and certain Subsidiaries of the Issuer, the financial institutions and noteholders party thereto, Citibank International PLC, as administrative agent, and Wilmington Trust (London) Limited, as security agent, as such agreement may be amended, modified or waived from time to time.

"Fundamental Change" means:

(1) a Change of Control;

(2) the Beneficial Ownership of fifty percent (50%) or more in voting power of the Issuer's outstanding Voting Stock is acquired by any Person;

(3) the consummation of any binding share exchange, exchange offer, tender offer, consolidation or merger of the Issuer pursuant to which all or substantially all of the Issuer's shares of Capital Stock will be converted into cash, securities or other property or any sale, lease or other transfer in one transaction or a series of related transactions of all or substantially all of the consolidated assets of the Issuer and its Subsidiaries, taken as a whole, to any Person other than one or more of the Issuer's Subsidiaries (any such exchange, offer, consolidation, merger, transaction or series of transactions being referred to in this clause (3) as an "Event"); provided, however, that any such Event where the holders of more than 50% of the Issuer's Capital Stock immediately prior to such Event, own, directly or indirectly, more than 50% of all classes of Capital Stock of the continuing or surviving Person or transferee or the parent thereof immediately after such Event shall not be a "Fundamental Change";

(4) during any consecutive two-year period, individuals who at the beginning of that two-year period constituted the Board of Directors of the Issuer, together with any new directors whose election to the Board of Directors of the Issuer, or whose nomination for election by the Issuer's stockholders, was approved by a vote of a majority of the Issuer's stockholders, cease for any reason to constitute a majority of the Board of Directors of the Issuer then in office;

(5) the Issuer's stockholders approve any plan or proposal for the Issuer's liquidation or dissolution (other than any liquidation or dissolution that is part of a merger event and excluded from the definition of "Fundamental Change" by reason of the proviso in clause (3) above); or

(6) the ADSs cease to be listed for trading on a U.S. national securities exchange.

If any transaction in which Ordinary Shares, CPOs or ADSs are replaced by the securities of another entity occurs, following the effective date of such transaction, references to the Issuer in this definition of "Fundamental Change" will apply to such other entity instead.

"GAAP" means Mexican Financial Reporting Standards (*normas de informacíon financiera*) issued by the *Consejo Mexicano para la Invetigacíon y Desarrollo de Normas de Informacíon Financiera, A.C.,* as in effect on December 31, 2009. At any time after the Issue Date, the Issuer may elect to apply IFRS in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS as in effect on the date of such election; provided that any such election, once made, shall be irrevocable. The Issuer shall give notice of any such election to the Trustee.

"Global Security" means Notes represented by a certificate in definitive, fully registered form of securities without interest coupons in global form, that is deposited with the Depositary or its custodian, and registered in the name of the Depositary or its nominee.

"Global Securities Legend" means the legend labeled as such and that is set forth in Exhibit A hereto, which is incorporated in and expressly made part of this Indenture.

"Hedging Obligations" means the obligations of any Person pursuant to any Interest Rate Agreement, Currency Agreement, Commodity Price Purchase Agreement or any Transportation Agreement, in each case, not entered into for speculative purposes.

"Holder" means the Person in whose name a Note is registered in the Register.

"IFRS" means the International Financial Reporting Standards as issued by the International Accounting Standards Board.

"Indebtedness" means, with respect to any specified Person, any indebtedness of such Person, whether or not contingent (including obligations *por aval*), in respect of: (i) borrowed money; (ii) bonds, notes, debentures or similar instruments or letters of credit (or reimbursement agreements in respect thereof); (iii) banker's acceptances; (iv) Capitalized Lease Obligations; (v) the balance deferred and unpaid of the purchase price of any property, except any such balance that constitutes an accrued expense or trade payable; or (vi) Hedging Obligations, if and to the extent any of such indebtedness (other than letters of credit and Hedging Obligations) would appear as a liability on a balance sheet of the specified Person prepared in accordance with GAAP. In addition, the term "Indebtedness" includes all indebtedness of others secured by a Lien on any asset of the specified Person (whether or not such indebtedness is assumed by the specified Person) measured as the lesser of the fair market value of the assets of such Person so secured or the amount of such indebtedness and, to the extent not otherwise included, the guarantee by such Person of any indebtedness of any other Person.

"Indenture" means this Indenture as amended or supplemented from time to time.

"Interest" means (except as otherwise specifically provided in this Indenture) any accrued and unpaid interest in respect of the Notes as well as any Additional Interest and Additional Amounts.

"Interest Payment Date" means March 15 and September 15 of each year, commencing September 15, 2010.

"Interest Rate Agreement" of any Person means any interest rate protection agreement (including, without limitation, interest rate swaps, caps, floors, collars, derivative instruments and similar agreements) and/or other types of hedging agreements designed to hedge interest rate risk of such Person.

"Issue Date" means March 30, 2010.

"Issuer" means the party named as such in the Preamble until a successor replaces it in accordance with Article V and thereafter means the successor.

"Issuer Order" means a written order of the Issuer signed by an Officer of the Issuer.

"Last Reported Sale Price" of ADSs on any Trading Day means the closing sale price per ADS (or if no closing sale price is reported, the average of the bid and ask prices or, if more than one in either case, the average of the average bid and the average ask prices) of the ADSs on that Trading Day as reported in composite transactions for the principal U.S. national or regional securities exchange on which the ADSs are traded. If the ADSs are not listed for trading on a U.S. national or regional securities exchange on the relevant Trading Day, the "Last Reported Sale Price" will be the last quoted bid price per ADS in the over-the-counter market on the relevant Trading Day as reported by Pink OTC Markets, Inc. or a similar organization selected by the Issuer. If the ADSs are not so quoted, the "Last Reported Sale Price" will be the average of the mid-point of the last bid and ask prices per ADS on the relevant date from each of at least three nationally recognized independent investment banking firms the Issuer selects for this purpose. When used in relation to an Ordinary Share, " Last Reported Sale Price" means, with respect to any day, the per share price of an Ordinary Share obtained by dividing (i) the quotient of the Last Reported Sale Price of an ADS for that day, divided by the number of CPOs represented by an ADS at the time of determination by (ii) the number of Ordinary Shares represented by a CPO at the time of determination; *provided* that if the Ordinary Shares are no longer represented by CPOs at the time of determination, references in this definition (other than in this proviso) to CPOs will be deemed to have been replaced by a reference to ADSs.

"LGTOC" means the Mexican General Law of Negotiable Instruments and Credit Transactions (*Ley General de Títulos y Operaciones de Crédito*).

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security or similar trust, security interest or encumbrance of any kind in respect of such asset. The Issuer shall be deemed to own, subject to a Lien, any asset that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capitalized Lease Obligations or other title retention lease relating to such asset, or any account receivable transferred by it with recourse (including any such transfer subject to a holdback or similar arrangement that effectively imposes the risk of collectability on the transferor).

"Market Disruption Event" means (i) a failure by the primary exchange or quotation system on which the ADSs trade or are quoted to open for trading during its regular trading session or (ii) the occurrence or existence prior to 1:00 p.m. New York City time, on any Trading Day, of an aggregate one half hour period of any suspension or limitation imposed on trading (by reason of movements in price exceeding limits permitted by the stock exchange or otherwise) in the ADSs or in any options, contracts or future contracts relating to ADSs.

"Maturity Date" means March 15, 2015.

"Offering Memorandum" means the final offering memorandum related to the Notes, dated March 24, 2010.

"Officer" means the President, the Chief Executive Officer, any Executive Vice President, any Senior Vice President, any Vice President, the Chief Financial Officer, the Treasurer, any member of the Board of Directors, any attorney-in-fact acting under a duly granted power-of-attorney or the Secretary of the Issuer.

"Officer's Certificate" means a certificate signed by one Officer and delivered to the Trustee.

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

"Ordinary Shares" means series A common stock or series B common stock of the Issuer, or any other shares of Capital Stock of the Issuer that are issued in exchange for, or otherwise replace, any of the foregoing, including any Reference Property. References to the Issuer in this definition shall also include any successor or purchasing corporation, or its direct or indirect parent entity, the common stock of which constitutes Reference Property, subject to compliance with Section 12.06.

"Perpetual Notes" means, collectively, the four series of perpetual debentures issued by special purpose vehicles and relating to the Dual Currency Notes.

"Person" means an individual, partnership, limited partnership, corporation, company, limited liability company, unincorporated organization, trust or joint venture, or a governmental agency or political subdivision thereof.

"Pesos" or "Ps." means the lawful currency of Mexico.

"Public Registry of Commerce" means the Public Registry of Property and Commerce (*Registro Público de la Propiedad y del Comercio*) of Monterrey, Nuevo León, México.

"Record Date" means the March 1 and September 1 immediately preceding each Interest Payment Date.

"Representative" means (a) the indenture trustee or other trustee, agent or representative for any Senior Indebtedness or (b) with respect to any Senior Indebtedness that does not have any such trustee, agent or other representative, (i) in the case of such Senior Indebtedness issued pursuant to an agreement providing for voting arrangements as among the holders or owners of such Senior Indebtedness, any holder or owner of such Senior Indebtedness acting with the consent of the required Persons necessary to bind such holders or owners of such Senior Indebtedness and (ii) in the case of all other such Senior Indebtedness, the holder or owner of such Senior Indebtedness.

"Resale Restriction Delegending Date" means the date that is one year from the Issue Date of the Notes.

"Restricted Note" means any Note until such time as (i) such Note has been transferred pursuant to an effective shelf registration statement or (ii) the Restricted Securities Legend therefor has been removed pursuant to Section 2.07(c) or (d).

"Restricted Securities Legend" means the legend labeled as such and that is set forth in Exhibit A hereto, which is incorporated in and expressly made a part of this Indenture.

"Restricted ADS Legend" means the legend labeled as such and that is set forth in Exhibit B hereto, which is incorporated in and expressly made a part of this Indenture.

"Securities Act" means the Securities Act of 1933, as amended, or any successor statute or statues thereto together with, in either case, the rules and regulations promulgated thereunder.

"Senior Indebtedness" means (a) the Issuer's guarantee of CEMEX Finance LLC's 9.5% Senior Secured Notes due 2016, (b) the Issuer's guarantee of CEMEX Finance LLC's 9.625% Senior Secured Notes due 2017, (c) the Issuer's obligations under the Financing Agreement and in respect of the indebtedness subject thereto, (d) the Issuer's guarantee of the Dual Currency Notes in respect of the Perpetual Notes, (e) the Issuer's obligations in respect of the *Certificados Bursátiles*, (f) obligations of the Issuer given preference in respect of the Notes by statute and (g) all other Indebtedness of the Issuer except for:

(1) Indebtedness that states, or is issued under a deed, indenture or other instrument that states, that it is subordinated to or ranks equally with the Notes; and

(2) Indebtedness between or among the Issuer and any of its Subsidiaries.

"Significant Subsidiary" means any Subsidiary of the Issuer that at the date of determination is a "significant subsidiary" as defined in Rule 1-02(w) of Regulation S-X under the Securities Act and the Exchange Act.

"Subsidiary" means with respect to any Person, any corporation, partnership, joint venture, limited liability company, trust, estate or other entity of which (or in which) more than fifty percent (50%) of (a) in the case of a corporation, the issued and outstanding Capital Stock having ordinary voting power to elect a majority of the Board of Directors of such corporation (irrespective of whether at the time Capital Stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency that has not occurred and is not in the control of such Person), (b) in the case of a limited liability company, partnership or joint venture, the voting or other power to control the actions of such limited liability company, partnership or joint venture or (c) in the case of a trust or estate, the voting or other power to control the actions of such trust or estate, is at the time directly or indirectly owned or controlled by (x) such Person, (y) such Person and one or more of its other Subsidiaries or (z) one or more of such Person's other Subsidiaries. Unless the context otherwise requires, all references herein to a " Subsidiary" shall refer to a Subsidiary of the Issuer.

"Trading Day" means, with respect to ADSs, a day during which trading in the Issuer's ADSs generally occurs on the primary exchange or quotation system on which the Issuer's ADSs then trade or are quoted and there is no Market Disruption Event.

"Transportation Agreement" means, in respect of any Person, any agreement or arrangement designed to protect such Person from fluctuations in prices related to transportation.

"Trustee" means the party named as such in the Preamble and any successor that replaces it in accordance with the applicable provisions of this Indenture, including any attorney-in-fact for the Trustee pursuant to a valid power of attorney issued by the Trustee to such attorney-in-fact.

"Trust Officer" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee having direct responsibility for the administration of this Indenture, or to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject and who shall have direct responsibility for the administration of this Indenture.

"U.S." means the United States of America.

"U.S. Government Obligations" means direct obligations (or certificates representing an ownership interest in such obligations) of the United States of America (including any agency or instrumentality thereof) for the payment of which the full faith and credit of the United States of America is pledged. In order to have money available on a payment date to pay principal or Interest on the Notes, the U.S. Government Obligations shall be payable as to principal or Interest on or before such payment date in such amounts as will provide the necessary money. U.S. Government Obligations shall not be callable at the Issuer's option.

"U.S. Legal Tender" or "U.S.$" means such coin or currency of the United States of America, as at the time of payment shall be legal tender for the payment of public and private debts.

"Voting Stock" with respect to any Person, means securities of any class of capital stock of such Person entitling the holders thereof (whether at all times or only so long as no senior class of stock has voting power by reason of any contingency) to vote in the election of members of the Board of Directors of such Person.

SECTION 1.02. Other Definitions.

	Defined in Section
"Additional ADSs"	Section 12.12(a)
"Additional Amounts"	Section 4.12(b)
"ADS Price"	Section 12.12(a)
"Authorized Agent"	Section 10.10(c)
"Banamex"	Section 12.02
"Business Day"	Section 10.06
"Change of Control Date"	Section 3.03(a)
"Change of Control Purchase Date"	Section 12.12(b)
"Change of Control Offer"	Section 3.03(a)
"Change of Control Payment"	Section 3.03(a)
"Conversion Agent"	Section 2.03
"Conversion Date"	Section 12.02
"Definitive Security"	Section 2.07(b)(i)
"Dividend Record Date"	Section 12.05(a)(i)

“Effective Date”	Section 12.12(a)
“Event of Default”	Section 6.01
“Expiration Date”	Section 12.05(a)(v)
“Expiration Time”	Section 12.05(a)(v)
“Financial Statements”	Section 10.01(b)
“Fundamental Change Notice”	Section 12.12(b)
“Junior Securities”	Section 11.14
“Make Whole Fundamental Change Premium”	Section 12.12(a)
“Mexican Trustee”	Preamble
“Net Total Assets”	Section 10.01(c)
“Notes”	Preamble
“Paying Agent”	Section 2.03
“Payment Blockage Notice”	Section 11.05(b)
“Payment Blockage Period”	Section 11.05(b)
“Payment Default”	Section 11.05(a)
“Payment of the Notes”	Section 11.05(a)
“Permitted Merger Jurisdictions”	Section 5.01(a)(ii)(A)
“Reference Property”	Section 12.06
“Register”	Section 2.03
“Registrar”	Section 2.03
“Rights Distribution Record Date”	Section 12.05(a)(ii)
“Settlement”	Section 12.02
“Spin-Off”	Section 12.05(a)(iii)
“Successor Issuer”	Section 5.01(a)(ii)
“Tax Redemption”	Section 3.01(a)
“Tax Redemption Date”	Section 3.01(e)
“Tax Redemption Notice”	Section 3.01(e)
“Tax Redemption Price”	Section 3.01(a)
“Taxes”	Section 4.12(a)
“Taxing Jurisdiction”	Section 3.01(a)
“USA Patriot Act”	Section 10.18
“Valuation Period”	Section 12.05(a)(iii)

SECTION 1.03. [Reserved].

SECTION 1.04. Rules of Construction. Unless the context otherwise requires:

(i) a term has the meaning assigned to it;

(ii) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(iii) “or” is not exclusive;

(iv) words in the singular include the plural, and in the plural include the singular;

(v) the male, female and neuter genders include one another;

(vi) the word "including" wherever used will be deemed to be followed by the word "without limitation";

(vii) references to agreements and other instruments include subsequent amendments thereto; and

(viii) the words "herein," "hereof" and other words of similar import refer to this Indenture as a whole and not to any particular Article, Section or other subdivision.

The terms and provisions contained in the Notes shall constitute, and are hereby expressly made, a part of this Indenture and the Issuer and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. However, to the extent any provision of any Note conflicts with the express provisions of this Indenture, the provisions of this Indenture shall govern and be controlling.

ARTICLE II

THE NOTES

SECTION 2.01. Form and Dating.

(a) Form and Dating.

(i) The Notes shall be issued in the form of one or more definitive, fully registered form of securities without interest coupons, with their English and Spanish text side-by-side, *provided*, *however*, that in case of any inconsistency or question as to the proper interpretation or construction of the Notes between the text in English and the text in Spanish, the English text shall control in all cases. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto. The terms and provisions of the Notes shall constitute, and are hereby expressly made, a part of this Indenture, and, to the extent applicable, the Issuer and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby.

(ii) Except as otherwise expressly permitted in this Indenture, all Notes shall be identical in all respects. Notwithstanding any differences among them, all Notes issued under this Indenture shall vote and consent together on all matters as one class.

(iii) Notes originally offered and sold to qualified institutional buyers in reliance on Rule 144A under the Securities Act will be issued in the form of one or more permanent Global Securities. Each such Global Security shall be issued with the Restricted Securities Legend and the Global Securities Legend.

(iv) Any Global Security shall be deposited on behalf of the purchasers of the Notes represented thereby with the Trustee, as custodian for the Depositary, and registered in the name of the Depositary or a nominee of the Depositary for the accounts

of participants in the Depositary, duly executed by the Issuer and the Mexican Trustee and authenticated by the Trustee as hereinafter provided. The aggregate principal amount of any Global Security may from time to time be increased or decreased by adjustments made on the records of the Trustee and the Depositary or its nominee as hereinafter provided. Any Global Security may be represented by more than one certificate.

(v) The Notes may have notations, legends or endorsements as specified in this Indenture or as otherwise required by law, stock exchange rule or Depositary rule or usage. The Issuer shall approve the form of the Notes and any notation, legend or endorsement on them.

(b) Book-Entry Provisions. This Section 2.01(b) shall apply only to a Global Security deposited with or on behalf of the Depositary.

The Issuer and the Mexican Trustee shall execute and the Trustee shall, in accordance with this Section 2.01(b) and upon Issuer Order, authenticate and deliver initially one or more Global Securities that (i) shall be registered in the name of the Depositary or a nominee of the Depositary (which, in the case of DTC, shall initially be Cede & Co.), (ii) shall be delivered by the Trustee to such Depositary or pursuant to such Depositary's instructions or held by the Trustee as custodian for the Depositary pursuant to (in the case of DTC) a FAST Balance Certificate Agreement between the Depositary and the Trustee, and (iii) shall bear appropriate legends as set forth herein.

Except as provided in Section 2.11(b)(iv), Agent Members shall have no rights under this Indenture with respect to any Global Security held on their behalf by the Depositary or by the Trustee as the custodian of the Depositary or under such Global Security, and the Depositary may be treated by the Issuer, the Trustee and any agent of the Issuer or the Trustee as the absolute owner of such Global Security for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall prevent the Issuer, the Trustee or any agent of the Issuer or the Trustee from giving effect to any written certification, proxy or other authorization furnished by the Depositary or impair, as between the Depositary and its Agent Members, the operation of customary practices of such Depositary governing the exercise of the rights of a holder of a beneficial interest in any Global Security.

(c) Definitive Securities. Except as provided in Section 2.07 and Section 2.11, owners of beneficial interests in Global Securities will not be entitled to receive physical delivery of certificated Notes in definitive form.

SECTION 2.02. Execution and Authentication. Two Officers (who shall be members of the Board of Directors) shall sign the Notes for the Issuer by manual or facsimile signature.

(a) If an Officer whose signature is on a Note no longer holds that office at the time the Note is authenticated, the Note shall nevertheless be valid.

(b) A Note shall not be valid until authenticated by the manual signature of the Trustee. The signature shall be conclusive evidence that the Note has been authenticated under this Indenture.

(c) The Trustee shall authenticate and make available for delivery Notes for original issue in the aggregate principal amount of up to U.S.$715,000,000 upon receipt of an Issuer Order, which shall specify the amount of Notes to be authenticated and the date on which the Notes are to be authenticated.

(d) The Notes shall be issuable only in registered form without coupons and only in denominations of U.S.$100,000 and multiples of U.S.$1,000 in excess thereof.

(e) The Trustee may appoint an authenticating agent acceptable to the Issuer to authenticate Notes. An authenticating agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by such agent. An authenticating agent has the same right as an Agent to deal with the Issuer or an Affiliate of the Issuer.

(f) If any successor that has replaced the Issuer in accordance with Article V has executed an indenture supplemental hereto with the Trustee pursuant to Article V, any of the Notes authenticated or delivered prior to such transaction may, from time to time, at the request of such successor, be exchanged for other Notes executed in the name of such successor with such changes in phraseology and form as may be appropriate, but otherwise identical to the Notes surrendered for such exchange and of like principal amount; and the Trustee, upon Issuer Order of such successor, shall authenticate and deliver Notes as specified in such order for the purpose of such exchange. If Notes shall at any time be authenticated and delivered in any new name of such successor pursuant to this Section 2.02(f) in exchange or substitution for or upon registration of transfer of any Notes, such successor, at the option of the Holders but without expense to them, shall provide for the exchange of all Notes then outstanding for Notes authenticated and delivered in such new name.

(g) The Notes shall also be signed by a duly authorized attorney-in-fact of the Mexican Trustee by manual or facsimile signature.

SECTION 2.03. The Trustee Registrar, Paying Agent and Conversion Agent . The Issuer shall maintain or cause to be maintained in such locations as it shall determine, which may be the Corporate Trust Office, an office or agency: (i) where securities may be presented for registration of transfer or for exchange ("Registrar"); (ii) where Notes may be presented for payment (" Paying Agent"); (iii) an office or agency where Notes may be presented for conversion (the "Conversion Agent"); and (iv) where notices and demands to or upon the Issuer in respect of Notes and this Indenture may be served by the Holders. The Registrar shall keep a Register ("Register") of the Notes and of their transfer and exchange. The Issuer may appoint one or more co-registrars, one or more additional paying agents and one or more additional conversion agents. The term "Paying Agent" includes any additional paying agent and the term "Conversion Agent" includes any additional conversion agent. The Issuer may change any Paying Agent, Registrar, Conversion Agent or co-registrar without prior notice. The Issuer shall notify the Trustee of the name and address of any Agent not a party to this Indenture and shall enter into an appropriate agency agreement with any Registrar, Paying Agent, Conversion Agent or co-registrar not a party to this Indenture. Such agency agreement shall implement the provisions of this Indenture that relate to such Agent. The Issuer or any of its Subsidiaries may act as Paying Agent, Registrar, Conversion Agent or co-registrar, except that for purposes of

Article VIII and Section 3.03, neither the Issuer nor any of its Subsidiaries shall act as Paying Agent. If the Issuer fails to appoint or maintain another entity as Registrar, Paying Agent or Conversion Agent, the Trustee shall act as such, and the Trustee shall initially act as such. The Issuer designates the Borough of Manhattan, New York City, office or agency of the Trustee as one such office or agency of the Issuer required by this Section 2.03, until such time as another office or agency located in the Borough of Manhattan is designated as such, and appoints the Trustee as Registrar, Paying Agent, Conversion Agent and agent for service of demands and notices in connection with the Notes and this Indenture until such time as another Person is appointed as such.

SECTION 2.04. Paying Agent to Hold Money in Trust. The Issuer shall require each Paying Agent (other than the Trustee, who hereby so agrees) to agree in writing that the Paying Agent will hold in trust for the benefit of the Holders or the Trustee all money held by the Paying Agent for the payment of principal or Interest on the Notes, and will notify the Trustee of any default by the Issuer in respect of making any such payment. While any such default continues, the Trustee may require a Paying Agent to pay all money held by it to the Trustee. The Issuer at any time may require a Paying Agent to pay all money held by it to the Trustee. Upon payment over to the Trustee, the Paying Agent (if other than the Issuer or a Subsidiary of the Issuer) shall have no further liability for the money. If the Issuer or a Subsidiary of the Issuer acts as Paying Agent, it shall segregate and hold in a separate trust fund for the benefit of the Holders of all money held by it as Paying Agent. Upon any proceeding under any Bankruptcy Law with respect to the Issuer or any of its Affiliates, if the Issuer or such Affiliate is then acting as Paying Agent, the Trustee shall replace the Issuer or such Affiliate as Paying Agent.

SECTION 2.05. Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. If the Trustee is not the Registrar, the Issuer shall furnish to the Trustee at least seven Business Days before each Interest Payment Date, and as the Trustee may request in writing within fifteen (15) days after receipt by the Issuer of any such request (or such lesser time as the Trustee may reasonably request in order to enable it to timely provide any notice to be provided by it hereunder), a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of the Holders.

SECTION 2.06. Legends; Transfer Restrictions. (a) Each Global Security shall bear the Global Securities Legend.

(b) Each Restricted Note shall bear the Restricted Securities Legend. Each Note that bears or is required to bear the Restricted Securities Legend shall be subject to the restrictions on transfer set forth therein, and each Holder of such Note, by such Holder's acceptance thereof, agrees to be bound by all such restrictions on transfer.

(c) As used in this Section 2.06 and in Section 2.07, the term "transfer" includes any sale, pledge, transfer or other disposition whatsoever of any Restricted Note. The Registrar shall not register any transfer of a Restricted Note not made in accordance with the restrictions on transfer set forth in this Section 2.06 and in Section 2.07.

(d) Every ADR certificate representing an ADS issued in the circumstances described in Section 12.11 hereof shall bear the applicable Restricted ADS Legend unless removed in accordance with the provisions of Section 12.11.

SECTION 2.07. Transfer and Exchange. (a) When Notes are presented to the Registrar or a co-registrar with a request to register a transfer or to exchange them for an equal principal amount of Notes for other denominations, the Registrar shall register the transfer or make the exchange if its requirements for such transactions specified herein and the related certificate are met. To permit registrations of transfers and exchanges, the Issuer shall issue and the Trustee shall authenticate Notes at the Registrar's request, bearing certificate numbers not contemporaneously outstanding. No service charge shall be imposed on a Holder for any registration of transfer or exchange of Notes (except as otherwise expressly permitted herein), but the Issuer and the Registrar may require payment of a sum sufficient to cover any transfer Tax or other governmental charge payable upon exchanges pursuant to Section 2.11, Section 9.05 or Section 12.02.

The Issuer or the Registrar shall not be required to register the transfer of any Notes surrendered for repurchase pursuant to Section 3.03.

All Notes issued upon any transfer or exchange of Notes in accordance with this Indenture shall be the valid obligations of the Issuer, evidencing the same debt, and entitled to the same benefits under this Indenture as the Notes surrendered upon such registration of transfer or exchange.

(b) Notwithstanding any provision to the contrary herein, so long as a Global Security remains outstanding and is held by or on behalf of the Depositary, transfers of a Global Security, in whole or in part, or of any beneficial interest therein, shall only be made in accordance with this Section 2.07(b), Section 2.11 and the Applicable Procedures; *provided*, *however*, that beneficial interests in a Global Security that is a Restricted Note may be transferred to Persons who take delivery thereof in the form of a beneficial interest in such Global Security in accordance with the transfer restrictions set forth in the Restricted Securities Legend.

Except for transfers or exchanges made in accordance with paragraphs (i) through (iii) of this Section 2.07(b) and Section 2.11, transfers of a Global Security shall be limited to transfers of such Global Security in whole, but not in part, to nominees of the Depositary or to a successor of the Depositary or such successor's nominee.

(i) *Global Security to Definitive Security.* If an owner of a beneficial interest in a Global Security deposited with the Depositary or with the Trustee as custodian for the Depositary wishes at any time to transfer its interest in such Global Security to a Person who is required to take delivery thereof in the form of a definitive registered note (such Note, a "Definitive Security"), such owner may, subject to the restrictions on transfer set forth herein and such Global Security and the Applicable Procedures, cause the exchange of such interest for one or more Definitive Securities of any authorized denomination or denominations and of the same aggregate principal amount. Upon receipt by the Registrar of (1) instructions from the Depositary and/or its participants directing the Trustee to authenticate and deliver one or more Definitive Securities of the

same aggregate principal amount as the beneficial interest in the Global Security to be exchanged (such instructions to contain the name or names of the designated transferee or transferees, the authorized denomination or denominations of the Definitive Securities to be so issued and appropriate delivery instructions), and (2) in the case of a Restricted Note, such certifications or other information and, except in the case of transfers pursuant to Rule 144 under the Securities Act, legal opinions as the Issuer may reasonably require to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act, then the Registrar will instruct the Depositary to reduce or cause to be reduced such Global Security by the aggregate principal amount of the beneficial interest therein to be exchanged and to debit or cause to be debited from the account of the Person making such transfer the beneficial interest in the Global Security that is being transferred, and concurrently with such reduction and debit the Issuer shall execute, and the Trustee shall authenticate and deliver, one or more Definitive Securities of the same aggregate principal amount in accordance with the instructions referred to above.

(ii) *Definitive Security to Definitive Security.* If a Holder of a Definitive Security wishes at any time to transfer such Definitive Security (or portion thereof) to a Person who is required to take delivery thereof in the form of a Definitive Security, such Holder may, subject to the restrictions on transfer set forth herein and in such Definitive Security, cause the transfer of such Definitive Security (or any portion thereof in a principal amount equal to an authorized denomination) to such transferee. Upon receipt by the Registrar of (1) such Definitive Security, duly endorsed as provided herein, (2) instructions from such Holder directing the Trustee to authenticate and deliver one or more Definitive Securities of the same aggregate principal amount as the Definitive Security, or portion thereof, to be transferred (such instructions to contain the name or names of the designated transferee or transferees, the authorized denomination or denominations of the Definitive Securities to be so issued and appropriate delivery instructions), and (3) in the case of a Restricted Note, such certifications or other information and, except in the case of transfers to Persons pursuant to Rule 144 under the Securities Act, legal opinions as the Issuer may reasonably require to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act, then the Registrar, shall cancel or cause to be canceled such Definitive Security and concurrently therewith, the Issuer shall execute, and the Trustee shall authenticate and deliver, one or more Definitive Securities in the appropriate aggregate principal amount, in accordance with the instructions referred to above and, if only a portion of a Definitive Security is transferred as aforesaid, concurrently therewith the Issuer shall execute and the Trustee shall authenticate and deliver to the transferor a Definitive Security in a principal amount equal to the principal amount which has not been transferred. A Holder of a Definitive Security may at any time exchange such Definitive Security for one or more Definitive Securities of other authorized denominations and in the same aggregate principal amount and registered in the same name by delivering such Definitive Security, duly endorsed as provided herein, to the Trustee together with instructions directing the Trustee to authenticate and deliver one or more Definitive Securities in the same aggregate principal amount and registered in the same name as the Definitive Security to be exchanged, and the Registrar thereupon shall cancel or caused to be canceled such Definitive Security and concurrently therewith the Issuer shall execute and Trustee shall authenticate and deliver, one or more Definitive Securities in the same aggregate principal amount and registered in the same name as the Definitive Security being exchanged.

(iii) *Definitive Security to Global Security*. If a Holder of a Definitive Security wishes at any time to transfer such Definitive Security (or portion thereof) to a Person who is not required to take delivery thereof in the form of a Definitive Security, such Holder shall, subject to the restrictions on transfer set forth herein and in such Definitive Security and the rules of the Depositary cause the exchange of such Definitive Security for a beneficial interest in the Global Security. Upon receipt by the Registrar of (1) such Definitive Security, duly endorsed as provided herein, (2) instructions from such Holder directing the Trustee to increase the aggregate principal amount of the Global Security deposited with the Depositary or with the Trustee as custodian for the Depositary by the same aggregate principal amount as the Definitive Security to be exchanged, such instructions to contain the name or names of a member of, or participant in, the Depositary that is designated as the transferee, the account of such member or participant and other appropriate delivery instructions, (3) the assignment form on the back of the Definitive Security completed in full, and (4) in the case of a Restricted Note, such certifications or other information and legal opinions as the Issuer may reasonably require to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act, then the Trustee shall cancel or cause to be canceled such Definitive Security and concurrently therewith shall increase the aggregate principal amount of the Global Security by the same aggregate principal amount as the Definitive Security canceled.

All Definitive Securities shall be issued in minimum principal amounts of U.S.$100,000 and integral multiples of U.S.$1,000 in excess thereof.

(c) So long as and to the extent that the Notes are represented by one or more Global Securities held by or on behalf of the Depositary only, the Issuer may accomplish any delegending of such Notes represented by such Global Securities at any time on or after the Resale Restriction Delegending Date, to the extent such Notes are freely tradable without restrictions under applicable securities laws, by:

(i) providing written notice to the Trustee that the Resale Restriction Delegending Date has occurred and instructing the Trustee to remove the Restricted Securities Legend from the Notes;

(ii) providing written notice to Holders of the Notes that the Restricted Securities Legend has been removed or deemed removed;

(iii) providing written notice to the Trustee and the Depositary to change the CUSIP number for the Notes to the applicable unrestricted CUSIP number; and

(iv) complying with any Applicable Procedures for delegending;

whereupon the Restricted Securities Legend shall be deemed removed from any Global Securities without further action on the part of Holders.

(d) Transfers of Notes and Restricted Notes.

(i) Upon the transfer, exchange or replacement of Notes (or beneficial interests in a Global Security) not bearing (or not required to bear upon such transfer, exchange or replacement) a Restricted Securities Legend, the Registrar shall exchange such Notes (or beneficial interests) for Notes (or beneficial interests in a Global Security) not bearing a Restricted Securities Legend.

(ii) Upon the transfer, exchange or replacement of Notes (or beneficial interests in a Global Security) bearing a Restricted Securities Legend at any time prior to the time the Issuer has provided notice of the occurrence of the Resale Restriction Delegending Date, the Registrar shall deliver only Notes (or beneficial interests in a Global Security) bearing a Restricted Securities Legend unless (i) such Notes (or beneficial interests) are transferred pursuant to an effective shelf registration statement; (ii) such Notes (or beneficial interests) are transferred pursuant to Rule 144 upon delivery to the Registrar of a certificate of the transferor in the form contained in Exhibit A hereto and an Opinion of Counsel reasonably satisfactory to the Registrar; (iii) such Notes (or beneficial interests) are transferred, replaced or exchanged after the Resale Restriction Delegending Date and are freely tradable without restriction under applicable securities laws; or (iv) in connection with such transfer, exchange or replacement the Registrar shall have received an Opinion of Counsel, certificates and such other evidence reasonably required by and satisfactory to it to the effect that neither such Restricted Securities Legend nor the related restrictions on transfer are required in order to maintain compliance with the provisions of the Securities Act. The Issuer shall deliver to the Trustee an Officer's Certificate promptly upon effectiveness, withdrawal or suspension of any shelf registration statement that is or has previously been declared effective with respect to the Notes.

(e) Any transfer of Restricted Notes not described above (other than a transfer of a beneficial interest in a Global Security that does not involve an exchange of such interest for a Definitive Security or a beneficial interest in another Global Security, which must be effected in accordance with applicable law and the Applicable Procedures, but is not subject to any procedure required by this Indenture) shall be made only upon receipt by the Registrar of such Opinions of Counsel, certificates and such other evidence reasonably required by and satisfactory to it in order to ensure compliance with the Securities Act, or as otherwise set forth in this Indenture.

(f) Any Note or ADS issued upon the conversion or exchange of a Note that, prior to the date upon which the Issuer instructs the Trustee to remove the Restricted Securities Legend pursuant to Section 2.07(c) above, is purchased or owned by the Issuer or any Affiliate thereof, may not be resold by the Issuer, and the Issuer may not permit any such Affiliate to resell it, unless registered under the Securities Act or resold pursuant to an exemption from the registration requirements of the Securities Act in a transaction that results in such Note or ADS, as the case may be, no longer being "restricted securities" (as defined under Rule 144).

(g) Neither the Trustee nor any Agent shall have any responsibility for any actions taken or not taken by the Depositary. All notices and communications to be given to the Holders

and all payments to be made to Holders in respect of the Notes shall be given or made only to or upon the order of the registered Holders (which shall be the Depositary or its nominee in the case of a Global Security). The rights of beneficial owners in any Global Security shall be exercised only through the Depositary subject to the Applicable Procedures. The Trustee may conclusively rely and shall be fully protected in relying upon information furnished by the Depositary with respect to its Agent Members and any beneficial owners.

(h) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Notes (including any transfers between or among Agent Members or beneficial owners of interests in any Global Security) other than to require delivery of such certificates and other documentation as is expressly required by, and to do so if and when expressly required by, the terms of this Indenture and to examine the same to determine substantial compliance as to form with the express requirements hereof. The Trustee shall have no obligations or duties to the holders of any ADSs issued pursuant to Article XII hereof.

(i) The Trustee shall have no responsibility or obligation to any beneficial owner of an interest in a Global Security, Agent Members or any other Persons with respect to the accuracy of the records of DTC or its nominee or of Agent Members, with respect to any ownership interest in the Notes or with respect to the delivery to any Agent Member, beneficial owner or other Person (other than DTC) of any notice (including any notice of redemption) or the payment of any amount or delivery of any Notes (or other security or property) under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to Holders in respect of the Notes shall be given or made only to or upon the order of the registered Holders (which shall be DTC or its nominee in the case of a Global Security). The rights of beneficial owners in any Global Security shall be exercised only through DTC subject to the applicable rules and procedures of DTC. The Trustee may and shall be fully protected in relying upon information furnished by DTC with respect to its Agent Members and any beneficial owners.

SECTION 2.08. Replacement Notes. If the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Issuer shall issue (after the execution by two Officers, who shall also be members of the Board of Directors), the Mexican Trustee shall sign and the Trustee shall authenticate a replacement Note if the Trustee's requirements are met. If required by the Trustee, the Mexican Trustee or the Issuer as a condition of receiving a replacement Note, such Holder shall provide a certificate of loss and an indemnity and/or an indemnity bond sufficient, in the judgment of the Issuer, the Mexican Trustee and the Trustee, to fully protect the Issuer, the Mexican Trustee, the Trustee, any Agent and any authenticating agent from any loss, liability, cost or expense which any of them may suffer or incur if the Note is replaced. The Issuer, the Mexican Trustee and the Trustee may charge the relevant Holder for their expenses in replacing any Note.

The Trustee or any authenticating agent may authenticate any such substituted Note, and deliver the same upon the receipt of such security or indemnity as the Trustee, the Mexican Trustee, the Issuer and, if applicable, such authenticating agent may require. Upon the issuance of any substituted Note, the Issuer and the Trustee may require the payment of a sum sufficient

to cover any Tax or other governmental charge that may be imposed in relation thereto and any other expenses connected therewith. In case any Note which has matured or is about to mature, or has been submitted for repurchase pursuant to Section 3.03 or is about to be converted into ADSs pursuant to Article XII, shall become mutilated or be destroyed, lost or stolen, the Issuer may, instead of issuing a substitute Note, pay or authorize the payment of or convert or authorize the conversion of the same (without surrender thereof except in the case of a mutilated Note), as the case may be, if the applicant for such payment or conversion shall furnish to the Issuer, to the Mexican Trustee, to the Trustee and, if applicable, to the authenticating agent such security or indemnity as may be required by them to save each of them harmless for any loss, liability, cost or expense caused by or connected with such action, and, in case of destruction, loss or theft, evidence satisfactory to the Issuer, the Mexican Trustee, the Trustee and, if applicable, any Paying Agent or Conversion Agent of the destruction, loss or theft of such Note and of the ownership thereof.

Every replacement Note is an additional obligation of the Issuer and shall be entitled to all the benefits provided under this Indenture equally and proportionately with all other Notes duly issued, authenticated and delivered hereunder.

SECTION 2.09. Outstanding Notes. The Notes outstanding at any time are all the Notes properly authenticated by the Trustee except for those canceled by the Trustee, those delivered to it for cancellation, and those described in this Section as not outstanding.

If a Note is replaced pursuant to Section 2.08, it shall cease to be outstanding unless the Trustee receives proof satisfactory to it that the replaced Note is held by a protected purchaser.

If Notes are considered paid under Section 4.01, converted under Article XII or redeemed or repurchased pursuant to Section 3.01 or Section 3.03, they shall cease to be outstanding and Interest on them shall cease to accrue, except as may be otherwise set forth herein.

Subject to Section 2.10 hereof, a Note does not cease to be outstanding because the Issuer or an Affiliate of the Issuer holds the Note.

SECTION 2.10. When Treasury Notes Disregarded. In determining whether the Holders of the required principal amount of Notes have concurred in any direction, waiver or consent, Notes owned by the Issuer or an Affiliate of the Issuer shall be considered as though they are not outstanding except that for the purposes of determining whether the Trustee shall be protected in relying on any such direction, waiver or consent, only Notes which a Trust Officer of the Trustee actually knows are so owned shall be so disregarded. Prior to any such determination, the Issuer shall be obliged to advise the Trustee of any Notes owned by the Issuer or an Affiliate of the Issuer.

SECTION 2.11. Temporary Notes; Definitive Securities. (a) Until Definitive Securities are ready for delivery, the Issuer may prepare and the Trustee shall authenticate temporary Notes, which shall also be signed by the Mexican Trustee. Temporary Notes shall be substantially in the form of definitive Notes but may have variations that the Issuer considers appropriate for temporary Notes and shall be reasonably acceptable to the Trustee. Without unreasonable delay, the Issuer shall prepare, the Mexican Trustee shall sign and the Trustee shall authenticate Definitive Securities in exchange for temporary Notes.

(b) Definitive Securities.

(i) Except for transfers made in accordance with Section 2.07(b), a Global Security deposited with the Depositary or with the Trustee as custodian for the Depositary pursuant to Section 2.01 shall be transferred to the beneficial owners thereof in the form of Definitive Securities only if such transfer complies with Section 2.07 and (x) the Depositary notifies the Issuer that it is unwilling or unable to continue as Depositary for such Global Security or if at any time such Depositary ceases to be a "clearing agency" registered under the Exchange Act and a successor Depositary is not appointed by the Issuer within 90 days of such notice, (y) an Event of Default has occurred and is continuing, or (z) the Issuer, in its sole discretion, determines that the Global Security will be exchangeable for Definitive Securities in registered form and notifies the Trustee of its decision.

(ii) In connection with the exchange of an entire Global Security for Definitive Securities pursuant to clause (x) of Section 2.11(b)(i), such Global Security shall be deemed to be surrendered to the Trustee for cancellation, and the Issuer (by means of the execution by two Officers, who shall also be members of the Board of Directors) and the Mexican Trustee shall execute, and upon Issuer Order the Trustee shall authenticate and deliver to each Person identified by DTC and/or its participants in exchange for its interest in such Global Security, an equal aggregate principal amount of Definitive Securities of authorized denominations, and the Registrar shall register such exchanges in the Register.

(iii) In connection with the exchange of an entire Global Security for Definitive Securities pursuant to clause (y) of Section 2.11(b)(i), if an Event of Default has occurred and is continuing, upon receipt by the Registrar of instructions from Agent Members on behalf of the owner of a beneficial interest in a Global Security directing the Registrar to exchange such beneficial owner's beneficial interest in such Global Security for Definitive Securities, subject to and in accordance with the Applicable Procedures, the Issuer (by means of the execution by two Officers, who shall also be members of the Board of Directors) and the Mexican Trustee shall promptly execute, and upon Issuer Order the Trustee shall authenticate and make available for delivery to such beneficial owner, Definitive Securities in a principal amount equal to such beneficial interest in such Global Security.

(iv) If (A) an event described in clause (x) of Section 2.11(b)(i) occurs and Definitive Securities are not issued promptly to all beneficial owners or (B) the Registrar receives from a beneficial owner instructions to obtain Definitive Securities due to an event described in clause (y) of Section 2.11(b)(i) and Definitive Securities are not issued promptly to any such beneficial owner, the Issuer expressly acknowledges, with respect to the right of any Holder to pursue a remedy pursuant to Section 6.06 hereof, the right of any beneficial owner of Notes to pursue such remedy with respect to the portion of the Global Security that represents such beneficial owner's Notes as if such Definitive Securities had been issued.

(c) Any Global Security or interest therein that is transferable to the beneficial owners thereof in the form of Definitive Securities shall, if held by the Depositary, be surrendered by the Depositary to the Trustee, without charge, and the Trustee shall authenticate and deliver, upon such transfer of each portion of such Global Security, an equal aggregate principal amount of Notes of authorized denominations in the form of certificated Notes in definitive form. Any portion of a Global Security transferred pursuant to this Section shall be executed, authenticated and delivered only in denominations of U.S.$100,000 and multiples of U.S.$1,000 in excess thereof and registered in such names as the Depositary and/or its participants shall direct.

(d) Prior to any transfer pursuant to Section 2.11(b), the registered Holder of a Global Security may grant proxies and otherwise authorize any Person, including Agent Members and Persons that may hold interests through Agent Members, to take any action which a Holder is entitled to take under this Indenture or the Notes.

(e) The Issuer will make available to the Trustee a reasonable supply of certificated Notes in definitive form without interest coupons.

SECTION 2.12. Cancellation. The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar and Paying Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else may cancel Notes surrendered for registration of transfer, exchange, payment, replacement, conversion, redemption, repurchase or cancellation. All Notes so surrendered to the Trustee shall be cancelled promptly by the Trustee. Upon written instructions of the Issuer, the Trustee shall dispose of canceled Notes in accordance with its customary procedures for the disposition of canceled securities and, after such disposition, shall upon written request deliver a certificate of disposition to the Issuer. The Issuer may not issue new Notes to replace Notes that it has paid or repurchased or that have been delivered to the Trustee for cancellation or that any Holder has (i) converted pursuant to Article XII hereof, or (ii) submitted for repurchase pursuant to Section 3.03 hereof (unless validly revoked pursuant to Section 3.04).

SECTION 2.13. [Reserved].

SECTION 2.14. CUSIP Number. (a) The Issuer, in issuing the Restricted Notes, will use a restricted CUSIP number for such Notes until such time as the Restricted Securities Legend is removed pursuant to Section 2.07(c) or Section 2.07(d). At such time as the applicable restrictive legend is removed from such Notes pursuant to Section 2.07(c) or Section 2.07(d), the Issuer will use an unrestricted CUSIP number for such Note, but only with respect to the Notes where so removed.

(b) The Issuer, upon issuing ADSs upon conversion of Restricted Notes, will use a restricted CUSIP number for such ADSs. With respect to each ADR representing such ADS, until such time as the applicable Restricted ADS Legend is removed pursuant to Section 2.07(c) or Section 2.07(d) from such ADR, such restricted CUSIP will be the CUSIP numbers for such

ADR. At such time as the applicable restrictive legend is removed from such ADR pursuant to Section 2.07(c) or Section 2.07(d), an unrestricted CUSIP number for such ADR will be deemed to be the CUSIP number therefor, but only with respect to the ADRs where so removed.

(c) The Trustee shall use the applicable CUSIP number in notices of redemption as a convenience to Holders; *provided* that any such notice may state that no representation is made as to the correctness of such number either as printed on the Notes or as contained in any notice of a redemption and that reliance may be placed only on the other identification numbers printed on the Notes, and any such redemption shall not be affected by any defect in or omission of such number. The Issuer will promptly notify the Trustee in writing of any change in the CUSIP number.

ARTICLE III

REDEMPTION AND REPURCHASE OF NOTES

SECTION 3.01. Redemption of Notes at the Option of the Issuer. (a) If, as a result of any amendment to, or change in, the laws (or any rules or regulations thereunder) of any government or jurisdiction (a "Taxing Jurisdiction") affecting taxation, or any amendment to or change in an official interpretation or application of such laws, rules or regulations that has a general effect, which amendment to or change of such laws, rules or regulations becomes effective on or after the Issue Date (which, in the case of a merger, consolidation or other transaction permitted and described under Article V, shall be treated for this purpose as the date of such transaction) the Issuer would be obligated, after taking all reasonable measures to avoid such requirement, to pay Additional Amounts in excess of those attributable to a withholding Tax rate of 10% with respect to the Notes, then, at the Issuer's option, the Issuer may give a Tax Redemption Notice whereupon the Notes shall be redeemed (a "Tax Redemption") in whole, but not in part, at a redemption price (the "Tax Redemption Price") equal to 100% of the outstanding principal amount, plus Interest, if any, up to but not including the Tax Redemption Date; *provided*, *however*, that (1) no Tax Redemption Notice may be given earlier than 90 days prior to the earliest date on which the Issuer would be obligated to pay the Additional Amounts described in the preceding sentence if a payment on the Notes were then due, (2) at the time such Tax Redemption Notice is given such obligation to pay such Additional Amounts remains in effect, and (3) the Issuer shall have satisfied the additional requirements set forth in paragraph (b) of this Section 3.01. A Tax Redemption Notice, once delivered by the Issuer or caused to be delivered by the Issuer, shall be irrevocable.

(b) Prior to the publication of any Tax Redemption Notice, the Issuer will deliver to the Trustee:

(i) an Officer's Certificate stating that the Issuer is entitled to effect the redemption and setting forth a statement of facts showing that the conditions precedent to the Issuer's right to redeem have occurred, and

(ii) an Opinion of Counsel of recognized standing in the affected Taxing Jurisdiction to the effect that the Issuer has or will become obligated to pay such Additional Amounts as a result of such change or amendment.

(c) The Issuer shall not have the right to exercise any such optional redemption at any time when it is prohibited from having such an option under the Financing Agreement. Upon delivery of a Tax Redemption Notice, each Holder will have the option to convert its Notes as if a Fundamental Change had occurred by delivering a notice of conversion of the Notes to the Trustee no later than the close of business on the fourth Business Day immediately preceding the Tax Redemption Date set forth in the Tax Redemption Notice. Such conversion shall be made at the Make Whole Fundamental Change Premium, determined as set forth in Section 12.12; *provided* that the "ADS price" used by the Issuer in the calculation of the make whole amount shall be the Last Reported Sale Price of the ADSs on the Trading Day immediately preceding the date the Tax Redemption Notice is delivered by the Issuer or caused to be delivered by the Issuer and "Effective Date" used in such calculation shall be the Trading Day immediately preceding such date of delivery. The settlement of such conversion shall be made in accordance with the settlement provisions set forth in Section 12.12.

(d) If the Issuer sets a Tax Redemption Date between a Record Date and the corresponding Interest Payment Date, the Issuer will not pay accrued Interest to any redeeming Holder, and will instead pay the full amount of the relevant Interest payment on such Interest Payment Date to the Holder of record on such Record Date.

(e) If the Issuer elects to exercise the redemption right described in Section 3.01(a), it shall give, or cause to be given by the Trustee, irrevocable written notice of redemption (the "Tax Redemption Notice") not less than 30 days nor more than 60 days before the Tax Redemption Date to the Trustee, the Paying Agent and each Holder at the addresses as shown on the Register. The Tax Redemption Notice shall include such notices as are required by law and shall state: (i) the aggregate principal amount of Notes to be redeemed; (ii) the CUSIP number or numbers of the Notes being redeemed; (iii) the Business Day on which the redemption will be effected (the "Tax Redemption Date"); (iv) the Tax Redemption Price; (v) the place or places of payment and that payment will be made upon presentation and surrender of such Notes; (vi) that Interest to, but excluding, the Tax Redemption Date will be paid as specified in said notice, and that on and after said date Interest thereon or on the portion thereof to be redeemed will cease to accrue; (vii) that the Holder has a right to convert the Notes called for redemption at a Make Whole Fundamental Change Premium; (viii) the Conversion Rate on the date of Tax Redemption Notice; (ix) the method of calculating the number of ADSs to be delivered to the Holder upon conversion with respect to any conversions made prior to the Tax Redemption Date; (x) the applicable information required to be contained in a Fundamental Change Notice as set forth in Section 12.12(b); and (xi) if required, whether the Issuer has an effective resale shelf registration statement with respect to any ADSs it may issue as payment for the Make Whole Fundamental Change Premium and, if so, include a selling ADS holder questionnaire to enable each Holder or beneficial owner of Notes to be named as a seller in such resale shelf registration statement. Simultaneously with providing the Tax Redemption Notice, the Issuer shall also issue a press release announcing the occurrence of such Tax Redemption.

(f) On the third Business Day following the Tax Redemption Date, the Issuer shall issue and shall deliver to each Holder of record on the Tax Redemption Date at the office or agency maintained by the Issuer for such purpose pursuant to Section 4.04, a certificate or certificates for, or effect a book-entry transfer through the Depositary with respect to, the number of full ADSs issuable in accordance with the provisions of Section 3.01(b) and Section 3.01(c).

SECTION 3.02. [Reserved].

SECTION 3.03. Repurchase Upon a Change of Control at the Option of the Holders . (a) Upon the occurrence of a Change of Control (the effective date of each such occurrence, the "Change of Control Date"), the Issuer shall notify the Holders, the Mexican Trustee and the Trustee in writing of such occurrence and shall be required to make an offer (the "Change of Control Offer") to repurchase all Notes then outstanding at a repurchase price in cash (the " Change of Control Payment") equal to 100% of the principal amount thereof, plus Interest, to, but excluding, the Change of Control Purchase Date (as defined in Section 12.12(b)) (unless the Change of Control Purchase Date is between a Record Date and the Interest Payment Date to which it relates, in which case the Issuer will pay Interest on such Interest Payment Date to the Holder of record on such Record Date and the Change of Control Payment will be equal to 100% of the principal amount of the Notes subject to repurchase and will not include Interest).

(b) Notice of a Change of Control shall be made in accordance with the provisions set forth under Section 12.12(b).

(c) The Issuer will not be required to make a Change of Control Offer if a third party makes a Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth herein applicable to a Change of Control Offer made by the Issuer and purchases all Notes validly tendered and not withdrawn under such Change of Control Offer.

SECTION 3.04. General Provisions Applicable to Repurchases. The following additional provisions shall apply to repurchases pursuant to Section 3.03.

(a) To exercise its rights under Section 3.03, a Holder must deliver the Notes to be purchased to the Paying Agent, together with a written purchase notice, after receipt of the Fundamental Change Notice and on or before the Business Day immediately preceding the Change of Control Purchase Date. The purchase notice must contain: (x) if the Notes are not certificated, the Holder's notice must comply with appropriate DTC procedures or, if the Notes are certificated, the notice shall include the certificate numbers of the Holder's Notes to be delivered for purchase; (y) the portion of the principal amount of the Holder's Notes to be purchased, which must be U.S.$1,000 or a multiple of U.S.$1,000; *provided* that the portion not to be purchased is in a minimum principal amount of U.S.$100,000; and (z) that the Holder's Notes are to be purchased by the Issuer pursuant to the applicable provisions of the Notes and this Indenture. In addition, if the Notes are certificated, the Notes delivered for repurchase shall be duly endorsed for transfer and the written purchase notice in the appropriate form on the reverse side of the Notes shall be duly completed. No Notes of a principal amount of less than U.S.$100,000 shall be purchased by the Issuer in part.

(b) On the Business Day prior to the Change of Control Purchase Date, the Issuer will deposit with the Trustee or with the Paying Agent an amount of money in immediately available funds sufficient to repurchase on such date all the Notes (or portions thereof) tendered for repurchase (other than those theretofore surrendered for conversion into ADSs) and not withdrawn, *provided* that if such payment is made on the Change of Control Purchase Date, it must be received by the Trustee or Paying Agent, as the case may be, by 10:00 a.m. New York City time on such date.

(c) A Holder that has exercised a repurchase right will receive the Change of Control Payment, promptly following the later of (i) the Change of Control Purchase Date or (ii) the time of book-entry transfer or the delivery of the Notes. If the Paying Agent holds money or securities sufficient to pay the cash portion of the purchase price of the Notes to be repurchased on the second Business Day following the Change of Control Purchase Date, then the following shall occur:

(A) the Notes tendered for purchase and not withdrawn will cease to be outstanding and Interest, if any, will cease to accrue on such Notes on the Change of Control Purchase Date (whether or not book-entry transfer of the Notes is made or whether or not the Notes are delivered to the Paying Agent); and

(B) all other rights of the Holders with respect to the Notes tendered for purchase and not withdrawn will terminate on the Change of Control Purchase Date (other than the right to receive the Change of Control Payment upon delivery or transfer of the Notes).

(d) Any Change of Control Offers shall be made by the Issuer in compliance with all applicable provisions of the Exchange Act, all applicable tender offer rules promulgated thereunder and all other federal and state securities laws, to the extent such laws and regulations are then applicable and shall include all instructions and materials (such as the filing of a Schedule TO or any other required schedule) that the Issuer shall reasonably deem necessary to enable each such Holder to tender its Notes. The Issuer will not purchase Notes if the principal amount of the Notes has been accelerated, and such acceleration has not been rescinded, on or prior to the Change of Control Purchase Date.

(e) Notwithstanding anything herein to the contrary, any Holder delivering to a Paying Agent an election to have its Notes purchased pursuant to Section 3.03 shall have the right to withdraw such election in whole or in a portion thereof that is a principal amount of U.S.$1,000 or in an integral multiple thereof (*provided* that the portion not to be so purchased is in a minimum principal amount of U.S.$100,000), if the Paying Agent receives, not later than close of business on the Business Day immediately preceding the Change of Control Purchase Date, a facsimile transmission or written letter, which may be sent via, mail setting forth (i) the name of the Holder; (ii) the principal amount of withdrawn Notes, which must be U.S.$1,000 or a multiple of U.S.$1,000, *and provided* that the portion remaining to be repurchased is in a minimum principal amount of U.S.$100,000; (iii) if certificated Notes have been issued, the certificate numbers of the withdrawn Notes, or if not certificated, the notice must comply with appropriate DTC procedures; and (iv) the principal amount, if any, which remains subject to the notice of election.

(f) If a Holder has already delivered a purchase notice as described in Section 3.03 with respect to a Note, the Holder may not surrender that Note for conversion until the Holder has withdrawn the purchase notice in accordance with Section 3.04(e).

ARTICLE IV

COVENANTS

SECTION 4.01. Payment of Notes. The Issuer shall pay the principal of and Interest on the Notes on the dates and in the manner provided in the Notes. Principal, Interest or cash payments to be made pursuant to Article III shall be considered paid on the date due if the Trustee or Paying Agent (other than the Issuer or a Subsidiary of the Issuer or any Affiliate of the Issuer) holds as of 10:00 a.m. New York City time on that date immediately available funds designated for and sufficient to pay all principal, Interest and cash payments to be made pursuant to Article III then due; *provided*, *however*, that money held by the Agent for the benefit of holders of Senior Indebtedness pursuant to the provisions of Article XI hereof or the payment of which to the Holders is prohibited by Article XI shall not be considered to be designated for the payment of any principal of or Interest on the Notes within the meaning of this Section 4.01.

To the extent lawful, the Issuer shall pay Interest (including post-petition Interest in any proceeding under any Bankruptcy Law) on (i) overdue principal, at the rate borne by the Notes per annum; and (ii) overdue installments of Interest (without regard to any applicable grace period) at the same rate per annum, in each case during the period in which such Default is continuing.

SECTION 4.02. Reports. (a) The Issuer shall furnish to the Trustee within 15 days after the same are required to be filed with the Commission any documents or reports that the Issuer is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act (giving effect to any grace period provided by Rule 12b-25 under the Exchange Act).

(b) In the event that the Issuer is no longer subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, so long as any Notes remain outstanding, the Issuer shall:

(i) provide the Trustee and the Holders with:

(A) annual reports on Form 20-F (or any successor form) containing the information required to be contained therein (or such successor form) within the time period required under the rules of the Commission for the filing of Form 20-F (or any successor form) by "foreign private issuers" (as defined in Rule 3b-4 of the Exchange Act (or any successor rule));

(B) reports on Form 6-K (or any successor form) including, whether or not required, unaudited quarterly financial statements (which shall include at least a balance sheet, income statement and cash flow statement) including a discussion of financial condition and results of operations of the Issuer in accordance with past practice, within 45 days after the end of each of the first three fiscal quarters of each fiscal year; and

(C) such other reports on Form 6-K (or any successor form) promptly from time to time after the occurrence of an event that would be required to be reported on a Form 6-K (or any successor form); and

(ii) file with the Commission, to the extent permitted, the information, documents and reports referred to in clause (i) above within the periods specified for such filings under the Exchange Act (whether or not applicable to the Issuer).

(c) In addition, at any time when the Issuer is not subject to or is not current in its reporting obligations under clause (ii) of Section 4.02, the Issuer shall make available, upon request, to any Holder and any prospective purchaser of Notes the information required pursuant to Rule 144A(d)(4) under the Securities Act.

(d) Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such reports shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Issuer's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on an Officer's Certificates).

(e) As provided in Articles 210 Bis and 212 of the LGTOC, so long as any Notes remain outstanding:

(i) within four months after the end of each fiscal year, the Issuer's Board of Directors shall notify the shareholders of the number of Notes that have been converted into ADSs in accordance with this Indenture as of the date thereof. Such notification shall include the number of underlying Ordinary Shares of the Issuer and CPOs that were subscribed as a result of such conversion and shall be notarized before a Mexican notary public and filed with the Public Registry of Commerce; and

(ii) the Issuer shall publish, on an annual basis, its balance sheet corresponding to the previous fiscal year in the Mexican Official Gazette of the Federation (*Diario Oficial de la Federación*), duly certified by a public accountant.

SECTION 4.03. Compliance Certificate. The Issuer shall deliver to the Trustee within 120 days after the end of each fiscal year of the Issuer (which fiscal year ends on December 31 of each year, subject to any change in fiscal year following the Issue Date) an Officer's Certificate stating that in the course of the performance by the signer of his or her duties as an Officer of the Issuer he or she would normally have knowledge of any Default or Event of Default and whether or not the signer knows of any Default or Event of Default that occurred during the previous fiscal year. If he or she does, the certificate shall describe the Default or Event of Default, its status and what action the Issuer is taking or proposes to take with respect thereto.

SECTION 4.04. Maintenance of Office or Agency. The Issuer shall maintain or cause to be maintained the office or agency required under Section 2.03. The Issuer shall give prompt written notice to the Trustee and the Mexican Trustee of the location, and any change in the location, of such office or agency not maintained by the Trustee. If at any time the Issuer shall fail to maintain any such required office or agency or shall fail to furnish the Trustee and the Mexican Trustee with the address thereof, presentations, surrenders, notices and demands with respect to the Notes may be made or served at the Corporate Trust Office of the Trustee.

The Issuer may also from time to time designate one or more other offices or agencies where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind such designation.

SECTION 4.05. [Reserved].

SECTION 4.06. Appointments to Fill Vacancies in Trustee's Office. The Issuer, whenever necessary to avoid or fill a vacancy in the office of Trustee, will appoint, in the manner provided in Section 7.08, a Trustee, so that there shall at all times be a Trustee hereunder. If for any reason the Mexican Trustee resigns or is removed, the Issuer shall take all actions to appoint a new Mexican trustee so that there shall at all times be a Mexican banking institution acting as Mexican Trustee hereunder and for the purposes of the duties of the Mexican Trustee set forth herein.

SECTION 4.07. Stay, Extension and Usury Laws. The Issuer covenants (to the extent that it may lawfully do so) that it shall not at any time insist upon, plead or in any manner whatsoever claim or take the benefit or advantage of, any stay, extension or usury law wherever enacted, now or at any time hereafter enforced, that may affect the Issuer's obligation to pay the Notes; and the Issuer (to the extent that it may lawfully do so) hereby expressly waives all benefit or advantage of any such law insofar as such law applies to the Notes, and covenants that it shall not, by resort to any such law, hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law has been enacted.

SECTION 4.08. [Reserved].

SECTION 4.09. Additional Interest. (a) If, at any time during the six months to one year period following the Issue Date, (i) the Issuer fails to timely file any document or report that it is required to file with the Commission pursuant to Section 13 or 15(d) of the Exchange Act (other than any current report on Form 6-K), or (ii) the Notes are not otherwise freely tradable by Holders (other than Holders who are Affiliates of the Issuer or any Person that has been an Affiliate of the Issuer at any time during the three months preceding the applicable date) as a result of restrictions pursuant to the U.S. securities laws or the terms of this Indenture or the Notes, the Notes will accrue Additional Interest at the rate of 0.50% per annum on the outstanding principal amount of Notes, such additional accrual to begin at such time as either of the conditions described in clauses (i) and (ii) of this sentence exist and to end at the earlier of (x) the end of such one year period and (y) the time with such conditions no longer exist. The Issuer shall pay such Additional Interest in cash on each Interest Payment Date to the Person who is the Holder of record of the Notes on the immediately preceding Record Date and if and when the conditions described in clauses (i) and (ii) of the preceding sentence no longer exist, accrued and unpaid Additional Interest through the date such conditions last existed will be paid in cash on the subsequent Interest Payment Date to the record Holder on the Record Date. Unless:

(i) the Restricted Securities Legend on the Notes has been removed, and

(ii) the Notes are freely tradable pursuant to Rule 144 under the Securities Act without restrictions by Holders other than Affiliates of the Issuer or any Person that has been an Affiliate of the Issuer at any time during the three months preceding the applicable date (as a result of restrictions pursuant to U.S. securities law or the terms of this Indenture or the Notes),

as of the 365th day after the Issue Date, the Issuer will, at its election, either (A) pay Additional Interest on the Notes at an annual rate equal to 0.50% of the aggregate principal amount of the Notes or (B) designate an effective shelf registration statement useable for the resale of the Notes or any ADSs issuable upon conversion of the Notes, in which case Additional Interest shall not accrue for each day on which such registration statement remains effective and useable by Holders for the resale of the Notes and any ADSs. To the extent the Issuer elects to pay such Additional Interest, and for so long as a condition described in either clause (i) or (ii) of the preceding sentence continues to fail to be satisfied, the Issuer shall pay such Additional Interest in cash on each Interest Payment Date to the Person who is the Holder of record of the Notes on the immediately preceding Record Date. When such default is cured, accrued and unpaid Additional Interest through the date of cure will be paid in cash on the subsequent Interest Payment Date to the record Holder on the Record Date. In no event shall Additional Interest accrue under the terms of this Indenture (taking any Additional Interest under the provision described in this Section 4.09 together with any Interest under Section 6.02(b)) at an annual rate in excess of 0.50%, in the aggregate, for any violation or default caused by the Issuer's failure to be current in respect of its Exchange Act reporting obligations.

(b) During the period of one year after the Issue Date, the Issuer will not, and will not permit any of its "affiliates" (as defined in Rule 144 under the Securities Act) to, resell any Notes that have been reacquired by the Issuer or acquired by any of them, unless the Notes so resold bear a CUSIP that is different from the CUSIP for the Notes issued on the Issue Date and not acquired by the Issuer or any of its Affiliates during such one year period.

SECTION 4.10. Additional Interest Notice. In the event that the Issuer is required to pay Additional Interest to Holders pursuant to Section 4.09 or Section 6.02(b) hereof, the Issuer shall provide a direction or order in the form of a written notice to the Trustee (and if the Trustee is not the Paying Agent, the Paying Agent) of the Issuer's obligation to pay such Additional Interest no later than three Business Days prior to the date on which any such Additional Interest is scheduled to be paid. Such notice shall set forth the amount of Additional Interest to be paid by the Issuer on such payment date and direct the Trustee (or, if the Trustee is not the Paying Agent, the Paying Agent) to make payment to the extent it receives funds from the Issuer to do so. The Trustee shall not at any time be under any duty or responsibility to any Holder to determine whether Additional Interest is payable, or with respect to the nature, extent, or calculation of the amount of Additional Interest owed, or with respect to the method employed in such calculation of Additional Interest.

SECTION 4.11. Further Instruments and Acts. Upon request of the Trustee or the Mexican Trustee, the Issuer will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper to carry out more effectively the purposes of this Indenture.

SECTION 4.12. Payment of Additional Amounts. (a) All payments made by the Issuer under, or with respect to, the Notes shall be made free and clear of, and without withholding or deduction for or on account of any present or future tax, duty, levy, impost, assessment or other governmental charge (including penalties, interest and other liabilities related thereto) (collectively, "Taxes") imposed or levied by or on behalf of any Taxing Jurisdiction unless the Issuer is required to withhold or deduct Taxes by law or by the official interpretation or administration thereof.

(b) If the Issuer is so required to withhold or deduct any amount for, or on account of, such Taxes from any payment made under or with respect to the Notes, the Issuer shall pay such additional amounts ("Additional Amounts") as may be necessary so that the net amount received by each Holder (including Additional Amounts) after such withholding or deduction shall not be less than the amount such Holder would have received if such Taxes had not been required to be withheld or deducted; *provided*, *however*, that the foregoing obligation to pay Additional Amounts does not apply to:

(i) any Taxes imposed solely because at any time there is or was a connection between the Holder and a Taxing Jurisdiction (other than the mere purchase of the Notes, or receipt of a payment or the ownership or holding of a Note),

(ii) any estate, inheritance, gift, sales, transfer, personal property or similar Tax imposed with respect to the Notes,

(iii) any Taxes imposed solely because the Holder or any other Person fails to comply with any certification, identification or other reporting requirement concerning the nationality, residence, identity or connection with a Taxing Jurisdiction of the Holder or any beneficial owner of the Note if compliance is required by the applicable law of the Taxing Jurisdiction as a precondition to exemption from, or reduction in the rate of, the Tax, assessment or other governmental charge and the Issuer has given the Holders at least 30 days' notice that Holders shall be required to provide such information and identification,

(iv) any Taxes payable otherwise than by deduction or withholding from payments on the Notes,

(v) any Taxes with respect to such Note presented for payment more than 30 days after the date on which the payment became due and payable or the date on which payment thereof is duly provided for and notice thereof given to Holders, whichever occurs later, except to the extent that the Holders of such Note would have been entitled to such Additional Amounts on presenting such Note for payment on any date during such 30 day period, and

(vi) any payment on the Note to a Holder that is a fiduciary or partnership or a person other than the sole beneficial owner of any such payment, to the extent that a beneficiary or settlor with respect to such fiduciary, a member of such a partnership or the beneficial owner of the payment would not have been entitled to the Additional Amounts had the beneficiary, settlor, member or beneficial owner been the Holder of the Note.

(c) The obligations in Section 4.12(a) and Section 4.12(b) shall survive any termination or discharge of this Indenture and shall apply *mutatis mutandis* to any Taxing Jurisdiction with respect to any successor to the Issuer. The Issuer shall (i) make such withholding or deduction and (ii) remit the full amount deducted or withheld to the relevant Taxing Jurisdiction in accordance with applicable law. The Issuer shall use all reasonable efforts to obtain certified copies of Tax receipts evidencing the payment of any Taxes so deducted or withheld from each Taxing Jurisdiction imposing such Taxes and shall furnish such certified copies to the Trustee within 30 days after the date the payment of any Taxes so deducted or so withheld is due pursuant to applicable law or, if such Tax receipts are not reasonably available to the Issuer, furnish such other documentation that provides reasonable evidence of such payment.

(d) The limitations on the obligations to pay additional amounts stated in clause (iii) of Section 4.12(b) shall not apply if the provision of information, documentation or other evidence described in clause (iii) of Section 4.12(b) would be materially more onerous, in form, in procedure or in the substance of information disclosed, to a Holder or beneficial owner of a Note than comparable information or other reporting requirements imposed under U.S. Tax law, regulation (including proposed regulations) and administrative practice. The limitations on the obligations to pay additional amounts in clause (iii) of Section 4.12(b) shall not apply with respect to Taxes imposed by Mexico or any political subdivision or taxing authority thereof if the Issuer can otherwise obtain the application of the lower withholding tax rate in effect unless (A) the provision of the information, documentation or other evidence described in clause (iii) of Section 4.12(b) is expressly required by statute, regulation, or published administrative practice of general applicability, (B) the Issuer cannot obtain the information, documentation or other evidence necessary to comply with the applicable laws and regulations on its own through reasonable diligence and without requiring it from Holders, and (C) the Issuer otherwise would meet the requirements set forth under applicable law and regulations. In addition, clause (iii) of Section 4.12(b) does not and shall not be construed to require that any Person, including any non-Mexican pension fund, retirement fund, financial institution or any other Holder or beneficial owner of a Note, register with the Mexican Ministry of Finance and Public Credit to obtain eligibility for an exemption from, or a reduction of, Mexican withholding Tax.

(e) Any reference in this Indenture, any supplemental indenture or the Notes to principal, Interest or any other amount payable in respect of the Notes by the Issuer shall be deemed also to refer to any Additional Amount that may be payable with respect to that amount under the obligations referred to in this subsection.

(f) In the event that Additional Amounts actually paid with respect to the Notes pursuant to this Section 4.12 are based on rates of deduction or withholding of withholding Taxes in excess of the appropriate rate applicable to the Holder of such Notes, and as a result thereof such Holder is entitled to make a claim for a refund or credit of such excess from the authority imposing such withholding Tax, then such Holder shall, by accepting such Notes, and without any further action, be deemed to have assigned and transferred all right, title and interest to any such claim for a refund or credit of such excess to the Issuer. However, by making such assignment, the Holder makes no representation or warranty that the Issuer will be entitled to receive such claim for a refund or credit and incurs no other obligation with respect thereto including making any filing to request a refund.

(g) For purposes of this Section 4.12, references to "payments" made by the Issuer under, or with respect to, the Notes shall include the conversion of Notes by the Issuer.

SECTION 4.13. Spanish Translation, Notarization and Registration. This Indenture shall be executed in both English and Spanish. Concurrently with the execution of this Indenture, the Issuer, the Trustee and the Mexican Trustee shall execute a Spanish version of this Indenture before a Mexican notary public, *provided*, *however*, that in case of any inconsistency or question as to the proper interpretation or construction of this Indenture between the text in English and the text in Spanish, the English text shall control in all cases.

SECTION 4.14. Registration with the Pubic Registry of Commerce. Within forty-five (45) days after the date hereof, the Issuer shall provide the Trustee and the Mexican Trustee with a copy of the public instrument containing the notarized Spanish version of this Indenture, duly filed with, and stamped by, the Public Registry of Commerce.

SECTION 4.15. Compliance with Mexican Law provisions. (a) The Issuer shall, at all times during the term of this Indenture, comply with all applicable provisions set forth in Mexican applicable Laws, including without limitation, Chapter V (*Capítulo V*) of the LGTOC.

(b) In accordance with paragraph III of Article 210 Bis, the issue price of the Notes shall not be below the Notes' nominal amount.

ARTICLE V

SUCCESSORS

SECTION 5.01. Merger, Consolidation and Sale of Assets. The Issuer will not, in a single transaction or series of related transactions, consolidate or merge with or into any Person (whether or not the Issuer is the surviving or continuing Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the Issuer's properties and assets (determined on a consolidated basis for the Issuer and its Subsidiaries), to any Person unless:

(a) either:

(i) the Issuer shall be the surviving or continuing corporation, or

(ii) the Person (if other than the Issuer) formed by such consolidation or into which the Issuer is merged or the Person which acquires by sale, assignment, transfer, lease, conveyance or other disposition the properties and assets of the Issuer and its Subsidiaries substantially as an entirety (the "Successor Issuer"):

(A) shall be a corporation organized and validly existing under the laws of Mexico, the United States of America, any State thereof or the District of Columbia, Canada, France, Belgium, Germany, Italy, Luxembourg, the Netherlands, Portugal, Spain, Switzerland or the United Kingdom, or any political subdivision thereof (the " Permitted Merger Jurisdictions"); and

(B) shall expressly assume, by supplemental indenture (in form and substance satisfactory to the Trustee), executed and delivered to the Trustee, the due and punctual payment of the principal and Interest on all of the Notes and the performance and observance of every covenant of the Notes and this Indenture on the part of the Issuer to be performed or observed and provide the Trustee with an Officer's Certificate and Opinion of Counsel, and such transaction is otherwise in compliance with this Indenture;

(b) immediately before and immediately after giving effect to such transaction and the assumption contemplated by clause (a)(ii)(B) of this Section 5.01, no Default or Event of Default shall have occurred or be continuing.

(c) if the Issuer merges with a corporation, or the Successor Issuer is organized under the laws of any of the Permitted Merger Jurisdictions, the Issuer or the Successor Issuer will have delivered to the Trustee an Opinion of Counsel that, as applicable:

(i) the Holders will not recognize income, gain or loss for the purposes of the income Tax laws of United States or the applicable Permitted Merger Jurisdiction as a result of the transaction and will be taxed in the Holder's home jurisdiction in the same manner and on the same amounts (assuming solely for this purpose that no additional amounts are regarded to be paid on the Notes) and at the same times as would have been the case if the transaction had not occurred;

(ii) any payment of principal or Interest on the Notes will be paid in compliance with any requirements under Section 4.12; and

(iii) no other Taxes on income, including capital gains, will be payable by Holders under the laws of United States or the applicable Permitted Merger Jurisdiction relating to the acquisition, ownership or disposition of the Notes, including the receipt of Interest or principal thereon; provided that the Holder does not use or hold, and is not deemed to use or hold, the Notes in carrying on a business in the United States or the applicable Permitted Merger Jurisdiction.

(d) The provision of clause (b) of this Section 5.01 shall not apply to:

(1) any transfer of the properties or assets of a Subsidiary of the Issuer to the Issuer;

(2) any merger of a Subsidiary of the Issuer into the Issuer; or

(3) any merger of the Issuer into a Subsidiary of the Issuer.

(e) For purposes of the covenant in this Section 5.01, the transfer (by lease, assignment, sale or otherwise, in a single transaction or series of transactions) of all or substantially all of the properties or assets of one or more Subsidiaries of the Issuer, the Capital

Stock of which constitutes all or substantially all of the properties and assets of the Issuer (determined on a consolidated basis for the Issuer and its Subsidiaries), will be deemed to be the transfer of all or substantially all of the properties and assets of the Issuer.

(f) Upon any such consolidation, merger, sale, assignment, conveyance, lease, transfer or other disposition in accordance with Section 5.01, the Successor Issuer formed by such consolidation or into which the Issuer is merged or to which such sale, assignment, conveyance, lease, transfer or other disposition is made will succeed to, and be substituted for, and may exercise every right and power of, the Issuer under this Indenture and the Notes with the same effect as if such successor had been named as the Issuer therein, and thereafter the predecessor corporation will be relieved of all further obligations and covenants under this Indenture and the Notes.

(g) the Issuer or such Person shall have delivered to the Trustee an Officer's Certificate and an Opinion of Counsel each stating that such consolidation, merger, combination, sale, assignment, disposition, conveyance, transfer or lease and, if a supplemental indenture is required in connection with such transaction, such supplemental indenture, comply with the provisions of this Indenture and that all conditions precedent in this Indenture relating to such transaction have been satisfied.

SECTION 5.02. Purchase Option on Fundamental Change. This Article V does not affect the obligations of the Issuer (including without limitation any successor to the Issuer) under Section 3.03.

ARTICLE VI

DEFAULTS AND REMEDIES

SECTION 6.01. Events of Default. An "Event of Default" with respect to any Notes occurs if:

(a) the Issuer defaults in the payment in respect of the principal of any Note when due at maturity, upon redemption or repurchase pursuant to Article III, upon declaration of acceleration or otherwise, whether or not such payment is prohibited by the subordination provisions set forth in Article XI;

(b) the Issuer defaults in the payment of any Interest on any Note when due and payable, whether or not such payment is prohibited by the subordination provisions set forth in Article XI, including any Interest payable in connection with a redemption or repurchase pursuant to Article III, and continuance of such default for a period of 30 days or more;

(c) the Issuer defaults in the delivery when due of ADSs deliverable upon conversion with respect to the Notes in accordance with Article XII, which default continues for a period of five Business Days or more;

(d) the Issuer fails to provide a timely Fundamental Change Notice in accordance with Section 12.12(b);

(e) the Issuer fails to comply with the covenant described in clause (b) of Section 12.08;

(f) failure by the Issuer to comply with the covenant described in clause (a) of Section 12.08 that continues for a period of 30 days after the Issuer receives written notice of such failure from the Trustee or the Holders of at least 25% in principal amount of the Notes then outstanding;

(g) the Issuer defaults (other than a default set forth in clauses (a) through (f) above) in the performance of, or breaches, any other covenant or agreement of the Issuer set forth in this Indenture or the Notes and fails to remedy such default or breach within a period of 45 days after its receipt of written notice thereof from the Trustee or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes;

(h) the Issuer or any of the Issuer's "Significant Subsidiaries" (as defined in Article 1, Rule 1-02 of Regulation S-X) defaults with respect to any mortgage, agreement or other instrument under which there is outstanding, or by which there is secured or evidenced, any Indebtedness for money borrowed having a principal amount in excess of U.S.$50 million in the aggregate, whether such Indebtedness now exists or shall hereafter be created, (i) resulting in such Indebtedness becoming or being declared due and payable prior to its express maturity date or (ii) constituting a failure to pay at least U.S.$50 million of such Indebtedness when due and payable (after the expiration of any applicable grace period) at its stated maturity, upon required repurchase, upon declaration or otherwise; provided, that any such Event of Default shall be deemed cured and not continuing upon payment of such Indebtedness or rescission of such declaration;

(i) a final judgment for the payment of U.S.$50 million or more (excluding any amounts covered by insurance or bond) is rendered against the Issuer or any Significant Subsidiary by a court of competent jurisdiction, which judgment is not discharged, stayed, vacated, paid or otherwise satisfied within 60 days after (i) the date on which the right to appeal thereof has expired if no such appeal has commenced, or (ii) the date on which all rights to appeal have been extinguished; or

(j) a Bankruptcy Event of Default occurs.

SECTION 6.02. Acceleration. (a) If an Event of Default (other than an Event of Default with respect to the Issuer specified in Section 6.01(j)) occurs and is continuing, then and in every such case (i) the Trustee, by written notice to the Issuer, or (ii) the Holders of at least 25% in aggregate principal amount of the then outstanding Notes, by written notice to the Issuer and the Trustee, may, and the Trustee at the request of such Holders shall, declare all of the unpaid principal of, and Interest, on all the Notes to be due and payable. Upon such declaration such principal amount, and Interest, shall become immediately due and payable, notwithstanding anything contained in this Indenture or the Notes to the contrary, but subject to the provisions of Article XI hereof. If the Event of Default with respect to the Issuer specified in Section 6.01(j) occurs, all unpaid principal of, and Interest on, the Notes then outstanding shall become automatically due and payable, subject to the provisions of Article XI hereof, without any declaration or other act on the part of the Trustee or any Holder.

(b) Notwithstanding any other provision in this Article VI, if an Event of Default occurs arising out of the Issuer's breach of its obligation to file or furnish reports or other financial information as required under Section 4.02 of this Indenture, the Issuer may elect to pay Additional Interest on the Notes as the sole remedy for such Event of Default, and the Trustee and the Holders will not have any right under this Indenture to accelerate the maturity of the Notes as a result of any such Event of Default, except as provided below. If elected, the Issuer shall pay Additional Interest to all Holders at a rate equal to 0.50% per annum through the 180th day after the occurrence of such Event of Default (which shall be the 135 th day after the end of the 45-day grace period set forth in Section 6.01(g)), or such earlier date on which the Event of Default relating to the reporting obligations referred to in this Section 6.02(b) shall have been cured or waived. On the 181st day, such Additional Interest will cease to accrue (or earlier, if the Event of Default relating to the reporting obligations referred to in this Section 6.02(b) shall have been cured or waived prior to such 181st day) and, if the Event of Default is continuing on such 181st day, the Notes will be subject to acceleration as provided in Section 6.02(a). The provisions of this Section 6.02(b) will not affect the rights of the Holders in the event of the occurrence of any other Event of Default, and are separate and distinct from, and in addition to, the obligation of the Issuer to increase the interest rate of, and the amount of Interest payable on, the Notes pursuant to Section 4.08, except as otherwise provided therein. Any Additional Interest paid pursuant to this Section 6.02(b) will be payable at the times and in the manner provided for the payment of regular Interest on the Notes. In order to elect to pay Additional Interest on the Notes as the sole remedy during the first 180 days after the occurrence of an Event of Default relating to the failure to comply with reporting obligations in accordance with this Section 6.02(b), the Issuer must notify all Holders and the Trustee and Paying Agent of such election on or before the close of business on the fifth Business Day after the date on which such Event of Default first occurs. If the Issuer fails to timely give such notice, does not pay such Additional Interest or elects not to pay such Additional Interest, the Notes will be immediately subject to acceleration as provided in Section 6.02(a).

SECTION 6.03. Other Remedies. If an Event of Default occurs and is continuing, subject to Article XI, the Trustee may pursue any available remedy by proceeding at law or in equity to collect the payment of principal of or Interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture. The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy occurring upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. All remedies are cumulative to the extent permitted by law.

SECTION 6.04. Waiver of Past Defaults; Rescission of Acceleration. The Holders of a majority in aggregate principal amount of the then outstanding Notes may, on behalf of the Holders of all the Notes, waive an existing or past Default or Event of Default and its consequences (except a Default or Event of Default in the payment of principal or Interest, in the repurchase of any Notes when required, in the delivery, upon conversion, of ADSs, or in respect of a covenant or provision of this Indenture which cannot be modified or amended without the consent of all Holders of Notes) and rescind any such acceleration with respect to the Notes and its consequences if (a) rescission would not conflict with any judgment or decree of a court of competent jurisdiction, (b) all existing Defaults or Events of Default, other than the nonpayment

of the principal and Interest on the Notes that have become due solely by such declaration of acceleration, have been cured or waived and (c) there had been paid or deposited with the Trustee a sum sufficient to pay all amounts due to the Trustee and reimburse the Trustee for any and all expenses, disbursements, fees advanced by the Trustee, its agent and its counsel incurred in connection with such Default or Event of Default. No such rescission shall affect any subsequent Default or Event of Default or impair any right consequent thereto.

SECTION 6.05. Control by Majority. The Holders of a majority in aggregate principal amount of the then-outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. However, the Trustee may refuse to follow any direction that conflicts with law or this Indenture or that the Trustee determines may be unduly prejudicial to the rights of any other Holder or that may involve the Trustee in personal liability; *provided* that the Trustee shall have no duty or obligation (subject to Section 7.01) to ascertain whether or not such actions of forbearances are unduly prejudicial to such Holders; *provided*, *further*, that the Trustee may take any other action the Trustee deems proper that is not inconsistent with such directions. Any Notes held by the Issuer or one of the Issuer's Subsidiaries shall be disregarded for voting purposes in connection with any notice, waiver, consent or direction requiring the vote or concurrence of Holders of the Notes.

SECTION 6.06. Limitation on Suits. Except to enforce the right to receive payment of principal and Interest when due, a Holder may not pursue any remedy with respect to this Indenture or the Notes unless:

(i) the Holder gives to the Trustee written notice that an Event of Default that has occurred and is continuing;

(ii) the Holders of at least 25% in principal amount of the then-outstanding Notes make a request to the Trustee to pursue the remedy;

(iii) such Holder or Holders offer and, if requested, provide to the Trustee security or indemnity reasonably satisfactory to the Trustee against any loss, liability or expense;

(iv) the Trustee does not comply with the request within 60 days after receipt of the request and the offer and, if requested, the provision of such security or indemnity; and

(v) the Holders of a majority in principal amount of the then-outstanding Notes do not give the Trustee a direction that is inconsistent with the request during such 60-day period.

A Holder may not use this Indenture to prejudice the rights of another Holder or to obtain a preference or priority over another Holder.

SECTION 6.07. Rights of Holders to Receive Payment. Subject to the provisions of Article XI hereof, notwithstanding any other provision of this Indenture, the right of any Holder of a Note to receive payment of principal, and Interest, if any, on the Note, on or after the

respective due dates expressed in the Note, or to bring suit for the enforcement of any such payment on or after such respective dates, or to bring suit for the enforcement of the right to convert the Note in accordance with the terms of this Indenture shall not be impaired or affected without the consent of such Holder.

SECTION 6.08. Collection Suit by Trustee. If an Event of Default specified in Section 6.01(a) or Section 6.01(b) occurs and is continuing, subject to Article XI, the Trustee may recover judgment in its own name and as trustee of an express trust against the Issuer for the whole amount of principal and Interest, if any, remaining unpaid on the Notes and Interest, on overdue principal and Interest, if any, and such further amount as shall be sufficient to cover the costs and, to the extent lawful, expenses of collection, including the reasonable compensation, expenses, disbursements and advances of the Trustee, its agents and counsel.

SECTION 6.09. Trustee May File Proofs of Claim. The Trustee may file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders allowed in any judicial proceedings relative to the Issuer, its creditors or its property. Any receiver, trustee, liquidator or sequestrator (or other similar official) in any such proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, Taxes, disbursements and advances of the Trustee, its agent and counsel, and any other amounts due to the Trustee pursuant to Section 7.07. Nothing contained herein shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

SECTION 6.10. Priorities. Subject to Article XI, if the Trustee collects any money pursuant to this Article VI, it shall pay out the money in the following order:

FIRST: to the Trustee for amounts due under Section 7.07, including payment of all reasonable compensation, expenses and liabilities incurred, and all advances made, by the Trustee, and the costs and expenses of collection;

SECOND: if the Holders proceed against the Issuer directly without the Trustee in accordance with this Indenture, to Holders for their collection costs;

THIRD: to Holders for amounts due and unpaid on the Notes for principal and Interest, if any, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal and Interest, if any, respectively; and

FOURTH: to the Issuer or to such party as a court of competent jurisdiction shall direct.

The Trustee may fix a special record date and payment date for any payment to Holders made pursuant to this Section 6.10. At least 15 days before any such special record date, the Trustee shall mail to Holders of the Notes a notice that states the special record date, payment date and amount of such Interest to be paid.

SECTION 6.11. Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as a Trustee, a court in its discretion may require the filing by any party litigant in the suit, other than the Trustee, of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by a Holder pursuant to Section 6.07 or a suit by Holders of more than 10% in principal amount of the then outstanding Notes.

ARTICLE VII

THE TRUSTEE

The Trustee hereby accepts the trust imposed upon it by this Indenture and covenants and agrees to perform the same, as herein expressed. Whether or not herein expressly so provided, every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article VII.

SECTION 7.01. Duties of the Trustee. (a) If an Event of Default known to the Trustee has occurred and is continuing, the Trustee shall exercise such of the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent Person would exercise or use under the circumstances in the conduct of his or her own affairs.

(b) The Mexican Trustee shall (i) confirm that the proceeds from the offering and sale of the Notes are used to fund the purchase of the capped called transactions described in the Offering Memorandum and for general corporate purposes, (ii) cause the registration of a certified copy of the public instrument containing the notarization of a Spanish version of this Indenture with the Public Registry of Commerce and obtain the registration thereof in the event that the Issuer fails to comply with its obligation to register such public instrument as set forth in Section 4.02(e)(i), and (iii) exercise all rights and comply with all obligations set forth in the LGTOC, including those set forth in Article 217 (Section I, V, VII and VIII) of the LGTOC.

(c) Except during the continuance of an Event of Default known to the Trustee:

(i) The duties of the Trustee shall be determined solely by the express provisions of this Indenture and the Trustee need perform only those duties that are specifically set forth in this Indenture and no others and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) In the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon any statements, certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, the Trustee shall examine the certificates and opinions to determine whether or not they conform to the form required by this Indenture (but need not confirm or investigate the accuracy of mathematical calculations or other facts purported to be stated therein).

(d) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(i) This paragraph does not limit the effect of paragraph (c) of this Section;

(ii) The Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer of the Trustee, unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) The Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.05.

(e) No provision of this Indenture shall require the Trustee to expend or risk its own funds or incur any financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder, if it shall have reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(f) Whether or not therein expressly so provided, every provision of this Indenture that is in any way related to the Trustee is subject to paragraphs (c), (d), and (e) of this Section 7.01.

(g) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree with the Issuer. Money held in trust by the Trustee need not be segregated from other funds or assets except to the extent required by law.

(h) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses (including reasonable attorneys' fees and expenses) and liabilities that might be incurred by it in compliance with such request or direction.

SECTION 7.02. Rights of the Trustee. Subject to Section 7.01:

(a) The Trustee may conclusively rely on and shall be protected in acting or refraining from acting upon any resolution, Officer's Certificate, or any other certificate, statement, instrument, opinion, report, notice, request, consent, order, security or other document believed by it to be genuine and to have been signed or presented by the proper Person. The Trustee need not investigate any fact or matter contained therein.

(b) Any request, direction, order or demand of the Issuer mentioned herein shall be sufficiently evidenced by an Officer's Certificate (unless other evidence in respect thereof is herein specifically prescribed). In addition, before the Trustee acts or refrains from acting, it may require an Officer's Certificate, an Opinion of Counsel or both. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on such Officer's Certificate or Opinion of Counsel. The Trustee may consult with counsel of its selection and the advice of such counsel or any Opinion of Counsel shall be full and complete authorization and protection from liability in respect of any action taken, suffered or omitted by it hereunder in good faith and in reliance thereon.

(c) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through its attorneys and agents and other Persons not regularly in its employ and shall not be responsible for the misconduct or negligence of any attorney or agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith without negligence or willful misconduct which it believes to be authorized or within its discretion, rights or powers.

(e) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuer shall be sufficient if signed by Officers of the Issuer.

(f) The Trustee shall not be required to give any bond or surety in respect of the performance of its powers and duties hereunder.

(g) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request, order or discretion of any of the Holders pursuant to the provisions of this Indenture, unless such Holders have offered to the Trustee security or indemnity satisfactory to it against the costs, expenses and liabilities which might be incurred therein or thereby.

(h) Except for the confirmation of the Net Total Assets by the Mexican Trustee or as otherwise required pursuant to Section 7.01(b), neither the Trustee nor the Mexican Trustee shall be bound to make any investigation into the facts or matters stated in any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, security or other document unless requested in writing to do so by the Holders of not less than a majority in aggregate principal amount of the Notes then outstanding; *provided* that if the Trustee or the Mexican Trustee determine in its discretion to make any such investigation, then they shall be entitled, upon reasonable prior notice and during normal business hours, to examine the books and records and the premises of the Issuer, personally or by agent or attorney, and the reasonable expenses of every such examination shall be paid by the Issuer or, if paid by the Trustee, the Mexican Trustee or any predecessor Trustee or Mexican Trustee, shall be reimbursed by the Issuer upon demand.

(i) The permissive rights of the Trustee or the Mexican Trustee to do things enumerated in this Indenture shall not be construed as a duty. The Trustee and the Mexican Trustee shall not be answerable for other than their respective negligence or willful misconduct.

(j) The Trustee shall not be responsible for the computation of any adjustment to the Conversion Rate or for any determination as to whether an adjustment is required and shall not be deemed to have knowledge of any adjustment unless and until it shall have received the notice from the Issuer contemplated by Section 12.05(e).

(k) The Trustee shall not be deemed to have knowledge of any Default or Event of Default except (i) any Event of Default occurring pursuant to Section 6.01(a) or Section 6.01(b), or (ii) any Event of Default of which a Trust Officer of the Trustee shall have received written notification or otherwise obtained actual knowledge.

(l) Whenever by the terms of this Indenture, the Trustee shall be required to transmit notices or reports to any or all Holders, the Trustee shall be entitled to conclusively rely on the information provided by the Registrar as to the names and addresses of the Holders as being correct. If the Registrar is other than the Trustee, the Trustee shall not be responsible for the accuracy of such information.

(m) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by (i) the Trustee in each of its capacities hereunder (including as Registrar and Conversion Agent); (ii) to each agent, custodian, and any other such Persons employed to act hereunder; and (iii) to the Mexican Trustee.

(n) In no event shall the Trustee be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts or war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services (it being understood that the Trustee shall use reasonable efforts which are consistent with accepted practices in the banking industry to avoid and mitigate the effects of such occurrences and to resume performance as soon as practicable under the circumstances).

(o) The Trustee or the Mexican Trustee may request that the Issuer deliver a certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture.

(p) In no event shall the Trustee be responsible or liable for special, indirect, or consequential loss or damage of any kind whatsoever (including, but not limited to, loss of profit) irrespective of whether the Trustee has been advised of the likelihood of such loss or damage and regardless of the form of action.

SECTION 7.03. Individual Rights of the Trustee. Subject to Section 7.10, the Trustee in its individual or any other capacity may become the owner or pledgee of Notes with the same rights it would have if it were not the Trustee and may otherwise deal with the Issuer or an Affiliate of the Issuer and receive, collect, hold and retain collections from the Issuer with the same rights it would have if it were not Trustee. Any Agent may do the same with like rights.

SECTION 7.04. Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes. It shall not be accountable for the Issuer's use of the proceeds from the Notes or any money paid to the Issuer or upon the Issuer's direction under any provision of this Indenture. It shall not be responsible for the use or application of any money received by any Paying Agent other than the Trustee, and it shall not be responsible for any statement or recital herein or any statement in the Notes or any other document in connection with the sale of the Notes or pursuant to this Indenture other than its certificate of authentication.

SECTION 7.05. Notice of Defaults. If a Default or Event of Default occurs and is continuing and if it is known to a Trust Officer of the Trustee, the Trustee shall mail to each Holder a notice of the Default or Event of Default within 90 days after it occurs. Except in the case of a Default or Event of Default in payment of principal of, or Interest on, any Note, the Trustee may withhold the notice if and so long as a committee of the Trustee's Trust Officers in good faith determines that withholding the notice is in the interest of the Holders.

SECTION 7.06. Representation of the Mexican Trustee. Pursuant to Section I of Article 217 and Section V of Article 213 of the LGTOC, the Mexican Trustee hereby represents that it has confirmed the date set forth in the balance sheet dated December 31, 2009 of the Issuer and Net Total Assets.

SECTION 7.07. Compensation and Indemnity. The Issuer shall pay to the Trustee and the Mexican Trustee from time to time and the Trustee and the Mexican Trustee shall be entitled to such compensation for its acceptance of this Indenture and its services hereunder as the Issuer, the Trustee and the Mexican Trustee shall from time to time agree in writing. The Trustee's and the Mexican Trustee's compensation shall not be limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee and the Mexican Trustee, as applicable, promptly upon request for all reasonable disbursements, advances and expenses incurred or made by or on behalf of it in addition to the compensation for its services. Such expenses may include the reasonable compensation, disbursements and expenses of the Trustee's or the Mexican Trustee's agents, counsel and other persons not regularly in its employ; *provided* that Trustee and the Mexican Trustee shall provide the Issuer reasonable advance notice of any expenditure not in the ordinary course of business; *provided, further*, that the Issuer shall have no obligation to reimburse the Trustee and the Mexican Trustee with respect to any such expense, disbursement or advance as may be attributable to the Trustee's or the Mexican Trustee's negligence, willful misconduct or bad faith.

The Issuer shall indemnify the Trustee and the Mexican Trustee, or any predecessor Trustee or Mexican Trustee, for, and to hold it harmless against, any and all loss, liability, damage, claim or expense, including Taxes (other than Taxes based upon, measured by or determined by the income of the Trustee and the Mexican Trustee), incurred without negligence, willful misconduct or bad faith on its part, arising out of or in connection with the acceptance or administration of the trust or trusts hereunder, including the reasonable costs and expenses of defending itself against any claim (whether asserted by the Issuer, or any Holder or any other Person) or liability in connection with the exercise or performance of any of its powers or duties hereunder or in connection with enforcing the provisions of this Section. The Trustee and the Mexican Trustee, as applicable, shall notify the Issuer promptly of any claim for which it may seek indemnity. Failure by the Trustee or the Mexican Trustee to so notify the Issuer shall not relieve the Issuer of its obligations hereunder. The Issuer shall defend the claim with counsel designated by the Issuer, who may be outside counsel to the Issuer but shall in all events be reasonably satisfactory to the Trustee or the Mexican Trustee, as applicable, and the Trustee and the Mexican Trustee, as applicable, shall cooperate in the defense. In addition, the Trustee and the Mexican Trustee, as applicable, may retain one separate counsel and, if deemed advisable by such counsel, local counsel, and the Issuer shall pay the reasonable fees and expenses of such separate counsel and local counsel. The indemnification herein extends to any settlement; *provided* that the Issuer will not be liable for any settlement made without its consent; *provided*, *further*, that such consent will not be unreasonably withheld.

The Trustee shall have a Lien prior to the Notes on all money or property held or collected by the Trustee to secure the Issuer's payment obligations to the Trustee and the Mexican Trustee in this Section 7.07, except that held in trust to pay principal and Interest, if any, on Notes. Such Liens and the Issuer's obligations under this Section 7.07 shall survive the satisfaction and discharge of this Indenture and the resignation or removal of the Trustee.

When the Trustee or the Mexican Trustee incurs expenses or renders services after a Bankruptcy Event of Default occurs, the expenses and the compensation for the services (including the fees and expenses of its agents and counsel) are intended to constitute expenses of administration under any Bankruptcy Law.

SECTION 7.08. Replacement of the Trustee. A resignation or removal of the Trustee and appointment of a successor Trustee shall become effective only upon the successor Trustee's acceptance of appointment as provided in this Section 7.08.

The Trustee may resign at any time and be discharged from the trust hereby created by so notifying the Issuer. The Holders of a majority in principal amount of the then outstanding Notes may remove the Trustee by so notifying the Trustee and the Issuer in writing and may appoint a successor Trustee. The Issuer may remove the Trustee if:

(i) the Trustee fails to comply with Section 7.10;

(ii) the Trustee is adjudged a bankrupt or an insolvent or an order for relief is entered with respect to the Trustee under any Bankruptcy Law;

(iii) a Custodian or public officer takes charge of the Trustee or its property; or

(iv) the Trustee becomes incapable of acting.

If the Trustee resigns or is removed or if a vacancy exists in the office of Trustee for any reason, the Issuer shall promptly appoint a successor Trustee. Within one year after the successor Trustee takes office, the Holders of a majority in principal amount of the then outstanding Notes may appoint a successor Trustee to replace the successor Trustee appointed by the Issuer.

If a successor Trustee does not take office within 60 days after the retiring Trustee resigns or is removed, the retiring Trustee, at the Issuer's expense, the Issuer or the Holders of at least 10% in principal amount of the then outstanding Notes may petition any court of competent jurisdiction for the appointment of a successor Trustee.

If the Trustee after written request by any Holder who has been a Holder for at least six months fails to comply with Section 7.10, such Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee; *provided* that all sums owing to the retiring Trustee hereunder have been paid and subject to the Lien provided for in Section 7.07. Notwithstanding the replacement of the Trustee pursuant to this Section 7.08, the Issuer's obligations under Section 7.07 shall continue for the benefit of the retiring Trustee with respect to expenses and liabilities incurred by it prior to such replacement.

Upon request of any such successor Trustee, the Issuer shall execute any and all instruments for more fully and certainly vesting in and confirming to such successor Trustee all such rights, powers and trusts referred to in the preceding paragraph.

SECTION 7.09. Successor Trustee by Merger, etc. If the Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust business (including the trust created by this Indenture) to, another corporation or national banking association, the resulting, surviving or transferee corporation or national banking association without any further act shall be the successor Trustee with the same effect as if the successor Trustee had been named as the Trustee herein. If the Mexican Trustee consolidates with, merges or converts into, or transfers all or substantially all of its corporate trust business (including the trust created by this Indenture) to, another corporation or national banking association, the resulting, surviving or transferee corporation or national banking association without any further act shall be the successor Mexican Trustee with the same effect as if the successor Mexican Trustee had been named as the Mexican Trustee herein.

SECTION 7.10. Eligibility, Disqualification. The Trustee shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has, together with parent, a combined capital and surplus of at least U.S.$50,000,000 as set forth in its most recent published annual report of condition.

ARTICLE VIII

SATISFACTION AND DISCHARGE OF INDENTURE

SECTION 8.01. Discharge of Indenture. When (a) the Issuer delivers to the Trustee for cancellation all Notes theretofore authenticated (other than any other Notes which have been destroyed, lost or stolen and in lieu of or in substitution for which other Notes have been authenticated and delivered) and not theretofore canceled, or (b) all the Notes not theretofore canceled or delivered to the Trustee for cancellation have become due and payable, and the Issuer deposits with the Trustee in trust or delivers to the Holders amounts in U.S. Legal Tender or U.S. Government Obligations, or, where required, ADSs or any combination thereof sufficient (calculated as set forth under the terms of this Indenture with respect to such payment) to pay at maturity, on any Tax Redemption Date, Change of Control Purchase Date, upon conversion or

otherwise all of the Notes (other than any Notes which have been mutilated, destroyed, lost or stolen and in lieu of or in substitution for which other Notes have been authenticated and delivered) not theretofore canceled or delivered to the Trustee for cancellation, including principal and Interest, if any, due or to become due to such date and to satisfy any related obligation to deliver ADS, and if the Issuer also pays, or causes to be paid, all other sums payable hereunder by the Issuer, then this Indenture shall cease to be of further effect (except as to (i) rights of registration of transfer, substitution, replacement and exchange and conversion of Notes, (ii) rights hereunder of Holders to receive payments of principal of and Interest, if any, on the Notes, (iii) the obligations under Section 2.03 and Section 8.05 hereof and (iv) the rights, obligations and immunities of the Trustee hereunder), and the Trustee, on demand of the Issuer accompanied by an Officer's Certificate and an Opinion of Counsel as required by Section 10.03 and at the Issuer's cost and expense, shall execute proper instruments acknowledging satisfaction of and discharging this Indenture; *provided*, *however*, the Issuer hereby agrees to reimburse the Trustee for any costs or expenses thereafter reasonably and properly incurred by the Trustee and to compensate the Trustee for any services thereafter reasonably and properly rendered by the Trustee in connection with this Indenture or the Notes.

SECTION 8.02. Deposited Monies to be Held in Trust by Trustee. Subject to Section 8.04, all monies and securities deposited with the Trustee pursuant to Section 8.01 shall be held in trust and applied by it to the payment, notwithstanding the provisions of Article XI, either directly or through the Paying Agent, to the Holders of the particular Notes for the payment or conversion of which such monies or securities have been deposited with the Trustee, of all sums due and to become due thereon for principal and Interest, if any. The Issuer shall pay and indemnify the Trustee against any Tax, fee or other charge imposed on or assessed against the U.S. Government Obligations deposited pursuant to Section 8.01 or the principal and Interest received in respect thereof other than any such Tax, fee or other charge which by law is for the account of the Holders of the Notes.

SECTION 8.03. Paying Agent to Repay Monies Held. Upon the satisfaction and discharge of this Indenture, all monies then held by any Paying Agent (other than the Trustee) shall, upon the Issuer's demand, be repaid to it or paid to the Trustee, and thereupon such Paying Agent shall be released from all further liability with respect to such monies.

SECTION 8.04. Return of Unclaimed Monies. Subject to the requirements of applicable law, any monies deposited with or paid to the Trustee for payment of the principal of, or Interest, if any, on Notes and not applied but remaining unclaimed by the Holders thereof for two years after the date upon which the principal of, or Interest on such Notes, as the case may be, have become due and payable, shall be repaid to the Issuer by the Trustee on demand; *provided*, *however*, that the Issuer, or the Trustee at the request of the Issuer, shall have first caused notice of such payment to the Issuer to be mailed to each Holder of a Note entitled thereto no less than 30 days prior to such payment and all liability of the Trustee shall thereupon cease with respect to such monies; and the Holder of any of such Notes shall thereafter look only to the Issuer for any payment which such Holder may be entitled to collect unless an applicable abandoned property law designates another Person.

SECTION 8.05. Reinstatement. If the Trustee or the Paying Agent is unable to apply any money in accordance with Section 8.02 by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the Issuer's obligations under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to Section 8.01 until such time as the Trustee or the Paying Agent is permitted to apply all such money in accordance with Section 8.02; *provided*, *however*, that if the Issuer makes any payment of Interest on or principal of any Note following the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders thereof to receive such payment from the money held by the Trustee or Paying Agent.

ARTICLE IX

AMENDMENTS

SECTION 9.01. Without the Consent of Holders. The Issuer, the Mexican Trustee and the Trustee may amend this Indenture or the Notes without notice to or the consent of any Holder to:

(a) cure any ambiguity, omission, defect or inconsistency in this Indenture or the Notes;

(b) provide for the assumption by a surviving or successor corporation of the obligations of the Issuer under the Indenture or evidence and provide for the acceptance of appointment of a successor Trustee pursuant to this Indenture;

(c) provide for uncertificated Notes in addition to or in place of certificated Notes (provided that the uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Internal Revenue Code or in a manner such that the uncertificated Notes are described in Section 163(f)(2)(B) of the Internal Revenue Code);

(d) add guarantees with respect to the Notes;

(e) secure the Notes;

(f) add to the Issuer's covenants for the benefit of the Holders or surrender any right or power conferred upon the Issuer;

(g) make any change that does not materially adversely affect the rights of any Holder;

(h) comply with the provisions of any clearing agency, clearing corporation or clearing system, including DTC, the Trustee or the Registrar with respect to the provisions of this Indenture or the Notes relating to transfers and exchanges of Notes; and

(i) conform the terms of this Indenture or the Notes to the description thereof in the Offering Memorandum.

SECTION 9.02. With the Consent of Holders. Subject to Section 6.07, the Issuer, the Mexican Trustee and the Trustee may amend this Indenture or the Notes with the written consent of the Holders of at least a majority in aggregate principal amount of the then outstanding Notes (including without limitation consents obtained in connection with a purchase of, or a tender offer or exchange offer for, Notes).

Subject to Section 6.04 and Section 6.07, the Holders of a majority in principal amount of the then-outstanding Notes (including without limitation by consents obtained in connection with a purchase of, or a tender offer or exchange offer for, Notes) may waive compliance in a particular instance by the Issuer with any provision of this Indenture or the Notes.

However, without the consent of each Holder of an outstanding Note affected, an amendment or waiver under this Section 9.02 may not, with respect to any Notes held by a non-consenting Holder:

(a) reduce the amount of Notes whose Holders must consent to an amendment or waiver;

(b) reduce the rate of or change or have the effect of changing the time for payment of Interest on any Notes;

(c) reduce the principal of or change or have the effect of changing the fixed maturity of any Notes, or change the date on which any Notes may be subject to redemption, or reduce the redemption price therefor;

(d) make any Notes payable in money other than that stated in the Notes;

(e) make any change in provisions of this Indenture entitling each Holder to receive payment of principal and Interest on such Holder's Notes on or after the due date thereof or to bring suit to enforce such payment, or permitting Holders of a majority in principal amount of Notes to waive Defaults or Events of Default;

(f) reduce the Change of Control Payment of any Note or amend or modify in any manner adverse to the Holders, the Issuer's obligation to make payment of such Change of Control Payment, whether through an amendment or waiver of provisions in the covenants, definitions or otherwise;

(g) make any change in the provisions of the Indenture described under Section 4.12 that adversely affects the rights of any Holder or amend the terms of the Notes in a way that would result in a loss of exemption from Taxes;

(h) make any change to the provisions of this Indenture or the Notes that adversely affect the ranking of the Notes; and

(i) make any change that impairs or adversely affects the conversion rights of any Notes.

To secure a consent or waiver of the Holders under this Section, it shall not be necessary for such Holders to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

After an amendment or waiver under this Article IX becomes effective, the Issuer shall mail to the Holders a notice briefly describing the amendment or waiver. The failure to give such notice to all Holders, or any defect therein, shall not impair or affect the validity of an amendment or waiver under this Article IX.

SECTION 9.03. [Reserved].

SECTION 9.04. Revocation and Effect of Consents. Until an amendment or waiver becomes effective, a consent to it by a Holder is a continuing consent by such Holder and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent is not made on any Note. However, any such Holder or subsequent Holder may revoke the consent as to his or her Note or portion of a Note if the Trustee receives the notice of revocation before the date on which the Trustee receives an Officer's Certificate certifying that the Holders of the requisite principal amount of Notes have consented to the amendment or waiver.

The Issuer may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to consent to any amendment or waiver. If a record date is fixed, then notwithstanding the provisions of the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to consent to such amendment or waiver or to revoke any consent previously given, whether or not such Persons continue to be Holders after such record date. No consent shall be valid or effective for more than 90 days after such record date unless consents from Holders of the principal amount of Notes required hereunder for such amendment or waiver to be effective shall have also been given and not revoked within such 90-day period.

After an amendment or waiver becomes effective it shall bind every Holder, unless it is of the type described in clauses (a) through (i) of Section 9.02. In such cases, the amendment or waiver shall bind each Holder who has consented to it and every subsequent Holder of a Note or portion of a Note that evidences the same debt as the consenting Holder's Note.

SECTION 9.05. Notation on or Exchange of Notes. Notes authenticated and delivered after the execution of any supplemental indenture pursuant to this Article IX may, and shall if required by the Trustee, bear a notation in the form approved by the Trustee as to any matter provided for in such supplemental indenture. If the Issuer shall so determine, new Notes so modified as to conform, in the opinion of the Issuer and the Trustee, to any such supplemental indenture may be prepared and executed by the Issuer and authenticated and delivered by the Trustee in exchange for outstanding Notes without charge to the Holders of the Notes, except as specified in Section 2.07.

SECTION 9.06. Trustee Protected. The Trustee and the Mexican Trustee shall sign any amendment or supplemental indenture authorized pursuant to this Article IX if such amendment or supplemental indenture does not adversely affect the rights, duties, liabilities or immunities of the Trustee or the Mexican Trustee. If it does, the Trustee or the Mexican Trustee, as applicable, may, but need not, sign it. In signing such amendment or supplemental indenture, the Trustee and the Mexican Trustee shall be entitled to receive, and shall be fully protected in relying upon, (in addition to the documents required by Section 10.04) an Officer's Certificate and an Opinion

of Counsel as conclusive evidence, and each stating that such amendment or supplemental indenture is authorized or permitted by this Indenture, that it is not inconsistent herewith, and that it will be valid and binding upon the Issuer in accordance with its terms.

ARTICLE X

GENERAL PROVISIONS

SECTION 10.01. Issuer's Representations. Pursuant to Articles 210, 210 Bis, 213 and other applicable articles of the LGTOC, the Issuer hereby represents that:

(a) the offering and sale of the Notes, as well as the execution of this Indenture and any other documents relating to the offering and sale of the Notes, were approved by the shareholders of the Issuer at a general extraordinary shareholders meeting of the Issuer held on September 4, 2009;

(b) as provided in paragraph I(b) of Article 213 of the LGTOC, the documentation and information included in the Offering Memorandum, and used as a basis for the issuance of the Notes, have been prepared based on the audited consolidated financial statements of the Issuer corresponding to the period ended as of December 31, 2009, certified by Mr. Celin Zorilla Rizo, certified public accountant (the " Financial Statements"). A copy of the Financial Statements is attached as Exhibit D hereto;

(c) for purposes of paragraph II (only in connection with paragraph III of Article 210 of the LGTOC) and paragraph V(a) of Article 213 of the LGTOC, based on the Financial Statements, as of December 31, 2009, the (i) total stockholders' equity (*capital contable*) of the Issuer was Ps.257,570 million, (ii) the Issuer's paid-in capital stock was Ps.102,761 million, (iii) the amount of the total assets of the Issuer was Ps.582,286 million, (iv) the amount of the total liabilities of the Issuer was Ps.324,716 million and (v) the amount of the net total assets of the Issuer (the " Net Total Assets") was Ps.257,570 million.

(d) at the meeting of the Board of Directors of the Issuer held on March 1, 2010, the Issuer's Board of Directors authorized any two members of the Board of Directors to execute the Notes;

(e) the Notes will not be secured by any collateral;

(f) Exhibit E attached hereto includes a summary of the terms of the offering and sale of the Notes, including the information set forth in Article 213 of the LGTOC; and

(g) the proceeds of the offering of the Notes shall be used to pay the cost of the capped call transaction described in the Offering Memorandum and the remainder for general corporate purposes and to repay indebtedness.

SECTION 10.02. Notices. Any notice or communication among the Issuer, the Mexican Trustee and the Trustee to any of the others is duly given if in writing and delivered in person or mailed by first-class mail, with postage prepaid (registered or certified, return receipt requested), or sent by facsimile or overnight air couriers guaranteeing next day delivery, to the other's

address as stated in Section 10.09. The Issuer, the Mexican Trustee or the Trustee by notice to each of the others may designate additional or different addresses for subsequent notices or communications. The Trustee and the Mexican Trustee may rely upon and comply with instructions or directions sent via unsecured facsimile or email transmission and the Trustee and the Mexican Trustee shall not be liable for any loss, liability or expense of any kind incurred by the Issuer or the Holders due to the Trustee's or the Mexican Trustee's reliance upon and compliance with instructions or directions given by unsecured facsimile or email transmission, provided, however, that such losses have not arisen from the negligence or willful misconduct of the Trustee or the Mexican Trustee, it being understood that the failure of the Trustee or the Mexican Trustee to verify or confirm that the person providing the instructions or directions, is, in fact, an authorized person does not constitute negligence or willful misconduct.

All notices and communications (other than those sent to Holders) shall be deemed to have been duly given at the time delivered by hand, if personally delivered; five Business Days after being deposited in the mail, postage prepaid, if mailed; when transmission is confirmed, if transmitted by facsimile; and the next Business Day after timely delivery to the courier, if sent by overnight air courier guaranteeing next day delivery. Notwithstanding the foregoing, (i) all notices to the Trustee shall be effective only upon receipt by a Trust Officer of the Trustee and (ii) all notices to the Mexican Trustee shall be effective only upon receipt by a trust officer of the Mexican Trustee.

Any notice or communication to a Holder shall be mailed by first-class mail, with postage prepaid, to his or her address shown on the Register kept by the Registrar and shall be deemed to have been given on the date of such mailing. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is sent in the manner provided above within the time prescribed, it is duly given, whether or not the addressee receives it.

If the Issuer sends a notice or communication to Holders, it shall send a copy to the Trustee and each Agent at the same time. Any notice required to be given by the Issuer may be given by the Trustee on the Issuer's behalf and at the expense of Issuer.

All notices or communications shall be in writing.

The Trustee agrees to accept and act upon instructions or directions pursuant to this Indenture sent by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that, the Trustee shall have received an incumbency certificate listing persons designated to give such instructions or directions and containing specimen signatures of such designated persons, which incumbency certificate shall be amended and replaced whenever a person is to be added or deleted from the listing. If the Issuer elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee in its discretion elects to act upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The Issuer agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

SECTION 10.03. Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Issuer to the Trustee to take any action under this Indenture, the Issuer shall furnish to the Trustee:

(A) an Officer's Certificate in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 10.04) stating that, in the opinion of such person, all conditions precedent and covenants, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(B) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee (which shall include the statements set forth in Section 10.04) stating that, in the opinion of such counsel, all such conditions precedent and covenants have been complied with.

SECTION 10.04. Statements Required in Certificate or Opinion. Each certificate or opinion with respect to compliance with a condition or covenant provided for in this Indenture shall include:

(i) a statement that the person making such certificate or opinion has read such covenant or condition;

(ii) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(iii) a statement that, in the opinion of such person, he or she has made such examination or investigation as is necessary to enable him or her to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(iv) a statement as to whether or not, in the opinion of such person, such condition or covenant has been complied with.

Any Officer's Certificate may be based, insofar as it relates to legal matters, upon an Opinion of Counsel, unless such Officer knows that the opinion with respect to the matters upon which his or her certificate may be based as aforesaid is erroneous. Any Opinion of Counsel may be based, insofar as it relates to factual matters, upon certificates, statements or opinions of, or representations by, an Officer or Officers of the Issuer, or other Persons or firms deemed appropriate by such counsel, unless such counsel knows that the certificates, statements or opinions or representations with respect to the matters upon which his or her opinion may be based as aforesaid are erroneous.

Any Officer's Certificate, statement or Opinion of Counsel may be based, insofar as it relates to accounting matters, upon a certificate or opinion of or representation by an accountant (who may be an employee of the Issuer), or firm of accountants, unless such Officer or counsel, as the case may be, knows that the certificate or opinion or representation with respect to the accounting matters upon which his or her certificate, statement or opinion may be based as aforesaid is erroneous.

SECTION 10.05. Rules by Trustee and Agents. The Trustee may make reasonable rules for action by, or a meeting of, Holders. The Registrar or Paying Agent may make reasonable rules and set reasonable requirements for its functions.

S E C T I O N 1 0 . 0 6 .
City or Mexico City are authorized or required by law or other governmental action to remain closed. If any Interest Payment Date or other payment date is not a Business Day at a place of payment, payment may be made at that place on the next succeeding day that is a Business Day, and no Interest or other amount shall accrue as a result of any such postponement.

SECTION 10.07. No Recourse Against Others. No director, officer, employee or shareholder, as such, of the Issuer from time to time shall have any liability for any obligations of the Issuer under the Notes or this Indenture or for any claim based on, in respect of, or by reason of such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. This waiver and release are part of the consideration for the Notes. Each of such directors, officers, employees and shareholders is a third party beneficiary of this Section 10.07.

SECTION 10.08. Counterparts. This Indenture may be executed in any number of counterparts and by the parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

SECTION 10.09. Other Provisions. The Issuer initially appoints the Trustee as Paying Agent, Registrar, Conversion Agent and authenticating agent.

The Issuer's address is:

CEMEX, S.A.B. de C.V.
Av. Ricardo Margáin Zozaya #325
Colonia Valle del Campestre
Garza García, Nuevo León
México 66265
Attention: Chief Financial Officer
Fax: +1 52 81 8888 4415

The Trustee's address is:

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: International Corporate Trust
Fax: 212-815-5390 or 212-815-5366

The Mexican Trustee's address is:

The Bank of New York Mellon, S.A., Institución de Banca Múltiple
C/O The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: International Corporate Trust
Fax: 212-815-5390 or 212-815-5366

Banamex's address is:

Banco Nacional De Mexico, S.A., Integrante Del Grupo Financiero Banamex
Calzada del Valle No. 350 Oriente, 1º Piso
Colonia del Valle
San Pedro Garza García, Nuevo León, México, C.P. 66220,
Phone: +52 81 1226 1984
Fax: +52 81 1226 2097
Attention: Nelly Wing
E mail: nwing@banamex.com

SECTION 10.10. Governing Law. (a) THIS INDENTURE AND THE NOTES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. THE PARTIES HERETO EACH HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR ANY TRANSACTION RELATED HERETO OR THERETO TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

(b) Each of the parties hereto hereby:

(i) agrees that any suit, action or proceeding against it arising out of or relating to this Indenture or the Notes, as the case may be, may be instituted in any U.S. Federal or State court located in the State of New York, County of New York and in the courts of its own corporate domicile, in respect of actions brought against it as a defendant,

(ii) waives to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding, any claim that any suit, action or proceeding in such a court has been brought in an inconvenient forum, and any right to which it may be entitled, on account of place of residence or domicile,

(iii) irrevocably submits to the jurisdiction of such courts in any suit, action or proceeding and waives the right to challenge such submission in any other jurisdiction that it may be entitled by reason of its present or future domicile or other reason,

(iv) agrees that final judgment in any such suit, action or proceeding brought in such a court shall be conclusive and binding may be enforced in the courts of the jurisdiction of which it is subject by a suit upon judgment, and

(v) agrees that service of process by mail to the addresses specified herein shall constitute personal service of such process on it in any such suit, action or proceeding.

(c) The Issuer has appointed Corporate Creations Network Inc., 1040 Avenue of the Americas # 2400, New York, NY 10018 (U.S.A.) as its authorized agent (the "Authorized Agent") upon whom all writs, process and summonses may be served in any suit, action or proceeding arising out of or based upon this Indenture or the Notes which may be instituted in any U.S. Federal or State court located in the State of New York, County of New York. The Issuer hereby represents and warrants that the Authorized Agent has accepted such appointment and has agreed to act as said agent for service of process, and the Issuer agrees to take any and all action, including the filing of any and all documents, that may be necessary to continue each such appointment in full force and effect as aforesaid so long as the Notes remain outstanding. The Issuer agrees that the appointment of the Authorized Agent shall be irrevocable so long as any of the Notes remain outstanding or until the irrevocable appointment by the Issuer of a successor agent in The City of New York, New York as authorized agent for such purpose and the acceptance of such appointment by such successor. Service of process upon the Authorized Agent shall be deemed, in every respect, effective service of process upon the Issuer.

(d) To the extent that the Issuer has or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service or notice, attachment in aid or otherwise) with respect to itself or any of its property, the Issuer hereby irrevocably waives and agrees not to plead or claim such immunity in respect of its obligations under this Indenture or the Notes.

(e) Nothing in this Section 10.10 shall affect the right of the Trustee or any Holder of the Notes to serve process in any other manner permitted by law.

SECTION 10.11. No Adverse Interpretation of Other Agreements . This Indenture may not be used to interpret another indenture, loan or debt agreement of the Issuer or a Subsidiary of the Issuer. Any such other indenture, loan or debt agreement may not be used to interpret this Indenture.

SECTION 10.12. Successors. All agreements of the Issuer in this Indenture and the Notes shall bind its successors. All agreements of the Trustee in this Indenture shall bind its successors.

SECTION 10.13. Severability. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

SECTION 10.14. Table of Contents, Headings, etc. The Table of Contents, and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not to be considered a part hereof and shall in no way modify or restrict any of the terms or provisions hereof.

SECTION 10.15. Currency Indemnity. (a) U.S. Legal Tender is the sole currency of account and payment for all sums payable by the Issuer under or in connection with the Notes or this Indenture, including damages. To the greatest extent permitted under applicable law, any amount received or recovered in currency other than U.S. Legal Tender in respect of the Notes (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the winding-up or dissolution of the Issuer or any Subsidiary of the Issuer or otherwise) by any Holder in respect of any sum expressed to be due to it from the Issuer shall only constitute a discharge of them under the Notes and this Indenture only to the extent of the U.S. Legal Tender amount which the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that U.S. Legal Tender amount is less than the U.S. Legal Tender amount expressed to be due to the recipient under the Notes or this Indenture, the Issuer shall indemnify and hold harmless the recipient against any loss or cost sustained by it in making any such purchase to the greatest extent permitted under applicable law. For the purposes of this Section 10.15, it will be sufficient for the Holder to certify that it would have suffered a loss had an actual purchase of U.S. Legal Tender been made with the amount so received in that other currency on the date of receipt or recovery (or, if a purchase of U.S. Legal Tender on such date had not been practicable, on the first date on which it would have been practicable).

(b) The indemnities of the Issuer contained in this Section 10.15, to the extent permitted by law: (i) constitute a separate and independent obligation from the other obligations of the Issuer under this Indenture and the Notes; (ii) shall give rise to a separate and independent cause of action against the Issuer; (iii) shall apply irrespective of any waiver granted by any Holder or the Trustee from time to time; and (iv) shall continue in full force and effect notwithstanding any other judgment, order, claim or proof of claim for a liquidated amount in respect of any sum due under the Notes or this Indenture or any other judgment or order.

SECTION 10.16. Adjustments for Currency Exchange Rates. In the event that any amount used in any calculation in this Indenture is expressed in Pesos, such amount shall, for purposes of such calculation, be deemed to be converted into U.S. Legal Tender at the spot rate of exchange in The City of New York at which the Trustee on the date of determination is able to purchase U.S. Legal Tender with such amount. The "spot rate of exchange" shall include any premiums and costs of exchange payable in connection with the purchase of, or conversion into, U.S. Legal Tender.

SECTION 10.17. Change in ADSs or CPOs. (a) If the Issuer's ADSs issued under a depositary receipt program sponsored by the Issuer cease to represent the Issuer's CPOs, all references in this Indenture to the Issuer's ADSs will be deemed to have been replaced by a reference to:

(i) the number of CPOs of the Issuer corresponding to the Issuer's ADSs on the last day on which the Issuer's CPOs were represented by ADSs issued under a depositary receipt program sponsored by the Issuer; and

(ii) as adjusted pursuant to the adjustment provisions below, any other property the Issuer's ADSs represented as if such other property had been distributed to holders of the Issuer's ADSs on that day.

(b) If the Issuer's Ordinary Shares cease to be represented by CPOs issued under a depositary receipt program sponsored by the Issuer, all references in this Indenture to the Issuer's CPOs will be deemed to have been replaced by a reference to:

(i) the number of Ordinary Shares of the Issuer corresponding to the Issuer's CPOs on the last day on which the Issuer's Ordinary Shares were represented by CPOs issued under a depositary receipt program sponsored by the Issuer; and

(ii) as adjusted pursuant to the adjustment provisions below, any other property the Issuer's CPOs represented as if such other property had been distributed to holders of the Issuer's CPOs on that day.

SECTION 10.18. USA PATRIOT ACT. The parties hereto acknowledge that, in accordance with Section 326 of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (as amended, modified or supplemented from time to time, the " USA Patriot Act"), the Trustee, like all financial institutions, is required to obtain, verify, and record information that identifies each person or legal entity that opens an account. The parties to this Indenture agree that they will provide the Trustee with such information as the Trustee may request in order for the Trustee to satisfy the requirements of the USA Patriot Act.

ARTICLE XI

SUBORDINATION

SECTION 11.01. Notes Subordinated to Senior Indebtedness. The Issuer covenants and agrees, and each Holder by his acceptance thereof likewise covenants and agrees, that all Notes are subject to the provisions of this Article XI; and each Person holding any Note, whether upon original issue or upon transfer or assignment thereof, accepts and agrees to be bound by such provisions and acknowledges that such provisions are for the benefit of, and shall be enforceable directly by, the holders of Senior Indebtedness.

Each Holder authorizes and directs the Trustee on such Holder's behalf to take such action as may be necessary or appropriate, in the sole discretion of the Trustee, to acknowledge or effectuate the subordination between the Holders and the holders of Senior Indebtedness as provided in this Article XI and appoints the Trustee as such Holder's attorney-in-fact for any and all such purposes.

The payment of the principal of, premium, if any, and Interest on and any other payment due pursuant to this Indenture or any Notes issued hereunder (including, without limitation, the payment or deposit of the Change of Control Payment pursuant to Article III) shall, to the extent and in the manner hereinafter set forth, be subordinated and subject in right of payment to the prior payment in full of all Senior Indebtedness, whether outstanding at the Issue Date or thereafter created, incurred, assumed or guaranteed.

Each Holder by accepting a Note acknowledges and agrees that the subordination provision set forth in this Article XI are, and are intended to be, an inducement and consideration to each holder of any Senior Indebtedness of the Issuer, whether such Senior Indebtedness was created before or after the issuance of the Notes, to acquire and continue to hold, or to continue to hold, such Senior Indebtedness, and such holder of Senior Indebtedness shall be deemed conclusively to have relied upon such subordination provisions in acquiring and continuing to hold, or in continuing to hold, such Senior Indebtedness, and such holder is made an obligee hereunder and may enforce directly such subordination provisions.

SECTION 11.02. Notes Subordinated to Prior Payment of All Senior Indebtedness On Dissolution, Liquidation, Reorganization, etc., of the Issuer. Upon any payment or distribution of the assets of the Issuer of any kind or character, whether in cash, property or securities (including any collateral at any time securing the Notes, other than money or U.S. Government Obligations deposited in trust as described in Section 11.07), to creditors upon any dissolution, winding-up, total or partial liquidation, *concurso mercantil*, *quiebra* or reorganization of the Issuer (whether voluntary or involuntary, or in bankruptcy, insolvency, reorganization, liquidation, or receivership proceedings, or upon an assignment for the benefit of creditors, or any marshalling of the assets of the Issuer, or upon any similar proceedings), then in such event:

(a) all Senior Indebtedness (including principal thereof and interest thereon) shall first be paid in full before any Payment of the Notes (as defined in Section 11.05) is made;

(b) any payment or distribution of assets of the Issuer of any kind or character, whether in cash, property or securities (including any collateral at any time securing the Notes, other than money or U.S. Government Obligations deposited in trust as described in Section 11.07), to which the Holders or the Trustee on behalf of the Holders would be entitled except for the provisions of this Article XI, including any such payment or distribution which may be payable or deliverable by reason of the payment of another debt of the Issuer being subordinated to the payment of the Notes, shall be paid or delivered by any debtor, custodian or other person making such payment or distribution, directly to the holders of the Senior Indebtedness or their Representative or Representatives, or to the trustee or trustees under any indenture pursuant to which any instruments evidencing any of such Senior Indebtedness may have been issued, ratably according to the aggregate amounts remaining unpaid on account of the principal of and interest on the Senior Indebtedness held or represented by each, for application to payment of all Senior Indebtedness remaining unpaid, to the extent necessary to pay all Senior Indebtedness in full after giving effect to any concurrent payment or distribution, or provision therefor, to the holders of such Senior Indebtedness; and

(c) in the event that, notwithstanding the foregoing provisions of this Section 11.02, any payment or distribution of assets of the Issuer of any kind or character, whether in cash, property or securities, shall be received by the Trustee or the Holders before all Senior Indebtedness is paid in full, such payment or distribution (subject to the provisions of Section 11.06 and Section 11.07) shall be held in trust for the benefit of, and shall be immediately paid or delivered by the Trustee or such Holders, as the case may be, to the holders of Senior Indebtedness remaining unpaid, or their Representative or Representatives, ratably according to the aggregate amounts remaining unpaid on account of the principal of and interest on the Senior Indebtedness held or represented by each, for application to the payment of all Senior

Indebtedness remaining unpaid, to the extent necessary to pay all Senior Indebtedness in full after giving effect to any concurrent payment or distribution, or provision therefor, to or for the holders of such Senior Indebtedness.

The Issuer shall give prompt notice to the Trustee of any dissolution, winding-up, liquidation, *concurso mercantil*, *quiebra* or reorganization of the Issuer.

Upon any prepayment, payment or distribution of assets of the Issuer referred to in this Article XI, the Trustee, subject to the provisions of Section 7.01 and Section 7.02, and the Holders shall be entitled to conclusively rely upon any order or decree by any court of competent jurisdiction in which such dissolution, winding-up, liquidation or reorganization proceeding is pending, or a certificate of the liquidating trustee or agent or other person making any distribution to the Trustee or to the Holders, for the purpose of ascertaining the persons entitled to participate in such distribution, the holders of the Senior Indebtedness and other Indebtedness of the Issuer, the amount thereof or payable thereon, the amount or amounts paid or distributed thereon and all other facts pertinent thereto or to this Article XI; *provided* that the foregoing shall apply only if such court, trustee, liquidating trustee or other person has been fully apprised of the provisions of this Article XI.

SECTION 11.03. Holders to be Subrogated to Right of Holders of Senior Indebtedness. Subject to the prior payment in full of all Senior Indebtedness, the Holders shall be subrogated (equally and ratably with the holders of any Indebtedness of the Issuer which by its express terms is subordinated to Indebtedness of the Issuer to substantially the same extent as the Notes are subordinated and is entitled to like rights of subrogation) to the rights of the holders of Senior Indebtedness to receive payments or distributions of assets of the Issuer applicable to the Senior Indebtedness until the principal of and Interest on the Notes shall be paid in full, and for purposes of such subrogation, no payments or distributions to the holders of Senior Indebtedness of assets, whether in cash, property or securities, distributable to the holders of Senior Indebtedness under the provisions hereof to which the Holders would be entitled except for the provisions of this Article XI, and no payment pursuant to the provisions of this Article XI to the holders of Senior Indebtedness by the Holders shall, as among the Issuer, its creditors other than the holders of Senior Indebtedness, and the Holders, be deemed to be a payment by the Issuer to or on account of Senior Indebtedness, it being understood that the provisions of this Article XI are, and are intended, solely for the purpose of defining the relative rights of the Holders, on the one hand, and the holders of Senior Indebtedness, on the other hand.

SECTION 11.04. Obligations of the Issuer Unconditional. Nothing contained in this Article XI or elsewhere in this Indenture or in any Note is intended to or shall impair the obligation of the Issuer, which is absolute and unconditional, to pay to the Holders the principal of and Interest on the Notes, as and when the same shall become due and payable in accordance with the terms of the Notes, or to affect the relative rights of the Holders and other creditors of the Issuer other than the holders of Senior Indebtedness, nor shall anything herein or therein prevent the Trustee or any Holder from exercising all remedies otherwise permitted by applicable law upon the happening of an Event of Default under this Indenture, subject to the provisions of Article VI, and the rights, if any, under this Article XI of the holders of Senior Indebtedness in respect of assets, whether in cash, property or securities, of the Issuer received upon the exercise of any such remedy.

SECTION 11.05. Issuer Not to Make Payment with Respect to Notes in Certain Circumstances . (a) Subject to Section 11.14, upon the occurrence of any default in the payment of principal of (or premium, if any) or interest on Senior Indebtedness (a " Payment Default"), unless and until the amount of Senior Indebtedness affected by such Payment Default then due shall have been paid in full, or such Payment Default shall have been cured or waived or shall have ceased to exist, the Issuer shall not pay principal of, premium, if any, or Interest on the Notes or any other amount due pursuant to this Indenture or any Notes or make any deposit pursuant to Article III or Section 8.01 and shall not repurchase, redeem or otherwise retire any Notes (collectively, " Payment of the Notes").

(b) Unless Section 11.02 shall be applicable, upon (1) the occurrence of a default on Designated Senior Indebtedness (other than a Payment Default) that occurs and is continuing that permits the holders of such Designated Senior Indebtedness (or their Representative or Representatives) to accelerate its maturity and (2) receipt by the Issuer and the Trustee from the holders of such Designated Senior Indebtedness or their respective agents or Representatives of written notice (a "Payment Blockage Notice") of such occurrence and the imposition of a Payment Blockage Period hereunder, then the Issuer shall not make any Payment of the Notes for a period (the "Payment Blockage Period") commencing on the earlier of the date of receipt by the Issuer or the Trustee of such notice and ending on the earlier of (subject to any blockage of payments that may then be in effect under this Section 11.05) (x) the date 179 days after such date, (y) the date such default shall have been cured or waived in writing or shall have ceased to exist or such Senior Indebtedness shall have been discharged, or (z) the date such Payment Blockage Period shall have been terminated by written notice to the Issuer or the Trustee from such holders of such Designated Senior Indebtedness, or their respective agents or Representatives, after which, in case of clause (x), (y) or (z), as the case may be, the Issuer shall resume making any and all required payments (unless such Designated Senior Indebtedness has been accelerated). Notwithstanding any other provision of this Indenture, only one Payment Blockage Period may be commenced within any consecutive 365-day period, and no event of default with respect to any Designated Senior Indebtedness that existed or was continuing on the date of the commencement of any Payment Blockage Period with respect to such Designated Senior Indebtedness shall be, or can be made, the basis for the commencement of a second Payment Blockage Period whether or not within a period of 365 consecutive days unless such event of default shall have been cured or waived for a period of not less than 90 consecutive days. In no event will a Payment Blockage Period extend beyond 179 days.

(c) In the event that, notwithstanding the provisions of this Section 11.05, any Payment of the Notes shall be made by or on behalf of the Issuer and received by the Trustee, any Holder or any Paying Agent (or, if the Issuer is acting as its own Paying Agent, money for any such payment shall be segregated and held in trust), which payment was prohibited by this Section 11.05, then, unless and until the amount of Senior Indebtedness then due, as to which a default shall have occurred, shall have been paid in full, or such default shall have been cured or waived, such payment (subject, in each case, to the provisions of Section 11.06 and Section 11.07) shall be held in trust for the benefit of, and shall be immediately paid over to, the holders of Senior Indebtedness or their Representative or Representatives, ratably according to the aggregate amounts remaining unpaid on account of the principal of and interest on the Senior Indebtedness held or represented by each, for application to the payment of all Senior Indebtedness remaining unpaid to the extent necessary to pay all Senior Indebtedness in

accordance with its terms, after giving effect to any concurrent payment or distribution to or for the benefit of the holders of Senior Indebtedness. The Issuer shall give prompt written notice to the Trustee of any default under any Senior Indebtedness or under any agreement pursuant to which Senior Indebtedness may have been issued.

SECTION 11.06. Notice to Trustee. (a) The Issuer shall give prompt written notice to the Trustee of any fact known to the Issuer which would prohibit the making of any payment to or by the Trustee in respect of the Notes, but failure to give such notice shall not affect the subordination provided in this Article XI of the Notes to Senior Indebtedness. Within 30 calendar days after the occurrence of any event which would constitute a Default or an Event of Default, the Issuer shall deliver notice to the Trustee of such events, their status and what action the Issuer is taking or proposes to take in respect thereof. Notwithstanding the provisions of this Article XI or any other provision of this Indenture, the Trustee shall not at any time be charged with knowledge of the existence of any facts which would prohibit the making of any payment to or by the Trustee, unless and until a Trust Officer of the Trustee shall have received written notice thereof from the Issuer or from the holder or holders of Senior Indebtedness or from their Representative or Representatives; and, prior to the receipt of any such notice, the Trustee, subject to the provisions of Section 7.01 and Section 7.02, shall be entitled to assume conclusively that no such facts exist.

(b) The Trustee shall be entitled to conclusively rely on the delivery to it of a written notice by a Person representing himself to be a holder of Senior Indebtedness (or a Representative of such holder) to establish that such notice has been given by a holder of Senior Indebtedness or a Representative of any such holder. In the event that the Trustee determines in good faith that further evidence is required with respect to the right of any Person as a holder of Senior Indebtedness to participate in any payment or distribution pursuant to this Article XI, the Trustee may request such Person to furnish evidence to the reasonable satisfaction of the Trustee as to the amount of Senior Indebtedness held by such Person, the extent to which such Person is entitled to participate in such payment or distribution and any other facts pertinent to the rights of each Person under this Article XI, and if such evidence is not furnished, the Trustee may defer any payment to such Person pending judicial determination as to the right of such Person to receive such payment.

SECTION 11.07. Application by Trustee of Monies Deposited with It. Money or U.S. Government Obligations deposited in trust with the Trustee pursuant to Section 8.01 and not in violation of this Article XI shall be for the sole benefit of Holders and shall thereafter not be subject to the subordination provisions of this Article XI. Otherwise, any deposit of monies by the Issuer with the Trustee or any Paying Agent (whether or not in trust) for the payment of the principal of or Interest on any Notes shall be subject to the provisions of Sections 11.01, 11.02, 11.03 and 11.05; except that, if at least three Business Days prior to the date on which by the terms of this Indenture any such monies may become payable for any purpose (including, without limitation, the payment of either the principal of or Interest on any Note), a Trust Officer of the Trustee shall not have received with respect to such monies the notice provided for in Section 11.06, then the Trustee or any Paying Agent shall have full power and authority to receive such monies and to apply such monies to the purpose for which they were received, and shall not be affected by any notice to the contrary which may be received by it within three Business Days prior to or after such date. This Section 11.07 shall be construed solely for the

benefit of the Trustee and the Paying Agent and shall not otherwise affect the rights that holders of Senior Indebtedness may have to recover any such payments from the Holders in accordance with the provisions of this Article XI.

SECTION 11.08. Subordination Rights Not Impaired by Acts or Omissions of the Issuer or Holders of Senior Indebtedness . No right of any present or future holders of any Senior Indebtedness to enforce subordination, as herein provided, shall at any time in any way be prejudiced or impaired by any act or failure to act on the part of the Issuer or by any act or failure to act, in good faith, by any such holder, or by any noncompliance by the Issuer with the terms, provisions and covenants of this Indenture, regardless of any knowledge thereof which any such holder may have or be otherwise charged with. The holders of any Senior Indebtedness may extend, renew, modify or amend the terms of such Senior Indebtedness or any security therefor and release, sell or exchange such security and otherwise deal freely with the Issuer, all without affecting the liabilities and obligations of the parties to this Indenture or the Holders. No amendment of this Article XI or any defined terms used herein or any other Sections referred to in this Article XI which adversely affects the rights hereunder of holders of Senior Indebtedness, shall be effective unless the holders of such Senior Indebtedness (required pursuant to the terms of such Senior Indebtedness to give such consent) have consented thereto.

SECTION 11.09. Trustee to Effectuate Subordination. Each Holder by his acceptance thereof authorizes and directs the Trustee on his behalf to take such action as may be necessary or appropriate to acknowledge and effectuate the subordination provided in this Article XI and appoints the Trustee his attorney-in-fact for any and all such purposes.

SECTION 11.10. Right of Trustee to Hold Senior Indebtedness. The Trustee, in its individual capacity, shall be entitled to all of the rights set forth in this Article XI in respect of any Senior Indebtedness at any time held by it to the same extent as any other holder of Senior Indebtedness, and nothing in this Indenture shall be construed to deprive the Trustee of any of its rights as such holder. Nothing in this Article XI shall apply to claims of, or payments to, the Trustee under or pursuant to Section 7.07.

SECTION 11.11. Article XI Not to Prevent Events of Default. The failure to make a Payment of the Notes by reason of any provision in this Article XI shall not be construed as preventing the occurrence of an Event of Default under Section 6.01.

SECTION 11.12. No Fiduciary Duty Created to Holders of Senior Indebtedness . Notwithstanding any other provision in this Article XI, the Trustee shall not be deemed to owe any fiduciary duty to the holders of Senior Indebtedness by virtue of the provisions of this Article XI or otherwise. With respect to the holders of Senior Indebtedness, the Trustee undertakes to perform or to observe only such of its covenants or obligations as are specifically set forth in this Article XI and no implied covenants or obligations with respect to holders of Senior Indebtedness shall be read into this Indenture against the Trustee.

SECTION 11.13. Article Applicable to Paying Agents . In case at any time any Paying Agent other than the Trustee shall have been appointed by the Issuer and be then acting hereunder, the term "Trustee" as used in this Article XI shall in such case (unless the context shall otherwise require) be construed as extending to and including such Paying Agent within its

meaning as fully for all intents and purposes as if such Paying Agent were named in this Article XI in addition to or in place of the Trustee; *provided, however*, that Section 11.06, Section 11.10 and Section 11.12 shall not apply to the Issuer if it acts as Paying Agent.

SECTION 11.14. Certain Conversion Deemed Payment. For the purposes of this Article XI only, (1) the issuance and delivery of Junior Securities upon conversion of Notes in accordance with Article XII shall not be deemed to constitute a payment or distribution on account of the principal of or premium or Interest on Notes or on account of the purchase, redemption, retirement or other acquisition of Notes and shall not be prohibited by Section 11.02, and (2) the payment, issuance or delivery of cash, property or securities (other than Junior Securities) upon conversion of a Note shall be deemed to constitute payment on account of principal of such Note. The term "Junior Securities" means (a) shares of any stock of any class, ordinary participation certificates (*certificados de participación ordinario*) or other securities having stock of the Issuer as underlying securities or ADRs, of the Issuer and (b) securities of the Issuer which are subordinated in right of payment to all Senior Indebtedness which may be outstanding at the time of issuance or delivery of such securities to substantially the same extent as, or to a greater extent than, the Notes are so subordinated as provided in this Article XI. Nothing contained in this Article XI or elsewhere in this Indenture or in the Notes is intended to or shall impair, as among the Issuer, its creditors other than holders of Senior Indebtedness and the Holders of the Notes, the right, which is absolute and unconditional, of the Holder of any Note to convert such Note in accordance with Article XII.

SECTION 11.15. Contractual Subordination. This Article XI represents a bona fide agreement of contractual subordination pursuant to Section 510(b) of the Title 11, U.S. Code.

SECTION 11.16. Acceleration of Notes. If payment of the Notes is accelerated because of an Event of Default, the Issuer shall promptly notify holders of Senior Indebtedness (or their Representative or Representatives) of the acceleration.

ARTICLE XII

CONVERSION

SECTION 12.01. Right to Convert. Subject to and upon compliance with the provisions of this Indenture, each Holder shall have the right, at such Holder's option, at any time before the close of business on the fourth Business Day immediately preceding the Maturity Date, *provided, however,* that a Holder may convert a Note or portion thereof subject to an election for repurchase only if such Holder withdraws such election in accordance with Section 3.04(e) to convert the principal amount of any Note held by such Holder, or any portion of such principal amount which is U.S.$1,000 or an integral multiple thereof, *provided further* that the portion not so converted is in a minimum principal amount of U.S.$100,000, into fully paid and non-assessable Ordinary Shares; *provided* that the Issuer's obligation to deliver Ordinary Shares shall, except as otherwise provided in this Article XII, be satisfied by delivering that number of ADSs based on the Conversion Rate in effect at such time, by surrender of the Note to be so converted in whole or in part in the manner provided in Section 12.02. A Holder is not entitled to any rights of a holder of ADSs until such Holder has converted his or her Notes to ADSs, and only to the extent such Notes are deemed to have been converted to ADSs under this Article XII.

in part, the conversion privilege with respect to any Note, the Holder of such Note shall surrender such Note, duly endorsed, at an office or agency maintained by the Issuer pursuant to Section 4.04, and shall give a duly signed written notice of conversion, in the form provided on the Notes or available from the Conversion Agent (or such other notice which is acceptable to the Issuer) to the Conversion Agent, that the Holder elects to convert such Note or such portion thereof specified in said notice and the Conversion Agent shall give notice to the Issuer (at the address provided in Section 10.09 with a copy to Francisco J. Contreras Navarro (Fax: +1 52 81 8888 4519)) and Banco Nacional de Mexico, S.A., Integrante del Grupo Financiero Banamex (" Banamex") (at the address provided in Section 10.09) of receipt of such notice. Such notice shall also state the name or names (with address or addresses) in which the certificate or certificates for ADSs which are issuable on such conversion shall be issued, and shall be accompanied by transfer Taxes, if required pursuant to Section 12.07. Each such Note surrendered for conversion shall, unless the ADSs issuable on conversion are to be issued in the same name as the registration of such Note, be duly endorsed by, or be accompanied by instruments of transfer in form satisfactory to the Issuer duly executed by, the Holder or his or her duly authorized attorney. The date on which the requirements set forth in this paragraph have been satisfied with respect to a Note (or portion thereof) will be the "Conversion Date" and a converting Holder will become the record holder of any ADSs upon such conversion as of such Conversion Date. To exercise, in whole or in part, the conversion privilege with respect to a beneficial interest in a Global Security, a holder of such a beneficial interest must comply with the Depositary's procedures for converting a beneficial interest in a Global Security and pay any funds required by the sixth paragraph of this Section 12.02 or by Section 12.07. Subject to the foregoing procedures, any Holder of a Definitive Security who wishes to exercise the conversion privilege with respect to such Definitive Security must (i) complete and manually sign the Conversion Notice on the back of the Note, or a facsimile of the Conversion Notice; (ii) deliver the Conversion Notice, which is irrevocable, and the Note to the Conversion Agent; (iii) if required by the Issuer or the Conversion Agent, furnish appropriate endorsements and transfer documents; (iv) pay all transfer or similar Taxes if required pursuant to Section 12.07; and (v) if required under the terms of this Indenture, pay funds equal to the amount of Interest payable on the next Interest Payment Date.

On the third Business Day following the relevant Conversion Date, the Issuer shall issue and shall deliver or shall cause issuance and delivery (such delivery referred to herein as the "Settlement") to such Holder at the office or agency maintained by the Issuer for such purpose pursuant to Section 4.04, a certificate or certificates for, or effect a book-entry transfer through the Depositary with respect to, the number of ADSs issuable upon the conversion of such Note or portion thereof in accordance with the provisions of this Article XII.

Notwithstanding the preceding sentence, (a) if the Settlement of any conversion other than a conversion in connection with a Fundamental Change as provided in Section 12.12 is required to be made (without regard to the application of this clause (a)) prior to June 30, 2010 and the number of ADSs deliverable in such Settlement exceeds the number of Available Treasury Shares at such time, then the Issuer shall deliver all of the ADSs available for delivery on such Settlement date pro rata to the converting Holders whose conversions are required to be settled on such date and the Settlement of the remainder shall be deferred until June 30, 2010 or such earlier date on which the ADSs to satisfy such Settlement in full become available for

delivery to Holders; or (b) if a settlement of a conversion in connection with a Fundamental Change is required to be made (without regard to the application of this clause (b)) prior to June 30, 2010 and the number of ADSs deliverable to satisfy the Settlement at the then applicable Conversion Rate without regard to the Make Whole Fundamental Change Premium in the Conversion Rate exceeds the number of Available Treasury Shares at such time, then the Issuer shall deliver all of the ADSs available for delivery on such Settlement date pro rata to the converting Holders whose conversions are required to be settled on such date and the Settlement of the remainder (including the Additional ADSs (as defined in Section 12.12(a)) shall be deferred until June 30, 2010 or such earlier date on which the ADSs to satisfy such settlement in full become available for delivery to Holders. No Interest shall accrue on Notes between the Conversion Date and the Settlement date, regardless of whether such Settlement date is deferred as described in clause (a) or clause (b) above.

If any calculation required in order to determine the number of ADSs the Issuer must deliver in respect of a given conversion of Notes is based on data or other information that will not be available to the Issuer on the date the requirements set forth in the first paragraph of this Section 12.02 have been satisfied, the Issuer will delay Settlement of that conversion until no later than the third Business Day after the relevant data or information becomes available. In case any Note of a denomination of an integral multiple greater than U.S.$1,000 is surrendered for partial conversion, and subject to Section 2.02, the Issuer shall execute, and the Trustee shall authenticate and deliver to the Holder of the Note so surrendered, without charge to him or her, a new Note or Notes in authorized denominations in an aggregate principal amount equal to the unconverted portion of the surrendered Note *provided* that the minimum principal amount of such new note is U.S.$100,000.

Each conversion shall be deemed to have been effected with respect to a Note (or portion thereof) on the Conversion Date, and the Person in whose name any certificate or certificates for ADSs are issuable upon such conversion shall be deemed to have become on said date the holder of record of the ADSs represented thereby. Any such surrender on any date when the Issuer's stock transfer books are closed shall constitute the Person in whose name the certificates are to be issued as the record holder thereof for all purposes on the next succeeding day on which such stock transfer books are open, but such conversion shall be at the Conversion Rate in effect on the date upon which such Note is surrendered.

If any Note or a portion thereof is surrendered for conversion after 5:00 p.m. New York City time on a Record Date but prior to 9:00 a.m. New York City time on the immediately following Interest Payment Date, Holders of such Notes at 5:00 p.m. New York City time on the regular Record Date will receive payment of the Interest payable on such Notes on the corresponding Interest Payment Date notwithstanding the conversion of such Notes at any time after the close of business on the Record Date. Any Note or portion thereof surrendered for conversion by a Holder during the period from 5:00 p.m. New York City time on the Record Date through 9:00 a.m. New York City time on the immediately following Interest Payment Date shall be accompanied by payment, in funds acceptable to the Issuer, of an amount equal to the Interest otherwise payable on such Interest Payment Date on the principal amount being converted; *provided, however*, that no such payment need be made (1) if the Notes are surrendered for conversion after 5:00 p.m. New York City Time on the Record Date immediately preceding the Maturity Date, (2) if the Issuer has specified a Tax Redemption Date that is after a

Record Date and on or prior to the corresponding Interest Payment Date, (3) if the Issuer has specified a Change of Control Change Purchase Date that is after a Record Date and on or prior to the corresponding Interest Payment Date or (4) to the extent of any overdue Interest, if any overdue Interest exists at the time of conversion with respect to such Note. An amount equal to such payment shall be paid by the Issuer on such Interest Payment Date to the Holder at the close of business on such Record Date; *provided*, *however*, that if the Issuer defaults in the payment of Interest, if applicable, on such Interest Payment Date, such amount shall be paid to the Person who made such required payment. Except as provided in this Section 12.02, no payment of Interest shall be made and no adjustment shall be made for Interest accrued, if any, on any Note converted or for dividends on any shares issued upon the conversion of such Note as provided in this Article XII.

With respect to any Notes bearing a Restricted Securities Legend on the date of conversion, the ADSs distributed upon conversion will be issued in physical certificated form, will not be held in book-entry form through the facilities of the Depositary and shall be treated as "restricted securities," and the Issuer will affix the applicable Restricted ADS Legend that is set forth in Exhibit B hereto upon such ADSs; *provided* that if any such ADSs are being immediately resold pursuant to Rule 144, such ADSs need not be issued with such legend in connection with such sale.

Upon conversion, a Holder will not receive any additional cash payment for Interest unless such conversion occurs between a Record Date and the corresponding Interest Payment Date. Except in such case, by delivering the amount of cash and/or the number of ADSs issuable on conversion to the Trustee, the Issuer will be deemed to have satisfied its obligation to pay the principal amount of the Notes so converted and its obligation to pay Interest, attributable to the period from the most recent Interest Payment Date to, but not including the Conversion Date (which amount will be deemed paid in full rather than cancelled, extinguished or forfeited).

SECTION 12.03. No Issuance of Fractional Shares. No fractional portions of ADSs shall be issued upon conversion of Notes. If more than one Note shall be surrendered for conversion at one time by the same Holder, the number of full ADSs which shall be issuable upon conversion shall be computed on the basis of the aggregate principal amount of the Notes (or specified portions thereof to the extent permitted hereby) so surrendered for conversion. If any fractional portions of ADSs otherwise would be issuable upon the conversion of any Note or Notes, the Issuer will deliver a number of ADSs rounded up to the nearest whole number of ADSs.

SECTION 12.04. Conversion Rate. The Conversion Rate shall be as specified in the form of Note attached as Exhibit A hereto, subject to adjustment as provided in this Article XII.

SECTION 12.05. Conversion Rate Adjustments. (a) The applicable Conversion Rate shall be adjusted from time to time by the Issuer as follows, except that the Issuer will not make any adjustments to the Conversion Rate if Holders participate (as a result of holding Notes and at the same time as ADS holders participate) in any of the transactions described below as if such Holders held a number of ADSs equal to the applicable Conversion Rate, multiplied by the principal amount (expressed in thousands) of Notes held by such Holders without having to convert their Notes. A Holder will be deemed to have so participated if the transaction results in a distribution of assets that are held by the ADS depositary at the time of conversion of such Notes into ADSs.

(i) If the Issuer issues solely Ordinary Shares as a dividend or any other distribution (including by recapitalization of retained earnings) on all or substantially all Ordinary Shares, or if the Issuer effects a share split or share combination of its Ordinary Shares, the applicable Conversion Rate will be adjusted based on the following formula:

$$CR = CR_0 \times \frac{OS}{OS_0}$$

where,

CR_0 = the applicable Conversion Rate in effect immediately prior to the open of business on the Business Day immediately following (x) the date fixed for the determination of holders of Ordinary Shares entitled to receive such dividend or distribution or (y) the date on which such split or combination becomes effective, as applicable (such date specified in clause (x) or (y), the " Dividend Record Date");

CR = the applicable Conversion Rate in effect immediately after the open of business on the Business Day immediately following the Dividend Record Date;

OS_0 = the number of Ordinary Shares outstanding immediately prior to the open of business on the Dividend Record Date; and

OS = the number of Ordinary Shares that would have been outstanding immediately prior to the open of business on the Dividend Record Date as adjusted to take into account such dividend, distribution, split or combination.

If any dividend or distribution of the type described in this clause (i) is declared that results in an adjustment pursuant to this clause (i) but is not so paid or made, or the outstanding Ordinary Shares are not split or combined, as the case may be, the Conversion Rate shall be immediately readjusted, effective (in the case of a dividend or distribution) as of the earliest of the date (A) the Issuer's shareholders' meeting or Board of Directors determines not to pay such dividend or distribution, (B) the non-payment of such dividend is publicly announced or (C) the dividend was to have been paid, or (in the case of a stock split or combination) the date on which such split or combination was to have been effective, to the Conversion Rate that would then be in effect if such dividend, distribution, share split or share combination had not been declared or announced.

(ii) If the Issuer distributes to all or substantially all holders of Ordinary Shares any rights, options, warrants or other securities entitling them for a period of not more than 45 calendar days from the record date for such distribution to subscribe for or purchase Ordinary Shares (or securities convertible into Ordinary Shares), at a price per Ordinary Share (or conversion price per Ordinary Share) less than the average of the Last Reported Sale Prices of the Ordinary Shares for the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the declaration date for such distribution, the applicable Conversion Rate will be adjusted based on the following formula:

$$CR = CR_0 \times \frac{(OS_0 + X)}{(OS_0 + Y)}$$

where,

CR_0 = the applicable Conversion Rate in effect immediately prior to the open of business on the Business Day immediately following the date fixed for the determination of shareholders entitled to receive such rights, options, warrants or other securities (such date, the " Rights Distribution Record Date");

CR = the applicable Conversion Rate in effect immediately after the open of business on the Business Day immediately following the Rights Distribution Record Date;

OS_0 = the number of Ordinary Shares outstanding immediately prior to the open of business on the Rights Distribution Record Date;

X = the total number of Ordinary Shares issuable pursuant to such rights, options, warrants or other securities;

and

Y = the number of Ordinary Shares equal to the aggregate price payable to exercise such rights, options, warrants or other securities divided by the average of the Last Reported Sale Prices of the Ordinary Shares over the 10 consecutive Trading Day period ending on the Trading Day immediately preceding the date of announcement of the distribution of such rights, options, warrants or other securities.

If such rights, options, warrants or other securities are not so issued, the Conversion Rate will remain the Conversion Rate that would then be in effect if a Rights Distribution Record Date for such distribution had not been fixed. In addition, to the extent that Ordinary Shares are not delivered after the expiration of such rights, options, warrants or other securities, the Conversion Rate shall be readjusted to the Conversion Rate that would then be in effect had the adjustments made upon the issuance of such rights, options, warrants or other securities been made on the basis of delivery of only the number of Ordinary Shares actually delivered.

For purposes of this clause (ii), in determining whether any rights, options, warrants or other securities entitle the holders to subscribe for or purchase Ordinary Shares at less than the average of the Last Reported Sale Prices of Ordinary Shares for each Trading Day in the applicable 10 consecutive Trading Day Period, there shall be taken into account any consideration the Issuer receives for such rights, options, warrants or other securities and any amount payable on exercise thereof, with the value of such consideration if other than cash to be determined by the Issuer's Board of Directors.

(iii) If the Issuer distributes shares of its Capital Stock, evidences of its Indebtedness, other assets or property or rights or warrants to acquire its Capital Stock or other securities, to all or substantially all holders of Ordinary Shares, excluding

(A) dividends or distributions and rights, options, warrants and other securities described in clause (i) or (ii) above or clause (v) below;

(B) dividends or distributions paid exclusively in cash, including as described in clause (iv) below;

(C) dividends or distributions effected pursuant to a reclassification, merger, sale, conveyance or other transaction described in Section 12.06, where such dividend or distribution becomes Reference Property as described in Section 12.06; and

(D) Spin-Offs to which the provisions set forth below in this clause (iii) shall apply;

then the applicable Conversion Rate will be adjusted based on the following formula:

$$CR = CR_0 \times \frac{SP_0}{(SP_0 - FMV)}$$

where,

CR_0 = the applicable Conversion Rate in effect immediately prior to the open of business on the Business Day immediately following the record date for such distribution;

CR = the applicable Conversion Rate in effect immediately after the open of business on the Business Day immediately following such record date;

SP_0 = the average of the Last Reported Sale Prices of Ordinary Shares over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such distribution; and

FMV = the fair market value (as determined by the Issuer's Board of Directors or a committee thereof) of the shares of Capital Stock, evidences of Indebtedness, assets, property, rights or warrants distributed with respect to each outstanding Ordinary Share as of the open of Business on the Ex-Dividend Date for such distribution;

provided that if "FMV" as set forth above is equal to or greater than "SP_0" as set forth above, in lieu of the foregoing adjustment, adequate provision will be made so that each Holder shall receive on the date on which the distributed property is distributed to holders of Ordinary Shares, for each U.S.$1,000 principal amount of Notes, the amount of distributed property such Holder would have received had such Holder owned a number of Ordinary Shares that it would have been entitled to receive based on the Conversion Rate on the record date for such distribution; *provided further* that if the Issuer's Board of

Directors determines "FMV" for purposes of the foregoing adjustment by reference to the trading market for any securities, it must in doing so consider the prices in such market over the same period used in computing the average of the Last Reported Sale Prices of the Ordinary Shares over the 10 consecutive Trading Day period ending on the Trading Day immediately preceding the Ex-Dividend Date for such distribution.

With respect to an adjustment pursuant to this clause (iii) where there has been a payment of a dividend or other distribution on the Ordinary Shares or shares of Capital Stock of any class or series, or similar equity interest, of or relating to a Subsidiary or other business unit (a " Spin-Off"), the Conversion Rate will be adjusted based on the following formula:

$$CR = CR_0 \times \frac{(FMV + MP_0)}{MP_0}$$

where,

CR_0 = the applicable Conversion Rate in effect immediately prior to the opening of business on the Business Day immediately following the record date for the Spin-Off;

CR = the applicable Conversion Rate in effect immediately after the opening of business on the Business Day immediately following such record date;

FMV = the average of the Last Reported Sale Prices of the Capital Stock or similar equity interest distributed to holders of Ordinary Shares applicable to one Ordinary Share over the first 10 consecutive Trading Day period immediately following, and including, the Ex-Dividend Date of the Spin-Off (the " Valuation Period"); and

MP_0 = the average of the Last Reported Sale Prices of the Ordinary Shares over the Valuation Period.

The adjustment to the applicable Conversion Rate under the preceding paragraph of this clause (iii) will be made immediately after the open of business on the day after the last day of the Valuation Period, but will be given effect as of the open of business on the Business Day immediately following the record date for the Spin-Off. For purposes of determining the applicable Conversion Rate in respect of any conversion during the Valuation Period, references within the portion of this clause (iii) related to Spin-Offs to 10 Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Ex-Dividend Date of such Spin-Off to, but excluding, the Conversion Date.

If any distribution or spin-off described in this clause (iii) results in an adjustment to the Conversion Rate but such distribution or Spin-Off is not so made, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such distribution or Spin-Off had not been declared.

(iv) If the Issuer makes or pays any cash dividend or any other cash distribution to all, or substantially all, holders of the outstanding Ordinary Shares, the applicable Conversion Rate will be adjusted based on the following formula:

$$CR = CR_0 \times \frac{SP_0}{(SP_0 - C)}$$

where,

CR_0 = the applicable Conversion Rate in effect immediately prior to the open of business on the Business Day immediately following the record date for such dividend or distribution;

CR = the applicable Conversion Rate in effect immediately after the open of business on the Business Day immediately following such record date;

SP_0 = the average of the Last Reported Sale Prices of the Ordinary Shares over the 10 consecutive Trading Day period ending on, and including, the Trading Day immediately preceding the Ex-Dividend Date for such dividend or distribution; and

C = the amount in cash per share the Issuer distributes to holders of the Ordinary Shares.

If such dividend or distribution results in an adjustment to the Conversion Rate under the preceding paragraph and such dividend or distribution is not so paid or made, the Conversion Rate shall again be adjusted to be the Conversion Rate that would then be in effect if such dividend or distribution had not been declared.

(v) If (A) the Issuer or any of its Subsidiaries makes a payment in respect of a tender offer or exchange offer for the Ordinary Shares, and (B) the cash and value of any other consideration included in the payment per Ordinary Share exceeds the average of the Last Reported Sale Prices of the Ordinary Shares over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the last date on which tenders or exchanges may be made pursuant to such tender or exchange offer (the " Expiration Date"), the applicable Conversion Rate will be adjusted based on the following formula:

$$CR = CR_0 \times \frac{AC + (SP \times OS)}{(SP \times OS_0)}$$

where,

CR_0 = the applicable Conversion Rate in effect immediately prior to the open of business on the Business Day next succeeding the Expiration Date;

CR = the applicable Conversion Rate in effect immediately after the open of business on the Business Day next succeeding the Expiration Date;

AC = the aggregate value of all cash and any other consideration (as determined by the Issuer's Board of Directors or a committee thereof) paid or payable for Ordinary Shares purchased in such tender or exchange offer;

OS_0 = the number of Ordinary Shares outstanding immediately prior to the time (the " Expiration Time") such tender or exchange offer expires (prior to giving effect to such tender or exchange offer);

OS = the number of Ordinary Shares outstanding immediately after the Expiration Time (after giving effect to such tender or exchange offer); and

SP = the average of the Last Reported Sale Prices of the Ordinary Shares over the 10 consecutive Trading Day period commencing on, and including, the Trading Day next succeeding the Expiration Date.

The adjustment to the Conversion Rate under this clause (v) will be made at the close of business on the tenth Trading Day immediately following, and including, the Trading Day next succeeding the Expiration Date, but will be given effect as of the open of business on the Business Day following the Expiration Date. For purposes of determining the applicable Conversion Rate in respect of any conversion during the 10 Trading Days commencing on, and including, the Trading Day next succeeding the Expiration Date of any tender or exchange offer, references to 10 Trading Days shall be deemed replaced with such lesser number of Trading Days as have elapsed from, and including, the Trading Day next succeeding the Expiration Date to, but excluding the Conversion Date. If the Issuer or one of its Subsidiaries is obligated to purchase the Ordinary Shares pursuant to any such tender or exchange offer but the Issuer or the relevant Subsidiary is permanently prevented by applicable law from effecting any such purchase or all or any portion of such purchases are rescinded, the new Conversion Rate shall be readjusted to be the Conversion Rate that would be in effect if such tender or exchange offer had not been made or had only been made in respect of the purchases that had been effected.

(vi) Notwithstanding the foregoing, if any calculation required to be made in determining the adjustment to the Conversion Rate under this Section 12.05(a) cannot be made at such time because the facts required for such determination cannot be ascertained, the Issuer will make such determination as soon as practicable upon such information becoming determinate, and such adjustment will be made with retroactive effect to the first such date where the adjustment is required to be made.

(vii) To the extent that any event would give rise to an adjustment to be made under more than one of the clauses set forth above, or holders of the Issuer's Ordinary Shares have the right to elect between distributions that would be covered by more than one of such clauses, the Issuer shall, in good faith, determine the adjustment to be made, including, if applicable, the order of the adjustments.

(b) The Issuer may at its option and in addition to the adjustments required by Section 12.05(a), increase the applicable Conversion Rate to avoid or diminish income Tax to holders of ADSs or rights to purchase ADSs in connection with a dividend or distribution of Ordinary Shares (or rights to acquire Ordinary Shares) or similar event. When a Holder is deemed to have received a distribution or dividend subject to Tax withholding and such deemed distribution or dividend does not give rise to any cash from which any applicable withholding Tax or backup withholding can be satisfied, if the Issuer pays withholding Taxes or applies backup withholding on behalf of a Holder, the Issuer may, at its option, set off such payments against subsequent deliveries of ADSs in respect of the Notes (or against payment on the ADSs).

(c) The Conversion Rate in effect on the Issue Date reflects that, as of the Issue Date, each ADS represents ten (10) CPOs of the Issuer and each CPO represents two (2) series A shares and one (1) series B share of the Issuer's Ordinary Shares. If in conjunction with one of the foregoing adjustment events or otherwise (i) the number of the Issuer's CPOs represented by each ADS should change, (ii) the number of the Ordinary Shares represented by each CPO should change, (iii) one series of Ordinary Shares were to be disproportionately affected by such event as compared to the other series of Ordinary Shares, or (iv) any other change occurs in the composition of the assets underlying the CPOs or ADSs not contemplated or adequately addressed by the foregoing adjustments, and the applicable Conversion Rate (as so adjusted) does not produce a fair and equitable result, the Issuer will (and the Issuer will instruct the relevant ADS depositary or CPO trustee to) adopt such method as it may deem equitable and practicable vis-à-vis the holders for the purpose of effecting such adjustment to the Conversion Rate.

(d) No adjustment in the applicable Conversion Rate shall be required unless such adjustment would require an increase or decrease of at least 1% in the Conversion Rate; *provided*, *however*, that (i) any adjustments which by reason of this Section 12.05(d) are not required to be made shall be carried forward and taken into account in any subsequent adjustment and (ii) the Issuer shall adjust the Conversion Rate at least annually to account for any such carried forward adjustments. All calculations under this Article XII shall be made by the Issuer and shall be made to the nearest ten thousandth of an ADS. Notwithstanding the foregoing, all adjustments not previously made shall have effect and be made upon conversion of any of the Notes.

Without limiting the foregoing, the Conversion Rate shall not be adjusted: (i) upon the issuance of any Ordinary Shares pursuant to any present or future plan providing for the reinvestment of dividends or interest payable on the Issuer's securities and the investment of additional optional amounts in Ordinary Shares under any plan; (ii) upon the issuance of any Ordinary Shares, or options or rights to purchase Ordinary Shares, pursuant to any present or future employee, director or consultant benefit plan or program of, or assumed by, the Issuer or any of its Subsidiaries; (iii) upon the issuance of any Ordinary Shares pursuant to any option, warrant, right or exercisable, exchangeable or convertible security not described in the preceding clause and outstanding as of the Issue Date; (iv) for a change in the par value of the Ordinary Shares; or (iv) for Interest.

(e) Whenever the Conversion Rate is adjusted as provided in this Section 12.05, the Issuer shall promptly file with the Trustee and any Conversion Agent other than the Trustee an Officer's Certificate setting forth the Conversion Rate after such adjustment, detailing the calculation of the Conversion Rate and setting forth a brief statement of the facts requiring such

adjustment. Promptly after delivery of such certificate, the Issuer shall prepare and issue a press release containing the relevant information and notify the Trustee and the Trustee shall furnish a copy of such notice to the Holders. Failure to deliver such notice shall not affect the legality or validity of any such adjustment.

(f) If any distribution or transaction described in Section 12.05(a) above has not yet resulted in an adjustment to the applicable Conversion Rate on the applicable Conversion Date, and the ADSs the Holder will receive on Settlement are not entitled to participate in the relevant distribution or transaction (because they were not held on a related record date), then promptly after such distribution or transaction has occurred, the Issuer will adjust the number of ADSs to be delivered to the Holder as the Issuer determines is appropriate to reflect the relevant distribution or transaction.

(g) For purposes of this Section 12.05, the number of Ordinary Shares at any time outstanding shall not include Ordinary Shares held in the treasury of the Issuer. The Issuer shall not pay any dividend or make any distribution on Ordinary Shares held in the treasury of the Issuer.

(h) Except as stated in this Section 12.05 and Section 12.12, the Issuer shall not be required to adjust the Conversion Rate. If, however, the application of the provisions of this Section 12.05 would result in a decrease in the Conversion Rate, no adjustment to the Conversion Rate shall be made (other than as a result of a reverse share split or share combination).

(i) The Issuer shall not take any action pursuant to this Section 12.05 without complying, if applicable, with any applicable rules of any stock exchange on which the ADSs are listed at the relevant time.

SECTION 12.06. Effect of Reclassification, Consolidation, Merger, Combination, Sale, Lease or Transfer. In the event of any (i) reclassification or change of the outstanding Ordinary Shares (other than changes resulting from a subdivision or combination), (ii) consolidation, merger or combination involving the Issuer (other than a merger in which the Issuer is the surviving corporation and which does not result in any reclassification of, or change (other than changes resulting from a subdivision or combination) in, outstanding Ordinary Shares), (iii) sale, assignment, conveyance, transfer, lease or other disposition to another Person of the property and assets of the Issuer and its Subsidiaries as an entirety or substantially as an entirety, or (iv) statutory Ordinary Share exchange, in each case as a result of which holders of Ordinary Shares shall be entitled to receive stock, other securities, other property, assets or cash (or any combination thereof) with respect to or in exchange for such Ordinary Shares, then the Issuer or the successor or purchasing corporation, as the case may be, shall execute with the Trustee a supplemental indenture providing that Holders shall thereafter be entitled to convert Notes into the kind and amount of shares of stock and other securities, property, assets or cash (or any combination thereof, but subject to the provisions of Article XI) that a holder of a number of ADSs equal to the Conversion Rate immediately prior to such transaction would have owned or been entitled to receive upon such transaction (such property, the "Reference Property"), subject to the right of such Holder to receive the Make Whole Fundamental Change Premium upon compliance with the provisions of Section 12.12. In such a case, any increase in the Conversion

Rate by the additional ADSs described in Section 12.12 will not be payable in additional ADSs, but will represent a right to receive the aggregate amount of cash, securities or other property into which the additional Ordinary Shares would convert in the transaction from the surviving entity (or a direct or indirect parent thereof). In the event holders of Ordinary Shares have the opportunity to elect the form of consideration to be received in a reclassification, change, consolidation, merger, combination, sale, lease, assignment, conveyance or other transfer, the Reference Property into which the Notes will be convertible will be deemed to be the weighted average of the types and amounts of consideration received by the holders of the Ordinary Shares that affirmatively make such an election, subject to any limitations to which the holders of Ordinary Shares are subject, including pro rata reductions applicable to any portion of the consideration payable. The Issuer shall notify the Conversion Agent and Holders of the weighted average and composition of such Reference Property promptly after determination thereof. The Issuer shall not become party to any such reclassification, change, consolidation, merger combination, sale, lease, assignment, conveyance or other transfer unless the terms of such transaction are consistent with the foregoing. Such supplemental indenture shall provide for adjustments that shall be as nearly equivalent as may be practicable to the adjustments provided for in this Article XII and shall contain such additional provisions to protect the interests of the Holders of the Notes as the Issuer's Board of Directors shall reasonably consider necessary by reason of the foregoing.

If the Notes become convertible into Reference Property, the Issuer shall notify the Trustee and issue a press release containing the relevant information. Failure to deliver such notice shall not affect the legality or validity of such supplemental indenture.

The above provisions of this Section 12.06 shall similarly apply to successive reclassifications, changes, consolidations, mergers, combinations, sales, leases, assignments, conveyances or other transfers. If this Section 12.06 applies to any event or occurrence, Section 12.05 shall not apply.

SECTION 12.07. Taxes, Duties, Fees and Costs of Issuance of ADSs or CPOs. If a Holder receives ADSs upon conversion as provided in this Indenture, the Issuer will pay any (a) documentary, stamp or similar issue or transfer Tax, duties or fees, and (b) fees of the depositary for the ADSs, in either case, in connection with the creation or delivery of such ADSs in satisfaction of such conversion, unless in either case, such payment is due because the Holder requests any ADSs to be issued in a name other than the Holder's name, in which case the Holder will make such payment. In addition, the Issuer will pay any fees or costs in connection with the issuance of the Issuer's CPOs representing Ordinary Shares as may be needed to allow the Issuer to deposit CPOs with the ADS depositary to create the ADSs deliverable upon conversion of Notes.

SECTION 12.08. Obligation to Cause Sufficient Ordinary Shares, CPOs and ADSs to be Issued for Purposes of Satisfying any Settlement of Conversions. The Issuer shall take all actions reasonably necessary to ensure that, upon every conversion of a Note, ADSs will be available for delivery, and will be delivered, upon such conversion promptly and as provided in this Article XII. The Issuer agrees that all Ordinary Shares represented by CPOs which may be issued and transferred to the CPO trustee upon conversion of Notes shall be duly authorized and validly issued and that upon such issuance and delivery, the Holder of Notes will receive good and valid title to such ADSs, free and clear of all Liens, encumbrances and claims. In furtherance of the foregoing, the Issuer will comply with the following covenants:

(a) the Issuer shall not declare any dividend, subdivision or other distribution of the Issuer's Ordinary Shares that would cause an anti-dilution adjustment under the Notes unless, at such time, the Issuer holds, or the shareholders concurrently approve, a sufficient number of Available Treasury Shares to satisfy its obligations in connection with a conversion of all Notes taking into account such adjustment *provided* that if the Issuer makes any such declaration prior to June 30, 2010, then the Issuer shall not be required to hold a sufficient number of Available Treasury Shares or to have such shareholder approval until June 30, 2010; and

(b) within 30 days of any event that causes or with the passage of time would cause the maximum number of Ordinary Shares necessary to satisfy the Issuer's obligations in connection with a conversion of all Notes following such event to exceed the number of Available Treasury Shares, the Issuer will cause a sufficient number of Available Treasury Shares to exist sufficient to satisfy its obligations in connection with a conversion of all Notes following such event, *provided* that if such event occurs prior to June 30, 2010, then the Issuer shall not be required to cause such sufficient number of Available Treasury Shares to exist until the later of June 30, 2010 and 30 days after such event.

For so long as the ADSs are listed on the New York Stock Exchange, the Issuer will take actions reasonably necessary for the listing on the New York Stock Exchange of all ADSs deliverable on conversion of Notes and will take all actions (including obtaining or giving approvals and consents and paying listing fees) reasonably necessary to ensure that each ADS delivered on conversion of a Note will, upon such delivery be so listed.

SECTION 12.09. Responsibility of Trustee and the Conversion Agent. The Trustee and any other Conversion Agent shall not at any time be under any duty of responsibility to any Holders to determine whether any facts exist which may require any adjustment of the Conversion Rate, or with respect to the nature or extent or calculation of any such adjustment when made, or with respect to the method employed, or herein or in any supplemental indenture provided to be employed, in making the same. The Trustee and any other Conversion Agent shall not be accountable with respect to the validity or value (or the kind or amount) of any ADSs, or of any securities or property, which may at any time be issued or delivered upon the conversion of any Note; and the Trustee makes no representations with respect thereto. The Trustee and any other Conversion Agent shall not be responsible for any failure of the Issuer to issue, transfer or deliver any ADSs or stock certificates or other securities or property or cash upon the surrender of any Note for the purpose of conversion or to comply with any of the duties, responsibilities or covenants of the Issuer contained in this Article XII. Without limiting the generality of the foregoing, the Trustee and any other Conversion Agent shall not have any responsibility to determine the correctness of any provisions contained in any supplemental indenture entered into pursuant to Section 12.06 relating either to the kind or amount of shares of stock or securities or property (including cash) receivable by Holders upon the conversion of its Notes after any event referred to in such Section 12.06 or to any adjustment to be made with respect thereto, but, subject to the provisions of Section 7.01, may accept as conclusive evidence of the correctness of any such provisions, and shall be protected in relying upon, the Officer's Certificate and Opinion of Counsel (which the Issuer shall be obligated to file with the Trustee

prior to the execution of any such supplemental indenture) with respect thereto. Neither the Trustee nor any Conversion Agent shall have any duties to holders of the Issuer's Ordinary Shares obtained by such holder under this Article XII, or any duty to monitor whether the Issuer issues (timely or otherwise) ADSs to Holders under this Article XII. In addition, without limiting the generality of the foregoing, the Trustee and any other Conversion Agent shall not have any responsibility to determine whether or to ensure that any ADS issued upon conversion of a Restricted Note shall bear any legend required by Section 2.06(d) or Section 12.02 or the restricted or unrestricted CUSIP numbers contemplated by Section 2.14, or compliance with any similar provision relating to the ADSs, nor shall the Trustee or any Conversion Agent be responsible for ensuring compliance with the restrictions set forth in Section 12.11.

Except as otherwise provided herein, the Issuer or its agents shall be responsible for making all calculations and determinations called for under this Indenture and the Notes. These calculations include, but are not limited to, determinations of the last reported sale prices of ADSs, accrued Interest payable on the Notes and the applicable Conversion Rate. The Issuer or its agents shall make all these calculations and determinations in good faith and, absent manifest error, the Issuer's calculations will be final and binding on holders of Notes. The Issuer or its agents shall provide a schedule of the Issuer's calculations to each of the Trustee and the Conversion Agent, and each of the Trustee and Conversion Agent shall be entitled to rely conclusively upon the accuracy of the Issuer's calculations without independent verification. The Trustee will forward the Issuer's calculations to any Holder upon the written request of that Holder.

SECTION 12.10. [Reserved].

SECTION 12.11. Restriction on ADSs Issuable Upon Conversion. (a) ADSs to be issued upon conversion of Notes that bear a Restricted Securities Legend at the time of such conversion shall be physically delivered in certificated form to the Holders converting such Notes and the certificate representing such ADSs shall bear the Restricted ADS Legend unless removed in accordance with Section 12.11(c).

(b) If (i) ADSs to be issued upon conversion of Notes that bear a Restricted Securities Legend at the time of such conversion are to be registered in a name other than that of the Holder of such Note or (ii) ADSs represented by a certificate bearing the Restricted ADS Legend are transferred subsequently by such Holder, then, unless (i) with respect to ADSs issued upon conversion of Restricted Notes, the Restricted Securities Legend on the Global Securities has been removed pursuant to Section 2.07(c) or (ii) a shelf registration statement has become effective with respect to the resale of such ADSs and such ADSs are being transferred pursuant thereto, the Holder must deliver to the transfer agent for the ADSs a certificate in substantially the form of Exhibit C hereto as to compliance with the restrictions on transfer applicable to such ADSs and neither the transfer agent nor the registrar for the ADSs shall be required to register any transfer of such ADSs not so accompanied by a properly completed certificate.

(c) Except in connection with a transfer described in Section 12.11(b), if certificates representing ADSs are issued upon the registration of transfer, exchange or replacement of any other certificate representing ADSs bearing the Restricted ADS Legend, or if a request is made to remove such Restricted ADS Legend from certificates representing ADSs, the certificates so

issued shall bear the Restricted ADS Legend, or the Restricted ADS Legend shall not be removed, as the case may be, unless there is delivered to the Issuer such satisfactory evidence, which, except in the case of a transfer made pursuant to Rule 144 under the Securities Act, may include an opinion of counsel pursuant to the laws in the State of New York, as may be reasonably required by the Issuer, that neither the legend nor the restrictions on transfer set forth therein are required to ensure that transfers thereof comply with the provisions of Rule 144 under the Securities Act or that such ADSs are securities that are not "restricted" within the meaning of Rule 144 under the Securities Act. Upon provision to the Issuer of such reasonably satisfactory evidence, the Issuer shall cause the transfer agent for the ADSs to countersign and deliver certificates representing ADSs that do not bear the legend.

(d) Notwithstanding Section 12.11(c), any certificate representing ADSs issued upon conversion of Notes (or security issued in exchange or substitution therefor) as to which the restrictions on transfer shall have expired in accordance with their terms or that has been transferred, replaced or exchanged on or after the date that the Issuer, pursuant to Section 2.07(c), removes the Restricted Securities Legend from the Notes, or that has been transferred pursuant to a resale registration statement that has been declared effective under the Securities Act may, upon surrender of such stock certificate to the Registrar for exchange, be exchanged for a new certificate, of like tenor and aggregate number of ADSs, which shall not bear any Restricted ADS Legend.

SECTION 12.12. Make Whole Premium Upon a Fundamental Change. (a) If there shall have occurred a Fundamental Change, the Issuer shall pay a "Make Whole Fundamental Change Premium" to the Holders of the Notes who elect to convert their Notes in connection with such Fundamental Change. A conversion of Notes will be deemed for these purposes to be "in connection with" such Fundamental Change if the notice of conversion of the Notes is received by the Conversion Agent from, and including, the later of (1) 30 scheduled Trading Days before the anticipated effective date of such Fundamental Change and (2) the date on which the Issuer notifies the Holders of the anticipated " Effective Date" of a Fundamental Change (in accordance with the next sentence and the next succeeding sentence) and ending 30 Business Days following the actual Effective Date (but, in the case of a Change of Control, ending prior to the close of business on the Business Day immediately preceding the Change of Control Purchase Date). The Issuer will notify Holders and the Trustee of the anticipated Effective Date and issue a press release as soon as practicable after the Issuer first determines the anticipated Effective Date; *provided* that in no event will the Issuer be required to provide such notice to the Holders and the Trustee before the earlier of such time as the Issuer or its Affiliates (A) has publicly disclosed or acknowledged the circumstances giving rise to such anticipated Fundamental Change or (B) is required to publicly disclose under applicable law or the rules of any stock exchange on which the Issuer's equity is then listed the circumstances giving rise to such anticipated Fundamental Change. The Issuer will use its commercially reasonable efforts to make such determination in time to deliver such notice no later than 30 days prior to such anticipated Effective Date. If, as determined by the Issuer in a commercially reasonable manner, the number of shares available to satisfy the conversion obligation is not sufficient to satisfy the settlement in full, such notice and press release shall set forth (1) the number of Available Treasury Shares as of the date of such release, (2) whether the number of Available Treasury Shares is sufficient to satisfy the settlement in full (including settlement of Additional ADSs (as defined below)) of conversion of all Notes at such time and (3) whether, in the circumstances described in the next succeeding

paragraph, the Issuer elects to settle Additional ADSs either by (x) physical settlement or (y) cash settlement. In addition, following the day of such notice, the Issuer will notify the Holders and the Trustee of any increase in the number of such ADSs available for settlement or any decrease (as a result of earlier settlements of conversions by Holders or otherwise) in such number. Such notice will be made promptly following the close of business of the day of each such increase or decrease by means of a press release.

The Issuer will satisfy settlements of conversion in connection with a Fundamental Change as follows:

(i) any conversion in connection with a Fundamental Change that would be required to be settled prior to June 30, 2010 shall be settled in accordance with the provisions of the third paragraph of Section 12.02;

(ii) if the notice states that the number of ADSs is sufficient to satisfy in full the settlement of conversion of all Notes at the then applicable Conversion Rate (adjusted for the Make Whole Fundamental Change Premium), then:

(A) in respect of Conversion Dates falling prior to the anticipated Effective Date, the settlement shall occur on the third Business Day following the relevant Conversion Date at the then applicable Conversion Rate without regard to the Make Whole Fundamental Change Premium and the Additional ADSs shall be delivered on the actual Effective Date in settlement of all such conversions; and

(B) in respect of Conversion Dates falling on or after the actual Effective Date of the Fundamental Change, the settlement shall occur on the third Business Day following the relevant Conversion Date at the then applicable Conversion Rate (adjusted for the Make Whole Fundamental Change Premium); or

(iii) if the notice states that the number of ADSs that would be necessary for the settlement in full of conversion of all Notes at such time at the then applicable Conversion Rate (adjusted for the Make Whole Fundamental Change Premium) exceeds the number of Available Treasury Shares, then:

(A) in respect of Conversion Dates falling prior to the anticipated Effective Date, the settlement shall occur on the third Business Day following the relevant Conversion Date at the then applicable Conversion Rate without regard to the Make Whole Fundamental Change Premium and the Additional ADSs shall be delivered as soon as practicable after the actual Effective Date but in no event later than 30 days after the actual Effective Date; and

(B) in respect of Conversion Dates falling on or after the actual Effective Date, the settlement shall occur on the third Business Day following the relevant Conversion Date at the then applicable Conversion Rate without regard to the Make Whole Fundamental Change Premium and the Additional ADSs shall be delivered as soon as practicable after such settlement date but in no event later than 30 days after the actual Effective Date.

If immediately prior to issuing the notice the Issuer determines that the number of ADSs that would be necessary for the settlement in full of conversion of all Notes at such time at the then applicable Conversion Rate (adjusted for the Make Whole Fundamental Change Premium) exceeds the number of Available Treasury Shares, the Issuer may elect to satisfy the settlement in whole, but not in part, of the deficiency in Additional ADSs, at its option, by delivering on the actual Effective Date cash in lieu of the deficiency in Additional ADSs in an amount equal to the product of (x) the number of deficient Additional ADSs and (y) the ADS Price used in the table below for the Effective Date. The election to settle in cash may be exercised by announcing the election in the notice described above and thereafter such method of settlement shall apply to all conversions in respect of the relevant Fundamental Change. The Issuer shall not be permitted to exercise any such cash settlement at any time it is prohibited from having such an option under the Financing Agreement.

Notwithstanding the foregoing, if any information required in order to calculate the conversion consideration deliverable will not be available as of the applicable settlement date, the Issuer will deliver the Additional ADSs resulting from that adjustment on the third Trading Day after the earliest Trading Day on which such calculation can be made.

The Make Whole Fundamental Change Premium will consist of an increase in the Conversion Rate for such Notes by a number of additional ADSs (the "Additional ADSs") per U.S.$1,000 principal amount of Notes, as determined in accordance with the table below, based on the Effective Date and the price (the "ADS Price") paid (or deemed paid) in the Fundamental Change per ADS (or, if applicable, the price per Ordinary Share, transposed into a price per ADS). If the holders of ADSs receive only cash in a conversion in connection with a Fundamental Change described in clause (3) of the definition of Fundamental Change, the ADS Price shall be the cash amount paid per ADS. Otherwise, the ADS Price shall be the average of the Last Reported Sale Prices of the ADSs over the five Trading Day period ending on, and including, the Trading Day immediately preceding the Effective Date.

The ADS Prices set forth in the column headings of the table below shall be adjusted as of any date on which the Conversion Rate of the Notes is otherwise adjusted. The adjusted ADS Prices will equal the ADS Prices applicable immediately prior to such adjustment multiplied by a fraction, the numerator of which is the Conversion Rate immediately prior to the adjustment giving rise to the ADS Price adjustment and the denominator of which is the Conversion Rate as so adjusted. The number of additional ADSs set forth in the table below will be adjusted in the same manner as the Conversion Rate as set forth in Section 12.05 hereof, other than as a result of an adjustment of the Conversion Rate by adding the Make Whole Fundamental Change Premium as described above.

	ADS Price											
Effective Date	$10.46	$12.50	$15.00	$17.50	$20.00	$22.50	$25.00	$27.50	$30.00	$35.00	$40.00	$60.00
March 30, 2010	22.0620	15.1881	10.9489	9.0373	7.8003	6.8418	6.0749	5.4475	4.9246	4.1031	3.4869	2.0502
March 15, 2011	22.0620	14.0443	9.3704	7.3958	6.3724	5.5928	4.9691	4.4588	4.0335	3.3653	2.8641	1.6949
March 15, 2012	22.0620	12.9112	7.7587	5.6012	4.7884	4.2052	3.7386	3.3569	3.0387	2.5388	2.1639	1.2890
March 15, 2013	22.0620	11.6472	5.9563	3.6617	3.0209	2.6545	2.3613	2.1214	1.9215	1.6074	1.3718	0.8221
March 15, 2014	22.0620	9.9100	3.5857	1.3775	1.0468	0.9201	0.8188	0.7358	0.6667	0.5582	0.4767	0.2867
March 15, 2015	22.0620	6.4598	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

If the exact ADS Prices and effective dates are not set forth in the table above and the ADS Price is:

(1) between two adjacent ADS Price amounts in the table or the Effective Date is between two adjacent Effective Dates in the table, the number of Additional ADSs by which the Conversion Rate will be determined by a straight-line interpolation between the number of Additional ADSs set forth for the higher and lower ADS Price amounts and the two dates based on a 365-day year, as applicable.

(2) greater than U.S.$60.00 per ADS (subject to adjustment in the same manner as the ADS Prices set forth in the column headings of the table above), no additional ADSs will be issued upon conversion.

(3) less than U.S.$10.46 per ADS (subject to adjustment in the same manner as the ADS Prices set forth in the column headings of the table above), no additional ADSs will be issued upon conversion.

Notwithstanding the foregoing paragraphs, in no event will the total number of ADSs issuable upon conversion of a Note exceed 95.6022 per U.S.$1,000 principal amount of Notes, subject to adjustment in the same manner as the Conversion Rate as set forth in Section 12.05(a) hereof.

(b) The Issuer, or the Trustee at the direction of the Issuer, shall mail a notice of a Fundamental Change (the "Fundamental Change Notice") to the Holders as shown on the Register and issue a press release not more than 5 days after the applicable Effective Date at the addresses as shown on the Register, with a copy to the Trustee and the Paying Agent. The Fundamental Change Notice, which shall govern the terms of the settlement of any conversion (or purchase, if applicable) in connection with a Fundamental Change, shall include such disclosures as are required by law and shall state, to the extent applicable: (i) the events causing a Fundamental Change; (ii) the Effective Date; (iii) if applicable, the last date on which a Holder may exercise the Change of Control purchase right; (iv) the Change of Control Payment if applicable; (v) if applicable, the date of the purchase (the "Change of Control Purchase Date"), which is to be no earlier than the 20th and no later than the 35th calendar day following the Effective Date; (vi) the name and address of the Paying Agent and the Conversion Agent; (vii) if applicable, the applicable Conversion Rate and, if applicable, any adjustments to the applicable Conversion Rate; (viii) if applicable, that the Notes with respect to which a Change of Control

repurchase election has been delivered by a Holder may be converted only if the Holder withdraws the Change of Control repurchase election in accordance with the terms of this Indenture; and (ix) if applicable, the procedures that Holders must follow to require the Issuer to purchase their Notes. Unless and until the Trustee shall receive a Fundamental Change Notice, the Trustee may assume without inquiry that no Fundamental Change has occurred.

[*remainder of page intentionally left blank*]

IN WITNESS WHEREOF, the parties have caused this Indenture to be duly executed and attested, all as of the date first above written, signifying their agreements contained in this Indenture.

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

By: /s/ Rodrigo Treviño
Name: Rodrigo Trevino
Title: CFO and Attorney-in-Fact

THE BANK OF NEW YORK MELLON,
as Trustee

By: /s/ Joanne Adamis
Name: Joanne Adamis
Title: Vice President

THE BANK OF NEW YORK MELLON,
S.A., INSTITUCIÓN DE BANCA
MÚLTIPLE, as Mexican Trustee

By: /s/ Ma Carmen Mozas Gomez
Name: Ma Carmen Mozas Gomez
Title: Trust Delegate

EXHIBIT A – FORM OF NOTE

[*Include the following legend for Global Securities only (the "Global Securities Legend")*:]

"THIS IS A GLOBAL SECURITY WITHIN THE MEANING OF THE INDENTURE HEREINAFTER REFERRED TO AND IS REGISTERED IN THE NAME OF THE DEPOSITARY OR A NOMINEE OF THE DEPOSITARY, WHICH MAY BE TREATED BY THE CEMEX, S.A.B. DE C.V., THE TRUSTEE AND ANY AGENT THEREOF AS OWNER AND HOLDER OF THIS CONVERTIBLE SUBORDINATED NOTE FOR ALL PURPOSES.

[*As part of the Global Securities Legend, include the following legend on all Global Securities for which DTC is to be the Depositary*:]

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), TO CEMEX, S.A.B. DE C.V. (THE "COMPANY") OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

UNLESS AND UNTIL IT IS EXCHANGED IN WHOLE OR IN PART FOR SECURITIES IN DEFINITIVE REGISTERED FORM IN THE CIRCUMSTANCES REFERRED TO IN THE INDENTURE, THIS GLOBAL SECURITY MAY NOT BE TRANSFERRED EXCEPT AS A WHOLE BY THE DEPOSITARY TO A NOMINEE OF THE DEPOSITARY OR BY A NOMINEE OF THE DEPOSITARY TO THE DEPOSITARY OR ANOTHER NOMINEE OF THE DEPOSITARY OR BY THE DEPOSITARY OR ANY SUCH NOMINEE TO A SUCCESSOR DEPOSITARY OR A NOMINEE OR SUCH SUCCESSOR DEPOSITARY."

[*Include the following legend on all Notes that are Restricted Notes (the "Restricted Securities Legend")*:]

THIS SECURITY AND THE AMERICAN DEPOSITARY SHARES ISSUABLE UPON CONVERSION OF THIS SECURITY OR IN CERTAIN OTHER CIRCUMSTANCES PURSUANT TO THE TERMS OF THIS SECURITY, HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER:

(1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND

[*Incluir la siguiente leyenda si se trata únicamente de Títulos Globales (la "Leyenda para los Títulos Globales")*:]

"EL PRESENTE CONSTITUYE UN TÍTULO GLOBAL EN TÉRMINOS DEL ACTA DE EMISIÓN QUE SE MENCIONA MÁS ADELANTE Y SE ENCUENTRA INSCRITO A NOMBRE DEL DEPOSITARIO O UNA PERSONA DESIGNADA POR EL MISMO, QUIEN PODRÁ SER TRATADO POR CEMEX, S.A.B. DE C.V., EL FIDUCIARIO Y CUALQUIERA DE SUS AGENTES, COMO TITULAR Y TENEDOR DE ESTA OBLIGACIÓN CONVERTIBLE SUBORDINADA PARA TODOS LOS EFECTOS A QUE HAYA LUGAR.

[*Como parte de la Leyenda para los Títulos Globales, incluir la siguiente leyenda en todos los Títulos Globales cuyo Depositario sea DTC*:]

A MENOS QUE ESTE TÍTULO SEA PRESENTADO POR UN REPRESENTANTE AUTORIZADO DE THE DEPOSITORY TRUST COMPANY, UNA SOCIEDAD CONSTITUIDA CONFORME A LAS LEYES DE NUEVA YORK ("DTC"), A CEMEX, S.A.B. DE C.V. (LA "COMPAÑÍA") O A SU AGENTE DE REGISTRO O TRANSMISIÓN, CANJE O PAGO, Y QUE UN TÍTULO EMITIDO ESTÉ INSCRITO A NOMBRE DE CEDE & CO. O ALGÚN OTRO NOMBRE SOLICITADO POR UN REPRESENTANTE AUTORIZADO DE DTC (Y CUALQUIER PAGO SE EFECTÚE A CEDE & CO. O A DICHA OTRA ENTIDAD SOLICITADA POR EL REPRESENTANTE AUTORIZADO DE DTC), CUALQUIER TRANSMISIÓN, PRENDA U OTRO USO DEL PRESENTE POR VALOR O CON CUALQUIER OTRO OBJETO, POR PARTE O EN FAVOR DE CUALQUIER PERSONA, SERÁ INDEBIDO EN TANTO SU TITULAR REGISTRADO, CEDE & CO., TENGA ALGÚN DERECHO SOBRE EL MISMO.

HASTA EN TANTO ESTE TÍTULO GLOBAL SE CANJEE TOTAL O PARCIALMENTE POR TÍTULOS VALOR NOMINATIVOS DEFINITIVOS EN LOS SUPESTOS PREVISTOS EN EL ACTA DE EMISIÓN, EN SU CASO, ESTE TÍTULO GLOBAL NO PODRÁ SER TRANSMITIDO SINO EN SU TOTALIDAD POR EL DEPOSITARIO A FAVOR DE UNA PERSONA DESIGNADA POR EL DEPOSITARIO, O POR LA PERSONA DESIGNADA POR EL DEPOSITARIO A FAVOR DEL DEPOSITARIO U OTRA PERSONA DESIGNADA POR EL DEPOSITARIO, O POR EL DEPOSITARIO O DICHA PERSONA DESIGNADA A FAVOR DE UN DEPOSITARIO SUCESOR O UNA PERSONA DESIGNADA POR DICHO DEPOSITARIO SUCESOR."

[*Incluir la siguiente leyenda en todos las Obligaciones que tengan el carácter de Obligaciones Restringidas (la "Leyenda para las Obligaciones Restringidas")*:]

ESTE TÍTULO VALOR Y LAS ACCIONES DE DEPOSITARIO AMERICANAS QUE SE EMITAN UNA VEZ REALIZADA LA CONVERSIÓN DEL MISMO O EN CIERTOS OTROS CASOS DE CONFORMIDAD CON LOS TÉRMINOS DE ESTE TÍTULO VALOR, NO SE ENCUENTRA INSCRITO AL AMPARO DE LA LEY DE VALORES DE 1933 Y SUS REFORMAS (LA "LEY DE VALORES"), Y NO PUEDE SER OFRECIDO, VENDIDO, PIGNORADO O ENAJENADO EN CUALQUIER OTRA FORMA SALVO DE CONFORMIDAD CON LO DISPUESTO EN LA SIGUIENTE ORACIÓN. EN RAZÓN DE LA ADQUISICIÓN DEL PRESENTE O DE CUALQUIER DERECHO DE TITULARIDAD INDIRECTA DEL MISMO, EL ADQUIRENTE:

(1) DECLARA RESPECTO DE SÍ MISMO Y DE CUALQUIER PERSONA POR CUYA CUENTA ACTÚE, QUE ES UN "COMPRADOR INSTITUCIONAL CALIFICADO" (EN TÉRMINOS DE LA DEFINICIÓN CONTENIDA EN LA REGLA 144A DE DE LA LEY DE VALORES) Y TIENE LA FACULTAD ABSOLUTA DE TOMAR DECISIONES DE INVERSIÓN CON

(2) AGREES FOR THE BENEFIT OF CEMEX, S.A.B. DE C.V. THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ISSUE DATE HEREOF (OR OF ANY SUBSEQUENTLY ISSUED SECURITY) OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THEREUNDER, AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT:

(A) TO CEMEX, S.A.B. DE C.V., OR

(B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR

RESPECTO A DICHA CUENTA, Y

(2) SE OBLIGA, EN BENEFICIO DE CEMEX, S.A.B. de C.V. A NO OFRECER, VENDER, PIGNORAR O ENAJENAR EN CUALQUIER OTRA FORMA ESTE TÍTULO VALOR O CUALQUIER DERECHO DE TITULARIDAD INDIRECTA SOBRE EL MISMO ANTES DE LA FECHA QUE OCURRA MÁS TARDE DE ENTRE (X) UN AÑO A PARTIR DE LA ÚLTIMA FECHA DE EMISIÓN DEL PRESENTE (O DE CUALQUIER VALOR EMITIDO SUBSECUENTEMENTE) O CUALQUIER PERÍODO MÁS CORTO PERMITIDO POR LA REGLA 144 DE LA LEY DE VALORES O CUALQUIER DISPOSICIÓN SUCESORA DE LA MISMA, Y (Y) CUALQUIER FECHA POSTERIOR, EN SU CASO, PREVISTA EN LA LEGISLACIÓN APLICABLE, SALVO:

(A) A CEMEX, S.A.B. DE C.V., O

(B) AL AMPARO DE UN DOCUMENTO DE REGISTRO QUE SE ENCUENTRE VIGENTE DE CONFORMIDAD CON LA LEY DE VALORES, O

(C) TO A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A AND TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS MADE IN RELIANCE ON RULE 144A, OR

(D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH (2)(D) ABOVE, CEMEX, S.A.B. DE C.V. AND THE TRUSTEE RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

(C) A UN COMPRADOR INSTITUCIONAL CALIFICADO SEGÚN DICHO TÉRMINO SE DEFINE EN LA REGLA 144A DE LA LEY DE VALORES, QUE EFECTÚE LA COMPRA POR CUENTA PROPIA O DE UN COMPRADOR INSTITUCIONAL CALIFICADO MEDIANTE UNA TRANSMISIÓN QUE CUMPLA CON LOS REQUISITOS PREVISTOS EN LA REGLA 144A Y A QUIEN SE DÉ AVISO DE QUE LA ENAJENACIÓN SE HACE AL AMPARO DE LA REGLA 144A, O

(D) AL AMPARO DE UNA EXENCIÓN DE LOS REQUISITOS DE REGISTRO CONFORME A LA REGLA 144 DE LA LEY DE VALORES, O DE CUALQUIER OTRA EXENCIÓN A LOS REQUISITOS DE INSCRIPCIÓN PREVISTOS EN LA LEY DE VALORES.

PREVIO AL REGISTRO DE CUALQUIER OPERACIÓN CELEBRADA EN TÉRMINOS DEL INCISO (2)(D) ANTERIOR, CEMEX, S.A.B. DE C.V. Y EL FIDUCIARIO SE RESERVAN EL DERECHO DE EXIGIR LA ENTREGA DE AQUÉLLAS OPINIONES LEGALES, CERTIFICACIONES U OTRAS CONSTANCIAS QUE RAZONABLEMENTE REQUIERAN A EFECTO DE DETERMINAR QUE LA TRANSMISIÓN PROPUESTA CUMPLE CON LO DISPUESTO POR LA LEY DE VALORES Y LAS LEYES ESTATALES EN MATERIA DE VALORES APLICABLES. NO SE OTORGA DECLARACIÓN ALGUNA EN CUANTO A LA EXISTENCIA DE UNA EXENCIÓN A LOS REQUISITOS DE INSCRIPCIÓN PREVISTOS EN LA LEY DE VALORES.

[FORM OF FACE OF NOTE] [FORMATO DEL ANVERSO DE LAS OBLIGACIONES]

No. _____

Principal Amount U.S.$_____

[If the Note is a Global Security include the following two lines: as revised by the Schedule of Increases and Decreases in Global Security attached hereto]

RESTRICTED CUSIP: 151290 AU7
RESTRICTED ISIN: US151290AU79
COMMON CODE: 049906056
UNRESTRICTED CUSIP: 151290 AV5
UNRESTRICTED ISIN: US151290AV52

4.875% CONVERTIBLE SUBORDINATED NOTES DUE 2015

CEMEX, S.A.B. de C.V., a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) organized under the laws of Mexico (together with its successors and assigns, the "Issuer"), promises to pay to [_____], or registered assigns, the principal sum of [_____] Dollars (U.S.$[ ]) [*If the Note is Global Security, add the following:* , as revised by the Schedule of Exchanges of Interest in Global Security attached hereto], on March 15, 2015.

Interest Payment Dates: March 15 and September 15
Record Dates: March 1 and September 1

Dated: March 30, 2010

Additional provisions of this Note are set forth on the other side of this Note.

No. _____

Monto principal EUA$_____

[*Si se trata de Título Global, incluir los siguientes dos renglones:* ajustado en términos del Apéndice de Aumentos y Disminuciones en el Título Global que se anexa a la presente]

Clave CUSIP Restringida: 151290 AU7
Clave ISIN Restringida: US151290AU79
Clave Común: 049906056
Clave CUSIP Irrestricta: 151290 AV5
Clave ISIN Irrestricta: US151290AV52

OBLIGACIONES CONVERTIBLES SUBORDINADAS CON RENDIMIENTO DEL 4.875% CON VENCIMIENTO EN 2015

CEMEX, S.A.B. de C.V., una sociedad anónima bursátil de responsabilidad limitada constituida de conformidad con las leyes de México (en conjunto con sus sucesores y cesionarios, la "Emisora"), prometer pagar a [_____], o a sus cesionarios registrados, la cantidad principal de [_____] dólares (EUA$[ ]) [*Si se trara de un Titulo Global, añadir lo siguiente:* , ajustada en términos del Apéndice de Canjes de Derechos Sobre el Título Global que se anexa ala presente], el 15 de marzo de 2015

Fechas de Pago de Intereses: 15 de marzo y 15 de septiembre
Fechas de Registro: 1 de marzo y 1 de septiembre

Fecha: 30 de marzo de 2010

El reverso de esta Obligación contiene disposiciones adicionales.

IN WITNESS WHEREOF, the Issuer has caused this Note to be signed manually or by facsimile by duly authorized officers.

EN TESTIMONIO DE LO ANTERIOR, la Emisora a causado que la presente Obligación haya sido firmada manualmente o por facsímile por sus representantes autorizados.

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

By/Por: _____
Name/Nombre:
Title/Cargo: Member of the Board of Directors/Miembro del Consejo de Administración

By/Por: _____
Name/Nombre:
Title/Cargo: Member of the Board of Directors/Miembro del Consejo de Administración

THE BANK OF NEW YORK MELLON, S.A.,
INSTITUCIÓN DE BANCA MÚLTIPLE,
as Mexican Trustee/como Representante Común Mexicano

By/Por: _____
Name/Nombre:
Title/Cargo:

Trustee's Certificate of Authentication:

This is one of the Notes described in the within-mentioned Indenture:

THE BANK OF NEW YORK MELLON, as Trustee/como Fiduciario

By/Por: _____
Authorized Signatory/Representante Autorizado

Date/Fecha: _____

Certificado de Autentificación del Fiduciario:

La presente es una de las Obligaciones descritas en el Acta de Emisión a que se hace referencia:

[FORM OF REVERSE SIDE OF NOTE]

[FORMATO DEL REVERSO DE LOS TÍTULOS]

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

4.875% CONVERTIBLE SUBORDINATED NOTES DUE 2015

OBLIGACIONES CONVERTIBLES SUBORDINADAS CON RENDIMIENTO DEL 4.875% CON VENCIMIENTO EN 2015

Capitalized terms used by not defined herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. INTEREST. CEMEX, S.A.B. de C.V. a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) organized under the laws of Mexico (together with its successors and assigns, the "Issuer"), promises to pay interest on the principal amount of this Note at the rate per annum shown above; *provided* that such rate may be increased from time to time as provided in the Indenture, including Section 4.09 and Section 6.02(b) thereof. The Issuer will pay Interest semi-annually in arrears on March 15 and September 15 of each year, beginning September 15, 2010. Interest on the Notes will accrue from the most recent Interest Payment Date on which Interest has been paid or, if no Interest has been paid, from March 30, 2010. Interest, if any, will be computed on the basis of a 360-day year comprised of twelve 30-day months. The Issuer shall pay any increased Interest required to be paid by it pursuant to Section 4.09 and Section 6.02(b) of the Indenture in the manner and on the dates otherwise provided herein for the payment of Interest. To the extent lawful, the Issuer shall pay Interest (including post-petition Interest in any proceeding under any Bankruptcy Law) on overdue principal at the interest rate borne by the Notes per annum; it shall pay Interest (including post-petition Interest in any proceeding under any Bankruptcy Law) on overdue installments of Interest ("Defaulted Interest"), without regard to any applicable grace period, at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

1. INTERESES. CEMEX, S.A.B. de C.V. una sociedad anónima bursátil de capital variable constituida de conformidad con las leyes de México (en conjunto con sus sucesores y cesionarios, la "Emisora"), prometer pagar Intereses sobre el importe principal de esta Obligación a la tasa anual antes indicada; *en el entendido* de que dicha tasa podrá incrementarse de tiempo en tiempo de conformidad con lo dispuesto en el Acta de Emisión, incluyendo su Sección 4.09 y su Sección 6.02(b). La Emisora pagará Intereses por semestres vencidos los días 15 de marzo y 15 de septiembre de cada año, comenzado el 15 de septiembre de 2010. Las Obligaciones devengarán Intereses desde la última Fecha de Pago de Intereses en que se hayan pagado Intereses o, si no se han pagado Intereses, desde el 30 de marzo de 2010. En su caso, los Intereses se calcularán sobre la base de un año de 360 días y 12 meses de 30 días cada uno. En la medida permitida por la ley, la Emisora pagará cualesquiera Intereses adicionales que deba pagar de conformidad con lo dispuesto en la Sección 4.09 y la Sección 6.02(b) del Acta de Emisión, en la forma las fechas estipuladas en la misma en cuanto al pago de Intereses. En la medida permitida por la ley, la Emisora pagará Intereses (incluyendo Intereses posteriores a la presentación de cualquier demanda al amparo de alguna Ley de Quiebras) sobre cualquier importe principal vencido, a la tasa de interés anual devengada por las Obligaciones que se encuentre vigente en ese momento; y en la medida permitida por la ley pagará Intereses (incluyendo tras la presentación de cualquier demanda al amparo de alguna Ley de Quiebras) sobre cualesquiera Intereses vencidos ("Intereses Moratorios"), a la misma tasa, independientemente de cualquier período de gracia aplicable. Los Intereses se calcularán sobre la base de un año de 360 días y 12 meses de 30 días.

All payments made by the Issuer under, or with respect to, the Notes will be made free and clear of, and without withholding or deduction for or on account of any Taxes imposed or levied by or on behalf of any Taxing Jurisdiction, unless the Issuer is required to withhold or deduct Taxes by law or by the official interpretation or administration thereof. In that event, the Issuer will pay to each Holder of the Notes Additional Amounts as provided in the Indenture subject to the limitations set forth in the Indenture.

Todos los pagos efectuados por la Emisora conforme a las Obligaciones o en relación con las mismas irán libres de toda retención o deducción a cuenta de cualesquiera Impuestos establecidos o determinados por cualquier Jurisdicción Impositiva o en representación de la misma, a menos que la Emisora esté obligada a retener o deducir Impuestos por disposición de ley o en razón de la interpretación oficial o aplicación de la misma. En dicho supuesto, la Emisora pagará a cada Tenedor de Obligaciones las Cantidades Adicionales previstas en el Acta de Emisión, sujeto a las restricciones establecidas en la propia Acta de Emisión.

2. METHOD OF PAYMENT. The Issuer will pay Interest on the Notes (except Defaulted Interest) on the Business Day on which any such Interest on any Note is due and payable to the Person in whose name each Note is registered at the close of business on the March 1 and September 1 immediately preceding the relevant Interest Payment Date (each a "Record Date") (other than as provided in the Indenture). A Holder must surrender Notes to a Paying Agent to collect principal payments. On the Business Day prior to the date on which any payment is to be made on the Notes, the Issuer will deposit with the Trustee or with the Paying Agent an amount of money in immediately available funds sufficient to make such payment.

2. FORMA DE PAGO. La Emisora pagará cualesquiera Intereses respecto de las Obligaciones (salvo Intereses Moratorios) a más tardar el Día Hábil en que dicho importe de Intereses sobre las Obligaciones sean exigibles y pagaderos a la Persona a cuyo nombre se encuentre inscrita dicha Obligación al cierre de horas hábiles del 1 de marzo y el 1 de septiembre inmediatamente anteriores a la Fecha de Pago de Intereses correspondiente (cada una de dichas fechas, una "Fecha de Registro") (salvo por lo dispuesto en el Acta de Emisión). Para efectos de todo pago de principal, el Tenedor deberá entregar sus Obligaciones al Agente de Pago. A más tardar el Día Hábil previo a la fecha en que el importe principal de las Obligaciones deba pagarse, la Emisora depositará con el Fiduciario o con el Agente de Pagos, en fondos inmediatamente disponibles, la cantidad suficiente para realizar dicho pago.

The Issuer will pay the principal of and Interest on the Notes at the office or agency of the Issuer maintained for such purpose, in U.S. Legal Tender. Until otherwise designated by the Issuer, the Issuer's office or agency maintained for such purpose will be the principal Corporate Trust Office of the Trustee (as defined below). However, the Issuer may pay principal and Interest by check payable in such money, and may mail such check to the Holders of the Notes at their respective addresses as set forth in the Register of Holders. Payments in respect of Notes represented by a Global Security (including principal and Interest) will be made by the transfer of immediately available funds to the accounts specified by DTC. The Issuer will make all payments in respect of a Definitive Security (including principal and Interest) by mailing a check to the registered address of each Holder thereof as set forth in the Note

La Emisora pagará el importe principal y los Intereses de las Obligaciones en la oficina o agencia mantenida para dicho efecto por la misma, en Moneda de los E.U.A. A menos que la Emisora designe otro lugar, su oficina o agencia para dicho efecto serán las Oficinas del Departamento de Fideicomisos Empresariales del Fiduciario (según la definición asignada a dicho término más adelante). Sin embargo, la Emisora podrá efectuar pagos de principal e Intereses mediante cheque denominado en dicha moneda, y podrá enviar por correo dicho cheque a los domicilios que los Tenedores de Obligaciones tengan inscritos en el registro de Tenedores. Los pagos sobre las Obligaciones amparadas por un Título Global (incluyendo principal e Intereses) se efectuarán mediante transferencia de fondos inmediatamente disponibles a las cuentas indicadas

Register; *provided, however*, that payments on the Notes may also be made, in the case of a Holder of at least U.S.$1,000,000 aggregate principal amount of Notes, by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 15 days immediately preceding the relevant Record Date (or such other date as the Trustee may accept in its discretion).

por DTC. La Emisora efectuará todos los pagos correspondientes a Títulos Definitivos (incluyendo principal e Intereses) mediante cheque enviado por correo al domicilio que cada Tenedor tenga inscrito en el registro de Obligaciones; *en el entendido, sin embargo*, de que tratándose de cualquier Tenedor de Obligaciones por un monto principal total de cuando menos EUA$1,000,000, los pagos sobre las Obligaciones también podrán efectuarse mediante transferencia electrónica a una cuenta en dólares de los E.U.A. mantenida por el

3. PAYING AGENT AND REGISTRAR. Initially, The Bank of New York Mellon (together with any successor Trustee under the Indenture referred to below, the "Trustee"), will act as Paying Agent, Conversion Agent and Registrar. The Issuer may change the Paying Agent, Conversion Agent, Registrar or co-registrar without prior notice. Subject to certain limitations in the Indenture, the Issuer or any of its Subsidiaries may act in any such capacity.

4. INDENTURE. The Issuer issued the Notes under an Indenture dated as of March 30, 2010 (as it may be amended or supplemented from time to time in accordance with the terms thereof, the "Indenture") between the Issuer, the Trustee and the Mexican Trustee. The terms of the Notes include those stated in the Indenture. The Notes are subject to, and qualified by, all such terms, certain of which are summarized hereon, and Holders are referred to the Indenture for a statement of such terms. However, to the extent any provision of any Note conflicts with the express provisions of the Indenture, the provisions of the Indenture shall govern and be controlling. Each Holder, by accepting a Note, agrees to be bound by all of the terms and provisions of the Indenture, as amended or supplemented from time to time.

5. REDEMPTION AND REPURCHASE. The Notes are subject to certain redemption and repurchase provisions under Article III of the Indenture

(A) *Optional Redemption by the Issuer for Changes in Withholding Taxes*

If, as a result of any amendment to, or change in, the laws (or any rules or regulations thereunder) of any Taxing Jurisdiction affecting taxation, or any amendment to or change in an official interpretation or application of such laws, rules or regulations that has a general effect, which amendment to or change of such laws, rules or regulations becomes effective on or after the Issue Date (which, in the case of a merger, consolidation or other transaction permitted and described under Article V of the Indenture, shall be treated for this purpose as the date of such transaction) the Issuer would be obligated, after taking all reasonable measures to avoid this requirement, to pay Additional Amounts in excess of those attributable to a withholding Tax rate of 10% with respect to the Notes (as described in Section 4.12 of the Indenture), then, at the Issuer's option, the Notes may be redeemed in whole, but not in part, at any time on giving not less than 30 days nor more than 60 days' notice to each Holder, at a redemption price equal to 100% of the outstanding principal amount, *plus* Interest, if any, up to but not including the Tax Redemption Date; *provided*, *however*, that (1) no Tax Redemption Notice may be given earlier than 90 days prior to the earliest date on which the Issuer would be obligated to pay the Additional Amounts described in the preceding sentence if a payment on the Notes were then due, (2) at the time such Tax Redemption Notice is given such obligation to pay such Additional Amounts remains in effect and (3) the Issuer shall have satisfied the additional requirements set forth below. Such Tax Redemption Notice shall also contain the items required in Section 3.01(e) of the Indenture, including the calculation of the Make Whole Fundamental Change Premium.

Prior to the publication of any Tax Redemption Notice pursuant to this provision, the Issuer will deliver to the Trustee:

(i) an Officer's Certificate stating that the Issuer is entitled to effect the redemption and setting forth a statement of facts showing that the conditions precedent to the Issuer's right to redeem have occurred, and

destinatario del pago en un banco de los Estados Unidos, si dicho Tenedor elige la opción de recibir dichos pagos por transferencia electrónica mediante el envío de un aviso por escrito proporcionado los datos de su cuenta al Fiduciario o al Agente de Pagos, a más tardar en la fecha correspondiente a los 15 días inmediatamente anteriores a la Fecha de Registro aplicable (o cualquier otra fecha aceptable para el Fiduciario a su entera discreción).

3. AGENTE DE PAGOS Y AGENTE DE REGISTRO. The Bank of New York Mellon (en conjunto con cualquier Fiduciario sucesor en términos del Acta de Emisión, el "Fiduciario") actuará inicialmente como Agente de Pagos, Agente de Conversión y Agente de Registro. La Emisora podrá reemplazar al Agente de pagos, al Agente de Conversión, al Agente de Registro o agente de registro adjunto, sin necesidad de dar aviso previo. Sujeto a ciertas restricciones previstas en el Acta de Emisión, ni la Emisora ni sus Subsidiaras podrán actuar con alguna de dichas capacidades.

4. ACTA DE EMISIÓN. La Emisora emitió las Obligaciones al amparo de un Acta de Emisión de fecha 30 de marzo de 2010 (tal y como la misma se modifique o adicione de tiempo en tiempo de acuerdo con sus términos, el "Acta de Emisión"), suscrita por la Emisora, el Fiduciario y el Representante Común Mexicano. Los términos de las Obligaciones incluyen los previstos en el Acta de Emisión. Las Obligaciones están sujetas y condicionadas a la totalidad de dichos términos, algunos de los cuales están resumidos en la presente, y los Tenedores deberán consultar el Acta de Emisión para conocer dichos términos. Sin embargo, en la medida en que alguna disposición de esta Obligación contravenga lo expresamente dispuesto en el Acta de Emisión, prevalecerán las disposiciones del Acta de Emisión. Por el hecho de aceptar una Obligación, todo Tenedor conviene en sujetarse a todos los términos y las disposiciones del Acta de Emisión, tal como la mismo se modifique o adicione de tiempo en tiempo.

5. AMORTIZACIÓN Y RECOMPRA. Las Obligaciones están sujetas a ciertas disposiciones en materia de amortización y recompra contenidas en el Artículo III del Acta de Emisión.

(A) *Amortización a opción de la Emisora debido a reformas legales fiscales*

Si en virtud de alguna reforma o cambio en las leyes (o en las reglas o los reglamentos promulgados al amparo de las mismas) en materia fiscal de alguna Jurisdicción Impositiva, o de alguna reforma o cambio en la interpretación oficial o aplicación de dichas leyes, reglas o reglamentos que tenga efectos generalizados, que entre en vigor en la Fecha de Emisión (que para estos efectos y tratándose de cualquier fusión, consolidación u otra operación descrita y permitida en el Artículo V del Acta de Emisión será la fecha de celebración de dicha operación) o después de la misma, la Emisora, tras tomar todas las medidas razonables para evitarlo, se vería obligada a pagar Cantidades Adicionales por encima de las correspondientes a una tasa de retención de Impuestos del 10% en relación con las Obligaciones (conforme a lo descrito en la Sección 4.12 del Acta de Emisión), la Emisora tendrá la opción, previo aviso a cada Tenedor con no menos de 30 ni más de 60 días de anticipación, de amortizar en cualquier momento las Obligaciones, en su totalidad y no sólo en parte, a un precio de amortización equivalente al 100% del monto principal insoluto *más* Intereses, en su caso, a la Fecha de Amortización por Motivos Fiscales pero sin incluir dicha fecha; *en el entendido, sin embargo,* de que (1) no se podrá dar ningún Aviso de Amortización por Motivos Fiscales antes del plazo de 90 días anterior a la primera fecha en que la Emisora hubiere estado obligada a pagar las Cantidades Adicionales descritas en la oración que antecede si el pago sobre las Obligaciones hubiese sido exigible en dicha fecha, (2) la obligación de pagar dichas Cantidades Adicionales deberá estar vigente a la fecha de envío de dicho Aviso de Amortización por Motivos Fiscales, y (3) la Emisora deberá haber cumplido con los requisitos adicionales previstos a continuación. Dicho Aviso de Amortización por Motivos Fiscales también deberá contener la información exigida por la Sección 3.01 (e) del Acta de Emisión, incluyendo el cálculo de la Prima por Prepago Debido a un Cambio Fundamental.

Antes de publicar cualquier Aviso de Amortización por Motivos Fiscales, la Emisora enviará al Fiduciario:

(i) un Certificado Expedido por los Funcionarios manifestando que la Emisora tiene derecho de efectuar una amortización y describiendo los hechos que acrediten la verificación de la condición suspensiva que dio origen al derecho de amortización de la Emisora,

(ii) an Opinion of Counsel of recognized standing in the affected Taxing Jurisdiction to the effect that the Issuer has or will become obligated to pay such Additional Amounts as a result of such change or amendment.

This Tax Redemption Notice, once delivered by the Issuer to the Trustee, will be irrevocable.

(B) *Repurchase at the Option of Holders Upon Certain Fundamental Changes*

Upon the occurrence of a Change of Control, the Issuer shall notify the Holders and the Trustee in writing of such occurrence and shall be required to make an offer to repurchase all Notes then outstanding at a repurchase price in cash equal to 100% of the principal

y

(ii) una Opinión Legal de reconocido prestigio en la Jurisdicción Impositiva, en el sentido de que la Emisora está o estará obligada a pagar dichas Cantidades Adicionales como resultado de dicha reforma o cambio.

Una vez enviado por la Emisora al Fiduciario, el Aviso de Amortización por Motivos Fiscales será irrevocable.

(B) *Recompra a opción de los Tenedores en caso de Ciertos Cambios Fundamentales*

Tras ocurrir un Cambio de Control, la Emisora dará aviso por escrito de dicha circunstancia a los Tenedores y el Fiduciario y estará obligada a realizar una oferta de recompra respecto de todas las Obligaciones en circulación, a un precio de recompra en

amount thereof, *plus* Interest, to, but excluding, the Change of Control Purchase Date as defined in the Indenture (unless the Change of Control Purchase Date is between a Record Date and the Interest Payment Date to which it relates, in which case the Issuer will pay Interest on such Interest Payment Date to the Holder of record on such Record Date and the Change of Control Payment will be equal to 100% of the principal amount of the Notes subject to repurchase and will not include Interest).

6. SUBORDINATION. The payment of the principal of, premium, if any, and Interest on and any other payment due pursuant to this Notes (including, without limitation, the payment or deposit of the Change of Control Payment pursuant to Article III of the Indenture) shall be subordinated and subject in right of payment to the prior payment in full of all Senior Indebtedness, whether outstanding at the Issue Date or thereafter created, incurred, assumed or guaranteed in accordance with the provisions of Article XI of the Indenture, and each Holder by accepting a Note accepts and agrees to be bound by such provisions. The Issuer agrees, and each Holder by accepting a Note agrees, that the Indebtedness evidenced by the Note is equal in right of payment to any future unsecured subordinated Indebtedness.

7. DENOMINATIONS, TRANSFER, EXCHANGE. The Notes are in registered form without coupons in denominations of U.S.$100,000 and integral multiples of U.S.$1,000 in excess thereof. A Holder may transfer or exchange Notes at the office of the Registrar in accordance with the Indenture. The Registrar and the Trustee may require a Holder, among other things, to furnish appropriate endorsements and transfer documents. No service charge will be imposed by the Issuer, the Trustee or the Registrar for any registration of transfer or exchange of Notes, but any Tax or similar governmental charge required by law or permitted by the Indenture because upon exchange a Holder requests any ADSs to be issued in a name other than such Holder's name will be paid by such Holder. The Issuer is not required to transfer or exchange any Note surrendered for repurchase or conversion except for any portion of that Note not being repurchased or converted, as the case may be.

8. PERSONS DEEMED OWNERS. The registered Holder of a Note may be treated as its owner for all purposes.

9. AMENDMENTS AND WAIVERS. Subject to certain exceptions set forth in the Indenture, with the written consent of the Holders of a majority in principal amount of the then-outstanding Notes (including without limitation by consents obtained in connection with a purchase of, or a tender offer or exchange offer for, Notes) (i) the Issuer, the Trustee and the Mexican Trustee may amend the Indenture or the Notes, and (ii) may waive compliance in a particular instance by the Issuer with any provision of the Indenture or this Note.

Without the consent of each Holder of an outstanding Note affected, an amendment or waiver under Section 9.02 of the Indenture may not (with respect to any Notes held by a non-consenting Holder): (a) reduce the amount of Notes whose Holders must consent to an amendment or waiver; (b) reduce the rate of or change or have the effect of changing the time for payment of Interest on any Notes; (c) reduce the principal of or change or have the effect of changing the fixed maturity of any Notes, or change the date on which any Notes may be subject to redemption, or reduce the redemption price therefor; (d) make any Notes payable in money other than that stated in the Notes; (e) make any change in provisions of the Indenture entitling each Holder to receive payment of principal and Interest on such Holder's Notes on or after the due date thereof or to bring suit to enforce such payment, or permitting Holders of a majority in principal amount of Notes to waive Defaults or Events of Default; (f) reduce the Change of Control Payment of any Note or amend or modify in any manner adverse to the Holders, the Issuer's obligation to make payment of such Change of Control Payment, whether through an amendment or waiver of provisions in the covenants, definitions or otherwise; (g) make any change in the provisions of the Indenture described under Section 4.12 of the Indenture that adversely

efectivo equivalente al 100% del importe principal *más* los Intereses devengados por las mismas hasta, pero excluyendo, la Fecha de Compra por Cambio de Control (según la definición asignada a dicho término en el Acta de Emisión) (a menos que la Fecha de Compra por Cambio de Control se ubique entre una Fecha de Fecho y su correspondiente Fecha de Pago de Intereses, en cuyo caso la Emisora pagará Intereses en dicha Fecha de Pago de Intereses al Tenedor inscrito a dicha Fecha de Registro, y el Pago por Cambio de Control será equivalente al 100% del importe de las Obligaciones objeto de recompra y no incluirá Intereses).

6. SUBORDINACIÓN. El pago del importe principal, la prima, si la hubiere, los Intereses y cualesquiera otros pagos exigibles de conformidad con esta Obligación (incluyendo, de manera enunciativa pero no limitativa, el pago o depósito del Pago por Cambio de Control conforme al Artículo III del Acta de Emisión), estarán subordinadas y sujetos, por lo que se refiere al derecho a su pago, en la medida y forma que se establece a continuación, al pago previo e íntegro de toda la Deuda Preferente, ya sea que la misma se encuentre en circulación a la Fecha de Emisión o se cree, incurra, asuma o garantice posteriormente de conformidad con lo dispuesto en el Artículo XI del Acta de Emisión, y cada Tenedor, por el hecho de aceptar una Obligación, reconoce y conviene en sujetarse a dichas disposiciones. La Emisora, y cada Tenedor, por el hecho de aceptar una Obligación, reconoce que la Deuda documentada por esta Obligación es igual en cuanto al derecho de pago que cualquier otra Deuda subordinada sin garantía específica futura.

7. DENOMINACIONES, TRANSMISIÓN, CANJE. Las Obligaciones son nominativas, no llevan adheridos cupones y se emiten en denominaciones de EUA$100,000 y múltiplos íntegros de EUA$1,000 por encima de dicha cantidad. Todo Tenedor podrá solicitar la inscripción de la transmisión o el canje de sus Obligaciones en la oficina del Agente de Registro de acuerdo con lo dispuesto en el Acta de Emisión. El Agente de Registro y el Fiduciario podrán exigir que el Tenedor proporcione, entre otras cosas, los endosos y demás instrumentos de transmisión necesarios. La Emisora, el Fiduciario o el Agente de Registro no impondrán al Tenedor cargo alguno en razón de la inscripción de la transmisión o el canje de Obligaciones, pero el Tenedor será responsable del pago de cualesquiera Impuestos u otros cargos gubernamentales que resulten aplicables en razón de que el Tenedor solicite la emisión de ADSs a nombre de persona distinta de sí mismo. La Emisora no estará obligada a inscribir la transmisión o canje de cualquier Obligación entregado a la misma para su compra o conversión, sino por lo que toca a la porción de dicha Obligación que no vaya a ser objeto de compra o conversión, según el caso.

8. PERSONAS CONSIDERADAS COMO PROPIETARIOS. El Tenedor inscrito de una Obligación será considerado como propietario de la misma para cualesquiera efectos.

9. MODIFICACIONES Y DISPENSAS. Sujeto a ciertas excepciones previstas en el Acta de Emisión, se requiere el consentimiento por escrito de los Tenedores de cuando menos la mayoría del monto principal total de las Obligaciones que se encuentren en circulación en ese momento (incluyendo, de manera enunciativa pero no limitativa, los consentimientos recibidos con motivo de una compra de Obligaciones u oferta de compra o canje relativa a las Obligaciones), para (i) la modificación del Acta de Emisión o las Obligaciones por parte de la Emisora, el Fiduciario y el Representante Común Mexicano y (ii) dispensar el cumplimiento de cualquier disposición contenida en el Acta de Emisión o esta Obligación por parte de la Emisora.

Ninguna modificación o dispensa en términos de lo dispuesto en la Sección 9.02 del Acta de Emisión podrá, salvo con el consentimiento de cada Tenedor de una Obligación en circulación afectado por la misma: (a) reducir el monto de las Obligaciones cuyos Tenedores pueden aprobar una modificación u otorgar una dispensa; (b) reducir la tasa de interés sobre cualesquiera Obligaciones, o cambiar o modificar de cualquier forma que tenga los mismos efectos que un cambio de fecha, la fecha de pago de Intereses sobre cualesquiera Obligaciones; (c) reducir el monto principal de cualesquiera Obligaciones, o cambiar o modificar de cualquier forma que tenga los mismos efectos que un cambio de fecha, la fecha fija de vencimiento de cualesquiera Obligaciones, o cambiar la fecha en que cualesquiera Obligaciones puedan ser objeto de amortización, o reducir el precio de amortización de las mismas; (d) disponer que cualesquiera Obligaciones sean pagaderas en alguna moneda distinta a la expresada en las Obligaciones; (e) cambiar las disposiciones del Acta de Emisión en cualquier forma que confiera a cada Tenedor el derecho a recibir el pago del principal de las Obligaciones e Intereses sobre las Obligaciones de dicho Tenedor en la fecha exigible o después de la misma o a entablar juicio para

affects the rights of any Holder or amend the terms of the Notes in a way that would result in a loss of exemption from Taxes; (h) make any change to the provisions of the Indenture or the Notes that adversely affect the ranking of the Notes; and (i) make any change that impairs or adversely affects the conversion rights of any Notes.

exigir dicho pago, o permitir que los Tenedores de la mayoría del importe principal de las Obligaciones dispensen Incumplimientos o Causaes de Incumplimiento; (f) reducir el Pago por Cambio de Control correspondiente a cualquier Obligación, o reformar o modificar en cualquier forma adversa para los Tenedores la obligación de la Emisora de efectuar dicho Pago por Cambio de Control, ya sea a través de modificaciones o renuncias de las disposiciones correspondientes a las obligaciones o definiciones o cualquier otra; (g) hacer cualquier cambio en las disposiciones descritas en la Sección 4.12 del Acta de Emisión que afecte en forma adversa los derechos de cualquier Tenedor o modifique los términos de las Obligaciones en forma tal que resulte en la pérdida de una exención de Impuestos; (h) hacer cualquier cambio en las disposiciones del Acta de Emisión o las Obligaciones que afecte en forma adversa el orden de prelación de las Obligaciones; o (i) hacer cualquier cambio que precluya o afecte en forma adversa los derechos de conversión correspondientes a cualesquiera Obligaciones.

The Issuer, the Trustee and the Mexican Trustee may amend the Indenture or this Note without notice to or the consent of any Holder to (a) cure any ambiguity, omission, defect or inconsistency in the Indenture or this Note; (b) provide for the assumption by a surviving or successor corporation of the obligations of the Issuer under the Indenture or evidence and provide for the acceptance of appointment of a successor Trustee pursuant to the Indenture; (c) provide for uncertificated Notes in addition to or in place of certificated Notes (provided that the uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Internal Revenue Code or in a manner such that the uncertificated Notes are described in Section 163(f)(2)(B) of the Internal Revenue Code); (d) add guarantees with respect to this Note; (e) secure this Note; (f) add to the Issuer's covenants for the benefit of the Holders or surrender any right or power conferred upon the Issuer; (g) make any change that does not materially adversely affect the rights of any Holder; (h) comply with the provisions of any clearing agency, clearing corporation or clearing system, including DTC, the Trustee or the Registrar with respect to the provisions of the Indenture or this Note relating to transfers and exchanges of Notes; and (i) conform the terms of the Indenture or this Note to the description thereof in the Offering Memorandum.

La Emisora, el Fiduciario y el Representante Común Mexicano podrán modificar el Acta de Emisión o las Obligaciones sin necesidad de dar aviso u obtener el consentimiento de Tenedor alguno, para: (a) corregir cualquier ambigüedad, omisión, defecto o inconsistencia en el Acta de Emisión o las Obligaciones; (b) realizar aquellos actos necesarios en relación con la asunción de las obligaciones de la Emisora conforme al Acta de Emisión por alguna sociedad fusionante o sucesora de la Emisora, o hacer constar y reflejar la aceptación del nombramiento de un Fiduciario sucesor de conformidad con el Acta de Emisión; (c) prever la emisión de Obligaciones no amparadas por títulos, además o en lugar de Obligaciones amparadas por títulos (siempre que las Obligaciones no amparadas por títulos sean registrados para efectos de lo dispuesto por la Sección 163(f) del Código Fiscal Interno (*Internal Revenue Code*) o de manera tal que las Obligaciones no amparadas por títulos se apeguen a la descripción contenida en la Sección 163(f)(2)(B) del Código Fiscal Interno); (d) agregar garantías con respecto a las Obligaciones; (e) garantizar las Obligaciones; (f) agregar obligaciones de la Emisora en beneficio de los Tenedores, o renunciar a cualquier derecho o facultad conferida a la Emisora; (g) hacer cualquier arreglo que no afecte en forma adversa y significativa los derechos de cualquier Tenedor; (h) cumplir con lo dispuesto por cualquier cámara, agencia o sistema de compensación, incluyendo DTC, el Fiduciario o el Agente de Registro con respecto a lo dispuesto por el Acta de Emisión o las Obligaciones en relación con la transmisión y el canje de las Obligaciones; e (i) ajustar los términos del Acta de Emisión o las Obligaciones a fin de que se apeguen a lo descrito en el Prospecto de Colocación.

To secure a consent or waiver of the Holders, it shall not be necessary for such Holders to approve the particular form of any proposed amendment or waiver, but it shall be sufficient if such consent approves the substance thereof.

Para obtener cualquier consentimiento o dispensa de parte de los Tenedores no será necesario que dichos Tenedores aprueben la forma específica de la modificación o dispensa propuesta, sino que bastará con que dicho consentimiento apruebe las cuestiones de fondo de la misma.

10. DEFAULTS AND REMEDIES. An "Event of Default" with respect to any Notes occurs if: (a) the Issuer defaults in the payment in respect of the principal of any Note when due at maturity, upon redemption or repurchase pursuant to Article III of the Indenture, upon declaration of acceleration or otherwise, whether or not such payment is prohibited by the subordination provisions set forth in Article XI of the Indenture; (b) the Issuer defaults in the payment of any installment of Interest on the Notes when due and payable, whether or not such payment is prohibited by the subordination provisions set forth in Article XI of the Indenture, including any Interest payable in connection with a redemption or repurchase pursuant to Article III of the Indenture and Additional Interest, if any, and continuance of such default for a period of 30 days or more; (c) the Issuer defaults in the delivery when due of all ADSs deliverable upon conversion with respect to the Notes in accordance with Article XII of the Indenture, which default continues for a period of five Business Days or more; (d) the Issuer fails to provide a timely Fundamental Change Notice in accordance with Section 12.12 of the Indenture; (e) the Issuer fails to comply with the covenant described in clause (b) of Section 12.08 of the Indenture; (f) failure by the Issuer to comply with the covenant described in clause (a) of Section 12.08 of the Indenture that continues for a period of 30 days after the Issuer receives written notice of such failure from the Trustee or the Holders of at least 25% in principal amount of the Notes then outstanding; (g) the Issuer defaults (other than a default set forth in paragraphs (a) through (f) above) in the performance of, or breaches, any other covenant or agreement of the Issuer set forth in the Indenture or this Note and fails to remedy such default or breach within a period of 45 days after its receipt of written notice thereof from the Trustee or the Holders of at least 25% in aggregate principal amount of the then outstanding Notes; (h) the Issuer or any of the Issuer's "Significant Subsidiaries" (as defined in Article 1, Rule 1-02 of Regulation S-X) defaults with respect to any mortgage, agreement or other instrument under which there is outstanding, or by which there is secured or evidenced, any Indebtedness for money borrowed having a principal amount in excess of U.S.$50 million in the aggregate, whether such Indebtedness now exists or shall hereafter be created, (i) resulting in such Indebtedness becoming or being declared due and payable prior to its express maturity date or (ii) constituting a failure to pay at least U.S.$50 million of such Indebtedness when due and payable (after the expiration of any applicable grace period) at its stated maturity, upon required repurchase, upon declaration or otherwise; provided, that any

10. INCUMPLIMIENTOS Y RECURSOS. Ocurrirá una "Causa de Incumplimiento" respecto a cualquier Obligación si: (a) la Emisora incumple con el pago del importe principal de cualquier Obligación en la fecha en que dicho pago sea exigible, ya sea a su vencimiento, contra su amortización o recompra conforme al Artículo III del Acta de Emisión, en razón de una declaración de vencimiento anticipado o por cualquier otro motivo, independientemente de que dicho pago esté o no prohibido de conformidad con lo dispuesto respecto de la subordinación en el Artículo XI del Acta de Emisión; (b) la Emisora incumple con el pago de cualesquiera Intereses sobre cualquier Obligación en la fecha en que los mismos sean exigibles y pagaderos, independientemente de que dicho pago esté o no prohibido de conformidad con lo dispuesto respecto de la subordinación en el Artículo XI del Acta de Emisión, incluyendo cualesquiera Intereses pagaderos con motivo de una amortización o recompra en términos del Artículo III del Acta de Emisión, si dicho incumplimiento subsiste durante un período de 30 días o más; (c) la Emisora incumple con la entrega, en la fecha debida, de las ADSs que deban entregarse con motivo de la conversión de Obligaciones en términos del Artículo XII del Acta de Emisión, y dicho incumplimiento subsiste durante un período de cinco Días Hábiles o más; (d) la Emisora incumple con la entrega oportuna de un Aviso de Cambio Fundamental de conformidad con lo dispuesto en la Sección 12.12 del Acta de Emisión; (e) la Emisora incumple el compromiso descrito en el inciso (b) de la Sección 12.08 del Acta de Emisión; (f) la Emisora incumple el compromiso descrito en el inciso (a) de la Sección 12.08 del Acta de Emisión y dicho incumplimiento continúa durante un período de 30 días posteriores a la recepción por la Emisora de un aviso por escrito de dicho incumplimiento de parte del Fiduciario o los Tenedores de cuando menos el 25% del monto principal de las Obligaciones que en ese momento se encuentren en circulación; (g) la Emisora incumple (en forma distinta a lo previsto a los incisos (a) a (f) anteriores) o viola cualquier otro contrato o convenio de la misma de conformidad con el Acta de Emisión o las Obligaciones y no subsana dicho incumplimiento o violación dentro del plazo de 45 días contados a partir de la recepción de un aviso por escrito al respecto de parte del Fiduciario o los Tenedores de cuando menos el 25% del monto principal de las Obligaciones que en ese momento se encuentren en circulación; (h) la Emisora o cualquiera de sus "Subsidiarias Significativas" (según dicho término se define en el Artículo 1, Regla 1-02 del Reglamento S-X) incurre en algún incumplimiento con cualquier hipoteca, contrato o instrumento en

such Event of Default shall be deemed cured and not continuing upon payment of such Indebtedness or rescission of such declaration; (i) a final judgment for the payment of U.S.$50 million or more (excluding any amounts covered by insurance or bond) is rendered against the Issuer or any Significant Subsidiary by a court of competent jurisdiction, which judgment is not discharged, stayed, vacated, paid or otherwise satisfied within 60 days after (i) the date on which the right to appeal thereof has expired if no such appeal has commenced, or (ii) the date on which all rights to appeal have been extinguished; or (j) a Bankruptcy Event of Default.

virtud del cual se encuentre insoluta o se garantice o haga constar cualquier Deuda por concepto de dinero obtenido en préstamo cuyo monto principal total ascienda a más de EUA$50 millones, independientemente de que dicha Deuda exista actualmente o se contrate en el futuro, (i) que dé como resultado que dicha Deuda se vuelva o se declare exigible y pagadera antes de su fecha programada de vencimiento, y (ii) que represente un incumplimiento de pago de cuando menos EUA$50 millones de dicha Deuda en la fecha en que dicha cantidad sea exigible y pagadera (después de haber vencido cualquier período de gracia aplicable), ya sea que dicha fecha sea su fecha programada de vencimiento, recompra obligatoria, declaración de vencimiento u otra fecha; en el entendido de que dicha Causa de Incumplimiento se tendrá por

subsanada y no subsistente tras el pago de dicha Deuda o la rescisión de dicha declaración; (i) algún tribunal competente dicta sentencia definitiva en contra de la Emisora o cualquier Subsidiaria Significativa, condenándola al pago de EUA$50 millones o más (excluyendo cualesquiera cantidades amparadas por seguros o fianzas), y dicha sentencia no se deshecha, suspende, desestima, paga o en cualquier otra forma libera dentro de los 60 días siguientes a (i) la fecha de prescripción del derecho a interponer un recurso en contra de la misma sin que se haya interpuesto recurso alguno, o (ii) la fecha en que se hayan agotado todos los derechos de interposición de recursos; o (j) ocurre alguna Causa de Incumplimiento por Quiebra.

If an Event of Default (other than an Event of Default with respect to the Issuer specified in paragraph (j) above) occurs and is continuing, then and in every such case (i) the Trustee, by written notice to the Issuer, or (ii) the Holders of at least 25% in aggregate principal amount of the then outstanding Notes, by written notice to the Issuer and the Trustee, may, and the Trustee at the request of such Holders shall, declare all of the unpaid principal of, and Interest, on all the Notes to be due and payable. Upon such declaration such principal amount, and Interest, shall become immediately due and payable, notwithstanding anything contained in the Indenture or this Note to the contrary, but subject to the provisions of Article XI of the Indenture. If the Event of Default with respect to the Issuer specified in paragraph (j) above occurs, all unpaid principal of, and Interest on, the Notes then outstanding shall become automatically due and payable, subject to the provisions of Article XI of the Indenture, without any declaration or other act on the part of the Trustee or any Holder.

En caso de que haya ocurrido y subsista alguna Causa de Incumplimiento (distinta de una Causa de Incumplimiento respecto a la Emisora conforme a lo previsto en el inciso (i) anterior, entonces y en cada uno de dichos casos (i) el Fiduciario, mediante aviso por escrito a la Emisora, o (ii) los Tenedores de cuando menos el 25% del monto principal insoluto de las Obligaciones que en ese momento se encuentren en circulación, mediante aviso por escrito a la Emisora y al Fiduciario, podrán declarar y a solicitud de dichos Tenedores el Fiduciario declarará exigible y pagadero el importe total del monto principal insoluto de las Obligaciones y los Intereses sobre las mismas. Tras dicha declaración, dicho monto principal e Intereses se volverán inmediatamente exigibles y pagaderos no obstante cualquier disposición en contrario contenida en el Acta de Emisión o las Obligaciones pero sujeto a lo dispuesto en el Artículo XI del Acta de Emisión. En caso de que se actualice la Causa de Incumplimiento prevista en el inciso (j) anterior con respecto a la Emisora, la totalidad del importe principal de las Obligaciones y los Intereses sobre las Obligaciones que se encuentren en circulación en ese momento se volverán inmediatamente exigibles y pagaderos sujeto a lo dispuesto en el Artículo XI del Acta de Emisión, sin necesidad de declaración o acto ulterior alguno por parte del Fiduciario o cualquier Tenedor.

Notwithstanding any other provision in Article VI of the Indenture, if an Event of Default occurs arising out of the Issuer's breach of its obligation to file or furnish reports or other financial information as required under the Indenture, the Issuer may elect to pay Additional Interest on the Notes as the sole remedy for such Event of Default, and the Trustee and the Holders will not have any right under the Indenture to accelerate the maturity of the Notes as a result of any such Event of Default, except as provided below. If elected, the Issuer shall pay Additional Interest to all Holders at a rate equal to 0.50% per annum through the 180th day after the occurrence of such Event of Default (which shall be the 135th day after the end of the 45-day grace period set forth in Section 6.01(g) of the Indenture),or such earlier date on which the Event of Default relating to the reporting obligations referred to in this paragraph shall have been cured or waived. On the 181st day, such Additional Interest will cease to accrue (or earlier, if the Event of Default relating to the reporting obligations referred to in this paragraph shall have been cured or waived prior to such 181st day) and, if the Event of Default is continuing on such 181st day, the Notes will be subject to acceleration as provided in the above paragraph. The provisions hereof will not affect the rights of the Holders in the event of the occurrence of any other Event of Default, and are separate and distinct from, and in addition to, the obligation of the Issuer to increase the interest rate of, and the amount of Interest payable on, the Notes pursuant to Section 4.09 of the Indenture, except as otherwise provided therein. Any Additional Interest paid pursuant to this paragraph will be payable at the times and in the manner provided for the payment of regular Interest on the Notes. In order to elect to pay Additional Interest on the Notes as the sole remedy during the first 180 days after the occurrence of an Event of Default relating to the failure to comply with reporting obligations in accordance with this paragraph, the Issuer must notify all Holders and the Trustee and Paying Agent of such election on or before the close of business on the fifth Business Day after the date on which such Event of Default first occurs. If the Issuer fails to timely give such notice, does not pay such Additional Interest or elects not to pay such Additional Interest, the Notes will be immediately subject to acceleration as provided in the above paragraph.

No obstante cualquier otra disposición contenida en el Artículo VI del Acta de Emisión, si ocurre alguna Causa de Incumplimiento como resultado del incumplimiento de las obligaciones de presentación o entrega de información financiera de la Emisora en términos del Acta de Emisión, la Emisora tendrá la opción de pagar Intereses Adicionales sobre las Obligaciones a manera de medio exclusivo de subsanar dicha Causa de Incumplimiento, en cuyo caso el Fiduciario y los Tenedores no tendrán derecho alguno al amparo del Acta de Emisión para declarar vencidas las Obligaciones en forma anticipada como resultado de dicha Causa de Incumplimiento, excepto por lo previsto más adelante. De elegir dicha opción, la Emisora pagará Intereses Adicionales a todos los Tenedores a una tasa equivalente al 0.50% anual hasta el 180o. día posterior a la actualización de dicha Causa de Incumplimiento (mismo que coincidirá con el 135o. día siguiente al vencimiento del período de gracia de 45 días previsto en la Sección 6.01(g) del Acta de Emisión) o hasta aquélla fecha anterior en que se subsane o dispense la Causa de Incumplimiento relativa a las obligaciones de entrega de información citadas en este inciso. Dichos Intereses Adicionales dejarán de devengarse el 181o. día (o antes, en caso de que la Causa de Incumplimiento relativa a las obligaciones de entrega de información citadas en este inciso se subsane o dispense antes de dicho 181o. día) y, si la Causa de Incumplimiento aún subsiste en dicho 181o. día, las Obligaciones estarán sujetas a vencimiento anticipado de conformidad con lo antes dispuesto. Lo antes dispuesto no afectará los derechos de los Tenedores en caso de que ocurra alguna otra Causa de Incumplimiento, y es independiente, distinto y adicional a la obligación de la Emisora de incrementar la tasa de interés y el monto de los Intereses pagaderos sobre las Obligaciones de conformidad con la Sección 4.09 del Acta de Emisión a menos que la presente disponga lo contrario. Cualesquiera Intereses Adicionales pagaderos de conformidad con lo dispuesto en este párrafo se pagarán en las fechas y la forma prescritas para el pago de Intereses ordinarios sobre las Obligaciones. Para elegir la opción de pagar Intereses Adicionales como medio exclusivo para subsanar durante los primeros 180 días siguientes a la actualización de una Causa de Incumplimiento derivada de la falta de cumplimiento de las obligaciones de entrega de información conforme a este párrafo, la Emisora deberá dar aviso de su elección a todos los Tenedores y al Fiduciario y Agente de Pagos a más

tardar al cierre de las horas hábiles del quinto Día Hábil posterior a la fecha en que haya ocurrido por vez primera dicha Causa de Incumplimiento. Si la Emisora incumple con el envío oportuno de dicho aviso, no paga dichos Intereses Adicionales u opta por no pagar dichos Intereses Adicionales, las Obligaciones quedarán inmediatamente sujetas a vencimiento anticipado de conformidad con lo antes dispuesto.

Holders may not enforce the Indenture or the Notes except as provided in the Indenture. The Trustee may require an indemnity satisfactory to it before it enforces the Indenture or the Notes. Subject to certain limitations, Holders of a majority in principal amount of the then outstanding Notes may direct the Trustee in its exercise of any trust or power. Except in the case of a Default or Event of Default in payment of principal of, or interest on, this Note, the Trustee may withhold from Holders notice of any continuing default (except a default in payment of principal, or Interest, if applicable) if and so long as a committed of the Trustee's Trust Officers in good faith determines that withholding the notice is in the interests of Holders. The Issuer must furnish an annual compliance certificate to the Trustee.

Los Tenedores no podrán hacer valer el Acta de Emisión o las Obligaciones sino en la forma prevista en el Acta de Emisión. El Fiduciario podrá exigir indemnización satisfactoria antes de realizar cualquier acto para exigir el cumplimiento del Acta de Emisión o las Obligaciones. Sujeto a ciertas excepciones, los tenedores de la mayoría del importe principal de las Obligaciones que se encuentren en circulación en un momento dado podrá girar instrucciones al Fiduciario con respecto al ejercicio de los poderes o facultades del mismo. Salvo que se trate de un Incumplimiento o Causa de Incumplimiento con el pago de principal de cualquier Obligación o Intereses sobre la misma, el Fiduciario podrá abstenerse de dar aviso de la subsistencia de cualquier incumplimiento (salvo que se trate de un incumplimiento con el pago del principal o, en su caso, Intereses sobre cualquier Obligación), siempre y cuando un comité formado por sus Delegados Fiduciarios determine de buena fe que el diferimiento de dicho aviso es en interés de los Tenedores. La Emisora deberá proporcionar al Fiduciario un informe anual respecto al cumplimiento de sus obligaciones.

11. TRUSTEE DEALINGS WITH THE ISSUER. The Trustee or any of its Affiliates, in their individual or any other capacities, may make or continue loans to or guaranteed by, accept deposits from and perform services for the Issuer or its Affiliates and may otherwise deal with the Issuer or its Affiliates as if it were not Trustee.

12. NO RECOURSE AGAINST OTHERS. No director, officer, employee or shareholder, as such, of the Issuer from time to time shall have any liability for any obligations of the Issuer under the Notes or this Indenture or for any claim based on, in respect of, or by reason of such obligations or their creation. Each Holder by accepting a Note waives and releases all such liability. The waiver and release are part of the consideration for the Notes.

13. AUTHENTICATION. This Note shall not be valid until authenticated by the manual signature of the Trustee or an authenticating agent.

14. ABBREVIATIONS. Customary abbreviations may be used in the name of a Holder or an assignee, such as: TEN CO = tenants in common, TEN ENT = tenants by the entireties, JT TEN = joint tenants with right of survivorship and not as tenants in common, CUST = Custodian and U/G/M/A = Uniform Gifts to Minors Act.

15. CONVERSION. Subject to and upon compliance with the provisions of the Indenture, the registered Holder of this Note has the right, at such Holder's option, at any time before the close of business on the fourth Business Day immediately preceding the Maturity Date (or in case this Note or any portion hereof is subject to a Tax Redemption Notice or a duly completed election for repurchase, before the close of business on the Business Day prior to the Tax Redemption Date or the Change of Control Purchase Date, as the case may be (unless the Issuer defaults in payment due upon redemption or repurchase)) to convert each U.S.$1,000 principal amount of Notes into 73.5402 ADSs of the Issuer, as adjusted from time to time as provided in the Indenture, including with respect to the Make Whole Fundamental Change Premium, upon surrender of this Note to the Issuer at the office or agency maintained for such purpose (and at such other offices or agencies designated for such purpose by the Issuer), accompanied by written notice of conversion duly executed (and if the ADSs to be issued on conversion are to be issued in any name other than that of the registered Holder of this Note by instruments of transfer, in form satisfactory to the Issuer, duly executed by the registered Holder or its duly authorized attorney) and, in case such surrender shall be made during the period after 5 p.m., New York City time on the Record Date immediately preceding any Interest Payment Date through 9:00 a.m. New York City time on such Interest Payment Date, also accompanied by payment, in funds acceptable to the Issuer, of an amount equal to the Interest, otherwise payable on such Interest Payment Date on the principal amount of this Note then being converted; *provided*, *however*, that no such payment need be made if the Notes are surrendered for conversion after the final Record Date. Subject to the aforesaid requirement for a payment in the event of conversion after the close of business on a Record Date immediately preceding an Interest Payment Date, no adjustment shall be made on conversion for Interest accrued hereon or for dividends on ADSs delivered on conversion. The right to convert this Note is subject to the provisions of the Indenture relating to conversion rights in the case of certain consolidations, mergers, or sales or transfers of substantially all the Issuer's assets.

No fractional portions of ADSs shall be issued upon conversion of Notes. If more than one Note shall be surrendered for conversion at one time by the same Holder, the number of full ADSs which shall be issuable upon conversion shall be computed on the basis of the aggregate principal amount of the Notes (or specified portions thereof to the extent permitted hereby) so surrendered for conversion. If any fractional portions of ADSs otherwise would be issuable upon the conversion of any Note or Notes, the Issuer will deliver a number of ADSs rounded up to the nearest whole number of ADSs.

11. OPERACIONES ENTRE EL FIDUCIARIO Y LA EMISORA. El Fiduciario o cualquiera de sus Filiales, ya sea en lo individual o con cualquier otro carácter, podrá otorgar o extender créditos a la Emisora o créditos garantizados por la misma, aceptar depósitos de parte de la Emisora y prestar servicios a ésta o a sus Filiales, y podrá por demás celebrar operaciones con la Emisora o sus Filiales como si no ocupase el cargo de Fiduciario.

12. AUSENCIA DE RECURSOS CONTRA TERCEROS. Ninguna Persona que de tiempo en tiempo tenga el carácter de consejero, funcionario, empleado o accionista de la Emisora será en razón de dicha circunstancia y en momento alguno responsable de las obligaciones de la Emisora bajo las Obligaciones el Acta de Emisión, o respecto de cualquier demanda en razón o que esté basada o relacionada con dichas obligaciones o su creación. Por el hecho de aceptar una Obligación, su Tenedor dispensa dicha responsabilidad y los libera de la misma. Esta liberación y dispensa forman parte de la contraprestación por las Obligaciones.

13. VALIDACIÓN. Esta Obligación no será válida a menos que contenga la firma autógrafa del Fiduciario o un agente de validación.

14. ABREVIATURAS. Podrán utilizarse abreviaturas de uso común a nombre de cualquier Tenedor o su cesionario, incluyendo: TEN CO = tenedores en común, TEN INT = tenedores indivisibles, TEN MA = tenedores mancomunados con derechos transferibles por sucesión y no como tenedores en común, CUST = Custodio, y L/U/D/M = Ley Uniforme Sobre las Donaciones a Menores (*Uniform Gifts to Minors Act*).

15. CONVERSIÓN. Sujeto a lo dispuesto en esta Acta de Emisión y una vez que se haya cumplido con lo previsto en la misma, el Tenedor inscrito de esta Obligación tendrá el derecho y la opción de convertir, en cualquier momento anterior al cierre de las horas hábiles del cuarto Día Hábil inmediatamente anterior a la Fecha de Vencimiento (o si esta Obligación o parte de la misma está sujeta a un Aviso de Amortización por Motivos Fiscales o a una solicitud de recompra debidamente requisitada, con anterioridad al cierre de las horas hábiles del Día Hábil anterior a la Fecha de Amortización por Motivos Fiscales o la Fecha de Compra por Cambio de Control, según sea el caso (a menos que la Emisora incumpla con el pago correspondiente a dicha amortización o recompra)), cada EUA$1,000 del monto principal de sus Obligaciones a 73.5402 ADSs de la Emisora, razón que estará sujeta a ajuste de tiempo en tiempo conforme a lo previsto en el Acta de Emisión, incluyendo por lo que se refiere a la Prima por Prepago Debido a un Cambio Fundamental, mediante la entrega de esta Obligación a la Emisora en la oficina o agencia mantenida por la misma para dicho efecto (y en cualesquiera otras oficinas o agencias que la Emisora designe para dicho efecto), acompañada de un aviso de conversión debidamente requisitado (y si las ADSs que dicho Tenedor recibirá con motivo de la conversión van a emitirse a nombre de Persona distinta al Tenedor inscrito de esta Obligación, por instrumentos de transmisión en forma satisfactoria para la Emisora, debidamente firmados por el Tenedor o su representante autorizado), y en caso de que la entrega se efectúe durante el período comprendido de las 5:00 p.m., hora de la ciudad de Nueva York, de la Fecha de Registro inmediatamente anterior a cualquier Fecha de Pago de Intereses, a las 9:00 a.m., hora de la ciudad de Nueva York, de dicha Fecha de Pago de Intereses, deberá irá acompañada del pago, en fondos aceptables para la Emisora, de una cantidad igual a los Intereses que de otra forma serían pagaderos en dicha Fecha de Pago de Intereses sobre el monto principal que se está convirtiendo; *en el entendido, sin embargo,* de que no será necesario pago alguno si las Obligaciones se entregan para su conversión después de la Fecha de Registro final. Sujeto al requisito de pago en caso de conversión posterior al cierre de las horas hábiles de la Fecha de Registro inmediatamente anterior a cualquier Fecha de Pago de Intereses, al momento de conversión no se efectuará ajuste alguno por concepto de los dividendos pagados sobre las ADSs que se entreguen como resultado de la conversión. Del derecho a convertir esta Obligación está sujeto a las disposiciones en materia de conversión previstas en el Acta de Emisión en caso de ciertas fusiones o consolidaciones, o de la venta o transmisión de sustancialmente todos los activos de la Emisora.

No se emitirán fracciones de ADSs con motivo de la conversión de Obligaciones. Si un mismo Tenedor entrega al mismo tiempo más de una Obligación para su conversión, el número de ADSs íntegras a emitirse con motivo de dicha conversión se calculará con base en el monto principal total de las Obligaciones (o las porciones designadas de las mismos, en la medida permitida por la presente) entregadas para su conversión. En caso de que salvo por lo antes dispuesto debieran emitirse fracciones de ADSs con motivo de la conversión de cualquier Obligación o cualesquiera Obligaciones, la Emisora entregará un número de ADSs redondeado al alza para reflejar el número de ADSs completas más próximo.

If a Fundamental Change occurs and a Holder elects to convert its Notes, the Issuer will, under certain circumstances, increase the Conversion Rate for the Notes so surrendered for conversion by a number of additional ADSs. A conversion of Notes will be deemed for these purposes to be "in connection with" such Fundamental Change if the notice of conversion of the Notes is received by the Conversion Agent from, and

En caso de que haya ocurrido un Cambio Fundamental y un Tenedor opte por la conversión de sus Obligaciones, la Emisora ajustará la Tasa de Conversión aplicable a las Obligaciones entregadas para su conversión, agregando ADSs adicionales. Para estos efectos, toda conversión de Obligaciones se considerará hecha "en relación con" dicho Cambio Fundamental si el Agente de Conversión recibe el aviso de conversión respectivo

including, the later of (i) 30 scheduled Trading Days before the anticipated effective date of such Fundamental Change and (ii) the date on which the Issuer notifies the Holders of the anticipated effective date of a Fundamental Change (in accordance with the next sentence and the next succeeding sentence) and ending 30 Business Days following the actual effective date of such Fundamental Change (but, in the case of a Change of Control, ending prior to the close of business on the Business Day immediately preceding the Change of Control Purchase Date). The Issuer will notify Holders and the Trustee of the anticipated effective date of such Fundamental Change and issue a press release as soon as practicable after the Issuer first determines the anticipated effective date of such Fundamental Change *provided* that in no event will the Issuer be required to provide such notice to the Holders and the Trustee before the earlier of such time as the Issuer or its Affiliates (a) has publicly disclosed or acknowledged the circumstances giving rise to such anticipated Fundamental Change or (b) is required to publicly disclose under applicable law or the rules of any stock exchange on which the Issuer's equity is then listed the circumstances giving rise to such anticipated Fundamental Change. The Issuer will use its commercially reasonable efforts to make such determination in time to deliver such notice no later than 30 days prior to such anticipated effective date of such Fundamental Change. If, as determined by the Issuer in a commercially reasonable manner, the number of shares available to satisfy the conversion obligation is not sufficient to satisfy the settlement in full, such notice and press release shall set forth (1) the number of Available Treasury Shares as of the date of such release, (2) whether the number of Available Treasury Shares is sufficient to satisfy the settlement in full (including settlement of Additional ADSs) of conversion of all Notes at such time and (3) whether, in the circumstances described in the next succeeding paragraph, the Issuer elects to settle Additional ADSs either by (x) physical settlement or (y) cash settlement. In addition, following the day of such notice, the Issuer will notify the Holders and the Trustee of any increase in the number of such ADSs available for settlement or any decrease (as a result of earlier settlements of conversions by Holders or otherwise) in such number. The number of additional ADSs by which the Conversion Rate will be increased will be determined by reference to Section 12.12 of the Indenture, based on the date on which the Fundamental Change occurs or becomes effective and the ADS price paid (or deemed paid) per ADS (or, if applicable, the price per Ordinary Share, transposed into a price per ADS) in the Fundamental Change. In no event will the Issuer increase the Conversion Rate to more than 95.6022 ADSs per U.S.$1,000 principal amount of Notes, subject to adjustment in the same manner as the Conversion Rate as set forth in Section 12.05(a) of the Indenture.

dentro del período comprendido desde e incluyendo (i) la fecha que coincida con el 30o. Día de Operaciones anterior a la fecha efectiva prevista de dicho Cambio Fundamental y (ii) la fecha en que la Emisora notifique a los Tenedores la "Fecha Efectiva" prevista de un Cambio Fundamental (de acuerdo con la siguiente oración y la oración que le sigue), la que ocurra más tarde de entre ambas fechas, hasta y que concluya el 30o. Día Hábil posterior a la verdadera Fecha Efectiva (pero, tratándose de un Cambio de Control, que concluya con anterioridad al cierre de las horas hábiles del Día Hábil inmediatamente anterior a la Fecha de Compra por Cambio de Control). La Emisora notificará a los Tenedores y al Fiduciario la Fecha Efectiva prevista de dicho Cambio Fundamental y emitirá un comunicado de prensa tan pronto como ello sea posible después de determinar por vez primera dicha Fecha Efectiva prevista; *en el entendido,* de que la Emisora no estará obligada en ningún caso a dar dicho aviso a los Tenedores y al Fiduciario antes de que la Emisora o sus Filiales (a) hayan aceptado y revelado al público las circunstancias que hayan dado lugar a dicho Cambio Fundamental previsto, o estén obligadas, de conformidad con la legislación aplicable o las reglas establecidas por cualquier bolsa de valores en la que se encuentren listadas para su cotización las acciones de la Emisora, a revelar al público las circunstancias que dieron lugar a dicho Cambio Fundamental previsto. La Emisora hará esfuerzos comercialmente razonables para realizar dicha determinación a tiempo de poder enviar dicho aviso con cuando menos 30 días de anticipación a dicha Fecha Efectiva prevista. Si con base en la determinación hecha por la Emisora en términos comercialmente razonables, el número de acciones disponibles para cumplir con la obligación de conversión no es suficiente para cubrir íntegramente la liquidación, el aviso y el comunicado de prensa antes citados indicarán (1) el número de Acciones de Tesorería Disponibles a la fecha de dicho comunicado, (2) si el número de Acciones de Tesorería Disponibles es suficiente para cubrir íntegramente y en ese momento la liquidación (incluyendo la liquidación de las ADSs Adicionales (según la definición asignada a dicho término más adelante)) correspondiente a la conversión de todas las Obligaciones, y (3) si dadas las circunstancias descritas en siguiente párrafo, la Emisora ha optado por cubrir la liquidación de las ADSs Adicionales ya sea mediante (x) liquidación en forma física o (y) liquidación en efectivo. Además, después del día en que dé dicho aviso, la Emisora notificará a los Tenedores y al Fiduciario cualquier incremento en el número de ADSs disponibles para efectos de la liquidación, o cualquier disminución de dicho número (como resultado de la liquidación de las conversiones efectuadas por los Tenedores, o de cualquier otra circunstancia). El número de ADSs en que se incrementará la Tasa de Conversión se determinará conforme a lo dispuesto en la Sección 12.12 del Acta de Emisión, con base en la fecha en que ocurra el Cambio Fundamental o el mismo surta efectos, y el precio por ADS pagado (o ques de presuma pagado) (o, en su caso, el precio por Acción Ordinaria, traspolado a un precio por ADS) en relación con el Cambio Fundamental. La Emisora no incrementará en ningún caso la Tasa de Conversión a más de 95.6022 ADSs por U.S.$1,000 del principal de las Obligaciones, sujeto a ajuste en los mismos términos que la Tasa de Conversión conforme a lo previsto en la Sección 12.05(a) del Acta de Emisión.

16. GOVERNING LAW. THIS NOTE SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. HOLDERS OF NOTES BY ACCEPTING A BENEFICIAL INTEREST IN THE NOTES AGREE TO WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS NOTE OR ANY TRANSACTION RELATED HERETO TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

16. LEGISLACIÓN APLICABLE. ESTA OBLIGACIÓN SE REGIRÁ POR LA LEY DEL ESTADO DE NUEVA YORK Y SE INTERPRETARÁ DE CONFORMIDAD CON LA MISMA. EN LA MEDIDA MÁS AMPLIA PERMITIDA POR LA LEGISLACIÓN APLICABLE, LOS TENEDORES DE OBLIGACIONES, POR EL SIMPLE HECHO DE ACEPTAR LOS DERECHOS DE BENEFICIARIO CORRESPONDIENTES A LAS MISMAS, RENUNCIAN A CUALQUIER DERECHO QUE PUEDAN TENER CON RESPECTO A LA CELEBRACIÓN DE JUICIOS ANTE JURADO EN RELACIÓN CON CUALQUIER ACCIÓN, PROCEDIMIENTO O CONTRADEMANDA DERIVADA DE ESTA OBLIGACIÓN O RELACIONADA CON LA MISMA.

17. AGENT FOR SERVICE; SUBMISSION TO JURISDICTION; WAIVER OF IMMUNITIES. The Issuer has appointed Corporate Creations Network Inc., 1040 Avenue of the Americas # 2400, New York, NY 10018 (U.S.A.) as its authorized agent (the "Authorized Agent") upon whom all writs, process and summonses may be served in any suit, action or proceeding arising out of or based upon the Indenture or this Note which may be instituted in any U.S. Federal or State court located in the State of New York, County of New York. The Issuer has agreed that the appointment of the Authorized Agent shall be irrevocable

17. AGENTE PARA EMPLAZAMIENTOS; SOMETIMIENTO A JURISDICCIÓN; REUNCIA A INMUNIDADES. La Emisora ha nombrado a Corporate Creations Network, Inc., 1040 Avenue of the Americas #2400, New York, NY 10018 (E.U.A.) como agente autorizado (el "Agente Autorizado") al que podrá corrérsele traslado de todos los escritos, emplazamientos y requerimientos relativos a cualquier juicio, acción o procedimiento surgido como resultado o que esté basado en el Acta de Emisión o las Obligaciones y pueda interponerse ante cualquier tribunal federal o estatal con sede en el estado de Nueva York, condado de Nueva York. La Emisora ha convenido que el nombramiento del Agente Autorizado será

so long as any of the Notes remain outstanding or until the irrevocable appointment by the Issuer of a successor agent in The City of New York, New York as authorized agent for such purpose and the acceptance of such appointment by such successor. Service of process upon the Authorized Agent shall be deemed, in every respect, effective service of process upon the Issuer. To the extent that the Issuer has or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service or notice, attachment in aid or otherwise) with respect to itself or any of its property, the Issuer hereby irrevocably waives and agrees not to plead or claim such immunity in respect of its obligations under the Indenture or this Note.

Emisora la solvencia que el nombramiento del Agente Autorizado será irrevocable en tanto se encuentre en circulación cualquiera de las Obligaciones o hasta que la Emisora nombre de manera irrevocable y para dicho efecto a un agente autorizado sucesor en la ciudad de Nueva York, Nueva York y dicho agente sucesor haya aceptado su nombramiento. Todo emplazamiento entendido con el Agente Autorizado se considerará en todo sentido como un emplazamiento personal entendido con la Emisora. En la medida en que la Emisora esté sujeta o en el futuro adquiera cualquier inmunidad (soberana o de otro tipo) en contra de cualquier acción, juicio o procedimiento, la jurisdicción de cualquier tribunal, separación en juicio o cualquier proceso legal (ya sea que se trate de emplazamiento, adhesión u otro concepto) respecto de sí misma o de cualquiera de sus bienes, en este acto la Emisora renuncia irrevocablemente y se obliga a no invocar dicha inmunidad respecto de sus obligaciones conforme al Acta de Emisión o las Obligaciones.

The Issuer will furnish to any Holder upon written request and without charge to the Holder a copy of the Indenture which has in it the text of this Note in larger type. Requests may be made to the Issuer at the address set forth for notice in the Indenture.

A solicitud por escrito de cualquier Tenedor, la Emisora proporcionará a dicho Tenedor, sin costo alguno, una copia del Acta de Emisión que contenga ex texto de esta Obligación en letra más grande. Dichas solicitudes podrán dirigirse a la Emisora al domicilio previsto para el envío de avisos en el Acta de Emisión.

For purposes of paragraph of Article 210 of the LGTOC, based on the Financial Statements, as of December 31, 2009, the (i) total stockholders' equity (capital contable) of the Issuer was Ps.257,570 million, (ii) the Issuer's paid-in capital stock was Ps. 102,761 million, (iii) the amount of the total assets of the Issuer was Ps.582,286 million, (iv) the amount of the total liabilities of the Issuer was Ps.324,716 million and (v) the amount of the net total assets of the Issuer was Ps.257,570 million.

Para efectos de lo dispuesto en la fracción II del artículo 210 de la LGTOC, de acuerdo con los Estados Financieros al 31 de diciembre de 2009: (i) el capital contable de la Emisora ascendía a Ps.$257,570 millones; (ii) el capital social pagado de la Emisora ascendía a Ps.$102,761 millones; (iii) el valor de los activos totales de la Emisora ascendía a Ps.$582,286 millones; (iv) el importe de los pasivos de la Emisora ascendía a Ps.$324,716 millones; y (v) el valor del activo total neto de la Emisora ascendía a Ps.$257,570 millones.

The corporate purpose of the Issuer, includes, among other items, (i) to acquire or subscribe shares and to participate in the capital or the administration of all types of national or foreign companies or partnerships, and (ii) the issuance, endorsement, receipt, aval and any other form of subscription of negotiable instruments and to carry out all kind of transactions with them.

El objeto social de la Emisora comprende, entre otros fines, (i) adquirir o suscribir acciones, y participar en el capital o en la administración de todo tipo de sociedades o asociaciones, nacionales o extranjeras, y (ii) la emisión, endoso, aceptación, aval y cualquier otra forma de suscripción de títulos de crédito y la realización de todo tipo de operaciones con los mismos.

The Spanish version of the Indenture will be registered with the Public Registry of Property and Commerce of Monterrey, Nuevo León, México under mercantile file number 532*9.

La versión en español del Acta de Emisión será inscrita en el Registro Público de la Propiedad y del Comercio de la ciudad de Monterrey, Nuevo León, México bajo el folio mercantil 532*9.

This Note has been issued in English and Spanish text side-by-side. In case of any inconsistency or question as to the proper interpretation or construction of this Note between the text in English and the text in Spanish, the English text shall control in all cases.

Esta Obligación se emite a dos columnas en inglés y español. En caso de cualquier discrepancia o duda en cuanto a la correcta interpretación de esta Obligación entre sus versiones en inglés y español, imperará en todo caso la versión en inglés.

SCHEDULE OF EXCHANGES OF INTERESTS IN THE GLOBAL SECURITY

The following exchanges of a part of this Global Security for an interest in another Global Security or for a Definitive Security, or exchanges of a part of another Global Security or Definitive Security for an interest in this Global Security, have been made:

Date of Transfer	Amount of Decrease in Principal Amount of this Global Security	Amount of Increase in Principal Amount of this Global Security	Principal Amount of this Global Security following such increase or decrease	Signature of Authorized Signatory of Trustee or Registrar

FORM OF CONVERSION NOTICE
UNRESTRICTED NOTES

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: Global Finance Americas

Re: 4.875% Convertible Subordinated Notes due 2015 (the "Notes") of CEMEX, S.A.B. de C.V. (the "Issuer")

Ladies and Gentlemen:

Reference is hereby made to the Indenture, dated as of March 30, 2010 (as amended and supplemented from time to time, the " Indenture"), among the Issuer, The Bank of New York Mellon, as Trustee and The Bank of New York Mellon, S.A., Institución de Banca Múltiple. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

The undersigned, registered owner of the aggregate amount of Notes specified below, hereby irrevocably exercises the option to convert such Notes, or a portion thereof herein designated (which is U.S.$1,000 or an integral multiple thereof and provided that if only a portion is converted that the portion not so converted is in a minimum principal amount of U.S.$100,000), into Ordinary Shares of the Issuer deliverable in the form of ADSs in accordance with the terms of the Indenture, and directs that the ADSs issuable and deliverable upon the conversion and any Notes representing any unconverted principal amount, be issued and delivered in book-entry form through the facilities of DTC, for credit to the account of the Person indicated below, unless a different name has been indicated below. If ADSs or any portion of the Notes not converted are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer Taxes payable with respect thereto. Any amount required to be paid by the undersigned on account of Interest and Taxes accompanies this notice of conversion.

The undersigned represents that, as of the date hereof, it has not delivered a purchase notice as described under the Indenture with respect to its Notes.

The undersigned acknowledges and agrees that no ADSs will be delivered prior to the effectiveness of any registration statement under the Securities Act relating to the ADSs, unless the Conversion Agent receives a deposit certificate in the form provided under the ADS Deposit Agreement and duly signed and completed on behalf of the applicable beneficial owner. The forms of such certificates are available from the Conversion Agent.

No ADSs will be delivered on conversion until any amount payable by the undersigned on account of Interest is paid, any certificates evidencing specified Notes not held in book-entry form are duly endorsed or assigned to the Issuer or in blank and surrendered and any Taxes or other charges or documents required in connection with the transfer on conversion, and any other required items, are delivered to the Conversion Agent.

Conversion of the specified number of Notes is subject to the requirements established by the Issuer and the ADSs depositary pursuant to the Indenture and the ADS Deposit Agreement, as well as to the procedures of DTC and Indeval, as in effect from time to time. Each conversion shall be deemed to have been effected with respect to a Note (or portion thereof) on the Conversion Date, and the Person in whose name any certificate or certificates for ADSs are issuable upon such conversion shall be deemed to have become on said date the holder of record of the ADSs represented thereby. Any such surrender on any date when the Issuer's stock transfer books are closed shall constitute the Person in whose name the certificates are to be issued as the record holder thereof for all purposes on the next succeeding day on which such stock transfer books are open, but such conversion shall be at the Conversion Rate in effect on the date upon which such Note is surrendered. Prior to such conversion, the undersigned will have no rights derived from, or in connection with, the ADSs issuable upon conversion.

Please provide the information requested below, as applicable:

1. PLEASE SPECIFY THE NOTES HELD AND THE PORTION THEREOF TO BE CONVERTED:

Principal amount held: U.S.$ _____
CUSIP number(s): _____
DTC account where held: _____
Principal amount being converted (if less than all): U.S.$ _____

All Notes to be converted will be converted into ADSs of the Issuer and, together with any unconverted Notes, will be delivered in book-entry form to the DTC account specified above.

2. IF OTHER ARRANGEMENTS ARE DESIRED, please specify the type, number and form of ADSs to be delivered upon conversion and the name(s) of the account holder(s) or registered owner(s), by checking the appropriate boxes and providing the information requested:

☐ ADSs

Book Entry:
Number of ADSs: _____
DTC Account: _____

☐ Unconverted Notes

Book Entry:
Number of ADSs: _____
DTC Account: _____

Please sign and date this notice in the space provided below.

[Signature page follows]

DATE:

(Please Print):

(Name)

(Signature)
Title:

(If the holder is a corporation, partnership or fiduciary, the title of the Person signing on behalf of the holder must be stated)

(Address)

(City, State and Zip Code)

(Area Code and Telephone Number)

(Fax Number)

(Email Address)

Signature Guarantee:

(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

FORM OF CONVERSION NOTICE
RESTRICTED NOTES

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: Global Finance Americas

Re: 4.875% Convertible Subordinated Notes due 2015 (the "Notes") of CEMEX, S.A.B. de C.V. (the "Issuer")

Ladies and Gentlemen:

Reference is hereby made to the Indenture, dated as of March 30, 2010 (as amended and supplemented from time to time, the " Indenture"), among the Issuer, The Bank of New York Mellon, as Trustee, and The Bank of New York Mellon, S.A., Institución de Banca Múltiple. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

The undersigned, owner of the aggregate amount of Notes specified below, hereby irrevocably exercises the option to convert such Notes, or a portion thereof herein designated (which is U.S.$1,000 or an integral multiple thereof and provided that if only a portion is converted that the portion not so converted is in a minimum principal amount of U.S.$100,000)), into Ordinary Shares of the Issuer deliverable only in the form of ADSs in accordance with the terms of the Indenture, and directs that the ADSs issuable and deliverable upon the conversion and any Notes representing any unconverted principal amount, be issued and delivered in book-entry form through the facilities of DTC, for credit to the account of the Person indicated below, unless restricted ADSs are to be issued and delivered in the event of any conversion of Notes (x) within 12 months after the date of issuance of the Notes, or (y) by any person that is an Affiliate of the Issuer. Restricted ADSs are not eligible for delivery in book-entry form through the facilities of DTC but instead will be issued and delivered as uncertificated ADSs registered in the name of the owner on the books of Citibank, N.A., the ADS Depositary. If ADSs or any portion of the Notes not converted are to be issued in the name of a Person other than the undersigned, the undersigned will pay all transfer Taxes payable with respect thereto. Any amount required to be paid by the undersigned on account of Interest and Taxes accompanies this notice of conversion.

The undersigned represents that, as of the date hereof, it has not delivered a purchase notice as described under the Indenture with respect to its Notes.

The undersigned understands that, upon conversion of Notes, freely transferable ADSs will be delivered only if (i) the Notes are being converted upon the expiration of twelve months after their date of issuance, and (ii) the converting Note holder is not an Affiliate of the Issuer.

No ADSs will be delivered on conversion until any amount payable by the undersigned on account of Interest is paid, any certificates evidencing specified Notes not held in book-entry form are duly endorsed or assigned to the Issuer or in blank and surrendered and any Taxes or other charges or documents required in connection with the transfer on conversion, and any other required items, are delivered to the Conversion Agent.

Conversion of the specified number of Notes is subject to the requirements established by the Issuer and the ADSs depositary pursuant to the Indenture and the ADS Deposit Agreement, as well as to the procedures of DTC and Indeval, as in effect from time to time. Prior to such conversion, the undersigned will have no rights derived from, or in connection with, the ADSs issuable upon conversion.

Please provide the information requested below, as applicable:

1. PLEASE SPECIFY THE NOTES TO BE CONVERTED:

Principal amount being converted: U.S.$ _____
CUSIP number(s): _____
DTC account where held: _____

2. IF NOTES ARE BEING CONVERTED UPON THE EXPIRATION OF A SIX MONTH PERIOD AFTER THE DATE OF ISSUANCE OF THE NOTES AND ADSs IN UNRESTRICTED FORM ARE REQUESTED, the holder of Notes being converted certifies by checking the box that s/he/it is not an Affilate of the Issuer.

3. IF UNRESTRICTED ADSs ARE BEING REQUESTED, please provide the following ADS delivery instructions:

Name of DTC Participant acting for undersigned: _____

DTC Participant Account No.: _____

Account No. for undersigned at DTC Participant (f/b/o information): _____

Onward Delivery Instructions of undersigned: _____

Contact person at DTC Participant: _____

Daytime telephone number of contact person at DTC Participant: _____

Email of contact person at DTC Participant: _____

4. IF RESTRICTED ADSs ARE BEING REQUESTED, please provide the following ADS delivery instructions:

Name of Restricted ADS holder: _____

Street Address: _____

City, State, and Country: _____

Nationality: _____

Social Security or Tax Identification Number: _____

Please sign and date this notice in the space provided below.

[Signature page follows]

DATE:

(Please Print):

(Name)

(Signature)
Title:

(If the holder is a corporation, partnership or fiduciary, the title of the Person signing on behalf of the holder must be stated)

(Address)

(City, State and Zip Code)

(Area Code and Telephone Number)

(Fax Number)

(Email Address)

SIGNATURE GUARANTEE

Name of Firm Issuing Guarantee: _____

Authorized Signature of Officer: _____

Title of Officer Signing This Guarantee: _____

Address: _____

Area Code and Telephone Number: _____

Dated: _____

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

OPTION OF HOLDER TO ELECT REPURCHASE

If you wish to have this Note repurchased by the Issuer pursuant to Section 3.03 of the Indenture, check the box: ☐

If you wish to have a portion of this Note purchased by the Issuer pursuant to 3.03 of the Indenture, state the amount (in multiples of U.S.$1,000): $_____. (If you elect to have your Note purchased in part, the portion of the Note not redeemed must have an aggregate principle amount of at least U.S.$100,000.)

Your Signature:_____
(Sign exactly as your name appears on the other side of this Note)

Date: _____

Medallion Signature Guarantee:_____

FORM OF CERTIFICATION
FOR TRANSFER PURSUANT TO RULE 144

[Date]

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: Global Finance Americas

Re: 4.875% Convertible Subordinated Notes due 2015 (the "Notes") of CEMEX, S.A.B. de C.V. (the "Issuer") (CUSIP 151290 AU7 (restricted), 151290 AV5 (unrestricted))

Ladies and Gentlemen:

Reference is hereby made to the Indenture, dated as of March 30, 2010 (as amended and supplemented from time to time, the " Indenture"), among the Issuer, The Bank of New York Mellon, as Trustee and The Bank of New York Mellon, S.A., Institución de Banca Múltiple. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

In connection with our proposed sale of U.S.$_____ aggregate principal amount of the Notes, which represent an interest in a 144A Global Security beneficially owned by the undersigned ("Transferor"), we confirm that such sale has been effected pursuant to and in accordance with Rule 144 under the Securities Act.

You and the Issuer are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

Very truly yours,

[Name of Transferor]

By: _____

_____
Authorized Signature

Signature Guarantee: _____
(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

EXHIBIT B

FORM OF RESTRICTED ADS LEGEND

THIS SECURITY HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED (THE " SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT IN ACCORDANCE WITH THE FOLLOWING SENTENCE. BY ITS ACQUISITION HEREOF OR OF A BENEFICIAL INTEREST HEREIN, THE ACQUIRER: (1) REPRESENTS THAT IT AND ANY ACCOUNT FOR WHICH IT IS ACTING IS A "QUALIFIED INSTITUTIONAL BUYER" (WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT) AND THAT IT EXERCISES SOLE INVESTMENT DISCRETION WITH RESPECT TO EACH SUCH ACCOUNT, AND (2) AGREES FOR THE BENEFIT OF CEMEX, S.A.B. de C.V. (THE "COMPANY") THAT IT WILL NOT OFFER, SELL, PLEDGE OR OTHERWISE TRANSFER THIS SECURITY OR ANY BENEFICIAL INTEREST HEREIN PRIOR TO THE DATE THAT IS THE LATER OF (X) ONE YEAR AFTER THE LAST ISSUE DATE HEREOF OR SUCH SHORTER PERIOD OF TIME AS PERMITTED BY RULE 144 UNDER THE SECURITIES ACT OR ANY SUCCESSOR PROVISION THEREUNDER, AND (Y) SUCH LATER DATE, IF ANY, AS MAY BE REQUIRED BY APPLICABLE LAW, EXCEPT: (A) TO THE COMPANY, OR (B) PURSUANT TO A REGISTRATION STATEMENT WHICH HAS BECOME EFFECTIVE UNDER THE SECURITIES ACT, OR (C) TO A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A AND TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS MADE IN RELIANCE ON RULE 144A, OR (D) PURSUANT TO AN EXEMPTION FROM REGISTRATION PROVIDED BY RULE 144 UNDER THE SECURITIES ACT OR ANY OTHER AVAILABLE EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT. PRIOR TO THE REGISTRATION OF ANY TRANSFER IN ACCORDANCE WITH CLAUSE (D) ABOVE (OTHER THAN A TRANSFER PURSUANT TO RULE 144), THE COMPANY AND THE TRUSTEE RESERVE THE RIGHT TO REQUIRE THE DELIVERY OF SUCH LEGAL OPINIONS, CERTIFICATIONS OR OTHER EVIDENCE AS MAY REASONABLY BE REQUIRED IN ORDER TO DETERMINE THAT THE PROPOSED TRANSFER IS BEING MADE IN COMPLIANCE WITH THE SECURITIES ACT AND APPLICABLE STATE SECURITIES LAWS. NO REPRESENTATION IS MADE AS TO THE AVAILABILITY OF ANY EXEMPTION FROM THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT.

EXHIBIT C

FORM OF TRANSFER CERTIFICATE FOR TRANSFER OF RESTRICTED ADSs

(Transfers pursuant to Section 12.11(c) of the Indenture)

Citibank, N.A
C/o Rosanne Devonshire
111 Wall Street, 15th Floor
New York, NY 10003

Re: Restricted ADSs of CEMEX, S.A.B. de C.V. (the "Issuer")

Reference is hereby made to the Indenture, dated as of March 30, 2010 (as amended and supplemented from time to time, the " Indenture"), among the Issuer, The Bank of New York Mellon, as Trustee and The Bank of New York Mellon, S.A., Institución de Banca Múltiple. Capitalized terms used but not defined herein shall have the meanings given to them in the Indenture.

This letter relates to _____ ADSs represented by the accompanying certificate(s) that were issued upon conversion of Notes and which are held in the name of _____ (the "Transferor") to effect the transfer of such ADSs.

Such ADSs are only being transferred:

CHECK ONE BOX BELOW

(1) ☐ to the Issuer; or

(2) ☐ pursuant to and in compliance with Rule 144A under the Securities Act of 1933; or

(3) ☐ pursuant to an exemption from registration under the Securities Act of 1933 provided by Rule 144 thereunder.

(4) ☐ pursuant to a shelf registration statement of the Issuer that has been declared effective under the Securities Act of 1933, in connection with the transfer of such ADSs.

[signature page follows]

Unless one of the boxes is checked, the transfer agent will refuse to register any of the ADSs evidenced by this certificate in the name of any Person other than the registered Holder thereof; *provided, however*, that if box (2) or (3) is checked, the transfer agent may require, prior to registering any such transfer of the ADSs such certifications and other information, and if box (3) is checked such legal opinions, as the Issuer has reasonably requested in writing, by delivery to the transfer agent of a standing letter of instruction, to confirm that such transfer is being made pursuant to an exemption from, or in a transaction not subject to, the registration requirements of the Securities Act of 1933.

[Name of Transferor]

By: _____
Name:
Title:

Medallion Signature Guarantee:

_____

Dated:

EXHIBIT D

[To include Financial Statements]

EXHIBIT E

Summary of the Terms of the Offering
CEMEX, S.A.B. de C.V.
4.875% Convertible Subordinated Notes Due 2015 (the "Notes")

Terms used herein but not defined herein shall have the respective meanings as set forth in the Preliminary Offering Memorandum dated March 23, 2010 (the "Preliminary Offering Memorandum"). All references to dollar amounts are references to U.S. dollars. References to ADSs are to ADSs of the Issuer. Unless specifically stated otherwise, the information in this pricing term sheet assumes the initial purchasers do not exercise their over-allotment option.

Issuer	CEMEX, S.A.B. de C.V. (the "Issuer" or "CEMEX")
Corporate Purpose of the Issuer	CEMEX is a global building materials company that provides high-quality products and reliable service to customers and communities in more than 50 countries throughout the world. CEMEX has a rich history of improving the well-being of those it serves through its efforts to pursue innovative industry solutions and efficiency advancements and to promote a sustainable future.
Security Description	4.875% Convertible Subordinated Notes due 2015
Format	144A Global Notes
Sole Global Coordinator, Sole Structuring Agent and Active Bookrunner	Citigroup Global Markets Inc.
Joint Passive Bookrunners	Barclays Capital Inc. Banco Bilbao Vizcaya Argentaria, S.A. BNP Paribas Securities Corp. Merrill Lynch, Pierce, Fenner & Smith Incorporated HSBC Securities (USA) Inc. J.P. Morgan Securities Inc. RBS Securities Inc. Santander Investment Securities Inc.
Co-Managers	ING Scotia Capital The Williams Capital Group, L.P.
Identifiers (144A Notes)	CUSIP 151290 AU7 ISIN US151290AU79 CUSIP 151290 AV5 (unrestricted) ISIN US151290AV52 (unrestricted)
Aggregate principal amount offered	U.S.$650,000,000
Over-allotment option	U.S.$65,000,000 of Notes
Settlement date	March 30, 2010
Final maturity	March 15, 2015
Interest payment	March 15 and September 15, beginning on September 15, 2010

Day count convention	360-day year consisting of twelve 30-day months
Annual interest rate	The Notes will bear interest at a rate equal to 4.875% per annum from March 30, 2010
Offering price	The Notes will be issued at a price of 100% of their principal amount, *plus* accrued interest, if any, from March 30, 2010
Initial conversion price	Approximately $13.60 per ADS
Conversion rate	73.5402 ADSs per $1,000 principal amount of Notes
NYSE last reported sale price on March 24, 2010	$10.46 per ADS
Conversion premium	Approximately 30% above the last NYSE last reported sale price on March 24, 2010
Denomination	U.S.$100,000 and integral multiples of U.S.$1,000 in excess thereof
Additional Interest	As described in the Preliminary Offering Memorandum, additional interest will accrue at the rate of 0.50% per annum on the outstanding principal amount of the Notes under the circumstances described therein.
Conversion Rights	Holders may convert their Notes into the Issuer's ADSs (which represent CPOs, which in turn represent ordinary shares) at an initial conversion rate of 73.5402 ADSs per $1,000 principal amount of Notes at any time prior to the close of business on the fourth Business Day (as defined in the Preliminary Offering Memorandum) immediately preceding the maturity date for the Notes. The conversion rate is equivalent to an initial conversion price of approximately U.S.$13.60 per ADS. The indenture governing the Notes contains a covenant requiring the Issuer to issue sufficient Series A shares and Series B shares in order to fulfill its obligations to deliver ADSs, within the time limits set forth in the indenture, following a conversion.
Anti-Dilution Adjustments	The conversion rate may be adjusted if certain events occur.
Make Whole Conversion upon Fundamental Change	If a fundamental change (as defined in the Preliminary Offering Memorandum) occurs and a holder elects to convert its Notes in connection with such fundamental change, the Issuer will, under certain circumstances, increase the conversion rate for the Notes so surrendered for conversion. The table below sets forth the number of additional shares to be added to the conversion rate per $1,000 principal amount of the Notes in connection with a fundamental change as described in the Preliminary Offering Memorandum, based on the ADS price and effective date of the fundamental change.

	ADS Price											
Effective Date	$10.46	$12.50	$15.00	$17.50	$20.00	$22.50	$25.00	$27.50	$30.00	$35.00	$40.00	$60.00
March 30, 2010	22.0620	15.1881	10.9489	9.0373	7.8003	6.8418	6.0749	5.4475	4.9246	4.1031	3.4869	2.0502
March 15, 2011	22.0620	14.0443	9.3704	7.3958	6.3724	5.5928	4.9691	4.4588	4.0335	3.3653	2.8641	1.6949
March 15, 2012	22.0620	12.9112	7.7587	5.6012	4.7884	4.2052	3.7386	3.3569	3.0387	2.5388	2.1639	1.2890
March 15, 2013	22.0620	11.6472	5.9563	3.6617	3.0209	2.6545	2.3613	2.1214	1.9215	1.6074	1.3718	0.8221
March 15, 2014	22.0620	9.9100	3.5857	1.3775	1.0468	0.9201	0.8188	0.7358	0.6667	0.5582	0.4767	0.2867
March 15, 2015	22.0620	6.4598	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000

The exact ADS prices and effective dates may not be set forth in the table above, in which case if the ADS price is:

- between two adjacent ADS price amounts in the table or the effective date is between two adjacent effective dates in the table, the number of additional ADSs by which the conversion rate will be determined by a straight-line interpolation between the number of additional ADSs set forth for the higher and lower ADS price amounts and the two dates based on a 365-day year, as applicable.
- greater than U.S.$60.00 per ADS (subject to adjustment in the same manner as the ADS prices set forth in the column headings of the table above), no additional ADSs will be issued upon conversion.
- less than U.S.$10.46 per ADS (subject to adjustment in the same manner as the ADS prices set forth in the column headings of the table above), no additional ADSs will be issued upon conversion.

Notwithstanding the foregoing, in no event will the total number of ADSs issuable upon conversion exceed 95.6022 per U.S.$1,000 principal amount of Notes, although that maximum is subject to adjustment in the same manner as the conversion rate as set forth under “Description of Notes—Conversion Rate Adjustments” in the Preliminary Offering Memorandum.

Repurchase at Option of Holder

- Other than in the event of a change of control, Holders may not require the Issuer to repurchase any Notes prior to their stated maturity date.
- If a change of control occurs at any time, each Holder will have the right, at that holder’s option, to require the Issuer to purchase all or part of their Notes for cash at a repurchase price equal to 100% of their principal amount, plus accrued and unpaid interest (including additional interest, if any) and additional amounts, if any, up to, but excluding, the repurchase date.

Redemptions

- Other than in the event of a tax redemption, the Issuer may not redeem any Notes prior to their stated maturity date.
- In the event of certain changes in the withholding tax treatment relating to payments on the Notes, at 100% of their principal amount plus any accrued and unpaid interest to the date fixed for redemption and any additional amounts that may be payable, so long as the Issuer is not prohibited from having such an option under the Financing Agreement.

	• Upon the Issuer giving notice that it will redeem the Notes because of such a change in the withholding tax treatment, holders will have the option to convert their notes as if a fundamental change had occurred.
Use of Proceeds	The estimated net proceeds from this offering, after deducting the initial purchasers' discounts and commissions and estimated offering expenses, will be approximately U.S.$635.5 million, assuming the initial purchasers do not exercise their over-allotment option, and approximately U.S.$699.3 million if they exercise their over-allotment option in full. The Issuer intends to use approximately U.S.$95.4 million of the net proceeds from this offering to pay the cost of the capped call transaction described in the Preliminary Offering Memorandum and expect to use a portion of the net proceeds from the sale of additional Notes in the event the initial purchasers exercise their over-allotment option to increase the number of ADSs underlying the capped call transaction on a proportionate basis, and the Issuer intends to use the remaining net proceeds for general corporate purposes and to repay indebtedness, which may include indebtedness under the Financing Agreement.
Capped Call Option	In connection with this offering, the Issuer expects to enter into a capped call transaction with a counterparty, which is an affiliate of Citigroup Global Markets Inc., covering, subject to customary anti-dilution adjustments, approximately 47,801,130 of the Issuer's ADSs, assuming the initial purchasers do not exercise their over-allotment option. If the initial purchasers exercise their option to purchase additional Notes to cover over-allotments, the Issuer expects to increase the number of ADSs underlying the capped call transaction on a proportionate basis. Because the capped call transaction is cash settled, it does not provide an offset to any ADSs the Issuer may deliver to holders upon conversion of the Notes. The capped call transaction has a cap price 80% higher than the closing price of the Issuer's ADSs on March 24, 2010.
New York Stock Exchange Symbol for the Issuer's ADSs	CX
Governing law	New York
Clearing	The Depositary Trust Company

Additional Information

1. As of December 31, 2009, on a pro forma basis after giving effect to the issuance and sale of U.S.$500 million additional aggregate principal amount of the U.S. Dollar-denominated Notes in January 2010 and the application of the net proceeds therefrom and from this offering (without including approximately Ps39,859 million (U.S.$3,045 million) of notes issued in connection with the Issuer's perpetual debentures to which the Notes will also be subordinated and without giving effect to any repayment of indebtedness with the net proceeds of this offering and assuming the initial purchasers do not exercise their over-allotment option):

- the Issuer, excluding its Subsidiaries, would have had approximately Ps63,247 million (U.S.$4,832 million) of senior indebtedness outstanding that would have been senior in right of payment to the Notes, approximately Ps53,813 million (U.S.$4,111 million) of which would have been secured, and

- the Issuer's Subsidiaries would have had approximately Ps155,670 million (U.S.$11,893 million) of indebtedness that would have been structurally senior in right of payment to the Notes excluding guarantees of the Issuer's debt, trade payables and intercompany debt.

2. **Capitalization of CEMEX**

The following table sets forth the Issuer's consolidated cash and temporary investments, indebtedness and capitalization as of December 31, 2009 (1) on an actual basis; (2) as adjusted to give effect to the issuance and sale in January 2010 of U.S.$500 million aggregate principal amount of 9.50% Senior Secured Notes due 2016 and the application of the net proceeds from such offering; and (3) as further adjusted to give effect to the issuance and sale in this offering of U.S.$650 million aggregate principal amount of the Notes, the payment of the initial purchasers' discounts and commissions and the estimated expenses in connection with this offering, and the application of the estimated net proceeds as described under "Use of Proceeds" in the Preliminary Offering Memorandum and as described above.

The financial information set forth below is based on information derived from the Issuer's financial statements, which have been prepared in accordance with MFRS, which differ in significant respects from U.S. GAAP. For further information about the Issuer's financial presentation, see "Selected Consolidated Financial Information" in the Preliminary Offering Memorandum.

	As of December 31, 2009				
	Actual	As adjusted (1)		As further adjusted (2)	
	(in millions of Pesos and Dollars)				
Short-term debt (3)					
Secured					
Banobras (4)	Ps 422	Ps 422	U.S.$ 32	Ps 422	U.S.$ 32
Bancomext (4)	240	240	19	240	19
Other secured (5)	2,895	2,895	221	2,895	221
Unsecured					
Other unsecured	3,836	3,836	293	3,836	293
Total short-term debt	7,393	7,393	565	7,393	565
Long-term debt					
Secured by the Collateral					
Financing Agreement	141,625	134,005	10,237	134,005	10,237
CBs (6)	16,153	16,153	1,234	16,153	1,234
Senior Secured Notes (7)(8)	22,921	29,806	2,277	29,806	2,277
Other secured					
Banobras	641	641	49	641	49
Bancomext	2,343	2,343	179	2,343	179
Unsecured					
CEMEX España Euro Notes (9)	16,860	16,860	1,288	16,860	1,288
Other unsecured	3,208	3,208	245	3,208	245
The Notes (10)	—	—	—	8,509	650
Total long-term debt	203,751	203,016	15,509	211,525	16,159
Total debt	211,144	210,409	16,074	218,918	16,724
Liability component of Mandatory Convertible Notes (11)	2,090	2,090	160	2,090	160
Stockholders' equity					
Non-controlling interest					
Perpetual debentures (12)	39,859	39,859	3,045	39,859	3,045

	As of December 31, 2009				
	Actual	As adjusted (1)		As further adjusted (2)	
		(in millions of Pesos and Dollars)			
Other	3,838	3,838	293	3,838	293
Controlling interest (11)	213,873	213,598	16,318	213,408	16,303
Total stockholders' equity	257,570	257,295	19,656	257,105	19,641
Total capitalization (13)	Ps 470,804	Ps 469,794	U.S.$ 35,890	Ps 478,113	U.S.$ 36,525

(1) Reflects the application of the net proceeds from the issuance of U.S.$500,000,000 additional aggregate principal amount of Senior Secured Notes in January 2010, and U.S.$26,250,000 from premiums related to such issuance under the Financing Agreement of the Senior Secured Notes, which were issued at a price of U.S.$105.25 per U.S.$100 principal amount of interest from December 14, 2009, yielding 8.477%. As permitted under the Financing Agreement, CEMEX retained approximately U.S.$115.5 million of such net proceeds from the issuance of Senior Secured Notes in January 2010 for general corporate purposes, including to repay financial obligations outside the Financing Agreement. Also includes a mandatory pre-payment of U.S.$173.4 million under the Financing Agreement on January 13, 2010 in relation to the December U.S. Dollar-denominated and Euro-denominated note issuances. See "Summary—Recent Developments—Reopening of U.S. Dollar-denominated Senior Secured Notes in January 2010."

(2) Reflects additional application of the net proceeds from this offering. Assumes approximately U.S.$635.5 million of cash retained for general corporate purposes and to repay indebtedness, which may include indebtedness under the Financing Agreement. Also assumes the initial purchasers do not exercise their over-allotment option. Amounts in Dollars have been converted from Pesos at an exchange rate of Ps13.09 to U.S.$1.00, the CEMEX accounting rate as of December 31, 2009.

(3) Includes current portion of long-term debt.

(4) Obligations with Mexican development banks which were secured by fixed assets and shares of affiliates not pledged as Collateral.

(5) Represent long-term CBs with maturities during 2010. Short-term CBs are included under Unsecured.

(6) The Issuer had long term CBs of approximately U.S.$1,454.7 million as of December 31, 2009.

(7) Includes U.S.$1,250,000,000 aggregate principal amount of 9.50% Senior Secured Notes due 2016 and €350,000,000 aggregate principal amount of 9.625% Senior Secured Notes due 2017 issued by CEMEX Finance LLC on December 14, 2009; also includes in the adjusted columns the U.S.$500,000,000 additional aggregate principal amount of 9.50% Senior Secured Notes due 2016 issued by CEMEX Finance LLC on January 19, 2010.

(8) Amounts in Dollars have been converted from Euros at an exchange rate of U.S.$1.43 to €1.00, the CEMEX foreign exchange rate as of December 31, 2009.

(9) Issued by CEMEX Finance Europe B.V., a special purpose vehicle and wholly-owned subsidiary of CEMEX España, S.A., and solely guaranteed by CEMEX España, S.A.

(10) Under MFRS, the Notes offered hereby will be recorded as debt in the Issuer's balance sheet; however, the Notes will not be considered as debt for purposes of the leverage ratio calculations under the Financing Agreement.

(11) Under MFRS, the Mandatory Convertible Securities issued in Mexico on December 10, 2009 in exchange for CBs represent a combined instrument with liability and equity components. The liability component, approximately Ps2,090 million (U.S.$160 million) as of December 31, 2009, corresponds to the net present value of interest payments due under the Mandatory Convertible Securities, assuming no early conversion, and was recognized under "Other Financial Obligations" in the Issuer's balance sheet. The equity component, approximately Ps1,971 million (U.S.$151 million) as of December 31, 2009, represents the difference between principal amount and the liability component, and was recognized within "Other equity reserves" net of commissions in the Issuer's balance sheet. See notes 13(A) and 17(B) to the Issuer's consolidated financial statements included elsewhere in this offering memorandum. Although the Issuer has not completed the Issuer's U.S. GAAP reconciliation of the Issuer's 2009 financial statements, the Issuer currently anticipates that there will be a new reconciliation item in the Issuer's U.S. GAAP reconciliation of the Issuer's 2009 financial statements in respect of the Mandatory Convertible Securities, which the Issuer expects will be recorded as debt until conversion. The Issuer cannot assure you that the Issuer will not identify additional reconciliation items or that this reconciliation item will be reflected therein in accordance with the Issuer's current expectations.

(12) Issued by special purpose vehicles. In accordance with MFRS, these securities are accounted for as equity due to the fact that they do not have a specified maturity date and the Issuer's option to defer payment of interest. However, for purposes of the Issuer's U.S. GAAP reconciliation, the Issuer record these debentures as debt and interest payments thereon as part of financial expenses in the Issuer's consolidated income statement.

(13) As used in this table, total capitalization equals short- and long-term debt plus the Mandatory Convertible Notes plus the Notes and plus total stockholders' equity.

Exhibit 4.55
Execution Version

SECURITY AGREEMENT

This Security Agreement (as amended from time to time, this "Security Agreement") is entered into as of March 30, 2010 by and between CITIBANK, N.A. (together with its successors and assigns, "Citibank"), and CEMEX, S.A.B. de C.V., a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) organized under the laws of Mexico ("Cemex").

WHEREAS, Citibank and Cemex have entered into a Master Terms and Conditions for Capped Call Transactions between Citibank, N.A. and CEMEX, S.A.B. de C.V., dated as of March 24, 2010 and have entered into and may from time to time enter into one or more "Confirmations" confirming "Transactions" (each as defined therein) thereunder (collectively, including the "Agreement" (as defined therein) deemed to exist between the parties pursuant thereto, the "Capped Call Agreement");

WHEREAS, Citibank and Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, acting solely as trustee under trust No. 111339-7 (the "Trust") have entered into transactions evidenced by (i) a Put Option Transaction confirmation, (ii) a Forward Transaction (Cemex Shares) confirmation and (iii) a Forward Transaction (Naftrac Shares) confirmation, each dated as of April 23, 2008 (collectively, the "Confirmations"), with each such transaction subject to a single agreement in the form of the ISDA 2002 Master Agreement, as published by ISDA (including the terms and elections related thereto in the Confirmations, the "Deemed Agreement"), deemed to exist between Citibank and Counterparty pursuant to the Confirmations and including a 1994 ISDA Credit Support Annex (Bilateral Form – New York Law) entered into between Citibank and the Trust as of April 23, 2008 (as amended by the parties from time to time, the "Annex" and collectively with the Confirmations and the Deemed Agreement, the "Trust ISDA Agreement");

WHEREAS, Citibank and the Trust have entered into an Amendment Agreement, dated as of the date hereof, which amends certain provisions of the Annex to allow, in accordance with the provisions thereof, the Collateral (as defined below) to serve as credit support securing the Trust's obligations under the Trust ISDA Agreement;

WHEREAS, Cemex has issued a Guarantee, dated as of April 23, 2008 in favor of Citibank in respect of the Trust ISDA Agreement (the "Guarantee"); and

WHEREAS, Cemex has agreed to provide security for the payment of the Trust's obligations under the Trust ISDA Agreement and Cemex's obligations under the Guarantee by pledging its right and interest under the Capped Call Agreement to Citibank upon which, and subject to the terms and conditions of the Annex, Citibank would release cash collateral pledged under the Annex for return to Cemex;

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I. DEFINITIONS

SECTION 1.01. Certain Definitions. Capitalized terms used but not defined in this Agreement have the meanings given them in the Trust ISDA Agreement.

SECTION 1.02. Other Definitions. For purposes of this Security Agreement, the following terms shall have the following meanings:

"Foreclosure Event" means at any time (a)(1) an "Event of Default" with respect to the Trust under the Trust ISDA Agreement has occurred and is continuing or (2) an "Early Termination Date" has occurred or been designated (as defined in the Trust ISDA Agreement) and (b) any amount then due and payable (including any Transfer required under the Annex) by the Trust under the Trust ISDA Agreement remains outstanding.

"Obligations" means (i) all obligations and liabilities of the Trust to Citibank arising under, or in connection with, the Trust ISDA Agreement, whether now existing or hereafter arising, (ii) all obligations and liabilities of Cemex to Citibank arising under, or in connection with, the Guarantee, whether now existing or hereafter arising and (iii) Cemex's obligations to reimburse Citibank pursuant to Section 5.04 hereof.

"Uniform Commercial Code" means the Uniform Commercial Code as in effect from time to time in the State of New York.

ARTICLE II. SECURITY INTEREST

SECTION 2.01. Grant of Security Interest. As security for all of the Obligations, Cemex hereby pledges to Citibank, and grants to Citibank a security interest in, all of Cemex's right, title and interest in, under and to the following, whether now existing or hereafter acquired (collectively the "Collateral"):

(a) the Capped Call Agreement, including, without limitation, all amounts paid or payable by Citibank from time to time thereunder to Cemex, including, without limitation, amounts paid or payable by Citibank in connection with the early termination of some or all of the "Transactions" thereunder; and

(b) all cash and noncash proceeds of any of the foregoing.

SECTION 2.02. Payments under the Capped Call Agreement . Notwithstanding anything to the contrary in the Capped Call Agreement, in the event that Citibank is obligated to make any payments to Cemex under the Capped Call Agreement, including, without limitation, in connection with the early termination of some or all of the "Transactions" thereunder, Cemex hereby instructs Citibank, in lieu of making such payments directly to Cemex, to hold the related amounts as cash collateral Transferred by the Trust under the Annex, and Cemex agrees that Citibank's holding of such cash collateral shall be deemed to constitute payment by Citibank under the Capped Call Agreement of the associated amounts and that any release of such cash collateral by Citibank shall be made in accordance with the terms of the Annex.

ARTICLE III. CEMEX REPRESENTATIONS AND WARRANTIES

Section 3.01. Representations and Warranties. Cemex represents and warrants to Citibank as of the date hereof as follows:

(a) Cemex is a duly incorporated and validly existing publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) organized under the laws of Mexico. Cemex has the power, authority and legal right to execute and deliver this Security Agreement, perform its obligations hereunder and consummate the transactions herein contemplated.

(b) Cemex has duly authorized the execution and delivery of this Security Agreement and the performance by Cemex of its obligations hereunder. Assuming due authorization, execution and delivery by Citibank, this Security Agreement constitutes a legal, valid and binding obligation of Cemex which is enforceable in accordance with its terms, subject to bankruptcy and other similar laws affecting creditors' rights and, to the extent applicable, to general principles of equity.

(c) The execution and delivery of this Security Agreement, and the performance by Cemex of its obligations hereunder, will not conflict with or constitute a breach or default under any other material contract or agreement to which Cemex is subject or by which Cemex is bound, or the organizational documents of Cemex or any judgment, order or decree applicable to Cemex.

(d) No litigation or administrative proceeding is pending or, to the best knowledge of Cemex, threatened against Cemex that would prevent Cemex from executing and delivering this Security Agreement or performing its obligations hereunder.

(e) Upon the filing of a UCC-1 financing statement against Cemex with the Recorder of Deeds of the District of Columbia and upon obtaining a written acknowledgment and delivery from Citibank, N.A., as counterparty to the Capped Call Agreement, Citibank will have a valid, first priority perfected security interest in and lien on the Collateral subject, in the case of proceeds, to the limitations set forth in Section 9-315 of the Uniform Commercial Code.

(f) Cemex's name, jurisdiction of incorporation and type of organization is as set forth in the introductory paragraph hereof. Unless Cemex shall have given Citibank not less than 30 days' prior notice thereof, Cemex shall not change its name. In addition, Cemex shall maintain its existence as a type of entity specified in the introductory paragraph hereof organized solely under the law of the jurisdiction specified in the introductory paragraph hereof and shall not dissolve, liquidate, merge with or into any other entity or otherwise change its organizational structure, change its identity or incorporate in any other jurisdiction unless Cemex shall have notified Citibank in writing at least 30 days prior to any intent not to so maintain its existence or any such dissolution, liquidation, merger or change, as the case may be.

(g) Cemex owns the Collateral free and clear of all liens, claims and encumbrances.

ARTICLE IV. CERTAIN COVENANTS OF CEMEX

SECTION 4.01. Defense of Title. Cemex warrants and will defend the right, title and interest of Citibank in and to all Collateral against all adverse claims and demands.

SECTION 4.02. No Amendment or Compromise. Except as otherwise expressly provided or contemplated in the Capped Call Agreement, Cemex and those acting on behalf of Cemex shall not amend or modify, or waive any term or condition of, or settle or compromise any claim in respect of, the Collateral without the prior written consent of Citibank.

SECTION 4.03. No Assignment of Collateral. Cemex shall not sell, assign, transfer or otherwise dispose of, or grant any option with respect to, or pledge or otherwise encumber (except pursuant to this Security Agreement and the Annex), any of the Collateral or any interest therein without the prior written consent of Citibank.

SECTION 4.04. Further Assurances; Preservation and Perfection of Security Interest. (a) Cemex shall do all such acts, and shall execute and deliver to Citibank all such financing statements, certificates, instruments and other documents and shall do and perform or cause to be done all matters and such other things necessary or expedient to be done as Citibank may reasonably request from time to time (including notarizing an assignment of rights under the Capped Call Agreement and filing such notarized assignment with the applicable public registry) in order to give full effect to this Security Agreement and for the purpose of effectively perfecting, maintaining, preserving and enforcing Citibank's security interest and the benefits intended to be granted to Citibank hereunder. To the extent permitted by applicable law, Cemex hereby authorizes Citibank to file, in the name of Cemex or otherwise, Uniform Commercial Code financing statements, including continuation statements, which Citibank in its sole discretion may deem necessary or appropriate.

(b) If Cemex fails to perform any act required by this Security Agreement, Citibank may, but shall not be obligated to, perform, or cause performance of, such act, and the expenses of Citibank incurred in connection therewith shall be governed by Section 5.04 hereof.

ARTICLE V. DEFAULT; RIGHTS AND REMEDIES

SECTION 5.01. Default; Remedies. (a) Upon the occurrence and during the continuance of any Foreclosure Event, Citibank, at its option, in addition to its rights and remedies under the Trust ISDA Agreement and/or the Guarantee and all rights and remedies available to a secured party under applicable law, shall have any or all of the following rights and remedies:

(i) Citibank may do any acts that it deems proper to protect the Collateral as security hereunder, receive any payments due with respect to the Capped Call Agreement or any damages thereunder and apply, by setoff or otherwise, all sums received to the payment of the Obligations in such order as Citibank shall determine. Any such actions of Citibank shall not be deemed to impose upon Citibank any of Cemex's obligations under the Capped Call Agreement. Subject to the foregoing provisions of this paragraph, once Citibank is entitled to exercise its rights and remedies hereunder, Citibank shall have the right to renew, extend the time of payment of, or otherwise modify, amend, supplement, settle or compromise, in any manner, any

obligations for the payment of money included in the Collateral, any security therefor and any other agreements, instruments, claims or chooses in action of any kind which may be included in the Collateral.

(ii) Citibank shall be entitled to exercise Cemex's rights under or in respect of any Collateral and Citibank shall be entitled to exercise any other rights or remedies provided herein, in any document or instrument delivered pursuant hereto or under applicable law. Citibank may exercise its rights under this Security Agreement and its rights with respect to any other credit support securing the Obligations or any other remedy, in each case in any order or priority that Citibank determines in its sole discretion. There shall be no requirement that Citibank exhaust any other rights or remedies, or any other source of payment or credit support securing the Obligations, prior to Citibank being entitled to exercise its rights and remedies hereunder.

(b) Citibank may enforce its rights and remedies hereunder without prior judicial process or hearing, and Cemex hereby expressly waives, to the fullest extent permitted by law, any right Cemex might otherwise have to require Citibank to enforce its rights by judicial process. Cemex also waives, to the fullest extent permitted by law, any defense Cemex might otherwise have to the Obligations secured hereby arising from use of nonjudicial process, enforcement and sale of all or any portion of the Collateral or from any other election of remedies.

SECTION 5.02. Delay not Waiver; Remedies are Cumulative.

(a) No failure on the part of Citibank to exercise, and no delay by Citibank in exercising, any right, power or remedy hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

(b) All remedies of Citibank provided for herein are cumulative and in addition to any and all other rights and remedies provided by law, the Trust ISDA Agreement, the Capped Call Agreement and the other instruments and agreements contemplated hereby and thereby.

SECTION 5.03. Application of Proceeds. The proceeds of the Collateral pursuant to this Article shall be applied as follows:

(a) First, to the reimbursement of sums expended by Citibank pursuant to Section 5.04 hereof and to the payment of the costs and expenses of liquidation, or any other enforcement action pursuant hereto, including reasonable attorney's fees, and all other expenses incurred in connection therewith, with a reasonable reserve for any liabilities incurred in connection therewith;

(b) Second, to the payment in full of the Obligations; and

(c) Third, to the payment to Cemex or such other person or persons as may be entitled thereto, or as a court of competent jurisdiction directs.

SECTION 5.04. Reimbursement. All sums expended by Citibank, including, without limitation, reasonable attorney's fees, disbursements and court costs, in connection with the exercise of any right or remedy provided for herein, the preservation of the Collateral and Citibank's interest therein and the defense or prosecution of any actions, suits or proceedings arising out of or relating to the Collateral shall be the obligation of Cemex, payable out of proceeds of the Collateral, in accordance with Section 5.03 hereof, or by application of or setoff against any balances or amounts due to Cemex under the Capped Call Agreement and to the extent any amounts remain owing, payable by Cemex out of its other assets.

SECTION 5.05. No Duty and Waiver. The powers conferred on Citibank hereunder are solely for its benefit, and do not impose any duty on Citibank to exercise any such powers. Following a Foreclosure Event, Citibank shall have no duty of care as a secured party hereunder to Cemex as to any Collateral or with respect to the taking of any necessary steps to preserve rights against other parties or any other obligation pertaining to the Collateral. Cemex waives all rights whatsoever against Citibank for any loss, expense, liability or damage suffered by Cemex as a result of actions taken by Citibank as secured party pursuant to this Security Agreement.

SECTION 5.06. Waiver of Redemption and Deficiency Rights. Cemex hereby expressly waives, to the fullest extent permitted by law, every statute of limitation, right of redemption, any moratorium or redemption period, any limitation on a deficiency judgment, and any right which it may have to direct the order in which any of the Collateral shall be liquidated and applied in the event of any exercise by Citibank of any of its remedies pursuant hereto.

SECTION 5.07. Additional Termination Event under Capped Call Agreement. Cemex and Citibank hereby agree that, at any time where the Capped Call Agreement constitutes "Posted Credit Support" (as defined in the Annex) pursuant to the Annex, the occurrence of a Foreclosure Event shall constitute an "Additional Termination Event" (as defined in the Capped Call Agreement) under the Capped Call Agreement, notwithstanding anything to the contrary therein, with Cemex as the sole "Affected Party" (as defined in the Capped Call Agreement).

ARTICLE VI. MISCELLANEOUS

SECTION 6.01. Governing Law; Jurisdiction; Waivers.

(a) This Agreement shall be governed by the laws of the State of New York (without reference to choice of law doctrine, other than Section 5-1401 of the New York General Obligations Law).

(b) Any legal action or proceeding with respect to this Security Agreement may be brought in any United States federal or state court sitting in New York, New York, and in the courts of the corporate domicile of each party hereto, in respect of actions brought against such party as a defendant, and by execution and delivery of this Security Agreement, the parties hereto hereby consent to the jurisdiction of the aforesaid courts. To the fullest extent permitted by law, each party hereto hereby irrevocably waives any objection, including without limitation, any objection to the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Security Agreement, and further waives any right to which it may be entitled on account of place of residence or domicile.

(c) EACH OF CEMEX AND CITIBANK HEREBY IRREVOCABLY WAIVES (ON ITS OWN BEHALF AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS STOCKHOLDERS OR BENEFICIARIES, AS APPLICABLE) ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS SECURITY AGREEMENT OR THE ACTIONS OF CITIBANK OR ITS AFFILIATES IN THE NEGOTIATION, PERFORMANCE OR ENFORCEMENT HEREOF.

(d) Cemex irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any proceedings.

SECTION 6.02. Severability. If any one or more of the covenants, agreements, provisions or terms of this Security Agreement shall for any reason whatsoever be held invalid, then to the fullest extent permitted by law such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions or terms of this Security Agreement and shall in no way affect the validity or enforceability of the other provisions of this Security Agreement.

SECTION 6.03. Attorney in Fact. Cemex hereby irrevocably appoints Citibank as its attorney-in-fact, with full authority in the place and stead of Cemex and in the name of Cemex or otherwise, from time to time in Citibank's discretion after the occurrence and during the continuance of a Foreclosure Event, to take any action and to execute any instrument that Citibank may deem necessary or advisable to accomplish the purposes of this Security Agreement, including without limitation, (i) to receive, endorse and collect any drafts or other instruments, documents and chattel paper representing any payment, dividend or other distribution in respect of the Collateral or any part thereof and to give full discharge for the same, and (ii) to file any claims or take any action or institute any proceedings that Citibank may deem necessary or desirable for the collection of any of the Collateral or otherwise to enforce compliance with the terms and conditions of the Capped Call Agreement or the rights of Citibank with respect to any of the Collateral.

SECTION 6.04. Counterparts. This Security Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all counterparts shall together constitute but one and the same instrument.

SECTION 6.05. Amendments; Assignment. (a) This Security Agreement may be amended only by a written instrument executed by the parties hereto. Any waiver of any provision of this Security Agreement shall only be effective if given in writing and then only in the specific instance in which such waiver is given.

(b) This Agreement shall be binding upon and inure to the benefit of Citibank and Cemex and their respective successors and assigns; provided that Cemex shall have no right to assign, or delegate its duties under, this Security Agreement without the prior written consent of Citibank.

SECTION 6.06. Notices. All instructions, notices, requests or other communications given under this Agreement shall be in writing and shall be sent in accordance with the Capped Call Agreement.

SECTION 6.07. Headings. Article and Section headings used herein are for convenience of reference only, are not part of this Security Agreement and are not to affect the construction of, or be taken into consideration in interpreting, this Security Agreement.

SECTION 6.08. Integration. This Security Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersede all prior and contemporaneous agreements and understandings of the parties in connection therewith.

SECTION 6.09. Security Interest Absolute. To the extent permissible by applicable law, all rights of Citibank hereunder, the grant of a security interest in the Collateral and the Cemex Posted Margin and all obligations of Cemex hereunder, will be absolute, irrevocable and unconditional irrespective of:

(a) any claim as to the genuineness, validity, regularity or enforceability of this Security Agreement, the Trust ISDA Agreement, any other agreement with respect to any of the Obligations or any other agreement or instrument relating to any of the foregoing;

(b) any change in the time, manner or place of payment of, or in any other term of, all of or any of the Obligations, or any other amendment, modification, extension or waiver of or any consent to any departure from the Trust ISDA Agreement, any other agreement with respect to any of the Obligations or any other agreement or instrument relating to any of the foregoing;

(c) any change in the existence, structure or beneficial ownership of the Trust, or any liquidation, dissolution, insolvency, reorganization or other similar proceeding affecting the Trust or its assets;

(d) any release of any collateral securing any obligations in respect of the Trust ISDA Agreement, any other agreement with respect to any of the Obligations or any guarantee or other credit support in respect thereof;

(e) any law, rule, regulation, decree or order of any jurisdiction, any change in any of the foregoing, or any other event, affecting any term of any Obligation or Citibank's rights with respect thereto; or

(f) any other circumstance whatsoever that might otherwise constitute a defense available to, or a discharge of, Cemex in respect of the Obligations or in respect of this Security Agreement (other than the indefeasible payment in full of all Obligations).

SECTION 6.10. Acknowledgment of Security Interest. Citibank, in its capacity as counterparty to the Capped Call Agreement, hereby acknowledges the security interest created pursuant to this Security Agreement in Cemex's right and interest under the Capped Call Agreement. Citibank, as counterparty to the Capped Call Agreement, agrees that, following a Foreclosure Event, it shall use reasonable efforts to copy Cemex on any notice that Cemex would otherwise have been entitled to receive under the terms of the Capped Call Agreement had Citibank as secured party not commenced its exercise of remedies hereunder.

SECTION 6.11. Process Agent. Cemex hereby appoints as its process agent:

Corporate Creations Network Inc.
1040 Avenue of the Americas #2400
New York, NY 10018
Fax: (561) 694-1639
Tel: (212) 382-4699

SECTION 6.12. Termination and Release. At such time as Citibank is obligated under the Annex to "Transfer" (as defined in the Annex) the Capped Call Agreement to the Trust pursuant to the Annex, Citibank shall promptly provide a notice to Cemex and, upon provision of such notice, the Collateral shall be automatically released from the security interest created hereunder, and this Security Agreement and all obligations of each of Citibank and Cemex hereunder shall terminate, all without any act by any party, and all rights to the Collateral shall revert to Cemex; provided that Citibank, at the request and sole expense of Cemex, shall execute and deliver to Cemex all releases or other documents reasonably necessary or desirable to evidence the release of the security interest created hereby on such Collateral and termination of this Security Agreement.

IN WITNESS WHEREOF, the parties hereto have each caused this Security Agreement to be duly executed, all as of the day and year first above written.

CITIBANK, N.A.

By: /s/ Herman Hirsch
Name: Herman Hirsh
Title: Authorized Representative

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

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Chief Financial Officer
Attorney-in-Fact

Exhibit 4.56
Execution Version

COLLATERAL AGREEMENT

This Collateral Agreement (as amended from time to time, the " Collateral Agreement") is entered into as of March 30, 2010 by and among CITIBANK, N.A. (together with its successors and assigns, " Citibank"), CEMEX, S.A.B. de C.V., a publicly traded stock corporation with variable capital (*sociedad anónima bursátil de capital variable*) organized under the laws of Mexico ("Cemex") and Banco Nacional de México, S.A., Integrante del Grupo Financiero Banamex, División Fiduciaria, acting solely as trustee under trust No. 111339-7 (the " Trust").

WHEREAS, Citibank and the Trust have entered into transactions evidenced by (i) a Put Option Transaction confirmation, (ii) a Forward Transaction (Cemex Shares) confirmation and (iii) a Forward Transaction (Naftrac Shares) confirmation, each dated as of April 23, 2008 (collectively, the "Confirmations"), with each such transaction subject to a single agreement in the form of the ISDA 2002 Master Agreement, as published by ISDA (including the terms and elections related thereto in the Confirmations, the " Deemed Agreement"), deemed to exist between Citibank and Counterparty pursuant to the Confirmations and including a 1994 ISDA Credit Support Annex (Bilateral Form – New York Law) entered into between Citibank and the Trust as of April 23, 2008 (as amended by the parties from time to time, the " Annex" and collectively with the Confirmations and the Deemed Agreement, the " Trust ISDA Agreement");

WHEREAS, Cemex has issued a Guarantee, dated as of April 23, 2008 in favor of Citibank in respect of the Trust ISDA Agreement (the "Guarantee");

WHEREAS, Cemex has, by virtue of its obligations under the Guarantee, transferred to Citibank cash collateral (such cash as has been transferred by Cemex and not returned by Citibank as of the date hereof pursuant to the delivery and return provisions of the Annex, the " Cemex Transferred Cash") with respect to the Annex to satisfy the Trust's obligations thereunder, and the Cemex Transferred Cash constitutes all of the Posted Credit Support (as defined in the Annex) held by Citibank under the Annex other than the Permanent Collateral (and, without duplication, Issuer Acceptable Shares) (as defined in the Annex) posted by the Trust thereunder;

WHEREAS, Cemex and Citibank have entered into a Security Agreement, dated as of the date hereof (the " Security Agreement"), pursuant to which Cemex has agreed to provide security for the payment of the Trust's obligations under the Trust ISDA Agreement and Cemex's obligations under the Guarantee by pledging its right and interest under the Capped Call Agreement (as defined in the Security Agreement) to Citibank, in connection with which, and subject to the terms and conditions of the Annex, Citibank would release cash collateral pledged under the Annex for return to Cemex; and

WHEREAS, Citibank, Cemex and the Trust wish to clarify the relevant relationships to reflect their original agreement that Citibank have a first priority perfected security interest in all assets transferred from time to time by Cemex to Citibank in respect of the Trust's obligations to post collateral under the Annex and that Citibank return directly to Cemex assets previously transferred by Cemex for this purpose when Citibank is obligated to return Posted Credit Support under the Annex;

NOW, THEREFORE, in consideration of the mutual promises herein contained and other good and valuable consideration, the parties hereto agree as follows:

ARTICLE I. TRANSFER OBLIGATIONS AND SECURITY INTEREST

SECTION 1.01. Initial Transfers. On the date hereof, (i) Cemex shall transfer to Citibank an amount of cash equal to the Cemex Transferred Cash as of such date (such transfer obligation of Cemex, the "Cemex Initial Delivery Obligation"), and (ii) Citibank shall transfer to Cemex an amount of cash equal to the Cemex Transferred Cash as of such date (such transfer obligation of Citibank, the " Citibank Initial Return Obligation") and Citibank shall have no further right, title or interest in the Cemex Transferred Cash as of such transfer, and the transfer obligations in clauses (i) and (ii) shall be deemed to be a "Substitution" pursuant to Paragraph 4(d) of the Annex. Upon such deemed Substitution the Transfer (as defined in the Annex) obligations as of such date of the Trust under the Annex and of Cemex under the Guarantee shall be deemed satisfied in full.

SECTION 1.02. Ongoing Returns. During the term of the Trust ISDA Agreement, and notwithstanding anything to the contrary in the Annex, in the event Citibank would be required pursuant to the terms of the Annex to Transfer Posted Credit Support previously Transferred by Cemex pursuant to the Guarantee, any Interest Amount or Distributions thereon (each as defined in the Annex) to the Trust, Citibank shall instead Transfer, in accordance with the other terms and conditions of the Annex, such Posted Credit Support, Interest Amount or Distributions to Cemex in satisfaction of such obligation, it being understood that, absent specific direction from the Trust and Cemex to the contrary, Citibank shall be entitled to assume that all Posted Credit Support (other than Permanent Collateral (as defined in the Annex), and without duplication, Issuer Acceptable Shares) was provided by Cemex pursuant to the Guarantee. Upon any such Transfer by Citibank to Cemex pursuant to this Section 1.02, the security interest in such Transferred Posted Credit Support, Interest Amount or Distributions created pursuant to Section 1.03 below will be released immediately without any further action by either party.

SECTION 1.03. Cemex Posted Collateral. Cemex hereby (i) pledges to Citibank, as security for the Obligations (as defined in the Security Agreement), and grants to Citibank a first priority continuing security interest in, lien on and right of set-off against all assets transferred by Cemex to or otherwise received by Citibank (and not returned to Cemex pursuant to Section 1.02) in connection with Cemex's obligations under the Guarantee with respect to the Trust's obligations to post collateral under the Annex (including, without limitation, the Cemex Initial Delivery Obligation) and all cash and non-cash proceeds of any of the foregoing (collectively, "Cemex Posted Collateral"), (ii) makes the covenants contained in Paragraphs 11(b) and (c) of the Annex and the representations and warranties contained in Paragraph 9 of the Annex (in each case in favor of Citibank and as if Cemex were the "Pledgor" thereunder) with respect to the Cemex Posted Collateral (which representations will be deemed repeated as of each date on which Cemex makes a transfer to Citibank of Cemex Posted Collateral) and (iii) agrees that Citibank shall be entitled to exercise all the rights and remedies described in Paragraph 8(a) of the Annex, subject to the conditions and limitations set forth therein (including in Paragraphs 8(b), 8(c) and 8(d) of the Annex), with respect to the Cemex Posted Collateral (as if Cemex were the "Pledgor" thereunder) in addition to any other rights or remedies Citibank

may have against Cemex or the Trust under this or any other agreement or applicable law, all of which may be exercised in such order (including concurrently) as Citibank shall determine in its sole discretion. The parties agree to be bound by the provisions of Paragraph 11(d) of the Annex as if parties thereto.

SECTION 1.04. Netting. The transfer obligations of Citibank with respect to the Citibank Initial Return Obligation and Cemex with respect to the Cemex Initial Delivery Obligation shall be netted and each deemed satisfied on the date hereof.

ARTICLE II. REPRESENTATIONS AND WARRANTIES

SECTION 2.01. Each party hereto hereby represents to each of the other parties that:

(a) ***Status.*** It is duly organized and validly existing under the laws of the jurisdiction of its organization or incorporation and, if relevant under such laws, in good standing and, in the case of the Trust, it is acting to satisfy the purposes of the trust No. 11339-7 under which it acts as trustee;

(b) ***Powers.*** It has the power and authority to execute and deliver this Collateral Agreement and to perform its obligations under this Collateral Agreement and has taken all necessary action to authorize such execution, delivery and performance, including, in respect of the Trust, it has received an irrevocable instruction to enter into this Collateral Agreement from the technical committee of trust No. 110975-6;

(c) ***No Violation or Conflict.*** Such execution, delivery and performance do not violate or conflict with any law applicable to it, any provision of its constitutional documents or in the case of the Trust, the terms of trust No. 11339-7 under which it acts as trustee, any order or judgment of any court or other agency of government applicable to it or any of its assets or in respect of the Trust, the assets of trust No. 11339-7 under which it acts as trustee or any contractual restriction binding on or affecting it or any of its assets or in respect of the Trust, affecting the assets of trust No. 11339-7 under which it acts as trustee;

(d) ***Consents.*** All governmental and other consents that are required to have been obtained by it with respect to this Collateral Agreement have been obtained and are in full force and effect and all conditions of any such consents have been complied with;

(e) ***Obligations Binding.*** Its obligations under this Collateral Agreement constitute its legal, valid and binding obligations, enforceable in accordance with its respective terms (subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and subject, as to enforceability, to the extent applicable, to equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law)); and

(f) ***Absence of Certain Events.*** No Event of Default or Potential Event of Default or, to its knowledge, Termination Event (each as defined in the Deemed Agreement) with respect to it has occurred and is continuing and no such event or circumstance would occur as a result of its entering into or performing its obligations under this Collateral Agreement.

ARTICLE III. MISCELLANEOUS

SECTION 3.01. Governing Law; Jurisdiction; Waivers.

(a) This Collateral Agreement shall be governed by the laws of the State of New York (without reference to choice of law doctrine, other than Section 5-1401 of the New York General Obligations Law).

(b) Any legal action or proceeding with respect to this Collateral Agreement may be brought in any United States federal or state court sitting in New York, New York, and in the courts of the corporate domicile of each party hereto, in respect of actions brought against such party as a defendant, and by execution and delivery of this Collateral Agreement, the parties hereto hereby consent to the jurisdiction of the aforesaid courts. To the fullest extent permitted by law, each party hereto hereby irrevocably waives any objection, including without limitation, any objection to the laying of venue or based on the grounds of forum non conveniens, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Collateral Agreement, and further waives any right to which it may be entitled on account of place of residence or domicile.

(c) EACH OF CEMEX, THE TRUST AND CITIBANK HEREBY IRREVOCABLY WAIVES (ON ITS OWN BEHALF AND, TO THE EXTENT PERMITTED BY APPLICABLE LAW, ON BEHALF OF ITS STOCKHOLDERS OR BENEFICIARIES, AS APPLICABLE) ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS COLLATERAL AGREEMENT OR THE ACTIONS OF CITIBANK OR ITS AFFILIATES IN THE NEGOTIATION, PERFORMANCE OR ENFORCEMENT HEREOF.

(d) Cemex irrevocably waives, to the fullest extent permitted by applicable law, with respect to itself and its revenues and assets (irrespective of their use or intended use), all immunity on the grounds of sovereignty or other similar grounds from (i) suit, (ii) jurisdiction of any court, (iii) relief by way of injunction, order for specific performance or for recovery of property, (iv) attachment of its assets (whether before or after judgment) and (v) execution or enforcement of any judgment to which it or its revenues or assets might otherwise be entitled in any proceedings in the courts of any jurisdiction and irrevocably agrees, to the extent permitted by applicable law, that it will not claim any such immunity in any proceedings.

SECTION 3.02. Severability. If any one or more of the covenants, agreements, provisions or terms of this Collateral Agreement shall for any reason whatsoever be held invalid, then to the fullest extent permitted by law such covenants, agreements, provisions or terms shall be deemed severable from the remaining covenants, agreements, provisions or terms of this Collateral Agreement and shall in no way affect the validity or enforceability of the other provisions of this Collateral Agreement.

SECTION 3.04. Counterparts. This Collateral Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, but all counterparts shall together constitute but one and the same instrument.

SECTION 3.05. Amendments; Assignment. (a) This Collateral Agreement may be amended only by a written instrument executed by each of the parties hereto. Any waiver of any provision of this Collateral Agreement shall only be effective if given in writing and then only in the specific instance in which such waiver is given.

(b) This Agreement shall be binding upon and inure to the benefit of Citibank, the Trust and Cemex and their respective successors and assigns; provided that none of the parties hereto shall have any right to assign, or delegate its duties under, this Collateral Agreement without the prior written consent of the remaining parties hereto, except that Citibank may, without the consent of any other party hereto, assign its rights and obligations hereunder to a party to which it assigns its rights and obligations under the Trust ISDA Agreement in accordance with the provisions therein.

SECTION 3.06. Notices. All instructions, notices, requests or other communications given under this Agreement shall be in writing and shall be sent in accordance with the Trust ISDA Agreement.

SECTION 3.07. Headings. Article and Section headings used herein are for convenience of reference only, are not part of this Collateral Agreement and are not to affect the construction of, or be taken into consideration in interpreting, this Collateral Agreement.

SECTION 3.08. Integration. This Collateral Agreement constitutes the entire agreement among the parties hereto pertaining to the subject matter hereof and supersede all prior and contemporaneous agreements and understandings of the parties in connection therewith.

SECTION 3.09. Security Interest Absolute. To the extent permissible by applicable law, all rights of Citibank hereunder, the grant of a security interest in the Cemex Posted Collateral and all obligations of Cemex hereunder, will be absolute, irrevocable and unconditional irrespective of:

(a) any claim as to the genuineness, validity, regularity or enforceability of this Collateral Agreement, the Trust ISDA Agreement, any other agreement with respect to any of the Obligations or any other agreement or instrument relating to any of the foregoing;

(b) any change in the time, manner or place of payment of, or in any other term of, all of or any of the Obligations, or any other amendment, modification, extension or waiver of or any consent to any departure from the Trust ISDA Agreement, any other agreement with respect to any of the Obligations or any other agreement or instrument relating to any of the foregoing;

(c) any change in the existence, structure or beneficial ownership of the Trust, or any liquidation, dissolution, insolvency, reorganization or other similar proceeding affecting the Trust or its assets;

(d) any release of any collateral securing any obligations in respect of the Trust ISDA Agreement, any other agreement with respect to any of the Obligations or any guarantee or other credit support in respect thereof;

(e) any law, rule, regulation, decree or order of any jurisdiction, any change in any of the foregoing, or any other event, affecting any term of any Obligation or Citibank's rights with respect thereto; or

(f) any other circumstance whatsoever that might otherwise constitute a defense available to, or a discharge of, Cemex in respect of the Obligations or in respect of this Collateral Agreement (other than the indefeasible payment in full of all Obligations).

SECTION 3.10. Process Agent. Cemex hereby appoints as its process agent:

Corporate Creations Network Inc.
1040 Avenue of the Americas #2400
New York, NY 10018
Fax: (561) 694-1639
Tel: (212) 382-4699

[Signature page follows]

IN WITNESS WHEREOF, the parties hereto have each caused this Collateral Agreement to be duly executed, all as of the day and year first above written.

CITIBANK, N.A.

By: /s/ James Heathcote
Name: James Heathcote
Title: Authorized Signatory

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

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

BANCO NACIONAL DE MEXICO, S.A., INTEGRANTE DEL GRUPO FINANCIERO BANAMEX, DIVISION FIDUCIARA, acting solely as trustee under trust No. 111339-7

By: /s/ Illegible, /s/ Illegible
Name:
Title:

Exhibit 4.57
EXECUTION COPY

AMENDED AND RESTATED

DEALER MANAGER AGREEMENT

May 6, 2010

J.P. Morgan Securities Inc.
c/o J.P. Morgan Securities Inc.
270 Park Avenue
New York, New York 10017

J.P. Morgan Securities Ltd.
125 London Wall
London EC2Y 5AJ

Citigroup Global Markets Inc.
390 Greenwich St.
New York, NY 10012

Citigroup Global Markets Limited
Citigroup Centre, 33 Canada Sq.
Canary Wharf
London E14 5LB

Ladies and Gentlemen:

This dealer manager agreement (this "Agreement") will confirm the understanding among CEMEX, S.A.B. de C.V., a public traded stock corporation with variable capital (sociedad anónima bursátil de capital variable) organized under the laws of Mexico (" CEMEX"), CEMEX Mexico, S.A. de C.V., a corporation organized under the laws of Mexico ("CEMEX Mexico"), New Sunward Holding B.V., a private company with limited liability formed under the laws of the Netherlands ("New Sunward Holding"), CEMEX España, S.A. Luxembourg Branch, a Luxembourg branch of CEMEX España, S.A., a corporation (sociedad anónima) organized under the laws of Spain (" CEMEX España"), created by virtue of the resolution of the Board of Directors of CEMEX España dated March 12, 2010 and formalized in a public deed granted before Notary Public of Madrid Mr. Rafael Monjo Carrió on March 16, 2010 numbered 502 of his official files ("CEMEX España, Luxembourg Branch"), New Sunward Holding

Financial Ventures, B.V., a private company with limited liability formed under the laws of the Netherlands ("New Sunward" and, together with CEMEX, CEMEX Mexico, CEMEX España, Luxembourg Branch and New Sunward Holdings, the " CEMEX Parties"), C5 Capital (SPV) Limited, a restricted purpose company incorporated with limited liability and domiciled in the British Virgin Islands (" C5 Capital"), C8 Capital (SPV) Limited, a restricted purpose company incorporated with limited liability and domiciled in the British Virgin Islands (" C8 Capital"), C10 Capital (SPV) Limited, a restricted purpose company incorporated with limited liability and domiciled in the British Virgin Islands (" C10 Capital") and C10-EUR Capital (SPV) Limited, a restricted purpose company incorporated with limited liability and domiciled in the British Virgin Islands (" C10-Euro Capital", and together with C5 Capital, C8 Capital and C10 Capital, the "Capital SPVs"), J.P. Morgan Securities Inc. ("JPMSI") and Citigroup Global Markets Inc ("CGMI") (with respect to the exchange offers involving U.S. Dollar-denominated securities of the Capital SPVs and New Sunward (the " Dollar Exchange Offers")), and J.P. Morgan Securities Ltd. ("JPMSL") and Citigroup Global Markets Limited ("CGML") (with respect to the exchange offer involving Euro-denominated securities of C10-Euro Capital and New Sunward (the "Euro Exchange Offer"), pursuant to which the CEMEX Parties have retained JPMSI, JPMSL, CGMI and CGML to act as dealer managers (in such capacity a "Dealer Manager" and together the "Dealer Managers"), on the terms and subject to the conditions set forth herein, in connection with the proposed offers to exchange any and all of the outstanding (i) U.S.$ 350,000,000 6.196% Fixed-to-Floating Rate Callable Perpetual Debentures issued by C5 Capital (the "USD 6.196% Exchange Offer"), (ii) U.S.$ 750,000,000 6.640% Fixed-to-Floating Rate Callable Perpetual Debentures issued by C8 Capital (the "USD 6.640% Exchange Offer"), (iii) U.S.$ 900,000,000 6.722% Fixed-to-Floating Rate Callable Perpetual Debentures issued by C10 Capital (the "USD 6.722% Exchange Offer", and together with the USD 6.196% Exchange Offer and the USD 6.640% Exchange Offer, the " USD Exchange Offers") (the securities listed in clauses (i), (ii) and (iii), collectively, the "Existing Dollar Debentures") and (iv) € 730, 000,000 6.277% Euro Fixed-to-Floating Rate Callable Perpetual Debentures issued by C10-EUR Capital (the " Existing Euro Debentures" and, together with the Existing Dollar Debentures, the "Debentures") (the "Euro Exchange Offer" and, together with the USD Exchange Offers, the "Offers" and each an "Offer") validly tendered (and not validly withdrawn) in the Offers for issuances of CEMEX España, Luxembourg Branch's (1) 9.25% U.S. Dollar-denominated senior secured notes due 2020 (the "New Dollar Senior Secured Notes"), in the case of the USD Exchange Offers and (2) 8.875% Euro-denominated senior secured notes due 2017 (the "New Euro Senior Secured Notes" and, together with the New Dollar Senior Secured Notes, the " New Senior Secured Notes") or New Dollar Senior Secured Notes, at the option of the holder, in the case of the Euro Exchange Offer, to be issued pursuant to the terms of an indenture (the " Indenture"), to be dated the Exchange Date (as defined below) and entered into among CEMEX España, Luxembourg Branch, the Guarantors (as defined below) and The Bank of New York Mellon, as trustee (the "Trustee").

The New Senior Secured Notes will be secured in accordance with the terms of the Intercreditor Agreement and certain ancillary documents thereto, by a first priority security interest in the Collateral. As set forth in the Intercreditor Agreement and certain ancillary documents thereto, the "Collateral" consists of (i) substantially all shares of the following entities: CEMEX México; Centro Distribuidor de Cemento, S.A. de C.V.; Mexcement Holdings, S.A. de C.V.; Corporación Gouda, S.A. de C.V.; New Sunward Holding; CEMEX Trademarks Holding Ltd; and CEMEX España and (ii) all proceeds of such Collateral.

The New Senior Secured Notes will be guaranteed (the "Guarantees") on the Exchange Date (defined below) by CEMEX, CEMEX Mexico and New Sunward Holding (together, the "Guarantors").

On the Exchange Date (defined below), (i) each of the Capital SPVs shall (1) deliver or cause to be delivered all validly tendered and accepted Debentures in the Exchange Offers to The Bank of New York Mellon, as trustee (the "Debenture Trustee") under the indentures governing the Debentures, for cancellation and (2) deliver or cause to be delivered to New Sunward the aggregate principal amount of each of the 6.196% Callable Perpetual Dual-Currency Notes (the "6.196% DCNs"), 6.640% Callable Perpetual Dual-Currency Notes (the "6.640% DCNs"), 6.722% Callable Perpetual Dual-Currency Notes (the "6.722% DCNs") and 6.277% Euro Callable Perpetual Dual-Currency Notes (the "6.277% Euro DCNs", and together with the 6.196% DCNs, the 6.640% DCNs and the 6.722% DCNs, the "Existing DCNs") equal to the aggregate principal amount of the corresponding Debentures validly tendered and accepted in the Exchange Offers and delivered to the Debenture Trustee for cancellation and (ii) simultaneously with the actions described in clause (i), New Sunward, following instructions, shall deliver or cause to be delivered all such Existing DCNs to The Bank of New York Mellon, as trustee (the "DCN Trustee") under each indenture governing the DCNs, for cancellation.

In order to effect the transactions contemplated by the immediately preceding paragraph, the Capital SPVs and New Sunward, following instructions from the Capital SPVs propose to solicit (each, a "Solicitation" and, collectively, the "Solicitations") consents (the "Consents") to (i) amend the indentures governing the Debentures and the DCNs to provide that any Debentures tendered in the Exchange Offers may be immediately tendered, along with a corresponding principal amount of DCNs, to the corresponding trustee under the respective indentures for cancellation, (ii) amend certain Collateral Documents (as defined in the indentures governing each series of Debentures) to allow for the release from collateral of an aggregate principal amount of DCNs corresponding to the aggregate principal amount of Debentures acquired by the applicable Capital SPV of such Debentures pursuant to any exchange offer or tender offer and delivered to the Debenture Trustee for cancellation and (iii) return a pro rata amount of the proceeds of conversion credit proceeds attributable to such tendered and canceled Debentures and DCNs on future interest payment dates at the direction of CEMEX (collectively, the " Proposed Amendments").

The Offers and Solicitations described above will be made on the terms and subject to the conditions set forth in the Offering Memorandum (including the exhibits attached thereto and the documents incorporated by reference therein, the " Offering Memorandum") and the Letter of Transmittal and Consent (the "Letter of Transmittal and Consent"), which together constitute the "Offering and Solicitation Documents". The CEMEX Parties have caused a complete and correct copy of the Offering and Solicitation Documents to be prepared and furnished to you on or prior to the date of the commencement of the Offers and Solicitations (the "Commencement Date") for use in connection with the Offers. The date on which the New Senior Secured Notes are issued pursuant to the Offers shall be referred to herein as the "Exchange Date." All references to "Holders" refer to holders of the Debentures who represent that they meet the eligibility criteria set forth in the Letter of Transmittal and Consent and are otherwise eligible to participate in the Offers.

This Agreement, the New Senior Secured Notes (and the Guarantees thereof), the Indenture (including any supplemental indentures thereto under which the New Senior Secured Notes are issued), the Security Documents (as defined below), the supplemental indentures to the Debenture indenture and the DCN indenture reflecting the Proposed Amendments, the Exchange Agent Agreements and the Information Agent Agreements shall be referred to collectively as the "Transaction Documents."

1. Engagement.

(a) (i) The CEMEX Parties hereby retain JPMSI and CGMI, and subject to the terms and conditions hereof, JPMSI and CGMI agree to act, as dealer managers, solicitation agents and bookrunners for the CEMEX Parties in connection with the Dollar Exchange Offer, and, on the basis of the representations, warranties and agreements contained herein, JPMSI and CGMI hereby accept such engagement upon the terms and subject to the conditions set forth in this Agreement; and (ii) the CEMEX Parties hereby retain JPMSL and CGML, and subject to the terms and conditions hereof, JPMSL and CGML agree to act as dealer managers, solicitation agents and bookrunners for the CEMEX Parties in connection with the Euro Exchange Offer, and, on the basis of the representations, warranties and agreements contained herein, JPMSL and CGML hereby accept such engagement upon the terms and subject to the conditions set forth in this Agreement.

(b) As Dealer Managers, you agree, in accordance with your firm's customary practice, to perform those services in connection with the Offers and Solicitations as are customarily performed by investment banks in connection with exchange offers and consent solicitations of like nature, including, without limitation, using reasonable best efforts to solicit tenders of Debentures in exchange for New Senior Secured Notes and deliveries of consents pursuant to the Offers and Solicitations and communicating generally regarding the Offers and Solicitations with brokers, dealers, commercial banks, trust companies and nominees and other Holders of the Debentures in or outside the United States.

(c) The CEMEX Parties authorize you to communicate with Global Bondholders Services Corporation and Lucid Issuer Services Limited, each of whom has been engaged to serve as exchange agents (together, the "Exchange Agents"), and information agents (together, the "Information Agents"), with respect to matters relating to the Offers and Solicitations. The CEMEX Parties have instructed or will instruct the Exchange Agents to advise you at least daily as to such matters relating to the Exchange Offers as any of you may request, and to furnish the CEMEX Parties and each of you with any written reports concerning any such information as either of the CEMEX Parties or any of you may reasonably request. In addition, the CEMEX Parties hereby authorize each of the Dealer Managers to communicate with the Information Agents with respect to matters relating to the Offers and Solicitations. The CEMEX Parties shall request that the applicable Book-entry Transfer Facilities (as defined below) provide any of the Dealer Managers with copies of the records or other lists showing the names and addresses of, and principal amounts of Debentures held by, the Holders of such Debentures as of a recent date and shall, from and after such date, request such Book-entry Transfer Facility to advise each of the Dealer Managers from day to day during the pendency of the Offers of all transfers of such Debentures, such notification consisting of the names and addresses of the transferor and transferee of any Debentures and the date of such transfer. On or

prior to the Commencement Date, the CEMEX Parties will have made appropriate arrangements, to the extent applicable, with the applicable Book-entry Transfer Facilities and the Exchange Agents to allow for the book-entry movement of the tendered Debentures between the Exchange Agents and the applicable Book-entry Transfer Facilities (and its participants) during the Offers. The Dealer Managers agree to use such information only in connection with the Offers and not to furnish such information to any persons except in connection with the Offers.

(d) The Offering and Solicitation Documents have been or will be prepared and approved by, and are the sole responsibility of, the CEMEX Parties. The CEMEX Parties will furnish you, at their expense, with as many copies as you may reasonably request of the Offering and Solicitation Documents and you are authorized to use copies of the Offering and Solicitation Documents in connection with the performance of your duties hereunder. The CEMEX Parties agree that, a reasonable time prior to using or filing with the U.S. Securities and Exchange Commission (the "Commission"), or any other non-U.S. governmental or regulatory agency, authority or instrumentality or court or arbitrator, or any other U.S. federal, state or local governmental or regulatory agency, authority or instrumentality or court or arbitrator (collectively, " Other Agency") or sending to any Holder of Debentures, any Offering and Solicitation Documents or any amendments or supplements thereto, they will submit copies of such materials to you and will give reasonable consideration to your and your counsel's comments, if any, thereon, and will not use, permit the use of or file such materials with the Commission or any Other Agency to which you reasonably object. In the event that any of the CEMEX Parties uses or permits the use of, or files with the Commission or any Other Agency, any Offering and Solicitation Documents or material amendments or supplements thereto (i) which have not been submitted to you for your comments, or (ii) which have been so submitted and with respect to which you reasonably object prior to any such use or filing by any of the CEMEX Parties, then each of you shall be entitled to withdraw as Dealer Manager in connection with the Offers and the Solicitations without any liability or penalty to any of you or any other Indemnified Person (as defined in Annex A hereof) and without loss of any right to the payment of all reasonable and documented fees and expenses payable hereunder which have accrued or been incurred to the date of such withdrawal, it being understood that the fees set forth in Annex B are only payable upon successful consummation of the Offers and Solicitations.

(e) The CEMEX Parties will cause copies of the Offering and Solicitation Documents to be mailed or otherwise delivered or made available to each Holder of the Debentures as soon as reasonably practicable after the date of the Offering Memorandum, and thereafter, to the extent reasonably practicable and until the expirations of the Offers and the Solicitations (each, an " Expiration Date"), to each person who becomes a Holder of the Debentures.

(f) Except as otherwise required by the Commission, Other Agency, by law, rule or regulation, the CEMEX Parties will not make, prepare, use, authorize, approve, refer to or publish, in each case, any material in connection with the Offers, other than the Offering and Solicitation Documents and any Additional Material (as defined below), or refer to any Dealer Manager in any such material, without the prior written approval of such Dealer Manager (which shall not be unreasonably withheld). Each Dealer Manager agrees that it will not use, authorize, approve, refer to or publish, in each case, any material in connection with the Offer, other than the statements that are set forth in, or derived from and consistent with, the Offering and

Solicitation Documents and any Additional Material without the prior written consent of the CEMEX Parties (which shall not be unreasonably withheld). The CEMEX Parties authorize each of the Dealer Managers, in accordance with their customary practices and consistent with industry practice, to communicate generally regarding the Offers with the Holders and their authorized agents in connection with the Offers and in accordance with this Agreement (including Section 5 hereof). The CEMEX Parties authorize each of the Dealer Managers to use the Offering and Solicitation Documents and any Additional Material in connection with the Offers and for such period of time as any such materials are required by law to be delivered in connection therewith and in accordance with this Agreement (including Section 5 hereof). The Dealer Managers shall not have any obligation to cause any Offering and Solicitation Documents or any Additional Material to be transmitted generally to the Holders of Debentures.

(g) The CEMEX Parties will advise you promptly, after they receive notice, or otherwise become aware, of (i) the occurrence of any event that could reasonably be expected to cause the CEMEX Parties to withdraw, rescind or terminate any of the Offers or Solicitations or would permit the CEMEX Parties to exercise any right not to exchange Debentures tendered pursuant to any of the Offers for New Senior Secured Notes, (ii) the occurrence of any event, or the discovery of any fact, the occurrence or existence of which would require the making of any change in any of the Offering and Solicitation Documents then being used or would cause any representation or warranty contained in this Agreement to be untrue or inaccurate in any material respect or as a result of which the Offering and Solicitation Documents as then supplemented would include any untrue statement of a material fact or omit to state any material fact necessary to make the statements therein in the light of the circumstances under which they were made not misleading, (iii) any proposal by any of the CEMEX Parties or any of the Capital SPVs or requirement to make, amend or supplement any Offering and Solicitation Document or any filing in connection with the Offers or Solicitations pursuant to the Securities Exchange Act of 1934, as amended (the "Exchange Act") or the rules and regulations promulgated by the Commission thereunder (the " Regulations") or any other applicable law, rule or regulation, (iv) the issuance by the Commission or any Other Agency of any comment or order or the taking of any other action concerning any of the Offers or Solicitations or any document incorporated by reference in the Offering and Solicitation Documents (and, if in writing, the CEMEX Parties will furnish you with a copy thereof), (v) any material developments concerning any of the CEMEX Parties or any of the Capital SPVs or any of the Offers or Solicitations, including, without limitation, the commencement of any material lawsuit concerning the CEMEX Parties or any of the Offers or the Solicitations and (vi) any change in the rating accorded to CEMEX, S.A.B. de C.V., the New Senior Secured Notes or any other debt issued or guaranteed by any of the CEMEX Parties by any "nationally recognized statistical rating organization" as such term is defined by the Commission for purposes of Rule 436(g)(2) under the Securities Act of 1933, as amended (the " Securities Act"). The CEMEX Parties agree to provide you with any other information relating to any of the Offers, Solicitations, the Offering and Solicitation Documents or this Agreement that you may from time to time reasonably request in writing. In addition, if prior to the Expiration Date any event occurs as a result of which any Offering and Solicitation Documents will include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances, not misleading, the CEMEX Parties shall, promptly upon becoming aware of any such event, advise the Dealer Managers of such event and, as promptly as reasonably practicable under the circumstances but in any event prior to the Exchange Date, prepare and furnish copies of such amendments or

supplements of any such Offering and Solicitation Document to the Dealer Managers and Holders, so that the statements in such Offering and Solicitation Document (as so amended or supplemented and including any documents incorporated by reference therein (together the " Additional Material")), will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein at the time such Additional Material is delivered or is to be delivered to a Holder, not misleading, and the Dealer Managers agree not to use the Offering and Solicitation Documents, in such case, until the Offering and Solicitation Documents are so supplemented or amended.

(h) The CEMEX Parties acknowledge and agree that you shall have no liability (in tort, contract or otherwise) to any of the CEMEX Parties, their affiliates or any other person for any losses, claims, damages, liabilities and expenses (each a " Loss" and, collectively, the "Losses") arising from any act or omission on the part of any broker or dealer in securities (a " Dealer"), bank or trust company, or any other person in connection with the Offers or Solicitations, and neither of the Dealer Managers nor any of their affiliates shall be liable for any Losses arising from their own acts or omissions in performing their obligations as Dealer Managers or as a Dealer in connection with the Offers or the Solicitations, except for any such Losses that are finally judicially determined to have resulted primarily from any of the Dealer Managers' or any of their affiliates bad faith, gross negligence or willful misconduct. In soliciting or obtaining tenders of Debentures for New Senior Secured Notes and deliveries of Consents to the Proposed Amendments, no Dealer, bank or trust company is to be deemed to be acting as your agent or the agent of any of the CEMEX Parties or Capital SPVs or any of their affiliates, and you shall not be deemed the agent of any Dealer, bank or trust company or an agent of, or a fiduciary or a financial advisor to any of the CEMEX Parties or Capital SPVs or any of their affiliates, equity holders, creditors or any other person. In soliciting or obtaining tenders of Debentures for New Senior Secured Notes and deliveries of Consents to the Proposed Amendments, you shall not be, nor shall you be deemed for any purpose, to act as a partner or joint venturer of, or a member of a syndicate or group with any of the CEMEX Parties or Capital SPVs or any of their affiliates in connection with the Offers or Solicitations, any exchange of Debentures for New Senior Secured Notes or otherwise, and none of the CEMEX Parties, the Capital SPVs, nor any of their affiliates shall be deemed to act as your agents. The CEMEX Parties shall have sole authority for the acceptance or rejection of any and all tenders of Debentures and all deliveries of Consents to the Proposed Amendments.

(i) The CEMEX Parties and the Capital SPVs acknowledge and agree that (i) you have been retained solely to provide the services set forth herein, and in rendering such services you shall act as an independent contractor and any duties arising out of your engagement hereunder shall be owed solely to CEMEX Parties; (ii) you may perform the services contemplated hereby through or in conjunction with your affiliates, and any of your affiliates performing services hereunder shall be entitled to the benefits and be subject to the terms and conditions of this Agreement; (iii) you are a securities firm engaged in securities trading and brokerage activities and providing investment banking and financial advisory services, and in the ordinary course of business, you and your affiliates may at any time hold long or short positions, and may trade or otherwise effect transactions, for your own account or the accounts of customers, in debt or equity securities of the CEMEX Parties, the Capital SPVs, their respective affiliates or other entities that may be involved in the transactions contemplated hereby; (iv) any of you or your respective affiliates may deal in investments as principal or agent

for more than one party or may make recommendations to buy or sell a designated investment in which any of you or any of your respective affiliates may have a long or short position or in which one of you or your respective affiliate's customers has given instructions to buy or sell; (v) any of you may in your sole discretion continue to own or dispose of, in any manner you may elect, any Debentures you may beneficially own at the date of this Agreement or hereafter acquire, in any such case subject to applicable law, and in particular, none of you has any obligation to the CEMEX Parties or the Capital SPVs, pursuant to this Agreement or otherwise, to exchange or refrain from exchanging Debentures beneficially owned by you pursuant to the Offers or to otherwise take, or refrain from taking, any action in respect of the Offers and Solicitations; and (vi) you are not an advisor as to legal, tax, accounting or regulatory matters in any jurisdiction, and the CEMEX Parties and the Capital SPVs must consult with their own advisors concerning such matters and will be responsible for making their own independent investigation and appraisal of the transactions contemplated hereby, and you shall have no responsibility or liability to the CEMEX Parties or the Capital SPVs or their respective security holders with respect thereto.

(j) To the extent the CEMEX Parties elect to consummate one or more of the Exchange Offers, the CEMEX Parties agree to exchange the New Senior Secured Notes for the applicable Debentures of the Holders entitled thereto and who have validly tendered and not validly withdrawn their Debentures in such Offers in accordance with the terms (as may be amended) set forth in the Offering and Solicitation Documents. Each CEMEX Party agrees not to exchange any Debentures during the term of the Offers except pursuant to and in accordance with the Offers or as otherwise agreed in writing by the parties hereto and permitted under applicable laws and regulations.

(k) Other than those financial advisors that have been mutually agreed between the Dealer Managers and the CEMEX Parties in connection with the Offers and Solicitations, no broker, investment banker, financial advisor or other person, other than the Dealer Managers, are entitled to any broker's, finder's, financial advisor's or other similar fee or commission in connection with the Offers or Solicitations based upon arrangements made by or on behalf of the CEMEX Parties, the Capital SPVs or any of their subsidiaries.

2. Compensation and Expenses.

(a) The CEMEX Parties jointly and severally agree to pay the Dealer Managers, as compensation for their services as Dealer Managers in connection with the Offers and the Solicitations, the fees calculated and payable as set forth in Annex B hereto. The foregoing fee will be payable on the Settlement Date (as defined herein) concurrently with the exchange of Debentures for New Senior Secured Notes pursuant to the Offers and Solicitations or such other date as may be agreed by the CEMEX Parties and you.

(b) The CEMEX Parties further agree to pay directly or reimburse you, as the case may be, for (i) all reasonable expenses incurred in relation to the preparation, printing, filing, mailing or other distribution of all Offering and Solicitation Documents and Additional Materials (in each case, as amended or supplemented, if amended or supplemented), (ii) all reasonable fees and expenses of the Exchange Agents and the Information Agents (including counsel therefore), (iii) all fees, if any, payable to Dealers (including you) and banks and trust

companies as reimbursement for their customary mailing and handling fees and expenses incurred in forwarding the Offering and Solicitation Documents and any Additional Material to their customers, (iv) all reasonable expenses for the preparation, printing, authentication, issuance and delivery of the New Senior Secured Notes, all expenses incident to the issuance and delivery of New Senior Secured Notes, including any stamp, transfer or similar taxes in connection with the original issuance and exchange of the New Senior Secured Notes for Debentures, (v) the printing (or reproduction) and delivery of this Agreement, the Indenture and supplemental indentures to the Existing Indentures effecting the Proposed Amendments (the "Supplemental Indentures"), any blue sky memorandum and all other agreements or documents printed (or reproduced) and delivered in connection with the Offers and Solicitations, (vi) all reasonable filing fees, attorneys' fees and expenses incurred by the CEMEX Parties, the Capital SPVs or the Dealer Managers in connection with qualifying or registering (or obtaining exemptions from the qualification or registration of) all or any part of the New Senior Secured Notes under the securities laws of the several states of the United States, the provinces of Canada, member states of the European Union, the United Kingdom or other jurisdictions reasonably designated by the Dealer Managers, (vii) the fees and expenses of the Trustee, including the fees and disbursements of counsel for the Trustee in connection with the Indenture, the Supplemental Indentures and the New Senior Secured Notes, (viii) any fees payable in connection with the rating of the New Senior Secured Notes with the ratings agencies, (ix) all fees and expenses (including reasonable fees and expenses of counsel) of the CEMEX Parties in connection with approval of the New Senior Secured Notes by The Depository Trust Company ("DTC") in the United States, Euroclear Bank, S.A./N.V., as operator of the Euroclear System ("Euroclear") and Clearstream Banking, S.A. ("Clearstream") outside the United States, as applicable, for "book-entry" transfer, and the performance by the CEMEX Parties of their respective other obligations under this Agreement, (x) any filings required to be made with the Financial Industry Regulatory Authority, Inc. (including filing fees and the reasonable fees and expenses of counsel for the Dealer Managers relating to such filings); (xi) the fees and expenses of the accountants of the CEMEX Parties and the fees and expenses of counsel (including local and special counsel) for the CEMEX Parties; and (xii) all of the Dealer Managers' reasonable out-of-pocket costs and expenses (including, without limitation, reasonable and documented fees, disbursements and other charges of Sullivan & Cromwell LLP and such other legal counsel in other applicable jurisdictions and other experts as may be required, with the fees of Sullivan & Cromwell LLP subject to a fee cap of U.S.$625,000 plus disbursements) incurred in connection with the Offers and Solicitations; DTC, Euroclear and Clearstream are referred to herein collectively as the " Book-entry Transfer Facilities", and each individually as a "Book-entry Transfer Facility". All payments to be made by the CEMEX Parties pursuant to this Section 2(b) shall be made reasonably promptly after the expiration or termination of the Offers and the Solicitations or your withdrawal as a Dealer Manager, against delivery to the CEMEX Parties of statements therefor. The CEMEX Parties shall perform their obligations set forth in this Section 2(b) whether or not the Offers and Solicitations are commenced or the CEMEX Parties exchange any Debentures of any series for New Senior Secured Notes pursuant to the Offers or the Proposed Amendments are consented to by the Holders of any series of Debentures.

3. Representations, Warranties and Agreements of the CEMEX Parties. The CEMEX Parties, jointly and severally, represent, warrant and agree that as of (i) the Commencement Date, (ii) the Expiration Date and (iii) the Exchange Date (in each case, unless made with respect to a specific date, in which case they are true and correct as of such date) that:

(a) Subject to compliance by the Dealer Managers with the representations and warranties set forth in Section 6 hereof and with the procedures set forth in the Offer and Solicitation Documents, it is not necessary in connection with the offer, issuance and delivery of the New Senior Secured Notes to Holders who have validly tendered and not validly withdrawn their Debentures in the Offers to register the New Senior Secured Notes under the Securities Act or to qualify the Indenture under the Trust Indenture Act of 1939 (the "Trust Indenture Act," which term, as used herein, includes the rules and regulations of the Commission promulgated thereunder).

(b) None of the CEMEX Parties nor any of their respective affiliates (as such term is defined in Rule 501 under the Securities Act), nor any person acting on any of their behalf (other than the Dealer Managers, as to whom no representation or warranty is made) has, directly or indirectly, solicited any offer to buy or offered to sell, or will, directly or indirectly, solicit any offer to buy or offer to sell, in the United States or to any United States citizen or resident, any security which is or would be integrated with the sale of the New Senior Secured Notes in a manner that would require the New Senior Secured Notes to be registered under the Securities Act. None of the CEMEX Parties nor any of their respective affiliates, or any person acting on its or any of their behalf (other than the Dealer Managers, as to whom no representation or warranty is made) has engaged or will engage, in connection with the offering of the New Senior Secured Notes, in any form of general solicitation or general advertising within the meaning of Rule 502 under the Securities Act. With respect to those New Senior Secured Notes sold in reliance upon Regulation S, (i) none of the CEMEX Parties nor any of their respective affiliates nor any person acting on its or their behalf (other than the Dealer Managers, as to whom no representation or warranty is made) has engaged or will engage in any directed selling efforts within the meaning of Regulation S and (ii) the CEMEX Parties and their respective affiliates and any person acting on their behalf (other than the Dealer Managers, as to whom no representation or warranty is made) have complied and will comply with the offering restrictions set forth in Regulation S.

(c) The New Senior Secured Notes are eligible for resale pursuant to Rule 144A and will not be, at the Exchange Date, of the same class as securities listed on a national securities exchange registered under Section 6 of the Exchange Act or quoted in a U.S. automated interdealer quotation system.

(d) None of the CEMEX Parties owns any of the Debentures.

(e) The documents incorporated by reference in each of the Offering and Solicitation Documents and any Additional Material when filed with the Commission, conformed or will conform, as the case may be, in all material respects to the requirements of the Exchange Act and the rules and regulations of the Commission thereunder, and did not and will not, in each case, as of the time of filing, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(f) Each of the CEMEX Parties has been duly organized and is validly existing and, if applicable, in good standing under the laws of the jurisdiction in which it is chartered or organized with power and authority to own or lease, as the case may be, and to

operate its properties and conduct its businesses as described in the Offer and Solicitation Documents, and, if applicable, is duly qualified to do business as foreign corporation and is in good standing under the laws of each jurisdiction that requires such qualification of such person is subject to no material liability or disability by reason of the failure to be so qualified.

(g) Each of the CEMEX Parties has full right, power and authority to execute and deliver each of the Transaction Documents to which they are a party and to perform their respective obligations hereunder and thereunder; and all action required to be taken for the due and proper authorization, execution and delivery of each of the Transaction Documents and the consummation of the transactions contemplated thereby has been duly and validly taken.

(h) All the outstanding shares of capital stock or other equity interests of CEMEX have been duly authorized and validly issued and are fully paid and nonassessable, and, except as otherwise set forth in the Offering and Solicitation Documents and Section 3(l) below, and except for the security interest created under the Transaction Security Documents, all outstanding shares of capital stock or other equity interests of the significant subsidiaries of CEMEX are owned by CEMEX either directly or through wholly-owned and majority-owned subsidiaries, free and clear of any security interest, claim, lien or encumbrance.

(i) This Agreement has been duly and validly authorized, executed and delivered by each of the CEMEX Parties and, assuming that this Agreement is a valid and legally binding obligation of the Dealer Managers, constitutes a valid and legally binding obligation of each of the CEMEX Parties, enforceable against them in accordance with its terms, except as enforceability may be limited by the effects of bankruptcy (*Concurso Mercantil* or *Quiebra*), insolvency, fraudulent conveyance, reorganization, moratorium and other similar laws relating to or affecting creditors' rights generally, general equitable principles (whether considered in a proceeding in equity or at law) (the " Enforceability Exceptions") and except as the enforceability of the indemnity provisions thereof may be limited by considerations of public policy; and this Agreement conforms in all material respects to the description hereof contained in the Offering Memorandum and the Offering and Solicitation Documents, each as amended or supplemented at such date.

(j) As of the Exchange Date, the New Senior Secured Notes will be duly secured by a first-priority security interest in the Collateral on an equal and ratable basis with (i) the indebtedness under the Financing Agreement, (ii) the notes (or similar instruments, including long term *Certificados Bursátiles*) outstanding on the date of the Financing Agreement which are not subject to the Financing Agreement but are required to be secured pursuant to their terms, (iii) the U.S. Dollar-denominated 9.50% Senior Secured Notes due 2016, (iv) the Euro-denominated 9.625% Senior Secured Notes due 2017, but holding a New Senior Secured Note will not grant its holders the right to direct the foreclosure or the right to foreclose on the Collateral.

(k) The shares that constitute the Collateral are fully paid and non assessable and not subject to any option to purchase or similar rights and are free and clear of any lien, pledge, security interest or encumbrance, except for the security interest created under the Transaction Security Documents. The constitutional documents of the companies whose shares are subject to the Collateral do not and could not restrict or inhibit any transfer of those shares on

creation or enforcement of the Collateral. There are no agreements in force which provide for the issue or allotment of, any share or loan capital of CEMEX or any of its subsidiaries (including any option or right of pre-emption or conversion) other than (i) pre-emptive rights and the obligation of CEMEX to deliver CEMEX shares under the convertible bond of CEMEX *Obligaciones forzosamente convertibles en acciones representativas del capital social de CEMEX*, dated as of December 10, 2009 (ii) arising under applicable law in favor of shareholders generally; (iii) arising under any obligation in respect of any stock option plan, restricted stock plan or retirement plan which CEMEX or any of its subsidiaries customarily provides to its employees, consultants and directors and (iv) arising under any obligation in respect of the 4.875% Optional Convertible Subordinated Notes due 2015.

(l) Under the Transaction Security Documents, the Collateral is granted over all the issued share capital in each of CEMEX and its subsidiaries whose shares are subject to the Collateral except:

(i) in the case of CEMEX España:

(A) 0.3602% of the issued share capital, comprised of shares owned by subsidiaries of CEMEX España; and

(B) 0.1716% of the issues share capital, comprised of shares owned by persons that are not subsidiaries or affiliates of CEMEX;

(ii) in the case of CEMEX Trademarks Holding Ltd., 0.4326% of the issues share capital, comprised of shares owned by CEMEX Inc.;

(iii) in the case of each Mexican company whose shares are the subject to the Collateral (except in the case of CEMEX México), the single share held by a minority shareholder that is either CEMEX or any of its subsidiaries;

(iv) in the case of CEMEX México, 0.1245% of the issued share capital, comprised of shares owned by CEMEX, Inc.

(m) The Offering and Solicitation Documents and the Additional Material, taken as a whole, comply in all material respects with all applicable requirements of the U.S. federal securities laws; and the Offering and Solicitation Documents and the Additional Material, taken as a whole, do not, and at all times during the period of the Offers and Solicitations will not, contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements made therein, in the light of the circumstances under which they were made, not misleading; provided that the CEMEX Parties make no representation and warranty with respect to any statements or omissions made in the Offering and Solicitation Documents in reliance upon and in conformity with information relating to the Dealer Managers furnished to the CEMEX Parties in writing by the Dealer Managers expressly for use in the Offering and Solicitation Documents (which for purposes of this proviso consists solely of the name and address of each Dealer Manager). The Offering and Solicitation Documents will contain all the information specified in Rule 144A. The CEMEX Parties have not distributed and will not distribute, prior to the Exchange Date, any offering material in connection with the Offers other than the Offering and Solicitation Documents and Additional Material.

(n) The consolidated audited historical financial statements and schedules of CEMEX and its consolidated subsidiaries included or incorporated by reference in the Offering and Solicitation Documents present fairly in all material respects the financial condition, results of operations and cash flows of CEMEX and its consolidated subsidiaries as of the dates and for the periods indicated and have been prepared in conformity with Mexican FRS applied on a consistent basis throughout the periods involved (except as otherwise noted therein); and the selected financial data set forth under the caption "Selected Consolidated Financial Information" in the Offering and Solicitation Documents fairly present, on the basis stated in the Offering and Solicitation Documents, the information included therein.

(o) Except as described in the Offering and Solicitation Documents, since December 31, 2009, (i) there has not been any change in the capital stock or long-term debt of CEMEX or any of its subsidiaries, or any dividend or distribution of any kind declared, set aside for payment, paid or made by CEMEX on any class of capital stock; and (ii) there has not been any material adverse change, or any development involving a prospective material adverse change, in or affecting the business, properties, management, financial position, results of operations or prospects of CEMEX and its subsidiaries taken as a whole; and (iii) neither CEMEX nor any of its subsidiaries has entered into any transaction or agreement that is material to CEMEX and its subsidiaries taken as a whole or incurred any liability or obligation, direct or contingent, that is material to CEMEX and its subsidiaries taken as a whole.

(p) As of the Expiration Date, the Indenture will be duly authorized by each of the CEMEX Parties, and, when duly executed and delivered in accordance with its terms by each of the parties thereto, and provided that the CEMEX Parties have previously published the announcement relating to the issuance of the New Senior Secured Notes in the Mercantile Registry's Official Gazette (*Boletín Oficial del Registro Mercantil*) and granted, filed with the Spanish tax authorities and registered with the Mercantile Registry of Madrid the public deed of issuance of the New Secured Senior Notes, will constitute a valid and legally binding agreement of each of the CEMEX Parties enforceable against each of them in accordance with its terms, except as enforceability may be limited by the Enforceability Exceptions.

(q) The New Senior Secured Notes have been duly and validly authorized by CEMEX España and, when duly executed, authenticated, issued and delivered as provided in the Indenture and exchanged for Debentures in accordance with the terms of the Offers, and provided that the CEMEX Parties have previously published the announcement relating to the issuance of the New Senior Secured Notes in the Mercantile Registry's Official Gazette (*Boletín Oficial del Registro Mercantil*) and granted, filed with the Spanish tax authorities and registered with the Mercantile Registry of Madrid the public deed of issuance of the New Secured Senior Notes, will be duly and validly issued and outstanding and will constitute valid and legally binding obligations of CEMEX España enforceable against CEMEX España in accordance with their terms, subject to the Enforceability Exceptions, and will be entitled to the benefits of the Indenture; and as of the Expiration Date, the Guarantees will be duly authorized by each of the Guarantors, and, when the New Senior Secured Notes have been duly executed, authenticated, issued and delivered as provided in the Indenture and exchanged for Debentures in accordance

with the terms of the Offers, will be valid and legally binding obligations of each of the Guarantors, enforceable against each of the Guarantors in accordance with their terms, subject to the Enforceability Exceptions, and will be entitled to the benefits of the Indenture.

(r) The New Senior Secured Notes, the Guarantees, the Security Documents and the Indenture will conform in all material respects to the descriptions thereof contained in the Offering and Solicitation Documents. The statements in the Offering and Solicitation Documents under the headings "Description of Other Indebtedness," "General Terms of the Exchange Offer," "Spanish Taxation," "Luxembourg Taxation," Netherlands Taxation," "Mexican Taxation" and "Certain U.S. Federal Income Tax Considerations," insofar as such statements summarize legal matters, agreements, documents or proceedings discussed therein, are accurate summaries of such legal matters, agreements, documents or proceedings in all material respects.

(s) There is no, and the execution, delivery and performance by each of the CEMEX Parties of the Transaction Documents and the consummation of the transactions contemplated hereby and thereby do not and will not result in any, violation or default of (i) any provision of its organizational documents; (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which CEMEX or its subsidiaries is a party or bound or to which their property is subject (including the Financing Agreement, the Transaction Security Documents and the indentures governing the U.S. Dollar-denominated 9.50% Senior Secured Notes due 2016 and the Euro-denominated 9.625% Senior Secured Notes due 2017); or (iii) any statute, law, rule, regulation, judgment, order or decree applicable to CEMEX or any of its subsidiaries of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over CEMEX or any of its subsidiaries or any of their respective properties, as applicable, except for such violations or defaults which, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect (as defined below).

(t) No consent, approval, authorization, order, registration, qualification or other action of, or filing with or notice to, the Commission or any Other Agency is required in connection with the execution, delivery and performance by any of the CEMEX Parties of any of the Transaction Documents, the making or consummation of the Offers and Solicitations or the consummation of the other transactions contemplated by this Agreement, the Offering and Solicitation Documents or any Additional Material, other than (i) the publication of the announcement related to the issue of the New Senior Secured Notes in the Mercantile Registry's Official Gazette (Boletín Oficial del Registro Mercantil); (ii) the granting, filing with the Spanish tax authorities and registration of the public deed of issuance of the New Secured Senior Notes and the disbursement notarial minutes with the Mercantile Registry of Madrid, and (iii) as otherwise disclosed in the Offering and Solicitation Documents or any Additional Material.

(u) No action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving CEMEX or any of its subsidiaries or their respective property is pending or, to the best knowledge of CEMEX, threatened that (i) could reasonably be expected to have a material adverse effect on the performance of this Agreement,

the Indenture, the New Senior Secured Notes and the other Transaction Documents or the consummation of any of the transactions contemplated hereby or thereby or (ii) could reasonably be expected to have a material adverse effect on the condition (financial or otherwise), prospects, earnings, business or properties of CEMEX and its subsidiaries, taken as a whole, whether or not arising from transactions in the ordinary course of business (a " Material Adverse Effect"), except as set forth in or contemplated in the Offering and Solicitation Documents (exclusive of any amendment or supplement thereto).

(v) KPMG Cárdenas Dosal, S.C., which has certified certain financial statements of CEMEX and its consolidated subsidiaries and delivered its report with respect to the audited consolidated financial statements and schedules included or incorporated by reference in the Offering and Solicitation Documents, is an independent auditor with respect to CEMEX in accordance with local auditing standards, which are substantially the same as those contemplated by Rule 10A of the Code of Professional Conduct of the American Institute of Certified Public Accountants.

(w) Each of CEMEX and its subsidiaries owns or leases all such properties as are necessary to the conduct of its operations as presently conducted except (i) for such properties the loss of which would not reasonably be expected to result in a Material Adverse Effect and (ii) as set forth in or contemplated in the Offering and Solicitation Documents (exclusive of any amendment or supplement).

(x) None of the CEMEX Parties is, and after giving effect to the issuance and delivery of the New Senior Secured Notes and the Guarantees, will be, an "investment company" as defined in the Investment Company Act of 1940, as amended, and the rules and regulations of the Commission thereunder (collectively, the "Investment Company Act").

(y) CEMEX and each of its subsidiaries have filed all applicable tax returns that are required to be filed by them or have requested extensions of the period applicable for the filing of such returns (except in any case in which the failure so to file would not have a Material Adverse Effect and except as set forth in or contemplated in the Offering and Solicitation Documents (exclusive of any amendment or supplement thereto)) and have paid all taxes required to be paid by them and any other assessment, fine or penalty levied against them, to the extent that any of the foregoing is due and payable, except for any such tax, assessment, fine or penalty that is currently being contested in good faith or as would not have a Material Adverse Effect and except as set forth in or contemplated in the Offering and Solicitation Documents (exclusive of any amendment or supplement thereto).

(z) CEMEX and each of its subsidiaries possess all licenses, certificates, permits and other authorizations issued by all applicable authorities necessary to conduct their respective businesses, except to the extent that the failure to have such license, certificate, permit or authorization would not reasonably be expected to have a Material Adverse Effect and except, as described in or contemplated in the Offering and Solicitation Documents (exclusive of any amendment or supplement thereto), and neither CEMEX nor any of its subsidiaries have received any notice of proceedings relating to the revocation or modification of any such certificate, authorization or permit which, singly or in the aggregate, if the subject of an unfavorable decision, ruling or finding, would have a Material Adverse Effect, except as set forth in or contemplated in the Offering and Solicitation Documents (exclusive of any amendment or supplement thereto).

(aa) No labor problem or dispute with the employees of CEMEX or any of its subsidiaries exists or is threatened or imminent, and CEMEX is not aware of any existing or imminent labor disturbance by the employees of any of its subsidiaries' principal suppliers, contractors or customers, except as would not have a Material Adverse Effect and except as set forth in or contemplated in the Offering and Solicitation Documents (exclusive of any amendment or supplement thereto).

(bb) Each of CEMEX and its subsidiaries (i) is in compliance with any and all applicable laws and regulations relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants (" Environmental Laws"); (ii) has received and is in compliance with all permits, licenses or other approvals required under applicable Environmental Laws to conduct its businesses; and (iii) has not received notice of any actual or potential liability under any Environmental Law, except where such non-compliance with Environmental Laws, failure to receive required permits, licenses or other approvals, or liability would not, individually or in the aggregate, have a Material Adverse Effect, except as set forth in or contemplated in the Offering and Solicitation Documents (exclusive of any amendment or supplement thereto). Except as set forth in the Offering and Solicitation Documents, neither CEMEX nor any of its subsidiaries has been named as a "potentially responsible party" under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended.

(cc) In the ordinary course of its business, CEMEX periodically reviews the effect of Environmental Laws on the business, operations and properties of CEMEX and its subsidiaries, in the course of which it identifies and evaluates associated costs and liabilities (including, without limitation, any capital or operating expenditures required for clean-up, closure of properties or compliance with Environmental Laws, or any permit, license or approval, any related constraints on operating activities and any potential liabilities to third parties); on the basis of such review, CEMEX has reasonably concluded that such associated costs and liabilities would not, singly or in the aggregate, have a Material Adverse Effect, except as set forth in or contemplated in the Offering and Solicitation Documents (exclusive of any amendment or supplement thereto).

(dd) CEMEX and each of its subsidiaries maintain a system of internal accounting controls sufficient to provide reasonable assurance that (i) transactions are executed in accordance with management's general or specific authorizations; (ii) transactions are recorded as necessary to permit preparation of financial statements in conformity with Mexican FRS and to maintain asset accountability; (iii) access to assets is permitted only in accordance with management's general or specific authorization; and (iv) the recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences. CEMEX's and each of its subsidiaries' internal controls over financial reporting are effective, and neither CEMEX nor any of its subsidiaries is aware of any material weakness in its internal control over financial reporting. CEMEX and each of its subsidiaries maintains "disclosure controls and procedures" (as such term is defined in Rule 13a-15(e) under the Exchange Act) and such disclosure controls and procedures are effective.

(ee) CEMEX and each of its subsidiaries are insured by insurers of recognized financial responsibility against such losses and risks and in such amounts as are prudent and customary in the businesses in which they are engaged; all policies of insurance and fidelity or surety bonds insuring CEMEX or any of its subsidiaries or any of their respective businesses, assets, employees, officers and directors are in full force and effect; CEMEX and its subsidiaries are in compliance in all material respects with the terms of such policies and instruments; there are no material claims by CEMEX or any of its subsidiaries under any such policy or instrument as to which any insurance company is denying liability or defending under a reservation of rights clause; neither CEMEX nor any of its subsidiaries has been refused any material insurance coverage sought or applied for; and neither CEMEX nor any of its subsidiaries has reason to believe that it will not be able to renew its existing insurance coverage as and when such coverage expires or to obtain similar coverage from similar insurers as may be necessary to continue its business at a cost that would not have a Material Adverse Effect except as set forth in or contemplated in the Offering and Solicitation Documents (exclusive of any amendment or supplement thereto).

(ff) None of CEMEX, any of its subsidiaries nor, to the knowledge of CEMEX, any director, officer, agent, employee or affiliate of CEMEX is aware of or has taken any action, directly or indirectly, that would result in a violation by such persons of the Foreign Corrupt Practices Act of 1977, as amended, and the rules and regulations thereunder (the "FCPA"), including, without limitation, making use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay or authorization of the payment of any money, or other property, gift, promise to give, or authorization of the giving of anything of value to any "foreign official" (as such term is defined in the FCPA) or any foreign political party or official thereof or any candidate for foreign political office, in contravention of the FCPA; and CEMEX , its subsidiaries and, to the knowledge of CEMEX, its affiliates have conducted their respective businesses in compliance with the FCPA and have instituted and maintain policies and procedures designed to ensure, and which are reasonably expected to continue to ensure, continued compliance therewith.

(gg) The operations of CEMEX and each of its subsidiaries are and have been conducted at all times in compliance with applicable financial recordkeeping and reporting requirements and the money laundering statutes and the rules and regulations thereunder and any related or similar rules, regulations or guidelines, issued, administered or enforced by any governmental agency (collectively, the " Money Laundering Laws") and no action, suit or proceeding by or before any court or governmental agency, authority or body or any arbitrator involving CEMEX or any of its subsidiaries with respect to the Money Laundering Laws is pending or, to the best knowledge of CEMEX, threatened.

(hh) None of CEMEX, any of its subsidiaries or, to the knowledge of CEMEX, any director, officer, agent, employee or affiliate of CEMEX or any of its subsidiaries is currently subject to any sanctions administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury ("OFAC"). There is and has been no failure on the part of CEMEX and or of CEMEX's directors or officers, in their capacities as such, to comply with any provision of the Sarbanes-Oxley Act of 2002 and the rules and regulations promulgated in connection therewith (the " Sarbanes-Oxley Act"), including Section 402 relating to loans and Sections 302 and 906 relating to certifications.

(ii) Neither CEMEX nor any of its subsidiaries has taken, directly or indirectly, any action designed to or that has constituted or that might reasonably be expected to cause or result, under the Exchange Act or otherwise, in stabilization or manipulation of the price of any security of CEMEX España or any of the Capital SPVs to facilitate the sale or resale of the New Senior Secured Notes.

(jj) No stop order, restraining order or denial of an application for approval has been issued and no proceedings, litigation or investigation have been initiated or, to the best of the CEMEX Parties' knowledge, threatened before the Commission or any Other Agency with respect to the making or consummation of the Offers or the execution, delivery and performance of this Agreement or the consummation of the transactions contemplated by this Agreement or the Offering and Solicitation Documents.

(kk) None of the CEMEX Parties has paid or agreed to pay to any person any compensation for soliciting another to purchase any securities of a CEMEX Party or a Capital SPV (except as contemplated in this Agreement).

(ll) In connection with the Offers, the CEMEX Parties have complied, and will continue to comply, in all material respects with the applicable provisions of the Exchange Act and the Regulations, including, without limitation, Sections 10 and 14 of the Exchange Act and Rules 10b-5 and l4e-l thereunder.

(mm) There are no stamp or other issuance or transfer taxes or duties or other similar fees or charges required to be paid in connection with the execution and delivery of this Agreement or the issuance or exchange by CEMEX España, Luxembourg Branch of the New Senior Secured Notes.

(nn) CEMEX is a "foreign private issuer," as defined in Rule 405 of the Securities Act.

(oo) As of the Exchange Date, each of the Security Documents will be duly authorized by each of the CEMEX Parties party thereto. If the Security Documents are entered into on or prior to the date hereof, each of the Security Documents have been duly executed and delivered by each of the CEMEX Parties party thereto. If the Security Documents are entered into on or prior to the Exchange Date, each of the Security Documents will have been duly executed and delivered by each of the CEMEX Parties party thereto on such date. When the Security Documents have each been duly executed and delivered, the Security Documents will be valid and binding agreements of each of the CEMEX Parties party thereto and create a valid and binding lien on the collateral (as defined in the Offering and Solicitation Documents) on the Exchange Date securing the New Senior Secured Notes and enforceable against each of the CEMEX Parties in accordance with their terms, except as enforceability may be limited by the terms thereof and the Enforceability Exceptions. As used herein, "Security Documents" means the security agreements, pledge agreements, collateral assignments and related agreements creating the security interests in the collateral (as defined in the Offering and Solicitation Documents) as contemplated by the Indenture.

(pp) Except for limitations with respect to the New Senior Secured Notes and Guarantees (and for the purposes of this representation such limitations described in the Offering Memorandum shall also apply to any Transaction Document) as described in the Offering Memorandum or as is not material to a holder of New Senior Secured Notes, the legality, validity, enforceability or admissibility into evidence of any of the Offering and Solicitation Documents, any Additional Material or any Transaction Document in any jurisdiction in which CEMEX or other CEMEX Party (a "Foreign Subsidiary") is organized is not dependent upon such document being submitted into, filed or recorded with any court or other authority in any such jurisdiction on or before the date hereof or that any tax, imposition or charge be paid in any such jurisdiction on or in respect of any such document.

(qq) It is not necessary under the laws of any jurisdiction in which CEMEX or any Foreign Subsidiary is organized that any of the holders of the New Senior Secured Notes be licensed, qualified or entitled to carry on business in any such jurisdiction by reason of the execution, delivery, performance or enforcement of any of the Transaction Documents.

(rr) Except for limitations with respect to the New Senior Secured Notes and Guarantees (and for the purposes of this representation such limitations described in the Offering Memorandum shall also apply to any Transaction Document) as described in the Offering Memorandum or as is not material to a holder of New Senior Secured Notes, a Holder of the Debentures, a holder of the New Senior Secured Notes, the Trustee and each Dealer Manager are each entitled to sue as plaintiff in the courts of the jurisdiction of formation and domicile of any CEMEX Party for the enforcement of their respective rights under any Transaction Document and such access to such courts will not be subject to any conditions which are not applicable to residents of such jurisdiction or a company incorporated in such jurisdiction, other than the requirement to post a bond or guarantee with respect to court costs and legal fees. This Agreement, the Indenture and the New Senior Secured Notes are in proper legal form under the laws of the jurisdiction of formation and domicile of the CEMEX Parties for the enforcement thereof against the CEMEX Parties.

(ss) Except for limitations with respect to the New Senior Secured Notes and Guarantees (and for the purposes of this representation such limitations described in the Offering Memorandum shall also apply to any Transaction Document) as described in the Offering Memorandum or as are not material to a holder of New Senior Secured Notes, subject to such qualifications and assumptions as are set forth in the opinion of relevant local counsel for the CEMEX Parties or the Dealer Managers, the courts of the jurisdiction of formation and domicile of the CEMEX Parties will recognize and enforce a judgment obtained against the CEMEX Parties in any federal or state court located in the borough of Manhattan in the City of New York in an action arising out of or in connection with the Offering and Solicitation Documents, any Additional Material or any Transaction Document, in each case, without considering the merits thereof.

(tt) The choice of law provisions set forth in this Agreement and the Indenture are legal, valid and binding under the laws of the jurisdiction of formation and domicile of the CEMEX Parties and, subject to such qualifications an assumptions as are set forth in the opinion of relevant local counsel for the CEMEX Parties or the Dealer Managers, will be recognized and given effect to by the courts of the jurisdiction of formation and domicile of the CEMEX Parties.

The CEMEX Parties have the power to submit, and pursuant to Section 14 of this Agreement have, to the extent permitted by law, legally, validly, effectively and irrevocably submitted, to the jurisdiction of any New York State or United States Federal court sitting in The City of New York, and has the power to designate, appoint and empower, and pursuant to Section 14 of this Agreement, has legally, validly and effectively designated, appointed and empowered an agent for service of process in any suit or proceeding based on or arising under this Agreement in any New York State or United States Federal court sitting in The City of New York.

(uu) The CEMEX Parties, and their obligations under this Agreement and the Indenture, are subject to civil and commercial law and to suit and neither they nor any of their properties, assets or revenues have any right of immunity, on the grounds of sovereignty, from any legal action, suit or proceeding, from the giving of any relief in any such legal action, suit or proceeding, with respect to their obligations or liabilities or any other matter under or arising out of or in connection with this Agreement or the Indenture; and, to the extent that the CEMEX Properties or any of their properties, assets or revenues may have or may hereafter become entitled to any such right of immunity in any such court in which proceedings may at any time be commenced, the CEMEX Parties have waived or will waive such right to the extent permitted by law and has consented to such relief and enforcement as provided in this Agreement and the Indenture.

Any certificate signed by any officer of CEMEX or any of its subsidiaries and delivered to you or your counsel in connection with the Offers and Solicitations shall be deemed a representation and warranty by the CEMEX Parties as to matters covered thereby, to each Dealer Manager.

4. Representations, Warranties and Agreements of the Capital SPVs . Each Capital SPV severally and not jointly, represents, warrants and agrees as to itself and not to any of the other Capital SPVs, that as of (i) the Commencement Date, (ii) the Expiration Date and (iii) the Exchange Date (in each case, unless made with respect to a specific date, in which case they are true and correct as of such date):

(a) Neither the Capital SPV nor any of its affiliates (as such term is defined in Rule 501 under the Securities Act), nor any person acting on its behalf (other than the Dealer Managers, as to whom no representation or warranty is made) has, directly or indirectly, solicited any offer to buy or offered to sell, or will, directly or indirectly, solicit any offer to buy or offer to sell, in the United States or to any United States citizen or resident, any security which is or would be integrated with the sale of the New Senior Secured Notes in a manner that would require the New Senior Secured Notes to be registered under the Securities Act. Neither the Capital SPV nor any of its affiliates, nor any person acting on its behalf (other than the Dealer Managers, as to whom no representation or warranty is made) has engaged or will engage, in connection with the offering of the New Senior Secured Notes, in any form of general solicitation or general advertising within the meaning of Rule 502 under the Securities Act. With respect to those New Senior Secured Notes sold in reliance upon Regulation S, (i) neither the Capital SPV nor any of its affiliates nor any person acting on its behalf (other than the Dealer Managers, as to whom no representation or warranty is made) has engaged or will engage in any directed selling efforts within the meaning of Regulation S and (ii) neither the Capital SPV nor any of its affiliates and any person acting on its behalf (other than the Dealer Managers, as to whom no representation or warranty is made) has complied and will comply with the offering restrictions set forth in Regulation S.

(b) The Capital SPV does not own any of the Debentures.

(c) The Capital SPV has been duly organized and is validly existing and in good standing under the laws of the jurisdiction in which it is chartered or organized with power and authority to own or lease, as the case may be, and to operate its properties and conduct its businesses as described in the Offer and Solicitation Documents, and, if applicable, is duly qualified to do business as foreign corporation and is in good standing under the laws of each jurisdiction that requires such qualification of such person or is subject to no material liability or disability by reason of the failure to be so qualified.

(d) The Capital SPV has full right, power and authority to execute and deliver each of the Transaction Documents to which it is a party and to perform its obligations hereunder and thereunder; and all action required to be taken for the due and proper authorization, execution and delivery of each of the Transaction Documents and the consummation of the transactions contemplated thereby has been duly and validly taken.

(e) This Agreement has been duly and validly authorized, executed and delivered by the Capital SPV and, assuming that this Agreement is a valid and legally binding obligation of the Dealer Managers, constitutes a valid and legally binding obligation of such Capital SPV, enforceable against it in accordance with its terms, except as enforceability may be limited by the Enforceability Exceptions and except as the enforceability of the indemnity provisions hereof may be limited by considerations of public policy.

(f) No consent, approval, authorization, order, registration, qualification or other action of, or filing with or notice to, the Commission or any Other Agency is required in connection with the execution, delivery and performance by the Capital SPV of any of the Transaction Documents, the making or consummation of the Offers and Solicitations or the consummation of the other transactions contemplated by this Agreement, the Transaction Documents, the Offering and Solicitation Documents or any Additional Material, other than as disclosed in the Offering and Solicitation Documents or any Additional Material.

(g) Neither the Capital SPV nor any of its subsidiaries has taken, directly or indirectly, any action designed to or that has constituted or that might reasonably be expected to cause or result, under the Exchange Act or otherwise, in stabilization or manipulation of the price of any security of any CEMEX Party or any of the Capital SPVs or to facilitate the sale or resale of the New Senior Secured Notes.

(h) The Capital SPV has not paid or agreed to pay to any person any compensation for soliciting another to purchase any securities of a CEMEX Party or a Capital SPV (except as contemplated in this Agreement).

(i) In connection with the Offers, the Capital SPV has complied, and will continue to comply, in all material respects with the applicable provisions of the Exchange Act and the Regulations, including, without limitation, Sections 10 and 14 of the Exchange Act and Rules 10b-5 and l4e-l thereunder.

(j) There is no, and the execution, delivery and performance by the Capital SPV of this Agreement, the Transaction Documents and the consummation of the transactions contemplated hereby and thereby do not and will not result in any, violation or default of (i) any provision of its organizational documents; (ii) the terms of any indenture, contract, lease, mortgage, deed of trust, note agreement, loan agreement or other agreement, obligation, condition, covenant or instrument to which it is a party or bound or to which its property is subject; or (iii) any statute, law, rule, regulation, judgment, order or decree applicable to the Capital SPV or any of its subsidiaries of any court, regulatory body, administrative agency, governmental body, arbitrator or other authority having jurisdiction over the Capital SPV or any of its subsidiaries or any of their respective properties, as applicable, except for such violations or defaults which, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect.

Any certificate signed by any officer of the Capital SPV or any of its subsidiaries and delivered to you or your counsel in connection with the Offers and Solicitations shall be deemed a representation and warranty by such Capital SPV as to matters covered thereby, to each Dealer Manager.

5. Further Agreements of the CEMEX Parties. The CEMEX Parties, jointly and severally, covenant and agree with the Dealer Managers that:

(a) The CEMEX Parties will qualify the New Senior Secured Notes for issuance and distribution under the securities or Blue Sky laws of such jurisdictions as the Dealer Managers shall reasonably request and will continue such qualifications in effect so long as required for the offering and resale of the New Senior Secured Notes; provided that none of the CEMEX Parties shall be required to (i) qualify as a foreign corporation or other entity or as a dealer in securities in any such jurisdiction where it would not otherwise be required to so qualify, (ii) file any general consent to service of process in any such jurisdiction, (iii) subject itself to taxation in any such jurisdiction if it is not otherwise so subject or (iv) otherwise incur unreasonable expense in connection with any such qualification.

(b) While the New Senior Secured Notes remain outstanding and are "restricted securities" within the meaning of Rule 144(a)(3) under the Securities Act, CEMEX will, during any period in which CEMEX is not subject to and in compliance with Section 13 or 15(d) of the Exchange Act, furnish to holders of the New Senior Secured Notes and prospective purchasers of the New Senior Secured Notes designated by such holders, upon the request of such holders or such prospective purchasers, the information required to be delivered pursuant to Rule 144A(d)(4) under the Securities Act.

(c) The CEMEX Parties will assist the Dealer Managers in arranging for the New Senior Secured Notes to be eligible for clearance and settlement through DTC.

(d) The CEMEX Parties will not, and will not permit any of their respective subsidiaries (as defined in Rule 144 under the Securities Act) to, resell any New Senior Secured Notes acquired by them prior to the first anniversary of the Exchange Date.

(e) None of the CEMEX Parties nor any of their respective affiliates (as defined in Rule 501 under the Securities Act) will, directly or through any agent, sell, offer for sale, solicit offers to buy or otherwise negotiate in respect of, any security (as defined in the Securities Act), that is or will be integrated with the sale of the New Senior Secured Notes in a manner that would require registration of the New Senior Secured Notes under the Securities Act.

(f) None of the CEMEX Parties will take, directly or indirectly, any action designed to or that could reasonably be expected to cause or result in any stabilization (as such term is used in Regulation M) or unlawful manipulation of the price of the New Senior Secured Notes.

(g) Each certificate for a New Senior Secured Note will bear the legend contained in "Transfer Restrictions" in the Offering Memorandum for the time period and upon the other terms stated in the Offering Memorandum.

(h) The Capital SPVs will cause all Debentures tendered and accepted for exchange in the Exchange Offers to be cancelled; and New Sunward, following instructions, will cause an amount of Existing DCNs equal to the aggregate principal amount of the corresponding Debentures validly tendered and accepted in the Exchange Offers to be cancelled.

(i) The CEMEX Parties will not extend, re-open, amend, waive any condition of or terminate any of the Exchange Offers without giving prior notice thereof to the Dealer Managers.

(j) The CEMEX Parties will not acquire (through prepayment, redemption, purchase or otherwise) any Debentures prior to the time of settlement on the Exchange Date other than pursuant to the Exchange Offers.

(k) The CEMEX Parties recognize and consent to the fact that the Dealer Managers (i) will use and rely primarily on the Offering and Solicitation Document and the information provided pursuant to this Agreement in performing the services contemplated by this Agreement and (ii) do not make any representation or warranty as to the accuracy or completeness of the Offering and Solicitation Documents or such other information. Each of the CEMEX Parties will promptly advise the Dealer Managers if any Offering and Solicitation Document or other such information becomes inaccurate in any material respect or is required to be updated.

(l) The CEMEX Parties shall advise, or cause the Exchange Agents to advise the Dealer Managers before 5:00 p.m., New York City time, or as promptly as reasonably practicable thereafter, daily or more frequently if requested as to major tally figures, by telephone or facsimile transmission or by furnishing the Dealer Managers with access to an Internet site established by the Exchange Agents for such purposes with respect to: (i) the number of the Debentures validly tendered on such day; (ii) upon request, the number of Debentures defectively tendered on such day; (iii) the number of the Debentures validly tendered represented by certificates physically held by the Exchange Agents or for which the Exchange Agents have received confirmation of receipt of book entry transfer of such Debentures into its

account at a book entry transfer facility pursuant to the procedures set forth in the Offering Memorandum on such day; (iv) the number of Debentures properly withdrawn on such day; (v) the cumulative totals of the number of Debentures in categories (i) through (iv) above; and (vi) upon request, the names and addresses of the registered owners of the Debentures who have so tendered in the Offer. On the business day following any such oral communication, the CEMEX Parties shall furnish, or cause the Exchange Agents to furnish, to the Dealer Managers a written or electronic report confirming the above information that has been communicated orally. The CEMEX Parties shall furnish, or cause the Exchange Agents to furnish, to the Dealer Managers such reasonable information on the tendering Holders as may be requested by the Dealer Managers from time to time.

(m) The CEMEX Parties will advise you promptly upon (i) the occurrence of any downgrading or (ii) its receipt of notice of (A) any downgrading, (B) any intended or potential downgrading or (C) any surveillance or review or any changed outlook that does not indicate an improvement in the rating accorded to the Debentures, the New Senior Secured Notes or any securities of, or guaranteed by, CEMEX by any "nationally recognized statistical rating organization," as such term is defined by the Commission for purposes of Rule 436(g)(2) under the Securities Act.

(n) The CEMEX Parties shall or shall cause (i) the announcement relating to the issuance of the New Senior Secured Notes to be published in the Mercantile Registry's Official Gazette (*Boletín Oficial del Registro Mercantil*) and (ii) the public deed of issuance of the New Secured Senior Notes to be granted, filed with the Spanish tax authorities and registered with the Mercantile Registry of Madrid, in each case on or prior to the Exchange Date.

6. Certain Agreements of the Dealer Managers . Each Dealer Manager (on its own behalf and on behalf of any of its affiliates) represents and agrees to each CEMEX Party that:

(a) such Dealer Manager has not solicited tenders and will not solicit the Holders of Debentures to exchange such Debentures in the Offers, or otherwise solicit any offer to buy or sell the New Senior Secured Notes by means of any form of general solicitation or general advertising within the meaning of Rule 502(c) of Regulation D under the Securities Act or in any manner involving a public offering within the meaning of Section 4(2) of the Securities Act and, in the case of any offer to buy or offer to sell the New Senior Secured Notes outside the United States, will only make such offers to persons such Dealer Manager reasonably believes to be persons other than U.S. persons in reliance upon Regulation S under the Securities Act; and

(b) such Dealer Manager has not solicited nor will such Dealer Manager solicit any Holder of Debentures to exchange such Debentures in the Offers, or otherwise solicit any offer to buy the New Senior Secured Notes from or offer to sell the New Senior Secured Notes to any person, (i) except a person it reasonably believes to be an "eligible holder" as defined on the cover page of the Offering Memorandum and (ii) otherwise consistently with the notices set out in the Offering Memorandum under the heading "Notices to investors in certain jurisdictions".

7. Conditions to Obligations of the Dealer Managers. The obligation of the Dealer Managers as provided herein is subject to the performance by the CEMEX Parties and the Capital SPVs of their respective covenants and other obligations hereunder and to the following additional conditions:

(a) The representations and warranties of the CEMEX Parties and the Capital SPVs shall be true and correct at the specified times during the Offers and at the Exchange Date; and the statements of the CEMEX Parties, the Capital SPVs and their respective officers or attorneys-in-fact made in any certificates delivered pursuant to this Agreement shall be true and correct on and as of the Commencement Date and the Exchange Date, as applicable.

(b) No event or condition of a type described in Section 3(o) hereof shall have occurred or shall exist, the effect of which in the reasonable judgment of the Dealer Managers makes it impracticable or inadvisable to proceed with the Offers on the terms and in the manner contemplated by this Agreement and the Offering and Solicitation Documents.

(c) The Dealer Managers shall have received on and as of each of the Commencement Date and the Exchange Date, a certificate of an executive officer or attorney-in fact of each of (i) the CEMEX Parties and (ii) the Capital SPVs, in each case who has specific knowledge of such CEMEX Party's and such Capital SPV's financial matters and is satisfactory to the Dealer Managers confirming that the representations and warranties of each of the CEMEX Parties and each of the Capital SPVs in this Agreement are true and correct in all material respects and that each of the CEMEX Parties and each of the Capital SPVs have complied with all agreements and satisfied all conditions on their part to be performed or satisfied hereunder at or prior to the Exchange Date, provided that any representation and warranty that is qualified as to "materiality", "Material Adverse Effect" or similar language is true and correct (after giving effect to any qualification therein). The officer or attorney-in fact signing and delivering such certificate shall do so having made due enquiry and without personal liability to the Dealer Managers as a result thereof and may rely upon the best of his or her knowledge as to proceedings threatened.

(d) On the Commencement Date, KPMG Cárdenas Dosal, S.C. shall have, and on the Exchange Date KPMG Cárdenas Dosal, S.C. shall have, in each case, furnished to the Dealer Managers, at the request of the CEMEX Parties, letters, dated the respective dates of delivery thereof and addressed to the Dealer Managers, in form and substance reasonably satisfactory to the Dealer Managers, containing statements and information of the type customarily included in accountants' "comfort letters" with respect to the financial statements and certain financial information contained or incorporated by reference in the Offering and Solicitation Documents; provided that the letter delivered on the Exchange Date shall use a "cut-off" date no more than five business days prior to the Exchange Date.

(e) Skadden, Arps, Slate, Meagher & Flom LLP, General Counsel for CEMEX, the Secretary of the Board of Directors of Cemex España, Warendorf, Ogier, Uría Menéndez Abogados, S.L.P., GHR Rechtsanwälte AG and Bonn, Schmitt, Steichen, counsel to the CEMEX Parties and the Capital SPVs, shall have furnished to the Dealer Managers their written opinions, dated as of the Commencement Date and as of the Exchange Date and addressed to the Dealer Managers, in form and substance reasonably satisfactory to the Dealer Managers.

(f) The Dealer Managers shall have received, (i) dated as of the Commencement Date, an opinion and a negative assurance statement and (ii) dated as of the Exchange Date, an opinion and a negative assurance statement, in each case of Sullivan & Cromwell LLP and Ritch Mueller, S.C., counsel for the Dealer Managers, with respect to such matters as the Dealer Managers may reasonably request, and such counsel shall have received such documents and information as they may reasonably request to enable them to pass upon such matters.

(g) No action shall have been taken or threatened and no statute, rule, regulation or order shall have been enacted, adopted or issued by any federal, state or foreign governmental or regulatory authority that would, as of the Commencement Date and as of the Exchange Date, render it, in your good faith judgment, inadvisable to continue with the commencement or consummation of the Offers and Solicitations; and no injunction or order of any federal, state or foreign court shall have been issued that would, as of the Commencement Date and as of the Exchange Date, render it, in your good faith judgment, inadvisable to continue with the issuance or distribution of the New Senior Secured Notes in exchange for the Debentures.

(h) The Dealer Managers shall have received (i) on and as of the Commencement Date and as of the Exchange Date satisfactory evidence of the good standing (or equivalent concept) of each of the CEMEX Parties and (ii) on and as of the Commencement Date and on and as of the Exchange Date satisfactory evidence of the good standing (or equivalent concept) of each of the Capital SPVs, in each case in their respective jurisdictions of organization, in each case in writing or any standard form of telecommunication, from the appropriate governmental authorities of such jurisdictions.

(i) The New Senior Secured Notes shall be eligible for clearance and settlement through DTC, Euroclear and Clearstream.

(j) On the Exchange Date, the Dealer Managers shall have received executed copies of each of the Transaction Documents (to the extent they have not already been received), and all such Transaction Documents shall be in full force and effect.

(k) On the Exchange Date, all conditions to the consummation of the Offers set forth in the Offering and Solicitation Documents shall have been satisfied in all material respects or validly waived by CEMEX Parties or the Capital SPVs, as applicable, and all other transactions contemplated by the Offering and Solicitation Documents to be consummated simultaneously with or prior to the consummation of the Offers shall have been consummated or shall be consummated simultaneously.

(l) On the Exchange Date, in accordance with the terms of the Indenture and the applicable Security Documents, the Trustee for the benefit of the holders of the New Senior Secured Notes shall have received documentation in form and substance reasonably satisfactory to the Dealer Managers evidencing the valid and perfected security interests in the Collateral as contemplated herein and in the Offering and Solicitation Documents.

(m) In addition, on a before the Commencement Date and the Exchange Date, you and your counsel shall have received such further documents, certificates and schedules relating to the business, corporate, legal and financial affairs of the CEMEX Parties' and the Offers and Solicitations as reasonably requested by you or your counsel.

All opinions, letters, certificates and evidence mentioned above or elsewhere in this Agreement shall be deemed to be in compliance with the provisions hereof only if they are in form and substance reasonably satisfactory to counsel for the Dealer Managers.

8. Indemnification and Contribution. In consideration of the engagement hereunder, the CEMEX Parties and the Dealer Managers agree to the indemnification and contribution provisions set forth in Annex A hereto, which provisions are incorporated by reference herein and constitute a part hereof.

9. Termination. This Agreement shall terminate upon the earlier to occur of (i) the consummation, termination or withdrawal of the Offers and the Solicitations and (ii) the date three months from February 19, 2010, and may be terminated by the CEMEX Parties or you at any time, with or without cause, effective upon receipt by the other party of written notice to that effect, *provided that* such three month term may be extended and this Agreement shall not terminate, by mutual agreement of the parties.

10. Survival. The provisions of Sections 2, 3,4, 5, 8 (including Annex A hereto) 12, 13, 14, 15, 16, 17, 18 and 19 hereof shall remain operative and in full force and effect regardless of (i) any failure by CEMEX España, Luxembourg Branch to commence, or the withdrawal, termination or consummation of, any of the Exchange Offers, (ii) any investigation made by or on behalf of any party hereto, (iii) any withdrawal by either of you as a Dealer Manager and (iv) any termination of this Agreement.

11. Certain Defined Terms. For purposes of this Agreement, (a) except where otherwise expressly provided, the term "affiliate" has the meaning set forth in Rule 405 under the Securities Act; (b) the term "business day" means any day other than a day on which banks are permitted or required to be closed in New York City; and (c) the term "subsidiary" has the meaning set forth in Rule 405 under the Securities Act; and (d) the term "significant subsidiary" has the meaning set forth in Rule 1-02 of Regulation S-X under the Exchange Act. The terms that follow, when used in this Agreement, shall have the meanings indicated.

"Collateral" shall mean the security created or expressed to be created in favor of the Security Agent pursuant to the Transaction Security Documents that consists of (i) shares of the following entities: CEMEX México, S.A. de C.V.; Centro Distribuidor de Cemento, S.A. de C.V.; Mexcement Holdings S.A. de C.V.; Corporación Gouda, S.A. de C.V.; New Sunward; CEMEX Trademarks Holding Ltd and CEMEX España; and (ii) all proceeds thereof.

"Commission" shall mean the Securities and Exchange Commission.

"Exchange Act" shall mean the Securities Exchange Act of 1934, as amended, and the rules and regulations of the Commission promulgated thereunder.

"Financing Agreement" shall mean the Financing Agreement dated August 14, 2009, as amended, between CEMEX, the Financial Institutions and Noteholders named therein, as participating creditors, Citibank International PLC, as administrative agent and Wilmington Trust (London) Limited, as security agent.

"Intercreditor Agreement" shall mean the Intercreditor Agreement dated August 14, 2009, as amended, between Citibank International PLC, as administrative agent, the participating creditors named therein, CEMEX and certain of its subsidiaries named therein, as original borrowers, original guarantors and original security providers, Wilmington Trust (London) Limited, as security agent, and others.

"Mexican FRS" shall mean the Mexican financial reporting standards (*Normas de Información Financiera aplicables en Mexico*) as in effect from time to time issued by the Mexican Financial Reporting Standards Board (*Consejo Mexicano para la Investigación y Desarrollo de Normas de Información Financiera*).

"Regulation D" shall mean Regulation D under the Securities Act.

"Regulation S" shall mean Regulation S under the Securities Act.

"Security Agent" shall mean Wilmington Trust (London) Limited, as security agent under the Financing Agreement.

"Transaction Security Documents" means any document, as amended from time to time, entered by any of CEMEX or its subsidiaries creating or expressed to create any security over all or any part of its assets in respect of their obligations under the Financing Agreement or any other document derived therefrom, or in connection therewith.

12. Notices. All notices and other communications required or permitted to be given under this Agreement shall be in writing and shall be given (and shall be deemed to have been given upon receipt) by delivery in person, by telecopy, by telex or by registered or certified mail (postage prepaid, return receipt requested) to the applicable party at the addresses indicated below:

(a) if to JPMSI or JPMSL:

J.P. Morgan Securities Inc.
270 Park Avenue
New York, NY 10017
Telecopy No.: (212) 834-6702
Confirmation No.: (212) 834-5640
Attention: Transaction Execution Group

with a copy to:

Sullivan & Cromwell LLP
125 Broad Street
New York, NY 10004
Telecopy No.: (212) 291-9049
Confirmation No.: (212) 558-4349
Attention: John Estes

(b) if to CGMI or CGML:

Citigroup Global Markets Inc.
390 Greenwich St.
New York, NY 10012

with a copy to:

Citigroup Global Markets Limited
Citigroup Centre, 33 Canada Sq.
Canary Wharf
London E14 5LB

(c) if to the CEMEX Parties or the Capital SPVs:

CEMEX, S.A.B. de C.V.
Av Ricardo Margain, Zozaya #325
Colonia. Valle del Campestre, Garza García
Nuevo León, Mexico 66265
Telecopy No.: +52-81-8888-4399
Attention: Legal Department

with a copy to:

CEMEX, S.A.B. de C.V.
Av Ricardo Margain, Zozaya #325
Colonia. Valle del Campestre, Garza García
Nuevo León, Mexico 66265
Telecopy No.: +52-81-8888-4519

Attention: Back Office Operations

13. Governing Law; Waiver of Jury Trial. This Agreement shall be governed by and construed in accordance with the laws of the State of New York. The CEMEX Parties, the Capital SPVs and you irrevocably agree to waive trial by jury in any action, proceeding, claim or counterclaim brought by or on behalf of any party related to or arising out of this Agreement or the performance of services hereunder.

14. Submission to Jurisdiction. Each of the parties hereto agrees that any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated hereby may be instituted in any State or U.S. federal court in The City of New York and County

of New York and in the courts of its own domicile in respect of actions brought against such party as a defendant, and waives any objection which it may now or hereafter have to the laying of venue of any such proceeding, and irrevocably submits to the jurisdiction of such courts in any suit, action or proceeding and waives the right to any other jurisdiction that it may be entitled to by reason of its present or future domicile or other reason. Each of the CEMEX Parties and Capital SPVs, hereby appoints Corporate Creations Network Inc., 1040 Avenue of the Americas, # 2400, New York, NY 10018, fax: (561) 694-1639, telephone: (212) 382-4699), as its authorized agent (the " Authorized Agent") upon whom process may be served in any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated herein that may be instituted in any of such courts. Each of the parties appointing the Authorized Agent as provided herein hereby represents and warrants that the Authorized Agent has accepted such appointment and has agreed to act as said agent for service of process, and the CEMEX Parties and the Capital SPVs agree to take any and all action, including the execution and filing of any and all documents that may be necessary to continue such appointment in full force and effect as aforesaid. Service of process upon the Authorized Agent shall be deemed, in every respect, effective service of process upon each of the CEMEX Parties and the Capital SPVs. Notwithstanding the foregoing, any action arising out of or based upon this Agreement may be instituted by any Dealer Manager, the directors, officers, employees, affiliates and agents of any Dealer Manager, or by any person who controls any Dealer Manager, in any court of competent jurisdiction in Mexico.

15. Waiver of Immunities. To the extent that the CEMEX Parties or any of their respective properties, assets or revenues may have or may hereafter become entitled to, or have attributed to them, any right of immunity, on the grounds of sovereignty, from any legal action, suit or proceeding, from set-off or counterclaim, from the jurisdiction of any court, from service of process, from attachment upon or prior to judgment, or from attachment in aid of execution of judgment, or from execution of judgment, or other legal process or proceeding for the giving of any relief or for the enforcement of any judgment, in any jurisdiction in which proceedings may at any time be commenced, with respect to their obligations, liabilities or any other matter under or arising out of or in connection with this Agreement, the CEMEX Parties hereby irrevocably and unconditionally, to the extent permitted by applicable law, waives and agrees not to plead or claim any such immunity and consents to such relief and enforcement.

16. Foreign Taxes. All payments by the CEMEX Parties to any of the Dealer Managers hereunder shall be made in U.S. Dollars, free and clear of, and without any deduction or withholding for or on account of, any and all present and future income, stamp or other taxes, levies, imposts, duties, charges, fees, deductions or withholdings, now or hereinafter imposed, levied, collected, withheld or assessed by any jurisdiction in which the CEMEX Parties have an office from which payment is made or deemed to be made, excluding (i) any such tax imposed by reason of the Dealer Managers having some connection with any such jurisdiction other than its participation as Dealer Manager hereunder, and (ii) any income or franchise tax on the overall net income of a Dealer Manager imposed by the United States or by the State of New York or any political subdivision of the United States or of the State of New York (all such non-excluded taxes, "Foreign Taxes"). If the CEMEX Parties are prevented by operation of law or otherwise from paying, causing to be paid or remitting that portion of amounts payable hereunder represented by Foreign Taxes withheld or deducted, then amounts payable under this Agreement shall, to the extent permitted by law, be increased to such amount as is necessary to yield and

remit to the Dealer Managers an amount which, after deduction of all Foreign Taxes (including all Foreign Taxes payable on such increased payments) equals the amount that would have been payable if no Foreign Taxes applied. The CEMEX Parties agree to provide the Dealer Managers with any reasonably requested evidence of the due and timely payment of any such taxes or withholdings. Any Dealer Manager that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which CEMEX España, Luxembourg Branch is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to CEMEX España, Luxembourg Branch, at the time or times prescribed by applicable law, such properly completed and executed documentation prescribed by applicable law or reasonably requested by CEMEX España, Luxembourg Branch as will permit such payments to be made without withholding or at a reduced rate; provided, that Cemex España, Luxembourg Branch shall withhold the corresponding taxes and shall not pay any additional amounts to compensate the Dealer Managers to the extent such additional amounts are payable due to the failure by the Dealer Managers to provide such documentation. If the CEMEX Parties make an increased payment as set forth above and the Dealer Managers subsequently determine, in their sole discretion, that they have obtained, utilized and retained a refund of taxes or credit against taxes by reason of the CEMEX Parties making such a withholding or payment on account, the Dealer Managers shall reimburse the appropriate CEMEX Parties the amount of the withholding or payment on account made by the latter, net of all out-of-pocket expenses of the Dealer Managers and without interest (other than any interest paid by the relevant governmental authority; provided, that the CEMEX Parties, upon the request of the Dealer Managers, agree to repay the amount paid over to the CEMEX Parties (plus any penalties, interest or other charges imposed by the relevant governmental authority) to the Dealer Managers in the event the Dealer Managers are required to repay such refund to such governmental authority. This Section shall not be construed to require the Dealer Managers to make available their tax returns (or any other information relating to their taxes which it deems confidential) to the CEMEX Parties or any other Person.

17. Currency. Any payment on account of an amount that is payable to the Dealer Managers in a particular currency (the " Required Currency") that is paid to or for the account of the Dealer Managers in lawful currency of any other jurisdiction (the " Other Currency"), whether as a result of any judgment or order or the enforcement thereof or the liquidation of any of the CEMEX Parties or for any other reason shall constitute a discharge of the obligation of such obligor only to the extent of the amount of the Required Currency which the recipient could purchase in the New York foreign exchange markets with the amount of the Other Currency in accordance with normal banking procedures at the rate of exchange prevailing on the first day (other than a Saturday or Sunday) on which banks in New York are generally open for business following receipt of the payment first referred to above. If the amount of the Required Currency that could be so purchased (net of all premiums and costs of exchange payable in connection with the conversion) is less than the amount of the Required Currency originally due to the recipient, then each of the CEMEX Parties shall jointly and severally indemnify and hold harmless the recipient from and against all loss or damage arising out of or as a result of such deficiency. This indemnity shall constitute an obligation separate and independent from the other obligations of the CEMEX Parties, shall give rise to a separate and independent cause of action, shall apply irrespective of any indulgence granted by any person owed such obligation from time to time and shall continue in full force and effect notwithstanding any judgment or order for a liquidated sum in respect of an amount due hereunder or any judgment or order.

18. Benefit. This Agreement, including any right to indemnity or contribution hereunder and Annex A hereto, shall inure to the benefit of and be binding upon the CEMEX Parties, the Capital SPVs, the Dealer Managers and the other Indemnified Persons, and their respective successors and assigns. Subject to the foregoing, nothing in this Agreement is intended, or shall be construed, to give to any other person or entity any right hereunder or by virtue hereof.

19. Miscellaneous. This Agreement contains the entire agreement between the parties relating to the subject matter hereof and supersedes all prior understandings, agreements and arrangements, written or oral, with respect thereto. This Agreement may not be amended or modified except by a writing executed by each of the parties hereto. Section headings herein are for convenience only and are not a part of this Agreement. In the event that any provision hereof shall be determined to be invalid or unenforceable in any respect, such determination shall not affect such provision in any other respect or any other provision hereof, which shall remain in full force and effect. This Agreement may not be assigned by any party hereto without the prior written consent of each other party. None of the parties hereto shall be responsible or have any liability to any other party for any indirect, special or consequential damages arising out of or in connection with this Agreement or the transactions contemplated hereby, even if advised of the possibility thereof. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which taken together will constitute one and the same instrument.

Please indicate your willingness to act as Dealer Managers and your acceptance of the foregoing provisions by signing in the space provided below for that purpose and returning to us a copy of this Agreement so signed, whereupon this Agreement and your acceptance shall constitute a binding agreement among each of the CEMEX Parties, the Capital SPVs and you.

Very truly yours,

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

By: /s/ Rodrigo Treviño
Name: Rodrigo Treviño
Title: Attorney-in-Fact

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

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

New Sunward Holding B.V.

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

New Sunward Holding Financial Ventures, B.V.

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-Fact

CEMEX España, S.A., Luxembourg Branch

By: /s/ Edoardo Carlo Picco
Name: Edoardo Carlo Picco
Title: Manager

By: /s/ Géry Charles de Meetis
Name: Géry Charles de Meetis
Title: Manager

C5 Capital (SPV) Limited

By: /s/ Ogier Managers (BVI) Limited
Name: Ogier Managers (BVI) Limited
Title: Sole Director

C8 Capital (SPV) Limited

By: /s/ Ogier Managers (BVI) Limited
Name: Ogier Managers (BVI) Limited
Title: Sole Director

C10-EUR Capital (SPV) Limited

By: /s/ Ogier Managers (BVI) Limited
Name: Ogier Managers (BVI) Limited
Title: Sole Director

C10 Capital (SPV) Limited

By: /s/ Ogier Managers (BVI) Limited
Name: Ogier Managers (BVI) Limited
Title: Sole Director

Accepted as of the
date first above written:

J.P. MORGAN SECURITIES INC.

By: /s/ Raimundo Langlois
Name: Raimundo Langlois
Title: Executive Director

J.P. MORGAN SECURITIES LTD.

By: /s/ Carlos Ruiz DeGamoa
Name: Carlos Ruis DeGamoa
Title: Managing Director

CITIGROUP GLOBAL MARKETS INC.

By: /s/ Gregory Makoff
Name: Gregory Makoff
Title: Managing Director

CITIGROUP GLOBAL MARKETS LIMITED

By: /s/ Tim Odell
Name: Tim Odell
Title: Delegated Signatory

ANNEX A

Capitalized terms used but not defined in this Annex A have the meanings assigned to such terms in the Dealer Manager Agreement to which this Annex A is attached (the "Agreement").

The CEMEX Parties jointly and severally agree to indemnify and hold harmless each of the Dealer Managers, its affiliates and their respective officers, directors, employees, agents of and each other entity or person, if any, controlling (within the meaning of either Section 15 of the Securities Act or Section 20 of the Exchange Act) the Dealer Managers or any such other persons (each an " Indemnified Person") from and against any and all losses, claims, damages and liabilities (or actions or proceedings in respect thereof), whether or not in connection with pending or threatened litigation to which the Dealer Managers (or any other Indemnified Person) may be a party, in each case as such expenses are incurred or paid, (i) arising out of or based upon (A) any untrue statement or alleged untrue statement of a material fact contained in the Offering and Solicitation Documents (or any Additional Material), or any omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein not misleading, (B) any breach by the CEMEX Parties of any representation or warranty or failure to comply with any of the agreements set forth in the Agreement, or (C) any withdrawal, termination, rescission or modification of the Offers and Solicitations, or the failure to issue New Senior Secured Notes for Debentures tendered pursuant to the Offers by CEMEX España, Luxembourg Branch or (ii) otherwise arising out of, relating to or in connection with the Offers and Solicitations, the transactions contemplated by the Agreement or the engagement of, and services performed by, the Dealer Managers under the Agreement, or any claim, litigation, investigation (including any governmental or regulatory investigation) or proceedings relating to the foregoing (" Proceedings") regardless of whether any of such Indemnified Persons is a party thereto, and to reimburse such Indemnified Persons for any and all reasonable expenses (including, without limitation, reasonable and documented fees and disbursements of counsel and other out-of-pocket expenses) as they are incurred in connection with investigating, responding to or defending any of the foregoing, provided that (a) the indemnification in clause (i)(A) above will not, as to any Indemnified Person, apply to losses, claims, damages, liabilities or expenses to the extent that they are derived from any untrue statement or alleged untrue statement of a material fact contained in the Offering and Solicitation Documents (or any Additional Material), or any omission or alleged omission to state therein a material fact required to be stated therein or necessary in order to make the statements therein not misleading, made in reliance upon and in conformity with information furnished in writing to any of the CEMEX Parties by any of the Dealer Managers specifically for inclusion therein (which for purposes of this proviso consists solely of the name and address of each Dealer Manager) and (b) the indemnification in clause (ii) above will not, as to any Indemnified Person, apply to losses, claims, damages, liabilities or expenses to the extent that they are finally judicially determined to have resulted primarily from the bad faith, gross negligence or willful misconduct of such Indemnified Person.

If for any reason the foregoing indemnification is unavailable to any Indemnified Person or insufficient to hold it harmless, then the CEMEX Parties, jointly and severally, shall contribute to the amount paid or payable by such Indemnified Person as a result of such loss, claim, damage, liability or expense (i) in such proportion as is appropriate to reflect the relative

benefits received by the CEMEX Parties, on the one hand, and by the Dealer Managers, on the other hand, from the Offers and Solicitations and the transactions contemplated thereby, or (ii) if the allocation provided by the foregoing clause (i) is not permitted by applicable law, in such proportion as is appropriate to reflect not only the relative benefits referred to in the foregoing clause (i), but also the relative fault of the CEMEX Parties, on the one hand, and of the Dealer Managers, on the other hand, in connection with the statements, actions, or omissions which resulted in such loss, claim, damage, liability or expense, as well as any other relevant equitable considerations. The relative benefits received by the CEMEX Parties on the one hand and by the Dealer Managers on the other hand shall be deemed to be in the same proportion as (i) the aggregate principal amount of the Debentures bears to (ii) the aggregate fee paid to the Dealer Managers pursuant to Section 2(a) of the Agreement. The relative fault of the CEMEX Parties on the one hand and of the Dealer Managers on the other hand (i) in the case of an untrue or alleged untrue statement of a material fact or an omission or alleged omission to state a material fact, shall be determined by reference to, among other things, whether such statement or omission relates to information supplied by the CEMEX Parties or by the Dealer Managers and the parties' relative intent, knowledge, access to information, and opportunity to correct or prevent such statement or omission, and (ii) in the case of any other action or omission, shall be determined by reference to, among other things, whether such action or omission was taken or omitted to be taken by the CEMEX Parties or by the Dealer Managers and the parties' relative intent, knowledge, access to information, and opportunity to prevent such action or omission. The CEMEX Parties and the Dealer Managers agree that it would not be just and equitable if contribution pursuant to this Annex A were determined by pro rata allocation or by any other method of allocation which does not take account of the equitable considerations referred to in this paragraph. The amount paid or payable by an Indemnified Person as a result of the losses, claims, damages, liabilities or expenses referred to in this paragraph shall be deemed to include, subject to the limitations set forth above, any legal or other reasonable expenses incurred by such Indemnified Person in connection with investigating or defending any such action or claim.

Promptly after the receipt by an Indemnified Person of notice of the commencement of any Proceedings, such Indemnified Person will, if a claim is to be made hereunder against the CEMEX Parties in respect thereof, notify the CEMEX Parties in writing of the commencement thereof; provided that (i) the failure to so notify the CEMEX Parties will not relieve the CEMEX Parties from any liability which it may have hereunder except to the extent it has been materially prejudiced (through forfeiture of substantive rights or defenses) by such failure and (ii) the failure to so notify the CEMEX Parties will not relieve the CEMEX Parties from any liability which it may have to an Indemnified Person otherwise than on account of this indemnity agreement. In case any such Proceedings are brought against any Indemnified Person and it notifies the CEMEX Parties of the commencement thereof, the CEMEX Parties will be entitled to participate therein and, to the extent that the CEMEX Parties may elect by written notice delivered to such Indemnified Person, to assume the defense thereof, with counsel reasonably satisfactory to such Indemnified Person, provided that if the defendants in any such Proceedings include both such Indemnified Person and the CEMEX Parties and such Indemnified Person shall have concluded that there may be legal defenses available to it which are different from or additional to those available to the CEMEX Parties, such Indemnified Person shall have the right to select separate counsel to assert such legal defenses and to otherwise participate in the defense of such Proceedings on behalf of such Indemnified Person. Upon receipt of notice from the CEMEX Parties to such Indemnified Person of their election so to assume the defense of such

Proceedings and approval by such Indemnified Person of counsel, the CEMEX Parties shall not be liable to such Indemnified Person for expenses incurred by such Indemnified Person in connection with the defense thereof (other than reasonable costs of investigation) unless (i) such Indemnified Person shall have employed separate counsel in connection with the assertion of legal defenses in accordance with the proviso to the immediately preceding sentence (it being understood, however, that the CEMEX Parties shall not be liable for the expenses of more than one separate counsel (in addition to any local counsel), approved by J.P. Morgan Securities Inc., representing the Indemnified Persons who are parties to such Proceedings), (ii) the CEMEX Parties shall not have employed counsel reasonably satisfactory to such Indemnified Person to represent such Indemnified Person within a reasonable time after notice to the CEMEX Parties of commencement of the Proceedings or (iii) the CEMEX Parties have authorized in writing the employment of counsel for such Indemnified Person.

None of the CEMEX Parties shall be liable for any settlement of any Proceedings effected without the CEMEX Parties' written consent (which consent shall not be unreasonably withheld or delayed), but if settled with the CEMEX Parties' written consent or if there be a final judgment for the plaintiff in any such Proceedings, the CEMEX Parties, jointly and severally, agree to indemnify and hold harmless each Indemnified Person from and against any and all losses, claims, damages, liabilities and expenses by reason of such settlement or judgment. Notwithstanding the foregoing sentence, if at any time an Indemnified Person shall have requested that the CEMEX Parties reimburse such Indemnified Person for legal or other expenses in connection with investigating, responding to or defending any Proceedings as contemplated by this Annex A, the CEMEX Parties shall be jointly and severally liable for any settlement of any Proceedings effected without the CEMEX Parties' written consent if (i) such settlement is entered into more than 30 days after receipt by the CEMEX Parties of such request for reimbursement and (ii) the CEMEX Parties shall not have reimbursed such Indemnified Person in accordance with such request prior to the date of such settlement. None of the CEMEX Parties shall, without the prior written consent of an Indemnified Person, effect any settlement of any pending or threatened Proceedings in respect of which indemnification could have been sought hereunder by such Indemnified Person, unless such settlement (i) includes an unconditional release of such Indemnified Person, in form and substance satisfactory to such Indemnified Person, from all liability on claims that are the subject matter of such Proceedings and (ii) does not include any statement as to or any admission of fault, culpability or a failure to act by or on behalf of any Indemnified Person.

The indemnity, reimbursement and contribution obligations of the CEMEX Parties under this Annex A shall be in addition to any liability which the CEMEX Parties may otherwise have to an Indemnified Person and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the CEMEX Parties and any Indemnified Person.

In consideration of the services provided by JPMSI and JPMSL as Dealer Managers, upon successful consummation of the Offers and Solicitations, the CEMEX Parties, jointly and severally, shall pay JPMSI and JPMSL a cash fee equal to the sum of the following:

1. 0.15% of the aggregate principal amount of the Debentures that are tendered for exchange or otherwise retired in the Offers; plus
2. If the Offers result in an aggregate principal amount debt reduction of more than or equal to U.S.$500,000,000, 0.05% of the aggregate principal amount of the Debentures that are tendered for exchange or otherwise retired in the Offers.

In consideration of the services provided by CGMI and CGML as Dealer Managers, upon successful consummation of the Offers and Solicitations, the CEMEX Parties, jointly and severally, shall pay CGMI and CGML the cash fee set forth in the Citigroup Fee Letter, dated as of May 6, 2010, among CEMEX, CGMI and CGML.

Exhibit 4.58

EXECUTION COPY

CEMEX ESPAÑA, S.A.,

ACTING THROUGH ITS LUXEMBOURG BRANCH, CEMEX ESPAÑA, S.A.,
LUXEMBOURG BRANCH

THE GUARANTORS PARTY HERETO

AND

THE BANK OF NEW YORK MELLON,

AS TRUSTEE

9.25% U.S. DOLLAR-DENOMINATED SENIOR SECURED NOTES DUE 2020 and

8.875% EURO-DENOMINATED SENIOR SECURED NOTES DUE 2017

INDENTURE

Dated as of May 12, 2010

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INDENTURE, dated as of May 12, 2010, among CEMEX España, S.A., a corporation (sociedad anónima) organized under the laws of Spain ("CEMEX España"), acting through its Luxembourg branch, CEMEX España, S.A., Luxembourg Branch (" CEMEX España, Luxembourg Branch" or the "Issuer"), created by virtue of the resolution of the Board of Directors of CEMEX España dated March 12, 2010 and formalized in a public deed granted before Notary Public of Madrid Mr. Rafael Monjo Carrió on March 16, 2010 numbered 502 of his official files, CEMEX, S.A.B. de C.V., (the " Company"), CEMEX México, S.A. de C.V. ("CEMEX México"), and New Sunward Holding B.V. ("New Sunward Holding"), as guarantors of the Issuer's obligations under this Indenture and the Notes (the "Note Guarantors"), and The Bank of New York Mellon (the "Trustee"), as Trustee.

Each party agrees as follows for the benefit of the other parties and for the equal and ratable benefit of the Holders of the Issuer's 9.25% U.S. Dollar-Denominated Senior Secured Notes due 2020 (the " Dollar Notes") and 8.875% Euro-Denominated Senior Secured Notes due 2017 (the " Euro Notes" and, together with the Dollar Notes, the "Notes") issued hereunder.

ARTICLE I

DEFINITIONS AND INCORPORATION BY REFERENCE

Section 1.1 Definitions.

"Acquired Indebtedness" means Indebtedness of a Person or any of its Subsidiaries existing at the time such Person becomes a Restricted Subsidiary or at the time it merges or consolidates with the Company or any of its Restricted Subsidiaries or is assumed in connection with the acquisition of assets from such Person. Such Indebtedness will be deemed to have been incurred at the time such Person becomes a Restricted Subsidiary or at the time it merges or consolidates with the Company or a Restricted Subsidiary or at the time such Indebtedness is assumed in connection with the acquisition of assets from such Person.

"Acquired Subsidiary" means any Subsidiary acquired by the Company or any other Subsidiary after the Issue Date in an Acquisition, and any Subsidiaries of such Acquired Subsidiary on the date of such Acquisition.

"Acquiring Subsidiary" means any Subsidiary formed by the Company or one of its Subsidiaries solely for the purpose of participating as the acquiring party in any Acquisition, and any Subsidiaries of such Acquiring Subsidiary acquired in such Acquisition.

"Acquisition" means any merger, consolidation, acquisition or lease of assets, acquisition of securities or business combination or acquisition, or any two or more of such transactions, if, upon the completion of such transaction or transactions, the Company or any Restricted Subsidiary thereof has acquired an interest in any Person who would be deemed to be a Restricted Subsidiary under the Indenture and was not a Restricted Subsidiary prior thereto.

"Additional Amounts" has the meaning assigned to it in Section 3.21.

"Additional Note Certificate" has the meaning assigned to it in Section 2.14(b).

"Additional Note Guarantor" means New Sunward Holding.

"Additional Note Supplemental Indenture" means a supplement to this Indenture duly executed and delivered by the Issuer, each Note Guarantor and the Trustee pursuant to Article IX providing for the issuance of Additional Notes.

"Additional Notes" means the Notes originally issued after the Issue Date pursuant to Section 2.14, including any replacement Notes and any Exchange Notes as specified in the relevant Additional Note Certificate or Additional Note Supplemental Indenture issued therefor in accordance with this Indenture.

"Affiliate" means, with respect to any specified Person, any other Person who directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, such specified Person. The term "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise. For purposes of this definition, the terms "controlling," "controlled by" and "under common control with" have correlative meanings.

"Affiliate Transaction" has the meaning assigned to it in Section 3.18(a).

"Agent Members" has the meaning assigned to it in Section 2.7(b).

"Agents" means, collectively, the Registrar, any co-Registrar, the Paying Agents, the Luxembourg Transfer Agent and any other agent appointed by the Issuer hereunder.

"Applicable Procedures" means, with respect to any transfer or exchange of or for beneficial interests in a Global Note, the rules and procedures of DTC, Euroclear and Clearstream that apply to such transfer or exchange.

"Asset Sale" means any direct or indirect sale, disposition, issuance, conveyance, transfer, lease (other than an operating lease entered into in the ordinary course of business), assignment or other transfer, including a Sale and Leaseback Transaction (each, a "disposition") by the Company or any Restricted Subsidiary of:

(a) any Capital Stock other than Capital Stock of the Company; or

(b) any property or assets (other than cash, Cash Equivalents or Capital Stock) of the Company or any Restricted Subsidiary;

Notwithstanding the preceding, the following will not be deemed to be Asset Sales:

(1) the disposition of all or substantially all of the assets of the Company and its Restricted Subsidiaries as permitted under Section 3.12;

(2) any disposition of equipment that is not usable or obsolete or worn out equipment in the ordinary course of business or any disposition of inventory or goods (or other assets) held for sale or no longer used in the ordinary course of business;

(3) dispositions of assets in any fiscal year with a Fair Market Value not to exceed U.S.$25 million in the aggregate;

(4) for purposes of Section 3.12 only, the making or disposition of a Permitted Investment or Restricted Payment permitted under Section 3.11;

(5) a disposition to the Company or a Restricted Subsidiary, including a Person that is or will become a Restricted Subsidiary immediately after the disposition;

(6) the creation of a Lien permitted under this Indenture (other than a deemed Lien in connection with a Sale and Leaseback Transaction);

(7) (i) the disposition of Receivables Assets pursuant to a Qualified Receivables Transaction and (ii) the disposition of other accounts receivable in the ordinary course of business;

(8) constituted by a license of intellectual property in the ordinary course of business;

(9) the disposition of inventory pursuant to an Inventory Financing or similar arrangement that is otherwise permitted under this Indenture;

(10) the disposition of any asset compulsorily acquired by a governmental authority; and

(11) sales, transfers and other dispositions of Investments in joint ventures to the extent required by, or made pursuant to, customary buy/sell arrangements between the joint venture parties set forth in joint venture arrangements and similar binding arrangements.

"Asset Sale Offer" has the meaning assigned to it in Section 3.12(c).

"Asset Sale Offer Amount" has the meaning assigned to it in Section 3.12(c).

"Asset Sale Offer Notice" means notice of an Asset Sale Offer made pursuant to Section 3.12(e) and Section 3.12(g), which shall be mailed first class, postage prepaid, to each record Holder as shown on the Note Register within 20 days following the 365th day after the receipt of Net Cash Proceeds of any Asset Sale, with a copy to the Trustee, which notice shall govern the terms of the Asset Sale Offer, and shall state:

(1) the circumstances of the Asset Sale or Sales, the Net Cash Proceeds of which are included in the Asset Sale Offer, that an Asset Sale Offer is being made pursuant to Section 3.12(c), and that all Notes that are timely tendered will be accepted for payment;

(2) the Asset Sale Offer Amount and the Asset Sale Offer Payment Date, which date shall be a Business Day no earlier than 30 days nor later than 60 days from the date the Asset Sale Offer notice is mailed (other than as may be required by law);

(3) that any Notes or portions thereof not tendered or accepted for payment will continue to accrue interest;

(4) that, unless the Company defaults in the payment of the Asset Sale Offer Amount with respect thereto, all Notes or portions thereof accepted for payment pursuant to the Asset Sale Offer shall cease to accrue interest from and after the Asset Sale Offer Payment Date;

(5) that any Holder electing to have any Notes or portions thereof purchased pursuant to the Asset Sale Offer will be required to surrender such Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of such Notes completed, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Asset Sale Offer Payment Date;

(6) that any Holder shall be entitled to withdraw such election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Asset Sale Offer Payment Date, a facsimile transmission or letter, setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing such Holder's election to have such Notes or portions thereof purchased pursuant to the Asset Sale Offer;

(7) that any Holder electing to have Notes purchased pursuant to the Asset Sale Offer must specify the principal amount that is being tendered for purchase, which principal amount must be U.S.$70,000 or an integral multiple of U.S.$1,000 in excess thereof, in the case of Dollar Notes, and €50,000, or an integral multiple of €1,000 in excess thereof, in the case of Euro Notes;

(8) that any Holder of Certificated Notes whose Certificated Notes are being purchased only in part will be issued new Certificated Notes equal in principal amount to the unpurchased portion of the Certificated Note or Notes surrendered, which unpurchased portion will be equal in principal amount to U.S.$70,000 or an integral multiple of U.S.$1,000 in excess thereof, in the case of Dollar Notes, and €50,000, or an integral multiple of €1,000 in excess thereof, in the case of Euro Notes.

(9) that the Trustee will return to the Holder of a Global Note that is being purchased in part, such Global Note with a notation on the schedule of increases or decreases thereof adjusting the principal amount thereof to be equal to the unpurchased portion of such Global Note; and

(10) any other information necessary to enable any Holder to tender Notes and to have such Notes purchased pursuant to Section 3.12.

"Asset Sale Offer Payment Date" has the meaning assigned to it in Section 3.12(g).

"Asset Sale Offer Period" has the meaning assigned to it in Section 3.12(e).

"Authenticating Agent" has the meaning assigned to it in Section 2.2(b).

"Authorized Agent" has the meaning assigned to it in Section 12.7(c).

"Axtel Share Forward Transactions" means (a) the Axtel share forward transaction that is governed by a long form Confirmation dated 22 January 2009, as from time to time amended, between Credit Suisse International and Centro Distribuidor de Cemento S.A. de C.V. (References: External ID: 16059563R3 - Risk ID: 10008383); and (b) the Axtel share forward transaction that is governed by a long form Confirmation dated 13 March 2009, as replaced by a long form Confirmation dated 22 September 200, between BBVA Bancomer S.A., Institución de Banca Múltiple, Grupo Financiero BBVA Bancomer and Centro Distribuidor de Cemento S.A. de C.V. (Reference: EQS- 1428-MX479311).

"Bancomext Facility" means the U.S.$250,000,000 credit agreement (*Crédito Simple*), dated October 14, 2008, among CEMEX, S.A.B. de C.V., as borrower, Banco Nacional de Comercio Exterior, S.N.C., as lender, and CEMEX México, S.A. de C.V., as guarantor, and secured by a mortgage of cement plants in Mérida, Yucatán, Mexico and Ensenada, Baja California, Mexico.

"Bankruptcy Event of Default" means:

(1) the entry by a court of competent jurisdiction of: (i) a decree or order for relief in respect of any Bankruptcy Party in an involuntary case or proceeding under any Bankruptcy Law or (ii) a decree or order (A) adjudging any Bankruptcy Party a bankrupt or insolvent, (B) approving as properly filed a petition seeking reorganization, arrangement, adjustment or composition of, or in respect of, any Bankruptcy Party under any Bankruptcy Law, (C) appointing a Custodian of any Bankruptcy Party or of any substantial part of the property of any Bankruptcy Party, or (D) ordering the winding-up or liquidation of the affairs of any Bankruptcy Party, and in each case, the continuance of any such decree or order for relief or any such other decree or order unstayed and in effect for a period of 60 consecutive calendar days; or

(2) (i) the commencement by any Bankruptcy Party of a voluntary case or proceeding under any Bankruptcy Law or of any other case or proceeding to be adjudicated a bankrupt or insolvent, (ii) the consent by any Bankruptcy Party to the entry of a decree or order for relief in respect of such Bankruptcy Party in an involuntary case or proceeding under any Bankruptcy Law or to the commencement of any bankruptcy or

insolvency case or proceeding against any Bankruptcy Party, (iii) the filing by any Bankruptcy Party of a petition or answer or consent seeking reorganization or relief under any Bankruptcy Law, (iv) the consent by any Bankruptcy Party to the filing of such petition or to the appointment of or taking possession by a Custodian of any Bankruptcy Party or of any substantial part of the property of any Bankruptcy Party, (v) the making by any Bankruptcy Party of an assignment for the benefit of creditors, (vi) the admission by any Bankruptcy Party in writing of its inability to pay its debts generally as they become due, or (vii) the approval by stockholders of any Bankruptcy Party of any plan or proposal for the liquidation or dissolution of such Bankruptcy Party, or (viii) the taking of corporate action by any Bankruptcy Party in furtherance of any action referred to in clauses (i) – (vii) above.

"Bankruptcy Law" means Title 11, U.S. Code or any similar Federal, state or non-U.S. law for the relief of debtors, including the Mexican *Ley de Concursos Mercantiles* and Spanish Law 22/2003 of 9 July (*Ley 22/2003 de 9 de julio, Concursal*).

"Bankruptcy Party" means the Company, Cemex España, the Issuer and any Significant Subsidiary of the Company or group of Subsidiaries that, taken together would constitute a Significant Subsidiary of the Company.

"Banobras Facility" means a revolving loan agreement (*Contrato de Apertura de Crédito en Cuenta Corriente*), dated April 22, 2009, among CEMEX Concretos, S.A. de C.V., as borrower and Banco Nacional de Obras y Servicios Públicos, Sociedad Nacional de Crédito, Institución de Banca de Desarrollo, as lender, as in effect on the Issue Date, and secured by a mortgage of Planta Yaqui in Hermosillo, Sonora, Mexico.

"Board of Directors" means, as to any Person, the board of directors, management committee or similar governing body of such Person or any duly authorized committee thereof.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in New York City, Mexico City, Madrid, Luxembourg or Amsterdam are authorized or required by law or other governmental action to remain closed; *provided* that, for purposes of payments to be made under this Indenture, a "Business Day" must also be a day on which the Trans-European Automated Real-time Gross Settlement Express Transfer (TARGET) payment system is open for the settlement of payments.

"C5 Capital" means C5 Capital (SPV) Limited, a restricted purpose company incorporated with limited liability and domiciled in the British Virgin Islands.

"C8 Capital" means C8 Capital (SPV) Limited, a restricted purpose company incorporated with limited liability and domiciled in the British Virgin Islands.

"C10 Capital" means C10 Capital (SPV) Limited, a restricted purpose company incorporated with limited liability and domiciled in the British Virgin Islands.

"C10-Euro Capital" means C10-EUR Capital (SPV) Limited, a restricted purpose company incorporated with limited liability and domiciled in the British Virgin Islands.

"Capital SPVs" means, collectively, C5 Capital, C8 Capital, C10 Capital and C10-Euro Capital.

"Capital Stock" means:

(1) with respect to any Person that is a corporation, any and all shares, interests, participations or other equivalents (however designated and whether or not voting) of corporate stock, including each class of Common Stock and Preferred Stock of such Person;

(2) with respect to any Person that is not a corporation, any and all partnership or other equity or ownership interests of such Person; and

(3) any warrants, rights or options to purchase any of the instruments or interests referred to in clause (1) or (2) above, but excluding any Indebtedness exchangeable into such equity interest in existence on the Issue Date Incurred pursuant to Section 3.9.

"Capitalized Lease Obligations" means, as to any Person, the obligations of such Person under a lease that are required to be classified and accounted for as capital lease obligations under GAAP. For purposes of the definition, the amount of such obligations at any date will be the capitalized amount of such obligations at such date, determined in accordance with GAAP.

"Cash Equivalents" means:

(1) marketable direct obligations issued by, or unconditionally guaranteed by, the United States government, the United Kingdom or any member nation of the European Union or issued by any agency thereof and backed by the full faith and credit of the United States, the United Kingdom, such member nation of the European Union or any European Union central bank, in each case maturing within one year from the date of acquisition thereof;

(2) marketable direct obligations issued by the Mexican government, or issued by any agency thereof, including but not limited to, *Certificados de la Tesorería de la Federación* (Cetes) or *Bonos de Desarrollo del Gobierno Federal* (Bondes), in each case, issued by the government of Mexico and maturing not later than one year after the acquisition thereof;

(3) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof maturing within one year from the date of acquisition thereof and, at the time of acquisition, having one of the two highest ratings obtainable from either S&P or Fitch or any successor thereto;

(4) commercial paper or corporate debt obligations maturing no more than one year from the date of creation thereof and, at the time of acquisition, having a rating of at least A-1 or AAA from S&P, at least F-1 or AAA from Fitch or P-1 or Aaa from Moody's;

(5) demand deposits, certificates of deposit, time deposits or bankers' acceptances or other short-term unsecured debt obligations (and any cash or deposits in transit in any of the foregoing) maturing within one year from the date of acquisition thereof issued by (a) any bank organized under the laws of the United States of America or any state thereof or the District of Columbia, the United Kingdom or any country of the European Union, (b) any U.S. branch of a non-U.S. bank having at the date of acquisition thereof combined capital and surplus of not less than U.S.$500 million, or (c) in the case of Mexican peso deposits, any financial institution in good standing with Banco de México organized under the laws of Mexico;

(6) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (1) and (2) above entered into with any bank meeting the qualifications specified in clause (5) above;

(7) investments in money market funds which invest substantially all of their assets in securities of the types described in clauses (1) through (6), (8) and (9);

(8) certificates of deposit issued by any of Nacional Financiera, S.N.C., Banco Nacional de Comercio Exterior, S.N.C., Banco Nacional de Obras y Servicios Públicos, S.N.C. or any other development bank controlled by the Mexican government;

(9) any other debt instrument rated "investment grade" (or the local equivalent thereof according to local criteria in a country in which the Company or a Restricted Subsidiary operates and in which local pensions are permitted by law to invest) with maturities of 12 months or less from the date of acquisition; and

(10) Investments in mutual funds, managed by banks, with a local currency credit rating of at least MxAA by S&P or other equally reputable local rating agency, that invest principally in marketable direct obligations issued by the Mexican Government, or issued by any agency or instrumentality thereof.

In the case of Investments by any Restricted Subsidiary, Cash Equivalents will also include (a) investments of the type and maturity described in clauses (1) through (10) of any Restricted Subsidiary outside of Mexico in the country in which such Restricted Subsidiary operates, which Investments or obligors (or the parents of such obligors) have ratings described in such clauses or equivalents ratings from comparable foreign rating agencies, (b) local currencies and other short-term investments utilized by Restricted Subsidiaries in accordance with normal investment practices for cash management in investments analogous to the foregoing investments in clauses (1) through (10) and in this paragraph and (c) investments of the type described in clauses (1) through (9) maturing within one year of the Issue Date.

"CEMEX España" means the corporation named as such in the introductory paragraph to this Indenture and its successors and assigns.

"CEMEX México" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"Certificated Note" means any Note issued in fully registered form, other than a Global Note, which shall be substantially in the form of Exhibit A, in the case of Dollar Notes, and, in the form of Exhibit B, in the case of Euro Notes, with appropriate legends as specified in Section 2.7, Exhibit A and Exhibit B, as applicable.

"Change of Control" means the beneficial ownership (within the meaning of Rule 13d-3 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934, as amended) of twenty percent (20%) or more in voting power of the outstanding voting stock of the Company is acquired by any Person; *provided* that the acquisition of beneficial ownership of Capital Stock of the Company by Lorenzo H. Zambrano or any member of his immediate family shall not constitute a Change of Control.

"Change of Control Notice" means notice of a Change of Control Offer made pursuant to Section 3.8, which shall be mailed first-class, postage prepaid, to each record Holder as shown on the Note Register within 30 days following the date upon which a Change of Control occurred, with a copy to the Trustee, which notice shall govern the terms of the Change of Control Offer and shall state:

(1) that a Change of Control has occurred, the circumstances or events causing such Change of Control and that a Change of Control Offer is being made pursuant to Section 3.8, and that all Notes that are timely tendered will be accepted for payment;

(2) the Change of Control Payment, and the Change of Control Payment Date, which date shall be a Business Day no earlier than 30 calendar days nor later than 60 calendar days subsequent to the date such notice is mailed (other than as may be required by law);

(3) that any Notes or portions thereof not tendered or accepted for payment will continue to accrue interest;

(4) that, unless the Issuer defaults in the payment of the Change of Control Payment with respect thereto, all Notes or portions thereof accepted for payment pursuant to the Change of Control Offer shall cease to accrue interest from and after the Change of Control Payment Date;

(5) that any Holder electing to have any Notes or portions thereof purchased pursuant to a Change of Control Offer will be required to tender such Notes, with the form entitled "Option of Holder to Elect Purchase" on the reverse of such Notes completed, to the Paying Agent at the address specified in the notice prior to the close of business on the third Business Day preceding the Change of Control Payment Date;

(6) that any Holder shall be entitled to withdraw such election if the Paying Agent receives, not later than the close of business on the second Business Day preceding the Change of Control Payment Date, a facsimile transmission or letter, setting forth the name of the Holder, the principal amount of Notes delivered for purchase, and a statement that such Holder is withdrawing such Holder's election to have such Notes or portions thereof purchased pursuant to the Change of Control Offer;

(7) that any Holder electing to have Notes purchased pursuant to the Change of Control Offer must specify the principal amount that is being tendered for purchase, which principal amount must be U.S.$70,000 or an integral multiple of U.S.$1,000 in excess thereof, in the case of Dollar Notes, or €50,000, or an integral multiple of €1,000 in excess thereof, in the case of Euro Notes;

(8) that any Holder of Certificated Notes whose Certificated Notes are being purchased only in part will be issued new Certificated Notes equal in principal amount to the unpurchased portion of the Certificated Note or Notes surrendered, which unpurchased portion will be equal in principal amount to U.S.$70,000 or an integral multiple of U.S.$1,000 in excess thereof, in the case of Dollar Notes, or to €50,000, or an integral multiple of €1,000 in excess thereof, in the case of Euro Notes;

(9) that the Trustee will return to the Holder of a Global Note that is being purchased in part, such Global Note with a notation on Schedule A thereof adjusting the principal amount thereof to be equal to the unpurchased portion of such Global Note; and

(10) any other information necessary to enable any Holder to tender Notes and to have such Notes purchased pursuant to Section 3.8(b).

"Change of Control Offer" has the meaning assigned to it in Section 3.8(b).

"Change of Control Payment" has the meaning assigned to it in Section 3.8(a).

"Change of Control Payment Date" has the meaning assigned to it in Section 3.8(b).

"Clearstream" means Clearstream Banking, *société anonyme*, or the successor to its securities clearance and settlement operations.

"Code" means the Internal Revenue Code of 1986, as amended.

"Collateral" means (i) shares of CEMEX España, CEMEX México, Centro Distribuidor de Cemento, S.A. de C.V., Mexcement Holdings S.A. de C.V., Corporación Gouda S.A. de C.V., New Sunward Holding, and CEMEX Trademarks Holding Ltd; and (ii) all proceeds of such Collateral as set forth in the Intercreditor Agreement.

"Commission" means the U.S. Securities and Exchange Commission.

"Commodity Price Purchase Agreement" means, in respect of any Person, any forward contract, commodity swap agreement, commodity option agreement or other similar agreement or arrangement designed to protect such Person from fluctuations in commodity prices.

"Common Stock" of any Person means any and all shares, interests or other participations in, and other equivalents (however designated and whether voting or non-voting) of such Person's common equity interests, whether outstanding on the Issue Date or issued after the Issue Date, and includes, without limitation, all series and classes of such common equity interests.

"Common Depositary" means The Bank of New York Mellon Depositary (Nominees) Limited of 30 Cannon Street, London, EC4M624 United Kingdom or registered assigns as common depositary for Euroclear and/or Clearstream.

"Company" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns, including any Successor Company which becomes such in accordance with Article IV.

"Compensation Related Hedging Obligations" means (i) the obligations of any Person pursuant to any equity option contract, equity forward contract, equity swap, warrant, rights or other similar agreement designed to hedge risks or obligations relating to employee, director or consultant compensation, pension, benefits or similar activities of the Company and/or any of its Subsidiaries and (ii) the obligations of any Person pursuant to any agreement that requires another Person to make payments or deliveries that are otherwise required to be made by the first Person relating to employee, director or consultant compensation, pension, benefits or similar activities of the Company and/or any of its Subsidiaries, in each case in the ordinary course of business.

"Consolidated EBITDA" means, for any Person for any period, Consolidated Net Income for such Person for such period, plus the following, without duplication, to the extent deducted or added in calculating such Consolidated Net Income:

(1) Consolidated Income Tax Expense for such Person for such period;

(2) Consolidated Interest Expense for such Person for such period net of consolidated interest income for such period;

(3) Consolidated Non-cash Charges for such Person for such period;

(4) the amount of any nonrecurring restructuring charge or reserve deducted in such period in computing Consolidated Net Income; and

(5) the net effect on income or loss in respect of Hedging Obligations or other derivative instruments, which shall include, for the avoidance of doubt, all amounts not excluded from Consolidated Net Income pursuant to the proviso in clause (9) thereof.

less (x) all non-cash credits and gains increasing Consolidated Net Income for such Person for such period and (y) all cash payments made by such Person and its Restricted Subsidiaries during such period relating to non-cash charges that were added back in determining Consolidated EBITDA in any prior period.

Notwithstanding the foregoing, the items specified in clauses (1) and (3) above for any Subsidiary (Restricted Subsidiary in the case of the Company) will be added to Consolidated Net Income in calculating Consolidated EBITDA for any period:

(a) in proportion to the percentage of the total Capital Stock of such Subsidiary (Restricted Subsidiary in the case of the Company) held directly or indirectly by such Person at the date of determination, and

(b) to the extent that a corresponding amount would be permitted at the date of determination to be distributed to such Person by such Restricted Subsidiary pursuant to its charter and bylaws and each law, regulation, agreement or judgment applicable to such distribution.

"Consolidated Fixed Charge Coverage Ratio" means, for any Person as of any date of determination (the "Fixed Charge Calculation Date"), the ratio of the aggregate amount of Consolidated EBITDA of such Person for the four most recent full fiscal quarters for which financial statements are available ending prior to the date of such determination (the "Four Quarter Period") to Consolidated Fixed Charges for such Person for such Four Quarter Period. For purposes of making the computation referred to above, Material Acquisitions and Material Dispositions (as determined in accordance with GAAP) that have been made by the Company or any of its Restricted Subsidiaries during the Four Quarter Period or subsequent to such Four Quarter Period and on or prior to or simultaneously with the Fixed Charge Calculation Date shall be calculated on a *pro forma* basis assuming that all such Material Acquisitions and Material Dispositions (and the change in any associated fixed charge obligations and the change in Consolidated EBITDA resulting therefrom) had occurred on the first day of the Four Quarter Period. If since the beginning of such period any Person that subsequently became a Restricted Subsidiary or was merged with or into the Company or any of its Restricted Subsidiaries since the beginning of such period shall have made any Material Acquisition or Material Disposition that would have required adjustment pursuant to this definition, then the Consolidated Fixed Charge Coverage Ratio shall be calculated giving *pro forma* effect thereto.

For purposes of this definition, whenever *pro forma* effect is to be given to a Material Acquisition or Material Disposition and the amount of income or earnings relating thereto or with respect to other *pro forma* calculations under this definition, such *pro forma* calculations shall be made in good faith by a responsible financial or accounting officer of the Company. If any Indebtedness bears a floating rate of interest and is being given *pro forma* effect, the interest on such Indebtedness shall be calculated as if the rate in effect on the Fixed Charge Calculation Date had been the applicable rate for the entire period (taking into account any Hedging Obligations applicable to such Indebtedness). Interest on a Capitalized Lease Obligation shall be deemed to accrue at an interest rate reasonably determined by a responsible financial or accounting officer of the Company to be the rate of interest implicit in such Capitalized Lease Obligation in accordance with GAAP. For purposes of making the computation referred to above, interest on any Indebtedness under a revolving credit facility computed on a *pro forma* basis shall be computed based upon the average daily balance of such Indebtedness during the applicable period except as set forth in the first paragraph of this definition. Interest on Indebtedness that may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rate, shall be deemed to have been based upon the rate actually chosen, or, if none, then based upon such optional rate chosen as the Company may designate.

Furthermore, in calculating "Consolidated Fixed Charges" for purposes of determining the denominator (but not the numerator) of this "Consolidated Fixed Charge Coverage Ratio,"

(a) interest on outstanding Indebtedness determined on a fluctuating basis as of the date of determination and which will continue to be so determined thereafter will be deemed to have accrued at a fixed rate per annum equal to the rate of interest on such Indebtedness in effect on such date of determination;

(b) if interest on any Indebtedness actually Incurred on such date of determination may optionally be determined at an interest rate based upon a factor of a prime or similar rate, a eurocurrency interbank offered rate, or other rates, then the interest rate in effect on such date of determination will be deemed to have been in effect during the Four Quarter Period; and

(c) notwithstanding clause (a) above, interest on Indebtedness determined on a fluctuating basis, to the extent such interest is covered by Hedging Obligations, will be deemed to accrue at the rate per annum resulting after giving effect to the operation of such agreements.

"Consolidated Fixed Charges" means, for any Person for any period, the sum, without duplication, of:

(1) Consolidated Interest Expense for such Person for such period, plus

(2) to the extent not included in (1) above, payments during such period in respect of the financing costs of financial derivatives in the form of equity swaps, plus

(3) the product of:

(a) the amount of all cash and non-cash dividend payments on any series of Preferred Stock or Disqualified Capital Stock of such Person (other than dividends paid in Qualified Capital Stock) or any Subsidiary of such Person (Restricted Subsidiary in the case of the Company) paid, accrued or scheduled to be paid or accrued during such period, excluding dividend payments on Preferred Stock or Disqualified Capital Stock paid, accrued or scheduled to be paid to such Person or another Subsidiary (Restricted Subsidiary in the case of the Company), times

(b) a fraction, the numerator of which is one and the denominator of which is one minus the then current effective tax rate of such Person in its principal taxpaying jurisdiction (Mexico, in the case of the Company), expressed as a decimal.

"Consolidated Income Tax Expense" means, with respect to any Person for any period, the provision for federal, state and local income and asset taxes payable, including current and deferred taxes, by such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) for such period as determined on a consolidated basis in accordance with GAAP.

"Consolidated Interest Expense" means, for any Person for any period, the sum of, without duplication determined on a consolidated basis in accordance with GAAP:

(1) the aggregate of cash and non-cash interest expense of such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) for such period determined on a consolidated basis in accordance with GAAP, including, without limitation the following for such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) whether or not interest expense in accordance with GAAP:

(a) any amortization or accretion of debt discount or any interest paid on Indebtedness of such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) in the form of additional Indebtedness,

(b) any amortization of deferred financing costs; *provided* that any such amortization resulting from costs incurred prior to the Issue Date shall be excluded for the calculation of Consolidated Interest Expense,

(c) the net costs under Hedging Obligations relating to Indebtedness (including amortization of fees but excluding foreign exchange adjustments on the notional amounts of the Hedging Obligations),

(d) all capitalized interest,

(e) the interest portion of any deferred payment obligation,

(f) commissions, discounts and other fees and charges Incurred in respect of letters of credit or bankers' acceptances or in connection with sales or other dispositions of accounts receivable and related assets,

(g) any interest expense on Indebtedness of another Person that is Guaranteed by such Person or one of its Subsidiaries (Restricted Subsidiary in the case of the Company) or secured by a Lien on the assets of such Person or one of its Subsidiaries (Restricted Subsidiaries in the case of the Company), whether or not such Guarantee or Lien is called upon, and

(h) any interest accrued in respect of Indebtedness without a maturity date; and

(2) the interest component of Capitalized Lease Obligations paid, accrued and/or scheduled to be paid or accrued by such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) during such period.

"Consolidated Net Income" means, with respect to any Person for any period, the aggregate net income (or loss) of such Person and its Subsidiaries for such period on a consolidated basis (after deducting (i) the portion of such net income attributable to minority interests in Subsidiaries of such Person and (ii) any interest paid or accrued in respect of Indebtedness without a maturity date), determined in accordance with GAAP; *provided*, that there shall be excluded therefrom:

(1) net after-tax gains and losses from Asset Sale transactions or abandonments or reserves relating thereto;

(2) net after-tax items classified as extraordinary gains or losses;

(3) the net income (but not loss) of any Subsidiary of such Person (Restricted Subsidiary in the case of the Company) to the extent that a corresponding amount could not be distributed to such Person at the date of determination as a result of any restriction pursuant to the constituent documents of such Subsidiary (Restricted Subsidiary in the case of the Company) or any law, regulation, agreement or judgment applicable to any such distribution;

(4) any net income (loss) of any Person (other than the Company) if such Person is not a Restricted Subsidiary, except that the Company's equity in the net income of any such Person for such period shall be included in such Consolidated Net Income up to the aggregate amount of cash distributed by such Person during such period to the Company or a Restricted Subsidiary as a dividend or other distribution (subject, in the case of a dividend or other distribution to a Restricted Subsidiary, to the limitations contained in this clause);

(5) any increase or decrease in net income attributable to minority interests in any Subsidiary (Restricted Subsidiaries in the case of the Company);

(6) any restoration to income of any contingency reserve, except to the extent that provision for such reserve was made out of Consolidated Net Income accrued at any time following the Issue Date;

(7) any gain (or loss) from foreign exchange translation or change in net monetary position;

(8) any gain (or loss) from the cumulative effect of changes in accounting principles; and

(9) any net gain or loss (after any offset) resulting in such period from Hedging Obligations or other derivative instruments; *provided* that the net effect on income or loss (including in any prior periods) shall be included upon any termination or early extinguishment of such Hedging Obligations or other derivative instrument, other than any Hedging Obligations with respect to Indebtedness (that is not itself a Hedging Obligation) and that are extinguished concurrently with the termination or other prepayment of such Indebtedness.

"Consolidated Non-cash Charges" means, for any Person for any period, the aggregate depreciation, amortization (including amortization of goodwill and other Intangible Assets) and other non-cash expenses or losses of such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) for such period, determined on a consolidated basis in accordance with GAAP (excluding any such charge which constitutes an accrual of or a reserve for cash charges for any future period or the amortization of a prepaid cash expense paid in a prior period).

"Consolidated Tangible Assets" means, for any Person at any time, the total consolidated assets of such Person and its Subsidiaries (Restricted Subsidiaries in the case of the Company) as set forth on the balance sheet as of the most recent fiscal quarter of such Person, prepared in accordance with GAAP, less Intangible Assets.

"Corporate Trust Office" means the principal office of the Trustee at which at any time its corporate trust business shall be administered, which office at the date hereof is located at 101 Barclay Street, 4E, New York, New York 10286, Attention: Global Structured Finance Group, or such other address as the Trustee may designate from time to time by notice to the Holders, the Issuer and the Company.

"Covenant Defeasance" has the meaning assigned to it in Section 8.1(c).

"Covenant Suspension Event" has the meaning assigned to it in Section 3.22(a).

"Currency Agreement" means, in respect of any Person, any foreign exchange contract, currency swap agreement or other similar agreement as to which such Person is a party designed to hedge foreign currency risk of such Person.

"Custodian" means any receiver, trustee, assignee, liquidator, sequestrator or similar official under any Bankruptcy Law.

"Default" means an event or condition the occurrence of which is, or with the lapse of time or the giving of notice or both would be, an Event of Default.

"Defaulted Interest" has the meaning assigned to it in Section 2.13 and Section 1, paragraph 2 of the Form of Reverse Side of Note contained in Exhibit A and Exhibit B.

"Designated Non-cash Consideration" means the Fair Market Value of non-cash consideration received by the Company or a Restricted Subsidiary in connection with an Asset Sale that is so designated as Designated Non-cash Consideration pursuant to an Officer's Certificate setting forth the basis of such valuation.

"Designation" has the meaning assigned to it in Section 3.14.

"Designation Amount" has the meaning assigned to it in clause (iii) of Section 3.14(a).

"Disposition" means, with respect to any property, any sale, lease, Sale and Leaseback Transaction, assignment, conveyance, transfer or other disposition thereof.

"Disqualified Capital Stock" means that portion of any Capital Stock which, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the Holder thereof), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to a sinking fund obligation or otherwise, or is redeemable at the sole option of the Holder thereof, in any case, on or prior to the 91st day after the final maturity date of the Notes, but excluding with respect to Mexican companies, any shares of such Mexican company that are part of the variable portion of its Capital Stock and that are redeemable under the Mexican General Law of Business Corporations (*Ley General de Sociedades Mercantiles*).

"Distribution Compliance Period" means, in respect of any Regulation S Global Note (or Certificated Note issued in respect thereof pursuant to Section 2.7(c)), the 40 consecutive days beginning on and including the later of (a) the day on which any Notes represented thereby are offered to persons other than distributors (as defined in Regulation S) pursuant to Regulation S or (b) the issue date for such Notes.

"Dollar Equivalent" means, with respect to any monetary amount in Euros, at any time of determination thereof by the Issuer, the amount of U.S. Legal Tender obtained by converting Euros into U.S. Legal Tender at the spot rate for the purchase of U.S. Legal Tender published in the Wall Street Journal, Eastern Edition (or, if the Wall Street Journal is no longer published, or if such information is no longer available, such source as may be selected in good faith by the Company) on the date of such determination.

"Dollar Notes" means the Issuer's U.S. Dollar-Denominated 9.25% Senior Secured Notes due 2020 issued and authenticated pursuant to this Indenture.

"DTC" means The Depository Trust Company, its nominees and their respective successors and assigns, or such other depositary institution hereinafter appointed by the Company that is a clearing agency registered under the Exchange Act.

"Equity Offering" has the meaning assigned to it in Exhibit A, Section 5.

"Euro Notes" means the Euro-Denominated 8.875% Senior Secured Notes due 2017 issued and authenticated pursuant to this Indenture.

"Euroclear" means Euroclear Bank S.A./N.V., as operator of the Euroclear System, or its successor in such capacity.

"European Government Obligations" means direct non-callable and non-redeemable obligations denominated in Euros (in each case, with respect to the issuer thereof) of any member state of the European Union that is a member of the European Union as of the date of this Indenture.

"Event of Default" has the meaning assigned to it in Section 6.1(a).

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Fair Market Value" means, with respect to any asset, the price (after taking into account any liabilities relating to such assets) which could be negotiated in an arm's-length free market transaction, for cash, between a willing seller and a willing and able buyer, neither of which is under any compulsion to complete the transaction. Fair Market Value shall be determined, except as otherwise provided, by the Company in good faith.

"Financing Agreement" means the financing agreement, dated as of August 14, 2009, entered into among the Company and certain of its Subsidiaries, the financial institutions and noteholders party thereto, Citibank International PLC, as administrative agent, and Wilmington Trust (London) Limited, as security agent, as such agreement may be amended, modified or waived from time to time.

"Financing Agreement Indebtedness" means the Indebtedness that is subject to and outstanding under the Financing Agreement.

"Fitch" means Fitch Ratings and any successor to its rating agency business.

"Four Quarter Period" has the meaning assigned to it in the definition of "Consolidated Fixed Charge Coverage Ratio" above.

"GAAP" means Mexican Financial Reporting Standards as in effect on September 30, 2009. At any time after the Issue Date, the Company may elect to apply IFRS in lieu of GAAP and, upon any such election, references herein to GAAP shall thereafter be construed to mean IFRS as in effect on the date of such election; *provided* that any such election, once made, shall be irrevocable. The Company shall give notice of any such election to the Trustee.

"Global Note" means any Note issued in fully registered form to DTC, Euroclear or Clearstream (or their respective nominees), as depositary for the beneficial owners thereof, which shall be substantially in the form of Exhibit A, in the case of Dollar Notes, and in the form of Exhibit B, in the case of Euro Notes, in each case with appropriate legends as specified in Section 2.7, Exhibit A and Exhibit B, as applicable.

"Guarantee" means any obligation, contingent or otherwise, of any Person directly or indirectly guaranteeing any Indebtedness of any other Person:

(1) to purchase or pay, or advance or supply funds for the purchase or payment of, such Indebtedness of such other Person, whether arising by virtue of partnership arrangements, or by agreement to keep-well, to purchase assets, goods, securities or services, to take-or-pay, or to maintain financial statement conditions or otherwise, or

(2) entered into for purposes of assuring in any other manner the obligee of such Indebtedness of the payment thereof or to protect such obligee against loss in respect thereof, in whole or in part,

provided that "Guarantee" will not include endorsements for collection or deposit in the ordinary course of business. "Guarantee" used as a verb has a corresponding meaning.

"Guaranteed Obligations" has the meaning assigned to it in Section 10.1(a).

"Hedging Obligations" means the obligations of any Person pursuant to any Interest Rate Agreement, Currency Agreement, Commodity Price Purchase Agreement or any Transportation Agreement, in each case, not entered into for speculative purposes.

"Holder" means the Person in whose name a Note is registered in the Note Register.

"IFRS" means the International Financial Reporting Standards as issued by the International Accounting Standards Board.

"Indebtedness" means with respect to any Person, without duplication:

(1) the principal amount (or, if less, the accreted value) of all obligations of such Person for borrowed money;

(2) the principal amount (or, if less, the accreted value) of all obligations of such Person evidenced by bonds, debentures, notes or other similar instruments, including any perpetual bonds, debenture notes or similar instruments without regard to maturity date;

(3) all Capitalized Lease Obligations of such Person;

(4) all obligations of such Person issued or assumed as the deferred purchase price of property, all conditional sale obligations and all payment obligations under any title retention agreement (but excluding trade accounts payable and other accrued liabilities accounted for as current liabilities (in accordance with GAAP) arising in the ordinary course of business) to the extent of any reimbursement obligations in respect thereof;

(5) reimbursement obligations with respect to letters of credit, banker's acceptances or similar credit transactions;

(6) Guarantees and other contingent obligations of such Person in respect of Indebtedness referred to in clauses (1) through (5) above and clauses (8) through (10) below;

(7) all Indebtedness of any other Person of the type referred to in clauses (1) through (6) which is secured by any Lien on any property or asset of the first Person, the amount of such Indebtedness being deemed to be the lesser of the Fair Market Value of such property or asset or the amount of the Indebtedness so secured;

(8) all obligations under Hedging Obligations or other derivatives of such Person;

(9) all liabilities (contingent or otherwise) of such Person in connection with a sale or other disposition of accounts receivable and related assets (not including Qualified Receivables Transactions, irrespective of their treatment under GAAP or IFRS; and

(10) all Disqualified Capital Stock issued by such Person with the amount of Indebtedness represented by such Disqualified Capital Stock being equal to the greater of its voluntary or involuntary liquidation preference and its maximum fixed repurchase price, but excluding accrued dividends, if any; *provided* that:

(a) if the Disqualified Capital Stock does not have a fixed repurchase price, such maximum fixed repurchase price will be calculated in accordance with the terms of the Disqualified Capital Stock as if the Disqualified Capital Stock were purchased on any date on which Indebtedness will be required to be determined pursuant to this Indenture, and

(b) if the maximum fixed repurchase price is based upon, or measured by, the fair market value of the Disqualified Capital Stock, the fair market value will be the Fair Market Value thereof.

"Incur" means, with respect to any Indebtedness or other obligation of any Person, to create, issue, incur (including by conversion, exchange or otherwise), assume, Guarantee or otherwise become liable in respect of such Indebtedness or other obligation on the balance sheet of such Person (and "Incurrence," "Incurred" and "Incurring" will have meanings correlative to the preceding).

"Indenture" means this Indenture as amended or supplemented from time to time, including the Exhibits hereto.

"Intangible Assets" means with respect to any Person all unamortized debt discount and expense, unamortized deferred charges, goodwill, patents, trademarks, service marks, trade names, copyrights and all other items which would be treated as intangibles on the consolidated balance sheet of such Person prepared in accordance with GAAP.

"Intercreditor Agreement" means the intercreditor agreement, dated as of August 14, 2009, entered into among the Company and certain of its Subsidiaries, the financial institutions and noteholders party thereto, Citibank International PLC, as administrative agent, and Wilmington Trust (London) Limited, as security agent, as such agreement may be amended from time to time.

"Interest Payment Date" means the stated due date of an installment of interest on the Notes as specified in the Form of Face of Note contained in Exhibit A, in the case of Dollar Notes, and in Exhibit B, in the case of Euro Notes.

"Interest Rate Agreement" of any Person means any interest rate protection agreement (including, without limitation, interest rate swaps, caps, floors, collars, derivative instruments and similar agreements) and/or other types of hedging agreements designed to hedge interest rate risk of such Person.

"Inventory Financing" means a financing arrangement pursuant to which the Company or any of its Restricted Subsidiaries sells inventory to a bank or other institution (or a special purpose vehicle or partnership incorporated or established by or on behalf of such bank or other institution or an Affiliate of such bank or other institution) and has an obligation to repurchase such inventory to the extent that it is not sold to a third party within a specified period.

"Investment" means, with respect to any Person, any (1) direct or indirect loan, advance or other extension of credit (including, without limitation, a Guarantee) to any other Person, (2) capital contribution (by means of any transfer of cash or other property to others or any payment for property or services for the account or use of others) to any other Person, or (3) purchase or acquisition by such Person of any Capital Stock, bonds, notes, debentures or other securities or evidences of Indebtedness issued by any other Person. "Investment" will exclude accounts receivable, extensions of credit in connection with supplier or customer financings consistent with industry or past practice, advance payment of capital expenditures

arising in the ordinary course of business, deposits arising in the ordinary course of business and transactions (other than (i) any sale, lease, license, transfer or other disposal and (ii) the granting or creation of a Lien or the incurring or permitting to subsist of Indebtedness) conducted in the ordinary course of business on arm's length terms.

For purposes of Section 3.11, the Company will be deemed to have made an "Investment" in an Unrestricted Subsidiary at the time of its Designation, which will be valued at the Fair Market Value of the sum of the net assets of such Unrestricted Subsidiary multiplied by the percentage equity ownership of the Company and its Restricted Subsidiaries in such Designated Unrestricted Subsidiary at the time of its Designation and the amount of any Indebtedness of such Unrestricted Subsidiary or owed to the Company or any Restricted Subsidiary immediately following such Designation. Any property transferred to or from an Unrestricted Subsidiary will be valued at its Fair Market Value at the time of such transfer. If the Company or any Restricted Subsidiary sells or otherwise disposes of any Capital Stock of a Restricted Subsidiary (including any issuance and sale of Capital Stock by a Restricted Subsidiary) such that, after giving effect to any such sale or disposition, such Restricted Subsidiary would cease to be a Subsidiary of the Company, the Company will be deemed to have made an Investment on the date of any such sale or disposition equal to sum of the Fair Market Value of the Capital Stock of such former Restricted Subsidiary held by the Company or any Restricted Subsidiary immediately following such sale or other disposition and the amount of any Indebtedness of such former Restricted Subsidiary Guaranteed by the Company or any Restricted Subsidiary or owed to the Company or any other Restricted Subsidiary immediately following such sale or other disposition. The acquisition by the Company or any Restricted Subsidiary of the Company of a Person that holds an Investment in a third Person will be deemed to be an Investment by the Company or such Restricted Subsidiary in such third Person in an amount equal to the Fair Market Value of the Investments held by the acquired Person in such third Person. Except as otherwise provided in the Indenture, the amount of an Investment will be determined at the time the Investment is made without giving effect to subsequent changes in value.

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

"Investment Return" means, in respect of any Investment (other than a Permitted Investment) made after the Issue Date by the Company or any Restricted Subsidiary:

(1) the cash proceeds received by the Company upon the sale, liquidation or repayment of such Investment or, in the case of a Guarantee, the amount of the Guarantee upon the unconditional release of the Company and its Restricted Subsidiaries in full, less any payments previously made by the Company or any Restricted subsidiary in respect of such Guarantee; and

(2) in the case of the Revocation of the Designation of an Unrestricted Subsidiary, an amount equal to the lesser of:

(a) the Company's Investment in such Unrestricted Subsidiary at the time of such Revocation;

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

(c) the Designation Amount with respect to such Unrestricted Subsidiary upon its Designation which was treated as a Restricted Payment; and

(3) in the event the Company or any Restricted Subsidiary makes any Investment in a Person that, as a result of or in connection with such Investment, becomes a Restricted Subsidiary, the existing Investment of the Company and its Restricted Subsidiaries in such Person,

in the case of each of (1), (2) and (3), up to the amount of such Investment that was treated as a Restricted Payment under Section 3.11 less the amount of any previous Investment Return in respect of such Investment.

"Issue Date" means the first date of issuance of the Notes under this Indenture and following a Partial Covenant Suspension Event or a Covenant Suspension Event, except under "*Optional Redemption for Changes in Withholding Taxes*" under clause (5) in Exhibit A, in the case of Dollar Notes, and, in Exhibit B, in the case of Euro Notes, Section 3.22 and the definition of "Permitted Liens," the most recent Partial Reversion Date or Reversion Date, as applicable.

"Issue Date Notes" means the U.S.$1,067,665,000 aggregate principal amount of Dollar Notes and the €115,346,000 aggregate principal amount of Euro Notes originally issued on the Issue Date, and any replacement Notes issued therefor in accordance with this Indenture.

"Issuer" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"Issuer Order" has the meaning assigned to it in Section 2.2(c).

"Legal Defeasance" has the meaning assigned to it in Section 8.1(b).

"Legal Holiday" has the meaning assigned to it in Section 12.6.

"Lien" means, with respect to any asset, any mortgage, lien, pledge, charge, security interest or encumbrance of any kind in respect of such asset. The Company or any Restricted Subsidiary shall be deemed to own, subject to a Lien, any asset that it has acquired or holds subject to the interest of a vendor or lessor under any conditional sale agreement, Capitalized Lease Obligations or other title retention lease relating to such asset, or any account receivable transferred by it with recourse (including any such transfer subject to a holdback or similar arrangement that effectively imposes the risk of collectability on the transferor).

"Luxembourg" means the Grand Duchy of Luxembourg.

"Material Acquisition" means:

(1) an Investment by the Company or any Restricted Subsidiary in any other Person pursuant to which such Person will become a Restricted Subsidiary, or will be merged with or into the Company or any Restricted Subsidiary;

(2) the acquisition by the Company or any Restricted Subsidiary of the assets of any Person (other than a Subsidiary of the Company) which constitute all or substantially all of the assets of such Person or comprises any division or line of business of such Person or any other properties or assets of such Person other than in the ordinary course of business; or

(3) any Revocation with respect to an Unrestricted Subsidiary;

in each case which involves an Investment, Designation or payment of consideration in excess of U.S.$25,000,000 (or the equivalent in other currencies).

"Material Disposition" means any Asset Sale and, whether or not constituting an Asset Sale, (1) any sale or other disposition of Capital Stock, (2) any Designation with respect to an Unrestricted Subsidiary and (3) any sale or other disposition of property or assets excluded from the definition of Asset Sale by clause (4) of that definition, in each case which involves an Investment, Designation or payment of consideration in excess of U.S.$25,000,000 (or the equivalent in other currencies).

"Maturity Date" means May 12, 2020, in the case of Dollar Notes, and May 12, 2017, in the case of Euro Notes

"Mexican Financial Reporting Standards" means Mexican financial reporting standards (*Normas de Información Financiera Aplicables en México*) as issued by the Mexican Financial Reporting Standards Board (*Consejo Mexicano para la Investigación y Desarrollo de Normas de Información Financiera*).

"Moody's" means Moody's Investors Service Inc., and any successor to its rating agency business.

"Net Cash Proceeds" means, with respect to any Asset Sale, the proceeds in the form of cash or Cash Equivalents, including payments in respect of deferred payment obligations when received in the form of cash or Cash Equivalents received by the Company or any of its Restricted Subsidiaries from such Asset Sale, net of:

(1) reasonable out-of-pocket expenses and fees relating to such Asset Sale (including, without limitation, legal, accounting and investment banking fees and sales commissions);

(2) taxes paid or payable in respect of such Asset Sale after taking into account any reduction in consolidated tax liability due to available tax credits or deductions and any tax sharing arrangements;

(3) repayment of Indebtedness secured by a Lien permitted under this Indenture that is required to be repaid in connection with such Asset Sale; and

(4) appropriate amounts to be provided by the Company or any Restricted Subsidiary, as the case may be, as a reserve, in accordance with GAAP, against any liabilities associated with such Asset Sale and retained by the Company or any Restricted Subsidiary, as the case may be, after such Asset Sale, including, without limitation, pension and other post-employment benefit liabilities, liabilities related to environmental matters and liabilities under any indemnification obligations associated with such Asset Sale, but excluding any reserves with respect to Indebtedness.

"New Sunward Holding" means the party named as such in the introductory paragraph to this Indenture and its successors and assigns.

"Non-U.S. Person" means a person who is not a U.S. person, as defined in Regulation S.

"Note Custodian" means the custodian with respect to any Global Note appointed by DTC, Euroclear or Clearstream, or any successor Person thereto, and shall initially be the Trustee.

"Note Guarantee" means any guarantee of the Issuer's Obligations under this Indenture and the Notes by any Note Guarantor pursuant to Article X.

"Note Guarantors" means collectively the Company, CEMEX Mexico and any Additional Guarantor.

"Note Register" has the meaning assigned to it in Section 2.3(a).

"Notes" means, collectively, the Dollar Notes and the Euro Notes.

"Obligations" means, with respect to any Indebtedness, any principal, interest (including, without limitation, Post-Petition Interest), penalties, fees, indemnifications, reimbursements, damages, and other liabilities payable under the documentation governing such Indebtedness, including in the case of the Notes and the Note Guarantees, on this Indenture.

"Officer" means, when used in connection with any action to be taken by the Company, the Issuer or a Note Guarantor, as the case may be, the Chairman of the Board, the Chief Executive Officer, the President, the Chief Financial Officer, any Vice President, the Treasurer, the Controller, the Secretary or an attorney-in-fact of the Company, the Issuer or such Note Guarantor, as the case may be.

"Officer's Certificate" means a certificate signed on behalf of a Person by an Officer of such Person, who must be the principal executive officer, the principal financial officer, the treasurer, the principal accounting officer or an attorney-in-fact of such Person, that meets the requirements set forth in this Indenture.

"Opinion of Counsel" means a written opinion of counsel, who, unless otherwise indicated in this Indenture, may be an employee of or counsel for the Issuer or any Note Guarantor, and who shall be reasonably acceptable to the Trustee.

"Outstanding" means, as of the date of determination, all Notes theretofor authenticated and delivered under this Indenture, except:

(1) Notes theretofor canceled by the Trustee or delivered to the Trustee for cancellation;

(2) Notes, or portions thereof, for the payment, redemption or, in the case of an Asset Sale Offer or Change of Control Offer, purchase of which, money in the necessary amount has been theretofor deposited with the Trustee or any Paying Agent (other than the Issuer, a Note Guarantor or an Affiliate of the Company) in trust or set aside and segregated in trust by the Issuer, a Note Guarantor or an Affiliate of the Company (if the Issuer, such Note Guarantor or such Affiliate is acting as the Paying Agent) for the Holders of such Notes; *provided* that, if Notes (or portions thereof) are to be redeemed or purchased, notice of such redemption or purchase has been duly given pursuant to this Indenture or provision therefor satisfactory to the Trustee has been made;

(3) Notes which have been surrendered pursuant to Section 2.9 or Notes in exchange for which or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture, other than any such Notes in respect of which there shall have been presented to the Trustee proof satisfactory to it that such Notes are held by a protected purchaser in whose hands such Notes are valid obligations of the Issuer; and

(4) solely to the extent provided in Article VIII, Notes which are subject to Legal Defeasance or Covenant Defeasance as provided in Article VIII;

provided, however, that in determining whether the Holders of the requisite aggregate principal amount of the Outstanding Notes have given any request, demand, authorization, direction, notice, consent or waiver hereunder, Notes owned by the Issuer, a Note Guarantor or any other obligor upon the Notes or any Affiliate of the Company or of such other obligor shall be disregarded and deemed not to be Outstanding, except that, in determining whether the Trustee shall be protected in relying upon any such request, demand, authorization, direction, notice, consent or waiver, only Notes which a Trust Officer of the Trustee actually knows to be so owned shall be so disregarded. Notes so owned which have been pledged in good faith may be regarded as Outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Notes and that the pledgee is not the Issuer or any other obligor upon the Notes or any Affiliate of the Company or of such other obligor.

"Partial Covenant Reversion Date" has the meaning set forth under Section 3.22(e).

"Partial Covenant Suspension Date" has the meaning set forth under Section 3.22(c).

"Partial Covenant Suspension Event" has the meaning set forth under Section 3.22(a).

"Partial Suspended Covenants" has the meaning set forth under Section 3.22(a).

"Partial Suspension Period" has the meaning set forth under Section 3.22(e).

"Paying Agent" has the meaning assigned to it in Section 2.3(a).

"Permitted Asset Swap Transaction" means a transaction consisting substantially of the concurrent (i) disposition by the Company or any of its Restricted Subsidiaries of any asset, property or cash consideration (other than a Restricted Subsidiary) in exchange for assets, property or cash consideration transferred to the Company or a Restricted Subsidiary, to be used in a Permitted Business or (ii) disposition by the Company or any of its Restricted Subsidiaries of Capital Stock of a Restricted Subsidiary in exchange for Capital Stock of another Restricted Subsidiary or of Capital Stock of any Person that becomes a Restricted Subsidiary after giving effect to such transaction; *provided* that any cash or Cash Equivalents received in such a transaction shall constitute Net Cash Proceeds to be applied in accordance with Section 3.12.

"Permitted Business" means the business or businesses conducted by the Company and its Restricted Subsidiaries as of the Issue Date and any business ancillary, complementary or related thereto or any other business that would not constitute a substantial change to the general nature of its business from that carried on as of the Issue Date.

"Permitted Indebtedness" has the meaning set forth in Section 3.9(b).

"Permitted Investments" means:

(1) Investments by the Company or any Restricted Subsidiary in any Person that is, or that result in any Person becoming, immediately after such Investment, a Restricted Subsidiary or constituting a merger or consolidation of such Person into the Company or with or into a Restricted Subsidiary;

(2) any Investment in the Company;

(3) Investments in cash and Cash Equivalents;

(4) any extension, modification or renewal of any Investments existing as of the Issue Date (but not Investments involving additional advances, contributions or other investments of cash or property or other increases thereof, other than as a result of the accrual or accretion of interest or original issue discount or payment-in-kind pursuant to the terms of such Investment as of the Issue Date);

(5) Investments permitted pursuant to clause (ii), (vi) or (vii) of Section 3.18(b);

(6) Investments received as a result of the bankruptcy or reorganization of any Person or taken in settlement of or other resolution of claims or disputes, and, in each case, extensions, modifications and renewals thereof;

(7) Investments made by the Company or its Restricted Subsidiaries as a result of non-cash consideration permitted to be received in connection with an Asset Sale made in compliance with Section 3.12;

(8) Investments in the form of Hedging Obligations or Compensation Related Hedging Obligations permitted under clause (v) of Section 3.9(b);

(9) Investments in existence on the Issue Date or made pursuant to binding commitments in effect on the Issue Date or any Investment consisting of any extension, modification or renewal of any Investment existing on the Issue Date; *provided* that the amount of any such Investment may be increased (a) as required by the terms of such Investment as in existence on the Issue Date or (b) as otherwise permitted by this Indenture;

(10) Investments by the Company or any Restricted Subsidiary in a Receivables Entity in connection with a Qualified Receivables Transaction which does not constitute an Asset Sale by virtue of clause (7) of the definition thereof; *provided, however*, that any such Investments are made only in the form of Receivables Assets;

(11) Investments in marketable securities or instruments, to fund the Company's or a Restricted Subsidiary's pension and other employee-related obligations in the ordinary course of business pursuant to compensation arrangements approved by the Board of Directors or senior management of the Company;

(12) any Investment that:

(a) when taken together with all other Investments made pursuant to this clause (12) that are at the time outstanding (net of cash benefits to the Company or a Restricted Subsidiary from Investments pursuant to this clause (12)), does not exceed the greater of U.S.$250 million and 3% of Consolidated Tangible Assets; or

(b) when taken together with all other Investments made pursuant to this clause (12) in any fiscal year that are at the time outstanding, does not exceed U.S.$100 million in any fiscal year;

(13) Investments in the Capital Stock of any Person other than a Restricted Subsidiary that are required to be held pursuant to an involuntary governmental order of condemnation, nationalization, seizure or expropriation or other similar order with respect to Capital Stock of such Person (prior to which order such Person was a Restricted Subsidiary); *provided* that such Person contests such order in good faith in appropriate proceedings;

(14) repurchases of the U.S. Dollar-denominated 9.50% Senior Secured Notes due 2016, the Euro-denominated 9.625% Senior Secured Notes due 2017 or the Notes;

(15) Investments in the SPV Perpetuals or the notes related thereto; *provided* that any payment or other contribution to one of the special purpose vehicles issuing the SPV Perpetuals in connection with such Investment is promptly paid or contributed to the Company or a Restricted Subsidiary following receipt thereof.

(16) any Investment that constitutes Indebtedness permitted under clause (viii) of Section 3.9(b); and

(17) (a) Investments to which the Company or any of its Restricted Subsidiaries is contractually committed as of the Issue Date in any Person other than a Subsidiary in which the Company or any of its Restricted Subsidiaries maintains an Investment in equity securities and (b) Investments in any Person other than a Subsidiary in which the Company or any of its Restricted Subsidiaries maintains an Investment in equity securities up to U.S.$100 million in any calendar year minus the amount of any guarantees under clause (xix) of Section 3.9(b).

"Permitted Liens" means any of the following:

(1) statutory Liens of landlords and Liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP, shall have been made and any other Liens created by operation of law;

(2) Liens Incurred or deposits made in the ordinary course of business in connection with (i) workers' compensation, unemployment insurance and other types of social security or (ii) other insurance maintained by the Company and its Subsidiaries in compliance with the Financing Agreement;

(3) Liens for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by GAAP shall have been made;

(4) any attachment or judgment Lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(5) (i) Liens existing on the Issue Date other than in respect of the Collateral and (ii) Liens in respect of the Collateral to the extent equally and ratably securing the Notes, and the other Permitted Secured Obligations;

(6) any Lien on property acquired by the Company or its Restricted Subsidiaries after the Issue Date that was existing on the date of acquisition of such property; *provided* that such Lien was not incurred in anticipation of such acquisition, and any Lien created to secure all or any part of the purchase price, or to secure Indebtedness incurred or assumed to pay all or any part of the purchase price, of property acquired by the Company or any of its Restricted Subsidiaries after the Issue Date; *provided further* that (A) any such Lien permitted pursuant to this clause (6) shall be confined solely to the item or items of property so acquired (including, in the case of any Acquisition of a corporation through the acquisition of 51% or more of the voting stock of such corporation, the stock and assets of any Acquired Subsidiary or Acquiring Subsidiary) and, if required by the terms of the instrument originally creating such Lien, other property which is an improvement to, or is acquired for specific use with, such acquired property; and (B) if applicable, any such Lien shall be created within nine months after, in the case of property, its acquisition, or, in the case of improvements, their completion;

(7) any Liens renewing, extending or refunding any Lien permitted by clause (5)(i) above; *provided* that such Lien is not extended to other property (or, instead, is only extended to equivalent property) and the principal amount of Indebtedness secured by such Lien immediately prior thereto is not increased or the maturity thereof reduced, except that the principal amount secured by any such Lien in respect of:

(a) hedging obligations or other derivatives where there are fluctuations in mark-to-market exposures of those hedging obligations or other derivatives,

(b) Indebtedness consisting of any "*Certificados Bursátiles de Largo Plazo*" or the Bancomext Facility, or any Refinancing thereof, where principal may increase by virtue of capitalization of interest, and

(c) the Banobras Facility to the extent additional amounts are drawn thereunder, may be increased by the amount of such fluctuations, capitalization or drawings, as the case may be;

(8) Liens on Receivables Assets or Capital Stock of a Receivables Subsidiary, in each case granted in connection with a Qualified Receivables Transaction;

(9) Liens granted pursuant to or in connection with any netting or set-off arrangements entered into in the ordinary course of business;

(10) any Lien permitted by the Trustee, acting pursuant to the instructions of at least 50% of the Holders; and

(11) any Lien granted by the Company or any of its Restricted Subsidiaries to secure Indebtedness under a Permitted Liquidity Facility; *provided* that: (i) such Lien is not granted in respect of the Collateral, and (ii) the maximum amount of such Indebtedness secured by such Lien does not exceed U.S.$500 million at any time; or

(12) in addition to the Liens permitted by the foregoing clauses (1) through (11), Liens securing obligations of the Company and its Restricted Subsidiaries that in the aggregate secure obligations in an amount not in excess of the greater of (i) 5% of Consolidated Tangible Assets and (ii) U.S.$700 million.

"Permitted Liquidity Facility" means a loan facility or facilities made available to the Company or any Restricted Subsidiary by one or more creditors under the Financing Agreement Indebtedness (or their respective Affiliates); *provided* that the aggregate principal amount of utilized and unutilized commitments under such facilities must not exceed U.S.$1 billion (or its equivalent in another currency) at any time.

"Permitted Merger Jurisdiction" has the meaning set forth in Section 4.1(a).

"Permitted Secured Obligations" means (i) the Financing Agreement Indebtedness and any refinancing thereof made in accordance with the Financing Agreement that is secured by the Collateral, (ii) notes (or similar instruments, including *Certificados Bursátiles*) outstanding on the date of the Financing Agreement required to be secured by the Collateral pursuant to their terms, or any refinancing thereof permitted by the Financing Agreement, and (iii) future Indebtedness secured by the Collateral to the extent permitted by the Financing Agreement.

"Person" means an individual, partnership, limited partnership, corporation, company, limited liability company, unincorporated organization, trust or joint venture, or a governmental agency or political subdivision thereof.

"Pesos" or "Ps" means the lawful money of Mexico.

"Private Placement Legend" has the meaning assigned to it in Section 2.8(b).

"Post-Petition Interest" means all interest accrued or accruing after the commencement of any insolvency or liquidation proceeding (and interest that would accrue but for the commencement of any insolvency or liquidation proceeding) in accordance with and at the contract rate (including, without limitation, any rate applicable upon default) specified in the agreement or instrument creating, evidencing or governing any Indebtedness, whether or not, pursuant to applicable law or otherwise, the claim for such interest is allowed as a claim in such insolvency or liquidation proceeding.

"Preferred Stock" of any Person means any Capital Stock of such Person that has preferential rights over any other Capital Stock of such Person with respect to dividends, distributions or redemptions or upon liquidation.

"Purchase Money Indebtedness" means Indebtedness Incurred for the purpose of financing all or any part of the purchase price or cost of construction of any property other than Capital Stock; *provided* that the aggregate principal amount of such Indebtedness does not exceed the lesser of the Fair Market Value of such property or such purchase price or cost, including any Refinancing of such Indebtedness that does not increase the aggregate principal amount (or accreted amount, if less) thereof as of the date of Refinancing.

"QIB" means a "qualified institutional buyer" as defined in Rule 144A.

"Qualified Capital Stock" means any Capital Stock that is not Disqualified Capital Stock and any warrants, rights or options to purchase or acquire Capital Stock that is not Disqualified Capital Stock that are not convertible into or exchangeable into Disqualified Capital Stock.

"Qualified Receivables Transaction" means any transaction or series of transactions that may be entered into by the Company or any Restricted Subsidiary pursuant to which the Company or any Restricted Subsidiary may sell, convey, assign or otherwise transfer to a Receivables Entity any Receivables Assets to obtain funding for the operations of the Company and its Restricted Subsidiaries:

(1) for which no term of any portion of the Indebtedness or any other obligations (contingent or otherwise) or securities Incurred or issued by any Person in connection therewith:

(a) directly or indirectly provides for recourse to, or any obligation of, the Company or any Restricted Subsidiary in any way, whether pursuant to a Guarantee or otherwise, except for Standard Undertakings,

(b) directly or indirectly subjects any property or asset of the Company or any Restricted Subsidiary (other than Capital Stock of a Receivables Subsidiary) to the satisfaction thereof, except for Standard Undertakings, or

(c) results in such Indebtedness, other obligations or securities constituting Indebtedness of the Company or a Restricted Subsidiary, including following a default thereunder, and

(2) for which the terms of any Affiliate Transaction between the Company or any Restricted Subsidiary, on the one hand, and any Receivables Entity, on the other, other than Standard Undertakings and Permitted Investments, are no less favorable than those that could reasonably be expected to be obtained in a comparable transaction at such time on an arm's length basis from a Person that is not an Affiliate of the Company, and

(3) in connection with which, neither the Company nor any Restricted Subsidiary has any obligation to maintain or preserve a Receivable Entity's financial condition, cause a Receivables Entity to achieve certain levels of operating results, fund losses of a Receivables Entity, or except in connection with Standard Undertakings, purchase assets of a Receivables Entity.

"Rating Agencies" mean Fitch, Moody's and S&P. In the event that Fitch, Moody's or S&P is no longer in existence or issuing ratings, such organization may be replaced by a nationally recognized statistical rating organization (as defined in Rule 15c3-1(c)(2)(vi)(F) of the Exchange Act or any successor provision) designated by the Company with notice to the Trustee.

"Receivables Assets" means:

(1) accounts receivable, leases, conditional sale agreements, instruments, chattel paper, installment sale contracts, obligations, general intangibles, and other similar assets, in each case relating to goods, inventory or services of the Company and its Subsidiaries,

(2) equipment and equipment residuals relating to any of the foregoing,

(3) contractual rights, Guarantees, letters of credit, Liens, insurance proceeds, collections and other similar assets, in each case related to the foregoing, and

(4) proceeds of all of the foregoing.

"Receivables Entity" means a Receivables Subsidiary or any other Person not an Affiliate of the Company, in each case whose sole business activity is to engage in Qualified Receivables Transactions, including to issue securities or other interests in connection with a Qualified Receivables Transaction.

"Receivables Subsidiary" means an Unrestricted Subsidiary of the Company that engages in no activities other than Qualified Receivables Transactions and activities related thereto and that is designated by the Issuer as a Receivables Subsidiary. Any such designation by the Issuer will be evidenced to the Trustee by filing with the Trustee an Officer's Certificate of the Issuer.

"Record Date" has the meaning assigned to it in the Form of Face of Note contained in Exhibit A, in the case of Dollar Notes, and in the Form of Face of Note contained in Exhibit B, in the case of Euro Notes.

"Redemption Date" means, with respect to any redemption of Notes, the date fixed for such redemption pursuant to this Indenture and the Notes.

"Refinance" means, in respect of any Indebtedness, to issue any Indebtedness in exchange for or to refinance, repay, redeem, replace, defease or refund such Indebtedness in whole or in part. "Refinanced" and "Refinancing" will have correlative meanings.

"Refinancing Indebtedness" means Indebtedness of the Company or any Restricted Subsidiary issued to Refinance any other Indebtedness of the Company or a Restricted Subsidiary so long as:

(1) the aggregate principal amount (or initial accreted value, if applicable) of such new Indebtedness as of the date of such proposed Refinancing does not exceed the aggregate principal amount (or accreted value as of such date, if applicable) of the Indebtedness being Refinanced (plus the amount of any premium required to be paid under the terms of the instrument governing such Indebtedness and the amount of reasonable expenses incurred by the Company in connection with such Refinancing);

(2) such new Indebtedness has:

  (a) a Weighted Average Life to Maturity that is equal to or greater than the Weighted Average Life to Maturity of the Indebtedness being Refinanced, and

  (b) a final maturity that is equal to or later than the final maturity of the Indebtedness being Refinanced or, in the case of Indebtedness without a stated maturity, December 14, 2017; and

(3) if the Indebtedness being Refinanced is:

  (a) Indebtedness of the Issuer, then such Refinancing Indebtedness will be Indebtedness of the Issuer and/or any Note Guarantor,

  (b) Indebtedness of a Note Guarantor, then such Refinancing Indebtedness will be Indebtedness of the Issuer and/or any Note Guarantor,

  (c) Indebtedness of any of the Restricted Subsidiaries, then such Refinancing Indebtedness will be Indebtedness of such Restricted Subsidiary, the Issuer and/or any Note Guarantor, and

(d) Subordinated Indebtedness, then such Refinancing Indebtedness shall be subordinate to the Notes or the relevant Note Guarantee, if applicable, at least to the same extent and in the same manner as the Indebtedness being Refinanced.

Notwithstanding the foregoing, with respect to any hedging obligations or derivates outstanding on the Issue Date in respect of the Axtel Share Forward Transactions, "Refinancing Indebtedness" shall mean any replacements, amendments or renewals thereof that are entered into on then prevailing market terms with the underlying amounts not greater than the original underlying amounts.

"Registrar" has the meaning assigned to it in Section 2.3(a).

"Regulation S" means Regulation S under the Securities Act or any successor regulation.

"Regulation S Global Note" has the meaning assigned to it in Section 2.1(e).

"Resale Restriction Termination Date" means for any Restricted Note (or beneficial interest therein), that is (a) not a Regulation S Global Note, the date on which the Company instructs the Trustee in writing to remove the Private Placement Legend from the Restricted Notes in accordance with the procedures described in Section 2.9(h) (which instruction is expected to be given on or about the one year anniversary of the issuance of the Restricted Notes) and (b) a Regulation S Global Note (or Certificated Note issued in respect thereof pursuant to Section 2.7(c)), the date on which the Distribution Compliance Period therefor terminates.

"Restricted Note" means any Issue Date Note (or beneficial interest therein) or any Additional Note (or beneficial interest therein) not originally issued and sold pursuant to an effective registration statement under the Securities Act other than, in each case, a Regulation S Global Note until such time as:

(i) the Resale Restriction Termination Date therefor has passed; or

(ii) in the case of a Regulation S Global Note (or Certificated Note issued in respect thereof pursuant to Section 2.7(c)), the expiration of the Distribution Compliance Period therefor; or

(iii) the Private Placement Legend therefor has otherwise been removed pursuant to Section 2.9 or, in the case of a beneficial interest in a Global Note, such beneficial interest has been exchanged for an interest in a Global Note not bearing a Private Placement Legend.

"Restricted Payment" has the meaning set forth in Section 3.11(a).

"Restricted Subsidiary" means any Subsidiary of the Company, which at the time of determination is not an Unrestricted Subsidiary.

"Reversion Date" has the meaning assigned to in Section 3.22(e).

"Revocation" has the meaning set forth in Section 3.14(c).

"Rule 144" means Rule 144 under the Securities Act (or any successor rule).

"Rule 144A" means Rule 144A under the Securities Act (or any successor rule).

"Rule 144A Global Note" has the meaning assigned to it in Section 2.1(d).

"S&P" means Standard & Poor's Ratings Group and any successor to its rating agency business.

"Sale and Leaseback Transaction" means any direct or indirect arrangement with any Person or to which any such Person is a party providing for the leasing to the Company or a Restricted Subsidiary of any property, whether owned by the Company or any Restricted Subsidiary at the Issue Date or later acquired, which has been or is to be sold or transferred by the Company or such Restricted Subsidiary to such Person or to any other Person by whom funds have been or are to be advanced on the security of such Property.

"Securities Act" means the Securities Act of 1933, as amended.

"Security Agent" means Wilmington Trust (London) Limited, as Security Agent under the Intercreditor Agreement.

"Security Documents" has the meaning assigned to it in Section 7.13.

"Senior Indebtedness" means (i) the Notes and any other Indebtedness of the Company or any Note Guarantor that ranks equal in right of payment with the Notes or the relevant Note Guarantee, as the case may be or (ii) Indebtedness for borrowed money or constituting Capitalized Lease Obligations of any Restricted Subsidiary other than a Note Guarantor.

"Significant Subsidiary" means a Subsidiary of the Company constituting a "Significant Subsidiary" of the Company in accordance with Rule 1-02(w) of Regulation S-X under the Securities Act in effect on the date hereof.

"Similar Business" means (1) any business engaged in by the Company or any Restricted Subsidiary on the Issue Date, and (2) any business or other activities, including non-profit or charitable activities, that are reasonably similar, ancillary, complementary or related to, or a reasonable extension, development or expansion of, the businesses and activities in which the Company or any Restricted Subsidiary is engaged on the Issue Date, including, but not limited to, infrastructure projects, public works programs and consumer or supplier financing.

"Special Record Date" has the meaning assigned to it in Section 2.13(a).

"SPV Perpetuals" means the perpetual debentures issued by special purpose vehicles in December 2006, February 2007 and March 2007.

"Standard Undertakings" means representations, warranties, covenants, indemnities and similar obligations, including servicing obligations, entered into by the Company or any Subsidiary of the Company in connection with a Qualified Receivables Transaction, which are customary in similar non-recourse receivables securitization, purchase or financing transactions.

"Subordinated Indebtedness" means, with respect to the Company or any Note Guarantor, any Indebtedness of the Company or such Note Guarantor, as the case may be, which is expressly subordinated in right of payment to the Notes or the relevant Note Guarantee, as the case may be.

"Subsidiary" means with respect to any Person, any corporation, partnership, joint venture, limited liability company, trust, estate or other entity of which (or in which) more than fifty percent (50%) of (a) in the case of a corporation, the issued and outstanding Capital Stock having ordinary voting power to elect a majority of the board of directors of such corporation (irrespective of whether at the time Capital Stock of any other class or classes of such corporation shall or might have voting power upon the occurrence of any contingency that has not occurred and is not in the control of such Person), (b) in the case of a limited liability company, partnership or joint venture, the voting or other power to control the actions of such limited liability company, partnership or joint venture or (c) in the case of a trust or estate, the voting or other power to control the actions of such trust or estate, is at the time directly or indirectly owned or controlled by (X) such Person, (Y) such Person and one or more of its other Subsidiaries or (Z) one or more of such Person's other Subsidiaries. Unless the context otherwise requires, all references herein to a "Subsidiary" shall refer to a Subsidiary of the Company.

"Successor Company" has the meaning assigned to it in Section 4.1(b).

"Successor Issuer" has the meaning assigned to it in Section 4.1(a).

"Successor Note Guarantor" has the meaning assigned to it in Section 4.1(c).

"Suspended Covenants" has the meaning assigned to it in Section 3.22(b).

"Suspension Date" has the meaning assigned to it in Section 3.22(c).

"Suspension Period" means the period of time between the Suspension Date and the Reversion Date.

"Taxes" has the meaning assigned to it in Section 3.21(a).

"Taxing Jurisdiction" has the meaning assigned to it in Section 3.21(a).

"Transfer Agent" has the meaning assigned to it in Section 2.3(a).

"Transportation Agreements" means, in respect of any Person, any agreement or arrangement designed to protect such Person from fluctuations in prices related to transportation.

"Trust Officer" means, when used with respect to the Trustee, any officer within the corporate trust department of the Trustee, having direct responsibility for the administration of this Indenture, or any other officer of the Trustee to whom any corporate trust matter is referred because of such person's knowledge of and familiarity with the particular subject.

"Trustee" means the party named as such in the introductory paragraph to this Indenture until a successor replaces it in accordance with the terms of this Indenture and, thereafter, means the successor.

"USA Patriot Act" has the meaning assigned to it in Section 12.16.

"U.S. Government Obligations" means direct obligations (or certificates representing an ownership interest in such obligations) of, or guaranteed by, the United States of America (including any agency or instrumentality thereof) for the payment of which the full faith and credit of the United States of America is pledged and which are not callable or redeemable at the issuer's option.

"U.S. Legal Tender" means such coin or currency of the United States of America, as at the time of payment shall be legal tender for the payment of public and private debts.

"U.S. Person" means a U.S. Person as defined in Regulation S.

"Unrestricted Subsidiary" means any Subsidiary of the Company Designated as such pursuant to Section 3.14. Any such Designation may be revoked by the Issuer, subject to the provisions of such covenant.

"Weighted Average Life to Maturity" means, when applied to any Indebtedness at any date, the number of years (calculated to the nearest one-twelfth) obtained by dividing:

(1) the sum of the products obtained by multiplying:

(a) the amount of each then remaining installment, sinking fund, serial maturity or other required payment of principal or liquidation preference, as the case may be, including payment at final maturity, in respect thereof, by

(b) the number of years (calculated to the nearest one-twelfth) which will elapse between such date and the making of such payment; by

(2) the then outstanding aggregate principal amount or liquidation preference, as the case may be, of such Indebtedness.

"Wholly Owned Subsidiary" means, for any Person, any Subsidiary (Restricted Subsidiary in the case of the Company) of which at least 99.5% of the outstanding Capital Stock (other than, in the case of a Subsidiary not organized in the United States, directors' qualifying shares or an immaterial amount of shares required to be owned by other Persons pursuant to applicable law) is owned by such Person or any other Person that satisfies this definition in respect of such Person.

Section 1.2 [Reserved].

Section 1.3 Rules of Construction. Unless the context otherwise requires:

(1) a term has the meaning assigned to it;

(2) an accounting term not otherwise defined has the meaning assigned to it in accordance with GAAP;

(3) "or" is not exclusive;

(4) "including" means including without limitation;

(5) words in the singular include the plural and words in the plural include the singular; and

(6) references to the payment of principal of the Notes shall include applicable premium, if any.

ARTICLE II

THE NOTES

Section 2.1 Form and Dating.

(a) The Issue Date Notes are being originally offered and sold by the Issuer pursuant to an Amended and Restated Dealer Manager Agreement, dated as of May 6, 2010, among the Issuer, the Note Guarantors party hereto, New Sunward Holding Financial Ventures, B.V., the Capital SPVs, J.P. Morgan Securities Inc., J.P. Morgan Securities Ltd., Citigroup Global Markets Inc. and Citigroup Global Markets Limited, as Dealer Managers with respect to the Notes. The Notes will initially be issued as one or more Global Notes in fully registered form without interest coupons, and only in denominations of U.S.$70,000 and integral multiples of U.S.$1,000 in excess thereof, in the case of Dollar Notes, and €50,000 and integral multiples of €1,000 in excess thereof, in the case of Euro Notes. Each such Global Note shall constitute a single Note for all purposes under this Indenture. Certificated Notes, if issued pursuant to the terms hereof, will be issued in fully registered certificated form without coupons. The Notes may only be issued in definitive fully registered form without coupons and only in denominations of U.S.$70,000 and any integral multiple of U.S.$1,000 in excess thereof, in the case of Dollar Notes, and €50,000 and integral multiples of €1,000 in excess thereof, in the case of Euro Notes. The Notes and the Trustee's certificate of authentication shall be substantially in the form of Exhibit A hereto, in the case of Dollar Notes, and Exhibit B, in the case of Euro Notes.

(b) The terms and provisions of the Notes, the form of which is in Exhibit A, in the case of Dollar Notes, and Exhibit B, in the case of Euro Notes, shall constitute, and are hereby expressly made, a part of this Indenture, and, to the extent applicable, the Issuer, the Note Guarantors and the Trustee, by their execution and delivery of this Indenture, expressly agree to such terms and provisions and to be bound thereby. Except as otherwise expressly permitted in this Indenture, all Notes (including Additional Notes) shall be identical in all respects. Notwithstanding any differences among them, all Notes issued under this Indenture shall vote and consent together on all matters as one class and are otherwise treated as a single issue of securities. The Trustee and the Issuer may set a Special Record Date for the determination of the Dollar Equivalent amount of Notes that vote as to any matter.

(c) The Notes may have notations, legends or endorsements as specified in Section 2.7 or as otherwise required by law, stock exchange rule or DTC, Euroclear or Clearstream rule or usage. The Issuer and the Trustee shall approve the form of the Notes and any notation, legend or endorsement on them. Each Note shall be dated the date of its authentication.

(d) Notes originally offered and sold to QIBs in reliance on Rule 144A will be issued in the form of one or more permanent Global Notes (each, a "Rule 144A Global Note").

(e) Notes originally offered and sold outside the United States in reliance on Regulation S will be issued in the form of one or more permanent Global Notes (each, a "Regulation S Global Note"). Each Regulation S Global Note shall be deposited on behalf of the purchasers of the Notes represented thereby with the Note Custodian and registered in the name of DTC or its nominee, for credit to the accounts maintained at DTC by or on behalf of Euroclear or Clearstream. In no event shall any Person hold an interest in a Regulation S Global Note other than in or through accounts maintained at Euroclear or Clearstream or DTC by or on behalf of Euroclear or Clearstream.

Section 2.2 Execution and Authentication.

(a) Any Officer of the Issuer may sign the Notes for the Issuer by manual or facsimile signature. If an Officer whose signature is on a Note no longer holds that office at the time the Trustee authenticates the Note, the Note shall be valid nevertheless.

(b) A Note shall not be valid until manually authenticated by an authorized signatory of the Trustee or an agent appointed by the Trustee (and reasonably acceptable to the Issuer) for such purpose (an "Authenticating Agent"). The signature of an authorized signatory of the Trustee or an Authenticating Agent on a Note shall be conclusive evidence that such Note has been duly and validly authenticated and issued under this Indenture. Unless limited by the terms of its appointment, an Authenticating Agent may authenticate Notes whenever the Trustee may do so. Each reference in this Indenture to authentication by the Trustee includes authentication by an Authenticating Agent.

(c) At any time and from time to time after the execution and delivery of this Indenture, the Trustee shall authenticate and make available for delivery Notes upon a written order of the Issuer signed by an Officer of the Issuer (the "Issuer Order"). An Issuer Order shall specify the amount of the Notes to be authenticated and the date on which the original issue of Notes is to be authenticated.

(d) In case a Successor Issuer has executed an indenture supplemental hereto with the Trustee pursuant to Article IV, any of the Notes authenticated or delivered prior to such transaction may, from time to time, at the request of the Successor Issuer be exchanged for other Notes executed in the name of the Successor Issuer with such changes in phraseology and form as may be appropriate, but otherwise identical to the Notes surrendered for such exchange and of like principal amount; and the Trustee, upon Issuer Order of the Successor Issuer, shall authenticate and deliver Notes as specified in such order for the purpose of such exchange. If Notes shall at any time be authenticated and delivered in any new name of a Successor Issuer pursuant to this Section 2.2 in exchange or substitution for or upon registration of transfer of any Notes, such Successor Issuer, at the option of the Holders but without expense to them, shall provide for the exchange of all Notes at the time Outstanding for Notes authenticated and delivered in such new name.

Section 2.3 Registrar, Paying Agent and Transfer Agent.

(a) The Issuer shall maintain an office or agency in the Borough of Manhattan, City of New York, where Notes may be presented or surrendered for registration of transfer or for exchange (the "Registrar"), where Notes may be presented for payment (the "Paying Agent") and for the service of notices and demands to or upon the Issuer in respect of the Notes and this Indenture. The Registrar shall keep a register of the Notes and of their transfer and exchange (the "Note Register"). The Issuer may have one or more co-Registrars and one or more additional paying agents. The term "Paying Agent" includes any additional paying agent. The Issuer shall maintain an office or agency (i) in London, England and (ii) in Luxembourg, in each case where the Notes may be presented for payment. The Issuer shall maintain an office or agency in Luxembourg, where Notes may be presented or surrendered for registration of transfer or for exchange (the "Transfer Agent"). In addition, the Issuer undertakes to the extent possible, to use reasonable efforts to maintain a Paying Agent in a member state of the European Union that is not obliged to withhold or deduct tax pursuant to European Council Directive 2003/48/EC regarding taxation of savings income.

(b) The Issuer shall enter into an appropriate agency agreement with any Registrar, Paying Agent or co-Registrar not a party to this Indenture. The agreement shall implement the provisions of this Indenture that relate to such agent. The Issuer shall notify the Trustee of the name and address of each such agent. If the Issuer fails to maintain a Registrar or Paying Agent, the Trustee shall act as such and shall be entitled to appropriate compensation therefor pursuant to Section 7.7. The Issuer, any Affiliate of any Note Guarantor may act as Paying Agent, Registrar or co-Registrar, or transfer agent.

(c) The Issuer initially designates the Corporate Trust Office of the Trustee as one such office or agency of the Issuer as required by Section 2.3(a) and appoints the Trustee as Registrar, Paying Agent and agent for service of demands and notices and the parties identified on the signature pages to this Indenture in such capacities as Paying Agents and Transfer Agent in connection with the Notes and this Indenture, until such time as another Person is appointed as such.

Section 2.4 Paying Agent to Hold Money in Trust. The Issuer shall require each Paying Agent (other than the Trustee) to agree in writing that such Paying Agent shall hold in trust for the benefit of Holders or the Trustee all money held by such Paying Agent for the payment of principal of or interest on the Notes and shall notify the Trustee in writing of any Default by the Issuer or any Note Guarantor in making any such payment. If the Issuer or an Affiliate of any Note Guarantor acts as Paying Agent, it shall segregate the money held by it as Paying Agent and hold it as a separate trust fund. The Issuer at any time may require a Paying Agent (other than the Trustee) to pay all money held by it to the Trustee and to account for any funds disbursed by such Paying Agent. Upon complying with this Section 2.4, the Paying Agent (if other than the Issuer or any Affiliate of a Note Guarantor) shall have no further liability for the money delivered to the Trustee. Upon any proceeding under any Bankruptcy Law with respect to the Company or any Affiliate of a Note Guarantor, if the Issuer, or such Affiliate or a Note Guarantor is then acting as Paying Agent, the Trustee shall replace the Issuer, such Affiliate or such Note Guarantor as Paying Agent.

Section 2.5 Holder Lists. The Trustee shall preserve in as current a form as is reasonably practicable the most recent list available to it of the names and addresses of Holders. At any time that the Trustee is not the Registrar the Company shall furnish to the Trustee, in writing at least seven Business Days before each Interest Payment Date and at such other times as the Trustee may request in writing, a list in such form and as of such date as the Trustee may reasonably require of the names and addresses of Holders.

Section 2.6 CUSIP and ISIN Numbers. The Issuer in issuing Notes may use "CUSIP" or "ISIN" numbers, as applicable (if then generally in use), and, if so, the Trustee shall use for the Securities "CUSIP" number in notices to the Holders as a convenience to such Holders; *provided* that any such notice may state that no representation is made as to the correctness of such numbers either as printed on the Notes or as contained in any notice and that reliance may be placed only on the other identification numbers printed on the Notes, and any such notice shall not be affected by any defect in or omission of such numbers. The Issuer will promptly notify the Trustee in writing of any changes in the "CUSIP" and "ISIN" numbers, as applicable.

Section 2.7 Global Note Provisions.

(a) Each Global Note initially shall: (i) be registered in the name of DTC or the nominee of DTC, in the case of Dollar Notes, and the Common Depositary, in the case of Euro Notes, or their respective nominee, as applicable, (ii) be delivered to the Note Custodian and (iii) bear the appropriate legends as set forth in Section 2.8, Exhibit A, in the case of Dollar Notes, and Exhibit B, in the case of Euro Notes. Any Global Note may be represented by one or more certificates. The aggregate principal amount of each Global Note may from time to time be increased or decreased by adjustments made on the records of the Note Custodian, as provided in this Indenture.

(b) Except as provided in clause (iii) of Section 2.7(c), members of, or participants in, DTC ("Agent Members") shall have no rights under this Indenture with respect to any Global Note held on their behalf by DTC, in the case of Dollar Notes, and Euroclear or Clearstream, in the case of Euro Notes or by the Note Custodian, and DTC, Euroclear or Clearstream may be treated by the Issuer, any Note Guarantor, the Trustee, the Paying Agent, the

Transfer Agent, the Note Custodian, the Registrar and any of their respective agents as the absolute owner of such Global Note for all purposes whatsoever. Notwithstanding the foregoing, nothing herein shall (i) prevent the Issuer, the Trustee, the Paying Agent, the Transfer Agent, the Note Custodian, the Registrar or any of their respective agents from giving effect to any written certification, proxy or other authorization furnished by DTC, in the case of Dollar Notes, and Euroclear or Clearstream, in the case of Euro Notes, or (ii) impair, as between DTC and its Agent Members or Euroclear or Clearstream, the operation of customary practices of DTC, Euroclear or Clearstream governing the exercise of the rights of an owner of a beneficial interest in any Global Note. The registered Holder of a Global Note may grant proxies and otherwise authorize any person, including DTC, in the case of Dollar Notes, and Euroclear or Clearstream, in the case of Euro Notes, or their respective nominee, Agent Members, in the case of DTC, and persons that may hold interests through Agent Members, to take any action that a Holder is entitled to take under this Indenture or the Notes.

(c) Except as provided in this Section 2.7(c), owners of beneficial interests in Global Notes will not be entitled to receive Certificated Notes in exchange for such beneficial interests.

(i) Certificated Notes shall be issued to all owners of beneficial interests in a Global Note in exchange for such beneficial interests if (A) DTC, in the case of Dollar Notes, or Euroclear or Clearstream, in the case of Euro Notes, notifies the Issuer that it is unwilling or unable to continue as depositary for such Global Note or (B) DTC, Euroclear or Clearstream ceases to be a clearing agency registered under the Exchange Act, at a time when DTC, Euroclear or Clearstream is required to be so registered in order to act as depositary, and in each case a successor depositary is not appointed by the Issuer within 90 days of such notice. In connection with the exchange of an entire Global Note for Certificated Notes pursuant to this clause (i) of this Section 2.7(c), such Global Note shall be deemed to be surrendered to the Trustee for cancellation, and the Issuer shall execute, and upon Issuer Order the Trustee shall authenticate and deliver to each beneficial owner identified by DTC, in the case of Dollar Notes, or Euroclear or Clearstream, in the case of Euro Notes, in exchange for its beneficial interest in such Global Note, an equal aggregate principal amount of Certificated Notes of authorized denominations, and the Registrar shall register such exchanges in the Note Register.

(ii) The owner of a beneficial interest in a Global Note will be entitled to receive Certificated Notes in exchange for such interest if an Event of Default has occurred and is continuing. If an Event of Default has occurred and is continuing, upon receipt by the Registrar of instructions from Agent Members on behalf the owner of a beneficial interest in a Global Note directing the Registrar to exchange such beneficial owner's beneficial interest in such Global Note for Certificated Notes, subject to and in accordance with the Applicable Procedures, the Issuer shall promptly execute, and upon Issuer Order the Trustee shall authenticate and make available for delivery to such beneficial owner, Certificated Notes in a principal amount equal to such beneficial interest in such Global Note.

(iii) If (A) an event described in clause (i) of Section 2.7(c) occurs and Certificated Notes are not issued promptly to all beneficial owners or (B) the Registrar receives from a beneficial owner the instructions described in clause (ii) of Section 2.7(c) and Certificated Notes are not issued promptly to any such beneficial owner, the Issuer expressly acknowledges, with respect to the right of any Holder to pursue a remedy pursuant to Section 6.6 hereof, the right of any beneficial owner of Notes to pursue such remedy with respect to the portion of the Global Note that represents such beneficial owner's Notes as if such Certificated Notes had been issued.

Section 2.8 Legends.

(a) Each Global Note shall bear the legend specified therefor in Exhibit A, in the case of Dollar Notes, and, in Exhibit B, in the case of Euro Notes, on the face thereof.

(b) Each Restricted Note shall bear the private placement legend specified therefor in Exhibit A, in the case of Dollar Notes, and, in Exhibit B, in the case of Euro Notes, on the face thereof (the "Private Placement Legend").

Section 2.9 Transfer and Exchange.

(a) Transfers of Beneficial Interests in a Rule 144A Global Note. If the owner of a beneficial interest in a Rule 144A Global Note that is a Restricted Note wishes to transfer such interest (or portion thereof) to a Non-U.S. Person pursuant to Regulation S:

(i) upon receipt by the Registrar of:

(A) instructions from an Agent Member given to DTC, in the case of Dollar Notes, or Euroclear or Clearstream, in the case of Euro Notes, in accordance with the Applicable Procedures directing DTC, Euroclear or Clearstream, as applicable, to credit or cause to be credited a beneficial interest in the Regulation S Global Note in a principal amount equal to the principal amount of the beneficial interest to be transferred,

(B) instructions given in accordance with the Applicable Procedures containing information regarding the account to be credited with such increase, and

(C) a certificate in the form of Exhibit E, in the case of Dollar Notes, and Exhibit F, in the case of Euro Notes, duly executed by the Rule 144A transferor;

(ii) the Note Custodian shall increase the Regulation S Global Note and decrease the Rule 144A Global Note in accordance with the foregoing, and the Registrar shall register the transfer in the Note Register.

(b) Transfers of Beneficial Interests in a Regulation S Global Note. Subject to the Applicable Procedures, the following provisions shall apply with respect to any proposed transfer of an interest in a Regulation S Global Note that is a Restricted Note:

(i) If the owner of a beneficial interest in a Regulation S Global Note that is a Restricted Note wishes to transfer such interest (or a portion thereof) to a QIB pursuant to Rule 144A:

(A) upon receipt by the Note Custodian and Registrar of:

(1) instructions from an Agent Member given to DTC, in the case of Dollar Notes, or Euroclear or Clearstream, in the case of Euro Notes, in accordance with the Applicable Procedures directing DTC, Euroclear or Clearstream, as applicable, to credit or cause to be credited a beneficial interest in the Rule 144A Global Note in an amount equal to the beneficial interest being transferred,

(2) instructions given in accordance with the Applicable Procedures containing information regarding the account to be credited with such increase, and

(3) a certificate in the form of Exhibit C, in the case of Dollar Notes, and Exhibit D, in the case of Euro Notes, duly executed by the transferor;

(B) the Note Custodian shall increase the Rule 144A Global Note and decrease the Regulation S Global Note in accordance with the foregoing, and the Registrar shall register the transfer in the Note Register.

(c) Other Transfers. Any registration of transfer of Restricted Notes (including Certificated Notes) not described above (other than a transfer of a beneficial interest in a Global Note that does not involve an exchange of such interest for a Certificated Note or a beneficial interest in another Global Note, which must be effected in accordance with applicable law and the Applicable Procedures, but is not subject to any procedure required by this Indenture) shall be made only upon receipt by the Registrar of such opinions of counsel, certificates and such other evidence reasonably required by and satisfactory to it in order to ensure compliance with the Securities Act or in accordance with Section 2.9(d).

(d) Use and Removal of Private Placement Legends. Upon the registration of transfer, exchange or replacement of Notes (or beneficial interests in a Global Note) not bearing (or not required to bear upon such transfer, exchange or replacement) a Private Placement Legend, the Note Custodian and Registrar shall exchange such Notes (or beneficial interests) for

beneficial interests in a Global Note or Certificated Notes if they have been issued pursuant to Section 2.7(c) that does not bear a Private Placement Legend. Upon the registration of transfer, exchange or replacement of Notes (or beneficial interests in a Global Note) bearing a Private Placement Legend, the Note Custodian and Registrar shall deliver only Notes (or beneficial interests in a Global Note) that bear a Private Placement Legend unless:

(i) such Notes (or beneficial interests) are transferred pursuant to Rule 144 upon delivery to the Registrar of a certificate of the transferor in the form of Exhibit E, in the case of Dollar Notes, and Exhibit F, in the case of Euro Notes, and an Opinion of Counsel reasonably satisfactory to the Registrar;

(ii) such Notes (or beneficial interests) are transferred, replaced or exchanged after the Resale Restriction Termination Date therefor and, in the case of any such Restricted Notes, the Issuer has complied with the applicable procedures for delegending in accordance with Section 2.9(h); or

(iii) in connection with such registration of transfer, exchange or replacement the Registrar shall have received an Opinion of Counsel, certificates and such other evidence reasonably satisfactory to the Issuer and the Registrar to the effect that neither such Private Placement Legend nor the related restrictions on transfer are required in order to maintain compliance with the provisions of the Securities Act.

The Holder of a Global Note bearing a Private Placement Legend may exchange an interest therein for an equivalent interest in a Global Note not bearing a Private Placement Legend (other than a Regulation S Global Note) upon transfer of such interest pursuant to this Section 2.9(d).

(e) Consolidation of Global Notes and Exchange of Certificated Notes for Beneficial Interests in Global Notes . If a Global Note not bearing a Private Placement Legend (other than a Regulation S Global Note) is Outstanding at the time of a removal of legends pursuant to Section 2.9(h), any interests in a Global Note delegended pursuant to Section 2.9(h) shall be exchanged for interests in such Outstanding Global Note, subject to the proviso at the end of Section 2.14(a).

(f) Retention of Documents. The Registrar and the Trustee shall retain copies of all letters, notices and other written communications received pursuant to this Article II and in accordance with the Trustee's record retention procedures. The Issuer shall have the right to inspect and make copies of all such letters, notices or other written communications at any reasonable time upon the giving of reasonable written notice to the Registrar or the Trustee, as the case may be.

(g) General Provisions Relating to Transfers and Exchanges.

(i) Subject to the other provisions of this Section 2.9, when Notes are presented to the Registrar or a co-Registrar with a request to register the transfer of such Notes or to exchange such Notes for an equal principal amount of Notes of other authorized denominations, the Registrar or co-Registrar shall register the transfer or make the exchange as requested if its requirements for such transaction are met; *provided* that any Notes presented or surrendered for registration of transfer or exchange shall be duly endorsed or accompanied by a written instrument of transfer in form satisfactory to the Registrar or co-Registrar, duly executed by the Holder thereof or his attorney duly authorized in writing.

(ii) To permit registrations of transfers and exchanges and subject to the other terms and conditions of this Article II, the Issuer will execute and upon Issuer Order the Trustee will authenticate and make available for delivery Certificated Notes and Global Notes, as applicable, at the Registrar's or co-Registrar's request.

(iii) No service charge shall be made to a Holder for any registration of transfer or exchange, but the Issuer and the Trustee may require payment of a sum sufficient to cover any transfer tax, assessments, or similar governmental charge payable in connection therewith (other than any such transfer taxes, assessments or similar governmental charges payable upon exchange or transfer pursuant to Section 3.8, Section 3.9, Section 5.1 or Section 9.5).

(iv) The Registrar or co-Registrar shall not be required to register the transfer of or exchange of (x) any Note for a period beginning (1) 15 days before the mailing of a notice of an offer to repurchase or redeem Notes and ending at the close of business on the day of such mailing or (2) 15 days before an Interest Payment Date and ending on such Interest Payment Date and (y) any Note selected for repurchase or redemption, except the unrepurchased or unredeemed portion thereof, if any.

(v) Prior to the due presentation for registration of transfer of any Note, the Issuer, the Trustee, the Paying Agent, the Transfer Agent, the Registrar or any co-Registrar may deem and treat the Person in whose name a Note is registered as the absolute owner of such Note for the purpose of receiving payment of principal of and interest on such Note and for all other purposes whatsoever, whether or not such Note is overdue, and none of the Issuer, the Trustee, the Paying Agent, the Transfer Agent, the Registrar or any co-Registrar or the Note Custodian shall be affected by notice to the contrary.

(vi) All Notes issued upon any transfer or exchange pursuant to the terms of this Indenture shall evidence the same debt and shall be entitled to the same benefits under this Indenture as the Notes surrendered upon such transfer or exchange.

(vii) Subject to Section 2.7 and this Section 2.9, in connection with the exchange of a portion of a Certificated Note for a beneficial interest in a Global Note, the Trustee shall cancel such Certificated Note, and the Issuer shall execute, and upon Issuer Order the Trustee shall authenticate and make available for delivery to the exchanging Holder, a new Certificated Note representing the principal amount not so exchanged.

(h) Applicable Procedures for Delegending.

(i) Promptly after one year has elapsed following (A) the Issue Date or (B) if the Issuer has issued Additional Notes, with the same terms and the same CUSIP or ISIN numbers, as applicable, as the Issue Date Notes pursuant to this Indenture within one year following the Issue Date, the date of original issuances of such Additional Notes if the relevant Notes are freely tradable pursuant to Rule 144 under the Securities Act by Holders who are not Affiliates of the Issuer where no conditions of Rule 144 are then applicable (other than the holding period requirement in paragraph (d)(1)(ii) of Rule 144 so long as such holding period requirement is satisfied), the Issuer shall:

(1) instruct the Trustee in writing to remove the Private Placement Legend from such Notes by delivering to the Trustee a certificate in the form of Exhibit E, in the case of Dollar Notes, and Exhibit F, in the case of Euro Notes, and upon such instruction the Private Placement Legend shall be deemed removed from any Global Notes representing such Notes without further action on the part of Holders;

(2) notify Holders of such Notes that the Private Placement Legend has been removed or deemed removed; and

(3) instruct DTC, in the case of Dollar Notes, and Euroclear or Clearstream, in the case of Euro Notes, to change the CUSIP or ISIN number, as applicable, for such Notes to the unrestricted CUSIP or ISIN number, as applicable, for the Notes.

In no event will the failure of the Issuer to provide any notice set forth in this paragraph or of the Trustee to remove the Private Placement Legend constitute a failure by the Issuer to comply with any of its covenants or agreements set forth in Section 6.1 or otherwise. Any Restricted Note (or security issued in exchange or substitution therefor) as to which such restrictions on transfer shall have expired in accordance with their terms may, upon surrender of such Restricted Note for exchange to the Registrar in accordance with the provisions of Article II of this Indenture, be exchanged for a new Note or Notes, of like tenor and aggregate principal amount, which shall not bear the Private Placement Legend. The Issuer shall notify the Trustee in writing upon occurrence of the Resale Restriction Termination Date for any Note.

(ii) Notwithstanding any provision herein to the contrary, in the event that Rule 144 as promulgated under the Securities Act (or any successor rule) is amended to change the one-year holding period thereunder (or the corresponding period under any successor rule), (A) each reference in this Section 2.9(h) to "one year" and in the Private Placement Legend described in Section 2.8(b) and Exhibit A, in the case of Dollar Notes, and Exhibit B, in the case of Euro Notes, to "ONE YEAR" shall be deemed for all purposes hereof to be references to such changed period, and (B) all corresponding references in this Indenture (including the definition of Resale Restriction Termination Date), the Notes and the Private Placement Legends thereon shall be deemed for all purposes hereof to be references to such changed period; *provided* that such changes shall not become effective if they are otherwise prohibited by, or would otherwise cause a violation of, the then-applicable federal securities laws; *provided further* that if such change does not apply to existing Notes, all references to "one year" in this Indenture shall not be deemed for all purposes hereof to be references to such changed period. This Section 2.9(h) shall apply to successive amendments to Rule 144 (or any successor rule) changing the holding period thereunder.

(i) No Obligation of the Trustee.

(i) The Trustee shall have no responsibility or obligation to any beneficial owner of an interest in a Global Note, Agent Members or any other Persons with respect to the accuracy of the records of DTC, Euroclear or Clearstream or its nominee or of Agent Members, with respect to any ownership interest in the Notes or with respect to the delivery to any Agent Member, beneficial owner or other Person (other than DTC, Euroclear or Clearstream) of any notice (including any notice of redemption) or the payment of any amount or delivery of any Notes (or other security or property) under or with respect to such Notes. All notices and communications to be given to the Holders and all payments to be made to Holders in respect of the Notes shall be given or made only to or upon the order of the registered Holders (which shall be DTC, in the case of Dollar Notes, Euroclear or Clearstream, in the case of Euro Notes, or its nominee in the case of a Global Note). The rights of beneficial owners in any Global Note shall be exercised only through DTC, in the case of Dollar Notes, and Euroclear or Clearstream, in the case of Euro Notes subject to the applicable rules and procedures of DTC, Euroclear or Clearstream. The Trustee may rely and shall be fully protected in relying upon information furnished by DTC with respect to its Agent Members, Euroclear or Clearstream and any beneficial owners.

(ii) The Trustee shall have no obligation or duty to monitor, determine or inquire as to compliance with any restrictions on transfer imposed under this Indenture or under applicable law with respect to any transfer of any interest in any Note (including any transfers between or among Agent Members or beneficial owners in any Global Note) other than to require delivery of such certificates and other documentation or evidence as are expressly required by, and to do so if and when expressly required by, the terms of this Indenture, and to examine the same to determine substantial compliance as to form with the express requirements hereof.

Section 2.10 Mutilated, Destroyed, Lost or Stolen Notes.

(a) If a mutilated Note is surrendered to the Registrar or if the Holder of a Note claims that the Note has been lost, destroyed or wrongfully taken, the Issuer shall execute and upon Issuer Order the Trustee shall authenticate and make available for delivery a replacement Note for such mutilated, lost or stolen Note, of like tenor and principal amount, bearing a number not contemporaneously Outstanding if:

(i) the requirements of Section 8-405 of the Uniform Commercial Code are met,

(ii) the Holder satisfies any other reasonable requirements of the Trustee, and

(iii) neither the Issuer nor the Trustee has received notice that such Note has been acquired by a protected purchaser.

If required by the Trustee or the Issuer, such Holder shall furnish an affidavit of loss and indemnity bond sufficient in the judgment of the Issuer and the Trustee to protect the Issuer, the Trustee, the Paying Agent, the Transfer Agent, the Registrar or any co-Registrar and the Note Custodian from any loss that any of them may suffer if a Note is replaced.

(b) Upon the issuance of any new Note under this Section 2.10, the Issuer may require the payment of a sum sufficient to cover any tax or other governmental charge that may be imposed in relation thereto and any other expenses (including the fees and expenses of the Trustee) in connection therewith.

(c) Every new Note issued pursuant to this Section 2.10 in exchange for any mutilated Note, or in lieu of any destroyed, lost or stolen Note, shall constitute an original additional contractual obligation of the Issuer, any Note Guarantor and any other obligor upon the Notes, whether or not the mutilated, destroyed, lost or stolen Note shall be at any time enforceable by anyone, and shall be entitled to all benefits of this Indenture equally and proportionately with any and all other Notes duly issued hereunder.

Section 2.11 Temporary Notes. Until definitive Notes are ready for delivery, the Issuer may execute and upon Issuer Order the Trustee will authenticate and make available for delivery temporary Notes. Temporary Notes will be substantially in the form of definitive Notes but may have variations that the Issuer considers appropriate for temporary Notes. Without unreasonable delay, the Issuer will prepare and execute and upon Issuer Order the Trustee will authenticate and make available for delivery definitive Notes. After the preparation of definitive Notes, the temporary Notes will be exchangeable for definitive Notes upon surrender of the temporary Notes at any office or agency maintained by the Issuer for that purpose and such exchange shall be without charge to the Holder. Upon surrender for cancellation of any one or more temporary Notes, the Issuer will execute and upon Issuer Order the Trustee will authenticate and make available for delivery in exchange therefor one or more definitive Notes representing an equal principal amount of Notes. Until so exchanged, the Holder of temporary Notes shall in all respects be entitled to the same benefits under this Indenture as a Holder of definitive Notes.

Section 2.12 Cancellation. The Issuer at any time may deliver Notes to the Trustee for cancellation. The Registrar, the Paying Agent and the Transfer Agent shall forward to the Trustee any Notes surrendered to them for registration of transfer, exchange or payment. The Trustee and no one else shall cancel and dispose of cancelled Notes in accordance with its policy of disposal or, upon written request of the Issuer, return to the Issuer all Notes surrendered for registration of transfer, exchange, payment or cancellation. The Issuer may not issue new Notes to replace Notes it has paid or delivered to the Trustee for cancellation for any reason other than in connection with a registration of transfer or exchange upon Issuer Order.

Section 2.13 Defaulted Interest. When any installment of interest becomes Defaulted Interest on Notes, such installment shall forthwith cease to be payable to the Holders in whose names the Notes were registered on the Record Date applicable to such installment of interest. Defaulted Interest (including any interest on such Defaulted Interest) shall be paid by the Issuer, at its election, as provided in clause (a) or clause (b) below.

(a) The Issuer may elect to make payment of any Defaulted Interest (including any interest payable on such Defaulted Interest) to the Holders in whose names the Notes are registered at the close of business on a special record date for the payment of such Defaulted Interest (a " Special Record Date"), which shall be fixed in the following manner. The Issuer shall notify the Trustee in writing of the amount of Defaulted Interest proposed to be paid and the date of the proposed payment, and at the same time the Issuer shall deposit with the Trustee an amount of money equal to the aggregate amount proposed to be paid in respect of such Defaulted Interest or shall make arrangements satisfactory to the Trustee for such deposit prior to the date of the proposed payment, such money when deposited to be held in trust for the benefit of the Holders entitled to such Defaulted Interest as provided in this Section 2.13(a). Thereupon the Trustee shall fix a Special Record Date for the payment of such Defaulted Interest, which shall be not more than fifteen (15) calendar days and not less than ten (10) calendar days prior to the date of the proposed payment and not less than ten (10) calendar days after the receipt by the Trustee of the notice of the proposed payment. The Trustee shall promptly notify the Issuer of such Special Record Date and, in the name and at the expense of the Company, shall cause notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor to be sent, first-class mail, postage prepaid, to each Holder at such Holder's address as it appears in the Note Register, not less than ten (10) calendar days prior to

such Special Record Date. Notice of the proposed payment of such Defaulted Interest and the Special Record Date therefor having been mailed as aforesaid, such Defaulted Interest shall be paid to the Holders in whose names the Notes are registered at the close of business on such Special Record Date and shall no longer be payable pursuant to clause (b) below; or

(b) The Issuer may make payment of any Defaulted Interest (including any interest on such Defaulted Interest) in any other lawful manner not inconsistent with the requirements of any securities exchange on which the Notes may be listed, and upon such notice as may be required by such exchange, if, after notice given by the Issuer to the Trustee of the proposed payment pursuant to this Section 2.13(b), such manner of payment shall be deemed practicable by the Trustee. The Trustee shall in the name and at the expense of the Issuer cause prompt notice of the proposed payment and the date thereof to be sent, first-class mail, postage prepaid, to each Holder at such Holder's address as it appears in the Note Register.

Section 2.14 Additional Notes.

(a) The Issuer may, from time to time, subject to compliance with any other applicable provisions of this Indenture, without the consent of the Holders, create and issue pursuant to this Indenture additional notes (" Additional Notes") that shall have terms and conditions identical to those of the other Outstanding Notes, except with respect to:

(i) the Issue Date;

(ii) the amount of interest payable on the first Interest Payment Date therefor;

(iii) the issue price; and

(iv) any adjustments necessary in order to conform to and ensure compliance with the Securities Act (or other applicable securities laws) and any agreement applicable to such Additional Notes, which are not adverse in any material respect to the Holder of any Outstanding Notes (other than such Additional Notes).

The Notes issued on the Issue Date and any Additional Notes shall be treated as a single series for all purposes under this Indenture; *provided* that the Issuer may use different CUSIP, ISIN or other similar numbers among Dollar Notes and Euro Notes, and among Additional Notes to the extent required to comply with securities or tax law requirements, including to permit delegending pursuant to Section 2.9(h).

(b) With respect to any Additional Notes, the Issue of which will be delivered to the Trustee, the following information:

(i) the aggregate principal amount of such Additional Notes to be authenticated and delivered pursuant to this Indenture;

(ii) the Issue Date and the issue price of such Additional Notes; *provided* that no Additional Notes may be issued at a price that would cause such Additional Notes to have "original issue discount" within the meaning of Section 1273 of the Code, unless such Additional Notes have a separate CUSIP, ISIN or other similar number from other Notes; and

(iii) whether such Additional Notes will be subject to transfer restrictions under the Securities Act (or other applicable securities laws).

ARTICLE III

COVENANTS

Section 3.1 Payment of Notes. (a) The Issuer shall pay the principal of and interest (including Defaulted Interest) on the Notes in U.S. Legal Tender, in the case of Dollar Notes, and Euros, in the case of Euro Notes, on the dates and in the manner provided in the Notes and in this Indenture. Prior to 10:00 a.m. New York City time, in the case of the Dollar Notes, and 3:00 p.m. London time, in the case of Euro Notes, on the Business Day prior to each Interest Payment Date and the Maturity Date, the Issuer shall deposit with the Paying Agent in immediately available funds U.S. Legal Tender or Euros, as applicable, sufficient to make cash payments due on such Interest Payment Date or Maturity Date, as the case may be. If the Issuer, a Note Guarantor or an Affiliate of any Note Guarantor is acting as Paying Agent, the Issuer, such Note Guarantor or such Affiliate shall, prior to 10:00 a.m. New York City time, in the case of Dollar Notes, and 3:00 p.m. London time, in the case of Euro Notes, on the Business Day prior to each Interest Payment Date and the Maturity Date, segregate and hold in trust U.S. Legal Tender or Euros, as applicable, sufficient to make cash payments due on such Interest Payment Date or Maturity Date, as the case may be. Principal and interest shall be considered paid on the date due if on such date the Trustee or the Paying Agent (other than the Issuer or an Affiliate of a Note Guarantor) holds in accordance with this Indenture U.S. Legal Tender or Euros, as applicable, designated for and sufficient to pay all principal and interest then due and the Trustee or the Paying Agent, as the case may be, is not prohibited from paying such money to the Holders on that date pursuant to the terms of this Indenture.

(b) The Issuer hereby instructs the Trustee to establish the following two accounts:

(i) the "Dollar Note Account" for receipt of the U.S. Dollar-denominated interest and principal payments; and

(ii) the "Euro Note Account" for receipt of the Euro-denominated interest and principal payments.

Section 3.2 Maintenance of Office or Agency.

(a) The Issuer shall maintain each office or agency required under Section 2.3. The Issuer will give prompt written notice to the Trustee of any change in the location of any such office or agency. If at any time the Issuer shall fail to maintain any such required office

or agency or shall fail to furnish the Trustee with the address thereof, such presentations, surrenders, notices and demands may be made or served at the Corporate Trust Office of the Trustee, and the Issuer hereby appoints the Trustee as its agent to receive all such presentations, surrenders, notices and demands.

(b) The Issuer may also from time to time designate one or more other offices or agencies (in or outside of The City of New York) where the Notes may be presented or surrendered for any or all such purposes and may from time to time rescind any such designation; *provided, however,* that no such designation or rescission shall in any manner relieve the Issuer of its obligation to maintain an office or agency in The City of New York or in Luxembourg, for such purposes. The Issuer will give prompt written notice to the Trustee of any such designation or rescission and any change in the location of any such other office or agency.

Section 3.3 Corporate Existence. Subject to Article IV, the Issuer will do or cause to be done all things necessary to preserve and keep in full force and effect its corporate existence.

Section 3.4 Payment of Taxes and Other Claims. The Issuer will pay or discharge or cause to be paid or discharged, before the same shall become delinquent, (i) all taxes, assessments and governmental charges levied or imposed upon the Company or any Restricted Subsidiary or for which it or any of them are otherwise liable, or upon the income, profits or property of the Company or any Restricted Subsidiary and (ii) all lawful claims for labor, materials and supplies, which, if unpaid, might by law become a liability or Lien upon the property of the Company or any Restricted Subsidiary; *provided, however,* that the Company shall not be required to pay or discharge or cause to be paid or discharged any such tax, assessment, charge or claim whose amount, applicability or validity is being contested in good faith by appropriate proceedings and for which appropriate reserves, if necessary (in the good faith judgment of the Company) are being maintained in accordance with GAAP or where the failure to effect such payment will not be disadvantageous to the Holders.

Section 3.5 Compliance Certificate. The Issuer and each Note Guarantor shall deliver to the Trustee within 105 days after the end of each fiscal year of the Company (which fiscal year ends on December 31 of each year, subject to any change in fiscal year following the Issue Date) an Officer's Certificate stating that in the course of the performance by the signers of their duties as Officers of the Issuer or such Note Guarantor, as the case may be, they would normally have knowledge of any Default or Event of Default and whether or not the signers know of any Default or Event of Default that occurred during the previous fiscal year. If they do, the certificate shall describe the Default or Event of Default, its status and what action the Issuer or such Note Guarantor is taking or proposes to take with respect thereto.

Section 3.6 Further Instruments and Acts.

(a) The Issuer and each Note Guarantor will execute and deliver such further instruments and do such further acts as may be reasonably necessary or proper or as the Trustee may reasonably request to carry out more effectively the purpose of this Indenture.

(b) The Issuer and the Note Guarantors shall take, and shall cause their Subsidiaries party thereto to take, any and all actions required under the Intercreditor Agreement and the Security Documents to cause the Intercreditor Agreement and the Security Documents to create and maintain, as security for the Obligations of the Issuer and the Note Guarantors hereunder, a valid and enforceable perfected security interest on all the Collateral, in favor of the Security Agent for the equal and ratable benefit of the Holders of the Notes, and the other Permitted Secured Obligations, first in priority to any and all security interests at any time granted upon the Collateral, subject in all respects to Liens imposed by law and Liens for judgments, taxes, assessments or governmental charges.

Section 3.7 Waiver of Stay, Extension or Usury Laws. The Issuer and each Note Guarantor covenant (to the fullest extent permitted by applicable law) that they will not at any time insist upon, plead, or in any manner whatsoever claim or take the benefit or advantage of, any stay or extension law or any usury law or other law that would prohibit or forgive the Issuer or such Note Guarantor from paying all or any portion of the principal of or interest on the Notes as contemplated herein, wherever enacted, now or at any time hereafter in force, or which may affect the covenants or the performance of this Indenture. The Issuer and each Note Guarantor hereby expressly waives (to the fullest extent permitted by applicable law) all benefit or advantage of any such law, and covenants that it will not hinder, delay or impede the execution of any power herein granted to the Trustee, but will suffer and permit the execution of every such power as though no such law had been enacted.

Section 3.8 Change of Control.

(a) Upon the occurrence of a Change of Control, each Holder will have the right to require that the Issuer purchase all or a portion (in integral multiples of €1,000 or U.S.$1,000 , as applicable) of the Holder's Notes at a purchase price equal to 101% of the principal amount thereof, plus accrued and unpaid interest thereon through the date of purchase (the " Change of Control Payment").

(b) Within 30 days following the date upon which the Change of Control occurred, the Issuer must send, by first-class mail, a notice to each Holder, with a copy to the Trustee, offering to purchase the Notes as described above (a " Change of Control Offer"). The Change of Control Offer shall state, among other things, the purchase date, which must be no earlier than 30 days nor later than 60 days from the date the notice is mailed, other than as may be required by law (the "Change of Control Payment Date").

(c) On the Change of Control Payment Date, the Issuer will, to the extent lawful:

(i) accept for payment all Notes or portions thereof properly tendered and not withdrawn pursuant to the Change of Control Offer;

(ii) deposit with the Paying Agent funds in an amount equal to the Change of Control Payment in respect of all Notes or portions thereof so tendered; and

(iii) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof being purchased by the Issuer.

(d) If only a portion of a Note is purchased pursuant to a Change of Control Offer, a new Note in a principal amount equal to the portion thereof not purchased will be issued in the name of the Holder thereof upon cancellation of the original Note (or appropriate adjustments to the amount and beneficial interests in a Global Note will be made, as appropriate); *provided* that each new Note shall be in a minimum principal amount of U.S.$70,000 or an integral multiple of U.S.$1,000 in excess thereof, in the case of Dollar Notes, or €50,000 or an integral multiple of €1,000 in excess thereof, in the case of Euro Notes. Notes (or portions thereof) purchased pursuant to a Change of Control Offer will be cancelled and cannot be reissued.

(e) The Issuer will not be required to make a Change of Control Offer upon a Change of Control if:

(i) a third party makes the Change of Control Offer in the manner, at the times and otherwise in compliance with the requirements set forth in this Indenture applicable to a Change of Control Offer made by the Issuer and purchases all Notes properly tendered and not withdrawn under the Change of Control Offer, or

(ii) notice of redemption has been given pursuant to this Indenture as described under Section 5.4 unless and until there is a default in payment of the applicable redemption price.

(f) The Issuer will comply with the requirements of Rule 14e-1 under the Exchange Act and any other applicable securities laws and regulations in connection with the purchase of Notes in connection with a Change of Control Offer. To the extent that the provisions of any securities laws or regulations conflict with the "Change of Control" provisions of this Indenture, the Issuer will comply with the applicable securities laws and regulations and will not be deemed to have breached its obligations under this Indenture by doing so.

Section 3.9 Limitation on Incurrence of Additional Indebtedness .

(a) The Company will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, Incur any Indebtedness, including Acquired Indebtedness, except that the Issuer and/or any of the Note Guarantors may Incur Indebtedness, including Acquired Indebtedness, if, at the time of and immediately after giving *pro forma* effect to the Incurrence thereof and the application of the proceeds therefrom, the Consolidated Fixed Charge Coverage Ratio of the Company is greater than or equal to 2.0 to 1.0.

(b) Notwithstanding clause (a) above, the Company and/or any of its Restricted Subsidiaries, as applicable, may Incur the following Indebtedness ("Permitted Indebtedness"):

(i) Indebtedness not to exceed U.S.$ 1,067,665,000 in respect of the Dollar Notes, excluding Additional Notes;

(ii) Indebtedness not to exceed €115,346,000 in respect of the Euro Notes, excluding Additional Notes;

(iii) Guarantees by (A) any Note Guarantor of Indebtedness of the Issuer or another Note Guarantor permitted under this Indenture and (B) the Issuer of Indebtedness of any Note Guarantor; *provided* that, if any such Guarantee is of Subordinated Indebtedness, then the obligations of the Issuer under the Notes and this Indenture or the Note Guarantee of such Note Guarantor, as applicable, will be senior to the Guarantee of such Subordinated Indebtedness;

(iv) Indebtedness of the Company and/or any of its Restricted Subsidiaries outstanding on the Issue Date (excluding Indebtedness permitted under clauses (vi), (vii), (viii) or (xi) of this definition of Permitted Indebtedness);

(v) Hedging Obligations, Compensation Related Hedging Obligations and any Guarantees thereof and any reimbursement obligations with respect to letters of credit related thereto, in each case entered into by the Company and/or any of its Restricted Subsidiaries; *provided* that, upon the drawing of such letters of credit, such obligations are reimbursed within 30 days following such drawing;

(vi) intercompany Indebtedness between the Company and any Restricted Subsidiary or between any Restricted Subsidiaries; *provided* that, in the event that at any time any such Indebtedness ceases to be held by the Issuer or a Restricted Subsidiary, such Indebtedness shall be deemed to be Incurred and not permitted by this clause (vi) at the time such event occurs;

(vii) Indebtedness of the Company and/or any of its Restricted Subsidiaries arising from (A) the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn against insufficient funds in the ordinary course of business; *provided* that such Indebtedness is extinguished within five Business Days of Incurrence; or (B) any cash pooling or other cash management agreements in place with a bank or financial institution but only to the extent of offsetting credit balances of the Company and/or its Restricted Subsidiaries pursuant to such cash pooling or other cash management agreement;

(viii) Indebtedness of the Company and/or any of its Restricted Subsidiaries represented by (A) endorsements of negotiable instruments in the ordinary course of business (excluding an *aval*), (B) documentary credits (including all forms of letter of credit), performance bonds or guarantees, advance payments, bank guarantees, bankers' acceptances, surety or appeal bonds or similar instruments for the account of, or guaranteeing performance by, the Company and/or any Restricted Subsidiary in the ordinary course of business, (C) reimbursement obligations with respect to letters of credit in the ordinary course of

business (D) reimbursement obligations with respect to letters of credit and performance Guarantees in the ordinary course of business to the extent required pursuant to the terms of any Investment made pursuant to clause (12) of the definition of "Permitted Investment" and (E) other Guarantees by the Company and/or any Restricted Subsidiary in favor of a bank or financial institution in respect of obligations of that bank or financial institution to a third party in an amount not to exceed U.S.$500 million at any one time outstanding; *provided* that in the case of clauses (B), (C) and (D), upon the drawing of such letters of credit or the Incurrence of such Indebtedness, such obligations are reimbursed within 30 days following such drawing or Incurrence;

(ix) Refinancing Indebtedness in respect of:

(A) Indebtedness (other than Indebtedness owed to the Company or any Subsidiary of the Company) Incurred pursuant to clause (a) above (it being understood that no Indebtedness outstanding on the Issue Date is Incurred pursuant to such clause (a) above), or

(B) Indebtedness Incurred pursuant to clause (i), (ii), (iii) or (iv) above or this clause (ix);

(x) Capitalized Lease Obligations, Sale and Leaseback Transactions, export credit facilities with a maturity of at least one year and Purchase Money Indebtedness of, including Guarantees of any of the foregoing by, the Company and/or any Restricted Subsidiary, in an aggregate principal amount at any one time outstanding not to exceed U.S.$1 billion;

(xi) Indebtedness arising from agreements entered into by the Company and/or a Restricted Subsidiary providing for bona fide indemnification, adjustment of purchase price or similar obligations not for financing purposes, in each case, Incurred or assumed in connection with the acquisition or disposition of any business, assets or Capital Stock of a Restricted Subsidiary (including minority interests); *provided* that, in the case of a disposition, the maximum aggregate liability in respect of such Indebtedness shall at no time exceed the gross proceeds actually received by the Company and its Restricted Subsidiaries in connection with such disposition;

(xii) Indebtedness of the Company and/or any of its Restricted Subsidiaries in an aggregate amount not to exceed U.S.$1 billion at any one time; outstanding; *provided* that no more than U.S.$250 million of such Indebtedness at any one time outstanding (excluding any Indebtedness under a Permitted Liquidity Facility) may be Incurred by Restricted Subsidiaries that are not the Issuer or Note Guarantors, which amount shall be increased by the corresponding amount of other Indebtedness

of Restricted Subsidiaries other than the Issuer and the Note Guarantors outstanding on the Issue Date and subsequently repaid from time to time but in any event not to exceed U.S.$500 million at any one time outstanding; *provided, further, however*, that (A) the Company and/or any of its Restricted Subsidiaries may Incur Indebtedness under a Permitted Liquidity Facility and (B) in the event that the Company and/or any of its Restricted Subsidiaries shall have Incurred Indebtedness under a Permitted Liquidity Facility that increases the amount outstanding at such time pursuant to this clause (xii) in excess of U.S.$ 1 billion, then up to U.S.$1.2 billion may be Incurred pursuant to this clause (xii) at any one time outstanding;

(xiii) (A) Indebtedness of the Company and/or any of its Restricted Subsidiaries in respect of factoring arrangements or Inventory Financing arrangements or (B) other Indebtedness of the Company and/or any of its Restricted Subsidiaries with a maturity of 12 months or less for working capital purposes, not to exceed in the aggregate at any one time (calculated as of the end of the most recent fiscal quarter for which consolidated financial information of the Company is available) the greater of:

(1) The sum of:

(x) 20% of the net book value of the inventory of the Company and its Restricted Subsidiaries and

(y) 20% of the net book value of the accounts receivable of the Company and its Restricted Subsidiaries (excluding accounts receivable pledged to secure Indebtedness or subject to a Qualified Receivables Transaction),

less, in each case, the amount of any permanent repayments or reductions of commitments in respect of such Indebtedness made with the Net Cash Proceeds of an Asset Sale in order to comply with Section 3.12; or

(2) U.S.$350 million;

(xiv) Indebtedness of the Issuer and/or any of the Note Guarantors Incurred to fund amounts payable upon the exercise of the put option (calculated according to the terms in effect on the Issue Date of the agreements giving rise to such obligations) requiring CEMEX, Inc. to purchase 50.01% of the Capital Stock of Ready Mix USA, LLC and/or 49.99% of the Capital Stock of CEMEX Southeast, LLC, the combined amount of which was estimated to be U.S.$457 million as of December 31, 2009, subject to subsequent adjustments;

(xv) Indebtedness of the Company and/or any of its Restricted Subsidiaries for taxes levied, assessments due and other governmental charges required to be paid as a matter of law or regulation in the ordinary course of business; *provided* that such Indebtedness shall be permitted to be Incurred only at such time that the Financing Agreement (or any refinancing thereof) shall contain an exception to allow the Incurrence of Indebtedness to pay taxes;

(xvi) Indebtedness Incurred pursuant to the Banobras Facility;

(xvii) Indebtedness of the Company and/or any of its Restricted Subsidiaries Incurred and/or issued to refinance Qualified Receivables Transactions in existence on the Issue Date;

(xviii) Acquired Indebtedness in an aggregate amount at any one time outstanding under this clause (xviii) not to exceed U.S.$100 million; and

(xix) (A) any Indebtedness that constitutes an Investment that the Company and/or any of its Restricted Subsidiaries is contractually committed to Incur as of the Issue Date in any Person (other than a Subsidiary) in which the Company or any of its Restricted Subsidiaries maintains an Investment in equity securities; and (B) Guarantees up to U.S.$100 million in any calendar year by the Company and/or any Restricted Subsidiary of Indebtedness of any Person in which the Company or any of its Restricted Subsidiaries maintains an equity Investment minus any Investment other than such guarantees in such Person during such calendar year pursuant to clause (17)(b) of the definition of "Permitted Investments."

(c) Notwithstanding anything to the contrary contained in this Section 3.9,

(i) The Company shall not, and shall not permit any Note Guarantor to, Incur any Indebtedness pursuant to this Section 3.9 if the proceeds thereof are used, directly or indirectly, to Refinance any Subordinated Indebtedness unless such Indebtedness shall be subordinated to the Notes or the applicable Note Guarantee, as the case may be, to at least the same extent as such Subordinated Indebtedness.

(ii) For purposes of determining compliance with, and the outstanding principal amount of, any particular Indebtedness Incurred pursuant to and in compliance with this Section 3.9, the amount of Indebtedness issued at a price that is less than the principal amount thereof will be equal to the amount of the liability in respect thereof determined in accordance with GAAP. Accrual of interest, the accretion or amortization of original issue discount, the payment of regularly scheduled interest in the form of additional Indebtedness of the same

instrument or the payment of regularly scheduled dividends on Disqualified Capital Stock in the form of additional Disqualified Capital Stock with the same terms will not be deemed to be an Incurrence of Indebtedness for purposes of this Section 3.9. For purposes of determining compliance with this Section 3.9, mark-to-market fluctuations of hedging obligations or derivatives outstanding on the Issue Date shall not constitute Incurrence of Indebtedness.

(iii) For purposes of determining compliance with this Section 3.9, the principal amount of Indebtedness denominated in foreign currency shall be calculated based on the relevant currency exchange rate in effect on the date such Indebtedness was Incurred, in the case of term Indebtedness, or first committed, in the case of revolving credit Indebtedness; *provided* that if such Indebtedness is Incurred to refinance other Indebtedness denominated in foreign currency, and such refinancing would cause the applicable restriction to be exceeded if calculated at the relevant currency exchange rate in effect on the date of such refinancing, such restriction shall be deemed not to have been exceeded so long as the principal amount of such Refinancing Indebtedness does not exceed the principal amount of such Indebtedness being refinanced. Notwithstanding any other provision of this Section 3.9, the maximum amount of Indebtedness Incurred to refinance other Indebtedness, if Incurred in a different currency from the Indebtedness being refinanced, shall be calculated based on the currency exchange rate applicable to the currencies in which such Refinancing Indebtedness is denominated that is in effect on the date of such refinancing.

(iv) For purposes of determining compliance with this Section 3.9:

(A) in the event that an item of Indebtedness meets the criteria of more than one of the types of Indebtedness described above, including, without limitation, in Section 3.9(a), the Company, in its sole discretion, will classify such item of Indebtedness at the time of Incurrence and only be required to include the amount and type of such Indebtedness in one of the above clauses and may later reclassify all or a portion of such item of Indebtedness as having been Incurred pursuant to any other clause to the extent such Indebtedness could be Incurred pursuant to such clause at the time of such reclassification; and

(B) the Company will be entitled to divide and classify an item of Indebtedness in more than one of the types of Indebtedness described above, including, without limitation, Section 3.9(a).

Section 3.10 [Reserved].

Section 3.11 Limitation on Restricted Payments.

(a) The Company will not, and will not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, take any of the following actions (each, a "Restricted Payment"):

(i) declare or pay any dividend or return of capital or make any distribution on or in respect of shares of Capital Stock of the Company or any Restricted Subsidiary to holders of such Capital Stock, other than:

(A) dividends, distributions or returns on capital payable in Qualified Capital Stock of the Company,

(B) dividends, distributions or returns on capital payable to the Company and/or a Restricted Subsidiary,

(C) dividends, distributions or returns of capital made on a *pro rata* basis to the Company and its Restricted Subsidiaries, on the one hand, and minority holders of Capital Stock of a Restricted Subsidiary, on the other hand (or on less than a *pro rata* basis to any minority holder);

(ii) purchase, redeem or otherwise acquire or retire for value:

(A) any Capital Stock of the Company, or

(B) any Capital Stock of any Restricted Subsidiary held by an Affiliate of the Company or any Preferred Stock of a Restricted Subsidiary, except for:

(1) Capital Stock held by the Company or a Restricted Subsidiary, or

(2) purchases, redemptions, acquisitions or retirements for value of Capital Stock on a *pro rata* basis from the Company and/or any Restricted Subsidiaries, on the one hand, and minority holders of Capital Stock of a Restricted Subsidiary, on the other hand, according to their respective percentage ownership of the Capital Stock of such Restricted Subsidiary;

(iii) make any principal payment on, purchase, defease, redeem, prepay, decrease or otherwise acquire or retire for value, prior to any scheduled final maturity, scheduled repayment or scheduled sinking fund payment, as the case may be, any Subordinated Indebtedness or

(iv) make any Investment (other than Permitted Investments);

if at the time of the Restricted Payment immediately after giving effect thereto:

(A) a Default or an Event of Default shall have occurred and be continuing;

(B) the Company is not able to Incur at least U.S.$1.00 of additional Indebtedness pursuant to Section 3.9(a); or

(C) the aggregate amount (the amount expended for these purposes, if other than in cash, being the Fair Market Value of the relevant property at the time of the making thereof) of the proposed Restricted Payment and all other Restricted Payments made subsequent to the Issue Date up to the date thereof, less any Investment Return calculated as of the date thereof, shall exceed the sum of:

(1) 50% of cumulative Consolidated Net Income of the Company or, if cumulative Consolidated Net Income of the Company is a loss, minus (i) 100% of the loss, accrued during the period, treated as one accounting period, beginning on the first full fiscal quarter after the Issue Date to the end of the most recent fiscal quarter for which consolidated financial information of the Company is available and (ii) the amount of cash benefits to the Company or a Restricted Subsidiary that is netted against Investments in Similar Businesses pursuant to clause (12) of the definition of "Permitted Investments"; plus

(2) 100% of the aggregate net cash proceeds received by the Company from any Person from any:

- contribution to the equity capital of the Company (not representing an interest in Disqualified Capital Stock) or issuance and sale of Qualified Capital Stock of the Company, in each case, subsequent to the Issue Date, or
- issuance and sale subsequent to the Issue Date (and, in the case of Indebtedness of a Restricted Subsidiary, at such time as it was a Restricted Subsidiary) of any Indebtedness for borrowed money of the Company or any Restricted Subsidiary that has been converted into or exchanged for Qualified Capital Stock of the Company,

excluding, in each case, any net cash proceeds:

- received from a Subsidiary of the Company;
- used to redeem Notes under Article V;

- used to acquire Capital Stock or other assets from an Affiliate of the Company; or
- applied in accordance with clause (ii)(B) or (iii)(A) of Section 3.11(b) below.

(b) Notwithstanding Section 3.11(a), this Section 3.11 does not prohibit:

(i) the payment of any dividend within 60 days after the date of declaration of such dividend if the dividend would have been permitted on the date of declaration pursuant to Section 3.11(a);

(ii) if no Default or Event of Default shall have occurred and be continuing, the acquisition of any shares of Capital Stock of the Company,

(A) in exchange for Qualified Capital Stock of the Company, or

(B) through the application of the net cash proceeds received by the Company from a substantially concurrent sale of Qualified Capital Stock of the Company or a contribution to the equity capital of the Company not representing an interest in Disqualified Capital Stock, in each case not received from a Subsidiary of the Company;

provided that the value of any such Qualified Capital Stock issued in exchange for such acquired Capital Stock and any such net cash proceeds shall be excluded from Section 3.11(a)(iv)(C)(2) (and were not included therein at any time);

(iii) if no Default or Event of Default shall have occurred and be continuing, the voluntary prepayment, purchase, defeasance, redemption or other acquisition or retirement for value of any Subordinated Indebtedness:

(A) solely in exchange for, or through the application of net cash proceeds of a substantially concurrent sale, other than to a Subsidiary of the Company, of Qualified Capital Stock of the Company, or

(B) solely in exchange for Refinancing Indebtedness for such Subordinated Indebtedness,

provided that the value of any Qualified Capital Stock issued in exchange for Subordinated Indebtedness and any net cash proceeds referred to above shall be excluded from Section 3.11(a)(iv)(C)(2) (and were not included therein at any time);

(iv) repurchases by the Company of Common Stock of the Company or options, warrants or other securities exercisable or convertible into Common Stock of the Company from employees or directors of the Company or any of its Subsidiaries or their authorized representatives upon the death, disability or termination of employment or directorship of the employees or directors, in an amount not to exceed U.S.$5 million in any calendar year and any repurchases other than in connection with compensation of Common Stock of the Company pursuant to binding written agreements in effect on the Issue Date;

(v) payments of dividends on Disqualified Capital Stock issued pursuant to the covenant described under Section 3.9; *provided, however*, that such dividends shall be excluded in the calculation of the amount of Restricted Payments;

(vi) non-cash repurchases of Capital Stock deemed to occur upon exercise of stock options, warrants or other similar rights if such Capital Stock represents a portion of the exercise price of such options, warrants or other similar rights;

(vii) cash payments in lieu of the issuance of fractional shares in connection with the exercise of warrants, options or other securities convertible into or exchangeable for Capital Stock of the Company;

(viii) purchases of any Subordinated Indebtedness of the Company (A) at a purchase price not greater than 101% of the principal amount thereof (together with accrued and unpaid interest) in the event of the occurrence of a Change of Control or (B) at a purchase price not greater than 100% of the principal amount thereof (together with accrued and unpaid interest) in the event of an Asset Sale in accordance with provisions similar to those set forth under Section 3.12 *provided*, *however*, that prior to such purchase of any such Subordinated Indebtedness, the Company has made the Change of Control Offer as provided under Section 3.8 or Section 3.12, respectively, and has purchased all Notes validly tendered and not properly withdrawn pursuant thereto;

(ix) recapitalization of earnings on or in respect of the Qualified Capital Stock of the Company pursuant to which additional Qualified Capital Stock of the Company or the right to subscribe for additional Capital Stock of the Company is issued to the existing shareholders of the Company on a *pro rata* basis (which, for the avoidance of doubt, shall not allow any payment in cash to be made in respect of Qualified Capital Stock of the Company pursuant to this clause (ix)); and

(x) so long as (A) no Default or Event of Default shall have occurred and be continuing (or result therefrom) and (B) the Company could Incur at least US$1.00 of additional Debt pursuant to Section 3.11(a), payment of any dividends on Capital Stock (other than Disqualified Capital Stock) of the Company in an aggregate amount which, when taken together with all dividends paid pursuant to this clause (x), does not exceed U.S.$50 million in any calendar year; *provided* that such dividends shall be included in the calculation of the amount of Restricted Payments.

(xi) [Reserved]

In determining the aggregate amount of Restricted Payments made subsequent to the Issue Date, amounts expended pursuant to clauses (i) (without duplication for the declaration of the relevant dividend), (iv), (viii) and (x) above shall be included in such calculation and amounts expended pursuant to clauses (ii), (iii), (v), (vi), (vii) and (ix) above shall not be included in such calculation.

Section 3.12 Limitation on Asset Sales.

(a) The Company will not, and will not permit any of its Restricted Subsidiaries to, consummate an Asset Sale unless:

(i) the Company or the applicable Restricted Subsidiary, as the case may be, receives consideration at the time of the Asset Sale at least equal to the Fair Market Value (to be determined as of the date on which such sale is contracted) of the assets sold or otherwise disposed of, and

(ii) other than in respect of Permitted Asset Swap Transactions, at least 80% of the consideration received for the assets sold by the Company or the Restricted Subsidiary, as the case may be, in the Asset Sale shall be in the form of cash or Cash Equivalents received at the time of such Asset Sale; *provided, however*, for the purposes of this clause (ii), the following are also deemed to be cash or Cash Equivalents:

(A) the assumption of Indebtedness (other than Subordinated Indebtedness) of the Company or any Restricted Subsidiary and the release of the Company or such Restricted Subsidiary from all liability on such Indebtedness in connection with such Asset Sale;

(B) any securities, notes or obligation received by the Company or any Restricted Subsidiary from the transferee that are, within 180 days after the Asset Sale, converted by the Company or such Restricted Subsidiary into cash, to the extent of cash received in that conversion;

(C) Capital Stock of a Person who is or who, after giving effect to such Asset Sale, becomes, a Restricted Subsidiary; and

(D) any Designated Non-cash Consideration received by the Company or such Restricted Subsidiary in connection with such Asset Sale having an aggregate Fair Market Value which, when taken together with the Fair Market Value of all other Designated Non-cash Consideration received pursuant to this clause (D) since the Issue Date, does not exceed the sum of (1) 3.0% of Consolidated Tangible Assets of the Company calculated as of the end of the most recent fiscal quarter for which consolidated financial information is available (with the Fair Market Value of each item of Designated Non-cash Consideration being measured as of the date it was received and without giving effect to subsequent changes in value of any such item of Designated Non-cash Consideration) and (2) the amount of cash or Cash Equivalents received in connection with a subsequent sale of such Designated Non-cash Consideration.

(b) The Company or any Restricted Subsidiary may apply the Net Cash Proceeds of any such Asset Sale within 365 days thereof to:

(i) repay any Senior Indebtedness for borrowed money or constituting a Capitalized Lease Obligation and permanently reduce the commitments with respect thereto, or

(ii) purchase:

(A) assets (except for current assets as determined in accordance with GAAP or Capital Stock) to be used by the Company or any Restricted Subsidiary in a Permitted Business, or

(B) substantially all of the assets of a Permitted Business or Capital Stock of a Person engaged in a Permitted Business that will become, upon purchase, a Restricted Subsidiary from a Person other than the Company and its Restricted Subsidiaries.

(c) To the extent all or a portion of the Net Cash Proceeds of any Asset Sale are not applied within the 365 days of the Asset Sale as described in clause (i) or (ii) of Section 3.12(b), the Company will make an offer to purchase Notes (the " Asset Sale Offer"), at a purchase price equal to 100% of the principal amount of the Notes to be purchased, plus accrued and unpaid interest thereon, to the date of purchase (the " Asset Sale Offer Amount"). The Company will purchase pursuant to an Asset Sale Offer from all tendering Holders on a *pro rata* basis, and, at the Company's option, on a *pro rata* basis with the holders of any other Senior Indebtedness with similar provisions requiring the Company to offer to purchase the other Senior Indebtedness with the proceeds of Asset Sales, that principal amount (or accreted value in the case of Indebtedness issued with original issue discount) of Notes and the other Senior Indebtedness to be purchased equal to such unapplied Net Cash Proceeds. The Company may satisfy its obligations under this Section 3.12 with respect to the Net Cash Proceeds of an Asset Sale by making an Asset Sale Offer prior to the expiration of the relevant 365-day period.

(d) Pending the final application of any Net Cash Proceeds pursuant to this Section 3.12, the holder of such Net Cash Proceeds may apply such Net Cash Proceeds temporarily to reduce Indebtedness outstanding under a revolving credit facility or otherwise invest such Net Cash Proceeds in any manner not prohibited by this Indenture.

(e) The purchase of Notes pursuant to an Asset Sale Offer shall occur not less than 20 Business Days following the date thereof, or any longer period as may be required by law, nor more than 45 days following the 365th day following the Asset Sale (the " Asset Sale Offer Period"). The Company may, however, defer an Asset Sale Offer until there is an aggregate amount of unapplied Net Cash Proceeds from one or more Asset Sales equal to or in excess of U.S.$100 million. At that time, the entire amount of unapplied Net Cash Proceeds, and not just the amount in excess of U.S.$100 million, shall be applied as required pursuant to this Section 3.12.

(f) Any Net Cash Proceeds payable in respect of the Notes pursuant to Section 3.12 will be apportioned between the Euro Notes and the Dollar Notes in proportion to the respective aggregate principal amounts of Euro Notes and Dollar Notes validly tendered and not withdrawn, based upon the Dollar Equivalent of such principal amount of Euro Notes determined as of a date selected by the Issuer that is within the Asset Sale Offer Period. To the extent that any portion of the Net Cash Proceeds payable in respect of the Notes is denominated in a currency other than the currency in which the relevant Notes are denominated, the amount thereof payable in respect of such Notes shall not exceed the net amount of funds in the currency in which such Notes are denominated that is actually received by the Issuer upon converting such portion into such currency.

(g) Each Asset Sale Offer Notice shall be mailed first class, postage prepaid, to the record Holders as shown on the Note Register within 20 days following such 365th day (or such earlier date as the Company shall have elected to make such Asset Sale Offer), with a copy to the Trustee offering to purchase the Notes as described above. Each notice of an Asset Sale Offer shall state, among other things, the purchase date, which must be no earlier than 30 days nor later than 60 days from the date the notice is mailed, other than as may be required by law (the " Asset Sale Offer Payment Date"). Upon receiving notice of an Asset Sale Offer, Holders may elect to tender their Notes in whole or in part, in minimum denominations of U.S.$70,000 and any integral multiple of U.S.$1,000 in excess thereof, in the case of Dollar Notes, or €50,000 and any integral multiple of €1,000 in excess thereof, in the case of Euro Notes, in each case in exchange for cash.

(h) On the Asset Sale Offer Payment Date, the Company shall, to the extent lawful:

(i) accept for payment all Notes or portions thereof properly tendered pursuant to the Asset Sale Offer;

(ii) deposit with the Paying Agent funds in an amount equal to the Asset Sale Offer Amount in respect of all Notes or portions thereof so tendered; and

(iii) deliver or cause to be delivered to the Trustee the Notes so accepted together with an Officer's Certificate stating the aggregate principal amount of Notes or portions thereof being purchased by the Company.

(i) To the extent Holders of Notes and holders of other Senior Indebtedness, if any, which are the subject of an Asset Sale Offer properly tender and do not withdraw Notes or the other Senior Indebtedness in an aggregate amount exceeding the amount of unapplied Net Cash Proceeds, the Company shall purchase the Notes and the other Senior Indebtedness on a *pro rata* basis (based on amounts tendered). If only a portion of a Note is purchased pursuant to an Asset Sale Offer, a new Note in a principal amount equal to the portion thereof not purchased shall be issued in the name of the holder thereof upon cancellation of the original Note (or appropriate adjustments to the amount and beneficial interests in a global note shall be made, as appropriate). Notes (or portions thereof) purchased pursuant to an Asset Sale Offer shall be cancelled and cannot be reissued.

(j) The Company shall comply with the requirements of Rule 14e-1 under the Exchange Act and any other applicable securities laws in connection with the purchase of Notes pursuant to an Asset Sale Offer. To the extent that the provisions of any applicable securities laws or regulations conflict with this Section 3.12, the Company shall comply with these laws and regulations and shall not be deemed to have breached its obligations under the "Asset Sale" provisions of this Indenture by doing so.

(k) Upon completion of an Asset Sale Offer, the amount of Net Cash Proceeds shall be reset at zero. Accordingly, to the extent that the aggregate amount of Notes and other Indebtedness tendered pursuant to an Asset Sale Offer is less than the aggregate amount of unapplied Net Cash Proceeds, the Company may use any remaining Net Cash Proceeds for general corporate purposes of the Company and its Restricted Subsidiaries.

(l) In the event of the transfer of substantially all (but not all) of the property and assets of the Company and its Restricted Subsidiaries as an entirety to a Person in a transaction permitted under Article IV, the Successor Company shall be deemed to have sold the properties and assets of the Company and its Restricted Subsidiaries not so transferred for purposes of this Section 3.12, and shall comply with the provisions of this Section 3.12 with respect to the deemed sale as if it were an Asset Sale. In addition, the Fair Market Value of properties and assets of the Company or its Restricted Subsidiaries so deemed to be sold shall be deemed to be Net Cash Proceeds for purposes of this Section 3.12.

(m) If at any time any non-cash consideration received by the Company or any Restricted Subsidiary, as the case may be, in connection with any Asset Sale, is converted into or sold or otherwise disposed of for cash (other than interest received with respect to any non-cash consideration), the conversion or disposition shall be deemed to constitute an Asset Sale hereunder and the Net Cash Proceeds thereof shall be applied in accordance with this Section 3.12 within 365 days of conversion or disposition.

Section 3.13 Limitation on the Ownership of Capital Stock of Restricted Subsidiaries . The Company shall not permit any Person other than the Company or another Restricted Subsidiary to, directly or indirectly, own or control any Capital Stock of any Restricted Subsidiary, except for:

(i) Capital Stock owned by such Person on the Issue Date;

(ii) directors' qualifying shares;

(iii) the sale or Disposition of 100% of the shares of the Capital Stock of any Restricted Subsidiary (other than the Issuer) held by the Company and its Restricted Subsidiaries to any Person other than the Company or another Restricted Subsidiary effected in accordance with, as applicable, Section 3.12 and Article IV;

(iv) in the case of a Restricted Subsidiary other than a Restricted Subsidiary that is a Wholly Owned Subsidiary,

(A) the issuance by that Restricted Subsidiary of Capital Stock on a *pro rata* basis to the Company and its Restricted Subsidiaries, on the one hand, and minority holders of Capital Stock of such Restricted Subsidiary, on the other hand (or on less than a *pro rata* basis to any minority holder); or

(B) sales, transfers and other dispositions of Capital Stock in a Restricted Subsidiary to the extent required by, or made pursuant to, buy/sell, put/call or similar shareholder arrangements set forth in binding agreements in effect on the Issue Date; and

(v) the sale of Capital Stock of a Restricted Subsidiary (other than the Issuer) by the Company or another Restricted Subsidiary or the sale or issuance by a Restricted Subsidiary of its newly-issued Capital Stock if such sale or issuance is made in compliance with Section 3.12 and either:

(A) such Restricted Subsidiary is no longer a Subsidiary, and the continuing Investment of the Company and its Restricted Subsidiaries in such former Restricted Subsidiary is in compliance with Section 3.11, or

(B) such Restricted Subsidiary continues to be a Restricted Subsidiary.

Section 3.14 Limitation on Designation of Unrestricted Subsidiaries .

(a) The Company may designate after the Issue Date any Subsidiary of the Company other than the Issuer or a Note Guarantor as an Unrestricted Subsidiary under this Indenture (a "Designation") only if:

(i) no Default or Event of Default shall have occurred and be continuing at the time of or after giving effect to such Designation and any transactions between the Company or any of its Restricted Subsidiaries and such Unrestricted Subsidiary are in compliance with Section 3.18;

(ii) at the time of and after giving effect to such Designation, the Company could Incur U.S.$1.00 of additional Indebtedness pursuant to Section 3.9(a);

(iii) the Company would be permitted to make an Investment at the time of Designation (assuming the effectiveness of such Designation and treating such Designation as an Investment at the time of Designation) as a Restricted Payment pursuant to Section 3.11(a) in an amount (the "Designation Amount") equal to the amount of the Company's Investment in such Subsidiary on such date; and

(iv) the terms of any Affiliate Transaction existing on the date of such Designation between the Subsidiary being Designated (and its Subsidiaries) and the Company or any Restricted Subsidiary would be permitted under Section 3.18 if entered into immediately following such Designation.

(b) Neither the Company nor any Restricted Subsidiary shall at any time:

(i) provide credit support for, subject any of its property or assets (other than the Capital Stock of any Unrestricted Subsidiary) to the satisfaction of, or Guarantee, any Indebtedness of any Unrestricted Subsidiary (including any undertaking, agreement or instrument evidencing such Indebtedness);

(ii) be directly or indirectly liable for any Indebtedness of any Unrestricted Subsidiary; or

(iii) be directly or indirectly liable for any Indebtedness which provides that the Holder thereof may (upon notice, lapse of time or both) declare a default thereon or cause the payment thereof to be accelerated or payable prior to its final scheduled maturity upon the occurrence of a default with respect to any Indebtedness of any Unrestricted Subsidiary.

(c) The Company may revoke any Designation of a Subsidiary as an Unrestricted Subsidiary (a " Revocation") only if:

(i) no Default or Event of Default shall have occurred and be continuing at the time of and after giving effect to such Revocation; and

(ii) all Liens and Indebtedness of such Unrestricted Subsidiary outstanding immediately following such Revocation, if Incurred at such time, would have been permitted to be Incurred for all purposes of this Indenture.

(d) The Designation of a Subsidiary of the Company as an Unrestricted Subsidiary shall be deemed to include the Designation of all of the Subsidiaries of such Subsidiary. All Designations and Revocations must be evidenced by an Officer's Certificate of the Issuer, delivered to the Trustee certifying compliance with the preceding provisions.

Section 3.15 Limitation on Dividends and Other Payment Restrictions Affecting Restricted Subsidiaries .

(a) Except as provided in clause (b) below, the Company shall not, and shall not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, create or otherwise cause or permit to exist or become effective any consensual encumbrance or restriction on the ability of any Restricted Subsidiary to:

(i) pay dividends or make any other distributions on or in respect of its Capital Stock to the Company or any other Restricted Subsidiary or pay any Indebtedness owed to the Company or any other Restricted Subsidiary;

(ii) make loans or advances to, or make any Investment in, the Company or any other Restricted Subsidiary; or

(iii) transfer any of its property or assets to the Company or any other Restricted Subsidiary.

(b) Section 3.15(a) shall not apply to encumbrances or restrictions existing under or by reason of:

(i) applicable law, rule, regulation or order;

(ii) this Indenture;

(iii) any encumbrance or restriction pursuant to an agreement in effect at or entered into on the Issue Date, and any amendments, restatements, renewals, replacements or refinancings thereof; *provided* that any amendment, restatement, renewal, replacement or refinancing is not materially more restrictive with respect to such encumbrances or restrictions than those in existence on the Issue Date as determined in good faith by the Company's senior management;

(iv) customary non-assignment provisions of any contract and customary provisions restricting assignment or subletting in any lease governing a leasehold interest of any Restricted Subsidiary, or any customary restriction on the ability of a Restricted Subsidiary to dividend, distribute or otherwise transfer any asset which secures Indebtedness secured by a Lien, in each case permitted to be Incurred under this Indenture;

(v) any instrument governing Acquired Indebtedness not Incurred in connection with, or in anticipation or contemplation of, the relevant acquisition, merger or consolidation, which encumbrance or restriction is not applicable to any Person, or the properties or assets of any Person, other than the Person or the properties or assets of the Person so acquired;

(vi) restrictions with respect to a Restricted Subsidiary of the Company imposed pursuant to a binding agreement which has been entered into for the sale or disposition of Capital Stock or assets of such Restricted Subsidiary; *provided* that such restrictions apply solely to the Capital Stock or assets of such Restricted Subsidiary being sold (and in the case of Capital Stock, its Subsidiaries);

(vii) customary restrictions imposed on the transfer of copyrighted or patented materials;

(viii) an agreement governing Indebtedness Incurred to Refinance the Indebtedness issued, assumed or Incurred pursuant to an agreement referred to in clause (iii) or (v) of this Section 3.15(b); *provided* that such Refinancing agreement is not materially more restrictive with respect to such encumbrances or restrictions than those contained in the agreement referred to in such clause (iii) or (v) as determined in good faith by the Company's senior management;

(ix) Liens permitted to be Incurred pursuant to the provisions of the covenant described under Section 3.17 that limit the right of any person to transfer the assets subject to such Liens;

(x) Purchase Money Indebtedness for property acquired in the ordinary course of business and Capitalized Lease Obligations that impose restrictions of the nature discussed in clause (iii) of this Section 3.15(b) above on the property so acquired;

(xi) restrictions on cash or other deposits imposed by customers under contracts or other arrangements entered into or agreed to in the ordinary course of business not materially more restrictive than those existing on the Issue Date as determined in good faith by the Company's senior management;

(xii) customary provisions in joint venture agreements relating to dividends or other distributions in respect of such joint venture or the securities, assets or revenues of such joint venture;

(xiii) restrictions in Indebtedness Incurred by a Restricted Subsidiary in compliance with the covenant described under Section 3.9; *provided* that such restrictions (A) are not materially more restrictive with respect to such encumbrances and restrictions than those such

Restricted Subsidiary was subject to in agreements related to obligations referenced in clause (iii) above as determined in good faith by the Company's senior management or (B) constitute financial covenants or similar restrictions that limit the ability to pay dividends or make distributions upon the occurrence or continuance of a default or event of default or that would result in a default or event of default under such Indebtedness upon the declaration or payment of dividends or other distributions; and

(xiv) net worth provisions in leases entered into by the Company or any Restricted Subsidiary in the ordinary course of business not materially more restrictive than those existing on the Issue Date as determined in good faith by the Company's senior management.

Section 3.16 Limitation on Layered Indebtedness. The Company shall not, and shall not permit the Issuer or any other Note Guarantor to, directly or indirectly, Incur any Indebtedness that is subordinate in right of payment to any other Indebtedness, unless such Indebtedness is expressly subordinate in right of payment to the Notes or, in the case of a Note Guarantor, its Note Guarantee, to the same extent, on the same terms and for so long (except as a result of the provisions of the Intercreditor Agreement applicable to Financing Agreement Indebtedness and any refinancing thereof) as such Indebtedness is subordinate to such other Indebtedness.

Section 3.17 Limitation on Liens. The Company shall not, and shall not cause or permit any of its Restricted Subsidiaries to, directly or indirectly, incur, grant, assume or suffer to exist any Liens of any kind (except for Permitted Liens) (a) against or upon any of their respective properties or assets, whether owned on the Issue Date or acquired after the Issue Date, or any proceeds therefrom, to secure any Indebtedness or trade payables or (b) deemed to exist in respect of Capitalized Lease Obligations (including any Capitalized Lease Obligations in respect of Sale and Leaseback Transactions), in each case unless contemporaneously therewith effective provision is made:

(i) in the case of any Restricted Subsidiary that is not a Note Guarantor, to secure the Notes and all other amounts due under this Indenture; and

(ii) in the case of a Note Guarantor, to secure such Note Guarantor's Note Guarantee of the Notes and all other amounts due under this Indenture,

in each case, equally and ratably with such Indebtedness or other obligation (or, in the event that such Indebtedness is subordinated in right of payment to the Notes or such Note Guarantee, as the case may be, prior to such Indebtedness or other obligation) with a Lien on the same properties and assets securing such Indebtedness or other obligation for so long as such Indebtedness or other obligation is secured by such Lien.

Section 3.18 Limitation on Transactions with Affiliates.

(a) The Company shall not, and shall not permit any of its Restricted Subsidiaries to, directly or indirectly, enter into any transaction or series of related transactions (including, without limitation, the purchase, sale, lease or exchange of any property or the rendering of any service) with, or for the benefit of, any Affiliate of the Company (each an "Affiliate Transaction"), unless the terms of such Affiliate Transaction are no less favorable than those that could reasonably be expected to be obtained in a comparable transaction at such time on an arm's-length basis from a Person that is not an Affiliate of the Company;

(b) The provisions of Section 3.18(a) above shall not apply to:

(i) Affiliate Transactions with or among the Company and any Restricted Subsidiary or between or among Restricted Subsidiaries;

(ii) reasonable fees and compensation paid to, and any indemnity provided on behalf of, officers, directors, employees, consultants or agents of the Company or any Restricted Subsidiary as determined in good faith by the Company's Board of Directors or, to the extent consistent with past practice, senior management;

(iii) Affiliate Transactions undertaken pursuant to any contractual obligations or rights in existence on the Issue Date (as in effect on the Issue Date with modifications, extensions and replacements thereof not materially adverse to the Company and its Restricted Subsidiaries) as determined in good faith by the Company's senior management;

(iv) any Restricted Payments in compliance with Section 3.11;

(v) payments and issuances of Qualified Capital Stock to any officers, directors and employees of the Company or any Restricted Subsidiary pursuant to any management equity plan or stock option plan or any other stock subscription or shareholder agreement, and any employment agreements, stock option plans or other compensatory arrangements (and any successor plans thereto) and any supplemental executive retirement benefit plans or arrangements with any such officers, directors or employees that are, in each case, approved in good faith by the Board of Directors or, to the extent consistent with past practice, senior management of the Company;

(vi) loans and advances to officers, directors and employees of the Company or any Restricted Subsidiary for travel, entertainment, moving and other relocation expenses, in each case made in the ordinary course of business in amounts consistent with the past practice of the Company or such Restricted Subsidiary; and

(vii) loans made by the Company or any Restricted Subsidiary to employees or directors in an aggregate amount not to exceed U.S.$15 million (or its equivalent in another currency) at any time outstanding.

Section 3.19 Conduct of Business. The Company and its Restricted Subsidiaries shall not engage in any business other than a Permitted Business.

Section 3.20 Reports to Holders.

(a) Notwithstanding that the Company may not be subject to the reporting requirements of Section 13 or 15(d) of the Exchange Act, so long as any Notes remain outstanding, the Company shall:

(i) provide the Trustee and the Holders with:

(A) annual reports on Form 20-F (or any successor form) containing the information required to be contained therein (or such successor form) within the time period required under the rules of the Commission for the filing of Form 20-F (or any successor form) by "foreign private issuers" (as defined in Rule 3b-4 of the Exchange Act (or any successor rule));

(B) reports on Form 6-K (or any successor form) including, whether or not required, unaudited quarterly financial statements (which shall include at least a balance sheet, income statement and cash flow statement) including a discussion of financial condition and results of operations of the Company in accordance with past practice, within 45 days after the end of each of the first three fiscal quarters of each fiscal year;

(C) such other reports on Form 6-K (or any successor form) promptly from time to time after the occurrence of an event that would be required to be reported on a Form 6-K (or any successor form); and

(D) in case the Company continues to apply Mexican Financial Reporting Standards as in effect on September 30, 2009 for purposes of calculations under this Indenture (and not for purposes of the financial statements provided pursuant to (A) and (B) above), no later than when due under (A) and (B), respectively, (1) a description of the differences between accounting principles in the financial statements provided pursuant to (A) or (B) above and used for calculations under this Indenture and (2) a quantitative reconciliation *provided, however*, that such description and reconciliation shall only be provided to the extent material to the calculation of any amounts under this Indenture; and

(ii) file with the Commission, to the extent permitted, the information, documents and reports referred to in clause (i) within the periods specified for such filings under the Exchange Act (whether or not applicable to the Company).

(b) In addition, at any time when the Company is not subject to or is not current in its reporting obligations under clause (ii) of Section 3.20(a), the Company shall make available, upon request, to any Holder and any prospective purchaser of Notes the information required pursuant to Rule 144A(d)(4) under the Securities Act.

(c) Notwithstanding anything in this Indenture to the contrary, the Company shall not be deemed to have failed to comply with any of its obligations hereunder for purposes of clause (iv) of Section 6.1(a) or for any other purpose hereunder until 75 days after the date any report hereunder is due.

(d) Delivery of such reports, information and documents to the Trustee is for informational purposes only and the Trustee's receipt of such reports shall not constitute constructive notice of any information contained therein or determinable from information contained therein, including the Company's compliance with any of its covenants hereunder (as to which the Trustee is entitled to rely exclusively on Officer's Certificates).

Section 3.21 Payment of Additional Amounts .

(a) All payments made by the Issuer or the Note Guarantors under, or with respect to, the Notes shall be made free and clear of, and without withholding or deduction for or on account of any present or future tax, duty, levy, impost, assessment or other governmental charge (including penalties, interest and other liabilities related thereto) (collectively, " Taxes") imposed or levied by or on behalf of Spain, Luxembourg, Mexico the Netherlands, the British Virgin Islands or, in the event that the Issuer appoints additional paying agents, by the jurisdictions of such additional paying agents (a "Taxing Jurisdiction") unless the Issuer or such Note Guarantor, as the case may be, is required to withhold or deduct Taxes by law or by the official interpretation or administration thereof.

(b) If the Issuer or any Note Guarantor is so required to withhold or deduct any amount for, or on account of, such Taxes from any payment made under or with respect to the Notes, the Issuer or such Note Guarantor, as the case may be, shall pay such additional amounts (" Additional Amounts") as may be necessary so that the net amount received by each Holder (including Additional Amounts) after such withholding or deduction shall not be less than the amount such Holder would have received if such Taxes had not been required to be withheld or deducted; *provided, however*, that the foregoing obligation to pay Additional Amounts does not apply to:

(i) any Taxes imposed solely because at any time there is or was a connection between the Holder and a Taxing Jurisdiction (other than the mere purchase of the Notes, or receipt of a payment or the ownership or holding of a Note),

(ii) any estate, inheritance, gift, sales, transfer, personal property or similar Tax imposed with respect to the Notes,

(iii) any Taxes imposed solely because the Holder or any other person fails to comply with any certification, identification or other reporting requirement concerning the nationality, residence, identity or connection with a Taxing Jurisdiction of the Holder or any beneficial owner of the Note if compliance is required by the applicable law of the Taxing Jurisdiction as a precondition to exemption from, or reduction in the rate of, the tax, assessment or other governmental charge and we have given the Holders at least 30 days' notice that Holders shall be required to provide such information and identification,

(iv) any Taxes payable otherwise than by deduction or withholding from payments on the Notes,

(v) any Taxes with respect to such Note presented for payment more than 30 days after the date on which the payment became due and payable or the date on which payment thereof is duly provided for and notice thereof given to Holders, whichever occurs later, except to the extent that the Holders of such Note would have been entitled to such Additional Amounts on presenting such Note for payment on any date during such 30 day period, and

(vi) any payment on the Note to a Holder that is a fiduciary or partnership or a person other than the sole beneficial owner of any such payment, to the extent that a beneficiary or settlor with respect to such fiduciary, a member of such a partnership or the beneficial owner of the payment would not have been entitled to the Additional Amounts had the beneficiary, settlor, member or beneficial owner been the Holder of the Note.

(c) The obligations in Section 3.21(a) and Section 3.21(b) shall survive any termination or discharge of this Indenture and shall apply mutatis mutandis to any Taxing Jurisdiction with respect to any successor to the Issuer or any Note Guarantor, as the case may be. The Issuer or such Note Guarantor, as applicable, shall (i) make such withholding or deduction and (ii) remit the full amount deducted or withheld to the relevant Taxing Jurisdiction in accordance with applicable law. The Issuer or such Note Guarantor, as applicable, shall use all reasonable efforts to obtain certified copies of tax receipts evidencing the payment of any Taxes so deducted or withheld from each Taxing Jurisdiction imposing such Taxes and shall furnish such certified copies to the Trustee within 30 days after the date the payment of any Taxes so deducted or so withheld is due pursuant to applicable law or, if such tax receipts are not reasonably available to the Issuer, furnish such other documentation that provides reasonable evidence of such payment by the Issuer.

(d) In addition, clause (iii) of Section 3.21(b) does not require that any person, including any non-Mexican pension fund, retirement fund or financial institution, register with the Ministry of Finance and Public Credit to establish eligibility for an exemption from, or a reduction of, Mexican withholding tax.

(e) Any reference in this Indenture, any supplemental indenture or the Notes to principal, premium, interest or any other amount payable in respect of the Notes by the Issuer shall be deemed also to refer to any Additional Amount that may be payable with respect to that amount under the obligations referred to in this subsection.

(f) In the event that Additional Amounts actually paid with respect to the Notes pursuant to this Section 3.21 are based on rates of deduction or withholding of withholding taxes in excess of the appropriate rate applicable to the Holder of such Notes, and as a result thereof such Holder is entitled to make a claim for a refund or credit of such excess from the authority imposing such withholding tax, then such Holder shall, by accepting such Notes, and without any further action, be deemed to have assigned and transferred all right, title and interest to any such claim for a refund or credit of such excess to us. However, by making such assignment, the Holder makes no representation or warranty that we shall be entitled to receive such claim for a refund or credit and incurs no other obligation with respect thereto.

Section 3.22 Suspension of Covenants.

(a) During any period of time that the Notes do not have Investment Grade Ratings from two of the Rating Agencies and (i) the Consolidated Leverage Ratio of the Company is less than 3.5:1 and (ii) no Default or Event of Default has occurred and is continuing (the occurrence of the events described in the foregoing clauses (i) and (ii) being collectively referred to as a " Partial Covenant Suspension Event"), the Company and its Restricted Subsidiaries shall not be subject to the provisions of this Indenture described under Sections 3.12, 3.13, 3.14(b), 3.15, 3.18, 3.19, 4.1(a)(ii) and 4.1(b)(ii) (collectively, the "Partial Suspended Covenants"):

(b) During any period of time that (i) the Notes have Investment Grade Ratings from two of the Rating Agencies and (ii) no Default or Event of Default has occurred and is continuing (the occurrence of the events described in the foregoing clauses (i) and (ii) being collectively referred to as a "Covenant Suspension Event"), the Company and its Restricted Subsidiaries shall not be subject to the provisions of this Indenture described under Sections 3.9, 3.11, 3.12, 3.13, 3.14(b), 3.15, 3.16, 3.18, 3.19, 4.1(a)(ii) and 4.1(b)(ii) (collectively, the "Suspended Covenants").

(c) In addition, (x) no Subsidiary that is a Restricted Subsidiary on the date of the occurrence of a Partial Covenant Suspension Event (the " Partial Covenant Suspension Date") or a Covenant Suspension Event (the "Suspension Date") may be redesignated as an Unrestricted Subsidiary during the Partial Suspension Period or the Suspension Period, as applicable and (y) the Additional Note Guarantor shall be released from its obligation to guarantee the Notes on the date of a Partial Covenant Suspension Event of a Covenant Suspension Event, as the case may be.

(d) The Additional Note Guarantor shall be released from their obligation to guarantee the Notes upon the occurrence of a Partial Covenant Suspension Event or a Covenant Suspension Event; *provided* that upon the occurrence of a Partial Reversion Date or a Reversion Date, as applicable, the guarantee of the Notes by the Additional Guarantor shall be reinstated in accordance with and subject to the conditions in Section 3.22(e).

(e) In the event that the Company and its Restricted Subsidiaries are not subject to the Partial Suspended Covenants or the Suspended Covenants, as the case may be, for any period of time as a result of the foregoing, and on any subsequent date (in the case of Partial Suspended Covenants, such subsequent date being the "Partial Covenant Reversion Date" and, in

the case of Suspended Covenants, such subsequent date being the " Reversion Date") (i) the Consolidated Leverage Ratio of the Company is not less than 3.5:1 during the applicable Partial Suspension Period or (ii) the Notes do not have Investment Grade Ratings from at least two of the Rating Agencies during the applicable Suspension Period, then in each case in clauses (i) and (ii), the Company and its Restricted Subsidiaries will thereafter again be subject to the Partial Suspended Covenants or the Suspended Covenants, as applicable, and the Notes will again be guaranteed by the Additional Note Guarantor (unless, solely with respect to any Additional Note Guarantor, the conditions for release as described under Section 10.2 are otherwise satisfied during the Partial Suspension Period or the Suspension Period, as applicable). The Issuer shall cause such Additional Note Guarantor to promptly execute and deliver to the Trustee a supplemental indenture hereto in form and substance reasonably satisfactory to the Trustee in accordance with the provisions of Article IX, evidencing that such Additional Note Guarantor's guarantee on substantially the terms set forth in Article X. The period of time between the Partial Suspension Date and the Partial Covenant Reversion Date is referred to as the " Partial Suspension Period" and the period of time between the Suspension Date and the Reversion Date is referred to as the " Suspension Period." Notwithstanding that the Partial Suspended Covenants, the Suspended Covenants and the guarantee by the Additional Note Guarantor may be reinstated, no Default or Event of Default will be deemed to have occurred as a result of a failure to comply with the Partial Suspended Covenants during the Partial Suspension Period or the Suspended Covenants during the Suspension Period, as the case may be (or upon termination of the applicable Partial Suspension Period or the Suspension Period or after that time based solely on events that occurred during the applicable Partial Suspension Period or the Suspension Period, as the case may be).

(f) On the Reversion Date, all Indebtedness Incurred during the Suspension Period shall be classified to have been Incurred pursuant to Section 3.9(a) or Section 3.9(b) (to the extent such Indebtedness would be permitted to be Incurred thereunder as of the Reversion Date and after giving effect to Indebtedness Incurred prior to the Suspension Period and outstanding on the Reversion Date). To the extent such Indebtedness would not be so permitted to be Incurred pursuant to Section 3.9(a) or 3.9(b), such Indebtedness shall be deemed to have been outstanding on the Issue Date, so that it is classified as permitted under clause (iv) of Section 3.9(b). Calculations made after the Reversion Date of the amount available to be made as Restricted Payments under Section 3.11 shall be made as though Section 3.11 had been in effect since the Issue Date and throughout the Suspension Period. The Issuer will give the Trustee written notice of any occurrence of a Reversion Date not later than five (5) Business Days after such Reversion Date. After any such notice of the occurrence of a Reversion Date, the Trustee shall assume the Suspended Covenants apply and are in full force and effect. Accordingly, Restricted Payments made during the Suspension Period will reduce the amount available to be made as Restricted Payments under Section 3.11(a).

(g) The Issuer will give the Trustee written notice of any Partial Covenant Suspension Event or Covenant Suspension Event and in any event not later than five (5) Business Days after such Partial Covenant Suspension Event or Covenant Suspension Event has occurred. In the absence of such notice, the Trustee shall assume that the Partial Suspended Covenants or the Suspended Covenants, as applicable, apply and are in full force and effect.

(h) For purposes of this Section 3.22 only, "Consolidated Leverage Ratio" and all associated definitions shall have the meaning set forth in Exhibit G.

ARTICLE IV

SUCCESSOR COMPANY

Section 4.1 Merger, Consolidation and Sale of Assets.

(a) The Issuer shall not, in a single transaction or series of related transactions, consolidate or merge with or into any Person (whether or not the Issuer is the surviving or continuing Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the Issuer's properties and assets, to any Person unless:

(i) either:

(A) the Issuer shall be the surviving or continuing corporation, or

(B) the Person (if other than the Issuer) formed by such consolidation or into which the Issuer is merged or the Person which acquires by sale, assignment, transfer, lease, conveyance or other disposition the properties and assets of the Issuer substantially as an entirety (the "Successor Issuer"):

(1) shall be a corporation organized and validly existing under the laws of Mexico, the United States of America, any State thereof or the District of Columbia, Canada, France, Belgium, Germany, Italy, Luxembourg, the Netherlands, Portugal, Spain, Switzerland or the United Kingdom, or any political subdivision thereof (the " Permitted Merger Jurisdictions"); and

(2) shall expressly assume, by supplemental indenture (in form and substance satisfactory to the Trustee), executed and delivered to the Trustee, the due and punctual payment of the principal of, and premium, if any, and interest on all of the Notes and the performance and observance of every covenant of the Notes and this Indenture on the part of the Issuer to be performed or observed and provide the Trustee with an Officer's Certificate and Opinion of Counsel, and such transaction is otherwise in compliance with this Indenture;

(ii) immediately after giving effect to such transaction and the assumption contemplated by clause (i)(B)(2) of this Section 4.1(a) (including giving effect on a pro forma basis to any Indebtedness, including any Acquired Indebtedness, Incurred or anticipated to be Incurred or discharged in connection with or in respect of such transaction):

(A) the Company shall have a Consolidated Fixed Charge Coverage Ratio that shall be not less than the Consolidated Fixed Charge Coverage Ratio of the Company immediately prior to such transaction; or

(B) the Issuer or such Successor Issuer, as the case may be, shall be able to Incur at least U.S.$1.00 of additional Indebtedness pursuant to Section 3.9(a);

(iii) immediately before and immediately after giving effect to such transaction and the assumption contemplated by clause (i)(B)(2) of this Section 4.1(a) (including, without limitation, giving effect on a pro forma basis to any Indebtedness, including any Acquired Indebtedness, Incurred or anticipated to be Incurred or discharged and any Lien granted in connection with or in respect of the transaction), no Default or Event of Default shall have occurred or be continuing;

(iv) in the case of a transaction resulting in a Successor Issuer, each Note Guarantor has confirmed by supplemental indenture that its Note Guarantee shall apply for Obligations of the Successor Issuer in respect of this Indenture and the Notes; and

(v) if the Issuer merges with a corporation, or the Successor Issuer is, organized under the laws of any of the Permitted Merger Jurisdictions, the Issuer or the Successor Issuer shall have delivered to the Trustee an Opinion of Counsel that, as applicable:

(A) the Holders of the Notes shall not recognize income, gain or loss for the purposes of the income tax laws of the United States or the applicable Permitted Merger Jurisdiction as a result of the transaction and shall be taxed in the Holder's home jurisdiction in the same manner and on the same amounts (assuming solely for this purpose that no Additional Amounts are regarded to be paid on the Notes) and at the same times as would have been the case if the transaction had not occurred;

(B) any payment of interest or principal under or relating to the Notes or any Guarantees shall be paid in compliance with any requirements under Section 3.21; and

(C) no other taxes on income, including capital gains, shall be payable by Holders of the Notes under the laws of the United States or the applicable Permitted Merger Jurisdiction relating to the acquisition, ownership or disposition of the Notes, including the receipt of interest or principal thereon; *provided* that the Holder does not use or hold, and is not deemed to use or hold the Notes in carrying on a business in the United States or the applicable Permitted Merger Jurisdiction.

The provisions of clauses (ii) and (iii) of this Section 4.1(a) will not apply to:

(x) any transfer of the properties or assets of the Company or a Restricted Subsidiary to the Issuer;

(y) any merger of the Company or a Restricted Subsidiary into the Issuer; or

(z) any merger of the Issuer into the Company or a Wholly Owned Subsidiary of the Company.

For purposes of this Section 4.1, the transfer (by lease, assignment, sale or otherwise, in a single transaction or series of transactions) of all or substantially all of the properties or assets of one or more Restricted Subsidiaries of the Issuer, the Capital Stock of which constitutes all or substantially all of the properties and assets of the Company (determined on a consolidated basis for the Issuer and its Restricted Subsidiaries), shall be deemed to be the transfer of all or substantially all of the properties and assets of the Issuer.

The Successor Issuer will succeed to, and be substituted for, such Issuer under this Indenture and the Notes, as applicable. For the avoidance of doubt, compliance with this Section 4.1 will not affect the obligations of the Issuer (including a Successor Issuer, if applicable) under Section 3.8 if applicable.

(b) The Company will not, in a single transaction or series of related transactions, consolidate or merge with or into any Person (whether or not the Company is the surviving or continuing Person), or sell, assign, transfer, lease, convey or otherwise dispose of all or substantially all of the Company's properties and assets (determined on a consolidated basis for the Company and its Restricted Subsidiaries), to any Person unless:

(i) either:

(A) the Company shall be the surviving or continuing corporation, or

(B) the Person (if other than the Company) formed by such consolidation or into which the Company is merged or the Person which acquires by sale, assignment, transfer, lease, conveyance or other disposition the properties and assets of the Company and the Restricted Subsidiaries substantially as an entirety (the "Successor Company"):

(1) shall be a corporation organized and validly existing under the laws of a Permitted Merger Jurisdictions; and

(2) shall expressly assume all of the Obligations of the Company under this Indenture, the Notes and the Company's Note Guarantee by executing a supplemental indenture and provide the Trustee with an Officer's Certificate and Opinion of Counsel, and such transaction is otherwise in compliance this Indenture;

(ii) immediately after giving effect to such transaction and the assumption contemplated by clause (i)(B)(2) of this Section 4.1(b) (including giving effect on a pro forma basis to any Indebtedness, including any Acquired Indebtedness, Incurred or anticipated to be Incurred or discharged in connection with or in respect of such transaction), the Company or such Successor Company, as the case may be:

(A) will have a Consolidated Fixed Charge Coverage Ratio that will be not less than the Consolidated Fixed Charge Coverage Ratio of the Company immediately prior to such transaction; or

(B) will be able to Incur at least U.S.$1.00 of additional Indebtedness pursuant to Section 3.9(a); and

(iii) immediately before and immediately after giving effect to such transaction and the assumption contemplated by clause (i)(B)(2) of this Section 4.1(b) (including, without limitation, giving effect on a *pro forma* basis to any Indebtedness, including any Acquired Indebtedness, Incurred or anticipated to be Incurred or discharged and any Lien granted in connection with or in respect of the transaction), no Default or Event of Default shall have occurred or be continuing.

The provisions of clauses (ii) and (iii) of this Section 4.1(b) shall not apply to:

(x) any transfer of the properties or assets of a Restricted Subsidiary to the Company or a Note Guarantor;

(y) any merger of a Restricted Subsidiary into the Company or a Note Guarantor; or

(z) any merger of the Company into another Note Guarantor or a Wholly Owned Subsidiary of the Company.

The Successor Company shall succeed to, and be substituted for such Company under this Indenture, the Notes and/or the Note Guarantee, as applicable.

(c) Each Note Guarantor other than the Company shall not, and the Company shall not cause or permit any such Note Guarantor to, consolidate with or merge into, or sell or dispose of all or substantially all of its assets to, any Person (other than the Issuer) that is not a Note Guarantor unless:

(i) such Person (if such Person is the surviving entity) (the "Successor Note Guarantor") assumes all of the obligations of such Note Guarantor in respect of its Note Guarantee by executing a supplemental indenture and providing the Trustee with an Officer's Certificate and Opinion of Counsel, and stating that such transaction is otherwise in compliance with this Indenture;

(ii) such Note Guarantee is to be released as provided under Section 10.2(b); or

(iii) such sale or other disposition of substantially all of such Note Guarantor's assets is made in accordance with Section 3.12.

Subject to certain limitations described in this Indenture, the Successor Note Guarantor will succeed to, and be substitute for, such Note Guarantor under this Indenture and such Note Guarantor's Note Guarantee. The provisions of clauses (i), (ii) and (iii) of this Section 4.1(c) will not apply to:

(x) any transfer of the properties or assets of a Note Guarantor to the Issuer or another Note Guarantor;

(y) any merger of a Note Guarantor into the Issuer or another Note Guarantor; or

(z) any merger of a Note Guarantor into a Wholly Owned Subsidiary of the Company.

ARTICLE V

OPTIONAL REDEMPTION OF NOTES

Section 5.1 Optional Redemption. The Issuer may redeem the Notes, as a whole or from time to time in part, subject to the conditions and at the redemption prices specified in the Form of Note in Exhibit A, in the case of Dollar Notes, and in Exhibit B, in the case of Euro Notes.

Section 5.2 [Reserved].

Section 5.3 Notices to Trustee. If the Issuer elects to redeem Notes pursuant to the optional redemption provisions of Section 5.1 hereof, it shall furnish to the Trustee, at least 45 days but not more than 60 days before a redemption date, an Officer's Certificate setting forth: (a) the redemption date, (b) the principal amount of Notes to be redeemed, (c) the CUSIP and ISIN numbers of such Notes and (d) the redemption price.

Section 5.4 Notice of Redemption.

(a) The Issuer shall prepare and mail or cause to be mailed a notice of redemption, in the manner provided for in Section 12.1, not less than 30 nor more than 60 days prior to the Redemption Date, to each Holder of Notes to be redeemed.

(b) All notices of redemption shall state:

(i) the Redemption Date,

(ii) the redemption price and the amount of any accrued interest payable as provided in Section 5.7,

(iii) whether or not the Issuer is redeeming all Outstanding Notes,

(iv) if the Issuer is not redeeming all Outstanding Notes, the aggregate principal amount of Notes that the Issuer is redeeming and the aggregate principal amount of Notes that will be Outstanding after the partial redemption, as well as the identification of the particular Notes, or portions of the particular Notes, that the Issuer is redeeming,

(v) if the Issuer is redeeming only part of a Note, the notice that relates to that Note shall state that on and after the Redemption Date, upon surrender of that Note, the Holder will receive, without charge, a new Note or Notes of authorized denominations for the principal amount of the Note remaining unredeemed,

(vi) that on the Redemption Date the redemption price and any accrued interest payable to the Redemption Date as provided in Section 5.7 will become due and payable in respect of each Note, or the portion of each Note, to be redeemed, and, unless the Issuer defaults in making the redemption payment, that interest on each Note, or the portion of each Note, to be redeemed, will cease to accrue on and after the Redemption Date,

(vii) the place or places where a Holder must surrender Notes for payment of the redemption price and any accrued interest payable on the Redemption Date, and

(viii) the CUSIP or ISIN number, if any, listed in the notice or printed on the Notes, and that no representation is made as to the accuracy or correctness of such CUSIP or ISIN number.

(c) At the Issuer's request, the Trustee shall give the notice of redemption in the Issuer's names and at its expense; *provided*, *however*, that the Issuer shall have delivered to the Trustee, at least 45 days prior to the redemption date, an Officer's Certificate requesting that the Trustee give such notice and setting forth the information to be stated in such notice as provided in the preceding Section 5.4(b).

Section 5.5 Selection of Notes to Be Redeemed in Part.

(a) If the Issuer is not redeeming all Outstanding Notes, the Trustee shall select the Notes to be redeemed in compliance with the requirements of the principal national securities exchange, if any, on which the Notes are listed or, if the Notes are not then listed on a national securities exchange, on a pro rata basis, by lot or by any other method as the Trustee shall deem fair and appropriate; *provided*, *however*, that if a partial redemption is made with the proceeds of a Equity Offering, selection of the Notes, or portions of the Notes, for redemption shall be made by the Trustee only on a pro rata basis, or on as nearly a pro rata basis as is practicable (subject to the procedures of DTC, Euroclear or Clearstream), unless the method is otherwise prohibited. The Trustee shall make the selection from the Outstanding Notes not previously called for redemption. The Trustee shall promptly notify the Issuer in writing of the Notes selected for redemption and, in the case of any Notes selected for partial redemption, the principal amount of the Notes to be redeemed. In the event of a partial redemption by lot, the Trustee shall select the particular Notes to be redeemed not less than 30 nor more than 60 days prior to the relevant Redemption Date from the Outstanding Notes not previously called for redemption. No Notes of U.S.$70,000 principal amount or less, in the case of Dollar Notes, and €50,000 principal amount to less, in the case of Euro Notes, shall be redeemed in part. The Trustee may select for redemption portions with minimum denominations of U.S.$70,000 or any integral multiple of U.S.$1,000 in excess thereof, in the case of Dollar Notes, and €50,000 or any integral multiple of €1,000 in excess thereof, in the case of Euro Notes.

(b) For all purposes of this Indenture, unless the context otherwise requires, all provisions relating to redemption of Notes shall relate, in the case of any Note redeemed or to be redeemed only in part, to the portion of the principal amount of that Note which has been or is to be redeemed.

Section 5.6 Deposit of Redemption Price. On or prior to 10:00 a.m. New York City time, in the case of Dollar Notes, and 3:00 p.m. London time, in the case of Euro Notes, on the Business Day prior to the relevant Redemption Date, the Issuer shall deposit with the Trustee or with a Paying Agent (or, if the Issuer or a Note Guarantor is acting as the Paying Agent, segregate and hold in trust as provided in Section 2.4) an amount of money in immediately available funds sufficient to pay the redemption price of, and accrued interest on, all the Notes that the Issuer is redeeming on that date.

Section 5.7 Notes Payable on Redemption Date. If the Issuer, or the Trustee on behalf of the Issuer, gives notice of redemption in accordance with this Article V, the Notes, or the portions of Notes, called for redemption, shall, on the Redemption Date, become due and payable at the redemption price specified in the notice (together with accrued interest, if any, to the Redemption Date), and from and after the Redemption Date (unless the Issuer shall default in the payment of the redemption price and accrued interest) the Notes or the portions of Notes shall cease to bear interest. Upon surrender of any Note for redemption in accordance with the notice, the Issuer shall pay the Notes at the redemption price, together with accrued interest, if any, to the Redemption Date (subject to the rights of Holders of record on the relevant record date to receive interest due on the relevant Interest Payment Date). If the Issuer shall fail to pay any Note called for redemption upon its surrender for redemption, the principal shall, until paid, bear interest from the Redemption Date at the rate borne by the Notes.

Section 5.8 Unredeemed Portions of Partially Redeemed Note. Upon surrender of a Note that is to be redeemed in part, the Issuer shall execute, and the Trustee shall authenticate and make available for delivery to the Holder of the Note, at the expense of the Company, a new Note or Notes, of any authorized denomination as requested by the Holder, in an aggregate principal amount equal to, and in exchange for, the unredeemed portion of the principal of the Note surrendered, *provided* that each new Note will be in a principal amount of U.S.$70,000 or an integral multiple of U.S.$1,000 in excess thereof, in the case of Dollar Notes, and €50,000 or an integral multiple of €1,000 in excess thereof, in the case of Euro Notes.

ARTICLE VI

DEFAULTS AND REMEDIES

Section 6.1 Events of Default.

(a) Each of the following is an "Event of Default":

(i) default in the payment when due of the principal of or premium, if any, on any Notes, including the failure to make a required payment to purchase Notes tendered pursuant to an optional redemption, a Change of Control Offer or an Asset Sale Offer;

(ii) default for 30 days or more in the payment when due of interest or Additional Amounts on any Notes;

(iii) the failure to perform or comply with any of the provisions described under Article IV;

(iv) the failure by the Company or any Restricted Subsidiary to comply with, or in the case of non-guarantor Restricted Subsidiaries, to perform according to, any other covenant or agreement contained in this Indenture or in the Notes for 45 days or more after written notice to the Company and the Issuer from the Trustee or the Holders of at least 25% in aggregate principal amount of the Outstanding Notes;

(v) default by the Company or any Restricted Subsidiary under any Indebtedness which:

(A) is caused by a failure to pay principal of (and premium, if any), when due or interest on such Indebtedness prior to the later of the expiration of any applicable grace period provided in such Indebtedness on the date of such default or five (5) days past when due; or

(B) results in the acceleration of such Indebtedness prior to its stated maturity;

and the principal or accreted amount of Indebtedness covered by clauses (v)(A) or (v)(B) of this Section 6.1(a) at the relevant time, aggregates U.S.$50 million or more;

(vi) failure by the Company or any of its Restricted Subsidiaries to pay one or more final judgments against any of them, aggregating U.S.$50 million or more, which judgment(s) are not paid, discharged or stayed for a period of 60 days or more;

(vii) a Bankruptcy Event of Default; or

(viii) except as permitted herein, any Note Guarantee is held to be unenforceable or invalid in a judicial proceeding or ceases for any reason to be in full force and effect or any Note Guarantor, or any Person acting on behalf of any Note Guarantor, denies or disaffirms such Note Guarantor's obligations under its Note Guarantee.

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

(b) The Company shall deliver within 30 days to the Trustee written notice of any event which would constitute a Default or Event of Default, their status and what action the Company is taking or proposes to take in respect thereof.

Section 6.2 Acceleration.

(a) If an Event of Default (other than an Event of Default specified in clause (vii) of Section 6.1(a) above with respect to the Issuer or the Company) shall occur and be continuing, the Trustee or the Holders of at least 25% in principal amount of Outstanding Notes may declare the unpaid principal of (and premium, if any) and accrued and unpaid interest on all the Notes to be immediately due and payable by notice in writing to the Issuer and the Company and the Trustee specifying the Event of Default and that it is a "notice of acceleration." If an Event of Default specified in clause (vii) of Section 6.1(a) above occurs with respect to the Company, then the unpaid principal of (and premium, if any) and accrued and unpaid interest on all the Notes will become immediately due and payable without any declaration or other act on the part of the Trustee or any Holder.

(b) At any time after a declaration of acceleration with respect to the Notes as described in the preceding paragraph, the Holders of a majority in principal amount of the Notes may rescind and cancel such declaration and its consequences:

(i) if the rescission would not conflict with any judgment or decree;

(ii) if all existing Events of Default have been cured or waived, except nonpayment of principal or interest that has become due solely because of the acceleration;

(iii) to the extent the payment of such interest is lawful, interest on overdue installments of interest and overdue principal, which has become due otherwise than by such declaration of acceleration, has been paid; and

(iv) if the Company has paid the Trustee its reasonable compensation and reimbursed the Trustee for its reasonable expenses, disbursements and advances.

Section 6.3 Other Remedies.

(a) If an Event of Default occurs and is continuing, the Trustee may pursue any available remedy to collect the payment of principal of and interest on the Notes or to enforce the performance of any provision of the Notes or this Indenture.

(b) The Trustee may maintain a proceeding even if it does not possess any of the Notes or does not produce any of them in the proceeding. A delay or omission by the Trustee or any Holder in exercising any right or remedy accruing upon an Event of Default shall not impair the right or remedy or constitute a waiver of or acquiescence in the Event of Default. No remedy is exclusive of any other remedy. All available remedies are cumulative to the extent permitted by law.

Section 6.4 Waiver of Past Defaults. Subject to Section 6.2, the Holders of a majority in principal amount of the Notes may waive any existing Default or Event of Default, and its consequences, except a default in the payment of the principal of, premium, if any, or interest on any Notes.

Section 6.5 Control by Majority. The Holders of a majority in principal amount of the Outstanding Notes may direct the time, method and place of conducting any proceeding for any remedy available to the Trustee or of exercising any trust or power conferred on the Trustee. Subject to Section 7.1 and Section 7.2, however, the Trustee may refuse to follow any direction that conflicts with law or this Indenture; *provided, however*, that the Trustee may take any other action deemed proper by the Trustee that is not inconsistent with such direction.

Section 6.6 Limitation on Suits.

(a) No Holder of any Notes shall have any right to institute any proceeding with respect hereto or for any remedy hereunder, unless:

(i) such Holder gives to the Trustee written notice of a continuing Event of Default;

(ii) Holders of at least 25% in principal amount of the then Outstanding Notes make a written request to pursue the remedy;

(iii) such Holders of the Notes provide to the Trustee indemnity satisfactory to it;

(iv) the Trustee does not comply within 60 days; and

(v) during such 60 day period the Holders of a majority in principal amount of the Outstanding Notes do not give the Trustee a written direction which, in the opinion of the Trustee, is inconsistent with the request;

provided that a Holder of a Note may institute suit for enforcement of payment of the principal of and premium, if any, or interest on such Note on or after the respective due dates expressed in such Note.

Section 6.7 Rights of Holders to Receive Payment. Notwithstanding any other provision of this Indenture (including, without limitation, Section 6.6), the right of any Holder to receive payment of principal or interest on the Notes held by such Holder, on or after the respective due dates, Redemption Dates or repurchase date expressed in this Indenture or the Notes, or to bring suit for the enforcement of any such payment on or after such respective dates, shall not be impaired or affected without the consent of such Holder.

Section 6.8 Collection Suit by Trustee. If an Event of Default specified in clause (i) and (ii) of Section 6.1(a) occurs and is continuing, the Trustee may recover judgment in its own name and as trustee of an express trust against the Company and each Note Guarantor for the whole amount then due and owing (together with applicable interest on any overdue principal and, to the extent lawful, interest on overdue interest) and the amounts provided for in Section 7.7.

Section 6.9 Trustee May File Proofs of Claim, etc.

(a) The Trustee may (irrespective of whether the principal of the Notes is then due):

(i) file such proofs of claim and other papers or documents as may be necessary or advisable in order to have the claims of the Trustee and the Holders under this Indenture and the Notes allowed in any bankruptcy, insolvency, liquidation or other judicial proceedings relative to the Company, any Note Guarantor or any Subsidiary of the Company or their respective creditors or properties; and

(ii) collect and receive any monies or other property payable or deliverable in respect of any such claims and distribute them in accordance with this Indenture.

Any receiver, trustee, liquidator, sequestrator (or other similar official) in any such proceeding is hereby authorized by each Holder to make such payments to the Trustee and, in the event that the Trustee shall consent to the making of such payments directly to the Holders, to pay to the Trustee any amount due to it for the reasonable compensation, expenses, taxes, disbursements and advances of the Trustee, its agent and counsel, and any other amounts due to the Trustee pursuant to Section 7.7.

(b) Nothing in this Indenture shall be deemed to authorize the Trustee to authorize or consent to or accept or adopt on behalf of any Holder any plan of reorganization, arrangement, adjustment or composition affecting the Notes or the rights of any Holder thereof, or to authorize the Trustee to vote in respect of the claim of any Holder in any such proceeding.

Section 6.10 Priorities. If the Trustee collects any money or property pursuant to this Article VI, it shall pay out the money or property in the following order:

FIRST: to the Trustee for amounts due under Section 7.7;

SECOND: if the Holders proceed against the Company directly without the Trustee in accordance with this Indenture, to Holders for their collection costs;

THIRD: to Holders for amounts due and unpaid on the Notes for principal and interest, ratably, without preference or priority of any kind, according to the amounts due and payable on the Notes for principal and interest, respectively; and

FOURTH: to the Company or, to the extent the Trustee collects any amount pursuant to Article X hereof from any Note Guarantor, to such Note Guarantor, or to such party as a court of competent jurisdiction shall direct.

The Trustee may, upon notice to the Company and the Issuer, fix a record date and payment date for any payment to Holders pursuant to this Section 6.10.

Section 6.11 Undertaking for Costs. In any suit for the enforcement of any right or remedy under this Indenture or in any suit against the Trustee for any action taken or omitted by it as Trustee, a court in its discretion may require the filing by any party litigant in the suit of an undertaking to pay the costs of the suit, and the court in its discretion may assess reasonable costs, including reasonable attorneys' fees, against any party litigant in the suit, having due regard to the merits and good faith of the claims or defenses made by the party litigant. This Section 6.11 does not apply to a suit by the Trustee, a suit by the Company, a suit by a Holder pursuant to Section 6.7 or a suit by Holders of more than 10% in principal amount of Outstanding Notes.

ARTICLE VII

TRUSTEE

Section 7.1 Duties of Trustee.

(a) If a Default or an Event of Default has occurred and is continuing, the Trustee shall exercise the rights and powers vested in it by this Indenture and use the same degree of care and skill in their exercise as a prudent man would exercise or use under the circumstances in the conduct of his own affairs.

(b) Except during the continuance of a Default or an Event of Default:

(i) the Trustee undertakes to perform such duties and only such duties as are specifically set forth in this Indenture and no implied covenants or obligations shall be read into this Indenture against the Trustee; and

(ii) in the absence of bad faith on its part, the Trustee may conclusively rely, as to the truth of the statements and the correctness of the opinions expressed therein, upon certificates or opinions furnished to the Trustee and conforming to the requirements of this Indenture. However, in the case of any such certificates or opinions that by any provisions hereof are specifically required to be furnished to the Trustee, the Trustee shall examine such certificates and opinions to determine whether or not they conform to the requirements of this Indenture.

(c) The Trustee may not be relieved from liability for its own negligent action, its own negligent failure to act or its own willful misconduct, except that:

(i) this clause (c) does not limit the effect of clause (b) of this Section 7.1;

(ii) the Trustee shall not be liable for any error of judgment made in good faith by a Trust Officer unless it is proved that the Trustee was negligent in ascertaining the pertinent facts; and

(iii) the Trustee shall not be liable with respect to any action it takes or omits to take in good faith in accordance with a direction received by it pursuant to Section 6.2, 6.4 or 6.5.

(d) The Trustee shall not be liable for interest on any money received by it except as the Trustee may agree in writing with the Issuer.

(e) Money held in trust by the Trustee need not be segregated from other funds except to the extent required by law.

(f) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur financial liability in the performance of any of its duties hereunder or in the exercise of any of its rights or powers, if it shall have reasonable grounds to believe that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it.

(g) Every provision of this Indenture relating to the conduct or affecting the liability of or affording protection to the Trustee shall be subject to the provisions of this Article VII.

(h) Unless otherwise specifically provided in this Indenture, any demand, request, direction or notice from the Issuer shall be sufficient if signed by an Officer of the Issuer.

(i) The Trustee shall be under no obligation to exercise any of the rights or powers vested in it by this Indenture at the request or direction of any of the Holders unless such Holders shall have offered to the Trustee reasonable security or indemnity against the costs, expenses (including reasonable attorneys' fees and expenses) and liabilities that might be incurred by it in compliance with such request or direction.

Section 7.2 Rights of Trustee.

Subject to Section 7.1:

(a) The Trustee may rely on any document reasonably believed by it to be genuine and to have been signed or presented by the proper person. The Trustee need not investigate any fact or matter stated in the document.

(b) Before the Trustee acts or refrains from acting at the direction of the Issuer or any Note Guarantor, it may require an Officer's Certificate or an Opinion of Counsel. The Trustee shall not be liable for any action it takes or omits to take in good faith in reliance on an Officer's Certificate or Opinion of Counsel.

(c) The Trustee may act through its attorneys and agents and shall not be responsible for the misconduct or negligence of any agent appointed with due care.

(d) The Trustee shall not be liable for any action it takes or omits to take in good faith which it believes to be authorized or within its rights or powers; *provided*, *however*, that the Trustee's conduct does not constitute willful misconduct or negligence.

(e) The Trustee may consult with counsel of its selection, and the advice or opinion of counsel with respect to legal matters relating to this Indenture and the Notes shall be full and complete authorization and protection from liability in respect to any action taken, omitted or suffered by it hereunder in good faith and in accordance with the advice or opinion of such counsel.

(f) If the Trustee shall determine, it shall be entitled to examine the books, records and premises of the Issuer, personally or by agent or attorney.

(g) The Trustee shall not be deemed to have notice of any Default or Event of Default unless an Officer of the Trustee has actual knowledge thereof or unless written notice of any event which is in fact such a default is received by the Trustee at the Corporate Trust Office of the Trustee, and such notice references the Notes and this Indenture.

(h) The rights, privileges, protections, immunities and benefits given to the Trustee, including, without limitation, its right to be indemnified, are extended to, and shall be enforceable by, the Trustee in each of its capacities hereunder, and to each agent, custodian and other Person employed to act hereunder.

(i) The Trustee may request that the Issuer deliver an Officer's Certificate setting forth the names of individuals and/or titles of officers authorized at such time to take specified actions pursuant to this Indenture, which Officer's Certificate may be signed by any Person authorized to sign an Officer's Certificate, including any Person specified as so authorized in any such certificate previously delivered and not superseded.

(j) The permissive rights of the Trustee enumerated herein shall not be construed as duties.

(k) In no event shall the Trustee be liable, directly or indirectly, for any special, indirect or consequential damages, even if the Trustee has been advised of the possibility of such damages.

(l) The Trustee shall not be responsible or liable for any failure or delay in the performance of its obligations under this Indenture arising out of or caused, directly or indirectly, by circumstances beyond its reasonable control, including without limitation, acts of God; earthquakes; fires; floods; wars; civil or military disturbances; sabotage; epidemics; riots, interruptions, loss or malfunctions of utilities, computer (hardware or software) or communications service; accidents; labor disputes; acts of civil or military authority or governmental actions; it being understood that the Trustee shall use its best efforts to resume performance as soon as practicable under the circumstances.

(m) The Trustee shall at no time have any responsibility or liability for or in respect to the legality, validity or enforceability of any Collateral or any arrangement or agreement between the Issuer or the Company and any other Person with respect thereto, or the perfection or priority of any security interest created in any of the Collateral or maintenance of any perfection and priority, or for or with respect to the sufficiency of the Collateral following an Event of Default.

Section 7.3 Individual Rights of Trustee. The Trustee in its individual or any other capacity may become the owner or pledgee of Notes and may otherwise deal with the Issuer, the Note Guarantors or any Affiliate of the Company with the same rights it would have if it were not Trustee. Any Paying Agent, Transfer Agent, Registrar or co-Registrar may do the same with like rights. However, the Trustee must comply with Section 7.10.

Section 7.4 Trustee's Disclaimer. The Trustee shall not be responsible for and makes no representation as to the validity or adequacy of this Indenture or the Notes, it shall not be accountable for the Issuer's use of the proceeds from the Notes, and it shall not be responsible for any statement of the Issuer in this Indenture or in any document issued in connection with the sale of the Notes or in the Notes other than the Trustee's certificate of authentication.

Section 7.5 Notice of Defaults. If a Default or Event of Default occurs and is continuing and if a Trust Officer has actual knowledge thereof, the Trustee shall mail to each Holder notice of the Default or Event of Default within 90 days after the occurrence thereof. Except in the case of a Default or Event of Default in payment of principal or interest on any Note (including payments pursuant to the optional redemption or required repurchase provisions of such Note, if any), the Trustee may withhold the notice if and so long as a committee of its Trust Officers in good faith determines that withholding the notice is in the interests of the Holders.

Section 7.6 [Reserved].

Section 7.7 Compensation and Indemnity.

(a) The Issuer shall pay to the Trustee from time to time reasonable compensation for its acceptance of this Indenture and services hereunder as the Issuer and the Trustee shall from time to time agree in writing. The Trustee's compensation shall not be

limited by any law on compensation of a trustee of an express trust. The Issuer shall reimburse the Trustee upon request for all reasonable out-of-pocket expenses incurred or made by it, including costs of collection, costs of preparing and reviewing reports, certificates and other documents, costs of preparation and mailing of notices to Holders and reasonable costs of counsel retained by the Trustee in connection with the review, negotiation, execution and delivery of this Indenture or otherwise, in addition to the compensation for its services. Such expenses shall include the reasonable compensation and expenses, disbursements and advances of the Trustee's agents, counsel, accountants and experts.

(b) The Issuer and each Note Guarantor shall jointly and severally indemnify the Trustee against any and all loss, liability or expense (including reasonable attorneys' fees and expenses) incurred by it without negligence, willful misconduct or bad faith on its part in connection with the acceptance and administration of this trust and the performance of its duties hereunder, including the costs and expenses of enforcing this Indenture (including this Section 7.7) and of defending itself against any claims (whether asserted by any Holder, the Issuer, any Note Guarantor or otherwise). The Trustee shall notify the Issuer and each Note Guarantor promptly of any claim for which it may seek indemnity. Failure by the Trustee to so notify the Issuer or any Note Guarantor shall not relieve the Issuer or any Note Guarantor of its obligations hereunder. The Issuer shall defend the claim and the Trustee may have separate counsel and the Issuer shall pay the fees and expenses of such counsel; *provided* that the Issuer shall not be required to pay such fees and expenses if it assumes the Trustee's defense, and, in the reasonable judgment of outside counsel to the Trustee, there is no conflict of interest between the Issuer and the Trustee in connection with such defense. The Issuer need not reimburse any expense or indemnify against any loss, liability or expense incurred by the Trustee through the Trustee's own willful misconduct, negligence or bad faith.

(c) To secure the Issuer's payment obligations in this Section 7.7, the Trustee shall have a lien prior to the Notes on all money or property held or collected by the Trustee other than money or property held in trust to pay principal of and interest on particular Notes. The Trustee's right to receive payment of any amounts due under this Section 7.7 shall not be subordinate to any other liability or Indebtedness of the Issuer.

(d) The Issuer's payment obligations pursuant to this Section 7.7 shall survive the discharge of this Indenture and the resignation or removal of the Trustee. When the Trustee incurs expenses after the occurrence of a Bankruptcy Event of Default, the expenses are intended to constitute expenses of administration under any Bankruptcy Law; *provided, however*, that this shall not affect the Trustee's rights as set forth in this Section 7.7 or Section 6.10.

Section 7.8 Replacement of Trustee.

(a) The Trustee may resign at any time by so notifying the Company and the Issuer. The Holders of a majority in principal amount of the Outstanding Notes may remove the Trustee by so notifying the Trustee and may appoint a successor Trustee reasonably acceptable to the Issuer. The Issuer shall remove the Trustee if:

(i) the Trustee fails to comply with Section 7.10;

(ii) the Trustee is adjudged bankrupt or insolvent;

(iii) a receiver or other public officer takes charge of the Trustee or its property; or

(iv) the Trustee otherwise becomes incapable of acting.

(b) If the Trustee resigns or is removed by the Issuer or by the Holders of a majority in principal amount of the Outstanding Notes and such Holders do not reasonably promptly appoint a successor Trustee, or if a vacancy exists in the office of the Trustee for any reason (the Trustee in such event being referred to herein as the retiring Trustee), the Issuer shall promptly appoint a successor Trustee.

(c) A successor Trustee shall deliver a written acceptance of its appointment to the retiring Trustee and to the Issuer. Thereupon the resignation or removal of the retiring Trustee shall become effective, and the successor Trustee shall have all the rights, powers and duties of the Trustee under this Indenture. The successor Trustee shall mail a notice of its succession to Holders. The retiring Trustee shall promptly transfer all property held by it as Trustee to the successor Trustee, subject to the lien provided for in Section 7.7(c).

(d) If a successor Trustee does not take office within 30 days after the retiring Trustee resigns or is removed, the retiring Trustee or the Holders of 10% in principal amount of the Outstanding Notes may petition, at the Issuer's expense, any court of competent jurisdiction for the appointment of a successor Trustee.

(e) If the Trustee fails to comply with Section 7.10, any Holder may petition any court of competent jurisdiction for the removal of the Trustee and the appointment of a successor Trustee.

(f) Notwithstanding the replacement of the Trustee pursuant to this Section 7.8, the Issuer's obligations under Section 7.7 shall continue for the benefit of the retiring Trustee.

Section 7.9 Successor Trustee by Merger.

(a) If the Trustee consolidates with, merges or converts into, or transfers all or substantially all its corporate trust business or assets to, another corporation or banking association, the resulting, surviving or transferee corporation without any further act shall be the successor Trustee.

(b) In case at the time such successor or successors to the Trustee shall succeed to the trusts created by this Indenture, any of the Notes shall have been authenticated but not delivered, any such successor to the Trustee may adopt the certificate of authentication of any predecessor trustee, and deliver such Notes so authenticated; and in case at that time any of the Notes shall not have been authenticated, any successor to the Trustee may authenticate such Notes either in the name of any predecessor hereunder or in the name of the successor to the Trustee; and in all such cases such certificates of authentication and such delivery shall be valid for purposes of this Indenture.

Section 7.10 Eligibility; Disqualification. The Trustee shall at all times be a Trustee hereunder that is a corporation organized and doing business under the laws of the United States or of any state thereof that is authorized under such laws to exercise corporate trustee power, that is subject to supervision or examination by federal or state authorities and that has, together with parent, a combined capital and surplus of at least U.S.$50,000,000 as set forth in its most recent published annual report of condition.

Section 7.11 [Reserved].

Section 7.12 [Reserved].

Section 7.13 Authorization and Instruction of the Trustee With Respect to the Collateral. Each Holder and the Issuer authorize and instruct the Trustee (a) to enter into (or cause an agent or grant such powers of attorney to enter into), on its own behalf and on behalf of the Holders of Notes, such documents (the "Security Documents") as are necessary or desirable (which shall be evidenced by a written instruction from the Company satisfactory to the Trustee) in order to create and maintain the security interest of the Trustee and the Holders of Notes in the Collateral as may from time to time be provided to equally and ratably secure the Notes, (b) to grant such powers of attorney and to do or cause to be done all such acts and things, on its own behalf and in the name and on behalf of the Holders of Notes, as are necessary or desirable (which shall be evidenced by a written instruction from the Company satisfactory to the Trustee) to create and maintain the security interest of the Trustee and the Holders of Notes in such Collateral, (c) to appoint the Security Agent to serve as direct representative of the Trustee and the Holders of Notes in connection with the creation and maintenance of the security interest of the Trustee and the Holders of Notes in such Collateral, (d) to accept the security interest in the Collateral on behalf of each Holder, and (e) to grant powers in favor of an attorney to execute an accession public deed before a Spanish notary public accepting the security interest in the Collateral on behalf of the Holders of Notes. It is understood and acknowledged that in certain circumstances the Security Documents may be amended, modified or waived without the consent of the Trustee or the Holders of Notes. It is understood and acknowledged that the Security Agent, in addition to being appointed by and acting on behalf of the Trustee and the Holders of Notes, has also been appointed by and is acting on behalf of (and may in the future be appointed by and act on behalf of) other creditors of the Company and its Subsidiaries. The Trustee will not have the right to cause the Security Agent to foreclose on the Collateral upon the occurrence of an Event of Default in respect of the Notes. The Trustee shall at no time have any responsibility or liability for or in respect to the legality, validity or enforceability of any Collateral or any arrangement or agreement between the Issuer or the Company and any other Person with respect thereto, or the perfection or priority of any security interest created in any of the Collateral or maintenance of any perfection and priority, or for or with respect to the sufficiency of the Collateral following an Event of Default.

ARTICLE VIII

DEFEASANCE; DISCHARGE OF INDENTURE

Section 8.1 Legal Defeasance and Covenant Defeasance .

(a) The Issuer may, at its option, at any time, elect to have either Section 8.1(b) or (c) be applied to all Outstanding Notes upon compliance with the conditions set forth in Section 8.2.

(b) Upon the Issuer's exercise under Section 8.1(a) of the option applicable to this clause (b), the Issuer shall, subject to the satisfaction of the conditions set forth in Section 8.2, be deemed to have been discharged from its obligations with respect to all Outstanding Notes on the date all of the conditions set forth in Section 8.2 are satisfied (hereinafter, "Legal Defeasance"). For this purpose, Legal Defeasance means that the Issuer shall be deemed to have paid and discharged the entire Indebtedness represented by the Outstanding Notes, which shall thereafter be deemed to be Outstanding only for the purposes of Section 8.3 hereof and the other sections of this Indenture referred to in subclause (i) or (ii) of this clause (b), and to have satisfied all its other obligations under such Notes and this Indenture (and the Trustee, on demand of and at the expense of the Issuer, shall execute proper instruments acknowledging the same), except for the following provisions, which shall survive until otherwise terminated or discharged hereunder:

(i) the rights of Holders of Outstanding Notes to receive solely from the trust fund described in Section 8.3, and as more fully set forth in Section 2.4 payments in respect of the principal of, premium, if any, and interest on such Notes when such payments are due,

(ii) the Issuer's obligations with respect to such Notes under Article II and Section 3.2 hereof,

(iii) the rights, powers, trusts, duties and immunities of the Trustee hereunder and the Issuer's obligations in connection therewith, and

(iv) this Article VIII.

Subject to compliance with this Article VIII, the Issuer may exercise its option under this clause (b) notwithstanding the prior exercise of its option under Section 8.1(c) hereof.

(c) Upon the Issuer's exercise under Section 8.1(a) hereof of the option applicable to this clause (c), the Issuer shall, subject to the satisfaction of the applicable conditions set forth in Section 8.2, be released from its obligations under Sections 3.4, 3.5, 3.8, 3.9, 3.11, 3.12, 3.13, 3.14, 3.15, 3.16, 3.17, 3.18, 3.19, 3.20, 3.21, 3.22, 4.1(a) and 4.1(b) hereof with respect to the Outstanding Notes on and after the date the conditions set forth below are satisfied (hereinafter, "Covenant Defeasance"), and the Notes shall thereafter be deemed not Outstanding for the purposes of any direction, waiver, consent or declaration or act of Holders (and the consequences of any thereof) in connection with such covenants, but shall continue to be Outstanding for all other purposes hereunder (it being understood that such Notes shall not be deemed Outstanding for accounting purposes). For this purpose, such Covenant Defeasance means that, with respect to the Outstanding Notes, the Issuer may omit to comply with and shall have no liability in respect of any term, condition or limitation set forth in any such covenant, whether directly or indirectly, by reason of any reference elsewhere herein to any such covenant or by reason of any reference in any such covenant to any other provision herein or in any other

document and such omission to comply shall not constitute a Default or an Event or Default under clause (iii) of Section 6.1(a) (solely with respect to any failure to perform under or comply with clause (ii) or (iii) of Section 4.1(a)), clause (iv) of Section 6.1(a) or clause (v) of Section 6.1(a) hereof, but, except as specified above, the remainder of this Indenture and such Notes shall be unaffected thereby.

Section 8.2 Conditions to Defeasance. The Company or, as applicable, the Issuer, may exercise its Legal Defeasance option or its Covenant Defeasance option only if:

(a) the Issuer has irrevocably deposited with the Trustee, in trust, for the benefit of the Holders cash in U.S. Legal Tender or U.S. Government Obligations, in the case of Dollar Notes, and Euros or European Government Obligations, in the case of Euro Notes, or in each case a combination thereof, in such amounts as will be sufficient without reinvestment, in the opinion of a nationally recognized firm of independent public accountants, to pay the principal of, premium, if any, and interest (including Additional Amounts) on the Notes on the stated date for payment thereof or on the applicable redemption date, as the case may be;

(b) in the case of Legal Defeasance, the Issuer has delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee (subject to customary exceptions and exclusions) and independent of the Issuer to the effect that:

(i) the Issuer has received from, or there has been published by, the Internal Revenue Service a ruling; or

(ii) since the Issue Date, there has been a change in the applicable U.S. federal income tax law,

in either case to the effect that, and based thereon such Opinion of Counsel shall state that, the Holders will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Legal Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Legal Defeasance had not occurred;

(c) in the case of Covenant Defeasance, the Issuer has delivered to the Trustee an Opinion of Counsel reasonably acceptable to the Trustee (subject to customary exceptions and exclusions) to the effect that the Holders will not recognize income, gain or loss for U.S. federal income tax purposes as a result of such Covenant Defeasance and will be subject to U.S. federal income tax on the same amounts, in the same manner and at the same times as would have been the case if such Covenant Defeasance had not occurred;

(d) no Default or Event of Default shall have occurred and be continuing on the date of the deposit pursuant to Section 8.2(a) (except any Default or Event of Default resulting from the failure to comply with Section 3.9 as a result of the borrowing of the funds required to effect such deposit);

(e) the Trustee has received an Officer's Certificate stating that such Legal Defeasance or Covenant Defeasance shall not result in a breach or violation of, or constitute a default under this Indenture or any other material agreement or instrument to which the Issuer or any of its Subsidiaries is a party or by which the Issuer or any of its Subsidiaries is bound;

(f) the Issuer has delivered to the Trustee an Officer's Certificate stating that the deposit was not made by the Issuer with the intent of preferring the Holders over any other creditors of the Issuer or any Subsidiary of the Issuer or with the intent of defeating, hindering, delaying or defrauding any other creditors of the Issuer or others;

(g) the Issuer has delivered to the Trustee an Officer's Certificate and an Opinion of Counsel from counsel reasonably acceptable to the Trustee (subject to customary exceptions and exclusions) and independent of the Issuer, each stating that all conditions precedent provided for or relating to the Legal Defeasance or the Covenant Defeasance have been complied with; and

(h) the Issuer has delivered to the Trustee an Opinion of Counsel from counsel reasonably acceptable to the Trustee and independent of the Issuer to the effect that the trust resulting from the deposit does not constitute, or is qualified as, a regulated investment company under the Investment Company Act of 1940.

Section 8.3 Application of Trust Money. The Trustee shall hold in trust U.S. Legal Tender or U.S. Government Obligations, in the case of Dollar Notes, and Euros or European Government Obligations, in the case of Euro Notes, deposited with it pursuant to this Article VIII. It shall apply the deposited U.S. Legal Tender or U.S. Government Obligations, in the case of Dollar Notes, and Euros or European Government Obligations, in the case of Euro Notes, through the Paying Agent and in accordance with this Indenture to the payment of principal of and interest on the Notes.

Section 8.4 Repayment to Issuer.

(a) The Trustee and the Paying Agent shall promptly turn over to the Issuer upon request any excess money or securities held by them upon payment of all the obligations under this Indenture.

(b) Subject to any applicable abandoned property law, the Trustee and the Paying Agent shall pay to the Issuer upon request any money held by them for the payment of principal of, premium or interest on the Notes that remains unclaimed for two years, and, thereafter, Holders entitled to the money must look to the Issuer for payment as general creditors.

Section 8.5 Indemnity for U.S. Government Obligations and European Government Obligations . The Issuer shall pay and shall indemnify the Trustee against any tax, fee or other charge imposed on or assessed against deposited U.S. Government Obligations, in the case of Dollar Notes, and European Government Obligations, in the case of Euro Notes, or the principal and interest received on such U.S. Government Obligations and European Government Obligations.

Section 8.6 Reinstatement. If the Trustee or Paying Agent is unable to apply any U.S. Legal Tender or U.S. Government Obligations, in the case of Dollar Notes, or Euros or European Government Obligations, in the case of Euro Notes, in accordance with this Article VIII by

reason of any legal proceeding or by reason of any order or judgment of any court or governmental authority enjoining, restraining or otherwise prohibiting such application, the obligations of the Issuer under this Indenture and the Notes shall be revived and reinstated as though no deposit had occurred pursuant to this Article VIII until such time as the Trustee or Paying Agent is permitted to apply all such U.S. Legal Tender, U.S. Government Obligations, in the case of Dollar Notes, and Euros or European Government Obligations, in the case of or Notes, in accordance with this Article VIII; *provided, however*, that, if the Issuer has made any payment of principal of, premium or interest on any Notes because of the reinstatement of its obligations, the Issuer shall be subrogated to the rights of the Holders of such Notes to receive such payment from U.S. Legal Tender or U.S. Government Obligations, in the case of Dollar Notes, or Euros or European Government Obligations, in the case of Euro Notes, held by the Trustee or Paying Agent.

Section 8.7 Satisfaction and Discharge. This Indenture will be discharged and will cease to be of further effect (except as to surviving rights of registration of transfer or exchange of the Notes, as expressly provided for in this Indenture) as to all Outstanding Notes when:

(a) either:

(i) all the Notes theretofor authenticated and delivered (except lost, stolen or destroyed Notes which have been replaced or paid and Notes for whose payment money has theretofor been deposited in trust or segregated and held in trust by the Issuer and thereafter repaid to the Issuer or discharged from such trust) have been delivered to the Trustee for cancellation, or

(ii) all Notes not theretofor delivered to the Trustee for cancellation have become due and payable, and the Issuer has irrevocably deposited or caused to be deposited with the Trustee U.S. Legal Tender or U.S. Government Obligations, in the case of Dollar Notes, or Euros or European Government Obligations, in the case of Euro Notes, sufficient without reinvestment to pay and discharge the entire Indebtedness on the Notes not theretofor delivered to the Trustee for cancellation, for principal of, premium, if any, and interest on the Notes to the date of deposit, together with irrevocable instructions from the Issuer directing the Trustee to apply such funds to the payment;

(b) the Issuer has paid all other sums payable under this Indenture and the Notes by it; and

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

ARTICLE IX

AMENDMENTS

Section 9.1 Without Consent of Holders.

(a) The Issuer, the Note Guarantors and the Trustee may amend or supplement this Indenture, the Notes or the Note Guarantees without notice to or consent of any Holder:

(i) to cure any ambiguity, omission, defect or inconsistency;

(ii) to comply with Article IV in respect of the assumption by a Successor Issuer of the obligations of the Issuer under the Notes and this Indenture;

(iii) to provide for uncertificated Notes in addition to or in place of Certificated Notes; *provided*, *however*, that the uncertificated Notes are issued in registered form for purposes of Section 163(f) of the Code;

(iv) to add guarantees with respect to the Notes or to secure the Notes;

(v) to add to the covenants of the Issuer or the Note Guarantors for the benefit of the Holders or to surrender any right or power herein conferred upon the Issuer or the Note Guarantors;

(vi) to make any change that does not, in the opinion of the Trustee, adversely affect the rights of any Holder in any material respect;

(vii) to conform the text of this Indenture, the Note Guarantees or the Notes to any provision of the section "Description of Notes" in the Offering Memorandum to the extent that such provision in such "Description of Notes" was intended to be a verbatim recitation of a provision of this Indenture or the Notes or Note Guarantees;

(viii) to comply with the requirements of any applicable securities depositary;

(ix) to provide for the issuance of Additional Notes as permitted by Section 2.2(c) and Section 2.14, which will have terms substantially identical to the other Outstanding Notes except as specified in Section 2.13, or Section 2.14, and which will be treated, together with any other Outstanding Notes, as a single issue of securities;

(x) in order to effect and maintain the listing or registration of the Notes on a securities market regulated by a securities authority that is a member of the Technical Committee of the International Organization of Securities Commissions.

(b) After an amendment or supplement under this Section 9.1 becomes effective, the Issuer shall mail to Holders a notice briefly describing such amendment. The failure to give such notice to all Holders, or any defect therein, shall not impair or affect the validity of an amendment under this Section 9.1.

Section 9.2 With Consent of Holders.

(a) The Issuer, the Note Guarantors and the Trustee may amend or supplement this Indenture or the Notes without notice to any Holder but with the written consent of the Holders of at least a majority in principal amount of the Outstanding Notes (including, without limitation, consents obtained in connection with a purchase of, or tender offer or exchange offer for, Notes). Subject to Section 6.4, the Holder or Holders of a majority in aggregate principal amount of the Outstanding Notes may waive compliance by the Issuer and the Note Guarantors with any provision of this Indenture or the Notes. However, without the consent of each Holder affected, an amendment, supplement or waiver may not:

(i) reduce the amount of Notes whose Holders must consent to an amendment, supplement or waiver;

(ii) reduce the rate of or change or have the effect of changing the time for payment of interest, including Defaulted Interest, on any Notes;

(iii) reduce the principal of or change or have the effect of changing the fixed maturity of any Notes, or change the date on which any Notes may be subject to redemption, or reduce the redemption price therefor;

(iv) make any Notes payable in money other than that stated in the Notes;

(v) make any change in the provisions of this Indenture entitling each Holder to receive payment of principal of, premium, if any, and interest on such Notes on or after the due date thereof or to bring suit to enforce such payment, or permitting Holders of a majority in principal amount of Outstanding Notes to waive Defaults or Events of Default;

(vi) amend, change or modify in any material respect any obligations of the Company to make and consummate a Change of Control Offer in respect of a Change of Control that has occurred or make and consummate an Asset Sale Offer with respect to any Asset Sale that has been consummated;

(vii) make any change in the provisions of this Indenture described under Section 3.21 that adversely affects the rights of any Holder or amend the terms of the Notes in a way that would result in a loss of exemption from Taxes; or

(viii) make any change to the provisions of this Indenture or the Notes that adversely affect the ranking of the Notes.

(b) It shall not be necessary for the consent of the Holders under this Section 9.2 to approve the particular form of any proposed amendment, supplement or waiver but it shall be sufficient if such consent approves the substance thereof.

(c) After an amendment, supplement or waiver under this Section 9.2 becomes effective, the Issuer shall mail to Holders a notice briefly describing such amendment, supplement or waiver. The failure to give such notice to all Holders, or any defect therein, shall not impair or affect the validity of an amendment, supplement or waiver under this Section 9.2.

(d) The Notes issued on the Issue Date, and any Additional Notes part of the same series, will be treated as a single series for all purposes under this Indenture, including with respect to waivers and amendments, except as the relevant amendment, waiver, consent, modification or similar action affects the rights of the Holder of the Dollar Notes and Euro Notes dissimilarly. For the purposes of calculating the aggregate principal amount of Notes that have consented to or voted in favor of any amendment, waiver, consent, modifications or other similar action, the Issuer (acting reasonably and in good faith) shall be entitled to select a record date as of which the Dollar Equivalent of the principal amount of any Notes shall be calculated in such consent or voting process.

Section 9.3 [Reserved].

Section 9.4 Revocation and Effect of Consents and Waivers.

(a) A consent to an amendment, supplement or waiver by a Holder of a Note shall bind the Holder and every subsequent Holder of that Note or portion of the Note that evidences the same debt as the consenting Holder's Note, even if notation of the consent or waiver is not made on the Note. However, any such Holder or subsequent Holder may revoke the consent or waiver as to such Holder's Note or portion of the Note if the Trustee receives the notice of revocation before the date the amendment, supplement or waiver becomes effective. After an amendment, supplement or waiver becomes effective, it shall bind every Holder, except as otherwise provided in this Article IX. An amendment, supplement or waiver shall become effective upon receipt by the Trustee of the requisite number of written consents under Section 9.2.

(b) The Company may, but shall not be obligated to, fix a record date for the purpose of determining the Holders entitled to give their consent or take any other action described above or required or permitted to be taken pursuant to this Indenture. If a record date is fixed, then notwithstanding the immediately preceding paragraph, those Persons who were Holders at such record date (or their duly designated proxies), and only those Persons, shall be entitled to give such consent or to revoke any consent previously given or to take any such action, whether or not such Persons continue to be Holders after such record date. No such consent shall be valid or effective for more than 90 days after such record date.

Section 9.5 Notation on or Exchange of Notes. If an amendment or supplement changes the terms of a Note, the Trustee may require the Holder of the Note to deliver it to the Trustee. The Trustee may place an appropriate notation on the Note regarding the changed terms and return it to the Holder. Alternatively, if the Company or the Trustee so determines, the Company in exchange for the Note will execute and upon Issuer Order the Trustee will authenticate and make available for delivery a new Note that reflects the changed terms. Failure to make the appropriate notation or to issue a new Note shall not affect the validity of such amendment or supplement.

Section 9.6 Trustee to Sign Amendments and Supplements. The Trustee shall sign any amendment, supplement or waiver authorized pursuant to this Article IX if the amendment or supplement does not adversely affect the rights, duties, liabilities or immunities of the Trustee. If it does, the Trustee may but need not sign it. In signing such amendment, supplement or waiver, the Trustee shall be entitled to receive indemnity reasonably satisfactory to it and to receive, and (subject to Section 7.1 and Section 7.2) shall be fully protected in relying upon, in addition to the documents required by Section 12.4, an Opinion of Counsel and an Officer's Certificate each stating that such amendment, supplement or waiver is authorized or permitted by this Indenture and that all conditions precedent to the execution of such amendment, supplement or waiver have been complied with.

ARTICLE X

NOTE GUARANTEES

Section 10.1 Note Guarantees.

(a) Each Note Guarantor hereby fully and unconditionally guarantees, as primary obligor and not merely as surety, jointly and severally with each other Note Guarantor, to each Holder and the Trustee, the full and punctual payment when due, whether at maturity, by acceleration, by redemption or otherwise, of the Obligations (such guaranteed Obligations, the " Guaranteed Obligations"). Each Note Guarantor further agrees that its Note Guarantee herein constitutes a guarantee of payment when due (and not a guarantee of collection) and agrees to pay, in addition to the amounts stated in Section 10.1(f), any and all expenses (including reasonable counsel fees and expenses) incurred by the Trustee or the Holders in enforcing or exercising any rights under any Note Guarantee.

(b) In no event shall the Trustee or the Holders be obligated to take any action, obtain any judgment or file any claim prior to enforcing or exercising any rights under any Note Guarantee.

(c) Each Note Guarantor further agrees that its Note Guarantee constitutes an absolute and unconditional and continuing guarantee. Each Note Guarantor hereby waives, to the extent permitted by law:

(i) any claim as to the legality, validity, regularity or enforceability of this Indenture, the Notes or any other agreement;

(ii) any claim as to the lack of authority of the Issuer to execute or deliver this Indenture, the Notes or any other agreement;

(iii) diligence, presentation to, demand of payment from and protest to the Issuer of any of the Obligations and notice of protest for nonpayment;

(iv) the occurrence of any Default or Event of Default under this Indenture, the Notes or any other agreement;

(v) notice of any Default or Event of Default under this Indenture, the Notes or any other agreement;

(vi) the failure of the Trustee or any Holder to assert any claim or demand or to enforce any right or remedy against the Issuer or any other Person under this Indenture, the Notes or any other agreement;

(vii) any extension or renewal of the Obligations, this Indenture, the Notes or any other agreement;

(viii) any rescission, waiver, amendment or modification of any of the terms or provisions of this Indenture, the Notes or any other agreement;

(ix) the existence of any bankruptcy, insolvency, reorganization or similar proceedings involving the Issuer;

(x) any setoff, counterclaim, recoupment, termination or defense of any kind or nature which may be available to or asserted by any Note Guarantor or the Issuer against the Holders or the Trustee;

(xi) any impairment, taking, furnishing, exchange or release of, or failure to perfect or obtain protection of any security interest in, any collateral securing this Indenture and the Notes and any right to require that any resort be had by the Trustee or any Holder to any such collateral;

(xii) the failure of the Trustee or any Holder to exercise any right or remedy against any other Note Guarantor;

(xiii) any change in the ownership of the Company;

(xiv) any change in the laws, rules or regulations of any jurisdiction;

(xv) any present or future action of any governmental authority or court amending, varying, reducing or otherwise affecting, or purporting to amend, vary, reduce or otherwise affect, any of the obligations of the Issuer under this Indenture or the Notes or of any Note Guarantor under its Note Guarantee; and

(xvi) any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of each Note Guarantor or would otherwise operate as a discharge of such Note Guarantor as a matter of law or equity.

(d) Each of the Note Guarantors further expressly waives irrevocably and unconditionally:

(i) Any right it may have to first require any Holder to proceed against, initiate any actions before a court of law or any other judge or authority, or enforce any other rights or security or claim payment from the Issuer or any other Person (including any Note Guarantor or any other guarantor) before claiming from it under this Indenture;

(ii) Any right to which it may be entitled to have the assets of the Company or any other Person (including any Note Guarantor or any other guarantor) first be used, applied or depleted as payment of the Issuer's or the Note Guarantors' obligations hereunder, prior to any amount being claimed from or paid by any of the Note Guarantors hereunder;

(iii) Any right to which it may be entitled to have claims hereunder divided between the Note Guarantors;

(iv) To the extent applicable, the benefits of *orden*, *excusión*, *división*, *quita* and *espera* and any right specified in articles 2814, 2815, 2817, 2818, 2819, 2820, 2821, 2822, 2823, 2826, 2837, 2838, 2839, 2840, 2845, 2846, 2847 and any other related or applicable articles that are not explicitly set forth herein because of Note Guarantor's knowledge thereof of the *Código Civil Federal* of Mexico, and the *Código Civil* of each State of the Mexican Republic and the Federal District of Mexico.

(e) The obligations assumed by each Note Guarantor hereunder shall not be affected by the absence of judicial request of payment by a Holder to the Company or by whether any such person takes timely action pursuant to articles 2848 and 2849 of the Código Civil Federal of Mexico and the Código Civil of each State of the Mexican Republic and the Federal District of Mexico and each Note Guarantor hereby expressly waives the provisions of such articles.

(f) The obligations of each Note Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason (other than payment of the Obligations in full), including any claim of waiver, release, surrender, alteration or compromise, and shall not be subject to any defense of setoff, counterclaim, recoupment or termination whatsoever or by reason of the invalidity, illegality or unenforceability of the Obligations or otherwise. Without limiting the generality of the foregoing, the obligations of each Note Guarantor herein shall not be discharged or impaired or otherwise affected by the failure of any Holder to assert any claim or demand or to enforce any remedy under this Indenture, the Notes or any other agreement, by any waiver or modification of any thereof, by any default, failure or delay, willful or otherwise, in the performance of the Obligations, or by any other act or thing or omission or delay to do any other act or thing which may or might in any manner or to any extent vary the risk of such Note Guarantor or would otherwise operate as a discharge of such Note Guarantor as a matter of law or equity.

(g) Except as provided in Section 10.2, the obligations of each Note Guarantor hereunder shall not be subject to any reduction, limitation, impairment or termination for any reason other than payment of the Obligations in full.

(h) Each Note Guarantor further agrees that its Note Guarantee herein shall continue to be effective or be reinstated, as the case may be, if at any time payment, or any part thereof, of principal of or interest on any of the Obligations is rescinded or must otherwise be restored by any Holder upon the bankruptcy or reorganization of the Issuer or otherwise.

(i) In furtherance of the foregoing and not in limitation of any other right which the Trustee or any Holder has at law or in equity against each Note Guarantor by virtue hereof, upon the failure of the Issuer to pay any of the Obligations when and as the same shall become due, whether at maturity, by acceleration, by redemption or otherwise, each Note Guarantor hereby promises to and will, upon receipt of written demand by the Trustee, forthwith pay, or cause to be paid, in cash, to the Holders an amount equal to the sum of:

(i) the unpaid amount of such Obligations then due and owing; and

(ii) accrued and unpaid interest on such Obligations then due and owing (but only to the extent not prohibited by law);

provided that any delay by the Trustee in giving such written demand shall in no event affect any Note Guarantor's obligations under its Note Guarantee.

(j) Each Note Guarantor further agrees that, as between such Note Guarantor, on the one hand, and the Holders, on the other hand:

(i) the maturity of the Obligations guaranteed hereby may be accelerated as provided in this Indenture for the purposes of its Note Guarantee herein, notwithstanding any stay, injunction or other prohibition preventing such acceleration in respect of the Obligations guaranteed hereby; and

(ii) in the event of any such declaration of acceleration of such Obligations, such Obligations (whether or not due and payable) shall forthwith become due and payable by the Note Guarantor for the purposes of this Note Guarantee.

Section 10.2 Limitation on Liability; Termination, Release and Discharge.

(a) The obligations of each Note Guarantor hereunder will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Note Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Note Guarantor in respect of the obligations of such other Note Guarantor under its Note Guarantee or pursuant to its contribution obligations under this Indenture, result in the obligations of such Note Guarantor under its Note Guarantee not constituting a fraudulent conveyance or fraudulent transfer under federal or state law.

(b) A Note Guarantor will be released and relieved of its obligations under its Note Guarantee in the event that:

(i) with respect to any Note Guarantee other than the Company there is a Legal Defeasance of the Notes pursuant to Section 8.1 or Article VIII;

(ii) there is a sale or other disposition of Capital Stock of such Note Guarantor following which such Note Guarantor is no longer a direct or indirect Subsidiary of the Company;

(iii) such Note Guarantor is designated as an Unrestricted Subsidiary in accordance with Section 3.14;

(iv) solely with respect to any Additional Note Guarantor, either (A) the Financing Agreement Indebtedness has been repaid in full and such Additional Note Guarantor is not a guarantor of the Indebtedness Incurred to refinance such Financing Agreement Indebtedness or (B) at least 85% of the outstanding Indebtedness of the Company and its Restricted Subsidiaries is not guaranteed by such Additional Note Guarantor; or

(v) solely with respect to any Additional Note Guarantor, upon the occurrence of a Partial Covenant Suspension Event or Covenant Suspension Event until the occurrence of a Partial Reversion Date or a Reversion Date, respectively, at which time the guarantee of the Notes by such Additional Note Guarantor shall be reinstated unless such Additional Note Guarantor would have been released at any time during the Partial Suspension Period or the Suspension Period, as applicable, pursuant to clause (i), (ii), (iii) or (iv) of this Section 10.2(b).

Section 10.3 Right of Contribution. Each Note Guarantor that makes a payment or distribution under a Note Guarantee will be entitled to a contribution from each other Note Guarantor in a *pro rata* amount, based on the net assets of each Note Guarantor determined in accordance with GAAP. The provisions of this Section 10.3 shall in no respect limit the obligations and liabilities of each Note Guarantor to the Trustee and the Holders and each Note Guarantor shall remain liable to the Trustee and the Holders for the full amount guaranteed by such Note Guarantor hereunder.

Section 10.4 No Subrogation. Each Note Guarantor agrees that it shall not be entitled to any right of subrogation in respect of any Guaranteed Obligations until payment in full in cash or Cash Equivalents of all Obligations. If any amount shall be paid to any Note Guarantor on account of such subrogation rights at any time when all of the Obligations shall not have been paid in full in cash or Cash Equivalents, such amount shall be held by such Note Guarantor in trust for the Trustee and the Holders, segregated from other funds of such Note Guarantor, and shall, forthwith upon receipt by such Note Guarantor, be turned over to the Trustee in the exact form received by such Note Guarantor (duly endorsed by such Note Guarantor to the Trustee, if required), to be applied against the Obligations.

ARTICLE XI

COLLATERAL

Section 11.1 The Collateral. Subject to Section 11.2, the Issuer and the Note Guarantors agree that the Notes will be at all times secured by a first-priority security interest in the Collateral on an equal and ratable basis with the Permitted Secured Obligations.

Section 11.2 Release of the Collateral.

(a) The Notes will cease to be secured by a security interest in the Collateral in accordance with the provisions of the Intercreditor Agreement.

(b) In addition to the Collateral release provisions set forth in the Intercreditor Agreement, the Notes will cease to be secured by a security interest on the Collateral upon:

(i) (A) payment in full of the principal of, any accrued and unpaid interest on, the Notes and all other amounts or Obligations that are due and payable at or prior to the time such principal, accrued and unpaid interest, if any, are paid, (B) a satisfaction and discharge of this Indenture or (C) a Legal Defeasance or Covenant Defeasance pursuant to Article VIII; or

(ii) a refinancing of the Financing Agreement Indebtedness in full as a result of which the Collateral does not secure Indebtedness Incurred to refinance such Financing Agreement Indebtedness.

ARTICLE XII

MISCELLANEOUS

Section 12.1 Notices.

(a) Any notice or communication shall be in writing and delivered in person or mailed by first-class mail, postage prepaid, addressed as follows:

if to the Issuer, the Company and the Note Guarantors:

c/o CEMEX, S.A.B. de C.V.
Av. Ricardo Margáin Zozaya #325
Colonia Valle del Campestre
Garza García, Nuevo León
México 66265
Attention: Chief Financial Officer
Fax: +1 52 81 8888 4415

if to the Trustee:

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: Global Structured Finance Group
Fax: 212-815-5915

The Issuer or the Trustee by notice to the other may designate additional or different addresses for subsequent notices or communications.

(b) All notices to Holders of Notes will be validly given if mailed to them at their respective addresses in the register of the Holders of such Notes, if any, maintained by the Registrar. For so long as any Notes are represented by Global Notes, all notices to Holders of the Notes will be delivered to Euroclear, Clearstream and DTC, delivery of which shall be deemed to satisfy the requirements of this paragraph.

(c) Each such notice shall be deemed to have been given on the date of delivery or mailing. Any notice or communication mailed to a Holder shall be mailed to such Person by first-class mail or other equivalent means and shall be sufficiently given to them if so mailed within the time prescribed. Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

(d) Subject to Section 7.1(c) and Section 7.2(a), the Trustee shall accept electronic transmissions; *provided* that (i) the Trustee shall not have any duty or obligation to verify or confirm that the Person sending instructions, directions, reports, notices or other communications or information by electronic transmission is, in fact, a Person authorized to give such instructions, directions, reports, notices or other communications or information on behalf of the party purporting to send such electronic transmission; and the Trustee shall not have any liability for any losses, liabilities, costs or expenses incurred or sustained by any party as a result of such reliance upon or compliance with such instructions, directions, reports, notices or other communications or information and (ii) each other party agrees to assume all risks arising out of the use of electronic methods to submit instructions, directions, reports, notices or other communications or information to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, notices, reports or other communications or information, and the risk of interception and misuse by third parties.

(e) Any notice or communication mailed to a registered Holder shall be mailed to the Holder at the Holder's address as it appears on the Note Register and shall be sufficiently given if so mailed within the time prescribed.

(f) Failure to mail a notice or communication to a Holder or any defect in it shall not affect its sufficiency with respect to other Holders. If a notice or communication is mailed in the manner provided above, it is duly given, whether or not the addressee receives it.

(g) Any notice or communication delivered to the Issuer or the Company under the provisions herein shall constitute notice to the Note Guarantors.

Section 12.2 Communication by Holders with Other Holders. Holders may communicate with other Holders with respect to their rights under this Indenture (including the Note Guarantees) or the Notes.

Section 12.3 Certificate and Opinion as to Conditions Precedent. Upon any request or application by the Company to the Trustee to take or refrain from taking any action under this Indenture, the Company shall furnish to the Trustee:

(a) an Officer's Certificate in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of the signers, all conditions precedent, if any, provided for in this Indenture relating to the proposed action have been complied with; and

(b) an Opinion of Counsel in form and substance reasonably satisfactory to the Trustee stating that, in the opinion of such counsel, all such conditions precedent have been complied with.

Section 12.4 Statements Required in Certificate or Opinion. Each certificate or opinion, including an Opinion of Counsel or Officer's Certificate, with respect to compliance with a covenant or condition provided for in this Indenture shall include:

(a) a statement that the individual making such certificate or opinion has read such covenant or condition;

(b) a brief statement as to the nature and scope of the examination or investigation upon which the statements or opinions contained in such certificate or opinion are based;

(c) a statement that, in the opinion of such individual, he has made such examination or investigation as is necessary to enable him to express an informed opinion as to whether or not such covenant or condition has been complied with; and

(d) a statement as to whether or not, in the opinion of such individual, such covenant or condition has been complied with.

In giving an Opinion of Counsel, counsel may rely as to factual matters on an Officer's Certificate or on certificates of public officials.

Section 12.5 Rules by Trustee, Paying Agent, Transfer Agent and Registrar. The Trustee may make reasonable rules for action by, or a meeting of, Holders. The Paying Agent, Transfer Agent and the Registrar may make reasonable rules for their functions.

Section 12.6 Legal Holidays. A "Legal Holiday" is a Saturday, a Sunday or other day on which commercial banking institutions are authorized or required to be closed in New York City, Mexico, Madrid, Luxembourg and Amsterdam. If a payment date is a Legal Holiday, payment shall be made on the next succeeding day that is not a Legal Holiday, and no interest shall accrue for the intervening period. If a regular record date is a Legal Holiday, the record date shall not be affected.

Section 12.7 Governing Law, etc.

(a) THIS INDENTURE (INCLUDING EACH NOTE GUARANTEE) AND THE NOTES SHALL BE GOVERNED BY, AND CONSTRUED IN ACCORDANCE WITH, THE LAW OF THE STATE OF NEW YORK. THE PARTIES HERETO EACH HEREBY WAIVE ANY RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM ARISING OUT OF OR RELATING TO THIS INDENTURE, THE NOTES OR EACH NOTE GUARANTEE OR ANY TRANSACTION RELATED HERETO OR THERETO TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW.

(b) Each of the parties hereto hereby:

(i) agrees that any suit, action or proceeding against it arising out of or relating to this Indenture (including the Note Guarantees) or the Notes, as the case may be, may be instituted in any Federal or state court sitting in The City of New York and in the courts of its own corporate domicile, in respect of actions brought against it as a defendant,

(ii) waives to the fullest extent permitted by applicable law, any objection which it may now or hereafter have to the laying of venue of any such suit, action or proceeding, any claim that any suit, action or proceeding in such a court has been brought in an inconvenient forum, and any right to which it may be entitled, on account of place of residence or domicile,

(iii) irrevocably submits to the jurisdiction of such courts in any suit, action or proceeding,

(iv) agrees that final judgment in any such suit, action or proceeding brought in such a court shall be conclusive and binding may be enforced in the courts of the jurisdiction of which it is subject by a suit upon judgment, and

(v) agrees that service of process by mail to the addresses specified herein shall constitute personal service of such process on it in any such suit, action or proceeding.

(c) The Issuer and the Note Guarantors have appointed Corporate Creations Network Inc., 1040 Avenue of the Americas #2400, New York, NY 10018 (U.S.A.) as its authorized agent (the "Authorized Agent") upon whom all writs, process and summonses may be served in any suit, action or proceeding arising out of or based upon this Indenture or the Notes which may be instituted in any state or federal court in The City of New York, New York. The Note Guarantors hereby represent and warrant that the Authorized Agent has accepted such appointment and has agreed to act as said agent for service of process, and the Note Guarantors agree to take any and all action, including the filing of any and all documents, that may be necessary to continue each such appointment in full force and effect as aforesaid so long as the Notes remain outstanding. The Note Guarantors agree that the appointment of the Authorized Agent shall be irrevocable so long as any of the Notes remain outstanding or until the irrevocable appointment by the Note Guarantors of a successor agent in The City of New York, New York as each of their authorized agent for such purpose and the acceptance of such appointment by such successor. Service of process upon the Authorized Agent shall be deemed, in every respect, effective service of process upon the Note Guarantors.

(d) To the extent that any of the Issuer and the Note Guarantors have or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service or notice, attachment in aid or otherwise) with respect to itself or any of its property, the Issuer and the Note Guarantors hereby irrevocably waive and agree not to plead or claim such immunity in respect of their obligations under this Indenture or the Notes.

(e) Nothing in this Section 12.7 shall affect the right of the Trustee or any Holder of the Notes to serve process in any other manner permitted by law.

Section 12.8 Spanish Companies Act (*Ley de Sociedades Anónimas*). Since the New Senior Secured Notes are governed by the Law of the State of New York as per Section 12.7 above, holders of New Senior Secured Notes (i) will not benefit from (a) any right as a holder of New Senior Secured Notes arising from article 289 of the Spanish Companies Act, (b) the constitution of a syndicate of holders (*sindicato de obligacionistas*) and (c) the appointment of a commissioner (*comisario*), both regulated in articles 283.2 and 295 et seq. of the Spanish Companies Act; and (ii) will be deemed to have irrevocably instructed the trustee to take any action and/or to sign or execute and deliver any documents or notices that may be necessary or desirable to comply and give effect to (i).

Section 12.9 No Recourse Against Others. An incorporator, director, officer, employee, stockholder or controlling person, as such, of the Issuer or any Note Guarantor shall not have any liability for any obligations of the Issuer or any Note Guarantor under the Notes or this Indenture or for any claims based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each Holder shall waive and release all such liability.

Section 12.10 Successors. All agreements of the Issuer, the Company and any Note Guarantor in this Indenture and the Notes shall bind their respective successors. All agreements of the Trustee in this Indenture shall bind its successors.

Section 12.11 Duplicate and Counterpart Originals. The parties may sign any number of copies of this Indenture. One signed copy is enough to prove this Indenture. This Indenture may be executed in any number of counterparts, each of which so executed shall be an original, but all of them together represent the same agreement.

Section 12.12 Severability. In case any provision in this Indenture or in the Notes shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby.

Section 12.13 [Reserved].

Section 12.14 Currency Indemnity.

(a) U.S. Legal Tender is the sole currency of account and payment for all sums payable by the Issuer and any Note Guarantor under or in connection with the Dollar Notes or this Indenture, including damages. Any amount received or recovered in currency other than U.S. Legal Tender in respect of the Dollar Notes (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the winding-up or dissolution of the Issuer, a Note Guarantor or any Subsidiary of the Issuer or otherwise) by any Holder of the Dollar Notes in respect of any sum expressed to be due to it from the Issuer or any Note Guarantor shall only constitute a discharge of them under the Dollar Notes and this Indenture only to the extent of the U.S. Legal Tender amount which the recipient is able to purchase with the amount so received or recovered in that other currency on the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that U.S. Legal Tender amount is less than the U.S. Legal Tender amount expressed to be due to the recipient under the Dollar Notes or this Indenture, the Issuer and the Note Guarantors shall jointly and severally indemnify and hold harmless the recipient against any loss or cost sustained by it in making any such purchase. For the purposes of this Section 12.14, it will be sufficient for the Holder of a Dollar Note to certify that it would have suffered a loss had an actual purchase of U.S. Legal Tender been made with the amount so received in that other currency on the date of receipt or recovery (or, if a purchase of U.S. Legal Tender on such date had not been practicable, on the first date on which it would have been practicable).

(b) The Euro is the sole currency of account and payment for all sums payable by the Issuer and any Note Guarantor under or in connection with the Euro Notes or this Indenture, including damages. Any amount received or recovered in currency other than Euros in respect of the Euro Notes (whether as a result of, or of the enforcement of, a judgment or order of a court of any jurisdiction, in the winding-up or dissolution of the Issuer, a Note Guarantor or any Subsidiary of the Issuer or otherwise) by any Holder of the Euro Notes in respect of any sum expressed to be due to it from the Issuer or any Note Guarantor shall only constitute a discharge of them under the Euro Notes and this Indenture only to the extent of the Euro amount which the recipient is able to purchase with the amount so received or recovered in that other currency on

the date of that receipt or recovery (or, if it is not practicable to make that purchase on that date, on the first date on which it is practicable to do so). If that Euro amount is less than the Euro amount expressed to be due to the recipient under the Euro Notes or this Indenture, the Issuer and the Note Guarantors shall jointly and severally indemnify and hold harmless the recipient against any loss or cost sustained by it in making any such purchase. For the purposes of this Section 12.14, it will be sufficient for the Holder of a Euro Note to certify that it would have suffered a loss had an actual purchase of Euro been made with the amount so received in that other currency on the date of receipt or recovery (or, if a purchase of Euro on such date had not been practicable, on the first date on which it would have been practicable).

(c) The indemnities of the Issuer and the Note Guarantors contained in this Section 12.14, to the extent permitted by law: (i) constitute a separate and independent obligation from the other obligations of the Issuer and the Note Guarantors under this Indenture and the Notes; (ii) shall give rise to a separate and independent cause of action against the Issuer and the Note Guarantors; (iii) shall apply irrespective of any waiver granted by any Holder of the Notes or the Trustee from time to time; and (iv) shall continue in full force and effect notwithstanding any other judgment, order, claim or proof of claim for a liquidated amount in respect of any sum due under the Notes or this Indenture or any other judgment or order.

Section 12.15 Table of Contents; Headings. The table of contents and headings of the Articles and Sections of this Indenture have been inserted for convenience of reference only, are not intended to be considered a part hereof and shall not modify or restrict any of the terms or provisions hereof.

Section 12.16 USA Patriot Act. The parties hereto acknowledge that, in accordance with Section 326 of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law on October 26, 2001)) (as amended, modified or supplemented from time to time, the " USA Patriot Act"), the Trustee, like all financial institutions, is required to obtain, verify, and record information that identifies each person or legal entity that opens an account. The parties to this Agreement agree that they will provide the Trustee with such information as the Trustee may request in order for the Trustee to satisfy the requirements of the USA Patriot Act.

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

CEMEX España, S.A., acting
through its Luxembourg branch,
CEMEX España, S.A.,
Luxembourg Branch, as Issuer

By: /s/ G. C. de Meetis
Name: G. C. de Meetis
Title: Director

By: /s/ Edoardo Carlo Picco
Name: Edoardo Carlo Picco
Title: Director

CEMEX, S.A.B. de C.V., as Note Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

CEMEX México, S.A. de C.V., as Note Guarantor

By: /s/ Humberto Lozano
Name: Humberto Lozano
Title: Attorney-in-Fact

New Sunward Holding B.V., as Note Guarantor

By: /s/ Agustin Blanco
Name: Agustin Blanco
Title: Attorney-in-Fact

THE BANK OF NEW YORK MELLON, as Trustee

By: /s/ Christopher Curtie
Name: Christopher Curtie
Title: Vice President

Solely for the purposes of accepting the appointment of Luxembourg Paying Agent and Luxembourg Transfer Agent, together with the rights, protections and immunities granted to the Trustee under Article VII, which shall apply *mutatis mutandis* to the Luxembourg Paying Agent,

THE BANK OF NEW YORK MELLON (LUXEMBOURG) S.A., as Luxembourg Paying Agent and Luxembourg Transfer Agent

By: /s/ Christopher Curtie
Name: Christopher Curtie
Title: Vice President

EXHIBIT A

FORM OF DOLLAR NOTE

[*Include the following legend for Global Notes only:*

"THIS IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE REFERRED TO HEREINAFTER.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE DEPOSITORY TRUST COMPANY, A NEW YORK CORPORATION ("DTC"), NEW YORK, NEW YORK, TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF CEDE & CO. OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC (AND ANY PAYMENT IS MADE TO CEDE & CO. OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF DTC), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, CEDE & CO., HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF DTC OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF."]

[*Include the following legend on all Notes that are Restricted Notes:*

"THE NOTES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A) (1) TO CEMEX ESPAÑA, S.A., ACTING THROUGH ITS LUXEMBOURG BRANCH, CEMEX ESPAÑA, S.A., LUXEMBOURG BRANCH, (2) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A AND TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS MADE IN RELIANCE ON RULE 144A, (3) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (4) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE), OR (5) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER

THE SECURITIES ACT AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES. EACH PERSON ACQUIRING AN OWNERSHIP INTEREST IN THE NOTES (1) SHALL BE DEEMED TO REPRESENT AND WARRANT THAT IT EITHER (A) IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT), (B) IS NOT A U.S. PERSON (AS DEFINED IN REGULATION S) AND IS OUTSIDE THE UNITED STATES OR (C) IS ACQUIRING SUCH OWNERSHIP INTEREST PURSUANT TO A VALID REGISTRATION STATEMENT OR IN ANOTHER TRANSACTION EXEMPT FROM SUCH REGISTRATION; (2) AGREES THAT IT WILL NOT RESELL OR OTHERWISE TRANSFER THIS NOTE EXCEPT IN ACCORDANCE WITH THE FOREGOING RESTRICTIONS, AND IN ANY CASE IN COMPLIANCE WITH ALL APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND ANY OTHER APPLICABLE JURISDICTION; (3) PRIOR TO SUCH TRANSFER, AGREES THAT IT WILL FURNISH TO THE BANK OF NEW YORK MELLON, AS TRUSTEE (OR A SUCCESSOR TRUSTEE, AS APPLICABLE), SUCH CERTIFICATIONS, LEGAL OPINIONS OR OTHER INFORMATION AS THE TRUSTEE MAY REASONABLY REQUIRE TO CONFIRM THAT SUCH TRANSFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND (4) AGREES THAT IT WILL DELIVER TO EACH PERSON TO WHOM THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND. AS USED HEREIN, THE TERMS "UNITED STATES", "U.S. PERSON" AND "OFFSHORE TRANSACTION" HAVE THE MEANINGS GIVEN TO THEM BY REGULATION S UNDER THE SECURITIES ACT."]

FORM OF FACE OF NOTE

9.25% U.S. Dollar-denominated Senior Secured Notes Due 2020

No. [____] Principal Amount U.S.$[_____]

[If the Note is a Global Note include the following two lines:
as revised by the Schedule of Increases and
Decreases in Global Note attached hereto]

CUSIP NO. _____

CEMEX España, S.A., acting through its Luxembourg Branch, CEMEX España, S.A., Luxembourg Branch (together with its successors and assigns, the "Issuer") promises to pay to Cede & Co., or registered assigns, the principal sum of [_____] Dollars [*If the Note is a Global Note, add the following*, as revised by the Schedule of Increases and Decreases in Global Note attached hereto], on May 12, 2020.

Interest Payment Dates: May 15 and November 15, commencing November 15, 2010 Record Dates: May 1 and November 1

Additional provisions of this Note are set forth on the other side of this Note.

CEMEX España, S.A., acting through its Luxembourg branch, CEMEX España, S.A., Luxembourg Branch

By: _____
Name:
Title:

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

The Bank of New York Mellon as Trustee, certifies that this is one of the Dollar Notes referred to in the Indenture.

By: _____ Date: _____
Authorized Signatory

FORM OF REVERSE SIDE OF NOTE

9.25% U.S. Dollar-denominated Senior Secured Notes Due 2020

Capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest

CEMEX España, S.A., acting through its Luxembourg Branch, CEMEX España, S.A., Luxembourg Branch (together with its successors and assigns, the "Issuer") promises to pay interest on the principal amount of this Note at the rate per annum shown above.

The Issuer will pay interest semiannually in arrears on each Interest Payment Date of each year commencing November 15, 2010; *provided* that if any such Interest Payment Date is not a Business Day, then such payment shall be made on the next succeeding Business Day. Interest on the Notes will accrue from the most recent date to which interest has been paid on the Notes or, if no interest has been paid, from May 12, 2010; *provided* that if there is no existing Default or Event of Default on the payment of interest, and if this Note is authenticated between a Record Date referred to on the face hereof and the next succeeding Interest Payment Date (but after May 12, 2010), interest shall accrue from such next succeeding Interest Payment Date, except in the case of the original issuance of Notes, in which case interest shall accrue from May 12, 2010. The Issuer shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (" Defaulted Interest"), without regard to any applicable grace period, at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

All payments made by the Issuer in respect of the Notes will be made free and clear of and without deduction or withholding for or on account of any Taxes imposed or levied by or on behalf of any Taxing Authority, unless such withholding or deduction is required by law or by the interpretation or administration thereof. In that event, the Issuer will pay to each Holder of the Notes Additional Amounts as provided in the Indenture subject to the limitations set forth in the Indenture.

2. Method of Payment

By at least 10:00 a.m. (New York City time) on the Business Day prior to the date on which any principal of or interest on any Note is due and payable, the Issuer shall irrevocably deposit with the Trustee or the Paying Agent money sufficient to pay such principal and/or interest. The Issuer will pay interest (except Defaulted Interest) on the applicable Interest Payment Date to the Persons who are registered Holders of Notes at the close of business on the Record Date preceding the Interest Payment Date even if Notes are canceled, repurchased or redeemed after the Record Date and on or before the relevant Interest Payment Date, except as provided in Section 2.13 with respect to Defaulted Interest. Holders must surrender Notes to a Paying Agent to collect principal payments. The Issuer will pay principal and interest in U.S. Legal Tender.

Payments in respect of Notes represented by a Global Note (including principal and interest) will be made by the transfer of immediately available funds to the accounts specified by the DTC. The Issuer will make all payments in respect of a Certificated Note (including principal and interest) by mailing a check to the registered address of each registered Holder thereof as set forth in the Note Register; *provided*, *however*, that payments on the Notes may also be made, in the case of a Holder of at least U.S.$1,000,000 aggregate principal amount of Notes, by wire transfer to a U.S. dollar account maintained by the payee with a bank in the United States if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 15 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion).

3. Paying Agent and Registrar

Initially, The Bank of New York Mellon, the Trustee under the Indenture, will act as Trustee, Paying Agent and Registrar. The Issuer may appoint and change any Paying Agent, Registrar or co-Registrar without notice to any Holder. The Issuer, any Note Guarantor or any of their respective Affiliates may act as Paying Agent, Registrar or co-Registrar.

4. Indenture

The Issuer issued the Notes under an Indenture, dated as of May 12, 2010 (as it may be amended or supplemented from time to time in accordance with the terms thereof, the "Indenture"), among the Issuer, the Note Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture. The Notes are subject to all such terms, and Holders are referred to the Indenture for a statement of those terms. Each Holder, by accepting a Note, agrees to be bound by all of the terms and provisions of the Indenture, as amended or supplemented from time to time.

The Notes are general senior obligations, which are secured by a first priority security interest in the Collateral on an equal and ratable basis with the other Permitted Secured Obligations, subject to the Collateral release provisions set forth in the Intercreditor Agreement. U.S.$ [_____] in aggregate principal amount of Notes will be initially issued on the Issue Date. Subject to the conditions set forth in the Indenture and without the consent of the Holders, the Issuer may issue Additional Notes. All Notes will be treated as a single series of securities under the Indenture. The Indenture imposes certain limitations on, among other things, the ability of the Issuer and its Restricted Subsidiaries to: Incur Indebtedness, make Restricted Payments, incur Liens, designate Unrestricted Subsidiaries, make Asset Sales, enter into transactions with Affiliates, or consolidate or merge or transfer or convey all or substantially all of the Issuer's assets.

To guarantee the due and punctual payment of the principal of (and premium, if any) and interest on the Notes and all other amounts payable by the Issuer under the Indenture and the Notes when and as the same shall be due and payable, whether at maturity, by acceleration or otherwise, according to the terms of the Notes and the Indenture, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V. have unconditionally guaranteed, jointly and severally, such obligations pursuant to the terms of the Indenture. Each Note Guarantee will be subject to release as provided in the Indenture.

The obligations of each Note Guarantor in respect of its Note Guarantee will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Note Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Note Guarantor in respect of the obligations of such other Note Guarantor under its Note Guarantee or pursuant to its contribution obligations under the Indenture, result in the obligations of such Note Guarantor under its Note Guarantee not constituting a fraudulent conveyance, fraudulent transfer, or similar illegal transfer under federal or state law or the law of the jurisdiction or formation and incorporation of such Note Guarantors.

5. Optional Redemption

Except as stated below, the Issuer may not redeem the Dollar Notes. The Issuer may redeem the Dollar Notes, at its option, in whole at any time or in part from time to time, on and after May 12, 2015, at the following redemption prices, expressed as percentages of the principal amount thereof, if redeemed during the twelve-month period commencing on May 12 of any year set forth below, plus any accrued and unpaid interest on the principal amount of the Dollar Notes to the date of redemption:

	USD
2015	104.625%
2016	102.313%
2017 and thereafter	100.000%

provided, however, that the Issuer shall not have the right to exercise any such optional redemption at any time when the Company is prohibited from having such an option under the Financing Agreement.

Prior to May 12, 2015, the Issuer will have the right, at its option, to redeem any of the Dollar Notes, in whole or in part, at any time or from time to time prior to their maturity at a redemption price equal to the greater of (1) 100% of the principal amount of such Dollar Notes and (2) the sum of the present value of each remaining scheduled payment of principal and interest thereon (exclusive of interest accrued to the date of redemption) discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Treasury Rate (as defined below) plus 50 basis points, plus any accrued and unpaid interest on the principal amount of the Dollar Notes to the date of redemption, *provided*, *however*, that the Issuer shall not have the right to exercise any such optional redemption at any time when the Company is prohibited from having such an option under the Financing Agreement.

"Treasury Rate" means, with respect to any redemption date, the rate per annum equal to the semi-annual equivalent yield to maturity or interpolated maturity (on a day count basis) of the Comparable Treasury Issue, assuming a price for the Comparable Treasury Issue (expressed as a percentage of its principal amount) equal to the Comparable Treasury Price for such redemption date.

"Comparable Treasury Issue" means the United States Treasury security or securities selected by an Independent Investment Banker as having an actual or interpolated maturity comparable to the remaining term of the Notes to be redeemed that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues of corporate debt securities of a comparable maturity to the remaining term of such Notes.

"Independent Investment Banker" means one of the Reference Treasury Dealers appointed by the Issuer.

"Comparable Treasury Price" means, with respect to any redemption date (1) the average of the Reference Treasury Dealer Quotations for such redemption date, after excluding the highest and lowest such Reference Treasury Dealer Quotation or (2) if the Trustee obtains fewer than four such Reference Treasury Dealer Quotations, the average of all such quotations.

"Reference Treasury Dealer" means J.P. Morgan Securities Inc. or its affiliates which are primary United States government securities dealers and not less than two other leading primary United States government securities dealers in New York City reasonably designated by the Issuer; *provided, however*, that if any of the foregoing shall cease to be a primary United States government securities dealer in New York City (a " Primary Treasury Dealer"), the Issuer will substitute therefore another Primary Treasury Dealer.

"Reference Treasury Dealer Quotation" means, with respect to each Reference Treasury Dealer and any redemption date, the average, as determined by the Trustee, of the bid and asked price for the Comparable Treasury Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Trustee by such Reference Treasury Dealer at 3:30 pm New York time on the third business day preceding such redemption date.

Optional Redemption upon Equity Offerings . At any time, or from time to time, on or prior to May 12, 2015, the Issuer may, at its option, use the net cash proceeds of one or more Equity Offerings to redeem in the aggregate up to 35% of the aggregate principal amount of the Notes issued pursuant to the Indenture at a redemption price equal to 109.25% of the principal amount thereof plus any accrued and unpaid interest on the principal amount of the Notes to the date of redemption; *provided*, that:

- after giving effect to any such redemption at least 65% of the aggregate principal amount of the Notes issued under the Indenture remains outstanding; and
- the Issuer shall make such redemption not more than 90 days after the consummation of such Equity Offering;

provided, however, that the Issuer shall not have the right to exercise any such optional redemption at any time when the Company is prohibited from exercising such an option under the Financing Agreement.

"Equity Offering" means any public or private sale of Qualified Capital Stock after the Issue Date for cash other than issuances to any Subsidiary of the Company.

Optional Redemption for Changes in Withholding Taxes. If, as a result of any amendment to, or change in, the laws (or any rules or regulations thereunder) of a Taxing Jurisdiction affecting taxation, or any amendment to or change in an official interpretation or application of such laws, rules or regulations that has a general effect, which amendment to or change of such laws, rules or regulations becomes effective on or after the Issue Date (which, in the case of a merger, consolidation or other transaction permitted and described under Article IV shall be treated for this purpose as the date of such transaction) we would be obligated, after taking all reasonable measures to avoid this requirement, to pay Additional Amounts in excess of those attributable to a withholding tax rate of 10% with respect to the Notes (see "Additional Amounts"), then, at our option, all, but not less than all, of the Notes may be redeemed at any time on giving not less than 30 nor more than 60 days' notice, at a redemption price equal to 100% of the outstanding principal amount, plus any accrued and unpaid interest on the principal amount of the Notes to the date of redemption; *provided*, *however*, that (1) no notice of redemption for tax reasons may be given earlier than 90 days prior to the earliest date on which we would be obligated to pay these Additional Amounts if a payment on the Notes were then due, and (2) at the time such notice of redemption is given such obligation to pay such Additional Amounts remains in effect; *provided, further, however*, that the Issuer shall not have the right to exercise any such optional redemption at any time when the Company is prohibited from having such an option under the Financing Agreement.

Prior to the publication of any notice of redemption pursuant to this provision, we will deliver to the Trustee:

- an Officer's Certificate stating that we are entitled to effect the redemption and setting forth a statement of facts showing that the conditions precedent to our right to redeem have occurred, and
- an opinion of outside legal counsel of recognized standing in the affected Taxing Jurisdiction to the effect that we have or will become obligated to pay such Additional Amounts as a result of such change or amendment.

This notice, once delivered by us to the Trustee, will be irrevocable.

In the case of any partial redemption, selection of the Notes for redemption will be made in accordance with Article V of the Indenture. On and after the redemption date, interest will cease to accrue on Notes or portions thereof called for redemption as long as the Issuer has deposited with the Paying Agent funds in satisfaction of the applicable redemption price pursuant to the Indenture.

6. Mandatory Repurchase Provisions

Change Of Control Offer. Upon the occurrence of a Change of Control, each Holder of Notes will have the right to require that the Issuer purchase all or a portion (in integral multiples of U.S.$1,000) of the Holder's Notes at a purchase price equal to 101% of the principal amount thereof, plus accrued and unpaid interest through the date of purchase. Within 30 days

following the date upon which the Change of Control occurred, the Issuer must make a Change of Control Offer pursuant to a Change of Control Notice. As more fully described in the Indenture, the Change of Control Notice shall state, among other things, the Change of Control Payment Date, which must be no earlier than 30 days nor later than 60 days from the date the notice is mailed, other than as may be required by applicable law.

Asset Sale Offer. The Indenture imposes certain limitations on the ability of the Company and its Restricted Subsidiaries to make Asset Sales. In the event the proceeds from a permitted Asset Sale exceed certain amounts and are not applied as specified in the Indenture, the Company will be required to make an Asset Sale Offer to purchase to the extent of such remaining proceeds each Holder's Notes together with holders of certain other Indebtedness at 100% of the principal amount thereof, plus accrued interest (if any) to the Asset Sale Offer Payment Date, as more fully set forth in the Indenture.

7. Denominations; Transfer; Exchange

The Notes are in fully registered form without coupons, and only in denominations of principal amount of U.S.$70,000 and integral multiples of U.S.$1,000 in excess thereof. A Holder may transfer or exchange Notes in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements or transfer documents and to pay any taxes and fees required by law or permitted by the Indenture. The Registrar shall not be required to register the transfer or exchange of (x) any Note for a period beginning: (1) 15 days before the mailing of a notice of an offer to repurchase or redeem Notes and ending at the close of business on the day of such mailing or (2) 15 days before an Interest Payment Date and ending on such Interest Payment Date and (y) any Note selected for repurchase or redemption, except the unrepurchased or unredeemed portion thereof, if any.

8. Persons Deemed Owners

The registered holder of this Note may be treated as the owner of it for all purposes.

9. Unclaimed Money

If money for the payment of principal or interest remains unclaimed for two years, the Trustee or Paying Agent shall pay the money back to the Issuer at its request unless an abandoned property law designates another Person. After any such payment, Holders entitled to the money must look only to the Issuer and not to the Trustee for payment.

10. Discharge Prior to Redemption or Maturity

Subject to certain conditions set forth in the Indenture, the Issuer at any time may terminate some or all of its obligations under the Notes and the Indenture if the Issuer deposits with the Trustee U.S. Legal Tender or U.S. Government Obligations for the payment of principal of and interest on the Notes to redemption or maturity, as the case may be.

11. Amendment, Waiver

Subject to certain exceptions set forth in the Indenture, (i) the Indenture or the Notes may be amended or supplemented with the written consent of the Holders of at least a majority in principal amount of the then Outstanding Notes and (ii) any default (other than with respect to nonpayment or in respect of a provision that cannot be amended or supplemented without the written consent of each Holder affected) or noncompliance with any provision may be waived with the written consent of the Holders of a majority in aggregate principal amount of the then Outstanding Notes. Subject to certain exceptions set forth in the Indenture, without the consent of any Holder, the Issuer and the Trustee may amend or supplement the Indenture or the Notes to, among other things, cure any ambiguity, omission, defect or inconsistency, or to comply with Article IV of the Indenture, or to provide for uncertificated Notes in addition to or in place of certificated Notes, or to add guarantees with respect to the Notes or to secure the Notes, or to add additional covenants or surrender rights and powers conferred on the Company, or to make any change that does not adversely affect the rights of any Holder, or to provide for the issuance of Additional Notes.

12. Defaults and Remedies

If an Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the Outstanding Notes may declare all the Notes to be due and payable immediately. A Bankruptcy Event of Default will result in the Notes being due and payable immediately upon the occurrence of such Bankruptcy Event of Default.

Holders may not enforce the Indenture or the Notes except as provided in the Indenture. The Trustee may refuse to enforce the Indenture or the Notes unless it receives reasonable indemnity or security. Subject to certain limitations, Holders of a majority in principal amount of the Outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders notice of any continuing Default or Event of Default (except a Default or Event of Default in payment of principal or interest) if it determines that withholding notice is in their interest.

13. Trustee Dealings with the Issuer and the Note Guarantors

Subject to certain limitations set forth in the Indenture, the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Issuer, any Note Guarantor or its Affiliates and may otherwise deal with the Issuer, any Note Guarantor or its Affiliates with the same rights it would have if it were not Trustee.

14. No Recourse Against Others

An incorporator, director, officer, employee, stockholder or controlling person, as such, of the Issuer or any Note Guarantor shall not have any liability for any obligations of the Issuer or any Note Guarantor under the Notes or the Indenture or for any claims based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each holder waives and releases all such liability.

15. Authentication

Any Officer of the Issuer may sign the Notes for the Issuer by manual or facsimile signature. This Note shall not be valid until an authorized signatory of the Trustee (or an Authenticating Agent) manually signs the certificate of authentication on the other side of this Note.

16. Abbreviations

Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (= tenants in common), TEN ENT (= tenants by the entirety), JT TEN (= joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian) and U/G/M/A (= Uniform Gift to Minors Act).

17. CUSIP Numbers

Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures the Issuer has caused CUSIP or other similar numbers to be printed on the Dollar Notes and has directed the Trustee to use CUSIP numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

18. Governing Law

This Note shall be governed by, and construed in accordance with, the laws of the State of New York.

19. Currency of Account; Conversion of Currency .

U.S. Legal Tender is the sole currency of account and payment for all sums payable by the Issuer and the Note Guarantors under or in connection with the Notes or the Indenture, including damages. The Issuer and the Note Guarantors will indemnify the Holders as provided in respect of the conversion of currency relating to the Notes and the Indenture.

20. Agent for Service; Submission to Jurisdiction; Waiver of Immunities .

The Issuer and the Note Guarantors have agreed that any suit, action or proceeding against the Issuer or any Note Guarantor brought by any Holder or the Trustee arising out of or based upon the Indenture or the Notes may be instituted in any state or federal court in The City of New York, New York. The Issuer and the Note Guarantors have irrevocably submitted to the jurisdiction of such courts for such purpose and waived, to the fullest extent permitted by law, trial by jury and any objection it may now or hereafter have to the laying of venue of any such proceeding, and any claim it may now or hereafter have that any proceeding in any such court is brought in an inconvenient forum. The Issuer and the Note Guarantors have appointed Corporate Creations Network Inc., 1040 Avenue of the Americas #2400, New York, NY 10018 (U.S.A.) as each of their authorized agent upon whom all writs, process and summonses may be served in any suit, action or proceeding arising out of or based

upon the Indenture or the Notes which may be instituted in any state or federal court in The City of New York, New York. To the extent that any of the Issuer and the Note Guarantors have or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service or notice, attachment in aid or otherwise) with respect to itself or any of its property, the Issuer and the Note Guarantors have irrevocably waived and agreed not to plead or claim such immunity in respect of its obligations under the Indenture or the Notes.

The Issuer will furnish to any Holder upon written request and without charge to the Holder a copy of the Indenture which has in it the text of this Note in larger type. Requests may be made to:

CEMEX España, S.A., acting through
its Luxembourg Branch,
CEMEX España, S.A.,
Luxembourg Branch

16, rue Jean l'Aveugle, L-1148 Luxembourg
c/o CEMEX, S.A.B. de C.V.
Av. Ricardo Margáin Zozaya # 325
Colonia Valle del Campestre
Garza García, Nuevo León, México 66265
Tel: +5281-8888-8888

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to

_____

(Print or type assignee's name, address and zip code)

_____

(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint _____ as agent to transfer this Note on the books of the Issuer. The agent may substitute another to act for him.

Date: _____ Your Signature: _____

Signature Guarantee:_____

(Signature must be guaranteed)

Sign exactly as your name appears on the other side of this Note.

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

To be attached to Global Notes only:

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The following increases or decreases in this Global Note have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Note Custodian

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Issuer pursuant to Section 3.12 or 3.8 of the Indenture, check either box:

☐ **Section 3.12** ☐ **Section 3.8**

If you want to elect to have only part of this Note purchased by the Issuer pursuant to Section 3.12 of the Indenture, state the principal amount (which must be an integral multiple of U.S.$1,000): U.S.$_____

Date: _____ Your Signature _____
(Sign exactly as your name appears on the other side of the Note)

Signature Guarantee: _____
(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

EXHIBIT B

FORM OF EURO NOTE

[*Include the following legend for Global Notes only*:

"THIS IS A GLOBAL NOTE WITHIN THE MEANING OF THE INDENTURE REFERRED TO HEREINAFTER.

UNLESS THIS CERTIFICATE IS PRESENTED BY AN AUTHORIZED REPRESENTATIVE OF THE COMMON DEPOSITARY (AS DEFINED IN THE INDENTURE), TO THE ISSUER OR ITS AGENT FOR REGISTRATION OF TRANSFER, EXCHANGE OR PAYMENT, AND ANY CERTIFICATE ISSUED IS REGISTERED IN THE NAME OF THE COMMON DEPOSITARY OR IN SUCH OTHER NAME AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE COMMON DEPOSITARY (AND ANY PAYMENT IS MADE TO THE COMMON DEPOSITARY OR TO SUCH OTHER ENTITY AS IS REQUESTED BY AN AUTHORIZED REPRESENTATIVE OF THE COMMON DEPOSITARY), ANY TRANSFER, PLEDGE OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL INASMUCH AS THE REGISTERED OWNER HEREOF, THE COMMON DEPOSITARY HAS AN INTEREST HEREIN.

TRANSFERS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS IN WHOLE, BUT NOT IN PART, TO NOMINEES OF THE COMMON DEPOSITARY OR TO A SUCCESSOR THEREOF OR SUCH SUCCESSOR'S NOMINEE AND TRANSFERS OF PORTIONS OF THIS GLOBAL SECURITY SHALL BE LIMITED TO TRANSFERS MADE IN ACCORDANCE WITH THE RESTRICTIONS SET FORTH IN THE INDENTURE REFERRED TO ON THE REVERSE HEREOF."]

[*Include the following legend on all Notes that are Restricted Notes:*

"THE NOTES EVIDENCED HEREBY HAVE NOT BEEN REGISTERED UNDER THE UNITED STATES SECURITIES ACT OF 1933, AS AMENDED (THE "SECURITIES ACT"), AND MAY NOT BE OFFERED, SOLD, PLEDGED OR OTHERWISE TRANSFERRED EXCEPT (A) (1) TO CEMEX ESPAÑA, S.A., ACTING THROUGH ITS LUXEMBOURG BRANCH, CEMEX ESPAÑA, S.A., LUXEMBOURG BRANCH, (2) TO A PERSON WHO THE SELLER REASONABLY BELIEVES IS A QUALIFIED INSTITUTIONAL BUYER WITHIN THE MEANING OF RULE 144A UNDER THE SECURITIES ACT PURCHASING FOR ITS OWN ACCOUNT OR FOR THE ACCOUNT OF A QUALIFIED INSTITUTIONAL BUYER IN A TRANSACTION MEETING THE REQUIREMENTS OF RULE 144A AND TO WHOM NOTICE IS GIVEN THAT THE TRANSFER IS MADE IN RELIANCE ON RULE 144A, (3) IN AN OFFSHORE TRANSACTION COMPLYING WITH RULE 903 OR RULE 904 OF REGULATION S UNDER THE SECURITIES ACT, (4) PURSUANT TO AN EXEMPTION FROM REGISTRATION UNDER THE SECURITIES ACT PROVIDED BY RULE 144 THEREUNDER (IF AVAILABLE),

OR (5) PURSUANT TO AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT AND (B) IN ACCORDANCE WITH ALL APPLICABLE SECURITIES LAWS OF THE STATES OF THE UNITED STATES. EACH PERSON ACQUIRING AN OWNERSHIP INTEREST IN THE NOTES (1) SHALL BE DEEMED TO REPRESENT AND WARRANT THAT IT EITHER (A) IS A "QUALIFIED INSTITUTIONAL BUYER" (AS DEFINED IN RULE 144A UNDER THE SECURITIES ACT), (B) IS NOT A U.S. PERSON (AS DEFINED IN REGULATION S) AND IS OUTSIDE THE UNITED STATES OR (C) IS ACQUIRING SUCH OWNERSHIP INTEREST PURSUANT TO A VALID REGISTRATION STATEMENT OR IN ANOTHER TRANSACTION EXEMPT FROM SUCH REGISTRATION; (2) AGREES THAT IT WILL NOT RESELL OR OTHERWISE TRANSFER THIS NOTE EXCEPT IN ACCORDANCE WITH THE FOREGOING RESTRICTIONS, AND IN ANY CASE IN COMPLIANCE WITH ALL APPLICABLE SECURITIES LAWS OF ANY STATE OF THE UNITED STATES AND ANY OTHER APPLICABLE JURISDICTION; (3) PRIOR TO SUCH TRANSFER, AGREES THAT IT WILL FURNISH TO THE BANK OF NEW YORK MELLON, AS TRUSTEE (OR A SUCCESSOR TRUSTEE, AS APPLICABLE), SUCH CERTIFICATIONS, LEGAL OPINIONS OR OTHER INFORMATION AS THE TRUSTEE MAY REASONABLY REQUIRE TO CONFIRM THAT SUCH TRANSFER IS BEING MADE PURSUANT TO AN EXEMPTION FROM, OR IN A TRANSACTION NOT SUBJECT TO, THE REGISTRATION REQUIREMENTS OF THE SECURITIES ACT AND (4) AGREES THAT IT WILL DELIVER TO EACH PERSON TO WHOM THIS SECURITY IS TRANSFERRED A NOTICE SUBSTANTIALLY TO THE EFFECT OF THIS LEGEND. AS USED HEREIN, THE TERMS "UNITED STATES", "U.S. PERSON" AND "OFFSHORE TRANSACTION" HAVE THE MEANINGS GIVEN TO THEM BY REGULATION S UNDER THE SECURITIES ACT."]

FORM OF FACE OF NOTE

8.875% Euro-Denominated Senior Secured Notes Due 2017

No. [____] Principal Amount €[_____]

[If the Note is a Global Note include the following two lines:
as revised by the Schedule of Increases and
Decreases in Global Note attached hereto]

ISIN NO. _____

CEMEX España, S.A., acting through its Luxembourg Branch, CEMEX España, S.A., Luxembourg Branch (together with its successors and assigns, the "Issuer"), promises to pay to The Bank of New York Mellon Depositary (Nominees) Limited, as common depositary for Euroclear and/or Clearstream, or registered assigns, the principal sum of [_____] Euros [*If the Note is a Global Note, add the following*, as revised by the Schedule of Increases and Decreases in Global Note attached hereto], on May 12, 2017.

Interest Payment Dates: May 15 and November 15, commencing November 15, 2010 Record Dates: May 1 and November 1

Additional provisions of this Note are set forth on the other side of this Note.

CEMEX España, S.A., acting through its Luxembourg branch, CEMEX España, S.A., Luxembourg Branch

By: _____
Name:
Title:

By: _____
Name:
Title:

TRUSTEE'S CERTIFICATE OF AUTHENTICATION

The Bank of New York Mellon as Trustee, certifies that this is one of the Euro Notes referred to in the Indenture.

By: _____ Date: _____
Authorized Signatory

FORM OF REVERSE SIDE OF NOTE

8.875% Euro-Denominated Senior Secured Notes Due 2017

Capitalized terms used but not defined herein shall have the meanings assigned to them in the Indenture referred to below unless otherwise indicated.

1. Interest

CEMEX España, S.A. acting through its Luxembourg Branch, CEMEX España, S.A., Luxembourg Branch (together with its successors and assigns, the "Issuer"), promises to pay interest on the principal amount of this Note at the rate per annum shown above.

The Issuer will pay interest semiannually in arrears on each Interest Payment Date of each year commencing November 15, 2010; *provided* that if any such Interest Payment Date is not a Business Day, then such payment shall be made on the next succeeding Business Day. Interest on the Notes will accrue from the most recent date to which interest has been paid on the Notes or, if no interest has been paid, from May 12, 2010; *provided* that if there is no existing Default or Event of Default on the payment of interest, and if this Note is authenticated between a Record Date referred to on the face hereof and the next succeeding Interest Payment Date (but after May 12, 2010), interest shall accrue from such next succeeding Interest Payment Date, except in the case of the original issuance of Notes, in which case interest shall accrue from May 12, 2010. The Issuer shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue principal at the then applicable interest rate on the Notes to the extent lawful; it shall pay interest (including post-petition interest in any proceeding under any Bankruptcy Law) on overdue installments of interest (" Defaulted Interest"), without regard to any applicable grace period, at the same rate to the extent lawful. Interest will be computed on the basis of a 360-day year of twelve 30-day months.

All payments made by the Issuer in respect of the Notes will be made free and clear of and without deduction or withholding for or on account of any Taxes imposed or levied by or on behalf of any Taxing Authority, unless such withholding or deduction is required by law or by the interpretation or administration thereof. In that event, the Issuer will pay to each Holder of the Notes Additional Amounts as provided in the Indenture subject to the limitations set forth in the Indenture.

2. Method of Payment

By at least 3:00 p.m. (London time) on the Business Day prior to the date on which any principal of or interest on any Note is due and payable, the Issuer shall irrevocably deposit with the Trustee or the Paying Agent money sufficient to pay such principal and/or interest. The Issuer will pay interest (except Defaulted Interest) on the applicable Interest Payment Date to the Persons who are registered Holders of Notes at the close of business on the Record Date preceding the Interest Payment Date even if Notes are canceled, repurchased or redeemed after the Record Date and on or before the relevant Interest Payment Date, except as provided in Section 2.13 with respect to Defaulted Interest. Holders must surrender Notes to a Paying Agent to collect principal payments. The Issuer will pay principal and interest in Euros.

Payments in respect of Notes represented by a Global Note (including principal and interest) will be made by the transfer of immediately available funds to the accounts specified by Euroclear or Clearstream. The Issuer will make all payments in respect of a Certificated Note (including principal and interest) by mailing a check to the registered address of each registered Holder thereof as set forth in the Note Register; *provided*, *however*, that payments on the Notes may also be made, in the case of a Holder of at least €50,000,000 aggregate principal amount of Notes, by wire transfer to an account maintained by the payee if such Holder elects payment by wire transfer by giving written notice to the Trustee or the Paying Agent to such effect designating such account no later than 15 days immediately preceding the relevant due date for payment (or such other date as the Trustee may accept in its discretion).

3. Paying Agent and Registrar

Initially, The Bank of New York Mellon, the Trustee under the Indenture, will act as Trustee, Paying Agent and Registrar. The Issuer may appoint and change any Paying Agent, Registrar or co-Registrar without notice to any Holder. The Issuer, any Note Guarantor or any of their respective Affiliates may act as Paying Agent, Registrar or co-Registrar.

4. Indenture

The Issuer issued the Notes under an Indenture, dated as of May 12, 2010 (as it may be amended or supplemented from time to time in accordance with the terms thereof, the "Indenture"), among the Issuer, the Note Guarantors and the Trustee. The terms of the Notes include those stated in the Indenture. The Notes are subject to all such terms, and Holders are referred to the Indenture for a statement of those terms. Each Holder, by accepting a Note, agrees to be bound by all of the terms and provisions of the Indenture, as amended or supplemented from time to time.

The Notes are general senior obligations, which are secured by a first priority security interest in the Collateral on an equal and ratable basis with the other Permitted Secured Obligations, subject to the Collateral release provisions set forth in the Intercreditor Agreement. €[__] in aggregate principal amount of Notes will be initially issued on the Issue Date. Subject to the conditions set forth in the Indenture and without the consent of the Holders, the Issuer may issue Additional Notes. All Notes will be treated as a single class of securities under the Indenture. The Indenture imposes certain limitations on, among other things, the ability of the Issuer and its Restricted Subsidiaries to: Incur Indebtedness, make Restricted Payments, incur Liens, designate Unrestricted Subsidiaries, make Asset Sales, enter into transactions with Affiliates, or consolidate or merge or transfer or convey all or substantially all of the Issuer's assets.

To guarantee the due and punctual payment of the principal of (and premium, if any) and interest on the Notes and all other amounts payable by the Issuer under the Indenture and the Notes when and as the same shall be due and payable, whether at maturity, by acceleration or otherwise, according to the terms of the Notes and the Indenture, CEMEX, S.A.B. de C.V., CEMEX México, S.A. de C.V. and New Sunward Holding B.V. have unconditionally guaranteed, jointly and severally, such obligations pursuant to the terms of the Indenture. Each Note Guarantee will be subject to release as provided in the Indenture.

The obligations of each Note Guarantor in respect of its Note Guarantee will be limited to the maximum amount as will, after giving effect to all other contingent and fixed liabilities of such Note Guarantor and after giving effect to any collections from or payments made by or on behalf of any other Note Guarantor in respect of the obligations of such other Note Guarantor under its Note Guarantee or pursuant to its contribution obligations under the Indenture, result in the obligations of such Note Guarantor under its Note Guarantee not constituting a fraudulent conveyance, fraudulent transfer, or similar illegal transfer under federal or state law or the law of the jurisdiction or formation and incorporation of such Note Guarantors.

5. Optional Redemption

Except as stated below, the Issuer may not redeem the Notes. The Issuer may redeem the Notes, at its option, in whole at any time or in part from time to time, on and after May 12, 2014, at the following redemption prices, expressed as percentages of the principal amount thereof, if redeemed during the twelve-month period commencing on May 12, 2014, of any year set forth below, plus any accrued and unpaid interest on the principal amount of the Notes to the date of redemption:

Year	Percentage
2014	104.438%
2015	102.219%
2016	100.000%
2017 and thereafter	100.000%

provided, however, that the Issuer shall not have the right to exercise any such optional redemption at any time when the Company is prohibited from having such an option under the Financing Agreement.

Prior to May 12, 2014, the Issuer will have the right, at its option, to redeem any of the Notes, in whole or in part, at any time or from time to time prior to their maturity at a redemption price equal to the greater of (1) 100% of the principal amount of such Notes and (2) the sum of the present value of each remaining scheduled payment of principal and interest thereon (exclusive of interest accrued to the date of redemption) discounted to the redemption date on a semi-annual basis (assuming a 360-day year consisting of twelve 30-day months) at the Bund Rate (as defined below) plus 50 basis points, plus any accrued and unpaid interest on the principal amount of the Notes to the date of redemption *provided, however,* that the Issuer shall not have the right to exercise any such optional redemption at any time when the Company is prohibited from having such an option under the Financing Agreement.

"Bund Rate" means, as of any redemption date, the yield to maturity as of such redemption date of the Comparable German Bund Issue with a constant maturity most nearly equal to the period from the redemption date to the Stated Maturity assuming a price for the Comparable German Bund Issue (expressed as a percentage of its principal amount) equal to the Comparable German Bund Price for such redemption date.

"Comparable German Bund Issue" means the German Bundesanleihe security selected by any Reference German Bund Dealer as having a fixed maturity most nearly equal to the period from such redemption date to and that would be utilized, at the time of selection and in accordance with customary financial practice, in pricing new issues euro-denominated corporate debt securities in a principal amount approximately equal to the then outstanding principal amount of the Notes and of a maturity most nearly equal to May 12, 2017; *provided, however*, that, if the period from such redemption date to May 12, 2017 is not equal to the fixed maturity of the German Bundesanleihe security selected by such Reference German Bund Dealer, the Bund Rate shall be determined by linear interpolation (calculated to the nearest one-twelfth of a year) from the yields of German Bundesanleihe securities for which such yields are given, except that if the period from such redemption date to May 12, 2017 is less than one year, a fixed maturity of one year shall be used.

"Comparable German Bund Price" means, with respect to any redemption date, the average of all Reference German Bund Dealer Quotations for such date (which, in any event, must include at least two such quotations), after excluding the highest and lowest such Reference German Bund Dealer Quotations, or if the Issuer obtains fewer than four such Reference German Bund Dealer Quotations, the average of such quotations.

"Reference German Bund Dealer" means any dealer of German Bundesanleihe securities appointed by the Issuer in good faith.

"Reference German Bund Dealer Quotations" means, with respect to each Reference German Bund Dealer and any redemption date, the average as determined by the Issuer in good faith of the bid and offered prices for the Comparable German Bund Issue (expressed in each case as a percentage of its principal amount) quoted in writing to the Issuer by such Reference German Bund Dealer at 3:30 p.m. Frankfurt, Germany, time on the third Business Day preceding the redemption date.

Optional Redemption upon Equity Offerings. At any time, or from time to time, on or prior to May 12, 2014, the Issuer may, at its option, use the net cash proceeds of one or more Equity Offerings to redeem in the aggregate up to 35% of the aggregate principal amount of the Notes issued pursuant to the Indenture at a redemption price equal to 108.875% of the principal amount thereof plus any accrued and unpaid interest on the principal amount of the Notes to the date of redemption; *provided*, that:

- after giving effect to any such redemption at least 65% of the aggregate principal amount of the Notes issued under the Indenture remains outstanding; and
- the Issuer shall make such redemption not more than 90 days after the consummation of such Equity Offering;

provided, however, that the Issuer shall not have the right to exercise any such optional redemption at any time when the Company is prohibited from exercising such an option under the Financing Agreement.

"Equity Offering" means any public or private sale of Qualified Capital Stock after the Issue Date for cash other than issuances to any Subsidiary of the Company.

Optional Redemption for Changes in Withholding Taxes. If, as a result of any amendment to, or change in, the laws (or any rules or regulations thereunder) of a Taxing Jurisdiction affecting taxation, or any amendment to or change in an official interpretation or application of such laws, rules or regulations that has a general effect, which amendment to or change of such laws, rules or regulations becomes effective on or after the Issue Date (which, in the case of a merger, consolidation or other transaction permitted and described under Article IV shall be treated for this purpose as the date of such transaction) we would be obligated, after taking all reasonable measures to avoid this requirement, to pay Additional Amounts in excess of those attributable to a withholding tax rate of 10% with respect to the Notes (see "Additional Amounts"), then, at our option, all, but not less than all, of the Notes may be redeemed at any time on giving not less than 30 nor more than 60 days' notice, at a redemption price equal to 100% of the outstanding principal amount, plus any accrued and unpaid interest on the principal amount of the Notes to the date of redemption; *provided*, *however*, that (1) no notice of redemption for tax reasons may be given earlier than 90 days prior to the earliest date on which we would be obligated to pay these Additional Amounts if a payment on the Notes were then due, and (2) at the time such notice of redemption is given such obligation to pay such Additional Amounts remains in effect; *provided further, however*, that the Issuer shall not have the right to exercise any such optional redemption at any time when the Issuer is prohibited from having such an option under the Financing Agreement.

Prior to the publication of any notice of redemption pursuant to this provision, we will deliver to the Trustee:

- an Officer's Certificate stating that we are entitled to effect the redemption and setting forth a statement of facts showing that the conditions precedent to our right to redeem have occurred, and
- an opinion of outside legal counsel of recognized standing in the affected Taxing Jurisdiction to the effect that we have or will become obligated to pay such Additional Amounts as a result of such change or amendment.

This notice, once delivered by us to the Trustee, will be irrevocable.

In the case of any partial redemption, selection of the Notes for redemption will be made in accordance with Article V of the Indenture. On and after the redemption date, interest will cease to accrue on Notes or portions thereof called for redemption as long as the Issuer has deposited with the Paying Agent funds in satisfaction of the applicable redemption price pursuant to the Indenture.

6. Mandatory Repurchase Provisions

Change Of Control Offer. Upon the occurrence of a Change of Control, each Holder of Notes will have the right to require that the Issuer purchase all or a portion (in integral multiples of €1,000) of the Holder's Notes at a purchase price equal to 101% of the principal amount thereof, plus accrued and unpaid interest through the date of purchase. Within 30 days

following the date upon which the Change of Control occurred, the Issuer must make a Change of Control Offer pursuant to a Change of Control Notice. As more fully described in the Indenture, the Change of Control Notice shall state, among other things, the Change of Control Payment Date, which must be no earlier than 30 days nor later than 60 days from the date the notice is mailed, other than as may be required by applicable law.

Asset Sale Offer. The Indenture imposes certain limitations on the ability of the Company and its Restricted Subsidiaries to make Asset Sales. In the event the proceeds from a permitted Asset Sale exceed certain amounts and are not applied as specified in the Indenture, the Company will be required to make an Asset Sale Offer to purchase to the extent of such remaining proceeds each Holder's Notes together with holders of certain other Indebtedness at 100% of the principal amount thereof, plus accrued interest (if any) to the Asset Sale Offer Payment Date, as more fully set forth in the Indenture.

7. Denominations; Transfer; Exchange

The Notes are in fully registered form without coupons, and only in denominations of principal amount of €50,000 and integral multiples of €1,000 in excess thereof. A Holder may transfer or exchange Notes in accordance with the Indenture. The Registrar may require a Holder, among other things, to furnish appropriate endorsements or transfer documents and to pay any taxes and fees required by law or permitted by the Indenture. The Registrar shall not be required to register the transfer or exchange of (x) any Note for a period beginning: (1) 15 days before the mailing of a notice of an offer to repurchase or redeem Notes and ending at the close of business on the day of such mailing or (2) 15 days before an Interest Payment Date and ending on such Interest Payment Date and (y) any Note selected for repurchase or redemption, except the unrepurchased or unredeemed portion thereof, if any.

8. Persons Deemed Owners

The registered holder of this Note may be treated as the owner of it for all purposes.

9. Unclaimed Money

If money for the payment of principal or interest remains unclaimed for two years, the Trustee or Paying Agent shall pay the money back to the Issuer at its request unless an abandoned property law designates another Person. After any such payment, Holders entitled to the money must look only to the Issuer and not to the Trustee for payment.

10. Discharge Prior to Redemption or Maturity

Subject to certain conditions set forth in the Indenture, the Issuer at any time may terminate some or all of its obligations under the Notes and the Indenture if the Issuer deposits with the Trustee Euros or European Government Obligations for the payment of principal of and interest on the Notes to redemption or maturity, as the case may be.

11. Amendment, Waiver

Subject to certain exceptions set forth in the Indenture, (i) the Indenture or the Notes may be amended or supplemented with the written consent of the Holders of at least a majority in principal amount of the then Outstanding Notes and (ii) any default (other than with respect to nonpayment or in respect of a provision that cannot be amended or supplemented without the written consent of each Holder affected) or noncompliance with any provision may be waived with the written consent of the Holders of a majority in aggregate principal amount of the then Outstanding Notes. Subject to certain exceptions set forth in the Indenture, without the consent of any Holder, the Issuer and the Trustee may amend or supplement the Indenture or the Notes to, among other things, cure any ambiguity, omission, defect or inconsistency, or to comply with Article IV of the Indenture, or to provide for uncertificated Notes in addition to or in place of certificated Notes, or to add guarantees with respect to the Notes or to secure the Notes, or to add additional covenants or surrender rights and powers conferred on the Company, or to make any change that does not adversely affect the rights of any Holder, or to provide for the issuance of Additional Notes.

12. Defaults and Remedies

If an Event of Default occurs and is continuing, the Trustee or the Holders of at least 25% in principal amount of the Outstanding Notes may declare all the Notes to be due and payable immediately. A Bankruptcy Event of Default will result in the Notes being due and payable immediately upon the occurrence of such Bankruptcy Event of Default.

Holders may not enforce the Indenture or the Notes except as provided in the Indenture. The Trustee may refuse to enforce the Indenture or the Notes unless it receives reasonable indemnity or security. Subject to certain limitations, Holders of a majority in principal amount of the Outstanding Notes may direct the Trustee in its exercise of any trust or power. The Trustee may withhold from Holders notice of any continuing Default or Event of Default (except a Default or Event of Default in payment of principal or interest) if it determines that withholding notice is in their interest.

13. Trustee Dealings with the Issuer and the Note Guarantors

Subject to certain limitations set forth in the Indenture, the Trustee under the Indenture, in its individual or any other capacity, may become the owner or pledgee of Notes and may otherwise deal with and collect obligations owed to it by the Issuer, any Note Guarantor or its Affiliates and may otherwise deal with the Issuer, any Note Guarantor or its Affiliates with the same rights it would have if it were not Trustee.

14. No Recourse Against Others

An incorporator, director, officer, employee, stockholder or controlling person, as such, of the Issuer or any Note Guarantor shall not have any liability for any obligations of the Issuer or any Note Guarantor under the Notes or the Indenture or for any claims based on, in respect of or by reason of such obligations or their creation. By accepting a Note, each holder waives and releases all such liability.

15. Authentication

Any Officer of the Issuer may sign the Notes for the Issuer by manual or facsimile signature. This Note shall not be valid until an authorized signatory of the Trustee (or an Authenticating Agent) manually signs the certificate of authentication on the other side of this Note.

16. Abbreviations

Customary abbreviations may be used in the name of a Holder or an assignee, such as TEN COM (= tenants in common), TEN ENT (= tenants by the entirety), JT TEN (= joint tenants with rights of survivorship and not as tenants in common), CUST (=custodian) and U/G/M/A (= Uniform Gift to Minors Act).

17. ISIN Numbers

Pursuant to a recommendation promulgated by the Committee on Uniform Security Identification Procedures the Issuer has caused ISIN or other similar numbers to be printed on the Notes and has directed the Trustee to use ISIN numbers in notices of redemption as a convenience to Holders. No representation is made as to the accuracy of such numbers either as printed on the Notes or as contained in any notice of redemption and reliance may be placed only on the other identification numbers placed thereon.

18. Governing Law

This Note shall be governed by, and construed in accordance with, the laws of the State of New York.

19. Currency of Account; Conversion of Currency.

Euro is the sole currency of account and payment for all sums payable by the Issuer and the Note Guarantors under or in connection with the Notes or the Indenture, including damages. The Issuer and the Note Guarantors will indemnify the Holders as provided in respect of the conversion of currency relating to the Notes and the Indenture.

20. Agent for Service; Submission to Jurisdiction; Waiver of Immunities.

The Issuer and the Note Guarantors have agreed that any suit, action or proceeding against the Issuer or any Note Guarantor brought by any Holder or the Trustee arising out of or based upon the Indenture or the Notes may be instituted in any state or federal court in The City of New York, New York. The Issuer and the Note Guarantors have irrevocably submitted to the jurisdiction of such courts for such purpose and waived, to the fullest extent permitted by law, trial by jury and any objection it may now or hereafter have to the laying of venue of any such proceeding, and any claim it may now or hereafter have that any proceeding in any such court is brought in an inconvenient forum. The Issuer and the Note Guarantors have appointed Corporate Creations Network Inc., 1040 Avenue of the Americas #2400, New York, NY 10018 (U.S.A.) as each of their authorized agent upon whom all writs, process and summonses may be served in any suit, action or proceeding arising out of or based

upon the Indenture or the Notes which may be instituted in any state or federal court in The City of New York, New York. To the extent that any of the Issuer and the Note Guarantors have or hereafter may acquire any immunity (sovereign or otherwise) from any legal action, suit or proceeding, from jurisdiction of any court or from set-off or any legal process (whether service or notice, attachment in aid or otherwise) with respect to itself or any of its property, the Issuer and the Note Guarantors have irrevocably waived and agreed not to plead or claim such immunity in respect of its obligations under the Indenture or the Notes.

The Issuer will furnish to any Holder upon written request and without charge to the Holder a copy of the Indenture which has in it the text of this Note in larger type. Requests may be made to:

CEMEX España, S.A., acting through
its Luxembourg Branch,
CEMEX España, S.A., Luxembourg Branch
16, rue Jean L'Aveugle, L-1148 Luxembourg

c/o CEMEX, S.A.B. de C.V.
Av. Ricardo Margáin Zozaya # 325
Colonia Valle del Campestre
Garza García, Nuevo León, México 66265
Tel: +5281-8888-8888

ASSIGNMENT FORM

To assign this Note, fill in the form below:

I or we assign and transfer this Note to

_____
(Print or type assignee's name, address and zip code)

_____
(Insert assignee's soc. sec. or tax I.D. No.)

and irrevocably appoint _____ as agent to transfer this Note on the books of the Issuer. The agent may substitute another to act for him.

Date: _____ Your Signature: _____

Signature Guarantee: _____
(Signature must be guaranteed)

Sign exactly as your name appears on the other side of this Note.

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

To be attached to Global Notes only:

SCHEDULE OF INCREASES OR DECREASES IN GLOBAL NOTE

The following increases or decreases in this Global Note have been made:

Date of Exchange	Amount of decrease in Principal Amount of this Global Note	Amount of increase in Principal Amount of this Global Note	Principal Amount of this Global Note following such decrease or increase	Signature of authorized signatory of Trustee or Note Custodian

OPTION OF HOLDER TO ELECT PURCHASE

If you want to elect to have this Note purchased by the Issuer pursuant to Section 3.12 or 3.8 of the Indenture, check either box:

☐ **Section 3.12** ☐ **Section 3.8**

If you want to elect to have only part of this Note purchased by the Issuer pursuant to Section 3.12 of the Indenture, state the principal amount (which must be an integral multiple of €1,000): €_____

Date: _____ Your Signature _____

(Sign exactly as your name appears on the other side of the Note)

Signature Guarantee: _____

(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

EXHIBIT C

FORM OF CERTIFICATE FOR TRANSFER PURSUANT TO REGULATION S
(DOLLAR NOTES)

[Date]

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: Structured Finance Group

Re: 9.25% U.S. Dollar-Denominated Senior Secured Notes due 2020 (the "Dollar Notes") of CEMEX España, S.A., acting through its Luxembourg Branch, CEMEX España, S.A., Luxembourg Branch (the "Issuer")

Ladies and Gentlemen:

Reference is hereby made to the Indenture, dated as of May 12, 2010 (as amended and supplemented from time to time, the "Indenture"), among the Issuer, the Note Guarantors party thereto and The Bank of New York Mellon, as Trustee. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

In connection with our proposed sale of U.S.$_____ aggregate principal amount of the Dollar Notes, which represent an interest in a 144A Global Note beneficially owned by the undersigned ("Transferor"), we confirm that such sale has been effected pursuant to and in accordance with Regulation S under the Securities Act of 1933, as amended (the "Securities Act") and, accordingly, we represent that:

(a) the offer of the Dollar Notes was not made to a person in the United States;

(b) either (i) at the time the buy order was originated, the transferee was outside the United States or we and any person acting on our behalf reasonably believed that the transferee was outside the United States or (ii) the transaction was executed in, on or through the facilities of a designated off-shore securities market and neither we nor any person acting on our behalf knows that the transaction has been pre-arranged with a buyer in the United States;

(c) no directed selling efforts have been made in the United States in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S, as applicable;

(d) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act; and

(e) we are the beneficial owner of the principal amount of Dollar Notes being transferred.

In addition, if the sale is made during a Distribution Compliance Period and the provisions of Rule 904(b)(1) or Rule 904(b)(2) of Regulation S are applicable thereto, we confirm that such sale has been made in accordance with the applicable provisions of Rule 904(b)(1) or Rule 904(b)(2), as the case may be.

You, the Issuer and the Note Guarantors are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby. Terms used in this letter have the meanings set forth in Regulation S.

Very truly yours,

[Name of Transferor]

By: _____

_____

Authorized Signature]

Signature Guarantee: _____

(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

EXHIBIT D

FORM OF CERTIFICATE FOR TRANSFER PURSUANT TO REGULATION S
(EURO NOTES)

[Date]

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: Global Structured Finance Group

Re: 8.875% Euro-Denominated Senior Secured Notes due 2017 (the "Euro Notes") of CEMEX España, S.A., acting through its Luxembourg Branch, CEMEX España, S.A., Luxembourg Branch (the "Issuer")

Ladies and Gentlemen:

Reference is hereby made to the Indenture, dated as of May 12, 2010 (as amended and supplemented from time to time, the "Indenture"), among the Issuer, the Note Guarantors party thereto and The Bank of New York Mellon, as Trustee. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

In connection with our proposed sale of €_____ aggregate principal amount of the Euro Notes, which represent an interest in a 144A Global Note beneficially owned by the undersigned ("Transferor"), we confirm that such sale has been effected pursuant to and in accordance with Regulation S under the Securities Act of 1933, as amended (the "Securities Act") and, accordingly, we represent that:

(a) the offer of the Euro Notes was not made to a person in the United States;

(b) either (i) at the time the buy order was originated, the transferee was outside the United States or we and any person acting on our behalf reasonably believed that the transferee was outside the United States or (ii) the transaction was executed in, on or through the facilities of a designated off-shore securities market and neither we nor any person acting on our behalf knows that the transaction has been pre-arranged with a buyer in the United States;

(c) no directed selling efforts have been made in the United States in contravention of the requirements of Rule 903(b) or Rule 904(b) of Regulation S, as applicable;

(d) the transaction is not part of a plan or scheme to evade the registration requirements of the Securities Act; and

(e) we are the beneficial owner of the principal amount of Euro Notes being transferred.

In addition, if the sale is made during a Distribution Compliance Period and the provisions of Rule 904(b)(1) or Rule 904(b)(2) of Regulation S are applicable thereto, we confirm that such sale has been made in accordance with the applicable provisions of Rule 904(b)(1) or Rule 904(b)(2), as the case may be.

You, the Issuer and the Note Guarantors are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby. Terms used in this letter have the meanings set forth in Regulation S.

Very truly yours,

[Name of Transferor]

By: _____

_____

Authorized Signature]

Signature Guarantee: _____

(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

EXHIBIT E

FORM OF CERTIFICATION FOR TRANSFER PURSUANT TO RULE 144
(DOLLAR NOTES)

[Date]

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: Global Structured Finance Group

Re: 9.25% U.S. Dollar-Denominated Senior Secured Notes due 2020 (the "Dollar Notes") of CEMEX España, S.A., acting through its Luxembourg Branch, CEMEX España, S.A., Luxembourg Branch (the "Issuer")

Ladies and Gentlemen:

Reference is hereby made to the Indenture, dated as of May 12, 2010 (as amended and supplemented from time to time, the "Indenture"), among the Issuer, the Note Guarantors named therein and The Bank of New York Mellon, as Trustee. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

In connection with our proposed sale of U.S.$_____ aggregate principal amount of the Dollar Notes, which represent an interest in a 144A Global Note beneficially owned by the undersigned ("Transferor"), we confirm that such sale has been effected pursuant to and in accordance with Rule 144 under the Securities Act.

You, the Issuer and the Note Guarantors are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

Very truly yours,

[Name of Transferor]

By: _____

_____
Authorized Signature

Signature Guarantee: _____
(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

EXHIBIT F

FORM OF CERTIFICATION FOR TRANSFER PURSUANT TO RULE 144

[Date]

The Bank of New York Mellon
101 Barclay Street – 4E
New York, NY 10286
Attention: Global Structured Finance Group

Re: 8.875% Euro-Denominated Senior Secured Notes due 2017 (the "Euro Notes") of CEMEX España, S.A., acting through its Luxembourg Branch, CEMEX España, S.A., Luxembourg Branch (the "Issuer")

Ladies and Gentlemen:

Reference is hereby made to the Indenture, dated as of May 12, 2010 (as amended and supplemented from time to time, the "Indenture"), among the Issuer, the Note Guarantors named therein and The Bank of New York Mellon, as Trustee. Capitalized terms used but not defined herein shall have the meanings given them in the Indenture.

In connection with our proposed sale of €_____ aggregate principal amount of the Euro Notes, which represent an interest in a 144A Global Note beneficially owned by the undersigned ("Transferor"), we confirm that such sale has been effected pursuant to and in accordance with Rule 144 under the Securities Act.

You, the Issuer and the Note Guarantors are entitled to rely upon this letter and are irrevocably authorized to produce this letter or a copy hereof to any interested party in any administrative or legal proceedings or official inquiry with respect to the matters covered hereby.

Very truly yours,

[Name of Transferor]

By: _____

_____
Authorized Signature

Signature Guarantee: _____
(Signature must be guaranteed)

The signature(s) should be guaranteed by an eligible guarantor institution (banks, stockbrokers, savings and loan associations and credit unions with membership in an approved signature guarantee medallion program), pursuant to Exchange Act Rule 17Ad-15.

EXHIBIT G

"CONSOLIDATED LEVERAGE RATIO" AND RELATED DEFINITIONS

"Acceptable Bank" means:

(a) a bank or financial institution which has a rating for its long-term unsecured and non credit- enhanced debt obligations of A- or higher by S&P or A- or higher by Fitch or A3 or higher by Moody's or a comparable rating from an internationally recognised credit rating agency;

(b) any other bank or financial institution in a jurisdiction in which a member of the Group conducts commercial operations where such member of the Group, in the ordinary course of trading, subscribes for certificates of deposit issued by such bank or financial institution; or

(c) any other bank or financial institution approved by the Administrative Agent.

"Accession Letter" means a document substantially in the form set out in Schedule 4 (*Form of Accession Letter*) of the Financing Agreement.

"Additional Guarantor" means a company that becomes an Additional Guarantor in accordance with Clause 28 (*Changes to the Obligors*) of the Financing Agreement.

"Additional Security Provider" means a company that becomes an Additional Security Provider in accordance with Clause 28 (*Changes to the Obligors*) of the Financing Agreement.

"Administrative Agent" means Citibank International PLC, as administrative agent of the Finance Parties (other than itself) under the Financing Agreement.

"Affiliate" means, in relation to any person, a Subsidiary of that person or a Holding Company of that person or any other Subsidiary of that Holding Company.

"Applicable GAAP" means:

(a) in the case of the Company, Mexican FRS or, if adopted by the Company in accordance with Clause 22.3 (*Requirements as to financial statements*) of the Financing Agreement, IFRS;

(b) in the case of CEMEX España, Spanish GAAP or, if adopted by CEMEX España in accordance with Clause 22.3 (*Requirements as to financial statements*) of the Financing Agreement, IFRS; and

(c) in the case of any other Obligor, the generally accepted accounting principles applying to it in the country of its incorporation or in a jurisdiction agreed to by the Administrative Agent or, if adopted by the relevant Obligor, IFRS.

"Authorised Signatory" means, in relation to any Obligor, any person who is duly authorised and in respect of whom the Administrative Agent has received a certificate signed by a director or another Authorised Signatory of such Obligor setting out the name and signature of such person and confirming such person's authority to act.

"Banobras Facility" means a revolving loan agreement (*Contrato de Apertura de Crédito en Cuenta Corriente*) between CEMEX CONCRETOS, S.A. de CV., as borrower and Banco Nacional de Obras y Servicios Públicos, Sociedad Nacional de Crédito, Institución de Banca de Desarrollo, as lender (**"Banobras"**), in an aggregate principal amount equal to Mex$5,000,000,000.00 (five billion pesos), dated April 22, 2009, which was formalized by means of public deeds number 116,380 and 116,381 dated April 22, 2009, granted before Mr. José Angel Villalobos Magaña, notary public number 9 for Mexico, Federal District.

"Base Currency" means US dollars.

"Base Currency Amount" means on any date:

(a) in relation to an amount or Exposure denominated in the Base Currency, that amount or the amount of that Exposure; and

(b) in relation to an amount or Exposure denominated in a currency other than the Base Currency, that amount or the amount of that Exposure converted into the Base Currency at:

  (i) for the purposes of determining the Majority Participating Creditors, the exchange rate displayed on the appropriate Reuters screen at or about 11:00 a.m. New York City time, on the date on which such determination is made (or if the agreed page is replaced or services cease to be available, the Administrative Agent may specify another page or service displaying the appropriate rate after consultation with the Company and the Participating Creditors); and

  (ii) for all other purposes, the exchange rate displayed on the appropriate Reuters screen at or about 11:00 a.m. New York City time, on the date which is five (5) Business Days before that date (or if the agreed page is replaced or services cease to be available, the Administrative Agent may specify another page or service displaying the appropriate rate after consultation with the Company and the Participating Creditors).

"Bilateral Bank Facilities" means the facilities described in Part IB of Part II of Schedule 1 (*The Original Participating Creditors*) of the Financing Agreement.

"Borrower" means an Original Borrower unless it has ceased to be a Borrower in accordance with Clause 28.2 (*Resignation of a Borrower*) of the Financing Agreement.

"Business Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in Luxembourg, Madrid, New York, Amsterdam and Mexico City (in the case of Mexico City, if applicable, as specified by a governmental authority), and:

(a) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, a currency other than euro) the principal financial centre of the country of that currency; or

(b) (in relation to any date for payment or lending or purchase of, or the determination of an interest rate or rate of exchange in relation to, euro) any TARGET Day.

"Business Plan" means the five year business plan of the Group delivered in conjunction with the Financing Agreement.

"Capital Expenditure" means any expenditure or obligation in respect of expenditure which, in accordance with Applicable GAAP of the Company, is treated as capital expenditure (and including the capital element of any expenditure or obligation incurred in connection with a Capital Lease) (and, solely for the purposes of paragraph (c) of Clause 23.2 (*Financial condition*) of the Financing Agreement, the maximum amount of Capital Expenditure of the Group permitted in the Financial Year ending on or about 31 December 2009 will be increased by an amount not exceeding $50,000,000 in aggregate to the extent necessary to take into account currency fluctuations or additional costs and expenses contemplated by (or that have occurred since the date of) the Business Plan).

"Capital Lease" means, as to any person, the obligations of such person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of the Company under Applicable GAAP and the amount of such obligations at any time shall be the capitalized amount thereof at such time determined in accordance with Applicable GAAP of the Company.

"Capital Stock" means any and all shares, interests, participations or other equivalents (however designed) of capital stock of a corporation, any and all equivalent ownership interests in a person (other than a corporation) and any and all warrants, rights or options to purchase any of the foregoing.

"Cash Equivalent Investments" means at any time:

(a) certificates of deposit maturing within one year after the relevant date of calculation and issued by an Acceptable Bank;

(b) any investment in marketable debt obligations issued or expressly guaranteed by the government of Mexico, the United States of America (or any state thereof (including any political subdivision of such state)), the United Kingdom, any member state of the European Economic Area or any Participating Member State or any member state of NAFTA (or any other jurisdiction in which a member of the Group conducts commercial operations if that member of the Group makes investments in such debt obligations in the ordinary course of its trading) or by an instrumentality or agency of any of them having an equivalent credit rating, maturing within one year after the relevant date of calculation and not convertible or exchangeable to any other security;

(c) commercial paper not convertible into or exchangeable for any other security:

(i) for which a recognised trading market exists;

(ii) issued by an issuer incorporated in Mexico, the United States of America (or any state thereof (including any political subdivision of such state)), the United Kingdom, any member state of the European Economic Area or any Participating Member State or any member state of NAFTA (or any other jurisdiction in which a member of the Group makes investments in such debt obligations in the ordinary course of trading);

(iii) which matures within one year after the relevant date of calculation; and

(iv) which has a credit rating of either A-1 or higher by S&P or F1 or higher by Fitch or P-1 or higher by Moody's, or, if no rating is available in respect of the commercial paper, the issuer of which has, in respect of its long-term unsecured and non-credit enhanced debt obligations, an equivalent rating;

(d) sterling bills of exchange eligible for rediscount at the Bank of England and accepted by an Acceptable Bank (or their dematerialised equivalent);

(e) any investment in money market funds which (i) have a credit rating of either A-1 or higher by S&P or F1 or higher by Fitch or P-1 or higher by Moody's, (ii) which invest substantially all their assets in securities of the types described in paragraphs (a) to (d) above and (f) and (g) below and (iii) can be turned into cash on not more than 30 days' notice; or

(f) any deposit issued by any of Nacional Financiera, S.N.C., Banco Nacional de Comercio Exterior, S.N.C., Banco National de Obras y Sevicios Públicos, S.N.C. or any other development bank controlled by the Mexican government;

(g) any other debt instrument rated "investment grade" (or the local equivalent thereof according to local criteria in a country in which any member of the Group conducts commercial operations and in which local pensions are permitted by law to invest) with maturities of 12 months or less from the date of acquiring such investment;

(h) investments in mutual funds, managed by banks or financial institutions, with a local currency credit rating of at least MxAA by S&P or equivalent by any other reputable local rating agency, that invest principally in marketable direct obligations issued by the Mexican government, or issued by any agency or instrumentality thereof; and

(i) any other debt security, certificate of deposit, commercial paper, bill of exchange, investment in money market funds or material funds approved by the Majority Participating Creditors,

in each case, to which any member of the Group is alone (or together with other members of the Group) beneficially entitled at that time and which is not issued or guaranteed by any member of the Group or subject to any Security (other than Security arising under the Transaction Security Documents).

"Change of Control" means that the beneficial ownership (within the meaning of Rule 13d-3 promulgated by the SEC under the Securities Exchange Act of 1934, as amended) of 20 per cent. or more in voting power of the outstanding voting stock of the Company is acquired by any person, *provided* that the acquisition of beneficial ownership of capital stock of the Company by Lorenzo H. Zambrano or any member of his immediate family shall not constitute a Change of Control.

"Charged Property" means all of the assets of the Security Providers which from time to time are, or are expressed to be, the subject of the Transaction Security.

"Compliance Certificate" means a certificate substantially in the form set out in Schedule 5 (*Form of Compliance Certificate*) of the Financing Agreement.

"Consolidated Coverage Ratio" means, on any date of determination, the ratio of (a) EBITDA for the one (1) year period ending on such date to (b) Consolidated Interest Expense for the one (1) year period ending on such date.

"Consolidated Debt" means, at any date, the sum (without duplication) of (a) the aggregate amount of all Debt of the Company and its Subsidiaries at such date, which shall include the amount of any recourse in respect of Inventory Financing permitted under paragraph (e) of the definition of Permitted Financial Indebtedness, *plus* (b) to the extent not included in Debt, the aggregate net mark-to-market amount of all derivative financing in the form of equity swaps outstanding at such date (except to the extent such exposure is cash collateralized to the extent permitted under the Finance Documents).

"Consolidated Funded Debt" means, for any period, Consolidated Debt less the sum (without duplication) of (i) all obligations of such person to pay the deferred purchase price of property or services, (ii) all obligations of such person as lessee under Capital Leases, and (iii) all obligations of such person with respect to product invoices incurred in connection with export financing.

"Consolidated Interest Expense" means, for any period, the sum of the (1) total gross cash and non cash interest expense of the Company and its consolidated Subsidiaries relating to Consolidated Funded Debt of such persons, (2) any amortization or accretion of debt discount or any interest paid on Consolidated Funded Debt of such person and its Subsidiaries in the form of additional Financial Indebtedness (but excluding any amortization of deferred financing and debt issuance costs), (3) the net costs under Treasury Transactions in respect of interest rates (but excluding amortization of fees), (4) any amounts paid in cash on preferred stock, and (5) any interest paid or accrued in respect of Consolidated Funded Debt without a maturity date, regardless of whether considered interest expense under Applicable GAAP of the Company. For purposes of calculating Consolidated Interest Expense for the Reference Period ending 30 June 2010, $131,406,696.17 shall be deducted, constituting the amount of interest paid in respect of perpetual debentures on 1 July 2009 for the period ending 30 June 2009.

"Consolidated Leverage Ratio" means, on any date of determination, the ratio of (a) Consolidated Funded Debt on such date to (b) EBITDA for the one (1) year period ending on such date.

"Core Bank Facilities" means the Syndicated Bank Facilities, the Bilateral Bank Facilities and the Promissory Notes.

"Creditor's Representative" means:

(a) with respect to each of the Syndicated Bank Facilities, the person appointed as the agent of the creditors in relation to such Facility under the Existing Finance Documents relating to such Facility;

(b) with respect to each other Core Bank Facility, the Participating Creditor with an Exposure under that Facility; and

(c) with respect to each USPP Note, the Participating Creditor with an Exposure under that USPP Note.

"Debt" of any person means, without duplication, (i) all obligations of such person for borrowed money, (ii) all obligations of such person evidenced by bonds, debentures, notes or other similar instruments, including the perpetual bonds, (iii) the aggregate net mark-to-market of Treasury Transactions (except to the extent such exposure is cash collateralized to the extent permitted under the Finance Documents) of such person but excluding Treasury Transactions relating to the rate or price of energy or any commodity, (iv) all obligations of such person to pay the deferred purchase price of property or services, except trade accounts payable arising in the ordinary course of trading, (v) all obligations of such person as lessee under Capital Leases, (vi) all Debt of others secured by Security on any asset of such person, up to the value of such asset, (vii) all obligations of such person with respect to product invoices incurred in connection with export financing, (viii) all obligations of such person under repurchase agreements for the stock issued by such person or another person, (ix) all obligations of such person in respect of Inventory Financing permitted under paragraph (e) of the definition of Permitted Financial Indebtedness and (x) all guarantees of such person in respect of any of the foregoing; *provided*, *however*, that for the purposes of calculating the Consolidated Funded Debt element of the Consolidated Leverage Ratio, Relevant Convertible/Exchangeable Obligations shall be excluded from each of the foregoing paragraphs (i) to (x) inclusive (*provided* that, in the case of outstanding Financial Indebtedness under any Subordinated Optional Convertible Securities (1) only the principal amount thereof shall be excluded and (2) such exclusion shall apply only for so long as such amounts remain subordinated in accordance with the terms of that definition) and (b) amounts falling within paragraph (v) of the definition of Excluded Fundraising Proceeds, for the period in which they are held by the Company or any member of the Group pending application in accordance with the terms of the Financing Agreement, shall be deducted from the aggregate Debt calculation resulting from this definition. For the avoidance of doubt, all letters of credit, banker's acceptances or similar credit transactions, including reimbursement obligations in respect thereof are not Debt until they are required to be funded.

"Debt Documents" means the Finance Documents, the "Refinancing Documents" (as defined in the Intercreditor Agreement) and the "Noteholder Documents" (as defined in the Intercreditor Agreement).

"Delegate" means any delegate, agent, attorney or co-trustee appointed by the Security Agent.

"Discontinued EBITDA" means, for any period, the sum for Discontinued Operations of (a) operating income (*utilidad de operación*), and (b) depreciation and amortization expense, in each case determined in accordance with Applicable GAAP of the Company consistently applied for such period.

"Discontinued Operations" means operations that are accounted for as discontinued operations pursuant to Applicable GAAP of the Company for which the Disposal of such assets has not yet occurred.

"Disposal" means a sale, lease, license, transfer, loan or other disposal by a person of any asset (including shares in any Subsidiary or other company), undertaking or business (whether by a voluntary or involuntary single transaction or series of transactions).

"Disposal Proceeds" means:

(a) the cash consideration received by any member of Group (including any amount received from a person who is not a member of the Group in repayment of intercompany debt save to the extent that the creditor in respect of the intercompany debt is obliged to repay that amount to the purchaser at or about completion of the Disposal) for any Disposal;

(b) any proceeds of any Disposal received in the form of Marketable Securities that are required to be disposed of for cash (after deducting reasonable expenses incurred by the party disposing of those Marketable Securities to persons other than members of the Group) pursuant to the criteria set out at paragraph (h) of the definition of Permitted Disposal; and

(c) any proceeds of any Disposal received in any other form to the extent disposed of or otherwise converted into cash within 90 days of receipt; and

(d) any consideration falling within paragraphs (a) to (c) above that is received by any member of the Group from the Disposal of assets of the Group in Venezuela prior to the date of the Financing Agreement, but excluding any Excluded Disposal Proceeds and, in every case, after deducting:

(1) any reasonable expenses which are incurred by the disposing party of such assets with respect to that Disposal to persons who are not members of the Group;

(2) any Tax incurred and required to be paid by the disposing party in connection with that Disposal (as reasonably determined by the disposing party on the basis of rates existing at the time of the disposal and taking account of any available credit, deduction or allowance);

"EBITDA" means, for any period, the sum for the Company and its Subsidiaries, determined on a consolidated basis of (a) operating income (*Utilidad de Operación*), and (b) depreciation and amortization expense, in each case determined in accordance with Applicable GAAP of the Company, subject to the adjustments herein, consistently applied for such period and adjusted for Discontinued EBITDA as follows: if the amount of Discontinued EBITDA is a positive amount, then EBITDA shall increase by such amount, and if the amount of Discontinued EBITDA is a negative amount, then EBITDA shall decrease by the absolute value of such amount. For the purposes of calculating EBITDA for any applicable period pursuant to any determination of the Consolidated Leverage Ratio (but not the Consolidated Coverage Ratio): (A) (i) if at any time

during such applicable period the Borrower or any of its Subsidiaries shall have made any Material Disposal, the EBITDA for such applicable period shall be reduced by an amount equal to the EBITDA (if positive) attributable to the property that is the subject of such Material Disposal for such applicable period (but when the Material Disposal is by way of lease, income received by the Company or any of its Subsidiaries under such lease shall be included in EBITDA) and (ii) if at any time during such applicable period the Company or any of its Subsidiaries shall have made any Material Acquisition, EBITDA for such applicable period shall be calculated after giving pro forma effect thereto as if such Material Acquisition had occurred on the first day of such applicable period. Additionally, if since the beginning of such applicable period any person that subsequently shall have become a Subsidiary or was merged or consolidated with the Company or any of its Subsidiaries as a result of a Material Acquisition occurring during such applicable period shall have made any Material Disposal or Material Acquisition of property that would have required an adjustment pursuant to clause (i) or (ii) above if made by the Company or any of its Subsidiaries during such applicable period, EBITDA for such period shall be calculated after giving *pro forma* effect thereto as if such Material Disposal or Material Acquisition had occurred on the first day of such applicable period; and (B) EBITDA will be recalculated by multiplying each month's EBITDA by the Ending Exchange Rate and dividing the amount obtained thereto by the exchange rate used by the Company in preparation of its monthly financial statements in accordance with Applicable GAAP of the Company to convert $ into Mexican pesos (such recalculated EBITDA being the **"Recalculated EBITDA"**).

"Ending Exchange Rate" means the exchange rate at the end of a Reference Period for converting $ into Mexican pesos as used by the Company and its auditors in preparation of the Company's financial statements in accordance with Applicable GAAP of the Company.

"Excluded Disposal Proceeds" means the proceeds of any Disposal of:

(i) inventory or trade receivables in the ordinary course of trading of the disposing entity;

(ii) assets pursuant to a Permitted Securitisation programme existing as at the date of the Financing Agreement (or any rollover or extension of such a Permitted Securitisation);

(iii) any asset from any member of the Group to another member of the Group on arm's length terms and for fair market or book value;

(iv) any assets the consideration for which (when aggregated with the consideration for any related Disposals) is less than $5,000,000 (or its equivalent in any other currency);

(v) assets leased or licensed to any director, officer or employee of any member of the Group in connection with and as part of the ordinary course of the service or employment arrangements of the Group;

(vi) Marketable Securities (other than Marketable Securities received as consideration for a Disposal as envisaged in paragraphs (b) and (c) of the definition of Disposal Proceeds); and

(vii) any cash or other assets arising out of or in connection with any Permitted Call Transaction, including, but not limited to any settlement, disposal, transfer, assignment, closeout or other termination of such Permitted Call Transaction.

"Excluded Fundraising Proceeds" means the proceeds of:

(i) a Permitted Fundraising falling within paragraph (f)(i) of the definition of Permitted Financial Indebtedness entered into for the purpose of refinancing or extending the maturity of Existing Financial Indebtedness falling within paragraph (a) of the definition thereof (or paragraph (b) of the definition thereof, to the extent that it relates to Short Term Certificados Bursatiles) (and, in the case of a refinancing, where the proceeds that would, but for this paragraph (i), constitute "Permitted Fundraising Proceeds", are actually applied for such purpose as soon as reasonably practicable (and in any event within 90 days) following receipt of those proceeds by any member of the Group);

(ii) a Permitted Fundraising falling within paragraph (f)(ii) of the definition of Permitted Financial Indebtedness entered into for the purpose of refinancing or extending the maturity of Existing Financial Indebtedness falling within paragraphs (a) to (e) of the definition thereof (and, in the case of a refinancing, where the proceeds that would, but for this paragraph (ii), constitute "Permitted Fundraising Proceeds", are actually applied for such purpose as soon as reasonably practicable (and in any event within 90 days) following receipt of those proceeds by any member of the Group).

(iii) any transaction between members of the Group;

(iv) Permitted Securitisations;

(v) a Permitted Fundraising falling within paragraph (c) of that definition provided that any Relevant Existing Financial Indebtedness due to mature within the particular Relevant Prepayment Period and the proceeds of such Permitted Fundraising are to be applied in accordance with Clause 13.3 (*Mandatory prepayments: Certificados Bursatiles Reserve*) of the Financing Agreement;

(vi) subject to Clause 13.4(ii) of the Financing Agreement, a Permitted Fundraising falling within paragraph (c) of that definition and applied or to be applied in accordance with Clause 13.4 (*Mandatory prepayments: Subordinated Optional Convertible Securities Issuance*) of the Financing Agreement; and

(vii) a Permitted Fundraising arising out of or in connection with any Permitted Call Transaction, including, but not limited to, any settlement, disposal, transfer, assignment, close-out or other termination of such Permitted Call Transaction.

"Executive Compensation Plan" means any stock option plan, restricted stock plan or retirement plan which the Company or any other Obligor customarily provides to its employees, consultants and directors.

"Existing Facility Agreements" means the facility agreements and other documents described in Part II, Schedule 1 (*The Original Participating Creditors*) of the Financing Agreement.

"Existing Finance Documents" means each Existing Facility Agreement, the USPP Note Guarantee, the "Finance Documents" as defined in any Existing Facility Agreement and the "Facility Transaction Documents" as defined in Exhibit H to the NY Law Amendment Agreement (but in each case excluding any document that is designated a **"Finance Document"** or **"Facility Transaction Document"** by an Obligor and the relevant Creditor's Representative under an Existing Facility Agreement after the date of the Financing Agreement).

"Existing Financial Indebtedness" means:

(a) the Financial Indebtedness described in Part I of Schedule 10 (
amount of such Financial Indebtedness does not increase above the principal amount outstanding as at the date of the Financing Agreement (except by the amount of any capitalised interest under any facility or instrument that provided for capitalisation of interest on those terms as at the date of the Financing Agreement) less the amount of any repayments and prepayments made in respect of such Financial Indebtedness;

(b) the Financial Indebtedness described in Part II of Schedule 10 (*Existing Financial Indebtedness)* of the Financing Agreement and any Short-Term Certificados Bursatiles, working capital or other operating facilities that replace or refinance such Financial Indebtedness;

(c) the Financial Indebtedness described in Part III of Schedule 10 (*Existing Financial Indebtedness*) of the Financing Agreement and any Capital Leases that replace (and relate to the same or similar assets as) such Financial Indebtedness;

(d) the Financial Indebtedness described in Part IV of Schedule 10 (*Existing Financial Indebtedness*) of the Financing Agreement and any inventory Financing or factoring arrangements that replace (and relate to the same or similar assets as) such Financial Indebtedness; and

(e) the Banobras Facility and any other facility that replaces or refinances such facility, *provided* that any such replacement or refinancing facility is (i) with a development bank controlled by the Mexican Government or (ii) with any other financial institution to finance public works or infrastructure assets,

provided that (i) the aggregate principal amount of such Existing Financial Indebtedness falling under each of paragraphs (b) to (e) of this definition shall not be increased above the principal amount of Financial Indebtedness committed or capable of being drawn down under the Financial Indebtedness referred to in that paragraph of this definition as at the date of the Financing Agreement (except by the amount of any capitalised interest under any facility or instrument that provided for capitalisation of interest on those terms as at the date of the Financing Agreement) and (ii), for the avoidance of doubt, any refinancing or replacement of Existing Financial Indebtedness falling within paragraphs (b) to (d) above need not satisfy the requirements of paragraph (f) of the definition of Permitted Financial Indebtedness.

"Exposure" means, at any time:

(a) in relation to a Participating Creditor and a Syndicated Bank Facility or Bilateral Bank Facility, that Participating Creditor's participation in Loans made under the relevant Facility at that time;

(b) in relation to Participating Creditor and a Promissory Note, the principal amount owed to that Participating Creditor under that Promissory Note at that time; and

(c) in relation to a Participating Creditor and a USPP Note, the principal amount owed to that Participating Creditor under that USPP Note at that time.

"Facility" means a Core Bank Facility and each USPP Note.

"Fee Letter" means any letter or agreement between the Administrative Agent or Security Agent and the Company setting out (1) the upfront fee and (ii) the level of fees payable in respect of the services and obligations performed by those agents under the relevant New Finance Documents.

"Finance Party" means the Administrative Agent, the Security Agent, each Creditor's Representative or a Participating Creditor.

"Finance Document" means each New Finance Document and each Existing Finance Document.

"Financial Indebtedness" means any indebtedness for or in respect of:

(a) moneys borrowed and debit balances at banks or other financial institutions;

(b) any acceptance under any acceptance credit or bill discounting facility (or dematerialised equivalent);

(c) any amount raised pursuant to a note purchase facility or the issue of bonds, notes, debentures, loan stock or any similar instrument (including, without limitation, any perpetual bonds);

(d) the amount of any liability in respect of any lease or hire purchase contract which would (in accordance with Applicable GAAP of the Company) be treated as a finance or capital lease;

(e) receivables sold or discounted (other than any receivables to the extent they are sold on a non-recourse basis and meet any requirement for de-recognition under Applicable GAAP of the Company);

(f) any Treasury Transaction (and, when calculating the value of that Treasury Transaction, only the mark-to-market value (or, if any actual amount is due as a result of the termination or close-out of that Treasury Transaction, that amount) shall be taken into account);

(g) any counter-indemnity obligation in respect of a guarantee, bond, standby or documentary letter of credit or any other instrument issued by a bank or financial institution;

(h) any amount raised by the issue of redeemable shares which are redeemable (other than at the option of the issuer) before the Termination Date or are otherwise classified as borrowings under Applicable GAAP of the Company;

(i) any amount of any liability under an advance or deferred purchase agreement if (i) one of the primary reasons behind entering into the agreement is to raise finance or to finance the acquisition or construction of the asset or service in question or (ii) the agreement is in respect of the supply of assets or services and payment is due more than 60 days after the date of supply;

(j) any arrangement pursuant to which an asset sold or otherwise disposed of by that person may be re-acquired by a member of the Group (whether following the exercise of an option or otherwise) and any Inventory Financing;

(k) any amount raised under any other transaction (including any forward sale or purchase, sale and sale back or sale and leaseback agreement) having the commercial effect of a borrowing or otherwise classified as borrowings under Applicable GAAP of the Company; and

(l) the amount of any liability in respect of any guarantee for any of the items referred to in paragraphs (a) to (k) above.

"Financial Quarter" means the period commencing on the day after one Quarter Date and ending on the next Quarter Date.

"Financial Year" means the annual accounting period of the Company ending on or about 31 December in each year.

"Fitch" means Fitch Ratings Limited or any successor thereto from time to time.

"Group" means the Company and each of its Subsidiaries for the time being.

"Guarantors" means the Original Guarantors and any Additional Guarantor other than any Original Guarantor or Additional Guarantor which has ceased to be a Guarantor pursuant to Clause 28.4 (*Resignation of Guarantor*) of the Financing Agreement and has not subsequently become an Additional Guarantor pursuant to Clause 28.3 (*Additional Guarantors and Additional Security Providers*) of the Financing Agreement and **"Guarantor"** means any of them.

"Holding Company" means, in relation to a company or corporation, any other company or corporation in respect of which it is a Subsidiary.

"IFRS" means international accounting standards within the meaning of IAS Regulation 1606/2002 to the extent applicable to the relevant financial statements.

"Intellectual Property" means:

(a) any patents, trademarks, service marks, designs, business names, copyrights, design rights, data-base rights, inventions, knowhow and other intellectual property rights and interests, whether registered or unregistered; and

(b) the benefit of all applications and rights to use such assets of each member of the Group.

"Intercreditor Agreement" means the intercreditor agreement dated on or about the date of the Financing Agreement and made between, among others, the Company, Wilmington Trust (London) Limited as Security Agent, Citibank International PLC as Administrative Agent, the Participating Creditors and any other creditors of the Group that may accede to it from time to time in accordance with its terms, as such agreement may be amended, modified or waived from time to time.

"Inventory Financing" means a financing arrangement pursuant to which a member of the Group sells inventory to a bank or other institution (or a special purpose vehicle or partnership incorporated or established by or on behalf of such bank or other institution or an Affiliate of such bank or other institution) and has an obligation to repurchase such inventory to the extent that it is not sold to a third party within a specified period.

"Joint Venture" means any joint venture entity, whether a company, unincorporated firm, undertaking, association, joint venture or partnership or any other entity.

"Joint Venture Investment" has the meaning given to such term in sub-paragraph (b)(ii) of the definition of Permitted Joint Venture.

"Loan" means:

(a) in relation to a Syndicated Bank Facility or Bilateral Bank Facility, a loan made or to be made under such Facility or the principal amount outstanding for the time being of that loan; and

(b) in relation to a Promissory Note, the Exposure of the Participating Creditors for the time being under that Promissory Note.

"Majority Participating Creditors" means, at any time, a Participating Creditor or Participating Creditors the Base Currency Amount of whose Exposures under the Facilities at that time aggregate 66.67 per cent. or more of the Base Currency Amount of all the Exposures of the Participating Creditors under all of the Facilities at that time.

"Marketable Securities" means securities (whether equity, debt or other securities) which are listed on a stock exchange or for which a trading market exists (whether on market or over the counter) but excluding: (A) shares in any member of the Group, and (B) any shares in Axtel, S.A.B. de C.V.

"Material Acquisition" means any (a) acquisition of property or series of related acquisitions of property that constitutes assets comprising all or substantially all of an operating unit, division or line of business or (b) acquisition of or other investment in the Capital Stock of any Subsidiary or any person which becomes a Subsidiary or is merged or consolidated with the Borrower or any of its Subsidiaries, in each case, which involves the payment of consideration by the Borrower and its Subsidiaries in excess of $100,000,000 (or the equivalent in other currencies).

"Material Disposal" means any Disposal of property or series of related Disposals of property that yields gross proceeds to the Company or any of its Subsidiaries in excess of $100,000,000 (or the equivalent in other currencies).

"Mexican FRS" means Mexican Financial Reporting Standards (*Normas de Información Financiera*) as in effect from time to time.

"Mexican pesos", **"Mex$"**, **"MXN"** and **"pesos"** means the lawful currency of Mexico.

"Mexico" means the United Mexican States.

"Moody's" means Moody's Investor Services Limited or any successor to its ratings business.

"NAFTA" means the North American Free Trade Agreement.

"New Finance Document" means the Financing Agreement, the NY Law Amendment Agreement, the Intercreditor Agreement, each Transaction Security Document, any Accession Letter, any Fee Letter, any Resignation Letter and any other document designated as a **"New Finance Document"** by the Administrative Agent and the Company.

"NY Law Amendment Agreement" means the omnibus amendment agreement dated on or about the date of the Finance Agreement between, among others, the Company and the Participating Creditors with Exposures under those Existing Facility Agreements (other than the USPP Note Agreement) that are governed by the laws of the State of New York.

"Obligors" means the Borrowers, the Guarantors and the Security Providers and **"Obligor"** means any of them.

"Original Borrowers" means, together with the Company, the Subsidiaries of the Company listed in Part I of Schedule 1 (*The Original Parties*) of the Financing Agreement as borrowers or issuers.

"Original Financial Statements" means in relation to the Company, its audited unconsolidated and consolidated financial statements for its Financial Year ended 31 December 2008 accompanied by an audit opinion of KPMG Cardenas Dosal, S.C.

"Original Guarantors" means the Subsidiaries of the Company listed in Part I of Schedule 1 (*The Original Parties*) of the Financing Agreement as guarantors, together with the Company.

"Original Participating Creditors" means the financial institutions and noteholders listed in Part II of Schedule 1 (*The Original Participating Creditors*) of the Financing Agreement as creditors.

"Original Security Providers" means the Subsidiaries of the Company listed in Part I of Schedule 1 (*The Original Parties*) of the Financing Agreement as security providers.

"Party" means a party to the Financing Agreement.

"Participating Member State" means any member state of the European Union that adopts or has adopted the euro as its lawful currency in accordance with legislation of the European Union relating to Economic and Monetary Union.

"Participating Creditor" means:

(a) any Original Participating Creditor; and

(b) any person which has become a Party in accordance with Clause 27 (*Changes to the Participating Creditors*), of the Financing Agreement,

which in each case has not ceased to be a Party in accordance with the terms of the Financing Agreement.

"Permitted Acquisition" means:

(a) an acquisition by a member of the Group of an asset sold, leased, transferred or otherwise disposed of by another member of the Group in circumstances constituting a Permitted Disposal;

(b) an acquisition of shares or securities pursuant to a Permitted Share Issue;

(c) an acquisition of cash or securities which are Cash Equivalent Investments;

(d) an acquisition to which a member of the Group is contractually committed as at the date of the Financing Agreement, with the material terms of those acquisitions requiring consideration payable in excess of $10,000,000 described in the list delivered to the Administrative Agent under paragraph 4(f) of Part I (*Initial Conditions Precedent*) of Schedule 2 of the Financing Agreement (*provided* that there has been or is no material change to the terms of such acquisition subsequent to the date of the Financing Agreement);

(e) the incorporation of a company which on incorporation becomes a member of the Group or which is a special purpose vehicle, whether a member of the Group or not;

(f) an acquisition that constitutes a Permitted Joint Venture;

(g) an acquisition of assets and, if applicable, cash, in exchange for other assets and, if applicable, cash, of equal or higher value, *provided* that: (i) the cash element of any such acquisition must not be more than 20 per cent. of the aggregate consideration for the acquisition; and (ii) the maximum aggregate market value of the assets acquired pursuant to all such transactions must not be more than $100,000,000 (or its equivalent in any other currency) in any Financial Year;

(h) any acquisition of shares of the Company pursuant to an obligation in respect of any Executive Compensation Plan;

(i) any other acquisition consented to by the Administrative Agent acting on the instructions of the Majority Participating Creditors;

(j) an acquisition of shares in the Company to the extent that a member of the Group has an obligation to deliver such shares to any holder(s) of convertible securities falling within paragraph (f)(i) of the definition of Permitted Financial Indebtedness pursuant to the terms of such convertible securities; and

(k) any other acquisition of a company, of shares, securities or a business or undertaking (or, in each case, any interest in any of them), *provided* that the aggregate amount of the consideration for such acquisitions (when aggregated with the aggregate amount of Joint Venture Investment falling within paragraph (b)(iii)(1) of the definition of Permitted Joint Venture in that Financial Year) does not exceed $100,000,000 (or its equivalent in any other currencies) in any Financial Year.

"Permitted Call Transaction" means any call spread or capped call transaction entered into, sold or purchased in connection with any issuance of Subordinated Optional Convertible Securities.

"Permitted Disposal" means any sale, lease, licence, transfer or other disposal which, except in the case of Disposals as between members of the Group, is on arm's length terms:

(a) of trading stock or cash made by any member of the Group in the ordinary course of trading of the disposing entity;

(b) of any asset by a member of the Group (the **"Disposing Company"**) to another member of the Group (the **"Acquiring Company"**), but if:

(i) the Disposing Company is an Obligor, the Acquiring Company must also be an Obligor;

(ii) the Disposing Company had given Transaction Security over the asset, the Acquiring Company must give equivalent Transaction Security over that asset; and

(iii) the Disposing Company is a Guarantor, the Acquiring Company must be a Guarantor guaranteeing at all times an amount no less than that guaranteed by the Disposing Company,

provided that the conditions set out in paragraphs (i), (ii) and (iii) above shall only apply if the applicable assets are shares or if all or substantially all of the assets of the Disposing Company are being disposed of;

(c) of obsolete or redundant vehicles, machinery, parts and equipment in the ordinary course of trading;

(d) of cash or Cash Equivalent Investments for cash or in exchange for other Cash Equivalent Investments;

(e) constituted by a licence of Intellectual Property in the ordinary course of trading;

(f) to a Joint Venture, to the extent permitted by Clause 24.17 (*Joint ventures*) of the Financing Agreement;

(g) arising as a result of any Permitted Security;

(h) of any shares in a member of the Group (*provided* that all such shares in that entity owned by a member of the Group are the subject of the Disposal) or of any other asset, in each case on arm's length terms and for full market value where:

(i) no less than 85 per cent. of the consideration for the Disposal is payable to the Group in cash or Marketable Securities paid or received by a member of the Group at completion of the Disposal (*provided* that where a portion of that 85 per cent. is comprised of Marketable Securities, those Marketable Securities must be disposed of for cash to a person that is not a member of the Group within 90 days of completion);

(ii) if the aggregate consideration for the Disposal (when aggregated with the consideration for any related Disposals) is equal to 5 per cent. or more of the value of consolidated assets of the Group, the Company has delivered to the Administrative Agent a certificate signed by an Authorised Signatory confirming that, on a pro forma basis, assuming that the Disposal had been completed and the proceeds had been applied in accordance with Clause 13 (*Mandatory Prepayment*) of the Financing Agreement immediately prior to the first day of the most recent Reference Period for which a Compliance Certificate has been or is required to have been delivered under the Financing Agreement, the Company would have been in compliance with the financial covenants in paragraphs (a) and (b) of Clause 23.2 (*Financial condition*) of the Financing Agreement as at the last day of the most recent Reference Period for which a Compliance Certificate has been or is required to have been delivered under the Financing Agreement; and

(iii) the Disposal Proceeds received by members of the Group are applied (to the extent required) in accordance with Clause 13 (*Mandatory prepayment*) of the Financing Agreement;

(i) of any asset compulsorily acquired by a governmental authority, *provided* that the Disposal Proceeds received by members of the Group are applied (to the extent required) in accordance with Clause 13 (*Mandatory prepayment*) of the Financing Agreement;

(j) of any receivables disposed of pursuant to a factoring or similar receivables financing arrangement that is otherwise permitted under the Financing Agreement (including, for the avoidance of doubt, the Banobras Facility);

(k) of any inventory disposed of pursuant to an Inventory Financing or similar arrangement that is otherwise permitted under the Financing Agreement;

(l) of any plant or equipment disposed of pursuant to a sale and lease-back arrangement that is otherwise permitted under the Financing Agreement;

(m) of any asset to which a member of the Group was contractually committed as at the date of the Financing Agreement, with all material terms of those disposals which relate to the disposal of assets with a value of at least $10,000,000 being described in Schedule 14 (*Disposals*) of the Financing Agreement (*provided* that there has been or is no material change to the terms of such Disposal subsequent to the date of the Financing Agreement);

(n) of receivables disposed of pursuant to a Permitted Securitisation;

(o) of land or buildings arising as a result of lease or licence in the ordinary course of its trading;

(p) of any shares of the Company pursuant to an obligation in respect of any Executive Compensation Plan;

(q) of shares, common equity securities in the Company or reference property in connection with the same to the extent that a member of the Group has an obligation to deliver such shares, common equity securities or reference property to any holder(s) of convertible or exchangeable securities falling within paragraph (f)(i) of the definition of Permitted Financial Indebtedness pursuant to the terms of such convertible or exchangeable securities;

(r) of assets and, if applicable, cash in exchange for other assets and, if applicable, cash, of equal or higher value, *provided* that: (i) the cash element of any such Disposal must not be more than 20 per cent. of the aggregate consideration for the Disposal; and (ii) the maximum aggregate market value of all assets disposed of in such transactions must not be more than $100,000,000 (or its equivalent in any other currencies) in any Financial Year; or

(s) otherwise approved by the Administrative Agent acting on the instructions of the Majority Participating Creditors.

"Permitted Financial Indebtedness" means Financial Indebtedness:

(a) incurred or arising under the Finance Documents;

(b) that is Existing Financial Indebtedness;

(c) owed to a member of the Group;

(d) that constitutes a Permitted Securitisation;

(e) arising under Capital Leases, factoring arrangements, Inventory Financing arrangements or export credit facilities for the purchase of equipment (*provided* that any Security granted in relation to any such facility relates solely to equipment, the purchase of which was financed under such Facility) or pursuant to sale and lease-back transactions, *provided* that the maximum aggregate Financial Indebtedness of members of the Group under such transactions (excluding any Existing Financial Indebtedness) does not exceed $350,000,000 at any time;

(f) arising:

(i) pursuant to an issuance of bonds, notes or other debt securities, or of convertible or exchangeable securities by:

(A) in the case of bonds, notes or other debt securities or convertible or exchangeable securities issued to refinance or replace Existing Financial Indebtedness falling within Part I of Schedule 10 (*Existing Financial Indebtedness*) of the Financing Agreement, one or more Obligors (other than CEMEX Materials LLC and CEMEX, Inc.) or the same member of the Group (including, where applicable, CEMEX Materials LLC and CEMEX, Inc.) that issued the relevant Existing Financial Indebtedness that is being refinanced or replaced (whether acting as co-issuers or otherwise but, for the avoidance of doubt, with several liability only); or

(B) in the case of bonds, notes or other debt securities or convertible or exchangeable securities issued so as to be applied in repayment or prepayment of the Exposures of the Participating Creditors under the Facilities, one or more Obligors (other than CEMEX Materials LLC and CEMEX, Inc.) whether acting as co-issuers or otherwise, (and, for the avoidance of doubt, such securities may be issued with an original issue discount) on the capital markets in each case subscribed or paid for in full in cash on issue (unless such securities are exchanged on issue for other securities that constitute Existing Financial Indebtedness falling within paragraph (a) of the definition thereof on issue), *provided* that (other than any conversion into common equity securities of the Company) no principal repayments are scheduled (and no call options can be exercised) in respect thereof until after the Termination Date;

(ii) under a loan facility in respect of which the only borrowers are:

(A) in the case of loan facilities entered into to refinance or replace Existing Financial Indebtedness falling within Part I of Schedule 10 (*Existing Financial Indebtedness*) of the Financing Agreement one or more Obligors (other than CEMEX Materials LLC and CEMEX, Inc.) or the same member of the Group (including, where applicable, CEMEX Materials LLC and CEMEX, Inc.) that borrowed the relevant Existing Financial Indebtedness that is being refinanced or replaced (whether acting as joint or multiple borrowers but for the avoidance of doubt, with several liability only); or

(B) in the case of loan facilities entered into so as to refinance or replace the Exposures of the Participating Creditors under the Facilities, one or more Obligors (other than CEMEX Materials LLC and CEMEX, Inc.) whether acting as joint or multiple borrowers,

provided that no principal repayments are scheduled (and no mandatory prepayment obligations arise save as a result of unlawfulness affecting a creditor in respect of such loan facility) in respect thereof until after the Termination Date, and *further provided* that (1) the terms applicable to such issuance under paragraph (f)(i) (excluding pricing, but including, without limitation, as to prepayments, representations, covenants, events of default, guarantees and security) taken as a whole are no more restrictive or onerous than the terms applicable to the Facilities, and the terms applicable to such incurrence under paragraph (f)(ii) (excluding pricing, but including, without limitation, as to prepayments, representations, covenants, events of default, guarantees and security) are no more restrictive or onerous than the terms applicable to the Facilities; (2) the proceeds of such issuance or incurrence are applied (to the extent required) in accordance with Clause 13 (*Mandatory prepayment*) of the Financing Agreement; (3) if proceeds of such issuance or incurrence are, to the extent required under the Financing Agreement, being used to replace or refinance Financial Indebtedness which shares in the Transaction Security, such Financial Indebtedness shall be entitled to share in the Transaction Security in accordance with (and on the terms of) the Intercreditor Agreement; and (4) for the avoidance of doubt, any refinancing or replacement of Existing Financial Indebtedness falling within paragraphs (b) to (d) of the definition of Existing Financial Indebtedness need not satisfy the requirements of this paragraph (f);

(g) that constitutes a Permitted Liquidity Facility;

(h) that becomes Financial Indebtedness solely as a result of any change in Applicable GAAP of the Company after the date of the Financing Agreement and that existed prior to the date of such change in Applicable GAAP of the Company (or that replaces, and is on substantially the same terms as, such Financial Indebtedness);

(i) of any person acquired by a member of the Group pursuant to an acquisition falling within paragraphs (d) or (f) of the definition of Permitted Acquisition, *provided* that: (i) such Financial Indebtedness existed prior to the date of the acquisition and was not incurred, increased or extended in contemplation of, or since, the acquisition; and (ii) the aggregate amount of any such Financial Indebtedness of members of the Group does not exceed $100,000,000 at any time;

(j) under Treasury Transactions entered into in accordance with Clause 24.26 (*Treasury Transactions*) of the Financing Agreement;

(k) incurred pursuant to or in connection with any cash pooling or other cash management agreements in place with a bank or financial institution, but only to the extent of offsetting credit balances of the Company or its Subsidiaries pursuant to such cash pooling or other cash management arrangement;

(l) constituting Financial Indebtedness for taxes levied, assessments due and other governmental charges required to be paid as a matter of law or regulation in the ordinary course of trading;

(m) that constitutes a Permitted Joint Venture;

(n) approved by the Administrative Agent acting on the instructions of the Majority Participating Creditors; and

(o) that, when aggregated with the principal amount of any other Financial Indebtedness not falling within paragraphs (a) to (n) above, does not exceed $200,000,000 (or its equivalent in other currencies) in aggregate at any time.

"Permitted Fundraising" means:

(a) any issuance of equity securities by the Company paid for in full in cash on issue (and, for the avoidance of doubt, such securities may be issued with an original issue discount) and not redeemable on or prior to the Termination Date and where such issue does not lead to a Change of Control;

(b) any issuance of equity-linked securities issued by any member of the Group that are linked solely to, and result only in the issuance of, equity securities of the Company otherwise entitled to be issued under this definition (and that do not, for the avoidance of doubt, result in the issuance of any equity securities by such member of the Group) and that are paid for in full in cash on issue (and, for the avoidance of doubt, such securities may be issued with an original issue discount) and where such issue does not lead to a Change of Control (*provided* that such securities do not provide for the payment of interest in cash and are not redeemable on or prior to the Termination Date); and

(c) any incurrence of Financial Indebtedness falling within paragraph (f) of the definition of Permitted Financial Indebtedness.

"Permitted Fundraising Proceeds" means the cash proceeds received by any member of the Group from a Permitted Fundraising other than Excluded Fundraising Proceeds after deducting:

(i) any reasonable expenses which are incurred by the relevant member(s) of the Group with respect to that Permitted Fundraising owing to persons who are not members of the Group; and

(ii) any Tax incurred and required to be paid by the relevant member(s) of the Group with respect to that Permitted Fundraising (as reasonably determined by the relevant member(s) of the Group on the basis of rates existing at the time and taking account of any available credit, deduction or allowance).

"Permitted Joint Venture" means any investment in any Joint Venture where:

(a) such investment exists or a member of the Group is contractually committed to such investment at the date of the Financing Agreement and, if the value of the Group's investment in such Joint Venture is $50,000,000 or greater (as shown in the Original Financial Statements of the Company) is detailed in Schedule 12 (*Permitted Joint Ventures*) of the Financing Agreement; or

(b) such investment is made after the date of the Financing Agreement and:

(i) either the investment has been consented to by the Administrative Agent acting on the instructions of the Majority Participating Creditors or the Joint Venture is engaged in a business substantially the same as that carried on by the Group; and

(ii) in any Financial Year of the Company, the aggregate of:

(1) all amounts subscribed for shares in, lent to, or invested in all such Joint Ventures by any member of the Group;

(2) the contingent liabilities of any member of the Group under any guarantee given in respect of the liabilities of any such Joint Venture; and

(3) the market value of any assets transferred by any member of the Group to any such Joint Venture,

minus

(4) from and including 1 January 2010, an amount up to, but not exceeding, $100,000,000 (or its equivalent in other currencies) in any Financial Year that represents all cash amounts received by any member of the Group (i) relating to dividends, repayment of loans or distributions of any other nature in respect of any such Joint Ventures in that Financial Year and (ii) as a result of or in relation to any disposals of shares, interests or participations, divestments, capital reductions or any similar decreases of interest in any such Joint Ventures in that Financial Year,

does not exceed $100,000,000 (or its equivalent in other currencies) or such greater amount as the Administrative Agent (acting on the instructions of the Majority Participating Creditors) may agree (such amount being the "Joint Venture Investment"); and

(iii) the Company has (by written notice to the Administrative Agent prior to the end of the Financial Year in which the investment is made) designated the Joint Venture investment as counting against:

(1) paragraph (k) of the definition of Permitted Acquisition; or

(2) the maximum amount of Capital Expenditure permitted in that Financial Year under paragraph (c) of Clause 23.2 (*Financial condition*) of the Financing Agreement.

"Permitted Liquidity Facilities" means a loan facility or facilities made available to one or more members of the Group by one or more Participating Creditors (or their respective Affiliates), *provided* that the aggregate principal amount of utilised and unutilised commitments under such facilities must not exceed $1,000,000,000 (or its equivalent in any other currency) at any time.

"Permitted Securitisations" means a transaction or series of related transactions providing for the securitisation of receivables and related assets by the Company or its Subsidiaries, including a sale at a discount, *provided* that (i) such receivables have been transferred, directly or indirectly, by the originator thereof to a person that is not a member of the Group in a manner that satisfies the requirements for an absolute conveyance (or, where the originator is organised in Mexico, a true sale), and not merely a pledge, under the laws and regulations of the jurisdiction in which such originator is organised; and (ii) except for customary representations, warranties, covenants and indemnities, such sale, transfer or other securitisation is carried out on a non-recourse basis or on a basis where recovery is limited solely to the collection of the relevant receivables.

"Permitted Security" means:

(A) Security for taxes, assessments and other governmental charges the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Applicable GAAP of the Company shall have been made;

(B) Security granted pursuant to or in connection with any netting or set-off arrangements entered into in the ordinary course of trading (including, for the avoidance of doubt, any cash pooling or cash management arrangements in place with a bank or financial institution falling within paragraph (k) of the definition of Permitted Financial Indebtedness);

(C) statutory liens of landlords and liens of carriers, warehousemen, mechanics and materialmen incurred in the ordinary course of business for sums not yet due or the payment of which is being contested in good faith by appropriate proceedings promptly initiated and diligently conducted and for which such reserves or other appropriate provision, if any, as shall be required by Applicable GAAP of the Company shall have been made;

(D) liens incurred or deposits made in the ordinary course of business in connection with (1) workers' compensation, unemployment insurance and other types of social security, or (2) other insurance maintained by the Group in accordance with Clause 24.9 (*Insurance*) of the Financing Agreement;

(E) any attachment or judgment lien, unless the judgment it secures shall not, within 60 days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been discharged within 60 days after the expiration of any such stay;

(F) Security and Quasi-Security existing on the date of the Financing Agreement as described in Schedule 6 (*Existing Security and Quasi-Security*) of the Financing Agreement (or any replacement of Security or Quasi-Security in accordance with paragraph 3 of Schedule 15 (*Hedging Parameters*) of the Financing Agreement or any equivalent Security or Quasi-Security for Existing Financial Indebtedness that is a refinancing or replacement of Existing Financial Indebtedness), *provided* that the principal amount secured thereby is not increased (save that principal amounts secured by Security or Quasi-Security in respect of:

(1) Treasury Transactions where there are fluctuations in the mark-to-market exposures of those Treasury Transactions;

(2) Existing Financial Indebtedness under paragraph (a) of the definition where principal may increase by virtue of capitalisation of interest; and,

(3) the Banobras Facility, where further drawings may be made, *provided* that the maximum amount outstanding under such facility does not exceed Mex$5,000,000,000 at any time,

may be increased by the amount of such fluctuations or capitalisations, as the case may be);

(G) any Security or Quasi-Security permitted by the Administrative Agent, acting on the instructions of the Majority Participating Creditors;

(H) any Security created or deemed created pursuant to a Permitted Securitisation;

(I) any Security granted by any member of the Group to secure Financial Indebtedness under a Permitted Liquidity Facility, *provided* that: (1) such Security is not granted in respect of assets that are the subject of the Transaction Security; and (2) the maximum aggregate amount of the Financial Indebtedness secured by such Security does not exceed $500,000,000 at any time;

(J) any Security granted by the Company or any member of the Group incorporated in Mexico in favour of a Mexican development bank (*sociedad national de crédito*) controlled by the government of Mexico (including Banco Nacional de Comercio Exterior, S.N.C., and Banco Nacional de Obras y Sevicios Públicos, S.N.C.) securing indebtedness of the members of the Group in an aggregate additional amount of such indebtedness not exceeding $250,000,000 (or its equivalent in any other currency);

(K) any Security or Quasi-Security granted in connection with any Treasury Transaction, excluding any Treasury Transaction described in Schedule 6 (*Existing Security and Quasi-Security*) of the Financing Agreement, that constitutes Permitted Financial Indebtedness, *provided* that the aggregate value of the assets that are the subject of such Security or Quasi-Security does not exceed $200,000,000 (or its equivalent in other currencies) at any time;

(L) Security or Quasi-Security granted or arising over receivables, inventory, plant or equipment that are the subject of an arrangement falling within paragraph (e) of the definition of Permitted Financial Indebtedness;

(M) the Transaction Security including, for the avoidance of doubt, any sharing in the Transaction Security referred to in paragraph (f) of the definition of Permitted Financial Indebtedness;

(N) any Quasi-Security that is created or deemed created on shares of the Company under paragraph (q) of the definition of Permitted Disposals by virtue of such shares being held on trust for the holders of the convertible securities pending exercise of any conversion option, where such Quasi-Security is customary for such transaction;

(O) in addition to the Security and Quasi-Security permitted by the foregoing paragraphs (A) to (N), Security or Quasi-Security securing indebtedness of the Company and its Subsidiaries (taken as a whole) not in excess of $500,000,000.

"Permitted Share Issue" means:

(a) a Permitted Fundraising falling within paragraphs (a) or (b) of the definition thereof;

(b) an issue of shares by a member of the Group which is a Subsidiary of the Company to another member of the Group or the Company (and, where the member of the Group has a minority shareholder, to that minority shareholder on a pro rata basis) where (if the existing shares of the Subsidiary are the subject of the Transaction Security) the newly-issued shares also become subject to the Transaction Security on the same terms;

(c) an issue of shares by the Company to comply with an obligation in respect of any Executive Compensation Plan; or

(d) an issue of common equity securities of the Company either (i) by the Company or (ii) to any member of the Group where the Company or that member of the Group has an obligation to deliver such shares to the holder(s) of convertible or exchangeable securities falling within paragraph (f)(i) of the definition of Permitted Financial Indebtedness pursuant to the terms of such convertible or exchangeable securities.

"Promissory Notes" means the promissory notes described in Part II of Schedule 1 (*The Original Participating Creditors*) of the Financing Agreement.

"Quarter Date" means each of 31 March, 30 June, 30 September and 31 December.

"Quasi Security" means an arrangement or transaction in which the Company or any Subsidiary:

(i) sells, transfers or otherwise disposes of any of its assets on terms whereby they are or may be leased to or re-acquired by an Obligor or any other member of the Group;

(ii) sells, transfers or otherwise disposes of any of its receivables on recourse terms;

(iii) enters into any arrangement under which money or the benefit of a bank or other account may be applied, set-off or made subject to a combination of accounts; or

(iv) enters into any other preferential arrangement having a similar effect,

in circumstances where the arrangement or transaction is entered into primarily as a method of raising Financial Indebtedness or of financing the acquisition of an asset.

"Receiver" means a receiver or receiver and manager or administrative receiver of the whole or any part of the Charged Properties.

"Reference Period" means a period of four consecutive Financial Quarters.

"Relevant Convertible/Exchangeable Obligations" means: (a) any Financial indebtedness incurred by any person the terms of which provide that satisfaction of the principal amount owing under such Financial Indebtedness (whether on or prior to its maturity and whether as a result of bankruptcy, liquidation or other default by such person or otherwise) shall occur solely by delivery of shares or common equity securities in the Company; and (b) any Financial Indebtedness under any Subordinated Optional Convertible Securities.

"Relevant Existing Financial Indebtedness" means any Existing Financial Indebtedness set out in:

(i) paragraph (a) of the definition of Existing Financial Indebtedness to the extent that it relates to Part I.C (*Mexican Public Debt Instruments*) of Schedule 10 (*Existing Financial Indebtedness*) of the Financing Agreement; and/or

(ii) paragraph (b) of the definition of Existing Financial Indebtedness to the extent it relates to Part II.A (*Short Term Certificados Bursatiles*) of Schedule 10 (*Existing Financial Indebtedness*) of the Financing Agreement and any Short-Term Certificados Bursatiles that replace or refinance such Existing Financial Indebtedness.

"Relevant Prepayment Period" means:

(i) where the proceeds of a Permitted Fundraising are received by a member of the Group before (and including) 30 September 2010, the period commencing on the date of receipt of such proceeds and ending on the date falling 364 days thereafter;

(ii) where the proceeds of a Permitted Fundraising are received by a member of the Group after (but not including) 30 September 2010 but before (and including) 31 March 2011, the period commencing on the date of receipt of such proceeds and ending on 30 September 2011; or

(iii) where the proceeds of a Permitted Fundraising are received by a member of the Group after (but not including) 31 March 2011, the period commencing on the date of receipt of such proceeds and ending on the date falling 180 days thereafter.

"Resignation Letter" means a document substantially in the form set out in Part I of Schedule 11 (*Form of Resignation Letter*) of the Financing Agreement.

"SEC" means the U.S. Securities Exchange Commission and any successor thereto.

"Secured Parties" means each Finance Party from time to time to the Financing Agreement and any Receiver or Delegate.

"Security" means a mortgage, charge, pledge, lien, security trust or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect.

"Security Agent" means Wilmington Trust (London) Limited as security agent of the Secured Parties.

"Security Providers" means the Original Security Providers and any Additional Security Provider other than any Original Security Provider or Additional Security Provider which has ceased to be a Security Provider pursuant to Clause 28.6 (*Resignation of a Security Provider*) of the Financing Agreement and has not subsequently become an Additional Security Provider pursuant to Clause 28.3 (*Additional Guarantors and Additional Security Providers*) of the Financing Agreement, and **"Security Provider"** means any of them.

"Short-Term Certificados Bursatiles" means any securities with a term of not more than 12 months issued by the Company in the Mexican capital markets with the approval of the Mexican National Banking and Securities Banking and Securities Commission and listed on the Mexican Stock Exchange.

"Syndicated Bank Facilities" means the facilities described in Part IA of Part II of Schedule 1 (*The Original Participating Creditors*) of the Financing Agreement.

"Spanish GAAP" means the Spanish General Accounting Plan (*Plan general Contable*) approved by Royal Decree 1514/2007 as in effect from time to time and consistent with those used in the preparation of the most recent audited financial statements referred to in Clause 22.1 (*Financial Statements*) of the Financing Agreement.

"S&P" means Standard & Poor's Rating Services, a division of The McGraw-Hill Companies, Inc., or any successor thereto from time to time.

"Subordinated Optional Convertible Securities" means any Financial Indebtedness incurred by any member of the Group meeting the requirements of paragraph (f)(i) of the definition of Permitted Financial Indebtedness (including that no principal repayments are scheduled (and no call options can be exercised) until after the Termination Date) (which may, for the avoidance of doubt, include a fundraising the proceeds of which are applied in accordance with Clause 13.4 (*Mandatory prepayments: Subordinated Optional Convertible Securities Issuance*) of the Financing Agreement)) the terms of which provide that such indebtedness is capable of optional conversion into equity securities of the Company and that repayment of principal and accrued but unpaid interest thereon is subordinated (under terms customary for an issuance of such Financial Indebtedness) to all senior Financial Indebtedness of the Company (including, but not

limited to, all Exposures of Participating Creditors) except for *:* (i) indebtedness that states, or is issued under a deed, indenture, agreement or other instrument that states, that it is subordinated to or ranks equally with any Subordinated Optional Convertible Securities and (ii) indebtedness between or among members of the Group.

"Subsidiary" means in relation to any company or corporation, a company or corporation:

(a) which is controlled, directly or indirectly, by the first mentioned company or corporation;

(b) more than half the issued share capital of which is beneficially owned, directly or indirectly by the first mentioned company or corporation; or

(c) which is a Subsidiary of another Subsidiary of the first mentioned company or corporation,

and for this purpose, a company or corporation shall be treated as being controlled by another if that other company or corporation is able to direct its affairs and/or to control the composition of its board of directors or equivalent body.

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

"TARGET Day" means any day on which TARGET2 is open for the settlement of payments in euro.

"Tax" means any tax, levy, impost, duty or other charge, deduction or withholding of a similar nature (including any penalty or interest payable in connection with any failure to pay or any delay in paying any of the same).

"Termination Date" means 14 February 2014.

"Transaction Security" means the Security created or expressed to be created in favour of the Security Agent pursuant to the Transaction Security Documents.

"Transaction Security Documents" means each of the documents listed as being a Transaction Security Document in paragraph 2(e) of Part I of Schedule 2 (*Conditions Precedent*) of the Financing Agreement and any document required to be delivered to the Administrative Agent under paragraph 3(d) of Part II of Schedule 2 (*Conditions Precedent*) of the Financing Agreement together with any other document entered into by any Obligor creating or expressed to create any Security over all or any part of its assets in respect of the obligations of any of the Obligors under any of the Finance Documents (and any other Debt Documents).

"Treasury Transactions" means any derivatives transaction (i) that is a rate swap transaction, swap option, basis swap, forward rate transaction, commodity swap, commodity option, equity or equity index swap, equity or equity index option, bond option, interest rate option, foreign exchange transaction, cap transaction, floor transaction, collar transaction, currency swap transaction, cross-currency rate swap transaction, currency option, credit protection transaction, credit swap, credit default swap, credit default option, total return swap, credit spread

transaction, repurchase transaction, reverse repurchase transaction, buy/sell-back transaction, securities lending transaction, weather index transaction or forward purchase or sale of a security, commodity or other financial instrument or interest (including any option with respect to any of these transactions), (ii) that is a type of transaction that is similar to any transaction referred to in clause (i) above that is currently, or in the future becomes, recurrently entered into in the financial markets and that is a forward, swap, future, option or other derivative (including one or more spot transactions that are equivalent to any of the foregoing) on one or more rates, currencies, commodities, equity securities or other equity instruments, debt securities or other debt instruments, economic indices or measures of economic risk or value, or other benchmarks against which payments or deliveries are to be made or (iii) that is a combination of these transactions, it being understood that any Executive Compensation Plan permitted by the Financing Agreement is not a Treasury Transaction.

"USPP Note" means a note issued under the USPP Note Agreement.

"USPP Note Agreement" means the consolidated, amended and restated note purchase agreement described in Part II of Schedule 1 (*Original Participating Creditors*) of the Financing Agreement.

"USPP Note Guarantee" means the consolidated, amended and restated note guarantee granted in favour of the USPP Noteholders.

"USPP Noteholders" means the holders from time to time of the notes issued pursuant to the USPP Note Agreement.

Exhibit 8.1

List of Subsidiaries

The following is a list of the significant subsidiaries of CEMEX, S.A.B. de C.V. as of December 31, 2009, including the name of each subsidiary and its country of incorporation:

1. CEMEX Mexico, S.A. de C.V.	Mexico
2. Empresas Tolteca de Mexico, S.A. de C.V.	Mexico
3. CEMEX España, S.A.	Spain
4. CEMEX Construction Materials Florida, LLC	United States
5. CEMEX Materials, LLC	United States
6. CEMEX Agregados, S.A. de C.V.	Mexico
7. CEMEX Central, S.A. de C.V.	Mexico
8. Centro Distribuidor de Cementos, S.A. de C.V.	Mexico
9. CEMEX Concretos, S.A. de C.V.	Mexico
10. CEMEX, S.A.B. de C.V.	Mexico
11. CEMEX Transporte, S.A. de C.V.	Mexico
12. Petrocemex, S.A. de C.V.	Mexico
13. Proveedora Mexicana de Materiales, S.A. de C.V.	Mexico
14. Servicios Cemento CEMEX, S.A. de C.V.	Mexico
15. Servicios Concreto CEMEX, S.A. de C.V.	Mexico
16. Servicios CEMEX Mexico, S.A. de C.V.	Mexico
17. Neoris Consulting Services, S.A. de C.V.	Mexico
18. Cemento Bayano, S.A.	Panama
19. CEMEX Denmark, ApS	Denmark
20. Construction Funding Corporation	Ireland
21. CEMEX España LLC	United States
22. Sunbulk Shipping N.V.	Netherlands Antilles
23. CEMEX (Costa Rica), S.A.	Cosa Rica

24. CEMEX Finance Europe B.V.	Netherlands
25. New Sunward Holding B.V.	Netherlands
26. CEMEX Colombia, S.A.	Colombia
27. Apo Cement Corporation	Philippines
28. Solid Cement Corporation	Philippines
29. Assiut Cement Company	Egypt
30. CEMEX Hungaria Kft.	Hungary
31. Embra As	Norway
32. CEMEX Hrvatska d.d.	Croatia
33. CEMEX Polska Sp. Z.O.O.	Poland
34. CEMEX Holdings (Israel) Ltd.	Israel
35. CEMEX UK MATERIALS LIMITED	United Kingdom
36. CEMEX UK CEMENT LIMITED	United Kingdom
37. CEMEX INVESTMENTS LIMITED	United Kingdom
38. CEMEX UK OPERATIONS LIMITED	United Kingdom
39. Transenergy, Inc.	United States
40. CEMEX, Inc.	United States
41. CEMEX Construction Materials Pacific, LLC	United States
42. CEMEX Construction Materials South LLC	United States
43. Guernsey Stone Company	United States
44. CEMEX Deutschland AG	Germany
45. CEMEX OstZement GmbH	Germany
46. CEMEX Logistik GmbH	Germany
47. CEMEX WestZement GmbH, Beckum	Germany

Exhibit 12.1

Certification of the Principal Executive Officer of
CEMEX, S.A.B. de C.V.
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

CERTIFICATIONS

I, Lorenzo H. Zambrano, certify that:

1. I have reviewed this annual report on Form 20-F of CEMEX, S.A.B. de C.V.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;

4. The company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and

5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: June 30, 2010

/s/ Lorenzo H. Zambrano
Lorenzo H. Zambrano
Chief Executive Officer
CEMEX, S.A.B. de C.V.

Exhibit 12.2

Certification of the Principal Financial Officer of
CEMEX, S.A.B. de C.V.
Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

CERTIFICATIONS

I, Fernando A. González, certify that:

1. I have reviewed this annual report on Form 20-F of CEMEX, S.A.B. de C.V.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the company as of, and for, the periods presented in this report;

4. The company's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the company and have:

   (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the company, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   (c) Evaluated the effectiveness of the company's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the company's internal control over financial reporting that occurred during the period covered by the annual report that has materially affected, or is reasonably likely to materially affect, the company's internal control over financial reporting; and

5. The company's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the company's auditors and the audit committee of the company's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the company's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the company's internal control over financial reporting.

Date: June 30, 2010

/s/ Fernando A. González
Fernando A. González
Executive Vice President of Planning and Finance
CEMEX, S.A.B. de C.V.

Exhibit 13.1

Certification of the Principal Executive and Financial Officers of
CEMEX, S.A.B. de C.V.
Pursuant to 18 U.S.C. Section 1350,
as Adopted Pursuant to
Section 906 of the Sarbanes-Oxley Act of 2002

In connection with the Annual Report on Form 20-F of CEMEX, S.A.B. de C.V. (the "Company") for the year ended December 31, 2009, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), Lorenzo H. Zambrano, as Chief Executive Officer of the Company, and Fernando A. González, as Executive Vice President of Planning and Finance of the Company, each hereby certifies, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to the best of his knowledge:

(1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company as of the dates and periods set forth therein.

/s/ Lorenzo H. Zambrano
Name: Lorenzo H. Zambrano
Title: Chief Executive Officer
Date: June 30, 2010

/s/ Fernando A. González
Name: Fernando A. González
Title: Executive Vice President of Planning and Finance
Date: June 30, 2010

This certification is furnished as an exhibit to the Report and accompanies the Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934, as amended.

Exhibit 14.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders
CEMEX, S.A.B. de C.V.:

We hereby consent to the incorporation by reference in (i) the Registration Statement on Form S-8 (File No. 333-13970) of CEMEX, S.A.B. de C.V., (ii) the Registration Statement on Form S-8 (File No. 333-83962) of CEMEX, S.A.B. de C.V., (iii) the Registration Statement on Form S-8 (File No. 333-86090) of CEMEX, S.A.B. de C.V., (iv) the Registration Statement on Form S-8 (File No.333-128657) of CEMEX, S.A.B. de C.V. and (v) the Registration Statement on Form F-3 (File No. 333-161787) of CEMEX, S.A.B. de C.V. of our reports dated June 25, 2010, with respect to the consolidated balance sheets of CEMEX, S.A.B. de C.V. and subsidiaries (the Company) as of December 31, 2009 and 2008, and the related consolidated statements of income and changes in stockholders' equity for the years ended December 31, 2009, 2008 and 2007, and the related statements of cash flows for the years ended December 31, 2009 and 2008, and the related statement of changes in financial position for the year ended December 31, 2007, and the effectiveness of internal control over financial reporting as of December 31, 2009, which reports appear in the December 31, 2009 Annual Report on Form 20-F of CEMEX, S.A.B. de C.V.

KPMG Cárdenas Dosal, S.C.

/s/ Celin Zorrilla Rizo

Monterrey, N.L., Mexico
June 29, 2010