

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

**FORM 10-Q**

(Mark One)

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

**For the quarterly period ended 31 March 2010**

**OR**

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

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

**Commission file number 1-4534**

**AIR PRODUCTS AND CHEMICALS, INC.**

(Exact Name of Registrant as Specified in Its Charter)

Delaware  
(State or Other Jurisdiction of Incorporation or Organization)

23-1274455  
(I.R.S. Employer Identification No.)

7201 Hamilton Boulevard, Allentown, Pennsylvania  
(Address of Principal Executive Offices)

18195-1501  
(Zip Code)

610-481-4911  
(Registrant's Telephone Number, Including Area Code)

Not Applicable  
(Former Name, Former Address and Former Fiscal Year, if Changed Since Last Report)

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

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

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

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

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

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

Class	Outstanding at 19 April 2010
Common Stock, \$1 par value	212,352,847

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**PART I. FINANCIAL INFORMATION**  
**Item 1. Financial Statements**

**AIR PRODUCTS AND CHEMICALS, INC. and Subsidiaries**  
**CONSOLIDATED BALANCE SHEETS**  
**(Unaudited)**

(Millions of dollars, except for share data)	31 March 2010	30 September 2009
<b>Assets</b>		
<b>Current Assets</b>		
Cash and cash items	\$ 230.9	\$ 488.2
Trade receivables, less allowances for doubtful accounts	1,458.8	1,363.2
Inventories	504.7	509.6
Contracts in progress, less progress billings	111.1	132.3
Prepaid expenses	109.8	99.7
Other receivables and current assets	406.7	404.8
<b>Total Current Assets</b>	<b>2,822.0</b>	<b>2,997.8</b>
<b>Investment in Net Assets of and Advances to Equity Affiliates</b>	<b>893.6</b>	<b>868.1</b>
<b>Plant and Equipment, at cost</b>	<b>15,995.2</b>	<b>15,751.3</b>
Less: Accumulated depreciation	9,053.7	8,891.7
<b>Plant and Equipment, net</b>	<b>6,941.5</b>	<b>6,859.6</b>
<b>Goodwill</b>	<b>913.9</b>	<b>916.0</b>
<b>Intangible Assets, net</b>	<b>293.7</b>	<b>262.6</b>
<b>Noncurrent Capital Lease Receivables</b>	<b>747.5</b>	<b>687.0</b>
<b>Other Noncurrent Assets</b>	<b>540.4</b>	<b>438.0</b>
<b>Total Assets</b>	<b>\$13,152.6</b>	<b>\$13,029.1</b>
<b>Liabilities and Equity</b>		
<b>Current Liabilities</b>		
Payables and accrued liabilities	\$ 1,426.9	\$ 1,674.8
Accrued income taxes	43.9	42.9
Short-term borrowings	344.9	333.8
Current portion of long-term debt	530.0	452.1
<b>Total Current Liabilities</b>	<b>2,345.7</b>	<b>2,503.6</b>
<b>Long-Term Debt</b>	<b>3,468.5</b>	<b>3,715.6</b>
<b>Deferred Income and Other Noncurrent Liabilities</b>	<b>1,480.0</b>	<b>1,522.0</b>
<b>Deferred Income Taxes</b>	<b>440.1</b>	<b>357.9</b>
<b>Total Liabilities</b>	<b>7,734.3</b>	<b>8,099.1</b>
<b>Commitments and Contingencies — See Note 12</b>		
<b>Equity</b>		
Common stock (par value \$1 per share; 2010 and 2009 — 249,455,584 shares)	249.4	249.4
Capital in excess of par value	820.7	822.9
Retained earnings	7,537.0	7,234.6
Accumulated other comprehensive income (loss)	(1,054.4)	(1,161.8)
Treasury stock, at cost (2010 — 37,102,737 shares; 2009 — 38,195,320 shares)	(2,287.1)	(2,353.2)
<b>Total Air Products Shareholders' Equity</b>	<b>5,265.6</b>	<b>4,791.9</b>
<b>Noncontrolling Interests</b>	<b>152.7</b>	<b>138.1</b>
<b>Total Equity</b>	<b>5,418.3</b>	<b>4,930.0</b>
<b>Total Liabilities and Equity</b>	<b>\$13,152.6</b>	<b>\$13,029.1</b>

The accompanying notes are an integral part of these statements.

**AIR PRODUCTS AND CHEMICALS, INC. and Subsidiaries**  
**CONSOLIDATED INCOME STATEMENTS**  
**(Unaudited)**

(Millions of dollars, except for share data)	Three Months Ended 31 March		Six Months Ended 31 March	
	2010	2009	2010	2009
<b>Sales</b>	\$2,249.0	\$1,955.4	\$4,422.5	\$4,150.7
Cost of sales	1,628.7	1,439.9	3,197.3	3,069.6
Selling and administrative	240.4	230.6	484.5	477.6
Research and development	26.3	29.6	53.5	62.8
Global cost reduction plan	—	—	—	174.2
Acquisition-related costs	23.4	—	23.4	—
Other income, net	10.4	5.1	21.8	8.0
<b>Operating Income</b>	340.6	260.4	685.6	374.5
Equity affiliates' income	32.2	27.0	59.1	51.5
Interest expense	29.5	30.0	61.1	66.5
<b>Income from Continuing Operations before Taxes</b>	343.3	257.4	683.6	359.5
Income tax provision	84.9	66.5	168.4	73.6
<b>Income from Continuing Operations</b>	258.4	190.9	515.2	285.9
<b>Income (Loss) from Discontinued Operations, net of tax</b>	—	16.3	—	(5.1)
<b>Net Income</b>	258.4	207.2	515.2	280.8
<b>Less: Net Income Attributable to Noncontrolling Interests</b>	6.4	1.6	11.4	6.6
<b>Net Income Attributable to Air Products</b>	\$ 252.0	\$ 205.6	\$ 503.8	\$ 274.2
<b>Net Income Attributable to Air Products</b>				
Income from continuing operations	\$ 252.0	\$ 189.3	\$ 503.8	\$ 279.3
Income (loss) from discontinued operations	—	16.3	—	(5.1)
<b>Net Income Attributable to Air Products</b>	\$ 252.0	\$ 205.6	\$ 503.8	\$ 274.2
<b>Basic Earnings Per Common Share Attributable to Air Products</b>				
Income from continuing operations	\$ 1.19	\$ .90	\$ 2.38	\$ 1.33
Income (loss) from discontinued operations	—	.08	—	(.02)
<b>Net Income Attributable to Air Products</b>	\$ 1.19	\$ .98	\$ 2.38	\$ 1.31
<b>Diluted Earnings Per Common Share Attributable to Air Products</b>				
Income from continuing operations	\$ 1.16	\$ .89	\$ 2.32	\$ 1.32
Income (loss) from discontinued operations	—	.08	—	(.03)
<b>Net Income Attributable to Air Products</b>	\$ 1.16	\$ .97	\$ 2.32	\$ 1.29
<b>Weighted Average of Common Shares Outstanding (in millions)</b>	212.1	209.6	211.9	209.5
<b>Weighted Average of Common Shares Outstanding Assuming Dilution (in millions)</b>				
	216.9	212.3	217.0	212.2
<b>Dividends Declared Per Common Share — Cash</b>	\$ .49	\$ .45	\$ .94	\$ .89

The accompanying notes are an integral part of these statements.

**AIR PRODUCTS AND CHEMICALS, INC. and Subsidiaries**  
**CONSOLIDATED COMPREHENSIVE INCOME STATEMENTS**  
**(Unaudited)**

(Millions of dollars)	Three Months Ended 31 March	
	2010	2009
<b>Net Income</b>	<b>\$258.4</b>	<b>\$ 207.2</b>
Other Comprehensive Income (Loss), net of tax:		
Translation adjustments, net of tax of \$43.9 and \$20.7	34.4	(222.5)
Net (loss) on derivatives, net of tax (benefit) of \$(3.7) and \$(15.2)	(6.9)	(24.8)
Unrealized holding gain on available-for-sale securities, net of tax of \$9.5 and \$.1	16.4	.3
Reclassification adjustments:		
Derivatives, net of tax of \$2.8 and \$13.0	5.3	21.5
Pension and postretirement benefits, net of tax of \$6.1 and \$1.4	11.3	2.9
<b>Total Other Comprehensive Income (Loss)</b>	<b>60.5</b>	<b>(222.6)</b>
<b>Comprehensive Income (Loss)</b>	<b>318.9</b>	<b>(15.4)</b>
<b>Comprehensive Income (Loss) Attributable to Noncontrolling Interests</b>	<b>6.1</b>	<b>(5.3)</b>
<b>Comprehensive Income (Loss) Attributable to Air Products</b>	<b>\$312.8</b>	<b>\$ (10.1)</b>

(Millions of dollars)	Six Months Ended 31 March	
	2010	2009
<b>Net Income</b>	<b>\$515.2</b>	<b>\$ 280.8</b>
Other Comprehensive Income (Loss), net of tax:		
Translation adjustments, net of tax of \$52.3 and \$4.7	69.3	(543.5)
Net (loss) on derivatives, net of tax (benefit) of \$(4.8) and \$(6.1)	(9.3)	(12.9)
Unrealized holding gain (loss) on available-for-sale securities, net of tax (benefit) of \$9.5 and \$(.5)	16.5	(.8)
Reclassification adjustments:		
Currency translation adjustment	—	(3.2)
Derivatives, net of tax of \$3.7 and \$3.3	7.8	7.1
Pension and postretirement benefits, net of tax of \$12.6 and \$2.6	23.7	5.7
<b>Total Other Comprehensive Income (Loss)</b>	<b>108.0</b>	<b>(547.6)</b>
<b>Comprehensive Income (Loss)</b>	<b>623.2</b>	<b>(266.8)</b>
<b>Comprehensive Income (Loss) Attributable to Noncontrolling Interests</b>	<b>12.0</b>	<b>(3.5)</b>
<b>Comprehensive Income (Loss) Attributable to Air Products</b>	<b>\$611.2</b>	<b>\$(263.3)</b>

The accompanying notes are an integral part of these statements.

**AIR PRODUCTS AND CHEMICALS, INC. and Subsidiaries**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(Unaudited)

(Millions of dollars)	Six Months Ended 31 March	
	2010	2009
<b>Operating Activities</b>		
Net Income	\$ 515.2	\$ 280.8
Less: Net income attributable to noncontrolling interests	11.4	6.6
Net income attributable to Air Products	\$ 503.8	\$ 274.2
Adjustments to reconcile income to cash provided by operating activities:		
Depreciation and amortization	434.4	397.7
Impairment of assets of continuing operations	.6	32.1
Impairment of assets of discontinued operations	—	48.7
Deferred income taxes	133.2	41.8
Undistributed earnings of unconsolidated affiliates	(29.6)	(35.0)
(Gain) loss on sale of assets and investments	(1.4)	6.6
Share-based compensation	22.7	30.1
Noncurrent capital lease receivables	(71.0)	(52.9)
Acquisition-related costs	21.0	—
Other adjustments	38.4	(27.5)
Working capital changes that provided (used) cash, excluding effects of acquisitions and divestitures:		
Trade receivables	(129.9)	166.3
Inventories	(3.9)	(41.7)
Contracts in progress	17.3	11.0
Payables and accrued liabilities	(332.4)	(257.6)
Other working capital	(60.5)	(134.5)
<b>Cash Provided by Operating Activities</b>	<b>542.7</b>	<b>459.3</b>
<b>Investing Activities</b>		
Additions to plant and equipment	(516.9)	(615.8)
Acquisitions, less cash acquired	(34.9)	(1.6)
Investment in and advances to unconsolidated affiliates	(4.5)	(1.1)
Investment in Airgas stock	(69.6)	—
Proceeds from sale of assets and investments	22.0	25.0
Proceeds from sale of discontinued operations	—	.9
Change in restricted cash	25.2	40.7
<b>Cash Used for Investing Activities</b>	<b>(578.7)</b>	<b>(550.9)</b>
<b>Financing Activities</b>		
Long-term debt proceeds	67.4	114.3
Payments on long-term debt	(83.0)	(44.2)
Net (decrease) increase in commercial paper and short-term borrowings	(55.6)	183.2
Dividends paid to shareholders	(190.5)	(184.3)
Proceeds from stock option exercises	35.4	6.8
Excess tax benefit from share-based compensation	9.7	2.2
Other financing activities	(2.5)	(5.6)
<b>Cash (Used for) Provided by Financing Activities</b>	<b>(219.1)</b>	<b>72.4</b>
<b>Effect of Exchange Rate Changes on Cash</b>	<b>(2.2)</b>	<b>(4.6)</b>
<b>Decrease in Cash and Cash Items</b>	<b>(257.3)</b>	<b>(23.8)</b>
<b>Cash and Cash Items — Beginning of Year</b>	<b>488.2</b>	<b>103.5</b>
<b>Cash and Cash Items — End of Period</b>	<b>\$ 230.9</b>	<b>\$ 79.7</b>
<b>Supplemental Cash Flow Information</b>		
Significant noncash transaction:		
Short-term borrowings associated with SAGA acquisition	\$ 60.6	\$ —

The accompanying notes are an integral part of these statements.

**AIR PRODUCTS AND CHEMICALS, INC. and Subsidiaries**  
**NOTES TO CONSOLIDATED FINANCIAL STATEMENTS**

(Millions of dollars unless otherwise indicated, except for share data)

**1. BASIS OF PRESENTATION AND MAJOR ACCOUNTING POLICIES**

Refer to the Company's 2009 Form 10-K for a description of major accounting policies. There have been no material changes to these accounting policies during the first six months of 2010 other than those detailed in Note 2.

The consolidated financial statements of Air Products and Chemicals, Inc. and its subsidiaries (the "Company," "Air Products," or "registrant") included herein have been prepared by the Company, without audit, pursuant to the rules and regulations of the Securities and Exchange Commission (SEC). Certain information and footnote disclosures normally included in financial statements prepared in accordance with U.S. generally accepted accounting principles have been condensed or omitted pursuant to such rules and regulations. In the opinion of the Company, the accompanying statements reflect adjustments necessary to present fairly the financial position, results of operations, and cash flows for those periods indicated, and contain adequate disclosure to make the information presented not misleading. Adjustments included herein are of a normal, recurring nature unless otherwise disclosed in the Notes. The interim results for the periods indicated herein, however, do not reflect certain adjustments, such as the valuation of inventories on the LIFO cost basis, which can only be finally determined on an annual basis. The consolidated financial statements and related Notes included herein should be read in conjunction with the financial statements and Notes thereto included in the Company's latest Form 10-K in order to fully understand the basis of presentation. Results of operations for interim periods are not necessarily indicative of the results of operations for a full year.

**2. NEW ACCOUNTING GUIDANCE**

***Guidance Implemented***

**Disclosures about Subsequent Events**

In February 2010, the Financial Accounting Standards Board (FASB) issued an amendment to the guidance on subsequent events that removed the requirement for an SEC registrant to disclose the date through which subsequent events are evaluated. It did not change the accounting for or disclosure of events that occur after the balance sheet date but before the financial statements are issued. This amendment was effective upon issuance.

**Business Combinations**

In December 2007, the FASB issued authoritative guidance to affirm that the acquisition method of accounting (previously referred to as the purchase method) be used for all business combinations and for an acquirer to be identified for each business combination. This guidance defines the acquirer as the entity that obtains control of one or more businesses in the business combination and establishes the acquisition date as the date that the acquirer achieves control. Among other requirements, the guidance requires the acquiring entity in a business combination to recognize at full fair value all the assets acquired and liabilities assumed in the transaction. If a business combination is achieved in stages, the previously-held ownership interest is adjusted to fair value at the acquisition date, and any resulting gain or loss is recognized in earnings. Contingent consideration is recognized at fair value at the acquisition date, and restructuring and acquisition-related costs are expensed as incurred. The fair value of assets and liabilities acquired, including uncertain tax positions, can be adjusted during the measurement period. Any adjustments after the measurement period, which cannot exceed one year, will be recognized in earnings. This guidance was effective for the Company on 1 October 2009 and will be applied prospectively. The adoption of this guidance did not have a material impact on the Company's consolidated financial statements.

**Noncontrolling Interests**

In December 2007, the FASB issued authoritative guidance that establishes the accounting and reporting standards for the noncontrolling interests in a subsidiary and for the deconsolidation of a subsidiary. It requires entities to report noncontrolling interests in subsidiaries separately within equity in the consolidated balance sheets. It also requires disclosure, on the face of the consolidated income statement, of the amounts of consolidated net income attributable to the parent and noncontrolling interests. Changes in a parent's ownership interests while the parent retains control are treated as equity transactions. If a parent loses control of a subsidiary, any retained noncontrolling interests would be measured at fair value with any gain or

loss recognized in earnings. This guidance was effective for the Company on 1 October 2009 and will be applied prospectively, except for the presentation and disclosure requirements related to noncontrolling interests, which are applied retrospectively for all periods presented. The Company's financial statements have been updated to reflect the new presentation. Prior year amounts have been reclassified to conform to the current year presentation.

### **Fair Value Measurements**

In September 2006, the FASB issued authoritative guidance that defines fair value, establishes a framework for measuring fair value, and expands disclosures about fair value measurements. Effective 1 October 2008, the Company adopted this guidance for financial assets and liabilities and any other assets and liabilities that are recognized and disclosed at fair value on a recurring basis. The requirement for other nonfinancial assets and liabilities was effective on 1 October 2009 for the Company. This guidance did not impact the Company's consolidated financial statements upon adoption.

In January 2010, the FASB issued authoritative guidance on improving disclosures about fair value measurements. This guidance requires new disclosures about transfers in and out of Level 1 and 2 measurements and separate disclosures about activity relating to Level 3 measurements. In addition, this guidance clarifies existing fair value disclosures about the level of disaggregation and the input and valuation techniques used to measure fair value. The guidance only relates to disclosure and does not impact the Company's consolidated financial statements. The Company adopted this guidance in the second quarter of fiscal year 2010. There was no significant impact to the Company's disclosures upon adoption.

### ***New Guidance to Be Implemented***

#### **Employers' Disclosures about Postretirement Benefit Plan Assets**

In December 2008, the FASB issued authoritative guidance to require employers to provide additional disclosures about plan assets of a defined benefit or other postretirement plan. Disclosures include information about investment policies and strategies, major categories of plan assets, the inputs and valuation techniques used to measure the fair value of plan assets, and significant concentrations of risk. This guidance is effective for the Company beginning with its fiscal year-end 2010. Upon initial application, this guidance is not required to be applied to earlier periods that are presented for comparative purposes. This guidance only requires additional disclosure and will not have an impact on the Company's consolidated financial statements upon adoption.

#### **Consolidation of Variable Interest Entities**

In June 2009, the FASB issued authoritative guidance that amends previous guidance for determining whether an entity is a variable interest entity (VIE). It requires an enterprise to perform an analysis to determine whether the Company's variable interests give it a controlling financial interest in a VIE. A company would be required to assess whether it has an implicit financial responsibility to ensure that a VIE operates as designed when determining whether it has the power to direct the activities of the VIE that most significantly impact the entity's economic performance. In addition, ongoing reassessments of whether an enterprise is the primary beneficiary of a VIE are required. This guidance is effective for the Company beginning in fiscal year 2011. The Company is currently evaluating the impact of this guidance.

#### **Multiple-Deliverable Revenue Arrangements**

In October 2009, the FASB issued authoritative guidance on multiple-deliverable revenue arrangements. This new guidance amends the existing criteria for separating consideration received in multiple-deliverable arrangements and requires that arrangement consideration be allocated at the inception of the arrangement to all deliverables based on their relative selling price. The guidance establishes a hierarchy for determining the selling price of a deliverable which is based on vendor-specific objective evidence, third-party evidence, or management estimates. Expanded disclosures related to multiple-deliverable revenue arrangements are also required. This guidance is effective for the Company beginning fiscal year 2011, with early adoption permitted. Upon adoption, the guidance may be applied either prospectively from the beginning of the fiscal year for new or materially modified arrangements, or it may be applied retrospectively. The Company is currently evaluating the impact of this guidance.



### 3. AIRGAS TRANSACTION

In February 2010, the Company commenced a tender offer to acquire all the outstanding common stock of Airgas, Inc. (Airgas), including the associated preferred stock purchase rights, for \$60.00 per share in cash. Airgas, a Delaware company, is the largest U.S. distributor of industrial, medical, specialty gases, and hardgoods. The total value of the transaction would be approximately \$7 billion, including \$5.1 billion of equity and \$1.9 billion of assumed debt. The offer and withdrawal rights are scheduled to expire on 4 June 2010, unless further extended. The tender offer was previously scheduled to expire on 9 April 2010.

Prior to the tender offer, the Company purchased approximately 1.5 million shares of Airgas stock for \$69.6. This amount was recorded as an available-for-sale investment within other noncurrent assets on the consolidated balance sheet. An after-tax unrealized holding gain of \$16.7 for the period was recorded in other comprehensive income.

In connection with this tender offer, the Company has secured committed financing in the form of a \$6.7 billion term loan credit facility. Borrowings under this credit facility will be available beginning on the date of the consummation of the tender offer, which must occur no later than 4 February 2011. All borrowings under this credit facility will mature on the date that is one year from the consummation of the tender offer. The credit facility agreement contains one financial covenant, a maximum leverage ratio, and other affirmative and negative covenants, including restrictions on liens and certain subsidiary indebtedness. It also requires mandatory commitment reduction/prepayment for certain capital market transactions and asset dispositions. Fees incurred to secure this credit facility have been deferred and will be amortized over the term of the arrangement.

For the second quarter 2010, \$23.4 in expense was recognized related to this transaction and is included within acquisition-related costs on the consolidated income statement. This includes amortization of the fees related to the term loan credit facility and other acquisition-related costs. Total costs of this transaction are expected to be approximately \$150 to \$200.

### 4. BUSINESS COMBINATIONS

In the second quarter of 2010, the Company entered into agreements that will enable it to acquire 100% of the outstanding shares of the French SAGA group (SAGA) which consists of SAGA, SAGA Medical, and SAGA Technologies. SAGA is an independent industrial gas provider in France with packaged gases, liquid bulk, and medical businesses. The acquisition of SAGA supports the Merchant Gases segment's integration strategy by enhancing market position in Southwest and Central France. SAGA revenues for calendar year 2009 were approximately €25 million, or \$35.

Under the terms of these agreements, the Company purchased 51.47% of the shares of SAGA on 1 March 2010 for €34.5 million or \$47.2 (\$25.0 net of cash acquired of \$22.2). The remaining shares are expected to be purchased in November 2010 for a fixed price of €44.8 million, or approximately \$61, under a put and call option structure. This structure has been accounted for as a financing of the purchase of the remaining shares and reported within short-term borrowings on the consolidated balance sheet.

The acquisition of SAGA was accounted for as a business combination and its results of operations were included in the Company's consolidated income statement after the acquisition date. A preliminary purchase price allocation has been made and will be finalized when information needed to affirm underlying estimates is obtained. The preliminary estimated values, as of the acquisition date included identified intangibles of \$42.3, plant and equipment of \$40.4, goodwill of \$36.7 (which is deductible for tax purposes), and other net assets of \$11.3. Additionally, deferred tax liabilities of \$22.7 were recognized. The identified intangibles primarily relate to customer relationships and will be amortized over 23 years.

The preliminary allocation of the purchase price to the assets acquired and liabilities assumed was based on their fair values as of the acquisition date, with the amounts exceeding the fair value recorded as goodwill. Goodwill, which is assigned to the Merchant Gases segment, largely consists of expected revenue and cost synergies resulting from the business combination. Revenue synergies will result primarily from the sale of differentiated offerings and cost synergies from combining supply chains and optimization of the combined logistics. The fair value of plant and equipment was quantified primarily using a cost approach, by estimating reproduction/replacement cost consistent with assumptions market participants would use. Intangible assets consisted primarily of customer relationships for which fair value was determined using a discounted cash

flow analysis under the income approach. The income approach required estimating a number of factors including projected revenue growth, customer attrition rates, profit margin, and the discount rate. The remaining identifiable assets and liabilities were primarily cash, accounts receivable, and payables and accrued liabilities, for which book value approximated fair value.

## 5. GLOBAL COST REDUCTION PLAN

In the first quarter of 2009, the results from continuing operations included a charge of \$174.2 (\$116.1 after-tax, or \$.55 per share) for the global cost reduction plan. For additional information on this charge, as well as a subsequent charge for the plan in the third quarter of 2009, refer to the Company's 2009 Form 10-K.

The planned actions associated with the global cost reduction plan are expected to be substantially completed within one year of when the related charges were recognized. As of 31 March 2010, the planned actions associated with the first quarter 2009 charge were completed with the exception of certain benefit payments, associated with a small number of position eliminations, which will be paid in the third quarter of 2010.

During the first quarter of 2010, the Company revised its estimate of the costs associated with the 2009 global cost reduction plan. The unfavorable impact of additional severance and other benefits was offset by a favorable variance related to completed business exits and asset management actions. The adjustment to the charge was excluded from segment operating profit and did not have a material impact on any individual segment.

The following table summarizes changes to the carrying amount of the accrual for the global cost reduction plan:

	Severance and Other Benefits	Asset Impairments/ Other Costs	Total
First quarter 2009 charge	\$120.0	\$ 54.2	\$174.2
Third quarter 2009 charge	90.0	34.0	124.0
Environmental charge (A)	—	(16.0)	(16.0)
Noncash items	(33.8) (B)	(66.1)	(99.9)
Cash expenditures	(75.3)	(.9)	(76.2)
Currency translation adjustment	4.3	—	4.3
<b>30 September 2009</b>	<b>\$105.2</b>	<b>\$ 5.2</b>	<b>\$110.4</b>
Adjustment to charge	6.6	(6.6)	—
Noncash items	(3.5) (B)	1.6	(1.9)
Cash expenditures	(61.6)	(.2)	(61.8)
Currency translation adjustment	(4.1)	—	(4.1)
<b>31 March 2010</b>	<b>\$ 42.6</b>	<b>\$ —</b>	<b>\$ 42.6</b>

(A) Reflected in accrual for environmental obligations. See Note 12.

(B) Primarily pension-related costs which are reflected in the accrual for pension benefits.

## 6. DISCONTINUED OPERATIONS

In fiscal 2009, the Company completed the divestiture of its U.S. Healthcare business which has been accounted for as discontinued operations. For additional historical information on this divestiture, refer to the Company's 2009 Form 10-K.

The U.S. Healthcare business generated sales of \$43.9 and \$92.1 and income (loss) from operations, net of tax, of \$(.6) and \$.1 for the three and six months ended 31 March 2009, respectively. In addition, in the first quarter of 2009, the Company recorded an impairment charge of \$48.7 (\$30.9 after-tax, or \$.15 per share) reflecting a revision in the estimated net realizable value of the U.S. Healthcare business. Also, a tax benefit of \$8.8, or \$.04 per share, was recorded to revise the estimated tax benefit related to previously recognized impairment charges. As a result of events occurring during the second quarter of 2009, which increased the Company's ability to realize tax benefits associated with the impairment charges recorded in 2008, the Company recognized a one-time tax benefit of \$16.7, or \$.08 per share. Remaining assets and liabilities associated with the U.S. Healthcare divestiture are not material and have been classified in continuing operations.

## 7. INVENTORIES

The components of inventories are as follows:

	31 March 2010	30 September 2009
<b>Inventories at FIFO Cost</b>		
Finished goods	\$392.8	\$405.5
Work in process	25.4	20.9
Raw materials and supplies	154.2	151.1
	572.4	577.5
Less: Excess of FIFO cost over LIFO cost	(67.7)	(67.9)
	\$504.7	\$509.6

FIFO cost approximates replacement cost. The Company's inventories have a high turnover, and as a result, there is little difference between the original cost of an item and its current replacement cost.

## 8. GOODWILL

Changes to the carrying amount of consolidated goodwill by segment for the six months ended 31 March 2010 are as follows:

	30 September 2009	Acquisitions and Adjustments	Currency Translation	31 March 2010
Merchant Gases	\$601.3	\$19.8	\$(24.4)	\$596.7
Tonnage Gases	16.3	—	.4	16.7
Electronics and Performance Materials	298.4	.4	1.7	300.5
	\$916.0	\$20.2	\$(22.3)	\$913.9

The increase in goodwill in the Merchant Gases segment was due to the SAGA acquisition of \$36.7, offset by a reduction in goodwill as a result of an adjustment related to a previous acquisition of \$16.9.

Goodwill is subject to impairment testing at least annually. In addition, goodwill is tested more frequently if a change in circumstances or the occurrence of events indicates that potential impairment exists.

## 9. FINANCIAL INSTRUMENTS

### Currency Price Risk Management

The Company's earnings, cash flows, and financial position are exposed to foreign currency risk from foreign currency denominated transactions and net investments in foreign operations. It is the policy of the Company to minimize its cash flow volatility to changes in currency exchange rates. This is accomplished by identifying and evaluating the risk that the Company's cash flows will change in value due to changes in exchange rates and by determining the appropriate strategies necessary to manage such exposures. The Company's objective is to maintain economically balanced currency risk management strategies that provide adequate downside protection.

### Forward Exchange Contracts

The Company enters into forward exchange contracts to reduce the cash flow exposure to foreign currency fluctuations associated with highly anticipated cash flows and certain firm commitments such as the purchase of plant and equipment. Forward exchange contracts are also used to hedge the value of investments in certain foreign subsidiaries and affiliates by creating a liability in a currency in which the Company has a net equity position. The primary currency pair in this portfolio of forward contracts is the Euro/U.S. Dollar.

In addition to the foreign exchange contracts that are designated as hedges, the Company also hedges foreign currency exposures utilizing forward exchange contracts that are not designated as hedges. These contracts are used to hedge foreign currency-denominated monetary assets and liabilities, primarily working capital. The primary objective of these forward

contracts is to protect the value of foreign currency-denominated monetary assets and liabilities from the effects of volatility in foreign exchange rates that might occur prior to their receipt or settlement. This portfolio of forward exchange contracts is comprised of many different foreign currency pairs with a profile that changes from time to time depending on business activity and sourcing decisions.

### Option Contracts

In certain limited situations, the Company enters into option contracts to manage cash flow exposures to foreign currency fluctuations. Similar to forward contracts, these instruments are evaluated for hedge accounting treatment and are recognized on the balance sheet at fair value. As of 31 March 2010 and 30 September 2009, there were no outstanding option contracts.

The table below summarizes the Company's outstanding currency price risk management instruments:

	31 March 2010		30 September 2009	
	US\$ Notional	Years Average Maturity	US\$ Notional	Years Average Maturity
<b>Forward exchange contracts:</b>				
Cash flow hedges	\$1,914.6	.4	\$1,799.3	.8
Net investment hedges	847.8	2.7	873.6	3.5
Fair value hedges	—	—	2.7	.4
Hedges not designated	662.4	.3	330.3	.6
<b>Total Forward Exchange Contracts</b>	<b>\$3,424.8</b>	<b>1.0</b>	<b>\$3,005.9</b>	<b>1.6</b>

In addition to the above, the Company uses foreign currency denominated debt and qualifying intercompany loans to hedge the foreign currency exposures of the Company's net investment in certain foreign affiliates. The designated foreign currency denominated debt includes €807.5 million at 31 March 2010 and €1,013.0 million at 30 September 2009. The designated intercompany loans include €437.0 million at 31 March 2010 and 30 September 2009.

### Debt Portfolio Management

It is the policy of the Company to identify on a continuing basis the need for debt capital and evaluate the financial risks inherent in funding the Company with debt capital. Reflecting the result of this ongoing review, the debt portfolio and hedging program of the Company are managed with the objectives and intent to (1) reduce funding risk with respect to borrowings made by the Company to preserve the Company's access to debt capital and provide debt capital as required for funding and liquidity purposes, and (2) manage the aggregate interest rate risk and the debt portfolio in accordance with certain debt management parameters.

### Interest Rate Swap Contracts

The Company enters into interest rate swap contracts to change the fixed/variable interest rate mix of its debt portfolio in order to maintain the percentage of fixed- and variable-rate debt within the parameters set by management. In accordance with these parameters, the agreements are used to optimize interest rate risks and costs inherent in the Company's debt portfolio. The current interest rate swap portfolio consists of fixed to floating swaps denominated in U.S. dollars and in Euros. In addition, the Company uses interest rate swap agreements to hedge the interest rate on anticipated fixed-rate debt issuance. The notional amount of the interest rate swap agreements are equal to or less than the designated debt instrument being hedged. When variable-rate debt is hedged, the variable-rate indices of the swap instruments and the debt to which they are designated are the same. It is the Company's policy not to enter into any interest rate swap contracts which lever a move in interest rates on a greater than one-to-one basis.

### Cross Currency Interest Rate Swap Contracts

The Company enters into cross currency interest rate swap contracts when risk management deems necessary. These contracts may entail both the exchange of fixed- and floating-rate interest payments periodically over the life of the agreement and the exchange of one currency for another currency at inception and at a specified future date. These contracts effectively convert the currency denomination of a debt instrument into another currency in which the Company has a net equity position while changing the interest rate characteristics of the instrument. The contracts are used to hedge long-term intercompany and third-party borrowing transactions and certain net investments in foreign operations. The current cross currency swap portfolio consists of a single fixed to floating swap between U.S. dollars and British Pound Sterling.

The following table summarizes the Company's outstanding interest rate swaps and cross currency interest rate swaps:

	31 March 2010				30 September 2009			
	US\$ Notional	Pay %	Average Receive %	Years Average Maturity	US\$ Notional	Pay %	Average Receive %	Years Average Maturity
Interest rate swaps (fair value hedge)	\$516.3	LIBOR	3.74%	4.8	\$327.2	LIBOR	4.47%	1.7
Cross currency interest rate swaps (net investment hedge)	\$ 32.2	5.54%	5.48%	4.0	\$ 32.2	5.54%	5.48%	4.5

### Commodity Price Risk Management

The Company has entered into a limited number of commodity swap contracts in order to reduce the cash flow exposure to changes in the price of natural gas relative to certain oil-based feedstocks. As of 31 March 2010, the Company did not have outstanding commodity swap contracts. At 30 September 2009, the Company had outstanding contracts hedging the changes in the market price of energy with a notional value of \$18.5 and with an average maturity of .2 years.

The table below summarizes the fair value and balance sheet location of the Company's outstanding derivatives:

	Balance Sheet Location	31 March 2010	30 September 2009	Balance Sheet Location	31 March 2010	30 September 2009
		Fair Value	Fair Value		Fair Value	Fair Value
<b>Derivatives Designated as Hedging Instruments:</b>						
Foreign exchange contracts	Other receivables	\$ 49.6	\$48.8	Accrued liabilities	\$46.8	\$ 55.1
Interest rate swap contracts	Other receivables	12.3	—	Accrued liabilities	.9	.4
Commodity swap contracts	Other receivables	—	4.3	Accrued liabilities	—	2.4
Foreign exchange contracts	Other noncurrent assets	26.6	10.0	Other noncurrent liabilities	23.2	45.4
Interest rate swap contracts	Other noncurrent assets	7.4	15.1	Other noncurrent liabilities	1.9	3.0
<b>Total Derivatives Designated as Hedging Instruments</b>		<b>\$ 95.9</b>	<b>\$78.2</b>		<b>\$72.8</b>	<b>\$106.3</b>
<b>Derivatives Not Designated as Hedging Instruments:</b>						
Foreign exchange contracts	Other receivables	\$ 5.3	\$ 1.0	Accrued liabilities	\$ .3	\$ 3.4
<b>Total Derivatives</b>		<b>\$101.2</b>	<b>\$79.2</b>		<b>\$73.1</b>	<b>\$109.7</b>

Refer to Note 10, Fair Value Measurements, which defines fair value, describes the method for measuring fair value, provides additional disclosures regarding fair value measurements, and discusses the Company's counterparty risk.

The table below summarizes the gain or loss related to the Company's cash flow, net investment, and non-designated hedges. The amounts of gain or loss associated with the outstanding fair value hedges are not material.

	Three Months Ended 31 March									
	Forward Exchange Contracts		Foreign Currency Debt		Other (A)		Total			
	2010	2009	2010	2009	2010	2009	2010	2009	2010	2009
<b>Cash Flow Hedges:</b>										
Net (gain) loss recognized in OCI (effective portion)	\$ 6.9	\$ 28.0	\$ —	\$ —	\$ —	\$ (3.2)	\$ 6.9	\$ 24.8		
Net gain (loss) reclassified from OCI to sales/cost of sales (effective portion)	(2.1)	.2	—	—	.2	1.9	(1.9)	2.1		
Net (loss) reclassified from OCI to other (income) expense (effective portion)	(3.2)	(23.5)	—	—	—	—	(3.2)	(23.5)		
Net (loss) reclassified from OCI to other (income) expense (ineffective portion)	(.2)	(.1)	—	—	—	—	(.2)	(.1)		
<b>Net Investment Hedges:</b>										
Net (gain) recognized in OCI	\$ (27.0)	\$ (7.4)	\$ (52.5)	\$ (59.1)	\$ (1.2)	\$ (.3)	\$ (80.7)	\$ (66.8)		
<b>Derivatives Not Designated as Hedging Instruments:</b>										
Net (gain) recognized in other (income) expense (B)	\$ (4.5)	\$ (.1)	\$ —	\$ —	\$ —	\$ —	\$ (4.5)	\$ (.1)		

	Six Months Ended 31 March									
	Forward Exchange Contracts		Foreign Currency Debt		Other (A)		Total			
	2010	2009	2010	2009	2010	2009	2010	2009	2010	2009
<b>Cash Flow Hedges:</b>										
Net (gain) loss recognized in OCI (effective portion)	\$ 9.1	\$ 13.1	\$ —	\$ —	\$ .2	\$ (.2)	\$ 9.3	\$ 12.9		
Net gain (loss) reclassified from OCI to sales/cost of sales (effective portion)	(4.9)	(3.5)	—	—	2.0	2.4	(2.9)	(1.1)		
Net (loss) reclassified from OCI to other (income) expense (effective portion)	(4.7)	(5.9)	—	—	—	—	(4.7)	(5.9)		
Net (loss) reclassified from OCI to other (income) expense (ineffective portion)	(.2)	(.1)	—	—	—	—	(.2)	(.1)		
<b>Net Investment Hedges:</b>										
Net (gain) recognized in OCI	\$ (35.6)	\$ (21.1)	\$ (71.2)	\$ (74.4)	\$ (.9)	\$ (4.8)	\$ (107.7)	\$ (100.3)		
<b>Derivatives Not Designated as Hedging Instruments:</b>										
Net (gain) loss recognized in other (income) expense (B)	\$ (3.5)	\$ 1.9	\$ —	\$ —	\$ —	\$ —	\$ (3.5)	\$ 1.9		

(A) Other includes the impact on other comprehensive income (OCI) and earnings related to commodity swap contracts, interest rate swaps, and currency option contracts.

(B) The impact of the non-designated hedges noted above was largely offset by gains and losses, respectively, resulting from the impact of changes in exchange rates on recognized assets and liabilities denominated in nonfunctional currencies.

### Credit Risk-Related Contingent Features

Certain derivative instruments are executed under agreements that require the Company to maintain a minimum credit rating with both Standard & Poor's and Moody's. If the Company's credit rating falls below this threshold, the counterparty to the derivative instruments has the right to request full collateralization on the derivatives' net liability position. The net liability position of derivatives with credit risk-related contingent features was \$3.5 as of 31 March 2010 and \$35.0 as of 30 September 2009. Because the Company's current credit rating is above the various pre-established thresholds, no collateral has been posted on these liability positions.

## **Counterparty Credit Risk Management**

The Company executes all derivative transactions with counterparties that are highly rated financial institutions, all of which are investment grade at this time. Some of the Company's underlying derivative agreements give the Company the right to require the institution to post collateral if its credit rating falls below the pre-established thresholds with Standard & Poor's or Moody's. These are the same agreements referenced in Credit Risk-Related Contingent Features above. The collateral that the counterparties would be required to post was \$27.5 as of 31 March 2010 and \$14.7 as of 30 September 2009. No financial institution is required to post collateral at this time, as all have credit ratings at or above the threshold.

## **10. FAIR VALUE MEASUREMENTS**

Fair value is defined as an exit price (i.e., the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants at the measurement date). The methods and assumptions used to measure the fair value of financial instruments are as follows:

### **Derivatives**

The fair value of the Company's interest rate swap agreements and foreign exchange contracts are quantified using the income approach and are based on estimates using standard pricing models. These models take into account the value of future cash flows as of the balance sheet date, discounted to a present value using discount factors that match both the time to maturity and currency of the underlying instruments. The computation of the fair values of these instruments is generally performed by the Company. These standard pricing models utilize inputs which are derived from or corroborated by observable market data such as interest rate yield curves and currency spot and forward rates. In addition, on an ongoing basis, the Company randomly tests a subset of its valuations against valuations received from the transaction's counterparty to validate the accuracy of its standard pricing models. The fair value of commodity swaps is based on current market price as provided by the financial institutions with which the commodity swaps have been executed. Counterparties to these derivative contracts are highly rated financial institutions.

Refer to Note 9 on Financial Instruments for a description of derivative instruments, including details on the balance sheet line item classifications.

### **Available-for-Sale Securities**

The fair value of available-for-sale securities is based on a market approach, specifically quoted market prices in publicly traded companies from the New York Stock Exchange, NASDAQ, and Tokyo Stock Exchange. These investments are reported within other noncurrent assets on the consolidated balance sheet, with holding gains and losses recorded to other comprehensive income, net of tax.

The investment in Airgas stock of \$96.0 represents the purchase of approximately 1.5 million common shares as discussed in Note 3 on the Airgas Transaction. Other investments primarily include an investment in a publicly traded foreign company.

### **Long-term Debt**

The fair value of the Company's debt is based on estimates using standard pricing models that take into account the value of future cash flows as of the balance sheet date, discounted to a present value using discount factors that match both the time to maturity and currency of the underlying instruments. These standard valuation models utilize observable market data such as interest rate yield curves and currency spot rates. The computation of the fair value of these instruments is generally performed by the Company.

The carrying values and fair values of financial instruments were as follows:

	31 March 2010		30 September 2009	
	Carrying Value	Fair Value	Carrying Value	Fair Value
<b>Assets</b>				
Derivatives				
Foreign exchange contracts	\$ 81.5	\$ 81.5	\$ 59.8	\$ 59.8
Interest rate swap contracts	19.7	19.7	15.1	15.1
Commodity swap contracts	—	—	4.3	4.3
Available-for-sale securities				
Airgas investment	96.0	96.0	—	—
Other investments	19.1	19.1	19.4	19.4
<b>Liabilities</b>				
Derivatives				
Foreign exchange contracts	\$ 70.3	\$ 70.3	\$ 103.9	\$ 103.9
Interest rate swap contracts	2.8	2.8	3.4	3.4
Commodity swap contracts	—	—	2.4	2.4
Long-term debt, including current portion	3,998.5	4,218.5	4,167.7	4,479.5

The carrying amounts reported in the balance sheet for cash and cash items, trade receivables, payables and accrued liabilities, accrued income taxes, and short-term borrowings approximate fair value due to the short-term nature of these instruments. Accordingly, these items have been excluded from the above table.

The fair value hierarchy prioritizes the inputs to valuation techniques used to measure fair value into three broad levels as follows:

Level 1— Quoted prices (unadjusted) in active markets for identical assets or liabilities.

Level 2— Inputs that are observable for the asset or liability, either directly or indirectly through market corroboration, for substantially the full term of the asset or liability.

Level 3— Inputs that are unobservable for the asset or liability based on the Company's own assumptions (about the assumptions market participants would use in pricing the asset or liability).

The following table summarizes assets and liabilities measured at fair value on a recurring basis in the consolidated balance sheets:

31 March 2010	Total	Level 1	Level 2	Level 3
<b>Assets at Fair Value</b>				
Derivatives				
Foreign exchange contracts	\$ 81.5	\$ —	\$ 81.5	\$—
Interest rate swap contracts	19.7	—	19.7	—
Available-for-sale securities				
Airgas investment	96.0	96.0	—	—
Other investments	19.1	19.1	—	—
<b>Total Assets at Fair Value</b>	<b>\$216.3</b>	<b>\$115.1</b>	<b>\$101.2</b>	<b>\$—</b>
<b>Liabilities at Fair Value</b>				
Derivatives				
Foreign exchange contracts	\$ 70.3	\$ —	\$ 70.3	\$—
Interest rate swap contracts	2.8	—	2.8	—
<b>Total Liabilities at Fair Value</b>	<b>\$ 73.1</b>	<b>\$ —</b>	<b>\$ 73.1</b>	<b>\$—</b>

Refer to Note 1 in the Company's 2009 Form 10-K and Note 9 in this quarterly filing for additional information on the Company's accounting and reporting of the fair value of financial instruments.



## 11. RETIREMENT BENEFITS

The components of net pension cost for the defined benefit pension plans and other postretirement benefit cost for the three and six months ended 31 March 2010 and 2009 were as follows:

	Pension Benefits				Other Benefits	
	2010		Three Months Ended 31 March 2009		2010	2009
	U.S.	International	U.S.	International		
Service cost	\$ 10.6	\$ 6.0	\$ 8.5	\$ 6.2	\$1.2	\$ .8
Interest cost	30.9	15.1	31.2	14.0	1.1	1.7
Expected return on plan assets	(41.1)	(16.1)	(37.0)	(12.6)	—	—
Prior service cost (credit) amortization	.7	.2	.6	.4	—	(.3)
Actuarial loss amortization	11.7	4.9	1.5	2.1	.7	(.1)
Settlement and curtailment charges	—	—	—	—	—	—
Special termination benefits	—	—	—	.2	—	—
Other	—	.6	—	.7	—	—
<b>Net periodic benefit cost</b>	<b>\$ 12.8</b>	<b>\$ 10.7</b>	<b>\$ 4.8</b>	<b>\$ 11.0</b>	<b>\$3.0</b>	<b>\$2.1</b>

	Pension Benefits				Other Benefits	
	2010		Six Months Ended 31 March 2009		2010	2009
	U.S.	International	U.S.	International		
Service cost	\$ 21.2	\$ 12.2	\$ 17.0	\$ 12.8	\$2.4	\$2.3
Interest cost	61.8	31.0	61.9	29.1	2.2	3.1
Expected return on plan assets	(82.2)	(32.9)	(72.5)	(26.1)	—	—
Prior service cost (credit) amortization	1.4	.4	1.2	.8	—	(.7)
Actuarial loss amortization	23.4	10.0	3.0	4.4	1.4	.3
Settlement and curtailment charges	—	.5	—	—	—	—
Special termination benefits	—	3.5	4.4	10.2	—	—
Other	—	1.4	—	.8	—	—
<b>Net periodic benefit cost</b>	<b>\$ 25.6</b>	<b>\$ 26.1</b>	<b>\$ 15.0</b>	<b>\$ 32.0</b>	<b>\$6.0</b>	<b>\$5.0</b>

Special termination benefits for the six months ended 31 March 2010 and 2009 included \$3.5 and \$14.2 for the global cost reduction plan, respectively.

For the six months ended 31 March 2010 and 2009, the Company's cash contributions to funded plans and benefit payments under unfunded plans were \$337.7 and \$153.5, respectively. Total contributions for fiscal 2010 are expected to be approximately \$375. During fiscal 2009, total contributions were \$184.8.

## 12. COMMITMENTS AND CONTINGENCIES

### Litigation

The Company is involved in various legal proceedings, including competition, environmental, health, safety, product liability, and insurance matters. During the third quarter of 2008, a unit of the Brazilian Ministry of Justice issued a report (previously issued in January 2007, and then withdrawn) on its investigation of the Company's Brazilian subsidiary, Air Products Brasil Ltda., and several other Brazilian industrial gas companies. The report recommended that the Brazilian Administrative Council for Economic Defense impose sanctions on Air Products Brasil Ltda. and the other industrial gas companies for alleged anticompetitive activities. The Company is actively defending this action and cannot, at this time, reasonably predict the ultimate outcome of the proceedings or sanctions, if any, that will be imposed. Additionally, it is not possible to make a reasonable estimate of the range of loss at this time. While the Company does not expect that any sums it may have to pay in connection with this or any other legal proceeding would have a materially adverse effect on its consolidated financial position or net cash flows, a future charge for regulatory fines or damage awards could have a significant impact on the Company's net income in the period in which it is recorded.

## **Environmental**

Accruals for environmental loss contingencies are recorded when it is probable that a liability has been incurred and the amount of loss can be reasonably estimated. The consolidated balance sheets at 31 March 2010 and 30 September 2009 included an accrual of \$92.4 and \$95.0, respectively, primarily as part of other noncurrent liabilities. The environmental liabilities will be paid over a period of up to 30 years. The Company estimates the exposure for environmental loss contingencies to range from \$92 to a reasonably possible upper exposure of \$106 as of 31 March 2010.

During the first quarter of 2009, management committed to a plan to sell the production facility in Paulsboro, New Jersey and recognized a \$16.0 environmental liability associated with this site. In December 2009, the Company completed the sale of this facility. The Company is required by the New Jersey state law to investigate and, if contaminated, remediate a site upon its sale. The Company estimates that it will take at least several years to complete the investigation/remediation efforts at this site.

Refer to Note 16 to the consolidated financial statements in the Company's 2009 Form 10-K for information on the Company's environmental accruals related to the Pace, Florida, Piedmont, S.C., and Paulsboro, N.J. facilities. At 31 March 2010, the accrual balances associated with the Pace, Florida, Piedmont, S.C., and Paulsboro, N.J. facilities totaled \$37.3, \$22.0, and \$15.7, respectively.

## **13. SHARE-BASED COMPENSATION**

The Company has various share-based compensation programs, which include stock options, deferred stock units, and restricted shares. During the six months ended 31 March 2010, the Company granted 1.0 million stock options at a weighted-average exercise price of \$83.60 and an estimated fair value of \$25.94 per option. The fair value of these options was estimated using a lattice-based option valuation model that used the following assumptions: expected volatility of 32.6%; expected dividend yield of 2.1%; expected life in years of 6.7-8.0; and a risk-free interest rate of 2.9%-3.3%. In addition, the Company granted 300,681 deferred stock units at a weighted-average grant-date fair value of \$83.07 and 30,886 restricted shares at a weighted-average grant-date fair value of \$83.60. Refer to Note 18 in the Company's 2009 Form 10-K for information on the valuation and accounting for these programs.

Share-based compensation cost charged against income in the three and six months ended 31 March 2010 was \$15.0 (\$9.4 after-tax) and \$22.7 (\$14.2 after-tax), respectively. Of the share-based compensation cost recognized, \$17.3 was a component of selling and administrative expense, \$4.3 a component of cost of sales, and \$1.1 a component of research and development. Share-based compensation cost charged against income in the three and six months ended 31 March 2009 was \$12.7 (\$7.8 after-tax) and \$30.1 (\$18.5 after-tax), respectively. The amount of share-based compensation cost capitalized in 2010 and 2009 was not material.

## 14. EQUITY

The following is a summary of the changes in total equity for the three and six months ended 31 March:

	Three Months Ended 31 March					
	2010			2009		
	Air Products	Non- controlling Interests	Total Equity	Air Products	Non- controlling Interests	Total Equity
Balance at 31 December	\$5,033.9	\$150.2	\$5,184.1	\$4,726.1	\$137.9	\$4,864.0
Net Income	252.0	6.4	258.4	205.6	1.6	207.2
Components of Other						
Comprehensive Income (Loss), net of tax:						
Translation adjustments, net of tax of \$43.9 and \$20.7	34.7	(.3)	34.4	(217.1)	(5.4)	(222.5)
Net (loss) on derivatives, net of tax (benefit) of \$(3.7) and \$(15.2)	(6.9)	—	(6.9)	(24.7)	(.1)	(24.8)
Unrealized holding gain on available-for-sale securities, net of tax of \$9.5 and \$.1	16.4	—	16.4	.3	—	.3
Reclassification adjustments:						
Derivatives, net of tax of \$2.8 and \$13.0	5.3	—	5.3	21.5	—	21.5
Pension and postretirement benefits, net of tax of \$6.1 and \$1.4	11.3	—	11.3	4.3	(1.4)	2.9
Total Other Comprehensive Income (Loss)	60.8	(.3)	60.5	(215.7)	(6.9)	(222.6)
Comprehensive Income (Loss)	312.8	6.1	318.9	(10.1)	(5.3)	(15.4)
Dividends on common stock (per share \$.49, \$.45)	(104.0)	—	(104.0)	(94.4)	—	(94.4)
Dividends to noncontrolling interests	—	(8.7)	(8.7)	—	(5.6)	(5.6)
Share-based compensation expense	15.0	—	15.0	12.6	—	12.6
Issuance of treasury shares for stock option and award plans	6.1	—	6.1	1.5	—	1.5
Tax benefits of stock option and award plans	2.6	—	2.6	2.6	—	2.6
Contribution from noncontrolling interests	—	5.1	5.1	—	—	—
Other equity transactions	(.8)	—	(.8)	(.2)	(.3)	(.5)
Balance at 31 March	\$5,265.6	\$152.7	\$5,418.3	\$4,638.1	\$126.7	\$4,764.8

	Six Months Ended 31 March					
	2010			2009		
	Air Products	Non-controlling Interests	Total Equity	Air Products	Non-controlling Interests	Total Equity
Balance at 30 September	\$4,791.9	\$138.1	\$4,930.0	\$5,030.7	\$136.2	\$5,166.9
Defined benefit plans measurement date change, net of tax of \$14.0	—	—	—	27.7	—	27.7
Adjusted Balance at 30 September	\$4,791.9	\$138.1	\$4,930.0	\$5,058.4	\$136.2	\$5,194.6
Net Income	503.8	11.4	515.2	274.2	6.6	280.8
Components of Other Comprehensive Income (Loss), net of tax:						
Translation adjustments, net of tax of \$52.3 and \$4.7	68.9	.4	69.3	(534.9)	(8.6)	(543.5)
Net (loss) on derivatives, net of tax (benefit) of \$(4.8) and \$(6.1)	(9.3)	—	(9.3)	(12.8)	(.1)	(12.9)
Unrealized holding gain (loss) on available-for-sale securities, net of tax (benefit) of \$9.5 and \$(.5)	16.5	—	16.5	(.8)	—	(.8)
Reclassification adjustments:						
Currency translation adjustment	—	—	—	(3.2)	—	(3.2)
Derivatives, net of tax of \$3.7 and \$3.3	7.8	—	7.8	7.1	—	7.1
Pension and postretirement benefits, net of tax of \$12.6 and \$2.6	23.5	.2	23.7	7.1	(1.4)	5.7
Total Other Comprehensive Income (Loss)	107.4	.6	108.0	(537.5)	(10.1)	(547.6)
Comprehensive Income (Loss)	611.2	12.0	623.2	(263.3)	(3.5)	(266.8)
Dividends on common stock (per share \$.94, \$.89)	(199.5)	—	(199.5)	(186.6)	—	(186.6)
Dividends to noncontrolling interests	—	(8.9)	(8.9)	—	(5.6)	(5.6)
Share-based compensation expense	22.7	—	22.7	30.1	—	30.1
Issuance of treasury shares for stock option and award plans	26.7	—	26.7	(3.0)	—	(3.0)
Tax benefits of stock option and award plans	14.5	—	14.5	3.5	—	3.5
Contribution from noncontrolling interests	—	11.6	11.6	—	—	—
Other equity transactions	(1.9)	(.1)	(2.0)	(1.0)	(.4)	(1.4)
Balance at 31 March	\$5,265.6	\$152.7	\$5,418.3	\$4,638.1	\$126.7	\$4,764.8

## 15. EARNINGS PER SHARE

The following table sets forth the computation of basic and diluted earnings per share (EPS):

	Three Months Ended 31 March		Six Months Ended 31 March	
	2010	2009	2010	2009
<b>NUMERATOR</b>				
Net Income Attributable to Air Products (used in basic and diluted EPS)				
Income from continuing operations	\$252.0	\$189.3	\$503.8	\$279.3
Income (loss) from discontinued operations	—	16.3	—	(5.1)
Net Income Attributable to Air Products	\$252.0	\$205.6	\$503.8	\$274.2
<b>DENOMINATOR (in millions)</b>				
Weighted average number of common shares used in basic EPS				
	212.1	209.6	211.9	209.5
Effect of dilutive securities				
Employee stock options	3.9	1.7	4.1	1.7
Other award plans	.9	1.0	1.0	1.0
	4.8	2.7	5.1	2.7
Weighted average number of common shares and dilutive potential common shares used in diluted EPS				
	216.9	212.3	217.0	212.2
<b>BASIC EPS ATTRIBUTABLE TO AIR PRODUCTS</b>				
Income from continuing operations	\$ 1.19	\$ .90	\$ 2.38	\$ 1.33
Income (loss) from discontinued operations	—	.08	—	(.02)
Net Income Attributable to Air Products	\$ 1.19	\$ .98	\$ 2.38	\$ 1.31
<b>DILUTED EPS ATTRIBUTABLE TO AIR PRODUCTS</b>				
Income from continuing operations	\$ 1.16	\$ .89	\$ 2.32	\$ 1.32
Income (loss) from discontinued operations	—	.08	—	(.03)
Net Income Attributable to Air Products	\$ 1.16	\$ .97	\$ 2.32	\$ 1.29

Options on 2.2 million shares were antidilutive and therefore excluded from the computation of diluted earnings per share for both the three and six months ended 31 March 2010. Options on 8.6 and 8.7 million shares were antidilutive and therefore excluded from the computation of diluted earnings per share for the three and six months ended 31 March 2009, respectively.

## 16. SUPPLEMENTAL INFORMATION

### 2009 Customer Bankruptcy

As a result of events which occurred during the third quarter of 2009, the Company recognized a \$22.2 charge primarily for the write-off of certain receivables due to a customer bankruptcy. This customer, who principally receives product from the Tonnage Gases segment, began operating under Chapter 11 bankruptcy protection on 6 January 2009. Sales and operating income associated with this customer are not material to the Tonnage Gases segment's results. At 31 March 2010, the Company had remaining outstanding receivables with the customer of \$16.2. At the present time, the Company does not expect to recognize additional charges related to this customer.

### Share Repurchase Program

On 20 September 2007, the Board of Directors authorized the repurchase of up to \$1,000 of the Company's outstanding common stock. In the six months ended 31 March 2010, the Company did not purchase any shares under this authorization. At 31 March 2010, \$649.2 in share repurchase authorization remains.

## 17. BUSINESS SEGMENT AND GEOGRAPHIC INFORMATION

The Company's segments are organized based on differences in product and/or type of customer. The Company has four business segments consisting of Merchant Gases, Tonnage Gases, Electronics and Performance Materials, and Equipment and Energy.

### Business Segment Information

	Three Months Ended 31 March		Six Months Ended 31 March	
	2010	2009	2010	2009
<b>Revenues from External Customers</b>				
Merchant Gases	\$ 921.7	\$ 870.4	\$1,855.3	\$1,795.6
Tonnage Gases	756.7	624.6	1,454.6	1,368.6
Electronics and Performance Materials	451.2	332.2	884.6	738.8
Equipment and Energy	119.4	128.2	228.0	247.7
<b>Segment and Consolidated Totals</b>	<b>\$2,249.0</b>	<b>\$1,955.4</b>	<b>\$4,422.5</b>	<b>\$4,150.7</b>
<b>Operating Income</b>				
Merchant Gases	\$ 178.1	\$ 156.2	\$ 367.7	\$ 326.7
Tonnage Gases	107.2	98.0	207.4	206.8
Electronics and Performance Materials	57.0	(11.1)	105.4	13.5
Equipment and Energy	18.2	16.3	26.0	23.3
<b>Segment Total</b>	<b>\$ 360.5</b>	<b>\$ 259.4</b>	<b>\$ 706.5</b>	<b>\$ 570.3</b>
Global cost reduction plan	—	—	—	(174.2)
Acquisition-related costs	(23.4)	—	(23.4)	—
Other	3.5	1.0	2.5	(21.6)
<b>Consolidated Total</b>	<b>\$ 340.6</b>	<b>\$ 260.4</b>	<b>\$ 685.6</b>	<b>\$ 374.5</b>

	31 March 2010	30 September 2009
<b>Identifiable Assets (A)</b>		
Merchant Gases	\$ 4,970.0	\$ 4,917.0
Tonnage Gases	3,837.8	3,597.8
Electronics and Performance Materials	2,237.4	2,249.5
Equipment and Energy	297.6	303.3
<b>Segment Total</b>	<b>\$11,342.8</b>	<b>\$11,067.6</b>
Other	916.2	1,093.4
<b>Consolidated Total</b>	<b>\$12,259.0</b>	<b>\$12,161.0</b>

(A) Identifiable assets are equal to total assets less investments in and advances to equity affiliates.

### Geographic Information

	Three Months Ended 31 March		Six Months Ended 31 March	
	2010	2009	2010	2009
<b>Revenues from External Customers</b>				
North America	\$1,103.4	\$ 978.8	\$2,131.3	\$2,089.3
Europe	705.4	662.2	1,429.7	1,379.6
Asia	383.2	270.1	754.7	595.7
Latin America/Other	57.0	44.3	106.8	86.1
<b>Total</b>	<b>\$2,249.0</b>	<b>\$1,955.4</b>	<b>\$4,422.5</b>	<b>\$4,150.7</b>

Geographic information is based on country of origin. The Europe segment operates principally in Belgium, France, Germany, the Netherlands, Poland, the U.K. and Spain. The Asia segment operates principally in China, Japan, Korea, and Taiwan.

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

### (Millions of dollars, except for share data)

The disclosures in this quarterly report are complementary to those made in the Company's 2009 Form 10-K. An analysis of results for the second quarter and first six months of 2010 is provided in the Management's Discussion and Analysis to follow.

All comparisons in the discussion are to the corresponding prior year unless otherwise stated. All amounts presented are in accordance with U.S. generally accepted accounting principles, except as noted. All amounts are presented in millions of dollars, except for share data, unless otherwise indicated.

Captions such as income from continuing operations attributable to Air Products and net income attributable to Air Products are simply referred to as "income from continuing operations" and "net income" throughout this Management's Discussion and Analysis, unless otherwise stated.

The discussion of second quarter and year-to-date results that follows includes comparisons to non-GAAP financial measures. These non-GAAP measures exclude acquisition-related costs in 2010 and the global cost reduction plan charge in 2009. The presentation of non-GAAP measures is intended to enhance the usefulness of financial information by providing measures that the Company's management uses internally to evaluate the Company's baseline performance on a comparable basis. The reconciliation of reported GAAP results to non-GAAP measures is presented on pages 35-36.

### SECOND QUARTER 2010 VS. SECOND QUARTER 2009

#### SECOND QUARTER 2010 IN SUMMARY

- Sales of \$2,249.0 increased 15%. Underlying sales increased 9%, due to higher volumes in the Electronics and Performance Materials and Tonnage Gases segments. Favorable currency translation increased sales 4% and higher energy and raw material cost pass-through to customers increased sales 2%.
- Operating income of \$340.6 increased 31%, or \$80.2. On a non-GAAP basis, operating income of \$364.0 increased 40%, or \$103.6, primarily from higher volumes and cost improvements.
- Income from continuing operations of \$252.0 increased 33%, or \$62.7, and diluted earnings per share from continuing operations of \$1.16 increased 30%, or \$.27. On a non-GAAP basis, income from continuing operations of \$266.6 increased 41%, or \$77.3, and diluted earnings per share from continuing operations of \$1.23 increased 38%, or \$.34. A summary table of changes in diluted earnings per share is presented below.
- The Company increased the quarterly dividend from \$.45 to \$.49 per share. This represents the 28<sup>th</sup> consecutive year that the Company has increased its dividend payment.



## Changes in Diluted Earnings per Share Attributable to Air Products

	Three Months Ended 31 March		Increase (Decrease)
	2010	2009	
<b>Diluted Earnings per Share</b>			
Net Income	\$1.16	\$ .97	\$ .19
Discontinued Operations	—	.08	(.08)
<b>Continuing Operations — GAAP Basis</b>	<b>\$1.16</b>	<b>\$ .89</b>	<b>\$ .27</b>
Acquisition-related costs	(.07)	—	(.07)
<b>Continuing Operations — Non-GAAP Basis</b>	<b>\$1.23</b>	<b>\$ .89</b>	<b>\$ .34</b>
<b>Operating Income (after-tax)</b>			
Underlying business			
Volume			.29
Price/raw materials			(.09)
Costs			.12
Currency			.05
<b>Operating Income</b>			<b>.37</b>
<b>Other (after-tax)</b>			
Equity affiliates' income			.02
Noncontrolling interest			(.02)
Average shares outstanding			(.03)
<b>Other</b>			<b>(.03)</b>
<b>Total Change in Diluted Earnings per Share from Continuing Operations — Non-GAAP Basis</b>			<b>\$ .34</b>

## RESULTS OF OPERATIONS

### Discussion of Consolidated Results

	Three Months Ended 31 March		% Change
	2010	2009	
Sales	\$2,249.0	\$1,955.4	15%
Operating income — GAAP Basis	340.6	260.4	31%
Operating income — Non-GAAP Basis	364.0	260.4	40%
Equity affiliates' income	32.2	27.0	19%

### Sales

	% Change from Prior Year
Underlying business	
Volume	10%
Price	(1%)
Currency	4%
Energy and raw material cost pass-through	2%
<b>Total Consolidated Change</b>	<b>15%</b>

Sales of \$2,249.0 increased 15%, or \$293.6. Underlying business increased sales 9%, primarily due to higher volumes in the Electronics and Performance Materials and Tonnage Gases segments. Volume performance in the Merchant Gases segment was up slightly as strength in Asia was diluted by a slower recovery in both the U.S. and Europe. Currency favorably impacted sales by 4%, due to the weaker U.S. dollar. Energy and raw material contractual cost pass-through to customers due to higher natural gas prices increased sales by 2%.

## Operating Income

Operating income of \$340.6 increased 31%, or \$80.2. On a non-GAAP basis, operating income of \$364.0 increased 40%, or \$103.6.

- Underlying business increased \$90, primarily from higher volumes in the Electronics and Performance Materials and Tonnage Gases segments and favorable cost performance, partially offset by reduced pricing and variable cost inflation.
- Favorable currency translation and foreign exchange impacts increased operating income by \$14.

## Equity Affiliates' Income

Income from equity affiliates of \$32.2 increased \$5.2, primarily due to volume increases.

## Selling and Administrative Expense (S&A)

S&A expense of \$240.4 increased 4%, or \$9.8, primarily due to unfavorable currency. S&A as a percent of sales decreased to 10.7% from 11.8%.

## Research and Development (R&D)

R&D expense of \$26.3 decreased 11%, or \$3.3, primarily due to the impact of cost reduction actions. R&D, as a percent of sales, decreased from 1.5% to 1.2%.

## Acquisition-Related Costs

In February 2010, the Company commenced a tender offer to acquire all the outstanding common stock of Airgas, including the associated preferred stock purchase rights, for \$60.00 per share in cash. The total value of the transaction would be approximately \$7 billion, including \$5.1 billion of equity and \$1.9 billion of assumed debt.

In connection with this tender offer, the Company has secured committed financing in the form of a \$6.7 billion term loan credit facility. Fees incurred to secure this credit facility have been deferred and will be amortized over the term of the arrangement.

For the second quarter of 2010, \$23.4 in expense was recognized related to this transaction and is included within acquisition-related costs on the consolidated income statement. This includes amortization of the fees related to the term loan credit facility and other acquisition-related costs. Total costs of this transaction are expected to be \$150 to \$200.

## Other Income, Net

Items recorded to other income arise from transactions and events not directly related to the principal income earning activities of the Company.

Other income of \$10.4 increased \$5.3, primarily due to losses on sales of assets in the prior year. Otherwise, no individual items were significant in comparison to the prior year.

## Interest Expense

	Three Months Ended 31 March	
	2010	2009
Interest incurred	\$33.3	\$34.9
Less: capitalized interest	3.8	4.9
Interest expense	<b>\$29.5</b>	<b>\$30.0</b>

Interest incurred decreased \$1.6. The decrease was driven by lower average interest rates on variable-rate debt, partially offset by a higher average debt balance and the impact of a weaker dollar on the translation of foreign currency interest.

## Effective Tax Rate

The effective tax rate equals the income tax provision divided by income from continuing operations before taxes less noncontrolling interests. On a GAAP basis, the effective tax rate was 25.2% and 26.0% in the second quarter of 2010 and 2009, respectively. On a non-GAAP basis, the effective tax rate was 26.0% in the second quarter of both 2010 and 2009.

## Discontinued Operations

In fiscal 2009, the Company completed the divestiture of its U.S. Healthcare business which has been accounted for as discontinued operations. For additional historical information on this divestiture, refer to the Company's 2009 Form 10-K.

The U.S. Healthcare business generated sales of \$43.9 and loss from operations, net of tax, of \$.6 in the second quarter of 2009. As a result of events occurring during the second quarter of 2009, the Company recognized a one-time tax benefit of \$16.7, or \$.08 per share.

## Net Income

Net income was \$252.0 compared to \$205.6 and diluted earnings per share was \$1.16 compared to \$.97. On a non-GAAP basis, net income was \$266.6 compared to \$205.6 and diluted earnings per share was \$1.23 compared to \$.97. A summary table of changes in earnings per share is presented on page 25.

## Segment Analysis

### Merchant Gases

	Three Months Ended 31 March		% Change
	2010	2009	
Sales	\$921.7	\$870.4	6%
Operating income	178.1	156.2	14%
Equity affiliates' income	26.8	25.1	7%

### Merchant Gases Sales

	% Change from Prior Year
Underlying business	
Volume	1%
Price	(1)%
Currency	6%
<b>Total Merchant Gases Sales Change</b>	<b>6%</b>

Sales of \$921.7 increased 6%, or \$51.3. Sales increased 6% from favorable currency effects, driven primarily by the weaker U.S. dollar. Underlying sales were flat as volume increases of 1% were offset by a price decline of 1%.

In North America, sales increased 2%, with volumes up 5% and price down 3%. The increase in volumes was primarily driven by higher liquid argon and liquid hydrogen sales. The price decline was due to lower surcharge activity and lower liquid hydrogen pricing, as a result of cost pass-through of lower natural gas costs. In Europe, sales increased 6%, primarily due to favorable currency impacts of 8%. Volumes unfavorably impacted sales by 2%, due to the weak manufacturing environment, partially offset by increased Healthcare volumes. In Asia, sales increased 24%, with volumes up 22% and a favorable currency impact of 6%. Volumes continued to improve across Asia, driven by steel, electronics, and bulk hydrogen customers. Lower pricing decreased sales by 4%, principally due to lower prices for liquid argon. Additionally, the global generated gases business volumes declined due to lower equipment sales.

### Merchant Gases Operating Income

Operating income of \$178.1 increased 14%, or \$21.9. The increase was primarily due to higher volumes of \$9, favorable currency of \$8, and cost improvements of \$19, partially offset by lower pricing and variable cost inflation of \$14. The reduced costs were a result of improved plant operating costs, distribution efficiency, and organizational restructuring benefits.

## Tonnage Gases

	Three Months Ended 31 March		% Change
	2010	2009	
Sales	\$756.7	\$624.6	21%
Operating income	107.2	98.0	9%

### Tonnage Gases Sales

	% Change from Prior Year
Underlying business	
Volume	11%
Currency	4%
Energy and raw material cost pass-through	6%
<b>Total Tonnage Gases Sales Change</b>	<b>21%</b>

Sales of \$756.7 increased 21%, or \$132.1. Volumes increased 11% due to new plant onstreams and continued improvement in steel and chemical end markets. Higher energy and raw material contractual cost pass-through to customers due to higher natural gas prices increased sales by 6%. Currency favorably impacted sales by 4%, driven primarily by the weaker U.S. dollar.

### Tonnage Gases Operating Income

Operating income of \$107.2 increased 9%, or \$9.2. The increase was a result of higher volumes and new plant onstreams of \$19 and favorable currency impacts of \$4, partially offset by higher maintenance costs of \$11.

## Electronics and Performance Materials

	Three Months Ended 31 March		% Change
	2010	2009	
Sales	\$451.2	\$332.2	36%
Operating income (loss)	57.0	(11.1)	N/M

### Electronics and Performance Materials Sales

	% Change from Prior Year
Underlying business	
Volume	38%
Price	(4)%
Currency	2%
<b>Total Electronics and Performance Materials Sales Change</b>	<b>36%</b>

Sales of \$451.2 increased 36%, or \$119.0. Underlying business increased 34% due to higher volumes, partially offset by lower pricing. Electronics sales increased 28% due to increased volumes, reflecting the improvement in the Electronics market, partially offset by lower pricing. Performance Materials sales increased 45%, reflecting the continued increase in demand across end markets in all regions, partially offset by lower pricing.

### Electronics and Performance Materials Operating Income

Operating income of \$57.0 increased \$68.1. This increase resulted primarily from higher volumes of \$52 and lower costs of \$32, partially offset by lower pricing of \$16. The reduced costs were a result of restructuring and productivity initiatives.

## Equipment and Energy

	Three Months Ended 31 March		
	2010	2009	% Change
Sales	\$119.4	\$128.2	(7)%
Operating income	18.2	16.3	12%

### Equipment and Energy Sales and Operating Income

Sales of \$119.4 decreased 7%, or \$8.8, due to lower air separation unit sales. Operating income of \$18.2 increased 12% due to higher liquefied natural gas (LNG) heat exchanger activity.

The sales backlog for the Equipment business at 31 March 2010 was \$343, compared to \$239 at 30 September 2009.

### Other

Other operating income (loss) includes expense and income that cannot be directly associated with the business segments, including foreign exchange gains and losses, interest income, and costs previously allocated to businesses now reported as discontinued operations. Also included are LIFO inventory adjustments, as the business segments use FIFO and the LIFO pool adjustments are not allocated to the business segments. Corporate general and administrative costs and research and development costs are fully allocated to the business segments.

Other operating income was \$3.5 compared to \$1.0. No individual items were significant in comparison to the prior year.

## FIRST SIX MONTHS 2010 VS. FIRST SIX MONTHS 2009

### FIRST SIX MONTHS 2010 IN SUMMARY

- Sales of \$4,422.5 increased 7%. Underlying business increased 6% primarily in the Electronics and Performance Materials and Tonnage Gases segments, and currency increased sales by 4%. These increases were partially offset by lower energy and raw material cost pass-through to customers of 3%.
- Operating income of \$685.6 increased 83%, or \$311.1. On a non-GAAP basis, operating income of \$709.0 increased 29%, or \$160.3, due to higher volumes, lower costs, and favorable currency and foreign exchange.
- Income from continuing operations of \$503.8 increased 80%, or \$224.5, and diluted earnings per share from continuing operations of \$2.32 increased 76%, or \$1.00. On a non-GAAP basis, income from continuing operations of \$518.4 increased 31%, or \$123.0, and diluted earnings per share from continuing operations of \$2.39 increased 28%, or \$.52. A summary table of changes in diluted earnings per share is presented below.

## Changes in Diluted Earnings per Share Attributable to Air Products

	Six Months Ended 31 March		Increase (Decrease)
	2010	2009	
<b>Diluted Earnings per Share</b>			
Net Income	\$2.32	\$1.29	\$1.03
Discontinued Operations	—	(.03)	.03
<b>Continuing Operations — GAAP Basis</b>			
Acquisition-related costs	(.07)	—	(.07)
Global cost reduction plan	—	(.55)	.55
<b>Continuing Operations — Non-GAAP Basis</b>			
	\$2.39	\$1.87	\$ .52
<b>Operating Income (after-tax)</b>			
Underlying business			
Volume			.41
Price/raw materials			(.14)
Costs			.18
Currency			.12
<b>Operating Income</b>			
			.57
<b>Other (after-tax)</b>			
Equity affiliates' income			.03
Interest expense			.02
Income tax rate			(.02)
Noncontrolling interest			(.02)
Average shares outstanding			(.06)
<b>Other</b>			
			(.05)
<b>Total Change in Diluted Earnings per Share from Continuing Operations — Non-GAAP Basis</b>			<b>\$ .52</b>

## RESULTS OF OPERATIONS

### Discussion of Consolidated Results

	Six Months Ended 31 March		% Change
	2010	2009	
Sales	\$4,422.5	\$4,150.7	7%
Operating income — GAAP Basis	685.6	374.5	83%
Operating income — Non-GAAP Basis	709.0	548.7	29%
Equity affiliates' income	59.1	51.5	15%

### Sales

	% Change from Prior Year
Underlying business	
Volume	7%
Price	(1)%
Currency	4%
Energy and raw material cost pass-through	(3)%
<b>Total Consolidated Change</b>	<b>7%</b>

Sales of \$4,422.5 increased 7%, or \$271.8. Underlying business increased 6% driven by increases in the Electronics and Performance Materials and Tonnage Gases segments. Currency favorably impacted sales by 4% due to the weaker U.S. dollar. Energy and raw material contractual cost pass-through to customers reduced sales by 3% due to lower natural gas prices in the first quarter of 2010.

### **Operating Income**

Operating income of \$685.6 increased 83%, or \$311.1. On a non-GAAP basis, operating income of \$709.0 increased 29%, or \$160.3.

- Underlying business increased \$126, primarily from higher volumes in the Electronics and Performance Material and Tonnage Gases segments and lower costs, partially offset by reduced pricing and variable cost inflation.
- Favorable currency translation and foreign exchange impacts increased operating income by \$34.

### **Equity Affiliates' Income**

Income from equity affiliates of \$59.1 increased \$7.6, primarily due to volume increases.

### **Selling and Administrative Expense (S&A)**

S&A expense of \$484.5 increased 1%, or \$6.9, primarily due to unfavorable currency. S&A as a percent of sales decreased to 11.0% from 11.5%.

### **Research and Development (R&D)**

R&D expense of \$53.5 decreased 15%, or \$9.3, primarily due to the impact of cost reduction actions. R&D, as a percent of sales, decreased from 1.5% to 1.2%.

### **Global Cost Reduction Plan**

For the six months ended 31 March 2009, the results from continuing operations included a charge of \$174.2 (\$116.1 after-tax, or \$.55 per share) for the global cost reduction plan. For additional information on this charge, as well as a subsequent charge for the plan in the third quarter of 2009, refer to the Company's 2009 Form 10-K.

The planned actions associated with the global cost reduction plan are expected to be substantially completed within one year of when the related charges were recognized. As of 31 March 2010, the planned actions associated with the first quarter 2009 charge were completed, with the exception of certain benefit payments, associated with a small number of position eliminations, which will be paid in the third quarter of 2010.

Cost savings of approximately \$155 are expected for 2010. Beyond 2010, the Company expects annualized savings of approximately \$180, of which the majority is related to personnel costs.

### **Acquisition-Related Costs**

For the six months ended 31 March 2010, \$23.4 in expense was recognized related to the Airgas transaction and is included within acquisition-related costs on the consolidated income statement. Refer to Note 3 to the consolidated financial statements for details on this charge.

### **Other Income, Net**

Items recorded to other income arise from transactions and events not directly related to the principal income earning activities of the Company.

Other income of \$21.8 increased \$13.8, primarily due to foreign exchange losses in the prior year. Otherwise, no individual items were significant in comparison to the prior year.

## Interest Expense

	Six Months Ended 31 March	
	2010	2009
Interest incurred	\$69.6	\$76.6
Less: capitalized interest	8.5	10.1
Interest expense	<b>\$61.1</b>	<b>\$66.5</b>

Interest incurred decreased \$7.0. The decrease was primarily driven by lower average interest rates on variable-rate debt, partially offset by a higher average debt balance and the impact of a weaker dollar on the translation of foreign currency interest.

## Effective Tax Rate

The effective tax rate equals the income tax provision divided by income from continuing operations before taxes less noncontrolling interests. On a GAAP basis, the effective tax rate was 25.1% and 20.9% in 2010 and 2009, respectively. On a non-GAAP basis, the effective tax rate was 25.5% and 25.0% in 2010 and 2009, respectively. The effective tax rate was higher in 2010 as tax credits had a lower relative impact in relation to increased taxable income.

## Discontinued Operations

In fiscal 2009, the Company completed the divestiture of its U.S. Healthcare business which has been accounted for as discontinued operations. For additional historical information on this divestiture, refer to the Company's 2009 Form 10-K.

The U.S. Healthcare business generated sales of \$92.1 and income from operations, net of tax, of \$.1 for the six months ended 31 March 2009. In the first quarter of 2009, the Company recorded an impairment charge of \$48.7 (\$30.9 after-tax, or \$.15 per share) reflecting a revision in the estimated net realizable value of the U.S. Healthcare business. Also, a tax benefit of \$8.8, or \$.04 per share, was recorded to revise the estimated tax benefit related to previously recognized impairment charges. As a result of events occurring during the second quarter 2009, the Company recognized a one-time tax benefit of \$16.7, or \$.08 per share.

## Net Income

Net income was \$503.8 compared to \$274.2 and diluted earnings per share was \$2.32 compared to \$1.29. On a non-GAAP basis, net income was \$518.4 compared to \$390.3 and diluted earnings per share was \$2.39 compared to \$1.84. A summary table of changes in earnings per share is presented on page 30.

## Segment Analysis

### Merchant Gases

	Six Months Ended 31 March		
	2010	2009	% Change
Sales	\$1,855.3	\$1,795.6	3%
Operating income	367.7	326.7	13%
Equity affiliates' income	48.0	47.1	2%

### Merchant Gases Sales

	% Change from Prior Year
Underlying business	
Volume	(2)%
Price	(1)%
Currency	6%
<b>Total Merchant Gases Sales Change</b>	<b>3%</b>



Sales of \$1,855.3 increased 3%, or \$59.7. Sales increased 6% from favorable currency effects, driven primarily by the weaker U.S. dollar. Underlying business declined 3% due to lower pricing and volume. The 2% volume decline was a result of lower demand in North America and Europe more than offsetting volume increases in Asia.

In North America, sales decreased 5%, with volumes down 3% and price down 2%. The decrease in volume was primarily due to lower liquid/bulk volumes in the first quarter. The price decline was due to lower surcharge activity and lower liquid hydrogen pricing. In Europe, sales increased 6%, primarily due to favorable currency impacts of 8%. Volumes unfavorably impacted sales by 2%, due to the slow recovery of the manufacturing environment, partially offset by increased Healthcare volumes. In Asia, sales increased 18%, with volumes up 16% and a favorable currency impact of 6%. Volumes continued to improve across Asia, driven by steel, electronics, and bulk hydrogen customers. Lower pricing decreased sales by 4%, principally due to lower prices in liquid argon as increased capacity came on-stream in the region. Additionally, the global generated gases business volumes declined due to lower equipment sales.

### Merchant Gases Operating Income

Operating income of \$367.7 increased 13%, or \$41.0. The increase was primarily due to favorable currency of \$20 and lower costs of \$40, partially offset by lower volumes of \$11 and lower pricing and variable cost inflation of \$8. The improved costs resulted from improved plant operating costs, distribution efficiency, and organizational restructuring benefits.

### Tonnage Gases

	Six Months Ended 31 March		% Change
	2010	2009	
Sales	\$1,454.6	\$1,368.6	6%
Operating income	207.4	206.8	—%

### Tonnage Gases Sales

	% Change from Prior Year
Underlying business	
Volume	11%
Currency	4%
Energy and raw material cost pass-through	(9)%
<b>Total Tonnage Gases Sales Change</b>	<b>6%</b>

Sales of \$1,454.6 increased 6%, or \$86.0. Volumes increased 11% due to continued improvement in steel and chemical end markets and new plant onstreams. Currency favorably impacted sales by 4%, driven primarily by the weaker U.S. dollar. Lower energy and raw material contractual cost pass-through to customers due to lower natural gas prices in the first quarter of 2010 reduced sales by 9%.

### Tonnage Gases Operating Income

Operating income of \$207.4 increased \$.6. The increase was a result of higher volumes and new plant onstreams of \$42 and favorable currency impacts of \$5, mostly offset by higher costs of \$46, primarily due to maintenance costs and operating inefficiencies.

### Electronics and Performance Materials

	Six Months Ended 31 March		% Change
	2010	2009	
Sales	\$884.6	\$738.8	20%
Operating income	105.4	13.5	N/M

## Electronics and Performance Materials Sales

	% Change from Prior Year
Underlying business	
Volume	23%
Price	(5)%
Currency	2%
<b>Total Electronics and Performance Materials Sales Change</b>	<b>20%</b>

Sales of \$884.6 increased 20%, or \$145.8. Underlying business increased due to higher volumes of 23%, partially offset by unfavorable pricing of 5%. Electronics sales increased 12% due to higher volumes, reflecting the improvement in the Electronics market, partially offset by lower pricing. Performance Materials sales increased 31%, reflecting the continued increased demand across end markets globally, partially offset by lower pricing.

## Electronics and Performance Materials Operating Income

Operating income of \$105.4 increased \$91.9, primarily due to higher volumes of \$81 and lower costs of \$44, partially offset by lower pricing and variable cost inflation of \$33. The reduced costs were a result of restructuring and productivity initiatives.

## Equipment and Energy

	Six Months Ended 31 March		
	2010	2009	% Change
Sales	\$228.0	\$247.7	(8)%
Operating income	26.0	23.3	12%

## Equipment and Energy Sales and Operating Income

Sales of \$228.0 decreased 8%, or \$19.7, due to lower air separation unit sales. Operating income of \$26.0 increased 12%, due to higher LNG activity and lower energy development spending, partially offset by restructuring costs to close a European manufacturing facility.

The sales backlog for the Equipment business at 31 March 2010 was \$343, compared to \$239 at 30 September 2009.

## Other

Other operating income (loss) includes expense and income that cannot be directly associated with the business segments, including foreign exchange gains and losses, interest income, and costs previously allocated to businesses now reported as discontinued operations. Also included are LIFO inventory adjustments, as the business segments use FIFO and the LIFO pool adjustments are not allocated to the business segments. Corporate general and administrative costs and research and development costs are fully allocated to the business segments.

Other operating income was \$2.5 compared to a loss of \$(21.6) primarily due to unfavorable foreign exchange and an unfavorable LIFO inventory adjustment in the prior year. No other individual items were significant in comparison to the prior year.

## RECONCILIATION OF NON-GAAP FINANCIAL MEASURES

The presentation of non-GAAP measures is intended to enhance the usefulness of financial information by providing measures which the Company's management uses internally to evaluate the Company's baseline performance on a comparable basis. Presented below are reconciliations of the reported GAAP results to the non-GAAP measures.

### CONSOLIDATED RESULTS

	Q2	Q2	Q2	YTD	YTD	YTD
	Continuing Operations					
	Operating Income	Income	Diluted EPS	Operating Income	Income	Diluted EPS
2010 GAAP	\$340.6	\$252.0	\$1.16	\$685.6	\$503.8	\$2.32
2009 GAAP	260.4	189.3	.89	374.5	279.3	1.32
Change GAAP	\$ 80.2	\$ 62.7	\$ .27	\$311.1	\$224.5	\$1.00
% Change GAAP	31%	33%	30%	83%	80%	76%
2010 GAAP	\$340.6	\$252.0	\$1.16	\$685.6	\$503.8	\$2.32
Acquisition-related costs (tax impact \$8.8)*	23.4	14.6	.07	23.4	14.6	.07
2010 Non-GAAP Measure	\$364.0	\$266.6	\$1.23	\$709.0	\$518.4	\$2.39
2009 GAAP	\$260.4	\$189.3	\$ .89	\$374.5	\$279.3	\$1.32
Global cost reduction plan (tax impact \$58.1)*	—	—	—	174.2	116.1	.55
2009 Non-GAAP Measure	\$260.4	\$189.3	\$ .89	\$548.7	\$395.4	\$1.87
Change Non-GAAP Measure	\$103.6	\$ 77.3	\$ .34	\$160.3	\$123.0	\$ .52
% Change Non-GAAP Measure	40%	41%	38%	29%	31%	28%

	Q2 Net Income	Q2 Diluted EPS	YTD Net Income	YTD Diluted EPS
2010 GAAP	\$252.0	\$1.16	\$503.8	\$2.32
2009 GAAP	205.6	.97	274.2	1.29
2010 GAAP	\$252.0	\$1.16	\$503.8	\$2.32
Acquisition-related costs (tax impact \$8.8)*	14.6	.07	14.6	.07
2010 Non-GAAP Measure	\$266.6	\$1.23	\$518.4	\$2.39
2009 GAAP	\$205.6	\$ .97	\$274.2	\$1.29
Global cost reduction plan (tax impact \$58.1)*	—	—	116.1	.55
2009 Non-GAAP Measure	\$205.6	\$ .97	\$390.3	\$1.84

\* Based on statutory tax rates of 37.4% and 33.3% for the 2010 and 2009 charges, respectively.

	Effective Tax Rate			
	2010 Q2	2009 Q2	2010 YTD	2009 YTD
Income Tax Provision — GAAP	\$ 84.9	\$ 66.5	\$168.4	\$ 73.6
Income from continuing operations before taxes — GAAP	\$343.3	\$257.4	\$683.6	\$359.5
Net income from noncontrolling interests — GAAP	6.4	1.6	11.4	6.6
Income from continuing operations before taxes less noncontrolling interests — GAAP	\$336.9	\$255.8	\$672.2	\$352.9
Effective Tax Rate — GAAP	25.2%	26.0%	25.1%	20.9%
Income Tax Provision — GAAP	\$ 84.9	\$ 66.5	\$168.4	\$ 73.6
Acquisition-related costs tax impact	8.8	—	8.8	—
Global cost reduction plan tax impact	—	—	—	58.1
Income Tax Provision — Non-GAAP Measure	\$ 93.7	\$ 66.5	\$177.2	\$131.7
Income from continuing operations before taxes less noncontrolling interests — GAAP	\$336.9	\$255.8	\$672.2	\$352.9
Acquisition-related costs	23.4	—	23.4	—
Global cost reduction plan	—	—	—	174.2
Income from continuing operations before taxes less noncontrolling interests — Non-GAAP Measure	\$360.3	\$255.8	\$695.6	\$527.1
Effective Tax Rate — Non-GAAP Measure	26.0%	26.0%	25.5%	25.0%

## PENSION BENEFITS

Refer to Note 11 to the consolidated financial statements for details on pension cost and cash contributions. For additional information on the Company's pension benefits and associated accounting policies, refer to the Pension Benefits section of Management's Discussion and Analysis and Note 15 to the consolidated financial statements in the Company's 2009 Form 10-K.

## LIQUIDITY AND CAPITAL RESOURCES

The Company has maintained a strong financial position through the first six months of 2010. Cash flow from operations provided funding for the Company's capital spending and dividend payments. The Company has current debt ratings of A/A3 (long-term) and A-1/P-2 (short-term), by Standard & Poor's/Moody's. As a result of the Airgas tender offer, Moody's lowered their rating from A2/P-1 to A3/P-2. The Company continues to retain consistent access to commercial paper markets and cash flow from operations and financing activities are expected to meet liquidity needs for the foreseeable future.

### Cash Flow

The narrative below refers to the consolidated statements of cash flows included on page 6.

### Operating Activities

Net cash provided by operating activities increased \$83.4, or 18%. This variance resulted from an increase in net income of \$229.6 combined with the favorable impact of noncash adjustments to income of \$106.7, partially offset by unfavorable changes in working capital of \$252.9.

Noncash adjustments include depreciation and amortization, impairment charges, deferred income taxes, and share-based compensation cost. These adjustments also include changes in operating assets, such as noncurrent capital lease receivables, and liabilities which reflect timing differences between the receipt or disbursement of cash and their recognition in earnings.

- Net income in the current year included an increase in the noncash expense for deferred income taxes of \$91.4 and noncash acquisition-related costs of \$21.0. Net income in 2009 included noncash impairment charges of \$80.8 related to the global cost reduction plan and the discontinued U.S. Healthcare business.

Changes in working capital resulted in a \$252.9 negative cash flow variance and included:

- A \$296.2 negative cash flow variance in trade receivables. The current year reflected a negative cash flow of \$129.9 caused by rising sales while the prior year reflected a positive cash flow of \$166.3 resulting from a significant drop off in sales.
- A \$74.8 negative cash flow variance due to a higher use of cash for payables and accrued liabilities. This variance was due primarily to higher pension contributions in 2010, partially offset by an increase in other accruals as a result of higher operating levels.
- A \$74.0 positive cash flow variance from other working capital due primarily to changes in accrued income taxes.

### Investing Activities

Cash used for investing activities increased \$27.8 and included:

- Capital expenditures for plant and equipment decreased by \$98.9, consistent with the Company's current capital spending plan.
- On 1 March 2010, the Company purchased 51.47% of the shares of SAGA for \$25.0 net of cash acquired of \$22.2. See Note 4 for additional information on this business combination.
- The Company purchased approximately 1.5 million shares of Airgas stock for \$69.6 prior to a tender offer as discussed in Note 3.

Capital expenditures are detailed in the table below.

	Six Months Ended 31 March	
	2010	2009
Additions to plant and equipment	\$516.9	\$615.8
Acquisitions, less cash acquired	34.9	1.6
Short-term borrowings associated with SAGA acquisition <sup>(A)</sup>	60.6	—
Investment in and advances to unconsolidated affiliates	4.5	.1
Capital expenditures on a GAAP basis	\$616.9	\$617.5
Capital lease expenditures <sup>(B)</sup>	82.3	68.2
Capital expenditures on a Non-GAAP basis	\$699.2	\$685.7

(A) Noncash transaction.

(B) The Company utilizes a non-GAAP measure in the computation of capital expenditures and includes spending associated with facilities accounted for as capital leases. Certain contracts associated with facilities that are built to provide product to a specific customer are required to be accounted for as leases, and such spending is reflected as a use of cash within cash provided by operating activities. The presentation of this non-GAAP measure is intended to enhance the usefulness of information by providing a measure which the Company's management uses internally to evaluate and manage the Company's expenditures.

### Financing Activities

Cash used for financing activities increased \$291.5, primarily due to a net decrease in borrowings of \$324.5, partially offset by higher proceeds of \$28.6 from stock option exercises.

- Company borrowings (short- and long-term proceeds, net of repayments) were a net repayment of \$71.2 as compared to net borrowings of \$253.3 during 2009. Payments in 2010 included a \$50.0 Medium-term note. Borrowings in 2009 included the issuance of \$80.0 of Industrial Revenue Bonds and \$181.8 of commercial paper.

Total debt at 31 March 2010 and 30 September 2009, expressed as a percentage of the sum of total debt and total equity, was 44.5% and 47.7%, respectively. Total debt decreased from \$4,501.5 at 30 September 2009 to \$4,343.4 at 31 March 2010.

The Company's total multicurrency revolving facility, maturing in May 2011, amounted to \$1,450.0 at 31 March 2010. No borrowings were outstanding under these commitments. Additional commitments totaling \$536.3 are maintained by the Company's foreign subsidiaries, of which \$290.6 were utilized at 31 March 2010.

In connection with the Airgas tender offer (see Note 3), the Company has secured committed financing in the form of a \$6.7 billion term loan credit facility. Borrowings under this credit facility will be available beginning on the date of the consummation of the tender offer, which must occur no later than 4 February 2011. All borrowings under this credit facility will mature on the date that is one year from the consummation of the tender offer. The credit facility agreement contains one financial covenant, a maximum leverage ratio, and other typical affirmative and negative covenants, including restrictions on liens and certain subsidiary indebtedness. It also requires mandatory commitment reduction/prepayment for certain capital market transactions and asset dispositions. Fees incurred to secure this credit facility have been deferred and will be amortized over the term of the arrangement.

On 20 September 2007, the Board of Directors authorized the repurchase of up to \$1,000 of the Company's outstanding common stock. In the first six months of 2010, the Company did not purchase any shares under this authorization. At 31 March 2010, \$649.2 in share repurchase authorization remained.

#### **CONTRACTUAL OBLIGATIONS**

The Company is obligated to make future payments under various contracts such as debt agreements, lease agreements, unconditional purchase obligations and other long-term obligations. There have been no material changes to contractual obligations as reflected in the Management's Discussion and Analysis in the Company's 2009 Form 10-K.

#### **COMMITMENTS AND CONTINGENCIES**

Refer to Note 16 to the consolidated financial statements in the Company's 2009 Form 10-K and Note 12 in this quarterly filing.

#### **OFF-BALANCE SHEET ARRANGEMENTS**

There have been no material changes to off-balance sheet arrangements as reflected in the Management's Discussion and Analysis in the Company's 2009 Form 10-K. The Company is not a primary beneficiary in any material variable interest entity. The Company's off-balance sheet arrangements are not reasonably likely to have a material impact on financial condition, changes in financial condition, and results of operations or liquidity.

#### **RELATED PARTY TRANSACTIONS**

The Company's principal related parties are equity affiliates operating in the industrial gas business. The Company did not engage in any material transactions involving related parties that included terms or other aspects that differ from those which would be negotiated at arm's length with clearly independent parties.

#### **CRITICAL ACCOUNTING POLICIES AND ESTIMATES**

Management's Discussion and Analysis of the Company's financial condition and results of operations is based on the consolidated financial statements and accompanying notes that have been prepared in accordance with U.S. generally accepted accounting principles. The preparation of these financial statements requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

The significant accounting policies of the Company are described in Note 1 to the consolidated financial statements and the critical accounting policies and estimates are described in the Management's Discussion and Analysis included in the 2009 Form 10-K. Information concerning the Company's implementation and impact of new accounting standards issued by the FASB is included in Note 2 to the consolidated financial statements. There have been no changes in accounting policy in the current period that had a material impact on the Company's financial condition, change in financial condition, liquidity or results of operations.

## NEW ACCOUNTING GUIDANCE

See Note 2 to the consolidated financial statements for information concerning the Company's implementation and impact of new accounting guidance.

## FORWARD-LOOKING STATEMENTS

This report contains "forward-looking statements" within the safe harbor provisions of the Private Securities Litigation Reform Act of 1995. These forward-looking statements are based on management's reasonable expectations and assumptions as of the date this presentation is made regarding important risk factors. Actual performance and financial results may differ materially from projections and estimates expressed in the forward-looking statements because of many factors not anticipated by management, including, without limitation, a slowdown in the global economic recovery; renewed deterioration in economic and business conditions; poor demand for the Company's products; future financial and operating performance of major customers and industries served by the Company; inability to collect receivables from or recovery of payments made by customers in bankruptcy proceedings; unanticipated contract terminations or customer cancellations or postponement of projects and sales; asset impairments due to economic conditions or specific product or customer events; unexpected costs associated with the Company's cash tender offer for Airgas, Inc.; costs of future restructuring actions which are not currently planned or anticipated; the impact of competitive products and pricing; interruption in ordinary sources of supply of raw materials; the ability to recover unanticipated increased energy and raw material costs from customers; costs and outcomes of litigation or regulatory activities; charges related to current portfolio management and cost reduction actions; the success of implementing cost reduction programs; inability to achieve anticipated acquisition synergies; the timing, impact, and other uncertainties of future acquisitions or divestitures; significant fluctuations in interest rates and foreign currencies from that currently anticipated; the continued availability of capital funding sources in all of the Company's foreign operations; the impact of new or changed environmental, healthcare, tax or other legislation and regulations in jurisdictions in which the Company and its affiliates operate; the impact of new or changed financial accounting guidance; the timing and rate at which tax credits can be utilized and other risk factors described in the Company's Form 10-K for its fiscal year ended 30 September 2009. The Company disclaims any obligation or undertaking to disseminate any updates or revisions to any forward-looking statements contained in this document to reflect any change in the Company's assumptions, beliefs or expectations or any change in events, conditions, or circumstances upon which any such forward-looking statements are based.

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

Information on the Company's utilization of financial instruments and an analysis of the sensitivity of these instruments to selected changes in market rates and prices is included in the Company's 2009 Form 10-K.

There were no material changes to market risk sensitivities for interest rate risk on fixed debt, foreign currency exchange rate risk, or commodity price risk since 30 September 2009.

The net financial instrument position decreased from a liability of \$4,510 at 30 September 2009 to a liability of \$4,191 at 31 March 2010, primarily due to the impact of a stronger U.S. dollar on the translation of foreign currency debt and the market value of foreign exchange forward contracts.

### Item 4. Controls and Procedures

We maintain a comprehensive set of disclosure controls and procedures (as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act) designed to ensure that information required to be disclosed in our filings under the Exchange Act is recorded, processed, summarized and reported accurately and within the time periods specified in the SEC's rules and forms. As of 31 March 2010 (the Evaluation Date), an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures was carried out under the supervision and with the participation of our management, including our Chief Executive Officer and Chief Financial Officer. Based upon that evaluation, the Chief Executive Officer and Chief Financial Officer concluded that, as of the Evaluation Date, the design and operation of these disclosure controls and procedures were effective to provide reasonable assurance of the achievement of the objectives described above.

During the quarter that ended on the Evaluation Date, there was no change in internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

## PART II. OTHER INFORMATION

### Item 1. Legal Proceedings

On February 16, 2010 an unplanned shutdown at the Company's nitric acid plant in Pasadena, Texas resulted in the release of nitrogen dioxide and nitric acid into the atmosphere. In connection with the incident, the Company has been contacted by federal, state and local environmental regulatory authorities. At this time the Company does not know whether any fines or penalties will be assessed; however the Company expects that any resulting fines or penalties will be immaterial to its consolidated financial results.

### Item 4. Submission of Matters to a Vote of Security Holders.

- a. The Annual Meeting of Shareholders of the Registrant was held on 28 January 2010.
- b. The following directors were elected at the meeting: William L. Davis III, W. Douglas Ford, Evert Henkes, and Margaret G. McGlynn. Directors whose term of office continued after the meeting include: Michael J. Donahue, Ursula O. Fairbairn, Lawrence S. Smith, Mario L. Baeza, Edward E. Hagenlocker, John E. McGlade, and Charles H. Noski.
- c. The following matters were voted on at the Annual Meeting:
  1. Election of Directors

#### NUMBER OF VOTES CAST

NAME OF DIRECTOR	VOTED FOR	WITHHELD AUTHORITY	BROKER NON-VOTES
William L. Davis III	166,988,342	2,806,494	13,987,622
W. Douglas Ford	167,645,021	2,149,815	13,987,622
Evert Henkes	167,610,904	2,183,932	13,987,622
Margaret G. McGlynn	167,322,047	2,472,789	13,987,622

2. Ratification of the appointment of KPMG LLP of Philadelphia, Pennsylvania, as independent auditor for the registrant for the fiscal year ending 30 September 2010

#### NUMBER OF VOTES CAST

FOR	AGAINST	ABSTAIN
181,353,867	2,203,458	225,133

3. Approval of the Long-Term Incentive Plan

#### NUMBER OF VOTES CAST

FOR	AGAINST	ABSTAIN	BROKER NON-VOTES
150,292,224	19,088,578	412,192	13,989,464

### Item 6. Exhibits.

Exhibits required by Item 601 of Regulation S-K

- 10.1 Amended and Restated Commitment Letter dated March 3, 2010 among Air Products and Chemicals, Inc., JPMorgan Chase Bank, N.A. and J.P. Morgan Securities Inc. (Filed as Exhibit 10.1 to Form 8-K filed on 3/5/2010 and incorporated herein by reference.)
- 10.2 Accession Letter dated March 3, 2010 among Air Products and Chemicals, Inc., The Royal Bank of Scotland plc and RBS Securities Inc. (Filed as Exhibit 10.2 to Form 8-K filed on 3/5/2010 and incorporated herein by reference.)
- 10.3 Accession Letter dated March 3, 2010 among Air Products and Chemicals, Inc., Deutsche Bank AG Cayman Island Branch and Deutsche Bank Securities Inc. (Filed as Exhibit 10.3 to Form 8-K filed on 3/5/2010 and incorporated herein by reference.)



- 10.4 Accession Letter dated March 3, 2010 among Air Products and Chemicals, Inc., BNP Paribas and BNP Paribas Securities Corp. (Filed as Exhibit 10.4 to Form 8-K filed on 3/5/2010 and incorporated herein by reference.)
- 10.5 Accession Letter dated March 3, 2010 among Air Products and Chemicals, Inc., HSBC Securities (USA) Inc. and HSBC Bank USA, N.A. (Filed as Exhibit 10.5 to Form 8-K filed on 3/5/2010 and incorporated herein by reference.)
- 10.6 Accession Letter dated March 3, 2010 between Air Products and Chemicals, Inc. and The Bank of Tokyo-Mitsubishi UFJ, Ltd. (Filed as Exhibit 10.6 to Form 8-K filed on 3/5/2010 and incorporated herein by reference.)
- 10.7 Credit Agreement dated March 31, 2010 among Air Products and Chemicals, Inc., the lenders parties thereto and JPMorgan Chase Bank, N.A., as administrative agent.
12. Computation of Ratios of Earnings to Fixed Charges.
- 31.1. Certification by the Principal Executive Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
- 31.2. Certification by the Principal Financial Officer pursuant to Rule 13a-14(a) or Rule 15d-14(a) of the Securities Exchange Act of 1934, as adopted pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.
32. Certification by the Principal Executive Officer and Principal Financial Officer pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002. †
- 101.INS XBRL Instance Document††
- 101.SCH XBRL Taxonomy Extension Schema††
- 101.CAL XBRL Taxonomy Extension Calculation Linkbase††
- 101.LAB XBRL Taxonomy Extension Label Linkbase††
- 101.PRE XBRL Taxonomy Extension Presentation Linkbase††
- 101.DEF XBRL Taxonomy Extension Definition Linkbase††

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† The certification attached as Exhibit 32 that accompanies this Quarterly Report on Form 10-Q, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Air Products and Chemicals, Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date of this Form 10-Q, irrespective of any general incorporation language contained in such filing.

†† In accordance with Rule 402 of Regulation S-T, the information in these exhibits shall not be deemed to be “filed” for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, and shall not be incorporated by reference into any registration statement or other document filed under the Securities Act, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

**SIGNATURES**

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

\_\_\_\_\_  
Air Products and Chemicals, Inc.

(Registrant)

Date: 26 April 2010

By: \_\_\_\_\_ /s/ Paul E. Huck

Paul E. Huck

Senior Vice President and Chief Financial Officer

## EXHIBIT INDEX

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- 101.DEF XBRL Taxonomy Extension Definition Linkbase††

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† The certification attached as Exhibit 32 that accompanies this Quarterly Report on Form 10-Q, is not deemed filed with the Securities and Exchange Commission and is not to be incorporated by reference into any filing of Air Products and Chemicals, Inc. under the Securities Act of 1933, as amended, or the Securities Exchange Act of 1934, as amended, whether made before or after the date of this Form 10-Q, irrespective of any general incorporation language contained in such filing.

†† In accordance with Rule 402 of Regulation S-T, the information in these exhibits shall not be deemed to be “filed” for purposes of Section 18 of the Exchange Act, or otherwise subject to the liability of that section, and shall not be incorporated by reference into any registration statement or other document filed under the Securities Act, or the Exchange Act, except as shall be expressly set forth by specific reference in such filing.

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**CREDIT AGREEMENT****by and among****AIR PRODUCTS AND CHEMICALS, INC.,****The Lenders parties hereto from time to time,****and****JPMORGAN CHASE BANK, N.A.,****as Administrative Agent,****Dated as of****March 31, 2010**

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**J.P. MORGAN SECURITIES, INC.,**  
**as Joint Lead Arranger and Sole Bookrunner,****THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.,****BNP PARIBAS SECURITIES CORP.,****DEUTSCHE BANK SECURITIES INC.,****HSBC SECURITIES (USA) INC.****and****RBS SECURITIES INC.,****as Joint Lead Arrangers and Syndication Agents****and****THE BANK OF NOVA SCOTIA,****INTESA SANPAOLO S.P.A.,****SOVEREIGN BANK (A SUBSIDIARY OF SANTANDER HOLDINGS USA, INC.),****SUMITOMO MITSUI BANKING CORPORATION****and****UBS SECURITIES LLC,****as Co-Arrangers**

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EXHIBITS

Exhibit A Form of Assignment and Assumption  
Exhibit B Form of Exemption Certificate

SCHEDULES

Schedule 2.01 Commitments  
Schedule 3.07 No Conflict  
Schedule 6.02 Existing Liens  
Schedule 6.04 Existing Indebtedness



CREDIT AGREEMENT (this "Agreement"), dated as of March 31, 2010 by and among AIR PRODUCTS AND CHEMICALS, INC., a Delaware corporation (the "Borrower"), the Lenders parties hereto from time to time and JPMORGAN CHASE BANK, N.A., as administrative agent (in such capacity, the "Administrative Agent") for the Lenders hereunder.

R E C I T A L S:

WHEREAS, the Borrower has commenced, through Air Products Distribution, Inc., a newly formed Subsidiary ("Offerco"), a tender offer (the "Offer") for all of the common stock of Airgas, Inc., a Delaware corporation (the "Target");

WHEREAS, the Borrower intends to effect a merger (the "Merger") of Offerco with the Target, with the surviving corporation of the Merger being a wholly owned Subsidiary; and

WHEREAS, in order to finance the Offer and the Merger, to assist the Target in effecting timely prepayments of certain of its existing indebtedness as are required under the terms thereof as a consequence of the Offer or the Merger (the "Target Refinancing"), to pay fees and expenses in connection with the Offer, the Merger and the Target Refinancing and the financing thereof and to provide for the working capital and general corporate needs of the Borrower and its Subsidiaries prior to and following the Merger, the Borrower has requested that the Lenders enter into this Agreement and make the Loans provided for herein;

NOW, THEREFORE, in consideration of the mutual covenants and undertakings herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Article I

DEFINITIONS; CONSTRUCTION

Section 1.01 Certain Definitions. As used herein, the following words and terms shall have the following meanings:

"ABR", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Alternate Base Rate.

"Adjusted LIBO Rate" shall mean, with respect to each day during each Interest Period pertaining to a Eurodollar Loan, a rate per annum determined for such day in accordance with the following formula:

$$\frac{\text{LIBO Rate}}{1.00 - \text{Eurocurrency Reserve Requirements}}$$

"Administrative Agent" shall have the meaning set forth in the preamble hereto.

"Administrative Questionnaire" shall mean an Administrative Questionnaire in a form supplied by the Administrative Agent.

"Affiliate" of a specified Person shall mean any Person which directly or indirectly Controls, or is Controlled by, or is under common Control with, such specified Person.

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“Agreement” shall have the meaning set forth in the preamble hereto.

“Alternate Base Rate” shall mean, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, (b) the Adjusted LIBO Rate in effect on such day (or, if such day is not a Business Day, as of the preceding Business Day) in respect of a proposed Eurodollar Loan with a one-month Interest Period commencing two Business Days thereafter plus 1% and (c) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1%. Any change in the Alternate Base Rate due to a change in the Prime Rate, the Adjusted LIBO Rate or the Federal Funds Effective Rate shall be effective from and including the effective date of such change in the Prime Rate, the Adjusted LIBO Rate or the Federal Funds Effective Rate, respectively.

“Applicable Percentage” shall mean, with respect to any Lender, the percentage of the Total Commitments represented by such Lender’s Commitment; provided that if any Lender shall be a Defaulting Lender, “Applicable Percentage” shall mean the percentage of the Total Commitments (disregarding any Defaulting Lender’s Commitment) represented by such Lender’s Commitment. If the Commitments have terminated or expired, the Applicable Percentages shall be determined based upon the Commitments most recently in effect, giving effect to any assignments.

“Applicable Pricing Grid” shall mean the table set forth below:

Public Debt Ratings	Applicable Rate		Commitment Fee Rate
	Eurodollar Loan	ABR Loan	
≥ A- or A3	1.75%	0.75%	0.25%
= BBB+ or Baa1	2.00%	1.00%	0.30%
= BBB or Baa2	2.25%	1.25%	0.375%
= BBB- or Baa3	2.75%	1.75%	0.50%
< BBB- or Baa3	3.50%	2.50%	0.75%

“Applicable Rate” shall mean for each Type of Loan, as of any date of determination, the rate per annum determined pursuant to the Applicable Pricing Grid by reference to the Public Debt Ratings in effect at the time; provided that each of the Applicable Rate percentages set forth in the table included in the definition of the term “Applicable Pricing Grid” with respect to Eurodollar Loans and ABR Loans shall increase by 0.50% on the 90th day following the Closing Date and on each 90th day thereafter.

“Approved Fund” shall have the meaning assigned to such term in Section 9.04.

“Arrangers” shall mean, collectively, the Lead Arranger and The Bank of Tokyo-Mitsubishi UFJ, Ltd., BNP Paribas, Deutsche Bank Securities Inc., HSBC Securities (USA) Inc. and The Royal Bank of Scotland plc, in their capacities as joint lead arrangers in respect of the credit facility established hereunder.

“Asset Sale” shall mean any sale or other disposition of assets (including any assets sold or agreed to be sold in order to secure regulatory approval for the consummation of the Offer or the Merger, but excluding any Unrestricted Margin Stock) to a Person other than the Borrower or a Subsidiary thereof in one transaction or series of related transactions for Net Cash Proceeds of \$100,000,000 or more, other than (a) any such sale or other disposition of inventory, used or surplus equipment, cash or cash equivalents and (b) any such sale or other disposition consummated in connection with any securitization facility.

“Assignment and Assumption” shall mean an assignment and assumption entered into by a Lender and an assignee (with the consent of any party whose consent is required by Section 9.04), and accepted by the Administrative Agent, in the form of Exhibit A or any other form approved by the Administrative Agent.

“Availability Period” shall mean the period from and including the Closing Date to but excluding the Commitment Termination Date.

“Available Commitment” shall mean, as to any Lender at any time, an amount equal to the excess, if any, of (a) such Lender’s Commitment then in effect over (b) the aggregate principal amount of such Lender’s Loans then outstanding.

“Board” shall mean the Board of Governors of the Federal Reserve System of the United States (or any successor).

“Bookrunner Fee Letter” shall mean the Fee Letter dated as of February 4, 2010, among the Borrower, JPMorgan Chase Bank, N.A. and J.P. Morgan Securities, Inc., as amended to the date hereof.

“Borrower” shall have the meaning set forth in the preamble hereto.

“Borrowing” shall mean Loans of the same Type made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which the same Interest Period is in effect.

“Borrowing Request” shall mean a request by the Borrower for a Borrowing in accordance with Section 2.03.

“Business Day” shall mean any day that is not a Saturday, Sunday or other day on which commercial banks in New York City are authorized or required by law to remain closed; provided that, when used in connection with a Eurodollar Loan, the term “Business Day” shall also exclude any day on which banks are not open for dealings in dollar deposits in the London interbank market.

“Capital Lease Obligations” of any Person shall mean the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as capital leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

“Capital Stock” shall mean any and all shares of capital stock (whether common or preferred) of the Borrower.

“Change in Law” shall mean (a) the adoption of any law, rule or regulation after the date of this Agreement, (b) any change in any law, rule or regulation or in the interpretation or application thereof by any Governmental Authority after the date of this Agreement or (c) compliance by any Lender (or, for purposes of Section 2.13(b), by any lending office of such Lender or by such Lender’s holding company,

if any) with any request, guideline or directive (whether or not having the force of law) of any Governmental Authority made or issued after the date of this Agreement.

“Change of Control” shall mean the occurrence of either of the following:

(a) any “person” (as such term is used in Sections 13(d) and 14(d)(2) of the Securities and Exchange Act of 1934, as in effect on the date hereof) or group of persons (as so used), other than the Borrower, any company a majority of whose outstanding stock entitled to vote is owned directly or indirectly by the Borrower (a “Controlled Subsidiary”), or a trustee of an employee benefit plan sponsored solely by the Borrower and/or a Controlled Subsidiary, is or becomes the “beneficial owner” (as determined pursuant to Rule 13d-3 under the Securities and Exchange Act of 1934), directly or indirectly, of equity interests of the Borrower representing more than 40% of the aggregate ordinary voting power of the Borrower’s then-outstanding voting equity interests; or

(b) during any period of two consecutive years, the occupation of a majority of the seats (other than vacant seats) on the board of directors of the Borrower by directors who were not (i) directors of the Borrower at the beginning of such period, (ii) appointed by directors who were directors at the beginning of such period or by directors so appointed or (iii) nominated or approved for election to the board of directors of the Borrower by directors described in the preceding clause (i) or (ii).

“Closing Date” shall have the meaning set forth in Section 4.02.

“Code” shall mean the Internal Revenue Code of 1986, as amended from time to time.

“Commitment” shall mean, as to any Lender, the commitment of such Lender to make Loans to the Borrower, expressed as an amount representing the maximum aggregate principal amount of such Lender’s Loans hereunder, as such commitment may be reduced or increased from time to time pursuant hereto. The original amount of each Lender’s Commitment as of the date hereof is set forth on Schedule 2.01. The original aggregate amount of the Commitments is \$6,724,000,000.

“Commitment Fee Rate” shall mean, as of any date of determination, the rate per annum determined pursuant to the Applicable Pricing Grid by reference to the Public Debt Ratings in effect at the time.

“Commitment Letter” shall mean the Amended and Restated Commitment Letter dated March 3, 2010, among the Borrower, JPMorgan Chase Bank, N.A. and J.P. Morgan Securities Inc.

“Commitment Termination Date” shall mean the earlier of (a) the day following the Merger Date, (b) the Maturity Date and (c) the date of any other termination of all the Commitments in accordance with this Agreement.

“Consolidated EBITDA” shall mean, for any period, Consolidated Net Income for such period plus, without duplication and to the extent deducted in determining such Consolidated Net Income, the sum of (a) income tax provision, (b) interest expense, amortization, writedown or writeoff of debt discount and debt issuance costs, commissions, discounts and other fees and charges (including prepayment premiums, penalties or similar charges in connection with the Target Refinancing) associated with Indebtedness (including the Loans) and discount on securitization of receivables, (c) depreciation and amortization expense, (d) amortization, writedown or writeoff of intangibles (including, but not limited to, goodwill) and organization costs, (e) any unusual or non-recurring non-cash expenses or losses (including losses on sales of assets outside of the ordinary course of business), (f) transaction fees and expenses directly related to the Transactions and (g) non-cash charges incurred in respect of restructurings, plant closings, headcount reductions, cost reductions or other similar actions, and minus, to

the extent included in determining such Consolidated Net Income, the sum of (i) income tax credits (to the extent not netted from income tax provision) and (ii) any unusual or non-recurring non-cash income or gains (including gains on the sales of assets outside of the ordinary course of business). For the purposes of calculating Consolidated EBITDA for any Test Period pursuant to any determination of the Leverage Ratio, (i) if at any time during such Test Period the Borrower or any Subsidiary shall have made any Material Disposition, the Consolidated EBITDA for such Test Period shall be reduced by an amount equal to the Consolidated EBITDA (if positive) attributable to the property that is the subject of such Material Disposition for such Test Period or increased by an amount equal to the Consolidated EBITDA (if negative) attributable thereto for such Test Period and (ii) if during such Test Period the Borrower or any Subsidiary shall have made a Material Acquisition, Consolidated EBITDA for such Test Period shall be calculated after giving pro forma effect thereto as if such Material Acquisition occurred on the first day of such Test Period. As used in this definition, “Material Acquisition” shall mean any acquisition of property or series of related acquisitions of property that (a) constitutes assets comprising all or substantially all of an operating unit of a business or constitutes all or substantially all of the equity interests of a Person (any such property, a “Business Unit”) and (b) the aggregate consideration for which (including Indebtedness assumed in connection therewith) exceeds \$100,000,000; and “Material Disposition” shall mean any disposition of property or series of related dispositions of property that (a) constitutes a Business Unit and (b) the aggregate consideration for which (including Indebtedness assumed in connection therewith) exceeds \$100,000,000.

“Consolidated Net Income” shall mean, for any period, the consolidated net income (or loss) of the Borrower and its Subsidiaries, determined on a consolidated basis in accordance with GAAP; provided that there shall be excluded the income (or deficit) of any Project Finance Subsidiary having Limited Recourse Debt outstanding at any time during such period.

“Consolidated Total Debt” shall mean, at any date, the aggregate principal amount of all Indebtedness that would be reflected at such date as short-term borrowings, current portion of long-term debt or long-term debt on a consolidated balance sheet of the Borrower and its Subsidiaries prepared in accordance with GAAP, excluding Limited Recourse Debt of any Project Finance Subsidiary.

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

“Default” shall mean any event or condition which constitutes an Event of Default or which upon notice, lapse of time or both would, unless cured or waived, become an Event of Default.

“Defaulting Lender” shall mean any Lender that has (a) failed to fund any portion of its Loans within three Business Days of the date required to be funded by it hereunder, unless such Lender’s failure to fund such Loans is based on such Lender’s reasonable determination that the conditions precedent to funding such Loans under this Agreement have not been satisfied and such Lender has notified the Administrative Agent in writing of such, (b) notified the Borrower, the Administrative Agent or any Lender in writing that it does not intend to comply with any of its funding obligations under this Agreement or has made a public statement to the effect that it does not intend to comply with its funding obligations under this Agreement or under other agreements in which it commits to extend credit, (c) failed, within three Business Days after request by the Administrative Agent (which request has been made based on the Administrative Agent’s reasonable belief that such Lender may not fulfill its funding obligation and a copy of which request has been sent to the Borrower), to confirm that it will comply with the terms of this Agreement relating to its obligations to fund prospective Loans, provided that any such Lender shall cease to be a Defaulting Lender under this clause (c) upon receipt of such confirmation by the Administrative Agent, (d) otherwise failed to pay over to the Administrative Agent or any other

Lender any other amount required to be paid by it hereunder within three Business Days of the date when due, unless the subject of a good faith dispute, or (e) (i) has been adjudicated as, or has been determined by any Governmental Authority having regulatory authority over such Person or its assets to be, insolvent or has a parent company that has been adjudicated as, or has been determined by any Governmental Authority having regulatory authority over such Person or its assets to be, insolvent or (ii) become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee or custodian appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment or has a parent company that has become the subject of a bankruptcy or insolvency proceeding, or has had a receiver, conservator, trustee or custodian appointed for it, or has taken any action in furtherance of, or indicating its consent to, approval of or acquiescence in any such proceeding or appointment (unless in the case of any Lender referred to in this clause (e), the Borrower and the Administrative Agent shall be satisfied that such Lender intends, and has all approvals required to enable it, to continue to perform its obligations as a Lender hereunder). Notwithstanding the foregoing, no Lender shall be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in such Lender or a parent company thereof by a Governmental Authority or an instrumentality thereof.

“Dollar”, “Dollars” and the symbol “\$” shall mean lawful money of the United States of America.

“Duration Fee Rate” shall mean a rate determined in accordance with the table set forth below:

Days after Closing Date	Rate
90 days:	0.75%
180 days:	1.25%
270 days:	1.75%

“Effective Date” shall have the meaning set forth in Section 4.01.

“Environmental Laws” shall mean all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, binding notices or binding agreements issued, promulgated or entered into by any Governmental Authority, relating in any way to the environment, preservation or reclamation of natural resources, the management, release or threatened release of any Hazardous Material or to health and safety matters as they relate to exposure to Hazardous Materials.

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

“ERISA” shall mean the Employee Retirement Income Security Act of 1974, as amended from time to time.

“ERISA Affiliate” shall mean any trade or business (whether or not incorporated) that, together with the Borrower, is treated as a single employer under Section 414(b) or (c) of the Code, or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

**“ERISA Event”** shall mean (a) any “reportable event”, as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period referred to in Section 4043(c) of ERISA is waived); (b) any failure by any Plan to satisfy the minimum funding standards (within the meaning of Sections 412 or 430 of the Code or Section 302 of ERISA) applicable to such Plan, whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan, the failure to make by its due date a required installment under Section 430(j) of the Code with respect to any Plan or the failure by the Borrower or any of its ERISA Affiliates to make any required contribution to a Multiemployer Plan; (d) the incurrence by the Borrower or any of its ERISA Affiliates of any liability under Title IV of ERISA with respect to the termination of any Plan, including but not limited to the imposition of any Lien in favor of the PBGC or any Plan; (e) a determination that any Plan is, or is expected to be, in “at risk” status (within the meaning of Section 430 of the Code or Section 303 of ERISA); (f) the receipt by the Borrower or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan under Section 4042 of ERISA; (g) the incurrence by the Borrower or any of its ERISA Affiliates of any liability with respect to the withdrawal or partial withdrawal from any Plan or Multiemployer Plan; or (h) the receipt by the Borrower or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from the Borrower or any ERISA Affiliate of any notice, concerning the imposition of Withdrawal Liability or a determination that a Multiemployer Plan is, or is expected to be, insolvent (within the meaning of Section 4245 of ERISA) or in reorganization (within the meaning of Section 4241 of ERISA) or in endangered or critical status (within the meaning of Section 432 of the Code or Section 305 or Title IV of ERISA).

**“Eurocurrency Reserve Requirements”** shall mean, for any day as applied to a Eurodollar Loan, the aggregate (without duplication) of the maximum rates (expressed as a decimal fraction) of reserve requirements in effect on such day (including basic, supplemental, marginal and emergency reserves) under any regulations of the Board or other Governmental Authority having jurisdiction with respect thereto dealing with reserve requirements prescribed for eurocurrency funding (currently referred to as “Eurocurrency Liabilities” in Regulation D of the Board) maintained by a member bank of the Federal Reserve System.

**“Eurodollar”**, when used in reference to any Loan or Borrowing, shall refer to whether such Loan, or the Loans comprising such Borrowing, are bearing interest at a rate determined by reference to the Adjusted LIBO Rate.

**“Event of Default”** shall have the meaning assigned to such term in Section 7.01.

**“Excluded Taxes”** shall mean, with respect to the Administrative Agent, any Lender or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) net income taxes and franchise taxes (imposed in lieu of net income taxes) imposed on the Administrative Agent or any Lender or other such recipient as a result of a present or former connection between the Administrative Agent or such Lender or other such recipient and the jurisdiction of the Governmental Authority imposing such tax or any political subdivision or taxing authority thereof or therein (other than any such connection arising solely from the Administrative Agent or such Lender or other such recipient having executed, delivered or performed its obligations or received a payment under, or enforced, this Agreement or any other Loan Document), (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction described in clause (a) above and (c) any withholding tax that (i) is attributable to a Lender’s failure to comply with the requirements of Section 2.15(f) or (ii) is a United States withholding tax imposed on amounts payable to such Lender at the time such Lender becomes a party to this Agreement, except to the extent that such

Lender's assignor (if any) was entitled, at the time of assignment, to receive additional amounts from the Borrower with respect to Taxes pursuant to Section 2.15.

"Existing Agreement" shall mean the Borrower's existing \$1,450,000,000 Revolving Credit Agreement dated as of May 23, 2006, as amended.

"Federal Funds Effective Rate" shall mean, for any day, the weighted average (rounded upwards, if necessary, to the next 1/100 of 1%) of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published on the next succeeding Business Day by the Federal Reserve Bank of New York, or, if such rate is not so published for any day that is a Business Day, the average (rounded upwards, if necessary, to the next 1/100 of 1%) of the quotations for such day for such transactions received by the Administrative Agent from three Federal funds brokers of recognized standing selected by it.

"Fee Payment Date" shall mean (a) the third Business Day following the last day of each March, June, September and December and (b) the last day of the Availability Period.

"Financial Officer" shall mean the chief financial officer, principal accounting officer, treasurer or controller of the Borrower.

"Foreign Subsidiary" shall mean any Subsidiary other than any Subsidiary that is organized under the laws of the United States of America, any State thereof or the District of Columbia.

"GAAP" shall mean generally accepted accounting principles in the United States of America.

"Governmental Authority" shall mean the government of the United States of America, any other nation or any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government.

"Guarantee" of or by any Person (the "guarantor") shall mean any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness of any other Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or to purchase (or to advance or supply funds for the purchase of) any security for the payment thereof, (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness of the payment thereof, (c) to maintain working capital, equity capital or any other financial statement condition or liquidity of the primary obligor so as to enable the primary obligor to pay such Indebtedness or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness; provided, that the term Guarantee shall not include endorsements for collection or deposit in the ordinary course of business.

"Hazardous Materials" shall mean all explosive or radioactive substances or wastes and all hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes and all other substances or wastes of any nature that in relevant form or concentration are regulated pursuant to any Environmental Law.

"Indebtedness" of any Person shall mean, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, other than deposits or advances in the ordinary course of business, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person under conditional sale or other title



retention agreements relating to property acquired by such Person (other than current accounts payable and trade accounts and accrued expenses incurred in the ordinary course of business and other than customary reservations or retentions of title under agreements with suppliers entered in the ordinary course of business), (d) all obligations of such Person in respect of the deferred purchase price of property or services having the effect of a borrowing (other than (i) current accounts payable and trade accounts and accrued expenses incurred in the ordinary course of business and (ii) any noncompete agreement, purchase price adjustment, earnout or deferred payment of a similar nature), (e) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, but limited to the book value of such property when recourse is limited to such property, (f) all Guarantees by such Person in respect of Indebtedness of others, (g) all Capital Lease Obligations of such Person, (h) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guaranty and (i) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances. The Indebtedness of any Person shall include the Indebtedness of any other entity (including any partnership in which such Person is a general partner) to the extent such Person is liable therefor as a result of such Person's ownership interest in or other relationship with such entity, except to the extent the terms of such Indebtedness provide that such Person is not liable therefor.

“indemnified person” shall have the meaning specified in Section 9.03(b).

“Indemnified Taxes” shall mean Taxes other than Excluded Taxes.

“Information” shall have the meaning specified in Section 9.12(a).

“Interest Election Request” shall mean a request by the Borrower to convert or continue a Borrowing in accordance with Section 2.05.

“Interest Payment Date” shall mean (a) with respect to any ABR Loan, the last day of each March, June, September and December and (b) with respect to any Eurodollar Loan, the last day of the Interest Period applicable to the Borrowing of which such Loan is a part and, in the case of a Eurodollar Borrowing with an Interest Period of more than three months' duration, each day prior to the last day of such Interest Period that occurs at intervals of three months' duration after the first day of such Interest Period.

“Interest Period” shall mean, with respect to any Eurodollar Borrowing, the period commencing on the date of such Borrowing and ending on the numerically corresponding day in the calendar month that is one, two, three or six months thereafter, as the Borrower may elect; provided, that (a) if any Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day unless such next succeeding Business Day would fall in the next calendar month, in which case such Interest Period shall end on the next preceding Business Day and (b) any Interest Period that commences on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the last calendar month of such Interest Period) shall end on the last Business Day of the last calendar month of such Interest Period. For purposes hereof, the date of a Borrowing initially shall be the date on which such Borrowing is made and thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

“Lead Arranger” shall mean J.P. Morgan Securities, Inc., in its capacity as joint lead arranger and sole bookrunner in respect of the credit facility established hereunder.

“Lenders” shall mean the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption.

“Leverage Ratio” shall mean, as of the last day of any Test Period, the ratio of (a) Consolidated Total Debt at such time to (b) Consolidated EBITDA for such period.

“LIBO Rate” shall mean, with respect to each day during each Interest Period pertaining to a Eurodollar Loan, the rate per annum equal to the rate for deposits in Dollars for a period equal to such Interest Period commencing on the first day of such Interest Period appearing on the Reuters Screen LIBOR01 Page as of 11:00 a.m., London time, two Business Days prior to the beginning of such Interest Period. In the event that such rate does not appear on such page (or otherwise on such screen), the “LIBO Rate” shall be determined by reference to such other comparable publicly available service for displaying eurodollar rates as may be selected by the Administrative Agent or, in the absence of such availability, by reference to the rate at which the Administrative Agent is offered Dollar deposits at or about 11:00 a.m., London time, two Business Days prior to the beginning of such Interest Period in the interbank eurodollar market where its eurodollar and foreign currency and exchange operations are then being conducted for delivery on the first day of such Interest Period for the number of days comprised therein.

“Lien” shall mean, with respect to any asset, (a) any mortgage, deed of trust, lien, pledge, hypothecation, encumbrance, charge or security interest in, on or of such asset, (b) the interest of a vendor or a lessor under any conditional sale agreement, capital lease or title retention agreement (or any financing lease having substantially the same economic effect as any of the foregoing) relating to such asset and (c) in the case of securities, any purchase option, call or similar right of a third party with respect to such securities.

“Limited Recourse Debt” shall mean Indebtedness of a Project Finance Subsidiary as to which, at the time a determination is being made, the holder of such Indebtedness has recourse, with respect to such Indebtedness, solely against the assets it has financed or the cash flows therefrom and does not have direct or indirect recourse (through a guarantee, keepwell or otherwise) against the Borrower, any other Subsidiary or any of their assets other than the stock (or similar equity interest) of such Project Finance Subsidiary.

“Loans” shall mean the loans made by the Lenders to the Borrower pursuant to this Agreement.

“Loan Documents” shall mean this Agreement, any amendments thereto and, except for purposes of Section 9.02, the Notes.

“Margin Stock” has the meaning assigned to such term in Regulation U of the Board.

“Material Adverse Effect” shall mean a material adverse effect on (a) the business, property, operations or financial condition of the Borrower and its Subsidiaries, taken as a whole, (b) the ability of the Borrower to perform its payment obligations under this Agreement and the other Loan Documents or (c) the validity or enforceability of this Agreement or any of the other Loan Documents or the rights and remedies of the Administrative Agent or the Lenders hereunder or thereunder.

“Material Indebtedness” shall mean Indebtedness (other than the Loans and Limited Recourse Debt) or obligations in respect of one or more Swap Agreements of the Borrower and its Subsidiaries in an aggregate principal amount exceeding \$125,000,000. For purposes of determining Material Indebtedness, the “principal amount” of the obligations of the Borrower or any Subsidiary in respect of any Swap Agreement at any time shall be the maximum aggregate amount (giving effect to any netting

agreements) that the Borrower or such Subsidiary would be required to pay if such Swap Agreement were terminated at such time.

“Material Subsidiary” shall mean, at any time of determination, any Subsidiary the total sales of which for the fiscal year most recently completed prior to such time equal 5% or more of the consolidated total sales of the Borrower and its Subsidiaries for such fiscal year. For purposes of determining Material Subsidiaries after the consummation of the Offer or the Merger, the consolidated total sales of the Borrower and its Subsidiaries for any fiscal year shall be determined after giving pro forma effect to the consolidated total sales of the Target and its Subsidiaries as if the Offer or the Merger, as the case may be, has been consummated at the beginning of such fiscal year.

“Maturity Date” shall mean the one-year anniversary of the Closing Date.

“Merger” shall have the meaning set forth in the recitals hereto.

“Merger Agreement” shall mean any agreement (including any schedules and exhibits thereto) that may be entered into by the Borrower or any of its Subsidiaries and the Target providing for the Merger.

“Merger Date” shall mean the date of consummation of the Merger.

“Merger Documents” shall mean the Merger Agreement and any documentation related thereto, including any side letters.

“Moody’s” shall mean Moody’s Investor’s Services, Inc., or any successor thereto.

“Multiemployer Plan” shall mean a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

“Net Cash Proceeds” shall mean, (a) in connection with any Asset Sale, the proceeds thereof actually received by the Borrower or one or more of its Subsidiaries in the form of cash and cash equivalents (including any such proceeds received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but only as and when received), net of the sum, without duplication, of (i) attorneys’ fees, accountants’ fees, consulting fees, investment banking fees and other customary fees actually incurred in connection therewith and other expenses actually incurred in connection therewith, (ii) amounts required to be applied to the repayment of Indebtedness secured by a Lien expressly permitted hereunder on any asset that is the subject of such Asset Sale, (iii) taxes paid or reasonably estimated to be payable as a result thereof (after taking into account any available tax credits or deductions and any tax sharing arrangements) and (iv) the amount of any reserves established to fund contingent liabilities reasonably estimated to be payable as a result thereof and (b) in connection with any issuance or sale of Capital Stock or any incurrence of Indebtedness, the proceeds thereof actually received by the Borrower or one or more of its Subsidiaries in the form of cash and cash equivalents, net of attorneys’ fees, accountants’ fees, consulting fees, investment banking fees, underwriting discounts and commissions or placement fees, and other customary fees actually incurred in connection therewith and other expenses actually incurred in connection therewith.

“Non-Excluded Taxes” shall have the meaning set forth in Section 2.15(a).

“Non-U.S. Lender” shall mean a Lender that is not a U.S. Person.

“Notes” shall mean, collectively, the promissory notes evidencing the Loans issued and delivered pursuant to Section 2.07(e).

“Obligations” shall mean the unpaid principal of and interest on (including interest accruing after the maturity of the Loans and interest accruing after the filing of any petition in bankruptcy, or the commencement of any insolvency, reorganization or like proceeding, relating to the Borrower, whether or not a claim for post-filing or post-petition interest is allowed in such proceeding) the Loans and all other obligations and liabilities of the Borrower to the Administrative Agent or to any Lender, whether direct or indirect, absolute or contingent, due or to become due, or now existing or hereafter incurred, which may arise under, out of or in connection with this Agreement or any other Loan Document, whether on account of fees, indemnities, costs, expenses (including all fees, charges and disbursements of counsel to the Administrative Agent or to any Lender that are required to be paid by the Borrower pursuant hereto) or otherwise.

“Offer” shall have the meaning set forth in the recitals hereto.

“Offer Documents” shall mean the definitive documents related to the Offer, including, but not limited to, the Tender Offer Statement and any amendments thereto, filed from time to time with the Securities and Exchange Commission under Section 14(d)(1) or 13(e)(1) of the Securities Exchange Act of 1934.

“Offerco” shall have the meaning set forth in the recitals hereto.

“Other Taxes” shall mean any and all present or future stamp or documentary taxes or any other excise or property taxes, charges or similar levies arising from any payment made hereunder or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document (including any interest, additions to tax or penalties applicable thereto).

“Participant” shall have the meaning set forth in Section 9.04(c).

“Participant Register” shall have the meaning set forth in Section 9.04(c)(i).

“Patriot Act” shall have the meaning set forth in Section 9.14.

“PBGC” shall mean the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

“Permitted Encumbrances” shall mean:

- (a) Liens imposed by law for Taxes that are not yet due or are being contested in compliance with Section 5.04;
- (b) carriers’, warehousemen’s, mechanics’, materialmen’s, repairmen’s and other like Liens imposed by law, arising in the ordinary course of business;
- (c) pledges and deposits made in the ordinary course of business in compliance with, or to secure letters of credit issued in connection with, workers’ compensation, unemployment insurance and other social security laws or regulations;
- (d) deposits to secure the performance of bids, trade contracts, leases, statutory obligations, surety and appeal bonds, performance letters of credit, performance bonds and other obligations of a like nature, in each case in the ordinary course of business;

(e) easements, zoning restrictions, rights-of-way, landlords' liens on property held under lease, tenants' rights under leases and similar encumbrances on real property imposed by law or arising in the ordinary course of business that do not secure any monetary obligations and do not materially detract from the value of the affected property or interfere with the ordinary conduct of business of the Borrower or any Subsidiary;

(f) attachment, judgment or similar Liens in respect of judgments that do not constitute an Event of Default under Section 7.01(g) and are not in excess of \$125,000,000 in the aggregate at any time outstanding (net of any amounts covered by a third-party insurer as to which such insurer has been notified of a potential claim and does not dispute coverage);

(g) the rights of collecting banks and other financial institutions having a right of setoff, revocation, refund or chargeback with respect to money or instruments on deposit with or in the possession of such financial institution;

(h) Liens attaching solely to cash earnest money deposits made by the Borrower or any of its Subsidiaries in connection with any letter of intent or purchase agreement entered into in connection with an acquisition;

(i) Liens arising by operation of law on insurance policies and proceeds thereof to secure premiums thereunder;

(j) any interest of title of a lessor or sublessor under, and Liens arising from Uniform Commercial Code financing statements (or equivalent filings, registrations or agreements in foreign jurisdictions) relating to, leases and subleases permitted under this Agreement;

(k) licenses, sublicenses, leases or subleases that do not interfere in any material respect with the business of the Borrower or any Subsidiary; and

(l) Liens encumbering goods and documents of title with respect to such goods and arising in the ordinary course of business in connection with the issuance of documentary letters of credit, in each case not incurred or made in connection with the borrowing of money or the obtaining of advances or similar credit, and Liens arising out of title retention provisions in a supplier's standard condition of supply of goods acquired in the ordinary course of business;

provided that the term "Permitted Encumbrances" shall not include any Lien securing Indebtedness (other than any letter of credit referred to in the definition of such term).

"Person" shall mean any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Plan" shall mean any employee pension benefit plan (other than a Multiemployer Plan) subject to the provisions of Title IV of ERISA or Section 412 of the Code or Section 302 of ERISA, and in respect of which the Borrower or any ERISA Affiliate is (or, if such plan were terminated, would under Section 4069 of ERISA be deemed to be) an "employer" as defined in Section 3(5) of ERISA.

"Prepayment Account" shall have the meaning specified in Section 2.09(e).

"Prime Rate" shall mean the rate of interest per annum publicly announced from time to time by JPMorgan Chase Bank, N.A. as its prime rate in effect at its principal office located in New York, New York;

each change in the Prime Rate shall be effective from and including the date such change is publicly announced as being effective.

“Project Finance Subsidiary” shall mean any Subsidiary formed or utilized for the primary purpose of owning or operating specific assets, the acquisition of which is financed solely by Limited Recourse Debt and equity.

“Public Debt Rating” shall mean, as of any date, the rating that has been most recently and officially announced by either S&P or Moody’s, as the case may be, for any class of non-credit enhanced long-term senior unsecured debt issued by the Borrower. For purposes of the foregoing, (a) if the ratings established or deemed to have been established by S&P and Moody’s for such debt shall be changed (other than as a result of a change in the rating system of S&P or Moody’s), such change shall be effective as of the date on which it is first announced by the applicable rating agency; (b) if the ratings established or deemed to have been established by S&P and Moody’s for such debt shall fall within different levels, the Applicable Rate or Commitment Fee Rate, as the case may be, shall be based on the higher of the two ratings unless one of the two ratings is two or more levels lower than the other, in which case the Applicable Rate or Commitment Fee Rate, as the case may be, shall be determined by reference to the level next below that of the higher of the two ratings; and (c) if either S&P or Moody’s shall not have in effect a rating for such debt (other than by reason of the circumstances referred to in the last sentence of this paragraph), then such rating agency shall be deemed to have established a rating below BBB- or Baa3, as applicable. Each change in the Applicable Rate or Commitment Fee Rate, as the case may be, shall apply during the period commencing on the effective date of such change and ending on the date immediately preceding the effective date of the next such change. If the rating system of S&P or Moody’s shall change, the Borrower and the Lenders shall negotiate in good faith to amend this paragraph to reflect such changed rating system and, pending the effectiveness of any such amendment, the Applicable Rate or Commitment Fee Rate, as the case may be, shall be determined by reference to the rating most recently in effect prior to such change.

“Register” shall have the meaning set forth in Section 9.04.

“Regulation S-X” shall mean Regulation S-X of the Securities Act of 1933, as amended.

“Regulations” shall mean regulations of the Board, as in effect from time to time.

“Related Parties” shall mean, with respect to any specified Person, such Person’s Affiliates and the respective directors, officers, employees, agents and advisors of such Person and such Person’s Affiliates.

“Required Lenders” shall mean, at any time, Lenders having Loans and unused Commitments representing more than 50% of the sum of the outstanding Loans and unused Commitments at such time.

“Restricted Margin Stock” shall mean Margin Stock owned by the Borrower or any Subsidiary the value of which (determined as required under clause (2) (i) of the definition of “Indirectly Secured” set forth in Regulation U of the Board) represents not more than 33% of the aggregate value (determined as required under clause (2)(i) of the definition of “Indirectly Secured” set forth in Regulation U of the Board), on a consolidated basis, of the property and assets of the Borrower and its Subsidiaries (other than any Margin Stock) that is subject to the provisions of Section 2.09 or Article VI (including Section 6.02).

“S&P” shall mean Standard & Poor’s Rating Services, or any successor thereto.

“Subsidiary” shall mean, with respect to any Person (the “parent”) at any date, any corporation, limited liability company, partnership, association or other entity the accounts of which would be

consolidated with those of the parent in the parent's consolidated financial statements if such financial statements were prepared in accordance with GAAP as of such date, as well as any other corporation, limited liability company, partnership, association or other entity of which securities or other ownership interests representing more than 50% of the equity or more than 50% of the ordinary voting power or, in the case of a partnership, more than 50% of the general partnership interests are, as of such date, owned, controlled or held. Unless the context otherwise requires, all references herein to a Subsidiary shall be deemed to be references to a Subsidiary of the Borrower.

“Swap Agreement” shall mean any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions; provided that no phantom stock or similar plan providing for payments only on account of services provided by current or former directors, officers, employees or consultants of the Borrower or any of its Subsidiaries shall be a Swap Agreement.

“Target” shall have the meaning set forth in the recitals hereto.

“Target Refinancing” shall have the meaning set forth in the recitals hereto.

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

“Tender Offer Statement” shall mean the Tender Offer Statement on Schedule TO filed with the Securities and Exchange Commission by the Borrower and Offerco, together with any amendments and supplements thereto.

“Test Period” shall mean, at any date of determination, the most recently completed four consecutive fiscal quarters of the Borrower ending on or prior to such date.

“Total Commitments” shall mean, at any time, the aggregate amount of the Commitments then in effect.

“Transactions” shall mean, collectively (a) the execution, delivery and performance by the Borrower of this Agreement, (b) the borrowing of Loans and the use of the proceeds thereof, (c) the consummation of the Offer, (d) the consummation of the Merger and (e) the Target Refinancing.

“Type”, when used in reference to any Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to the Adjusted LIBO Rate or the Alternate Base Rate.

“Unrestricted Margin Stock” shall mean any Margin Stock owned by the Borrower or any Subsidiary which is not Restricted Margin Stock.

“U.S. Person” shall mean a “United States person” within the meaning of Section 7701(a)(30) of the Code.

“Withdrawal Liability” shall mean liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Title IV of ERISA.

Section 1.02 Construction. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, the singular the plural and the part the whole; and “property” includes all properties and assets of any kind or nature, tangible or intangible, real, personal or mixed. The words “hereof,” “herein,” “hereunder” and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement. The words “include,” “includes” and “including” shall be deemed to be followed by the phrase “without limitation”. The word “will” shall be construed to have the same meaning and effect as the word “shall”. Unless the context requires otherwise (a) any definition of or reference to any agreement (including this Agreement), instrument or other document herein shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein) and (b) any reference herein to any Person shall be construed to include such Person’s successors and assigns (to the extent such assigns are not prohibited under this Agreement). The section and other headings contained in this Agreement and the Table of Contents preceding this Agreement are for reference purposes only and shall not control or affect the construction of this Agreement or the interpretation thereof in any respect. Article, section, subsection, exhibit and schedule references are to articles, sections and subsections of, and schedules and exhibits to, this Agreement unless otherwise specified.

Section 1.03 Accounting Principles. All computations and determinations as to accounting or financial matters shall be made, and, except as otherwise expressly provided herein, all financial statements to be delivered pursuant to this Agreement shall be prepared, in accordance with, and all accounting or financial terms shall have the meanings ascribed to such terms by, GAAP as in effect from time to time; provided that if the Borrower notifies the Administrative Agent that the Borrower requests an amendment to any provision hereof to eliminate the effect of any change occurring after the Effective Date in GAAP or in the application thereof on the operation of such provision (or if the Administrative Agent notifies the Borrower that the Required Lenders request an amendment to any provision hereof for such purpose), regardless of whether any such notice is given before or after such change in GAAP or in the application thereof, then such provision shall be interpreted on the basis of GAAP as in effect and applied immediately before such change shall have become effective until such notice shall have been withdrawn or such provision amended in accordance herewith. Notwithstanding any other provision contained herein, all computations of amounts and ratios referred to in this Agreement shall be made without giving effect to any election under FASB ASC Topic 825 “Financial Instruments” (or any other financial accounting standard having a similar result or effect) to value any Indebtedness of the Borrower at “fair value” as defined therein.

Section 1.04 Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Type (e.g., a “Eurodollar Loan”). Borrowings also may be classified and referred to by Type (e.g., a “Eurodollar Borrowing”).

## Article II THE LOANS

Section 2.01 Commitments. Subject to the terms and conditions set forth herein, each Lender agrees to make Loans to the Borrower from time to time during the Availability Period in an aggregate principal amount that will not result in (a) the aggregate principal amount of such Lender’s Loans exceeding such Lender’s Commitment or (b) the sum of the aggregate principal amount of all Loans exceeding the Total Commitments.

Section 2.02 Loans and Borrowings. (a) Each Loan shall be made as part of a Borrowing consisting of Loans made by the Lenders ratably in accordance with their respective



Commitments. The failure of any Lender to make any Loan required to be made by it shall not relieve any other Lender of its obligations hereunder; provided that the Commitments of the Lenders are several and no Lender shall be responsible for any other Lender's failure to make Loans as required.

(b) Subject to Section 2.12, each Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Lender at its option may make any Eurodollar Loan by causing any domestic or foreign branch or Affiliate of such Lender to make such Loan; provided that any exercise of such option shall not affect the obligation of the Borrower to repay such Loan in accordance with the terms of this Agreement.

(c) At the commencement of each Interest Period for any Eurodollar Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000; provided that a Eurodollar Borrowing that results from a continuation of an outstanding Eurodollar Borrowing may be in an aggregate amount that is equal to such outstanding Borrowing. At the time that each ABR Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000. Borrowings of more than one Type may be outstanding at the same time; provided that there shall not at any time be more than a total of ten Eurodollar Borrowings outstanding.

(d) Notwithstanding any other provision of this Agreement, the Borrower shall not be entitled to request, or to elect to convert or continue, any Borrowing if the Interest Period requested with respect thereto would end after the Maturity Date.

Section 2.03 Requests for Borrowings. (a) To request a Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone (a) in the case of a Eurodollar Borrowing, not later than 11:00 a.m., New York City time, three Business Days before the date of the proposed Borrowing (or, in the case of any Borrowing to be made on the Closing Date, such shorter period as may be agreed by the Administrative Agent) or (b) in the case of an ABR Borrowing, not later than 11:00 a.m., New York City time, on the date of the proposed Borrowing. Each such telephonic Borrowing Request shall be irrevocable and shall be confirmed promptly by hand delivery or fax (in the manner provided in Section 9.01) to the Administrative Agent of a written Borrowing Request in a form approved by the Administrative Agent and signed by the Borrower. Each such telephonic and written Borrowing Request shall specify the following information in compliance with Section 2.02:

- (i) the aggregate amount of the requested Borrowing;
- (ii) the date of such Borrowing, which shall be a Business Day;
- (iii) whether such Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing;
- (iv) in the case of a Eurodollar Borrowing, the initial Interest Period to be applicable thereto, which shall be a period contemplated by the definition of the term "Interest Period"; and
- (v) the location and number of the Borrower's account to which funds are to be disbursed.

If no election as to the Type of Borrowing is specified, then the requested Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Borrowing, then the Borrower shall be deemed to have selected an Interest Period of one month's duration. Promptly following receipt of a Borrowing Request in accordance with this Section, the Administrative Agent shall

advise each Lender of the details thereof and of the amount of such Lender's Loan to be made as part of the requested Borrowing.

Section 2.04 Funding of Borrowings. (a) Each Lender shall make each Loan to be made by it hereunder on the proposed date thereof by wire transfer of immediately available funds by 1:00 p.m., New York City time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders. The Administrative Agent will make such Loans available to the Borrower by promptly crediting the amounts so received, in like funds, to an account of the Borrower maintained with the Administrative Agent in New York City and designated by the Borrower in the applicable Borrowing Request.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed time of any Borrowing that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with paragraph (a) of this Section and may, in reliance upon such assumption, make available to the Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount with interest thereon, for each day from and including the date such amount is made available to the Borrower to but excluding the date of payment to the Administrative Agent, at (i) in the case of each Lender, the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation or (ii) in the case of the Borrower, the interest rate applicable to ABR Loans. If such Lender pays such amount to the Administrative Agent, then such amount shall constitute such Lender's Loan included in such Borrowing.

Section 2.05 Interest Elections. (a) Each Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar Borrowing, shall have an initial Interest Period as specified in such Borrowing Request or as otherwise provided in Section 2.03. Thereafter, the Borrower may elect to convert such Borrowing to a different Type or to continue such Borrowing and, in the case of a Eurodollar Borrowing, may elect Interest Periods therefor, all as provided in this Section. The Borrower may elect different options with respect to different portions of the affected Borrowing, in which case each such portion shall be allocated ratably among the Lenders holding the Loans comprising such Borrowing, and the Loans comprising each such portion shall be considered a separate Borrowing.

(b) To make an election pursuant to this Section, the Borrower shall notify the Administrative Agent of such election by telephone by the time that a Borrowing Request would be required under Section 2.03 if the Borrower were requesting a Borrowing of the Type resulting from such election to be made on the effective date of such election. Each such telephonic Interest Election Request shall be irrevocable and shall be confirmed promptly by hand delivery or fax (in the manner provided in Section 9.01) to the Administrative Agent of a written Interest Election Request in a form approved by the Administrative Agent and signed by the Borrower.

(c) Each telephonic and written Interest Election Request shall specify the following information in compliance with Section 2.02:

(i) the Borrowing to which such Interest Election Request applies and, if different options are being elected with respect to different portions thereof, the portions thereof to be allocated to each resulting Borrowing (in which case the information to be specified pursuant to clauses (iii) and (iv) below shall be specified for each resulting Borrowing);

- (ii) the effective date of the election made pursuant to such Interest Election Request, which shall be a Business Day;
- (iii) whether the resulting Borrowing is to be an ABR Borrowing or a Eurodollar Borrowing; and
- (iv) if the resulting Borrowing is a Eurodollar Borrowing, the Interest Period to be applicable thereto after giving effect to such election, which shall be a period contemplated by the definition of the term "Interest Period".

If any such Interest Election Request requests a Eurodollar Borrowing but does not specify an Interest Period, then the Borrower shall be deemed to have selected an Interest Period of one month's duration.

(d) Promptly following receipt of an Interest Election Request, the Administrative Agent shall advise each Lender of the details thereof and of such Lender's portion of each resulting Borrowing.

(e) If the Borrower fails to deliver a timely Interest Election Request with respect to a Eurodollar Borrowing prior to the end of the Interest Period applicable thereto, then, unless such Borrowing is repaid as provided herein, at the end of such Interest Period such Borrowing shall be converted to an ABR Borrowing. Notwithstanding any contrary provision hereof, if an Event of Default has occurred and is continuing and the Administrative Agent, at the request of the Required Lenders, so notifies the Borrower, then, so long as an Event of Default is continuing (i) no outstanding Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Section 2.06 Termination and Reduction of Commitments. (a) The Commitments shall terminate on the Commitment Termination Date.

(b) The Commitments shall reduce as set forth in Section 2.09(d).

(c) The Borrower may at any time terminate, or from time to time reduce, the Commitments; provided that (i) each reduction of the Commitments shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000 and (ii) the Borrower shall not terminate or reduce the Commitments if, after giving effect to any concurrent prepayment of the Loans in accordance with Section 2.08, the aggregate principal amount of outstanding Loans would exceed the Total Commitments.

(d) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (c) of this Section at least three Business Days prior to the effective date of such termination or reduction, specifying such election and the effective date thereof. Promptly following receipt of any notice, the Administrative Agent shall advise the Lenders of the contents thereof. Each notice delivered by the Borrower pursuant to this paragraph shall be irrevocable; provided that a notice of termination of the Commitments delivered by the Borrower may state that such notice is conditioned upon the occurrence of one or more events specified therein, in which case such notice may be revoked by the Borrower (by notice to the Administrative Agent on or prior to the specified effective date) if such condition is not satisfied.

(e) Any termination or reduction of the Commitments shall be permanent.

Section 2.07 Repayment of Loans; Evidence of Debt. (a) The Borrower hereby unconditionally promises to pay to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Loan on the Maturity Date.

(b) Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the indebtedness of the Borrower to such Lender resulting from each Loan made by such Lender, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(c) The Administrative Agent shall maintain accounts in which it shall record (i) the amount of each Loan made hereunder, the Type thereof and the Interest Period applicable thereto, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrower to each Lender hereunder and (iii) the amount of any sum received by the Administrative Agent hereunder for the account of the Lenders and each Lender's share thereof.

(d) The entries made in the accounts maintained pursuant to paragraph (b) or (c) of this Section shall be prima facie evidence of the existence and amounts of the obligations recorded therein; provided that, in the event of any inconsistency in such accounts maintained by a Lender and the Administrative Agent, entries made in the accounts maintained by the Administrative Agent shall control; provided further that the failure of any Lender or the Administrative Agent to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrower to repay the Loans in accordance with the terms of this Agreement.

(e) Any Lender may request that Loans made by it be evidenced by a Note. In such event, the Borrower shall prepare, execute and deliver to such Lender a promissory note payable to the order of such Lender (or, if requested by such Lender, to such Lender and its registered assigns) in a form approved by the Administrative Agent and the Borrower. Thereafter, the Loans evidenced by such Note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more Notes in such form payable to the order of the payee named therein (or, if such Note is a registered note, to such payee and its registered assigns).

Section 2.08 Optional Prepayments. (a) The Borrower shall have the right at any time and from time to time to prepay any Borrowing in whole or in part, subject to prior notice in accordance with paragraph (b) of this Section; provided that each such partial prepayment shall be in an amount that is an integral multiple of \$1,000,000 and not less than \$5,000,000.

(b) The Borrower shall notify the Administrative Agent by telephone (confirmed by fax (in the manner provided in Section 9.01)) of any prepayment hereunder (i) in the case of prepayment of a Eurodollar Borrowing, not later than 11:00 a.m., New York City time, three Business Days before the date of prepayment or (ii) in the case of prepayment of an ABR Borrowing, not later than 11:00 a.m., New York City time on the date of such prepayment. Each such notice shall be irrevocable and shall specify the prepayment date and the principal amount of each Borrowing or portion thereof to be prepaid; provided that, if a notice of prepayment is given in connection with a conditional notice of termination of the Commitments as contemplated by Section 2.06(d), then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.06(d). Promptly following receipt of any such notice relating to a Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest as required by Section 2.11.

Section 2.09 Mandatory Prepayments. (a) If any Capital Stock shall be issued by the Borrower at any time after the date hereof (other than any such Capital Stock issued to current or former directors, officers and employees pursuant to stock option or other benefit plans), an amount equal to

100% of the Net Cash Proceeds thereof shall be applied no later than the first Business Day following the date of such issuance toward the prepayment of the Loans and, on the earlier of the date of such application and such first Business Day, the Commitments shall be reduced by such amount, in each case as set forth in Section 2.09(d).

(b) If any Indebtedness for borrowed money shall be issued or incurred by the Borrower or any of its Subsidiaries at any time after the date hereof in any offering of debt securities or under any loan, credit or similar facilities (other than this Agreement), an amount equal to 100% of the Net Cash Proceeds thereof shall be applied no later than the first Business Day following the settlement date of such issuance or incurrence toward the prepayment of the Loans and, on the earlier of the date of such application and such first Business Day, the Commitments shall be reduced by such amount, in each case as set forth in Section 2.09(d); provided that this paragraph shall not apply to the Net Cash Proceeds of (i) any Indebtedness incurred by the Target and its Subsidiaries, except to the extent that the Borrower is capable of directing the Net Cash Proceeds of such Indebtedness for use in connection with the Offer, the Merger or the Target Refinancing, (ii) any Indebtedness under the Existing Agreement or any other existing debt security or loan, credit or similar facility of the Borrower, the Target or any of their respective Subsidiaries, (iii) any Indebtedness issued or incurred for working capital purposes or otherwise in the ordinary course of business (including project financing and purchase money and other Indebtedness incurred to finance the acquisition, construction or improvement of assets), (iv) Indebtedness of the Borrower or any of its Subsidiaries to the Borrower or any of its Subsidiaries, (v) any commercial paper or securitization facilities entered into in the ordinary course of business and (vi) any Indebtedness that refinances, extends, renews or replaces any Indebtedness of the Borrower or its Subsidiaries referred to in clause (i) or (ii) above (or any refinancing Indebtedness referred to in this clause (vi)), other than any such refinancing Indebtedness incurred in connection with the Target Refinancing, provided that (x) the aggregate principal amount of Indebtedness that refinances, extends, renews or replaces the Existing Agreement may not exceed by more than \$550,000,000 in the aggregate the sum of the aggregate principal amount of Indebtedness and unused commitments under the Existing Agreement and (y) the aggregate principal amount of all such refinancing Indebtedness (other than any such Indebtedness referred to in clause (x) above) may not exceed by more than \$25,000,000 the sum of the aggregate principal amount of Indebtedness and unused commitments (other than Indebtedness and unused commitments under the Existing Agreement) that are the subject of such refinancings, extensions, renewals or replacements.

(c) If the Borrower or any of its Subsidiaries shall consummate any Asset Sale at any time after the date hereof, an amount equal to 100% of the Net Cash Proceeds thereof shall be applied no later than the third Business Day following the date of consummation thereof toward the prepayment of the Loans and, on the earlier of the date of such application or such third Business Day, the Commitments shall be reduced by such amount, in each case as set forth in Section 2.09(d); provided that this paragraph shall not apply to the Net Cash Proceeds of any Asset Sale by the Target and its Subsidiaries, except to the extent that the Borrower is capable of directing the Net Cash Proceeds of such Asset Sale for use in connection with the Offer, the Merger or the Target Refinancing.

(d) Net Cash Proceeds referred to in paragraphs (a), (b) and (c) of this Section shall, on the date specified in such paragraphs, (i) result in a reduction of the Commitments by the amount of such Net Cash Proceeds and (ii) if received on or after the Closing Date, be applied to the prepayment of the Loans. Prior to any prepayment of Loans under this Section, the Borrower shall specify the Borrowing or Borrowings to be prepaid (or, if no such specification shall have been provided, the Administrative Agent shall apply such prepayment, first, to ABR Borrowings and, second, to Eurodollar Borrowings in direct order of the next succeeding Interest Payment Dates therefor). Each prepayment of a Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest as required by Section 2.11.

(e) At the option of the Borrower, amounts to be applied to prepay Eurodollar Borrowings shall, if such prepayment would not occur on the last day of the relevant Interest Period, be deposited in the Prepayment Account (as defined below). The Administrative Agent shall apply any cash deposited in the Prepayment Account to prepay the relevant Eurodollar Borrowings on the last day of the respective Interest Periods therefor (or, at the direction of the Borrower, on any earlier date). For purposes of this Agreement, the term “Prepayment Account” shall mean an account established by the Borrower with the Administrative Agent. The Administrative Agent will, at the request of the Borrower, invest amounts on deposit in the Prepayment Account in cash equivalents that mature prior to the last day of the applicable Interest Periods of the Eurodollar Borrowings to be prepaid, provided that (i) the Administrative Agent shall not be required to make any investment that, in its sole judgment, would require or cause the Administrative Agent to be in, or would result in any, violation of any applicable law or regulation and (ii) the Administrative Agent shall have no obligation to invest amounts on deposit in the Prepayment Account if a Default or Event of Default shall have occurred and be continuing. The Borrower shall indemnify the Administrative Agent for any losses relating to the investments so that the amount available to prepay Eurodollar Borrowings on the last day of the applicable Interest Periods therefor is not less than the amount that would have been available had no investments been made. Other than any interest earned on such investments, the Prepayment Account shall not bear interest. Interest or profits, if any, on such investments shall be deposited and reinvested and disbursed as described above. If the maturity of the Loans has been accelerated pursuant to Article VII, the Administrative Agent shall apply amounts on deposit in the Prepayment Account to prepay the Eurodollar Borrowings.

Section 2.10 Fees. (a) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a ticking fee for the period from and including the Effective Date to and excluding the Closing Date, in an amount equal to 0.375% of the average daily amount of the Available Commitment of such Lender, payable on the earlier of (i) the Closing Date and (ii) the Commitment Termination Date.

(b) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a commitment fee for the period from and including the Closing Date to and excluding the last day of the Availability Period, computed at the Commitment Fee Rate on the average daily amount of the Available Commitment of such Lender, payable quarterly in arrears on each Fee Payment Date, commencing on the first such date to occur after the Closing Date.

(c) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a duration fee on each of the 90<sup>th</sup>, 180<sup>th</sup> and 270<sup>th</sup> day after the Closing Date in an amount equal to the product of (i) the applicable Duration Fee Rate and (ii) the aggregate principal amount of the Loans of such Lender outstanding on such day.

(d) The Borrower agrees to pay to the Administrative Agent, for its own account, an annual administration fee payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(e) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent for distribution, in the case of ticking fees, commitment fees and duration fees, to the Lenders. All ticking fees and commitment fees shall be computed on the basis of a year of 360 days and shall be payable for the actual number of days elapsed (including the first day but excluding the last day). Fees paid shall not be refundable under any circumstances.

Section 2.11 Interest. (a) The Loans comprising each ABR Borrowing shall bear interest at the Alternate Base Rate plus the Applicable Rate.

(b) The Loans comprising each Eurodollar Borrowing shall bear interest at the Adjusted LIBO Rate for the Interest Period in effect for such Borrowing plus the Applicable Rate.

(c) Notwithstanding the foregoing, if any principal of or interest on any Loan or any fee or other amount payable by the Borrower hereunder is not paid when due, whether at stated maturity, upon acceleration or otherwise, such overdue amount shall bear interest, after as well as before judgment, at a rate per annum equal to (i) in the case of overdue principal of any Loan, 2% plus the rate otherwise applicable to such Loan as provided in the preceding paragraphs of this Section or (ii) in the case of any other amount, 2% plus the rate applicable to ABR Loans as provided in paragraph (a) of this Section.

(d) Accrued interest on each Loan shall be payable in arrears on each Interest Payment Date for such Loan and on the Maturity Date; provided that (i) interest accrued pursuant to paragraph (c) of this Section shall be payable on demand, (ii) in the event of any repayment or prepayment of any Loan, accrued interest on the principal amount repaid or prepaid shall be payable on the date of such repayment or prepayment and (iii) in the event of any conversion of any Eurodollar Loan prior to the end of the current Interest Period therefor, accrued interest on such Loan shall be payable on the effective date of such conversion.

(e) All interest hereunder shall be computed on the basis of a year of 360 days, except that interest computed by reference to the Alternate Base Rate at times when the Alternate Base Rate is based on the Prime Rate shall be computed on the basis of a year of 365 days (or 366 days in a leap year), and in each case shall be payable for the actual number of days elapsed (including the first day but excluding the last day). The applicable Alternate Base Rate or Adjusted LIBO Rate shall be determined by the Administrative Agent, and such determination shall be conclusive absent manifest error.

Section 2.12 Alternate Rate of Interest. If prior to the commencement of any Interest Period for a Eurodollar Borrowing:

(a) the Administrative Agent determines (which determination shall be conclusive absent manifest error) that adequate and reasonable means do not exist for ascertaining the Adjusted LIBO Rate for such Interest Period; or

(b) the Administrative Agent is advised in good faith by the Required Lenders that the Adjusted LIBO Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders of making or maintaining their Loans included in such Borrowing for such Interest Period;

then the Administrative Agent shall give notice thereof to the Borrower and the Lenders by telephone or fax as promptly as practicable thereafter and, until the Administrative Agent notifies the Borrower and the Lenders that the circumstances giving rise to such notice no longer exist, (i) any Interest Election Request that requests the conversion of any Borrowing to, or continuation of any Borrowing as, a Eurodollar Borrowing shall be ineffective and (ii) if any Borrowing Request requests a Eurodollar Borrowing, such Borrowing shall be made as an ABR Borrowing.

Section 2.13 Increased Costs. (a) If any Change in Law shall:

(i) subject any Lender to any Tax on its capital reserves (or any similar Tax) with respect to this Agreement or any Loan made by it (except for Indemnified Taxes covered by Section 2.15 and changes in the rate of tax on the overall net income or profits of such Lender);

(ii) impose, modify or deem applicable any reserve, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender (except any such reserve requirement reflected in the Adjusted LIBO Rate); or

(iii) impose on any Lender or the London interbank market any other condition affecting this Agreement or Eurodollar Loans made by such Lender;

and the result of any of the foregoing shall be to increase the cost (other than lost profits) to such Lender of making or maintaining any Eurodollar Loan or, in the case of (i), any Loans (or of maintaining its obligation to make any such Loan) or to reduce the amount of any sum received or receivable by such Lender hereunder (whether of principal, interest or otherwise), then, from time to time upon request of such Lender, the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender for such additional costs incurred or reduction suffered.

(b) Subject to Section 2.17, if any Lender determines that any Change in Law regarding capital requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement or the Loans made by such Lender to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then, from time to time upon request of such Lender, the Borrower will pay to such Lender such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered to the extent such a reduction is a consequence of this Agreement or the Loans made by such Lender.

(c) In connection with any request under paragraph (a) or (b) of this Section, the requesting Lender shall deliver to the Borrower a certificate of such Lender setting forth the amount or amounts necessary to compensate such Lender or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section, which shall contain a statement setting forth in reasonable detail the basis for requesting such amount and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

(d) Failure or delay on the part of any Lender to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender pursuant to this Section for any increased costs or reductions incurred more than 180 days prior to the date that such Lender notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's intention to claim compensation therefor; provided further that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 180-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.14 Break Funding Payments. In the event of (a) the payment of any principal of any Eurodollar Loan other than on the last day of an Interest Period applicable thereto (including as a result of an Event of Default), (b) the conversion of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto, (c) the failure to borrow, convert, continue or prepay any Eurodollar Loan on the date specified in any notice delivered pursuant hereto (regardless of whether such notice may be revoked under Section 2.08(b) and is revoked in accordance therewith) or (d) the assignment of any Eurodollar Loan other than on the last day of the Interest Period applicable thereto as a result of a request by the Borrower pursuant to Section 2.17, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event (it being understood and agreed that such loss, cost and expense shall not include the Applicable Rate that would have been applicable to such Loan for the period from the date of such event to the last day of the then current



Interest Period therefor). Such loss, cost or expense to any Lender shall be deemed to include an amount determined by such Lender to be the excess, if any, of (i) the amount of interest which would have accrued on the principal amount of such Loan had such event not occurred, at the Adjusted LIBO Rate that would have been applicable to such Loan (but not including the Applicable Rate applicable thereto), for the period from the date of such event to the last day of the then current Interest Period therefor (or, in the case of a failure to borrow, convert or continue, for the period that would have been the Interest Period for such Loan), over (ii) the amount of interest which would accrue on such principal amount for such period at the interest rate which such Lender would bid were it to bid, at the commencement of such period, for dollar deposits of a comparable amount and period from other banks in the eurodollar market. A certificate of any Lender setting forth in reasonable detail any amount or amounts that such Lender is entitled to receive pursuant to this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender the amount shown as due on any such certificate within 10 days after receipt thereof.

Section 2.15 Taxes. (a) All payments made by or on behalf of the Borrower under this Agreement or any other Loan Document shall be made free and clear of, and without deduction or withholding for, any Indemnified Taxes and Other Taxes; provided that if the Borrower shall be required to deduct any Indemnified Taxes or Other Taxes from such payments, then (i) the sum payable shall be increased as necessary so that after making all required deductions (including deductions applicable to additional sums payable under this Section) the Administrative Agent or Lender (as the case may be) receives an amount equal to the sum it would have received had no such deductions been made, (ii) the Borrower shall make such deductions and (iii) the Borrower shall pay the full amount deducted to the relevant Governmental Authority in accordance with applicable law.

(b) In addition, the Borrower shall pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(c) Whenever any Indemnified Taxes are payable by the Borrower, as promptly as possible thereafter the Borrower shall send to the Administrative Agent for its own account or for the account of the relevant Lender, as the case may be, a copy of an original official receipt received by the Borrower showing payment thereof.

(d) The Borrower shall indemnify the Administrative Agent and the Lenders for the full amount of any Indemnified Taxes that are paid or payable by the Administrative Agent or Lenders, as applicable in connection with any Loan Document (including amounts payable under this Section) and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this paragraph (d) shall be paid within 30 days after the Administrative Agent or Lender delivers to the Borrower a certificate stating the amount of Indemnified Taxes so payable by such Person. Such certificate shall be conclusive as to the amount so payable absent manifest error. Any Lender delivering such certificate to the Borrower shall deliver a copy of such certificate to the Administrative Agent.

(e) Each Lender shall severally indemnify the Administrative Agent and the Borrower for the full amount of any Taxes, in the case of the Administrative Agent, or any Excluded Taxes, in the case of the Borrower, attributable to such Lender that are paid or payable by the Administrative Agent or the Borrower in connection with any Loan Document and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. The indemnity under this paragraph (e) shall be paid within 30 days after the Administrative Agent or the Borrower delivers to the applicable Lender a certificate stating the amount of Taxes, in the case of the Administrative Agent, or Excluded

Taxes, in the case of the Borrower, so payable by the Administrative Agent or the Borrower, as applicable. Such certificate shall be conclusive of the amount so payable absent manifest error.

(f) (i) Any Lender that is entitled to an exemption from, or reduction of, any applicable withholding tax with respect to any payments under any Loan Document shall deliver to the Borrower and the Administrative Agent, at the time or times prescribed by law or reasonably requested by the Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrower or the Administrative Agent as will permit such payments to be made without, or at a reduced rate of, withholding. In addition, any Lender, if requested by the Borrower or the Administrative Agent, shall deliver such other documentation prescribed by law or reasonably requested by the Borrower or the Administrative Agent as will enable the Borrower or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth below in this paragraph (f)) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender. Upon the reasonable request of the Borrower or the Administrative Agent, any Lender shall update any form or certification previously delivered pursuant to this Section. If any form or certification previously delivered pursuant to this Section expires or becomes obsolete or inaccurate in any respect with respect to a Lender, such Lender shall promptly notify the Borrower and the Administrative Agent in writing of such expiration, obsolescence or inaccuracy and update the form or certification if it is legally eligible to do so.

(ii) Without limiting the generality of the foregoing, each Lender shall, if it is legally eligible to do so, deliver to the Borrower and the Administrative Agent (in such number of copies reasonably requested by the Borrower and the Administrative Agent) on or prior to the date on which such Lender becomes a party hereto, duly completed and executed copies of whichever of the following is applicable:

(A) in the case of a Lender that is a U.S. Person, IRS Form W-9;

(B) in the case of Non-U.S. Lender claiming the benefits of an income tax treaty to which the United States is a party (1) with respect to payments of interest under any Loan Document, IRS Form W-8BEN establishing an exemption from, or reduction of, U.S. federal withholding tax pursuant to the "interest" article of such tax treaty and (2) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN establishing an exemption from U.S. federal withholding tax pursuant to the "business profits" or "other income" article of such tax treaty;

(C) in the case of a Non-U.S. Lender for whom payments under any Loan Document constitute income that is effectively connected with such Lender's conduct of a trade or business in the United States, IRS Form W-8ECI;

(D) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code both (1) IRS Form W-8BEN and (2) a certificate substantially in the form of Exhibit B to the effect that such Lender is not (a) a "bank" within the meaning of Section 881(c)(3)(A) of the Code, (b) a "10 percent shareholder" of the Borrower within the meaning of Section 881(c)(3)(B) of the Code, (c) a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Code and (d) conducting a

trade or business in the United States with which the relevant interest payments are effectively connected;

(E) in the case of a Non-U.S. Lender that is not the beneficial owner of payments made under any Loan Document (including a partnership or a participating Lender) (1) an IRS Form W-8IMY on behalf of itself and (2) the relevant forms prescribed in clauses (A), (B), (C), (D) and (F) of this paragraph (f)(ii) that would be required of each such beneficial owner or partner of such partnership if such beneficial owner or partner were a Lender; provided, however, that if the Lender is a partnership and one or more of its partners are claiming the exemption for portfolio interest under Section 881(c) of the Code, such Lender may provide a U.S. Tax Certificate on behalf of such partners; or

(F) any other form prescribed by law as a basis for claiming exemption from, or a reduction of, U.S. federal withholding tax together with such supplementary documentation necessary to enable the Borrower or the Administrative Agent to determine the amount of Tax (if any) required by law to be withheld.

(g) Treatment of Certain Refunds. If the Administrative Agent or any Lender determines, in its sole discretion, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section (including additional amounts paid by the Borrower pursuant to this Section), it shall pay to the Borrower an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including any Taxes) of the Administrative Agent or such Lender and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). The Borrower, upon the request of the Administrative Agent or Lender, shall repay to the Administrative Agent or such Lender the amount paid to the Administrative Agent or such Lender pursuant to the previous sentence (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event the Administrative Agent or Lender is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph, in no event will the Administrative Agent or any Lender be required to pay any amount to the Borrower pursuant to this paragraph if, in the reasonable good faith judgment of the Administrative Agent or such Lender, such payment would place the Administrative Agent or such Lender in a less favorable position (on a net after-Tax basis) than the Administrative Agent or such Lender would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require the Administrative Agent or any Lender to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the Borrower or any other Person.

Section 2.16 Payments Generally; Pro Rata Treatment; Sharing of Set-offs. (a) The Borrower shall make each payment required to be made by it hereunder (whether of principal, interest or fees, or of amounts payable under Section 2.13, 2.14 or 2.15, or otherwise) prior to 12:00 noon, New York City time, on the date when due, in immediately available funds, without set-off or counterclaim. Any amounts received after such time on any date may, in the discretion of the Administrative Agent, be deemed to have been received on the next succeeding Business Day for purposes of calculating interest thereon. All such payments shall be made to the Administrative Agent at its offices at 270 Park Avenue, New York, New York, except that payments pursuant to Sections 2.13, 2.14, 2.15 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it for the account of any other Person to the appropriate recipient promptly following receipt thereof. If any payment hereunder shall be due on a day that is not a Business Day, the date for payment shall be extended to the next succeeding Business Day, and, in the case of any payment accruing interest,

interest thereon shall be payable for the period of such extension. All payments hereunder shall be made in Dollars.

(b) If at any time insufficient funds are received by and available to the Administrative Agent to pay fully all amounts of principal, interest and fees then due hereunder, such funds shall be applied (i) first, towards payment of interest and fees then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of interest and fees then due to such parties, and (ii) second, towards payment of principal then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal then due to such parties.

(c) Each borrowing by the Borrower from the Lenders hereunder and any reduction of the Commitments of the Lenders shall be made pro rata according to the respective Commitments of the Lenders.

(d) Each payment (including each prepayment) by the Borrower on account of principal of and interest on the Loans shall be made pro rata according to the respective outstanding principal amounts of the Loans then held by the Lenders. Amounts paid or prepaid on account of the Loans may not be reborrowed.

(e) If any Lender shall, by exercising any right of set-off or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Loans and accrued interest thereon than the proportion received by any other Lender, then the Lender receiving such greater proportion shall purchase (for cash at face value) participations in the Loans of other Lenders to the extent necessary so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans; provided that (i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest, and (ii) the provisions of this paragraph shall not be construed to apply to any payment made by the Borrower pursuant to and in accordance with the express terms of this Agreement (as in effect from time to time) or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans to any assignee or participant, other than to the Borrower or its Subsidiaries (as to which the provisions of this paragraph shall apply). The Borrower consents to the foregoing and agrees, to the extent it may effectively do so under applicable law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against the Borrower rights of set-off and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of the Borrower in the amount of such participation.

(f) Unless the Administrative Agent shall have received notice from the Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders hereunder that the Borrower will not make such payment, the Administrative Agent may assume that the Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(g) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04(b), 2.16(f) or 9.03(c), then the Administrative Agent may, in its discretion (notwithstanding any contrary provision hereof), apply any amounts thereafter received by the

Administrative Agent for the account of such Lender to satisfy such Lender's obligations under such Sections until all such unsatisfied obligations are fully paid.

Section 2.17 Mitigation Obligations; Replacement of Lenders. (a) If any Lender requests compensation under Section 2.13, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.15, then such Lender shall, if requested by the Borrower, use reasonable efforts (subject to overall policy considerations of such Lender) to designate a different lending office for funding or booking any Loans affected by such event, or to assign and delegate its rights and obligations hereunder to another of its offices, branches or Affiliates, in each case with the object of avoiding the consequences of such event; provided, that such designation is made on terms that, in the reasonable judgment of such Lender, cause such Lender and its lending office(s) to suffer no economic, legal or regulatory disadvantage; and provided further that nothing in this Section shall affect or postpone any of the obligations of the Borrower or the rights of any Lender pursuant to Section 2.13 or 2.15.

(b) If any Lender requests compensation under Section 2.13, or if the Borrower is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 2.15, or if any Lender does not consent to any proposed amendment, supplement, modification, consent or waiver of any provision of this Agreement or any other Loan Document that requires the consent of each of the Lenders or each of the Lenders affected thereby (so long as the consent of the Required Lenders has been obtained), or if any Lender is a Defaulting Lender, then the Borrower may, at its sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate, without recourse (in accordance with and subject to the restrictions contained in Section 9.04, except as provided below in this paragraph (b)), all its interests, rights and obligations under this Agreement to an assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment); provided that (i) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans, accrued interest thereon, accrued fees and all other amounts payable to it hereunder, from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrower (in the case of all other amounts), (ii) in the case of any such assignment resulting from a claim for compensation under Section 2.13 or payments required to be made pursuant to Section 2.15, such assignment will result in a reduction in such compensation or payments, (iii) the Borrower shall be liable to such Lender under Section 2.14 if any Eurodollar Loan owing to such replaced Lender shall be purchased other than on the last day of the Interest Period relating thereto, (iv) the assignee shall be reasonably satisfactory to the Administrative Agent, (v) any such replacement shall not be deemed to be a waiver of any rights that the Borrower, the Administrative Agent or any other Lender shall have against such Lender and (vi) until such time as such replacement shall be consummated, the Borrower shall pay all additional amounts (if any) required pursuant to Section 2.13 or 2.15 as the case may be. A Lender shall not be required to make any such assignment and delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrower to require such assignment and delegation cease to apply. Each party hereto agrees that an assignment required pursuant to this paragraph may be effected pursuant to an Assignment and Assumption executed by the Borrower, the Administrative Agent and the assignee and that the Lender required to make such assignment need not be a party thereto.

Section 2.18 Defaulting Lenders. Notwithstanding any provision of this Agreement to the contrary, if any Lender becomes a Defaulting Lender, then the following provisions shall apply for so long as such Lender is a Defaulting Lender:

(a) fees shall cease to accrue on the Available Commitment of such Defaulting Lender pursuant to Section 2.10(a) or 2.10(b);

(b) the Commitment and the outstanding aggregate principal amount of the Loan of such Defaulting Lender shall not be included in determining whether the Required Lenders have taken or may take any action hereunder (including any consent to any amendment or waiver pursuant to Section 9.02); and

(c) any amount payable to such Defaulting Lender hereunder (whether on account of principal, interest, fees or otherwise and including any amount that would otherwise be payable to such Defaulting Lender pursuant to Section 2.16(e) but excluding Section 2.17(b)) shall, in lieu of being distributed to such Defaulting Lender, be retained by the Administrative Agent in a segregated account and, subject to any applicable requirements of law, be applied at such time or times as may be determined by the Administrative Agent (i) first, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder, (ii) second, to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent, (iii) third, if so determined by the Administrative Agent and the Borrower, held in such account as cash collateral until the Commitment Expiration Date for future funding obligations of the Defaulting Lender in respect of any Loans under this Agreement and (iv) fourth, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction.

### Article III

#### REPRESENTATIONS AND WARRANTIES

The Borrower hereby represents and warrants, on the Closing Date and on each date thereafter on which a Borrowing is made, to the Administrative Agent and each Lender as follows:

Section 3.01 Financial Statements; No Material Adverse Change. (a) As of the date hereof, the Borrower has furnished to the Lenders the audited consolidated balance sheet of the Borrower as at September 30, 2009 and the related consolidated income statement and consolidated statement of shareholders' equity and cash flows for the fiscal year ended on such date, reported on by and accompanied by an unqualified report from KPMG LLP, which financial statements present fairly, in all material respects, the consolidated financial position of the Borrower as at such date, and the consolidated results of its operations and its consolidated cash flows for the fiscal year then ended. As of the date hereof, the Borrower has furnished to the Lenders the unaudited consolidated balance sheet of the Borrower as at December 31, 2009, and the related unaudited consolidated income statement and consolidated statement of cash flows for the three-month period ended on such date, which financial statements present fairly, in all material respects, the consolidated financial position of the Borrower as at such date, and the consolidated results of its operations and its consolidated cash flows for the three-month period then ended (subject to normal year-end audit adjustments and the absence of certain footnotes). All such financial statements, including the related schedules and notes thereto, have been prepared in accordance with GAAP applied consistently throughout the periods involved (except as approved by the aforementioned firm of accountants or otherwise disclosed therein).

(b) As of the Closing Date, the Borrower has furnished to the Lenders (i) the unaudited pro forma consolidated balance sheet of the Borrower as at the end of the most recent fiscal year of the Borrower ended at least 90 days prior to the Closing Date and (ii) unaudited pro forma consolidated income statement of the Borrower (x) for the most recent fiscal year of the Borrower ended at least 90 days prior to the Closing Date and (y) for the most recent fiscal quarter of the Borrower ended at least 45 days prior to the Closing Date, each of which has been prepared giving effect (as if such events had occurred on such date or the first day of such period, as applicable) to (A) the consummation of the Offer, the Merger and the Target Refinancing, (B) the Loans to be made and the use of proceeds thereof

and (C) the payment of fees and expenses in connection with the foregoing. Such pro forma financial statements have each been prepared based on the best information available to the Borrower as of the date of delivery thereof and, to the extent practicable, in accordance with Regulation S-X (it being acknowledged that the Borrower is limited to publicly available information relating to the Target and its Subsidiaries).

(c) As of the Closing Date, (i) there has not occurred any event, change, occurrence or circumstance that, individually or in the aggregate, has had or would reasonably be expected to have a material adverse effect on the business, operation, property or financial condition of the Borrower and its Subsidiaries (other than the Target and its Subsidiaries), taken as a whole, since September 30, 2009 and (ii) no change has occurred or been threatened (and no development has occurred or been threatened that involves a prospective change) in the business, assets, liabilities, financial condition, capitalization, operations, results of operations or prospects of the Target or any of its Affiliates that, in the Borrower's judgment, is or may be materially adverse to the Target or any of its Affiliates (it being agreed that this clause (ii) shall be automatically amended to conform to the condition (or, if applicable, the representation) relating to the absence of "material adverse effect" (or equivalent concept) on the Target and its Affiliates set forth in the Offer Documents (or, if applicable, the Merger Agreement) as in effect on the Closing Date).

Section 3.02 Litigation. There is no action, suit or administrative proceeding, to the knowledge of the Borrower after due inquiry, pending or threatened against the Borrower or any of its Subsidiaries as of the Closing Date which, in the opinion of the Borrower, involves any substantial risk of any Material Adverse Effect.

Section 3.03 Due Organization. The Borrower is a corporation duly organized, validly existing and in good standing under the laws of its jurisdiction of organization.

Section 3.04 Consents and Approvals. The Borrower has obtained the consents and approvals of the Governmental Authorities necessary for consummation of the Transactions and its execution and performance of this Agreement and such consents and approvals are in full force and effect, other than any such consents and approvals with respect to which the failure to obtain or to keep in full force and effect would not reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect.

Section 3.05 Corporate Power, Authorization and Enforceability. The Borrower has taken all necessary corporate or other organizational action to authorize its execution, delivery and performance of this Agreement. This Agreement has been duly executed and delivered by the Borrower and constitutes, and the other Loan Documents when executed and delivered by the Borrower will constitute, valid and legally binding obligations of the Borrower, subject to applicable bankruptcy, reorganization, insolvency, moratorium or similar laws affecting creditors' rights generally and equitable principles of general application (regardless of whether enforcement is sought in a proceeding in equity or at law).

Section 3.06 ERISA. The Borrower and each of its ERISA Affiliates is in compliance with all applicable provisions and requirements of ERISA and the provisions of the Code and the regulations and published interpretations thereunder with respect to any Plan for which the Borrower is the plan sponsor or a contributing employer, and the Borrower is not subject to any material liability, penalty, excise tax or lien arising under ERISA or under the Code with respect to any Plan which is sponsored by the Borrower or any Subsidiary (or to which the Borrower or any Subsidiary is obligated to contribute), except to the extent such noncompliance, liability, penalty, excise tax or lien would not have a Material Adverse Effect; and no ERISA Event has occurred or would reasonably be expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to

occur, would reasonably be expected to, individually or in the aggregate, result in a Material Adverse Effect.

Section 3.07 No Conflict. Except as set forth on Schedule 3.07, neither the execution and delivery by the Borrower of the Loan Documents, nor the consummation of the transactions therein contemplated, nor compliance by the Borrower with the provisions thereof will violate (a) to the best of the Borrower's knowledge after due inquiry, any material law, rule, regulation, order, writ, judgment, injunction, decree or award binding on the Borrower or any of its Subsidiaries, (b) the Borrower's or any Subsidiary's articles or certificate of incorporation, partnership agreement, certificate of partnership, articles or certificate of organization, by-laws, or operating or other management agreement, as the case may be, or (c) to the best of the Borrower's knowledge after due inquiry, the provisions of any material indenture, instrument or agreement to which the Borrower or any of its Subsidiaries is a party or is subject, or by which it, or its property, is bound, or conflict with or constitute a default thereunder, or result in, or require, the creation or imposition of any lien in, of or on the property of the Borrower or a Subsidiary pursuant to the terms of any such indenture, instrument or agreement (other than any such indenture, instrument or agreement of the Target or any of its Subsidiaries in effect as of the Closing Date), except, in the case of each of clauses (a) and (c), to the extent any of the foregoing would not reasonably be expected to result in a Material Adverse Effect.

Section 3.08 No Default. Each of the Borrower and its Subsidiaries is in compliance with all laws, regulations and orders of any Governmental Authority applicable to it or its property and all indentures, agreements and other instruments binding upon it or its property (other than any indenture, agreement or other instrument of the Target or any of its Subsidiaries in effect as of the Closing Date), except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

Section 3.09 Payment of Taxes. Each of the Borrower and its Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed by it and has paid or caused to be paid all Taxes required to have been paid by it, except (a) Taxes that are being contested in good faith by appropriate proceedings and for which the Borrower or such Subsidiary, as applicable, has set aside on its books adequate reserves in accordance with GAAP or (b) to the extent that the failure to do so would not reasonably be expected to result in a Material Adverse Effect.

Section 3.10 Investment Company Status. Neither the Borrower nor any of its Subsidiaries is an "investment company" as defined in, or subject to regulation under, the Investment Company Act of 1940.

Section 3.11 Environmental Matters. Except with respect to any matters that, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any of its Subsidiaries (a) has failed to comply with any Environmental Law or to obtain, maintain or comply with any permit, license or other approval required under any Environmental Law, (b) has become subject to any Environmental Liability, (c) has received notice of any claim with respect to any Environmental Liability or (d) knows of any basis for any Environmental Liability.

Section 3.12 Disclosure. (a) All written information and all oral communications made by the Borrower in Lender meetings and due diligence sessions held in connection with the syndication of the credit facility established hereunder, taken as a whole, other than any projections (the "Projections") and information of a general economic or industry nature, that were made available by the Borrower or any of its representatives to the Lead Arranger, the other Arrangers or the Lenders were, when furnished, complete and correct in all material respects and did not, when furnished, contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the



statements contained therein not materially misleading in light of the circumstances under which such statements were made (with the Borrower making such representation and warranty, insofar as it concerns information and communications relating to the Target and its Affiliates, to the best knowledge of the Borrower) and (b) the Projections that were made available by the Borrower or any of its representatives to the Lead Arranger, the other Arrangers or the Lenders were prepared in good faith based upon assumptions believed by the Borrower to be reasonable at the time made and at the time the related Projections were made available to the Lead Arranger, the other Arrangers or the Lenders (it being understood that (i) the Projections and the Borrower's assumptions with respect thereto, in each case insofar as they relate to the Target and its Affiliates, were based on information available to the Borrower with respect to the Target and its Subsidiaries and that such information may have been limited, (ii) the Projections are subject to significant uncertainties, (iii) the variances between actual results and projected results may be material and (iv) no assurances were given that any projections will be realized).

#### Article IV

##### CONDITIONS OF CREDIT

Section 4.01 Conditions to Effective Date. The effectiveness of this Agreement shall be subject to satisfaction (or waiver in accordance with Section 9.02) of the following conditions precedent (the first date on which such conditions are satisfied or waived, the "Effective Date"):

(a) Credit Agreement. The Administrative Agent shall have received from each party hereto a counterpart of this Agreement signed on behalf of such party.

(b) Corporate Action. The Administrative Agent shall have received on or before the Effective Date certified copies of all corporate action taken by the Borrower to authorize the execution and delivery of this Agreement and, if required, the Notes and such other documents relating to such authorization as the Administrative Agent shall reasonably require.

(c) Organizational Documents; Good Standing Certificates. The Administrative Agent shall have received copies of the articles or certificate of incorporation of the Borrower, together with all amendments, and a certificate of good standing, each certified as of a recent date by the appropriate governmental officer in its jurisdiction of incorporation.

(d) Patriot Act Information. No later than five Business Days prior to the Effective Date, the Administrative Agent and the Lenders shall have received any information required by the Patriot Act or necessary for the Administrative Agent or any Lender to verify the identity of the Borrower as required by the Patriot Act or other "know your customer" and anti-money laundering rules and regulations, provided that such information shall have been requested by the Administrative Agent and the Lenders reasonably in advance of the Effective Date.

The Administrative Agent shall notify the Borrower and the Lenders of the occurrence of the Effective Date, and such notice shall be conclusive and binding.

Section 4.02 Conditions to Initial Borrowing. The obligation of each Lender to make its initial Loan is subject to satisfaction (or waiver in accordance with Section 9.02) of the following conditions precedent (the first date on which such conditions are satisfied or waived, the "Closing Date", which date shall in no event be later than February 4, 2011):

(a) Notes. The Administrative Agent shall have received from the Borrower a counterpart of any Notes requested by the Lenders reasonably in advance of the Closing Date.

(b) Officer's Certificate. The Administrative Agent shall have received a certificate dated the Closing Date and signed by the Treasurer or a Vice President of the Borrower to the effect that each of the representations and warranties made by the Borrower in Article III hereof is true and correct in all material respects on and as of the Closing Date, both before and after giving effect to the Borrowings requested to be made on the Closing Date, except for such representations and warranties that specifically refer to an earlier date, which shall be true and correct in all material respects as of such earlier date.

(c) Financial Statements. (i) The Administrative Agent shall have received the unaudited pro forma consolidated balance sheet and unaudited pro forma consolidated income statement of the Borrower referred to in Section 3.01(b).

(ii) The Administrative Agent shall have received, to the extent available to the Borrower, such audited or unaudited consolidated financial statements of the Target as would be necessary to comply with Regulation S-X in a registered offering of securities of the Borrower and all other financial statements for completed or pending acquisitions as are available to the Borrower and may be required under Regulation S-X in a registered offering of securities of the Borrower.

(d) The Offer. If the Merger Agreement has not been executed prior to the Closing Date, the Offer shall be consummated (i) substantially concurrently with the making of the initial Loans and (ii) in accordance with the Offer Documents, which Offer Documents shall be reasonably acceptable to the Arrangers (it being understood and agreed that all Offer Documents filed with the Securities and Exchange Commission prior to the date hereof shall be deemed reasonably acceptable to the Arrangers). The Administrative Agent shall have received copies of all amendments, modifications, waivers and consents under the Offer Documents and no such amendment, modification, waiver or consent shall have been materially adverse to the interests of the Arrangers or the Lenders without the prior written consent of the Arrangers (it being understood and agreed that amendments, modifications, waivers and consents under the Offer Documents effected prior to the date hereof shall be deemed not to be materially adverse to the interests of the Arrangers or the Lenders).

(e) The Merger. If the Merger Agreement has been executed prior to the Closing Date, (i) the Merger (if the Merger Agreement provides for a one-step merger of the Target with Offerco) or the Offer (if the Merger Agreement provides for the consummation of the Offer, followed by the consummation of the Merger) shall be consummated (A) substantially concurrently with the making of the initial Loans and (B) in accordance with the Merger Documents, which Merger Documents shall be reasonably acceptable to the Arrangers. The Administrative Agent shall have received all Merger Documents, if any, executed prior to the Closing Date. The Administrative Agent shall have received copies of all amendments, modifications, waivers and consents to any such Merger Documents, and no such amendment, modification, waiver or consent shall have been materially adverse to the interests of the Arrangers or the Lenders without the prior written consent of the Arrangers.

(f) Target Ownership. After giving effect to the consummation of the Offer or the Merger on the Closing Date, the Borrower shall own a majority of the shares of the common stock of the Target on a fully diluted basis.

(g) Legal Opinion. The Administrative Agent shall have received a legal opinion dated the Closing Date and addressed to the Administrative Agent and the Lenders in form and substance reasonably satisfactory to the Administrative Agent, covering such matters relating to the Borrower and this Agreement as the Administrative Agent shall reasonably request.

(h) Solvency Certificate. The Administrative Agent shall have received a solvency certificate from the chief financial officer of the Borrower in a form reasonably satisfactory to the Administrative Agent.

(i) Ratings. The Borrower shall, as of the Closing Date, and taking into account the Transactions, have (i) an unsecured long-term obligations rating of at least “Baa3” (with stable (or better) outlook) from Moody’s and (ii) a long-term issuer credit rating of at least “BBB-” (with stable (or better) outlook) from S&P, which ratings and outlooks shall in each case have been (A) issued within 60 days prior to the Closing Date or (B) reaffirmed within seven days prior to the Closing Date. If the rating system of S&P or Moody’s shall change, the Borrower and the Lenders shall negotiate in good faith to amend this condition to reflect such changed rating system.

(j) Fees and Expenses. The Administrative Agent, the Arrangers and the Lenders shall have received all fees and expenses required to be paid by the Borrower on or prior to the Closing Date pursuant to the Commitment Letter, the Bookrunner Fee Letter or the Loan Documents to the extent, in the case of expenses, the invoice relating thereto is received by the Borrower by a reasonable time prior to the Closing Date.

(k) No Default. No Default or Event of Default (as defined therein) shall have occurred and be continuing, or shall occur as a result of the consummation of the Offer or the Merger and the financings thereof, under the Existing Agreement or any refinancing or replacement thereof.

The Administrative Agent shall notify the Borrower and the Lenders of the occurrence of the Closing Date, and such notice shall be conclusive and binding.

Section 4.03 Conditions to All Borrowings. The obligation of each Lender to make each Loan to be made by it hereunder on the occasion of any Borrowing (including its initial Loan on the Closing Date) is subject to the satisfaction (or waiver in accordance with Section 9.02) of the following conditions precedent:

(a) Representations and Warranties. Each of the representations and warranties made by the Borrower in Article III (other than, in the case of any Loan to be made after the Closing Date, the representations and warranties set forth in Sections 3.01(c) and 3.02) shall be true and correct in all material respects on and as of the date of such Borrowing as if made on and as of such date, both immediately before and immediately after giving effect to such Borrowing; provided that, to the extent that such representations and warranties specifically refer to an earlier date, they shall be true and correct in all material respects as of such earlier date.

(b) No Default. No Default or Event of Default shall have occurred and be continuing on and as of the date of such Borrowing, both immediately before and immediately after giving effect to such Borrowing.

It is further understood and agreed that notice by the Borrower requesting any Borrowing shall constitute a certification by the Borrower that the conditions precedent set forth in this Section 4.03 are satisfied on the date of such Borrowing.

Article V

AFFIRMATIVE COVENANTS

From and including the Closing Date (or, with respect to Sections 5.01, 5.02 and 5.08 from and including the date hereof) and until payment in full of all of the Loans and all interest and fees due and payable hereunder and termination of all Commitments, the Borrower agrees that:

Section 5.01 Financial Statements. The Borrower will furnish to the Administrative Agent:

- (a) within 45 days after the close of each quarter, except the last quarter, of each fiscal year, an unaudited consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such quarter, unaudited consolidated statements of income and cash flows of the Borrower and its Subsidiaries for the period commencing at the end of the Borrower's previous fiscal year and ending with the end of such quarter, as such are filed with the Securities and Exchange Commission;
- (b) within 90 days after the close of each fiscal year, financial statements filed with the Securities and Exchange Commission consisting of a consolidated balance sheet of the Borrower and its Subsidiaries as of the end of such fiscal year and consolidated statements of income and cash flows of the Borrower and its Subsidiaries for such fiscal year, which will be certified by independent certified public accountants of recognized standing; and
- (c) concurrently with the delivery of the financial statements referred to in clauses (a) and (b) above, a certificate of a Financial Officer of the Borrower (x) stating that, to the knowledge of such officer (after due inquiry), as of the date thereof no Default or Event of Default has occurred and is continuing (or if a Default or an Event of Default has occurred and is continuing, specifying in detail the nature and period of the existence thereof and any action with respect thereto taken or contemplated to be taken by the Borrower), (y) commencing with the delivery of financial statements for the first fiscal quarter that shall have commenced after the Closing Date, stating in reasonable detail the information and calculations necessary to establish compliance with Section 6.01 and (z) stating whether any change in GAAP or in the application thereof that could reasonably be expected to affect in any material respect the calculation of the Leverage Ratio has occurred since the date of the audited financial statements most recently theretofore delivered under clause (b) above (or, prior to the first such delivery, referred to in Section 3.01(a)) and, if any such change has occurred, specifying the effect of such change on the financial statements accompanying such certificate.

Any financial statement or other material required to be delivered pursuant to this Section 5.01 shall be deemed to have been furnished to each of the Administrative Agent and the Lenders on the date that such financial statement or other material is publicly accessible on the Securities and Exchange Commission's website at [www.sec.gov](http://www.sec.gov).

Section 5.02 Notices of Material Events. The Borrower will furnish to the Administrative Agent the following:

- (a) written notice (within five days after a Financial Officer of the Borrower obtains knowledge thereof) of the occurrence of any Default or Event of Default which in either case is continuing;
- (b) written notice (within five days after a Financial Officer of the Borrower obtains knowledge thereof) of the filing or commencement of any action, suit or proceeding by or before any

arbitrator or Governmental Authority against or affecting the Borrower or any Affiliate thereof that, if adversely determined, would reasonably be expected to result in a Material Adverse Effect;

(c) prompt written notice of the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, would reasonably be expected to result in a Material Adverse Effect;

(d) prompt written notice of any other development that results in, or would reasonably be expected to result in, a Material Adverse Effect;

(e) prompt written notice of an announcement by Moody's or S&P of a change in the unsecured long-term obligations of the Borrower or the long-term issuer credit rating of the Borrower, respectively, and the resulting rating; and

(f) promptly following a request therefor, such other information in confidence respecting the financial condition and affairs of the Borrower and its Subsidiaries (or the Target and its Subsidiaries, to the extent such information is available to the Borrower) as the Administrative Agent or any Lender (through the Administrative Agent) may from time to time reasonably request (subject to any legal or confidentiality restriction on the delivery of such requested information).

Section 5.03 Maintenance of Insurance. The Borrower will maintain, and cause each Subsidiary to maintain, insurance against risks of fire and other casualties with good and responsible insurance companies upon its properties of an insurable nature which are owned and acquired by it from time to time, in accordance with its normal insurance policies and practices.

Section 5.04 Payment of Taxes. The Borrower will pay and discharge, and cause each Subsidiary to pay and discharge, all Taxes upon it or against its properties prior to the date on which penalties attach thereto, unless and to the extent that (a) the same shall be contested in good faith and by proper proceedings or (b) the failure to do so would not reasonably be expected to result in a Material Adverse Effect.

Section 5.05 Maintenance of Corporate Existence. The Borrower will do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence and the rights, licenses, permits, privileges and franchises of the Borrower and its Subsidiaries material to the conduct of their business taken as a whole; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution not prohibited by Section 6.03.

Section 5.06 Maintenance of Property. The Borrower will keep and maintain, and cause each of its Subsidiaries to keep and maintain, all property material to the conduct of the business of the Borrower and its Subsidiaries taken as a whole in good working order and condition, ordinary wear and tear excepted.

Section 5.07 Compliance with Laws. The Borrower will comply, and cause each of its Subsidiaries to comply, with all laws (including ERISA and Environmental Laws), rules, regulations and orders of any Governmental Authority applicable to it or its property, except where the failure to do so, individually or in the aggregate, would not reasonably be expected to result in a Material Adverse Effect.

Section 5.08 Books and Records; Inspections. The Borrower will keep, and cause each of its Material Subsidiaries to keep, in all material respects, proper books of record and account in which full, true and correct entries are made of all dealings and transactions in relation to its business and activities as necessary for the preparation of its consolidated financial statements in accordance with

GAAP. The Borrower will, and will cause each of its Material Subsidiaries to, permit any representatives designated by the Administrative Agent or any Lender, upon reasonable prior notice, to visit and inspect its properties, to examine its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times (during normal business hours) and as often as reasonably requested; provided that, so long as no Default or Event of Default shall have occurred and be continuing, (a) only the Administrative Agent shall exercise the rights of the Administrative Agent and the Lenders under this Section and (b) the Administrative Agent shall not exercise such rights more frequently than once per calendar year.

Section 5.09 Use of Proceeds. The Borrower will use the proceeds of the Loans solely (a) to finance payments to the equityholders of the Target pursuant to the Offer and in connection with the Merger, (b) to effect the Target Refinancing, (c) to pay fees and expenses related to the Transactions and (d) for working capital and other general corporate purposes of the Borrower and its Subsidiaries. The Borrower shall not use any part of the proceeds of any Loans for any purpose that violates the provisions of the Regulations of the Board.

## Article VI

### NEGATIVE COVENANTS

From and including the Closing Date and until payment in full of all of the Loans and all interest and fees due and payable hereunder and the termination of all of the Commitments, the Borrower agrees that it will not:

Section 6.01 Leverage Ratio. Permit the Leverage Ratio as of the last day of any Test Period, commencing with the Test Period ending with the first fiscal quarter that shall have commenced after the Closing Date, to exceed 4.8 to 1.00.

Section 6.02 Liens. Create, incur, assume or suffer to exist, or cause or permit any Subsidiary to create, incur, assume or suffer to exist, any Lien on any property or asset now owned or hereafter acquired by it (other than Unrestricted Margin Stock), except:

(a) Liens created under the Loan Documents;

(b) Permitted Encumbrances;

(c) any Lien on any property or asset of the Borrower or any Subsidiary existing on the Effective Date and, in the case of such Liens on any property or asset of the Borrower or any Material Subsidiary, set forth in Schedule 6.02, and any extension, renewal or replacement thereof; provided that (i) such Lien shall not apply to any other property or asset of the Borrower or any Subsidiary (other than improvements or accessions to the applicable property or assets or proceeds therefrom) and (ii) such Lien shall secure only those obligations which it secures on the Effective Date and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(d) any Lien existing on any property or asset prior to the acquisition thereof by the Borrower or any Subsidiary or existing on any property or asset of any Person (including the Target and its Subsidiaries) that becomes a Subsidiary (or of any Person not previously a Subsidiary that is merged or consolidated with or into a Subsidiary) after the Effective Date prior to the time such Person becomes a Subsidiary (or is so merged or consolidated), and any extension, renewal or replacement thereof; provided that (i) such Lien is not created (in the case of the Target or any of its Subsidiaries, with the consent of the Borrower) in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary or such merger or consolidation (or, in the case of the Target and its Subsidiaries, in

contemplation of or in connection with the Merger), as the case may be, (ii) such Lien shall not apply to any other property or assets of the Borrower or any Subsidiary (other than improvements or accessions to the applicable property or assets or proceeds therefrom) and (iii) such Lien shall secure only those obligations which it secures on the date of such acquisition or the date such Person becomes a Subsidiary (or is so merged or consolidated), as the case may be, and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(e) Liens on fixed or capital assets acquired, constructed or improved by the Borrower or any Subsidiary; provided that (i) in the case of Liens on assets of any Subsidiary, such Liens secure Indebtedness permitted by Section 6.04 and obligations relating thereto not constituting Indebtedness, (ii) such Liens and the Indebtedness secured thereby are incurred prior to or within 360 days after such acquisition or the completion of such construction or improvement, (iii) the principal amount of Indebtedness secured thereby does not exceed the cost of acquiring, constructing or improving such fixed or capital assets and (iv) such Liens shall not apply to any other property or assets of the Borrower or any Subsidiary; provided further that in the event purchase money obligations are owed to any Person with respect to financing of more than one purchase of any fixed or capital assets, such Liens may secure all such purchase money obligations and may apply to all such fixed or capital assets financed by such Person;

(f) Liens in favor of any Governmental Authority to secure partial, progress, advance or other payments or obligations pursuant to any contract or statute, including Liens to secure Indebtedness of any pollution control or industrial revenue bonds, or to secure any Indebtedness incurred for the purpose of financing all or any part of the purchase price or the cost of constructing or improving the property subject to such Liens;

(g) Liens in favor of any customer arising in respect of partial, progress, advance or other payments made by or on behalf of such customer for goods produced for or services rendered to such customer in the ordinary course of business;

(h) Liens securing Indebtedness or other obligations not exceeding \$200,000,000 in the aggregate at any time outstanding;

(i) Liens securing Limited Recourse Debt of any Project Finance Company;

(j) Liens on the proceeds of issuances of any pollution control or industrial revenue bonds by the Borrower and its Subsidiaries required to be held in escrow pursuant to the terms thereof;

(k) Liens securing obligations under Swap Agreements entered into in the ordinary course of business; and

(l) Liens created in connection with securitizations of receivables of the Borrower or any of its Subsidiaries; provided that such Liens apply solely to the receivables and interests therein that are the subject of such securitizations and such other assets as are customarily subject to such Liens in securitization transactions of the same type.

Section 6.03 Fundamental Changes. (a) Merge into or consolidate with, any other Person, or permit any other Person to merge into or consolidate with it, or sell, transfer, lease or otherwise dispose of (in one transaction or in a series of transactions) all or substantially all of its assets (other than Unrestricted Margin Stock), or all or substantially all of the stock of its Subsidiaries (other than Unrestricted Margin Stock) (in each case, whether now owned or hereafter acquired), or liquidate or dissolve, except that, if at the time thereof and immediately after giving effect thereto no Default shall

have occurred and be continuing, any Person may merge into the Borrower in a transaction in which the Borrower is the surviving corporation; or

(b) Engage, or permit any of its Subsidiaries to engage, in any business, to the extent material to the Borrower and its Subsidiaries as a whole, other than businesses of the type conducted by the Borrower and its Subsidiaries and the Target and its Subsidiaries on the Effective Date and businesses incidental or reasonably related thereto, or any business or activity that is reasonably similar or complementary thereto or a reasonable extension, development or expansion thereof.

Section 6.04 Subsidiary Indebtedness. Permit any of its Subsidiaries to create, incur, assume or permit to exist any Indebtedness, except:

(a) Indebtedness of any Subsidiary outstanding on the Effective Date, which Indebtedness (in the case of any item of Indebtedness in a principal amount in excess of \$50,000,000) is described on Schedule 6.04, and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(b) Indebtedness of any Subsidiary to the Borrower or any other Subsidiary, and any Guarantee by any Subsidiary of any Indebtedness of any other Subsidiary;

(c) any Guarantee by any Subsidiary of Indebtedness of the Borrower, provided that such Subsidiary has Guaranteed the Obligations under a Guarantee in form and substance reasonably satisfactory to the Administrative Agent (which Guarantee of the Obligations shall not be more restrictive or burdensome than such other Guarantee (and, in the event such other Guarantee is subordinated to any other obligations, may be subordinated to such other obligations on substantially similar terms) and shall provide for an automatic release thereof upon release of such other Guarantee);

(d) Indebtedness of any Subsidiary incurred to finance the acquisition, construction or improvement of any fixed or capital assets, including Capital Lease Obligations and any Indebtedness assumed in connection with the acquisition of any such assets or secured by a Lien on any such assets prior to the acquisition thereof, and refinancings, extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof; provided that such Indebtedness is incurred prior to or within 360 days after such acquisition or the completion of such construction or improvement;

(e) Indebtedness of any Person (including the Target and its Subsidiaries) that becomes a Subsidiary (or of any Person not previously a Subsidiary that is merged or consolidated with or into a Subsidiary) after the Effective Date, or Indebtedness of any Person that is assumed by any Subsidiary in connection with an acquisition of assets by such Subsidiary after the Effective Date (so long as such assumed Indebtedness encumbers such assets), provided that such Indebtedness exists at the time such Person becomes a Subsidiary (or is so merged or consolidated) or such assets are acquired and is not created (in the case of the Target or any of its Subsidiaries, with the consent of the Borrower) in contemplation of or in connection with such Person becoming a Subsidiary (or such merger or consolidation) or such assets being acquired, and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(f) Indebtedness of any Subsidiary (i) as an account party in respect of trade letters of credit or letters of credit of the type referred to in the definition of the term "Permitted Encumbrances" or (ii) to the extent arising in connection with any Permitted Encumbrances or any Lien permitted pursuant to Section 6.02(f) or (g);



(g) Indebtedness owed in respect of any overdrafts and related liabilities arising from treasury, depository and cash management services or in connection with any automated clearing-house transfers of funds; provided that such Indebtedness shall be repaid in full within five Business Days of the incurrence thereof;

(h) Limited Recourse Debt of any Project Finance Subsidiary;

(i) Indebtedness of Foreign Subsidiaries incurred to finance the working capital needs of Foreign Subsidiaries;

(j) any other Indebtedness of any Subsidiary; provided that the aggregate principal amount of such other Indebtedness of all the Subsidiaries outstanding at any time does not exceed \$200,000,000; and

(k) Indebtedness incurred in connection with the securitization of receivables of the Borrower or any of its Subsidiaries.

## Article VII

### EVENTS OF DEFAULT

Section 7.01 Events of Default. An “Event of Default” shall mean the occurrence or existence of one or more of the following events or conditions:

(a) default in payment of principal on any Loan or Note when due;

(b) default in payment of interest, any fee or any other amount provided for herein, and such default shall continue unremedied for five Business Days after written notice thereof shall have been received by the Borrower from the Administrative Agent or any Lender;

(c) any representation or warranty made by the Borrower herein or in any certificate or notice furnished by the Borrower hereunder shall prove to have been, when made, erroneous in any material respect, provided, however, that if capable of remedy, the Borrower shall have twenty days after the Borrower has knowledge of such fact to remedy the underlying facts resulting in such representation, warranty, certificate or notice being erroneous as above described;

(d) (i) default in any material respect by the Borrower in the performance of any covenant or agreement set forth in Article VI or (ii) default in any material respect by the Borrower in the performance of any other covenant or agreement set forth in this Agreement, other than any such covenant or agreement referred to in clauses (a) through (c) above or clause (d)(i) above, and, in the case of any such default referred to in this clause (ii), (A) such default (other than a default in the performance of Section 5.02(a) or 5.09) shall continue unremedied for 20 days after written notice thereof shall have been received by the Borrower from the Administrative Agent or (B) in the case of a default in the performance of Section 5.02(a) or 5.09, such default shall have continued unremedied for five days;

(e) failure by the Borrower or any Subsidiary to pay any principal or interest (regardless of amount) of or on Indebtedness for borrowed money (other than Limited Recourse Debt) in excess of \$125,000,000 when and as the same shall become due and payable beyond the applicable grace period therefor;

(f) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity; provided that this clause (f) shall not apply to (i) secured Indebtedness

that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness, (ii) any Indebtedness that becomes due as a result of a default under any agreement with a Lender or an Affiliate of a Lender to the extent such default results from a sale, pledge or other disposition of Unrestricted Margin Stock or (iii) any Indebtedness of the Target or any of its Subsidiaries outstanding on the Closing Date that becomes due as a result of the consummation of the Transactions to be consummated on such date;

(g) a judgment or order for the payment of money in excess of \$125,000,000 (net of any amounts covered by a third-party insurer as to which such insurer has been notified of a potential claim and does not dispute coverage) shall be rendered against the Borrower or any Material Subsidiary and such judgment shall continued unsatisfied and unstayed for a period of 60 consecutive days after the time period for appeal has expired;

(h) a Change of Control shall have occurred;

(i) the Borrower or any Material Subsidiary makes, or takes corporate or other organizational action for, a general assignment for the benefit of creditors, or files a voluntary petition in bankruptcy or a petition or answer seeking its reorganization or the readjustment of its indebtedness or consents to or petitions for the appointment of a receiver, trustee or liquidator of all or substantially all of its property or shall admit in writing its inability to, or generally be unable to, pay its debts as such debts come due;

(j) the commencement of a case or other proceeding, without the application or consent of the Borrower or the applicable Material Subsidiary, in any court of competent jurisdiction, seeking the liquidation, reorganization, dissolution, winding up, or composition or readjustment of debts, of the Borrower or any Material Subsidiary, the appointment of a trustee, receiver, custodian, liquidator or the like for the Borrower or any Material Subsidiary, or any similar action with respect to the Borrower or any Material Subsidiary, under any laws relating to bankruptcy, insolvency, reorganization, winding up or composition or adjustment of debts, and such case or proceeding shall continue undismissed, or unstayed and in effect for a period of 90 consecutive days or an order for relief in respect of the Borrower or any Material Subsidiary shall be entered in an involuntary case under the Federal bankruptcy laws (as now or hereafter in effect) and such order shall not be dismissed, discharged, stayed or restrained prior to the end of such 90 day period or within 30 days of its entry, whichever is later; or

(k) (i) an ERISA Event shall have occurred, (ii) a trustee shall be appointed by a United States district court to administer any Plan, (iii) the PBGC shall institute proceedings to terminate any Plan, (iv) the Borrower or any of its ERISA Affiliates shall have been notified by the sponsor of a Multiemployer Plan that it has incurred or will be assessed Withdrawal Liability to such Multiemployer Plan and such entity does not have reasonable grounds for contesting such Withdrawal Liability or is not contesting such Withdrawal Liability in a timely and appropriate manner; or (v) any other event or condition shall occur or exist with respect to a Plan; and in each case in clauses (i) through (v) above, such event or condition, together with all other such events or conditions, if any, would reasonably be expected to result in a Material Adverse Effect.

#### Section 7.02 Consequences of an Event of Default.

(a) If an Event of Default specified in subsections (a) through (h) or subsection (k) of Section 7.01 shall occur or exist, then, in addition to all other rights and remedies which the Administrative Agent or any Lender may have hereunder or under any other Loan Document, at law or in equity, the Lenders shall be under no further obligation to make Loans and the Administrative Agent may, and upon the written request of the Required Lenders shall, by notice to the Borrower, from time to time do any or all of the following:

(i) declare the Commitments terminated, whereupon the Commitments will terminate;

(ii) declare the unpaid principal amount of the Loans, interest accrued thereon and all other Obligations to be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby waived.

(b) If an Event of Default specified in subsections (i) or (j) of Section 7.01 shall occur or exist, then, in addition to all other rights and remedies which the Administrative Agent or any Lender may have hereunder or under any other Loan Document, at law or in equity, the Commitments shall automatically terminate, the Lenders shall be under no further obligation to make Loans and the unpaid principal amount of the Loans, interest accrued thereon and all other Obligations shall become immediately due and payable without presentment, demand, protest or notice of any kind, all of which are hereby waived.

## Article VIII

### THE ADMINISTRATIVE AGENT

Each of the Lenders hereby irrevocably appoints the Administrative Agent as its agent and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof, together with such actions and powers as are reasonably incidental thereto.

The bank serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent, and such bank and its Affiliates may accept deposits from, lend money to and generally engage in any kind of business with the Borrower, the Target or any of their respective Subsidiaries or Affiliates as if it were not the Administrative Agent hereunder.

The Administrative Agent shall not have any duties or obligations except those expressly set forth herein. Without limiting the generality of the foregoing, (a) the Administrative Agent shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing, (b) the Administrative Agent shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby that the Administrative Agent is required to exercise in writing as directed by the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02), and (c) except as expressly set forth herein, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrower, the Target or any of their Subsidiaries that is communicated to or obtained by the bank serving as Administrative Agent or any of its Affiliates in any capacity. The Administrative Agent shall not be liable for any action taken or not taken by it with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary under the circumstances as provided in Section 9.02) or in the absence of its own gross negligence or wilful misconduct. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until written notice thereof is given to the Administrative Agent by the Borrower or a Lender, and the Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement, (ii) the contents of any certificate, report or other document delivered hereunder or in connection herewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement or any other agreement, instrument or document or (v) the

satisfaction of any condition set forth in Article IV or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent or to confirm satisfaction of any condition that expressly refers to the matters described therein being acceptable or satisfactory to the Administrative Agent.

The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing believed by it to be genuine and to have been signed or sent by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to be made by the proper Person, and shall not incur any liability for relying thereon. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrower), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

The Administrative Agent may perform any and all its duties and exercise its rights and powers by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all its duties and exercise its rights and powers through their respective Related Parties. The exculpatory provisions of the preceding paragraphs shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent.

Subject to the appointment and acceptance of a successor Administrative Agent as provided in this paragraph, the Administrative Agent may resign at any time by notifying the Lenders and the Borrower. Upon any such resignation, the Required Lenders shall have the right, in consultation with the Borrower, to appoint a successor. If no successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, then the retiring Administrative Agent may, on behalf of the Lenders, appoint a successor Administrative Agent which shall be a bank with an office in New York, New York, or an Affiliate of any such bank. Upon the acceptance of its appointment as Administrative Agent hereunder by a successor, such successor shall succeed to and become vested with all the rights, powers, privileges and duties of the retiring Administrative Agent, and the retiring Administrative Agent shall be discharged from its duties and obligations hereunder. The fees payable by the Borrower to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrower and such successor. After the Administrative Agent's resignation hereunder, the provisions of this Article and Section 9.03 shall continue in effect for the benefit of such retiring Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while it was acting as Administrative Agent.

Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any related agreement or any document furnished hereunder or thereunder.

Article IX

MISCELLANEOUS

Section 9.01 Notices. (a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by fax, as follows:

(i) if to the Borrower, to it at Air Products and Chemicals, Inc., 7201 Hamilton Boulevard, Allentown, Pennsylvania 18195-1501, Attention of Corporate Treasurer (Fax No. (610) 481-4165);

(ii) if to the Administrative Agent, to JPMorgan Chase Bank, N.A., Loan and Agency Services Group, 1111 Fannin, 10th Floor, Houston, Texas 77002, Attention of Leslie Hill (Fax No. (713) 427-6307), with a copy to JPMorgan Chase Bank, N.A., 383 Madison Avenue, 24th Floor, New York, New York 10017, Attention of Stacey Haimes (Fax No. 212-270-5100); and

(iii) if to any other Lender, to it at its address (or fax number) set forth in its Administrative Questionnaire.

(b) Notices and other communications to the Lenders hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by the Administrative Agent; provided that the foregoing shall not apply to notices pursuant to Article II unless otherwise agreed by the Administrative Agent and the applicable Lender. The Administrative Agent or the Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

(c) Any party hereto may change its address or fax number for notices and other communications hereunder by written notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

Section 9.02 Waivers; Amendments. (a) No failure or delay by the Administrative Agent or any Lender in exercising any right or power hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or power, or any abandonment or discontinuance of steps to enforce such a right or power, preclude any other or further exercise thereof or the exercise of any other right or power. The rights and remedies of the Administrative Agent and the Lenders hereunder are cumulative and are not exclusive of any rights or remedies that they would otherwise have. No waiver of any provision of this Agreement or consent to any departure by the Borrower therefrom shall in any event be effective unless the same shall be permitted by paragraph (b) of this Section, and then such waiver or consent shall be effective only in the specific instance and for the purpose for which given. Without limiting the generality of the foregoing, the making of a Loan shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent or any Lender may have had notice or knowledge of such Default at the time.

(b) Neither this Agreement nor any provision hereof may be waived, amended or modified except pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or by the Borrower and the Administrative Agent with the consent of the Required Lenders; provided that (i) any provision of this Agreement or any other Loan Document may be amended

by an agreement in writing entered into only by the Borrower and the Administrative Agent either (A) to cure any ambiguity, omission, defect or inconsistency so long as, in each case, the Lenders shall have received at least 10 Business Days' prior written notice thereof and the Administrative Agent shall not have received, within 10 Business Days of the date of such notice to the Lenders, a written notice from the Required Lenders stating that the Required Lenders object to such amendment or (B) to provide for any increase in the Commitment of any Lender or the extension of a Commitment by any bank, financial institution or other entity that is not then a Lender and, in the case of any such increase or extension effected after the making of any Loans hereunder, the making of such Loans by such Lender or other entity as would result in each Lender participating in each Borrowing then outstanding hereunder on a pro rata basis (after giving effect to any such increase or extension), provided that such Lender or other entity is reasonably satisfactory to the Administrative Agent and executes and delivers such agreement, and (ii) no such agreement shall (A) increase the Commitment of any Lender over the amount then in effect without the written consent of such Lender or extend the Maturity Date without the written consent of each Lender affected thereby, (B) reduce the principal amount of any Loan or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Lender affected thereby, (C) postpone the scheduled date of payment of any Loan, or any interest on any Loan, or any fees payable hereunder, or reduce the amount of, waive or excuse any such payment, or postpone the scheduled date of expiration of any Commitment, without the written consent of each Lender affected thereby, or (D) change any of the provisions of this Section or the percentage set forth in the definition of "Required Lenders" or any other provision hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder, without the written consent of each Lender; provided further that no such agreement shall amend, modify or otherwise affect the rights, duties or interests of the Administrative Agent hereunder without the prior written consent of the Administrative Agent.

Section 9.03 Expenses; Indemnity; Damage Waiver. (a) The Borrower shall pay on demand (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, including the due diligence expenses, syndication expenses, travel expenses and fees, charges and disbursements of counsel (but not more than one firm of counsel (other than regulatory counsel)) associated with the syndication of the credit facility provided for herein, the preparation, execution, delivery and administration of this Agreement and any amendment, modification or waiver hereof and (ii) all reasonable out-of-pocket expenses of the Administrative Agent and the Lenders (including the fees, disbursements and other charges of counsel (but not more than one firm of counsel (other than regulatory counsel) to the Administrative Agent and the Lenders) in connection with the enforcement of this Agreement.

(b) The Borrower agrees to indemnify and hold harmless the Administrative Agent and each Lender, and each Related Party of the foregoing (each, an "indemnified person") from and against any and all losses, claims, damages and liabilities to which any such indemnified person may become subject arising out of or in connection with this Agreement, the use of the proceeds thereof, the Transactions or any claim, litigation, investigation or proceeding relating to any of the foregoing, regardless of whether any indemnified person is a party thereto, and to reimburse each indemnified person upon demand for any reasonable out-of-pocket legal or other expenses incurred in connection with investigating or defending any of the foregoing, provided that the foregoing indemnity and reimbursement will not, as to any indemnified person, apply to losses, claims, damages, liabilities or related expenses (i) to the extent they are found by a final, non-appealable judgment of a court to arise from the wilful misconduct or gross negligence of such indemnified person or any of its affiliates or its or their respective officers, directors, employees, advisors or agents or (ii) to the extent they are found by a final, non-appealable judgment of a court to have resulted from a breach of the obligations of such indemnified person under this Agreement. No indemnified person shall be liable for any damages arising from the use by unauthorized persons of Information or other materials sent through electronic, telecommunications or

other information transmission systems that are intercepted by such persons, unless such use is found by a final, non-appealable judgment of a court to arise from the wilful misconduct or gross negligence or bad faith of such indemnified person or any of its Affiliates or its or their respective officers, directors, employees, advisors or agents, or for any special, indirect, consequential or punitive damages in connection with this Agreement or the Transactions. It is understood and agreed that, to the extent not precluded by a conflict of interest, each indemnified person shall endeavor to work cooperatively with the Borrower with a view toward minimizing the legal and other expenses associated with any defense and any potential settlement or judgment. A single counsel shall be used, provided that if, in the reasonable opinion of any indemnified person, representation of all indemnified persons by one firm of counsel would be inappropriate due to the existence of an actual or potential conflict of interest, the Borrower shall reimburse the reasonable out-of-pocket expenses of no more than such number of additional firms of counsel for the indemnified persons as is necessary to avoid such actual or potential conflict of interest. Settlement of any claim or litigation involving any material indemnified amount will require the approval of the Borrower (not to be unreasonably withheld).

(c) To the extent that the Borrower fails to pay any amount required to be paid by it to the Administrative Agent under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent such Lender's Applicable Percentage (determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount; provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent in its capacity as such.

(d) To the extent permitted by applicable law, the Borrower shall not assert, and hereby waives, any claim against any indemnified person, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement or any agreement or instrument contemplated hereby, the Transactions, any Loan or the use of the proceeds thereof.

(e) All amounts due under this Section shall be payable not later than 10 days after written demand therefor.

Section 9.04 Successors and Assigns. (a) The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that (i) the Borrower may not assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of each Lender (and any attempted assignment or transfer by the Borrower without such consent shall be null and void) and (ii) no Lender may assign or otherwise transfer its rights or obligations hereunder except in accordance with this Section. Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants (to the extent provided in paragraph (c) of this Section) and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) (i) Subject to the conditions set forth in paragraph (b)(ii) below, any Lender may assign to one or more assignees (other than a natural person) all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans at the time owing to it) with the prior written consent (such consent not to be unreasonably withheld or delayed) of:

(A) the Borrower, provided that no consent of the Borrower shall be required if an Event of Default has occurred and is continuing or, after the Closing Date, for an assignment to a Lender, an Affiliate of a Lender or an Approved Fund; and

(B) the Administrative Agent, provided that no consent of the Administrative Agent shall be required for an assignment to a Lender, an Affiliate of a Lender or an Approved Fund.

(ii) Assignments shall be subject to the following additional conditions:

(A) except in the case of an assignment to a Lender or an Affiliate of a Lender or an assignment of the entire remaining amount of the assigning Lender's Commitment or, the amount of the Commitment or Loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment and Assumption with respect to such assignment is delivered to the Administrative Agent) shall not be less than \$5,000,000 unless each of the Borrower and the Administrative Agent otherwise consent, provided that no such consent of the Borrower shall be required if an Event of Default has occurred and is continuing;

(B) each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement;

(C) the parties to each assignment shall execute and deliver to the Administrative Agent an Assignment and Assumption, together with a processing and recordation fee of \$3,500; and

(D) the assignee, if it shall not be a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire in which the assignee designates one or more credit contacts to whom all syndicate-level information (which may contain material non-public information about the Borrower or the Target and their respective Related Parties or securities) will be made available and who may receive such information in accordance with the assignee's compliance procedures and applicable laws, including Federal and state securities laws.

For the purposes of this Section 9.04(b), the term "Approved Fund" has the following meaning:

"Approved Fund" shall mean any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course of its business and that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender; provided, however, that, at any time prior to the Commitment Termination Date when the aggregate amount of the Available Commitments shall exceed zero, no Person shall be an Approved Fund with respect to any proposed assignment hereunder unless at the time of such assignment either (i) its senior unsecured long-term debt securities without third-party credit enhancement are rated at least BBB by S&P or Baa2 by Moody's or (ii) its senior unsecured short-term debt securities without third-party credit enhancement are rated at least A-2 by S&P or P-2 by Moody's.

(iii) Subject to acceptance and recording thereof pursuant to paragraph (b)(iv) of this Section, from and after the effective date specified in each Assignment and Assumption the assignee thereunder shall be a party hereto and, to the extent of the interest assigned by such Assignment and Assumption, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such



Assignment and Assumption, be released from its obligations under this Agreement (and, in the case of an Assignment and Assumption covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto but shall continue to be entitled to the benefits of Sections 2.13, 2.14, 2.15 and 9.03). Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.04 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with paragraph (c) of this Section.

(iv) The Administrative Agent, acting for this purpose as an agent of the Borrower, shall maintain at one of its offices a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitment of, and principal amount of the Loans owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, absent manifest error, and the Borrower, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by the Borrower and any Lender at any reasonable time and from time to time upon reasonable prior notice.

(v) Upon its receipt of a duly completed Assignment and Assumption executed by an assigning Lender and an assignee, the assignee's completed Administrative Questionnaire (unless the assignee shall already be a Lender hereunder), the processing and recordation fee referred to in paragraph (b) of this Section and any written consent to such assignment required by paragraph (b) of this Section, the Administrative Agent shall accept such Assignment and Assumption and record the information contained therein in the Register; provided that if either the assigning Lender or the assignee shall have failed to make any payment required to be made by it pursuant to Section 2.04(b), 2.16(f) or 9.03(c), the Administrative Agent shall have no obligation to accept such Assignment and Assumption and record the information therein in the Register unless and until such payment shall have been made in full, together with all accrued interest thereon. No assignment shall be effective for purposes of this Agreement unless it has been recorded in the Register as provided in this paragraph.

(c) (i) Any Lender may, without the consent of the Borrower or the Administrative Agent sell participations to one or more banks or other entities (a "Participant") in all or a portion of such Lender's rights and obligations under this Agreement (including all or a portion of its Commitment and the Loans owing to it); provided that (A) such Lender's obligations under this Agreement shall remain unchanged, (B) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (C) the Borrower, the Administrative Agent and the other Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in clause (ii) of the first proviso to Section 9.02(b) that affects such Participant. Subject to paragraph (c)(ii) of this Section, the Borrower agrees that each Participant shall be entitled to the benefits of Sections 2.13, 2.14 and 2.15 and shall be bound by Section 2.17 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.08 as though it were a Lender, provided such Participant agrees to be subject to Section 2.16(e) as though it were a Lender. Each Lender that sells a participation, acting solely for this purpose as an agent of the Borrower, shall maintain a register on which it enters the

name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under this Agreement (the "Participant Register"). The entries in the Participant Register shall be conclusive, absent manifest error, and such Lender, the Borrower and the Administrative Agent shall treat each person whose name is recorded in the Participant Register pursuant to the terms hereof as the owner of such participation for all purposes of this Agreement, notwithstanding notice to the contrary.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.13 or 2.15 than the applicable Lender would have been entitled to receive with respect to the participation sold to such Participant, unless the sale of the participation to such Participant is made with the Borrower's prior written consent. No Participant shall be entitled to the benefits of Section 2.15 unless such Participant complies with Section 2.15(f) as though it were a Lender.

(d) Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment of a security interest shall release a Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 9.05 Survival. All covenants, agreements, representations and warranties made by the Borrower herein and in the certificates or other instruments delivered in connection with or pursuant to this Agreement shall be considered to have been relied upon by the other parties hereto and shall survive the execution and delivery of this Agreement and the making of any Loans, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent or any Lender may have had notice or knowledge of any Default or incorrect representation or warranty at the time any credit is extended hereunder, and shall continue in full force and effect as long as the principal of or any accrued interest on any Loan or any fee or any other amount payable under this Agreement is outstanding and unpaid and so long as the Commitments have not expired or terminated. The provisions of Sections 2.13, 2.14, 2.15 and 9.03 and Article VIII shall survive and remain in full force and effect regardless of the consummation of the transactions contemplated hereby, the repayment of the Loans, the expiration or termination of the Commitments or the termination of this Agreement or any provision hereof.

Section 9.06 Counterparts; Integration; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto on different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. This Agreement and any separate letter agreements with respect to fees payable to the Administrative Agent constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 4.01, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof which, when taken together, bear the signatures of each of the other parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by fax or an electronic image of an executed counterpart of a signature page of this Agreement shall be effective as delivery of a manually executed counterpart of this Agreement.

Section 9.07 Severability. Any provision of this Agreement held to be invalid, illegal or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such invalidity, illegality or unenforceability without affecting the validity, legality and enforceability of the

remaining provisions hereof; and the invalidity of a particular provision in a particular jurisdiction shall not invalidate such provision in any other jurisdiction.

**Section 9.08 Right of Setoff.** If an Event of Default shall have occurred and be continuing, each Lender and each of its Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by law, to set off and apply any and all deposits (general or special, time or demand, provisional or final) at any time held and other obligations at any time owing by such Lender or Affiliate to or for the credit or the account of the Borrower against any of and all the obligations of the Borrower under this Agreement then due that are held by such Lender, irrespective of whether or not such Lender shall have made any demand therefor under this Agreement. The rights of each Lender under this Section are in addition to other rights and remedies (including other rights of setoff) which such Lender may have.

**Section 9.09 Governing Law; Jurisdiction; Consent to Service of Process.** (a) This Agreement shall be construed in accordance with and governed by the law of the State of New York.

(b) The Borrower hereby irrevocably and unconditionally submits, for itself and its property, to the exclusive jurisdiction of the Supreme Court of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement, or for recognition or enforcement of any judgment, and each of the parties hereto hereby irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State or, to the extent permitted by law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement shall affect any right that the Administrative Agent or any Lender may otherwise have to bring any action or proceeding relating to this Agreement against the Borrower or its properties in the courts of any jurisdiction.

(c) The Borrower hereby irrevocably and unconditionally waives, to the fullest extent it may legally and effectively do so, any objection which it may now or hereafter have to the laying of venue of any suit, action or proceeding arising out of or relating to this Agreement in any court referred to in paragraph (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Each party to this Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01. Nothing in this Agreement will affect the right of any party to this Agreement to serve process in any other manner permitted by law.

**Section 9.10 WAIVER OF JURY TRIAL.** EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PARTY HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PARTY WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

**Section 9.11 Headings.** Article and Section headings and the Table of Contents used herein are for convenience of reference only, are not part of this Agreement and shall not affect the construction of, or be taken into consideration in interpreting, this Agreement.

**Section 9.12 Confidentiality.** (a) Each of the Administrative Agent and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (i) to its and its Affiliates' directors, officers, employees and agents, including accountants, legal counsel and other advisors (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (ii) to the extent requested by any regulatory authority, (iii) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (iv) to any other party to this Agreement, (v) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or the enforcement of rights hereunder, (vi) subject to an agreement containing provisions substantially the same as those of this Section, to (A) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement or (B) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (vii) with the consent of the Borrower or (viii) to the extent such Information (A) becomes publicly available other than as a result of a breach of this Section or (B) becomes available to the Administrative Agent or any Lender on a nonconfidential basis from a source other than the Borrower or the Administrative Agent or another Lender on behalf of the Borrower. For the purposes of this Section, "**Information**" shall mean all information received from the Borrower relating to the Borrower or its business, other than any such information that is available to the Administrative Agent or any Lender on a nonconfidential basis prior to disclosure by the Borrower; provided that, (A) in the case of information received from the Borrower after the Effective Date, such information is clearly identified at the time of delivery as confidential and (B) with respect to disclosures pursuant to clauses (ii) and (iii) above, unless prohibited by applicable law or court order, each Lender and the Administrative Agent shall notify the Borrower of any request by any governmental agency or representative thereof or other Person (other than any such request in connection with an examination of the financial condition of such Lender by such governmental agency) for disclosure of any such confidential information promptly after receipt of such request, and if practicable and permissible, before disclosure of such information. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

**(b) EACH LENDER ACKNOWLEDGES THAT INFORMATION AS DEFINED IN SECTION 9.12(a) FURNISHED TO IT PURSUANT TO THIS AGREEMENT MAY INCLUDE MATERIAL NON-PUBLIC INFORMATION CONCERNING THE BORROWER, THE TARGET AND THEIR RESPECTIVE RELATED PARTIES OR SECURITIES, AND CONFIRMS THAT IT HAS DEVELOPED COMPLIANCE PROCEDURES REGARDING THE USE OF MATERIAL NON-PUBLIC INFORMATION AND THAT IT WILL HANDLE SUCH MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH THOSE PROCEDURES AND APPLICABLE LAW, INCLUDING FEDERAL AND STATE SECURITIES LAWS.**

**(c) ALL INFORMATION, INCLUDING REQUESTS FOR WAIVERS AND AMENDMENTS, FURNISHED BY THE BORROWER OR THE ADMINISTRATIVE AGENT PURSUANT TO, OR IN THE COURSE OF ADMINISTERING, THIS AGREEMENT WILL BE SYNDICATE-LEVEL INFORMATION, WHICH MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION ABOUT THE BORROWER AND ITS RELATED PARTIES OR ITS SECURITIES. ACCORDINGLY, EACH LENDER REPRESENTS TO THE BORROWER AND THE ADMINISTRATIVE AGENT THAT IT HAS IDENTIFIED IN ITS ADMINISTRATIVE**

**QUESTIONNAIRE A CREDIT CONTACT WHO MAY RECEIVE INFORMATION THAT MAY CONTAIN MATERIAL NON-PUBLIC INFORMATION IN ACCORDANCE WITH ITS COMPLIANCE PROCEDURES AND APPLICABLE LAW.**

Section 9.13 Interest Rate Limitation. Notwithstanding anything herein to the contrary, if at any time the interest rate applicable to any Loan, together with all fees, charges and other amounts which are treated as interest on such Loan under applicable law (collectively the "Charges"), shall exceed the maximum lawful rate (the "Maximum Rate") which may be contracted for, charged, taken, received or reserved by the Lender holding such Loan in accordance with applicable law, the rate of interest payable in respect of such Loan hereunder, together with all Charges payable in respect thereof, shall be limited to the Maximum Rate and, to the extent lawful, the interest and Charges that would have been payable in respect of such Loan but were not payable as a result of the operation of this Section shall be cumulated and the interest and Charges payable to such Lender in respect of other Loans or periods shall be increased (but not above the Maximum Rate therefor) until such cumulated amount, together with interest thereon at the Federal Funds Effective Rate to the date of repayment, shall have been received by such Lender.

Section 9.14 USA PATRIOT Act. Each Lender that is subject to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (the "Patriot Act") hereby notifies the Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Patriot Act.

Section 9.15 No Other Duties, etc. Anything herein to the contrary notwithstanding, none of the Arrangers, Co-Arrangers or Syndication Agents listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Loan Documents, except in its capacity, as applicable, as the Administrative Agent or a Lender hereunder.

[signature pages follow]

IN WITNESS WHEREOF, the parties hereto, by their officers thereunto duly authorized, have executed and delivered this Agreement as of the date first above written.

**BORROWER**

AIR PRODUCTS AND CHEMICALS, INC.

By: /s/ George G. Bitto  
Name: George G. Bitto  
Title: Vice President and Treasurer

*[Signature page to Credit Agreement]*

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**ADMINISTRATIVE AGENT**

JPMorgan Chase Bank, N.A.,  
as Administrative Agent and a Lender

By: /s/ Stacey Haimés \_\_\_\_\_

Name: Stacey Haimés

Title: Executive Director

*[Signature page to Credit Agreement]*

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**LENDER**

THE BANK OF TOKYO-MITSUBISHI UFJ, LTD.,

By: /s/ Christopher H. O'Neill

Name: Christopher H. O'Neill

Title: Senior Vice President

*[Signature page to Credit Agreement]*

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**LENDER**

BNP Paribas

By: /s/ Renaud-Franck Falce  
Name: Renaud-Franck Falce  
Title: Managing Director

BNP Paribas

By: /s/ Nicole Mitchell  
Name: Nicole Mitchell  
Title: Vice President

*[Signature page to Credit Agreement]*

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**LENDER**

Deutsche Bank AG Cayman Island Branch

By: /s/ Rainer Meier

Name: Rainer Meier

Title: Director

By: /s/ Ming K. Chu

Name: Ming K. Chu

Title: Vice President

*[Signature page to Credit Agreement]*

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**LENDER**

HSBC Bank USA, National Association

By: /s/ Paul L. Hatton

\_\_\_\_\_  
Name: Paul L. Hatton

Title: Managing Director

*[Signature page to Credit Agreement]*

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**LENDER**

The Royal Bank of Scotland plc

By: /s/ Belinda Tucker

\_\_\_\_\_  
Name: Belinda Tucker

Title: Senior Vice President

*[Signature page to Credit Agreement]*

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**LENDER**

THE BANK OF NOVA SCOTIA

By: /s/ David Mahmood

\_\_\_\_\_  
Name: David Mahmood

Title: Managing Director

*[Signature page to Credit Agreement]*

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**LENDER**

INTESA SANPAOLO S.p.A.

By: /s/ Francesco Di Mario

\_\_\_\_\_  
Name: Francesco Di Mario

Title: First Vice President

By: /s/ Glen Binder

\_\_\_\_\_  
Name: Glen Binder

Title: Vice President

[Signature page to Credit Agreement]

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**LENDER**

Sovereign Bank  
(A subsidiary of Santander Holdings USA, Inc.)

By: /s/ Ravi Kacker

\_\_\_\_\_  
Name: Ravi Kacker

Title: Senior Vice President

*[Signature page to Credit Agreement]*

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**LENDER**

SUMITOMO MITSUI BANKING CORPORATION

By: /s/ Yasuhiko Imai

Name: Yasuhiko Imai

Title: Senior Vice President

*[Signature page to Credit Agreement]*

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**LENDER**

UBS Loan Finance LLC

By: /s/ Mary E. Evans

\_\_\_\_\_  
Name: Mary E. Evans

Title: Associate Director

By: /s/ Irja R. Otsa

\_\_\_\_\_  
Name: Irja R. Otsa

Title: Associate Director

[Signature page to Credit Agreement]

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**LENDER**

Mizuho Corporate Bank (USA)

By: /s/ Raymond Ventura

\_\_\_\_\_  
Name: Raymond Ventura

Title: Deputy General Manager

*[Signature page to Credit Agreement]*

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**LENDER**

Toronto Dominion (New York) LLC

By: /s/ Debbi L. Brito

\_\_\_\_\_  
Name: Debbi L. Brito

Title: Authorized Signatory

*[Signature page to Credit Agreement]*

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## FORM OF ASSIGNMENT AND ASSUMPTION

Reference is made to the CREDIT AGREEMENT, dated as of March 31, 2010 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among AIR PRODUCTS AND CHEMICALS, INC. (the "Borrower"), the Lenders parties thereto and JPMORGAN CHASE BANK, N.A., as administrative agent for the Lenders (in such capacity, the "Administrative Agent"). Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

The Assignor identified on Schedule 1 hereto (the "Assignor") and the Assignee identified on Schedule 1 hereto (the "Assignee") agree as follows:

1. The Assignor hereby irrevocably sells and assigns to the Assignee without recourse to the Assignor, and the Assignee hereby irrevocably purchases and assumes from the Assignor without recourse to the Assignor, as of the Effective Date (as defined below), the interest described in Schedule 1 hereto (the "Assigned Interest") in and to the Assignor's rights and obligations under the Credit Agreement with respect to those credit facilities contained in the Credit Agreement as are set forth on Schedule 1 hereto (individually, an "Assigned Facility"; collectively, the "Assigned Facilities"), in a principal amount for each Assigned Facility as set forth on Schedule 1 hereto.
  2. The Assignor (a) makes no representation or warranty and assumes no responsibility with respect to any statements, warranties or representations made in or in connection with the Credit Agreement or with respect to the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Agreement, any other Loan Document or any other instrument or document furnished pursuant thereto, other than that the Assignor has not created any adverse claim upon the interest being assigned by it hereunder and that such interest is free and clear of any such adverse claim and (b) makes no representation or warranty and assumes no responsibility with respect to the financial condition of the Borrower, any of its Affiliates or any other obligor or the performance or observance by the Borrower, any of its Affiliates or any other obligor of any of their respective obligations under the Credit Agreement or any other Loan Document or any other instrument or document furnished pursuant hereto or thereto.
  3. The Assignee (a) represents and warrants that it is legally authorized to enter into this Assignment and Assumption; (b) confirms that it has received a copy of the Credit Agreement, together with copies of the financial statements delivered pursuant to Section 3.01 thereof and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption; (c) agrees that it will, independently and without reliance upon the Assignor, Administrative Agent or any Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Credit Agreement, the other Loan Documents or any other instrument or document furnished pursuant hereto or thereto; (d) appoints and authorizes the Administrative Agent to take such action as agent on its behalf and to exercise such powers and discretion under the Credit Agreement, the other Loan Documents or any other instrument or document furnished pursuant hereto or thereto as are delegated to the Administrative Agent by the terms thereof, together with such powers as are incidental thereto; and (e) agrees that it will be bound by the provisions of the Credit Agreement and will perform in accordance with its terms all the obligations which by the terms of the Credit Agreement are required to be performed by it as a Lender including its obligations pursuant to Section 2.15(f) of the Credit Agreement.
  4. The effective date of this Assignment and Assumption shall be the Effective Date of Assignment described in Schedule 1 hereto (the "Effective Date"). Following the execution of this Assignment and
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Assumption, it will be delivered to the Administrative Agent for acceptance by it and recording by the Administrative Agent pursuant to the Credit Agreement, effective as of the Effective Date (which shall not, unless otherwise agreed to by the Administrative Agent, be earlier than five Business Days after the date of such acceptance and recording by the Administrative Agent).

5. Upon such acceptance and recording, from and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to the Effective Date and to the Assignee for amounts which have accrued subsequent to the Effective Date.

6. From and after the Effective Date, (a) the Assignee shall be a party to the Credit Agreement and, to the extent provided in this Assignment and Assumption, have the rights and obligations of a Lender thereunder and under the other Loan Documents and shall be bound by the provisions thereof and (b) the Assignor shall, to the extent provided in this Assignment and Assumption, relinquish its rights and be released from its obligations under the Credit Agreement.

7. This Assignment and Assumption shall be governed by and construed in accordance with the laws of the State of New York.

IN WITNESS WHEREOF, the parties hereto have caused this Assignment and Assumption to be executed as of the date first above written by their respective duly authorized officers on Schedule 1 hereto.

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Schedule 1  
to Assignment and Assumption with respect to  
the CREDIT AGREEMENT, dated as of March 31, 2010,  
among AIR PRODUCTS AND CHEMICALS, INC. (the "Borrower"),  
the Lenders party thereto and JPMORGAN CHASE BANK, N.A., as Administrative Agent

Name of Assignor: \_\_\_\_\_

Name of Assignee: \_\_\_\_\_

Effective Date of Assignment: \_\_\_\_\_

Credit Facility Assigned	Principal Amount Assigned \$ _____	Commitment Percentage Assigned _____._____%
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[Name of Assignee]

[Name of Assignor]

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

Accepted for Recordation in the Register:

Required Consents (if any):

JPMORGAN CHASE BANK, N.A., as  
Administrative Agent

AIR PRODUCTS AND CHEMICALS, INC.

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:

JPMORGAN CHASE BANK, N.A., as  
Administrative Agent

By: \_\_\_\_\_  
Name:  
Title:

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FORM OF EXEMPTION CERTIFICATE  
(For Non-U.S. Lenders That Are Not Partnerships for U.S. Federal Income Tax Purposes)

Reference is made to the CREDIT AGREEMENT, dated as of March 31, 2010 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among AIR PRODUCTS AND CHEMICALS, INC. (the "Borrower"), the Lenders parties thereto and JPMORGAN CHASE BANK, N.A., as administrative agent for the Lenders (in such capacity, the "Administrative Agent"). Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

Pursuant to the provisions of Section 2.15(f) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended, (the "Code"), (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code and (v) the interest payments in question are not effectively connected with the undersigned's conduct of a U.S. trade or business.

The undersigned has furnished the Borrower and the Administrative Agent with a certificate of its non-U.S. person status on U.S. Internal Revenue Service Form W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[NAME OF LENDER]

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_, 20[ ]

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FORM OF EXEMPTION CERTIFICATE  
(For Non-U.S. Lenders That Are Partnerships for U.S. Federal Income Tax Purposes)

Reference is made to the CREDIT AGREEMENT, dated as of March 31, 2010 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among AIR PRODUCTS AND CHEMICALS, INC. (the "Borrower"), the Lenders parties thereto and JPMORGAN CHASE BANK, N.A., as administrative agent for the Lenders (in such capacity, the "Administrative Agent"). Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

Pursuant to the provisions of Section 2.15(f) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the Loan(s) (as well as any Note(s) evidencing such Loan(s)) in respect of which it is providing this certificate, (ii) its partners/members are the sole beneficial owners of such Loan(s) (as well as any Note(s) evidencing such Loan(s)), (iii) with respect to the extension of credit pursuant to this Credit Agreement or any other Loan Document, neither the undersigned nor any of its partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended, (the "Code"), (iv) none of its partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (v) none of its partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (vi) the interest payments in question are not effectively connected with the undersigned's or its partners/members' conduct of a U.S. trade or business.

The undersigned has furnished the Borrower and the Administrative Agent with U.S. Internal Revenue Service Form W-8IMY accompanied by a U.S. Internal Revenue Service Form W-8BEN from each of its partners/members claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform the Borrower and the Administrative Agent and (2) the undersigned shall have at all times furnished the Borrower and the Administrative Agent with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[NAME OF LENDER]

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_, 20[ ]





FORM OF EXEMPTION CERTIFICATE  
(For Participants That Are Not U.S. Persons and That Are Not Partnerships for U.S. Federal Income Tax  
Purposes)

Reference is made to the CREDIT AGREEMENT, dated as of March 31, 2010 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among AIR PRODUCTS AND CHEMICALS, INC. (the "Borrower"), the Lenders parties thereto and JPMORGAN CHASE BANK, N.A., as administrative agent for the Lenders (in such capacity, the "Administrative Agent"). Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

Pursuant to the provisions of Section 2.15(f) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record and beneficial owner of the participation in respect of which it is providing this certificate, (ii) it is not a bank within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended, (the "Code"), (iii) it is not a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (iv) it is not a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (v) the interest payments in question are not effectively connected with the undersigned's conduct of a U.S. trade or business.

The undersigned has furnished its participating Lender with a certificate of its non-U.S. person status on U.S. Internal Revenue Service Form W-8BEN. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender in writing and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[NAME OF PARTICIPANT]

By: \_\_\_\_\_

Name:

Title:

Date: \_\_\_\_\_, 20[ ]

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FORM OF EXEMPTION CERTIFICATE  
(For Participants That Are Not U.S. Persons and That Are Partnerships for U.S. Federal Income Tax Purposes)

Reference is made to the CREDIT AGREEMENT, dated as of March 31, 2010 (as amended, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among AIR PRODUCTS AND CHEMICALS, INC. (the "Borrower"), the Lenders parties thereto and JPMORGAN CHASE BANK, N.A., as administrative agent for the Lenders (in such capacity, the "Administrative Agent"). Unless otherwise defined herein, terms defined in the Credit Agreement and used herein shall have the meanings given to them in the Credit Agreement.

Pursuant to the provisions of Section 2.15(f) of the Credit Agreement, the undersigned hereby certifies that (i) it is the sole record owner of the participation in respect of which it is providing this certificate, (ii) its partners/members are the sole beneficial owners of such participation, (iii) with respect such participation, neither the undersigned nor any of its partners/members is a bank extending credit pursuant to a loan agreement entered into in the ordinary course of its trade or business within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code of 1986, as amended, (the "Code"), (iv) none of its partners/members is a ten percent shareholder of the Borrower within the meaning of Section 871(h)(3)(B) of the Code, (v) none of its partners/members is a controlled foreign corporation related to the Borrower as described in Section 881(c)(3)(C) of the Code, and (vi) the interest payments in question are not effectively connected with the undersigned's or its partners/members' conduct of a U.S. trade or business.

The undersigned has furnished its participating Lender with U.S. Internal Revenue Service Form W-8IMY accompanied by a U.S. Internal Revenue Service Form W-8BEN from each of its partners/members claiming the portfolio interest exemption. By executing this certificate, the undersigned agrees that (1) if the information provided on this certificate changes, the undersigned shall promptly so inform such Lender and (2) the undersigned shall have at all times furnished such Lender with a properly completed and currently effective certificate in either the calendar year in which each payment is to be made to the undersigned, or in either of the two calendar years preceding such payments.

[NAME OF PARTICIPANT]

By: \_\_\_\_\_  
Name:  
Title:

Date: \_\_\_\_\_, 20[ ]

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**SCHEDULE 2.01****Commitments**

<b>Lender</b>	<b>Title</b>	<b>Total Commitment</b>
JPMorgan Chase Bank, N.A.	Sole Bookrunner / Joint Lead Arranger	\$1,344,800,000.00
BNP Paribas	Joint Lead Arranger	\$ 672,400,000.00
Deutsche Bank AG, Cayman Island Branch	Joint Lead Arranger	\$ 672,400,000.00
HSBC Bank USA, N.A.	Joint Lead Arranger	\$ 672,400,000.00
The Bank of Tokyo-Mitsubishi UFJ, LTD.	Joint Lead Arranger	\$ 672,400,000.00
The Royal Bank of Scotland, plc	Joint Lead Arranger	\$ 672,400,000.00
Intesa Sanpaolo S.p.A.	Co-Arranger	\$ 336,200,000.00
Sovereign Bank	Co-Arranger	\$ 336,200,000.00
Sumitomo Mitsui Bank Corporation	Co-Arranger	\$ 336,200,000.00
The Bank of Nova Scotia	Co-Arranger	\$ 336,200,000.00
UBS Loan Finance LLC	Co-Arranger	\$ 336,200,000.00
Mizuho Corporate Bank (USA)	Participant	\$ 168,100,000.00
Toronto Dominion LLC (New York)	Participant	\$ 168,100,000.00
<b>Total</b>		<b>\$6,724,000,000.00</b>

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**SCHEDULE 3.07**

**No Conflict**

The incurrence of the Loans may result in noncompliance with the Leverage Ratio (as defined therein) in the Revolving Credit Agreement dated as of May 23, 2006 by and among Air Products and Chemicals, Inc., the Other Borrowers parties thereto from time to time, the Lenders parties thereto from time to time, and ABN Amro Bank N.V., as administrative agent, as amended.

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**SCHEDULE 6.02**

**Existing Liens**

None.

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**SCHEDULE 6.04**

**Existing Indebtedness**

Industrial Revenue Bonds due February 1, 2041, issued by Air Products LLC in an aggregate principal amount of \$53,000,000.

Financial Letter of Credit of Carbueros Metallicos, as account party, in the amount of EUR 54,663,887.

**AIR PRODUCTS AND CHEMICALS, INC., AND SUBSIDIARIES**  
**COMPUTATION OF RATIOS OF EARNINGS TO FIXED CHARGES**  
(Unaudited)

(Millions of dollars)	Year Ended 30 September					Six Months Ended 31 Mar 2010
	2005	2006	2007	2008	2009	
<b>Earnings:</b>						
Income from continuing operations (1)	\$ 672.4	\$ 753.0	\$ 1,040.4	\$ 1,113.5	\$ 651.3	\$ 515.2
<b>Add (deduct):</b>						
Provision for income taxes	235.7	271.9	289.0	381.7	196.2	176.7
Fixed charges, excluding capitalized interest	139.1	146.7	190.9	188.8	149.2	74.6
Capitalized interest amortized during the period	6.1	6.5	6.4	6.6	7.7	4.2
Undistributed earnings of less-than-fifty-percent-owned affiliates	<u>(29.2)</u>	<u>(29.2)</u>	<u>(61.2)</u>	<u>(72.7)</u>	<u>(44.2)</u>	<u>(18.2)</u>
Earnings, as adjusted	<u>\$ 1,024.1</u>	<u>\$ 1,148.9</u>	<u>\$ 1,465.5</u>	<u>\$ 1,617.9</u>	<u>\$ 960.2</u>	<u>\$ 752.5</u>
<b>Fixed Charges:</b>						
Interest on indebtedness, including capital lease obligations	\$ 113.0	\$ 119.8	\$ 163.7	\$ 164.4	\$ 125.1	\$ 61.5
Capitalized interest	14.9	18.8	14.6	27.3	22.2	8.6
Amortization of debt discount premium and expense	4.1	4.8	4.1	4.0	4.7	2.5
Portion of rents under operating leases representative of the interest factor	<u>22.0</u>	<u>22.1</u>	<u>23.1</u>	<u>20.4</u>	<u>19.4</u>	<u>10.6</u>
Fixed charges	<u>\$ 154.0</u>	<u>\$ 165.5</u>	<u>\$ 205.5</u>	<u>\$ 216.1</u>	<u>\$ 171.4</u>	<u>\$ 83.2</u>
<b>Ratio of Earnings to Fixed Charges (2):</b>	<u>6.7</u>	<u>6.9</u>	<u>7.1</u>	<u>7.5</u>	<u>5.6</u>	<u>9.0</u>

(1) During the twelve months ended 30 September 2009, income from continuing operations included a charge of \$298.2 (\$200.3 after-tax) for the global cost reduction plan.

(2) The ratio of earnings to fixed charges is determined by dividing earnings, which includes income from continuing operations before taxes, undistributed earnings of less-than-fifty-percent-owned affiliates, and fixed charges, by fixed charges. Fixed charges consist of interest on all indebtedness plus that portion of operating lease rentals representative of the interest factor (deemed to be 21% of operating lease rentals).

**PRINCIPAL EXECUTIVE OFFICER'S CERTIFICATION**

I, John E. McGlade, certify that:

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

- (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
- (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: 26 April 2010

/s/ John E. McGlade  
\_\_\_\_\_  
John E. McGlade  
President and Chief Executive Officer

**PRINCIPAL FINANCIAL OFFICER'S CERTIFICATION**

I, Paul E. Huck, certify that:

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

- (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
- (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: 26 April 2010

/s/ Paul E. Huck  
\_\_\_\_\_  
Paul E. Huck  
Senior Vice President and Chief Financial Officer

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

In connection with the Quarterly Report of Air Products and Chemicals, Inc. (the "Company") on Form 10-Q for the period ending 31 March 2010, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), we, John E. McGlade, Chief Executive Officer of the Company, and Paul E. Huck, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

Dated: 26 April 2010

\_\_\_\_\_  
/s/ John E. McGlade  
John E. McGlade  
Chief Executive Officer

\_\_\_\_\_  
/s/ Paul E. Huck  
Paul E. Huck  
Chief Financial Officer