Table of Contents

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

FORM 10-K

ANNUAL REPORT
Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934
For the Fiscal Year Ended

March 31, 2010

Commission File No. 1-12984

EAGLE MATERIALS INC.
(Exact name of registrant as specified in its charter)

Delaware
(State of Incorporation)

75-2520779
(I.R.S. Employer Identification No.)

3811 Turtle Creek Blvd, Suite 1100, Dallas, Texas 75219
(Address of principal executive offices)

(214) 432-2000
(Registrant's telephone number)

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Name of each exchange on which registered
Common Stock (par value $.01 per share)	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: None

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

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act. YES ☐ NO ☒

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 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 if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

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 definition 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 (Do not check if a smaller reporting company) ☐ Smaller reporting company

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

The aggregate market value of the voting stock held by nonaffiliates of the Company at September 30, 2009 (the last business day of the registrants' most recently completed second fiscal quarter) was approximately $1.067 billion.

As of May 21, 2010, the number of outstanding shares of common stock was:

Class	Outstanding Shares
Common Stock, $.01 Par Value	43,881,188

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the Proxy Statement for the Annual Meeting of Stockholders of Eagle Materials Inc. to be held on August 5, 2010 are incorporated by reference in Part III of this Report.

Table of Contents

TABLE OF CONTENTS

PART I

ITEM 1. BUSINESS

OVERVIEW

Eagle Materials Inc. (the “Company” or “EXP” which may be referred to as “we”, “our” or “us”) was founded in 1963 as a building materials subsidiary of Centex Corporation (“Centex”), and we operated as a public company under the name Centex Construction Products, Inc. from April 1994 to January 30, 2004, at which time Centex completed a tax free distribution of its shares in EXP to its shareholders (the “Spin-off”). Since the date of the Spin-off, we have no longer been affiliated with Centex. Our primary businesses are the manufacture and distribution of gypsum wallboard and the manufacture and sale of cement. Gypsum wallboard is distributed throughout the U.S. with particular emphasis in the geographic markets nearest to our production facilities. We sell cement in four regional markets, including northern Nevada and California, the greater Chicago area, the Rocky Mountain region and central Texas. Our gypsum wallboard business is supported by our recycled paperboard business, while our cement business is supported by our concrete and aggregates business. At March 31, 2010, we operated four gypsum wallboard plants (five board lines), four cement plants (six kilns, one of which belongs to our joint venture company), one recycled paperboard plant, nine concrete batching plants and two aggregates facilities. We have one gypsum wallboard plant, with one board line, which was temporarily idled beginning in December 2009.

Our products are commodities that are essential in the construction and renovation of houses, roads, bridges, commercial and industrial buildings and other, newer generation structures like wind farms. Demand for these products is generally cyclical, depending on economic and other geographic factors. Our operations are geographically diverse, which subject us to the economic conditions in each such geographic market as well as the national market. General economic downturns or localized downturns in the regions where we have operations could have a material adverse effect on our business, financial condition and results of operations. Our gypsum wallboard and paperboard operations are more national in scope and shipments are made throughout the continental U.S., except for the northeast, and therefore are more impacted by national downturns. The markets of our cement companies are more regional due to the low value-to-weight ratio of cement, which generally limits shipments to a 150 mile radius of the plants by truck and up to 300 miles by rail. Concrete and aggregates are primarily local businesses that serve the areas immediately surrounding Austin, Texas and north of Sacramento, California. Cement, concrete and aggregates demand may fluctuate more widely than gypsum wallboard because local and regional markets and economies may be more sensitive to changes than the national market, as well as increased seasonal impact due to adverse weather.

While each of our segments has been impacted by the economic downturn, the impact has been different for each segment. Gypsum wallboard, which is a national business, has been negatively impacted by the decrease in new home starts throughout the United States, as well as the decline in commercial construction. Utilization of our gypsum wallboard manufacturing facilities, including our idled Bernalillo plant, declined to approximately 50% during fiscal year 2010, which also adversely impacted our recycled paperboard business. Recycled paperboard division earnings declined due to the decrease in sales of higher margin gypsum paper; however, the impact of the decrease in gypsum paper sales was partially offset by efficiency improvements that reduced the amount of natural gas and fiber used in the production process. While we expect the residential housing market to improve slightly in fiscal 2011, we do not expect this improvement to materially increase industry utilization.

Nationally, cement consumption in the United States declined to 77.8 million short tons in calendar 2009 as compared to 106.4 million short tons in calendar 2008, while imports declined to 10% of total cement consumption in calendar 2009 as compared to 12% in calendar 2008. The American Recovery and Reinvestment Act, a stimulus package passed by the United States Congress in February 2009, is expected to provide an increase in demand for cement during calendar 2010, as many of the projects undertaken in response to the law are expected to be engineered, designed, approved and funded.

Our goal, through relentless and disciplined continuous improvement, is to be the lowest cost producer in each of the markets in which we compete. As such, we will continue to focus on reducing costs and improving our operations, recognizing that being the lowest cost producer is a key to our success. We will also continue to focus on expansion through acquisition or expansion of existing facilities that provide an appropriate return on investment and increased profitability for our shareholders.

INDUSTRY SEGMENT INFORMATION

While our businesses are separated into four segments, these four segments are generally related to two businesses, and therefore the segments are discussed as follows: Gypsum Wallboard and Recycled Paperboard, and Cement and Concrete and Aggregates. A description of these business segments can be found on pages 2-12.

We conduct one of our four cement plant operations through a joint venture, Texas Lehigh Cement Company LP, which is located in Buda, Texas. We own a 50% interest in the joint venture and account for our interest using the equity method of accounting. However, for segment reporting purposes, we proportionately consolidate our 50% share of the cement joint venture's revenues and operating earnings, which is consistent with the way management organizes the segments within the Company for making operating decisions and assessing performance. Revenues from external customers, operating earnings, identifiable assets, depreciation, depletion and amortization, and capital expenditures by segment are presented in Note (E) of the Notes to the Consolidated Financial Statements on pages 49-52.

GYPSUM WALLBOARD AND RECYCLED PAPERBOARD OPERATIONS

Company Operations

Gypsum Wallboard. We currently own five gypsum wallboard manufacturing facilities, comprising six board lines; however, we temporarily idled our gypsum manufacturing facility in Bernalillo, N.M. beginning in December 2009, due to low demand. We expect to re-open this facility when business conditions improve. There are four primary steps in the gypsum wallboard manufacturing process: (1) gypsum is mined and extracted from the ground (or, in the case of synthetic gypsum, received from a power generation company); (2) the gypsum is then calcined and converted into plaster; (3) the plaster is mixed with various other materials and water to produce a mixture known as slurry, which is extruded between two continuous sheets of recycled paperboard on a high-speed production line and allowed to harden; and (4) the sheets of gypsum wallboard are then cut to appropriate lengths, dried and bundled for sale. Gypsum wallboard is used to finish the interior walls and ceilings in residential, commercial and industrial structures.

The following table sets forth certain information regarding our plants:

Location	Annual Gypsum Wallboard Capacity (MMSF)[1]	Estimated Minimum Gypsum Rock Reserves (years)[2]	Estimated Gypsum Reserves (million tons)
Albuquerque, New Mexico	450	50+[3][4]	37[3]
Bernalillo, New Mexico[8]	525	50+[3][4]	37[3]
Gypsum, Colorado	725	24[5]	16
Duke, Oklahoma	1,300	20[5][6]	17
Georgetown, South Carolina	750	58[7]	-[7]
Total	3,750		

(1) Million Square Feet ("MMSF"), subject to anticipated product mix.
(2) At 100% capacity utilization.
(3) The same reserves serve both New Mexico plants.
(4) Includes mining claims and leased reserves.
(5) Includes both owned and leased reserves.
(6) We anticipate that additional reserves would be available on satisfactory terms, if required.
(7) We have a sixty year supply agreement with Santee Cooper for synthetic gypsum.
(8) This plant was temporarily idled beginning in December 2009.

Our gypsum wallboard production totaled 1,732 MMSF in fiscal 2010 and 2,149 MMSF in fiscal 2009. Total gypsum wallboard sales were 1,750 MMSF in fiscal 2010 and 2,102 MMSF in fiscal 2009. Total wallboard production as a percentage of current rated capacity was approximately 50% in fiscal 2010 and 60% in fiscal 2009. Our operating rates were consistent with industry average capacity utilization in both fiscal 2010 and fiscal 2009.

Recycled Paperboard. Our recycled paperboard manufacturing operation, which we refer to as Republic Paperboard Company ("Republic"), was acquired in November 2000 and is located in Lawton, Oklahoma. Our paperboard operation has a highly technologically advanced paper machine designed primarily for gypsum liner production. The paper's uniform cross-directional strength and finish characteristics facilitate the efficiencies of new high-speed wallboard manufacturing lines. Although the machine was designed primarily to manufacture gypsum liner products, we are also able to manufacture alternative products, including containerboard grades (such as linerboard and medium) and lightweight packaging grades (such as bag liner). In addition, recycled industrial paperboard grades (tube/core stock and protective angle board) are produced to maximize manufacturing efficiencies.

Our paper machine allows the paperboard operation to manufacture high-strength gypsum liner that is approximately 10-15% lighter in basis weight than generally available in the U.S. The low-basis weight product utilizes less recycled fiber to produce paper that, in turn, absorbs less moisture during the gypsum wallboard manufacturing process resulting in reduced drying time and energy (natural gas) usage. The low-basis weight paper also reduces the overall finished board weight, providing wallboard operations with more competitive transportation costs – both the inbound and outbound segments.

Raw Materials and Fuel Supplies

Gypsum Wallboard. We mine and extract natural gypsum rock, the principal raw material used in the manufacture of gypsum wallboard, from mines and quarries owned, leased or subject to mining claims owned by the Company and located near our plants. We also use synthetic gypsum at our Georgetown, South Carolina plant that we obtain through a supply agreement with Santee Cooper, a South Carolina utility company. Two leases cover the New Mexico reserves; one with the Pueblo of Zia and the second with the State of New Mexico. Gypsum ore reserves at the Gypsum, Colorado plant are contained within a total of 115 placer claims encompassing 2,300 acres. We also hold mineral rights on an additional 108 unpatented mining claims where mineral rights can be developed upon completion of permitting requirements. We currently own land with over 14 million tons of gypsum in the area of Duke, Oklahoma, with an additional 3 million tons controlled through a lease agreement. All of the gypsum reserves are deemed to be probable under the definition provided by Industry Guide 7. Other gypsum deposits are located near the plant in Duke, which we believe may be obtained at reasonable cost when needed. We are currently in the third year of a sixty year supply agreement (original twenty year term with two twenty year extension options) with a public utility in South Carolina for our synthetic gypsum. Based on the size of the power plant, it is anticipated that the power plant will produce adequate gypsum for the foreseeable future to satisfy our operating needs. If the utility is unable to provide the agreed-upon amount of gypsum, it is responsible for providing gypsum from a third party to fulfill its obligations.

Through our modern low cost paperboard mill we manufacture sufficient quantities of paper necessary for our gypsum wallboard production. Paper is a significant cost component in the manufacture of gypsum wallboard, currently representing approximately one-third of our cost of production.

Our gypsum wallboard manufacturing operations use large quantities of natural gas and electrical power. A significant portion of the Company's natural gas requirements for our gypsum wallboard plants are currently provided by four gas producers under gas supply agreements expiring in March 2011 for Colorado, and New Mexico and May 2011 for Oklahoma and South Carolina. If the agreements are not renewed, we expect to be able to obtain our gas supplies from other suppliers at competitive prices. Electrical power is supplied to our New Mexico plants at standard industrial rates by a local utility. Our Albuquerque plant utilizes an interruptible power supply agreement, which may expose it to some production interruptions during periods of power curtailment. Power for our Gypsum, Colorado facility is generated at the facility by a

cogeneration power plant that we own. Currently, the cogeneration power facility supplies power and waste hot gases for drying to the gypsum wallboard plant. We do not sell any power to third parties. Gas costs represent approximately 15% of our production costs.

Recycled Paperboard. The principal raw materials are recycled paper fiber (recovered waste paper), water and specialty paper chemicals. The largest waste paper source used by the operation is old cardboard containers (known as OCC). A blend of high grades (white papers consisting of ink-free papers such as news blank and unprinted papers) is used in the facing paper to produce a white product with customer-desired properties.

We believe that an adequate supply of OCC recycled fiber will continue to be available from sources located within a 600 mile radius of the paper mill. The majority of the recycled fiber purchased is delivered via truck, with occasional limited amounts received by rail. Prices are subject to market fluctuations based on generation of material (supply), demand and the presence of the export market. The current outlook for fiscal year 2011 is for waste paper prices to increase, on average, over the wastepaper prices in fiscal 2010, especially during the first six months of fiscal 2011. Current customer contracts include price escalators that partially offset/compensate for changes in raw material fiber prices.

The chemicals used in the paper making operation, including size, retention aids, dry strengths additives, biocides and bacteria controls, are readily available from several manufacturers at competitive prices. We are under a contractual agreement with our current supplier through June 2010.

The manufacture of recycled paperboard involves the use of large volumes of water in the production process. The mill uses water provided under an agreement with the City of Lawton, Oklahoma municipal services. Electricity, natural gas and other utilities are available to us at either contracted rates or standard industrial rates in adequate supplies. These utilities are subject to standard industrial curtailment provisions. In the event that a natural gas curtailment or unfavorable pricing condition should occur, the Lawton mill is equipped to use fuel oil as an alternative fuel in the No.1 boiler.

Paperboard operations are generally large consumers of energy, primarily natural gas and electricity. During fiscal 2010, natural gas pricing was relatively flat with only small increases resulting from increased transportation costs. If natural gas prices were to increase, they would negatively impact fiscal 2011 production costs and operating earnings. The paper mill is subject to an electricity supply agreement with Public Service of Oklahoma (PSO); however, this power company has a large dependency on natural gas, which impacts our electricity rates.

Sales and Distribution

Gypsum Wallboard. The principal sources of demand for gypsum wallboard are (i) residential construction, (ii) repair and remodeling, (iii) non-residential construction, and (iv) other markets such as exports and manufactured housing, which we estimate accounted for approximately 37%, 52%, 10% and 1%, respectively, of calendar 2009 industry sales. The gypsum wallboard industry remains highly cyclical; and closely follows construction industry cycles, particularly housing construction. Also, demand for wallboard can be seasonal and is generally greater from spring through the middle of autumn.

We sell gypsum wallboard to numerous building materials dealers, gypsum wallboard specialty distributors, lumber yards, home center chains and other customers located throughout the United States. Gypsum wallboard is sold on a delivered basis, mostly by truck. We generally utilize third-party common carriers for deliveries. Two customers with multiple shipping locations accounted for approximately 20% of our total gypsum wallboard sales during fiscal 2010. The loss of these customers could have a material adverse effect on the financial results of the gypsum wallboard segment.

Although gypsum wallboard is distributed principally in regional areas, certain industry producers (including the Company) have the ability to ship gypsum wallboard by rail outside their usual regional distribution areas to regions where demand is strong. We own or lease 140 railcars for transporting gypsum

wallboard. In addition, in order to facilitate distribution in certain strategic areas, we maintain a distribution center in Albuquerque, New Mexico and two reload yards in California. Our rail distribution capabilities permit us to service customers in markets on both the east and west coasts. During fiscal 2010, less than 5% of our sales volume of gypsum wallboard was transported by rail. Equipment availability for both rail and truck shipments is expected to remain consistent during fiscal 2010.

There are eight manufacturers of gypsum wallboard in the U.S. operating a total of approximately 65 plants. We estimate that the three largest producers - USG Corporation, National Gypsum Company and Koch Industries - account for approximately 60% of gypsum wallboard sales in the U.S. Due to the commodity nature of the product, competition is based principally on price, which is highly sensitive to changes in supply and demand. Product quality and customer service are also important to the customer.

Currently, wallboard production capacity in the United States is estimated at approximately 35 billion square feet per year, which is consistent with production capacity in 2005. Since 2005, approximately 6 billion feet of new manufacturing capacity has been added to the market, which has been offset by the closing of older production facilities. No new capacity is expected to be added during calendar year 2010. The Gypsum Association, an industry trade group, estimates that total calendar 2009 gypsum wallboard shipments by U.S. manufacturers were approximately 18.1 billion square feet, resulting in average industry capacity utilization in calendar 2009 of approximately 50%.

Recycled Paperboard. Our manufactured recycled paperboard products are sold primarily to gypsum wallboard manufacturers. During fiscal 2010, approximately 34% of the recycled paperboard sold by the paper mill was consumed by the Company's gypsum wallboard manufacturing operations, approximately 15% was sold to CertainTeed, pursuant to a paper supply contract (the "CertainTeed Agreement"), and the remainder was shipped to containerboard and other manufacturers. The existing CertainTeed Agreement was originally entered into by Republic Paperboard and James Hardie Gypsum, Inc. in 1999; however, the James Hardie North American gypsum wallboard operations were acquired by BPB Gypsum, whose operations were then purchased during fiscal 2006 by St. Gobain. St. Gobain's North American operations conduct business under the CertainTeed trade name. The loss of CertainTeed as a customer or a termination or reduction of CertainTeed's production of gypsum wallboard, unless replaced by a commercially similar arrangement, could have a material adverse effect on the Company.

Environmental Matters

Gypsum Wallboard. The gypsum wallboard industry is subject to numerous federal, state and local laws and regulations pertaining to health, safety and the environment. Some of these laws, such as the federal Clean Air Act and the federal Clean Water Act (and analogous state laws), impose environmental permitting requirements and govern the nature and amount of emissions that may be generated when conducting particular operations. Some laws, such as the federal Comprehensive Environmental Response, Compensation, and Liability Act ("CERCLA") (and analogous state laws), impose obligations to clean up or remediate spills of hazardous materials into the environment. Other laws require us to reclaim certain land upon completion of extraction and mining operations in our quarries. None of our gypsum wallboard operations is the subject of any local, state or federal environmental proceedings or inquiries. We do not, and have not, used asbestos in any of our gypsum wallboard products.

The Environmental Protection Agency ("EPA") recently released proposed regulations to address the storage and disposal of coal combustion products, which include fly ash and flue gas desulfurization gypsum ("synthetic gypsum"). We use synthetic gypsum in wallboard manufactured at our Georgetown, SC plant. In its release, the EPA is proposing two alternative regulations. Under one proposal, the EPA would characterize coal combustion products destined for disposal as a special waste under Subtitle C of the Resource Conservation and Recovery Act ("RCRA") (the subtitle that regulates hazardous waste). However, under this proposal, beneficial use of coal combustion products, including synthetic gypsum used in the manufacture of wallboard, would continue to be exempt from Subtitle C of RCRA under the Bevill Amendment and not warrant federal regulation. Under the other proposal, the EPA would continue to regulate coal combustion products under Subtitle D of RCRA, which regulates solid wastes that are not hazardous wastes. The EPA has

emphasized that it does not wish to discourage the beneficial reuse of coal combustion products under either of its two proposals. Because the EPA's proposals must go through a public comment period before becoming final, it is not possible to accurately estimate how any final rule would impact our business or which regulation will be ultimately adopted. However, it is possible that EPA's rulemaking could affect our business, financial condition and results of operations depending on how any such regulation affects our costs or the demand for our products.

Our gypsum wallboard manufacturing process combusts a significant amount of fuel, especially natural gas, and our operations could therefore be subject to future regulation of greenhouse gas ("GHG") emissions. For a more detailed discussion of this issue, see the "Environmental Matters" section of our cement business description on pages 10-12.

Although our gypsum wallboard operations could be adversely affected by federal, regional or state climate change initiatives, at this time, it is not possible to accurately estimate how future laws or regulations addressing GHG emissions would impact our business. However, any imposition of raw materials or production limitations, fuel-use or carbon taxes or emission limitations or reductions could have a significant impact on the gypsum wallboard manufacturing industry and a material adverse effect on the financial results of our operations.

Recycled Paperboard. Prior to November 2000, our now closed Commerce City, Colorado paper mill (the "Commerce City Mill") had investigated the presence of subsurface petroleum hydrocarbons at the mill site and had retained an environmental consultant who concluded that fuel oil, jet fuel, and gasoline additives had migrated into the subsurface of the property from an adjacent property. As a result of an additional subsequent investigation by the Commerce City Mill, new environmental conditions were uncovered that appear to stem from underground storage tank use on the mill site. The Commerce City Mill and a former owner of the Commerce City Mill have entered into a participation agreement with the Division of Oil and Public Safety of the Colorado Department of Labor and Employment (the "Oil Division") to respond to those conditions that appear to stem from historic underground storage tank use. Under the participation agreement, the Commerce City mill will pay 25% (with the former owner paying 75%) of the costs associated with the investigation and remediation efforts approved by both parties. The former owner and we have each approved and submitted to the Colorado Oil Division a Corrective Action Plan (the "CAP") for the removal of the subsurface petroleum hydrocarbon at the Commerce City Mill. The CAP was approved by the Colorado Oil Division in calendar 2002. All remediation has been completed, and we are awaiting final approval by the State of Colorado.

Capital Expenditures

Gypsum Wallboard and Recycled Paperboard. We had no capital expenditures related to compliance with environmental regulations applicable to our gypsum wallboard and recycled paperboard operations during fiscal 2010, and we do not expect any material capital expenditures during fiscal 2011.

CEMENT, CONCRETE AND AGGREGATES OPERATIONS

Company Operations

Cement. Our cement production facilities are located in or near Buda, Texas; LaSalle, Illinois; Laramie, Wyoming; and Fernley, Nevada. The LaSalle, Illinois, Laramie, Wyoming and Fernley, Nevada facilities are wholly-owned. The Buda, Texas plant is owned by Texas Lehigh Cement Company LP, a limited partnership joint venture owned 50% by us and 50% by Lehigh Cement Company LLC, a subsidiary of Heidelberg Cement AG. Our LaSalle, Illinois plant operates under the name of Illinois Cement Company; the Laramie, Wyoming plant operates under the name of Mountain Cement Company and the Fernley, Nevada plant under the name of Nevada Cement Company.

Cement is the basic binding agent for concrete, a primary construction material. Our modern cement plants utilize dry process technology and at present approximately 85% of our clinker capacity is from preheater or preheater/pre-calciner kilns. The following table sets forth certain information regarding these plants:

Location	Rated Annual Clinker Capacity (M short tons)[1]	Manufacturing Process	Number of Kilns	Kiln Dedication Date	Estimated Minimum Limestone Reserves (Years)
Buda, TX[2]	1,300	Dry – 4 Stage Preheater/ Pre-calciner	1	1983	50+[5]
LaSalle, IL	1,000	Dry – 5 Stage Preheater/ Pre-calciner	1	2006	34[5]
Laramie, WY	650	Dry – 2 Stage Preheater Dry – Long Dry Kiln	1 1	1988 1996	50+[6]
Fernley, NV	505	Dry – Long Dry Kiln Dry – 1 Stage Preheater	1 1	1964 1969	50+[6]
Total–Gross[3]	3,455				
Total–Net[3][4]	2,805				

(1) One short ton equals 2,000 pounds.

(2) The amount shown represents 100% of plant capacity and production. This plant is owned by a separate limited partnership in which the Company has a 50% interest.

(3) Generally, a plant's cement grinding production capacity is greater than its clinker production capacity.

(4) Net of partner's 50% interest in the Buda, Texas plant.

(5) Owned reserves.

(6) Includes both owned and leased reserves.

Our net cement production, including our 50% share of the cement Joint Venture production, totaled 2.4 million tons in fiscal 2010 and 2.3 million tons fiscal 2009. Total net cement sales, including our 50% share of cement sales from the Joint Venture, were 2.4 million tons in fiscal 2010 and 2.9 million tons in fiscal 2009. Historically we have supplemented our production with imported and purchased cement from others to be resold; however, due to lower demand we have significantly reduced the amount of imported or purchased cement from 16% of our total sales in fiscal 2009 to 2% of total sales in fiscal 2010. Texas Lehigh Cement Company, our 50% joint venture, owns a minority interest in an import terminal in Houston, Texas. Texas Lehigh can purchase up to 495,000 short tons annually from the cement terminal.

Cement production is capital-intensive and involves high initial fixed costs. We previously announced plans to modernize and expand our Nevada Cement and Mountain Cement facilities, which are our oldest and least efficient plants. Due to the current conditions in the Nevada market, we do not expect to begin significant construction activity on this plant during the remainder of 2010. Once significant construction begins, we expect it will take between 18 and 24 months to complete. With respect to Mountain Cement, as a result of improved operational efficiencies and reduced costs realized at this plant, we have been able to achieve a significant portion of the cost savings associated with the proposed modernization project, and as a result, we withdrew our permit application and no longer plan to expand this plant.

***Concrete and Aggregates*.** Readymix concrete is a versatile, low-cost building material used in almost all construction. The production of readymix concrete involves the mixing of cement, sand, gravel, or crushed stone and water to form concrete, which is then sold and distributed to numerous construction contractors. Concrete is produced in batch plants and transported to the customer's job site in mixer trucks.

The construction aggregates business consists of the mining, extraction, production and sale of crushed stone, sand, gravel and lightweight aggregates such as expanded clays and shales. Construction aggregates of suitable characteristics are employed in virtually all types of construction, including the production of readymix concrete and asphaltic mixes used in highway construction and maintenance.

We produce and distribute readymix concrete from company-owned sites north of Sacramento, California and in Austin, Texas. The following table sets forth certain information regarding these operations:

Location	Number of Plants	Number of Trucks
Northern California	3	42
Austin, Texas	6	83
Total	9	125

We conduct aggregate operations near our concrete facilities in northern California and Austin, Texas. Aggregates are obtained principally by mining and extracting from quarries owned or leased by the Company. The following table sets forth certain information regarding these operations:

Location	Types of Aggregates	Estimated Annual Production Capacity (Thousand tons)	Estimated Minimum Reserves (Years)
Northern California	Sand and Gravel	4,000	100+(1)
Austin, Texas	Limestone	3,000	50+(2)
Total		7,000	

(1) Owned reserves through various subsidiaries.

(2) Leased reserves.

Our total net aggregate sales were 2.3 million tons in fiscal 2010 and 3.5 million tons in fiscal 2009. Total aggregates production was 2.7 million tons for fiscal 2010 and 3.4 million for fiscal 2009. A portion of our total aggregates production is used internally by our readymix concrete operations, both in Texas and California.

Raw Materials and Fuel Supplies

Cement. The principal raw material used in the production of portland cement is calcium carbonate in the form of limestone. Limestone is obtained principally through mining and extraction operations conducted at quarries that we own or lease and are located in close proximity to our plants. We believe that the estimated recoverable limestone reserves owned or leased by us will permit each of our plants to operate at our present production capacity for at least 30 years. Other raw materials used in substantially smaller quantities than limestone are sand, clay, iron ore and gypsum. These materials are readily available and can either be obtained from Company-owned or leased reserves or purchased from outside suppliers. All of the gypsum reserves are deemed to be probable under the definition provided by Industry Guide 7.

Coal and petroleum coke are the primary fuels used in our cement plants, but the plants are equipped to burn natural gas as an alternative. The cost of delivered coal and petroleum coke rose in fiscal 2010 as compared to fiscal 2009. We have not used hazardous waste-derived fuels in any of our plants. Though our plants in LaSalle, Illinois and Buda, Texas are permitted to burn scrap tires as a substitute fuel, very little was burned during fiscal 2010. Electric power is also a major cost component in our manufacturing process and we have sought to diminish overall power costs by adopting interruptible power supply agreements at certain locations. These agreements may expose us to some production interruptions during periods of power curtailment.

Concrete and Aggregates. We supply from our manufactured cement facilities approximately 100% and 42% of the cement requirements for our Austin and northern California concrete operations, respectively. We supply approximately 28% and 85%, respectively, of our aggregates requirements for our Austin and northern California concrete operations. We obtain the balance of our cement and aggregates requirements from multiple sources in each of these areas.

We mine and extract limestone, sand and gravel, the principal raw materials used in the production of aggregates, from quarries owned or leased by us and located near our plants. The northern California quarry is estimated to contain over one billion tons of sand and gravel reserves. The Austin, Texas quarry is covered by a lease which expires in 2060. Based on its current production capacity, we estimate our northern California and Austin, Texas quarries contain over 100 years and approximately 50 years of reserves, respectively.

Sales and Distribution

Cement. The principal sources of demand for cement is infrastructure, commercial construction and residential construction, with public works contracts comprising over 50% of total demand. Cement consumption has steadily declined since its peak in 2005, with a decline of 27% during calendar 2009 from calendar 2008. This decline is due to the general condition of the economy as well as the poor condition of the state budgets. Additionally, demand for cement is seasonal, particularly in northern states where inclement winter weather often affects construction activity. Cement sales are generally greater from spring through the middle of autumn than during the remainder of the year. The impact to our business of regional construction cycles may be mitigated to some degree by our geographic diversification.

The following table sets forth certain information regarding the geographic area served by each of our cement plants and the location of our distribution terminals in each area. We have a total of 11 cement storage and distribution terminals that are strategically located to extend the sales areas of our plants.

Plant Location	Principal Geographic Areas	Distribution Terminals
Buda, Texas	Texas and western Louisiana	Corpus Christi, Texas Houston, Texas Orange, Texas Roanoke (Ft. Worth), Texas Waco, Texas Houston Cement Company (Joint Venture), Houston, Texas
LaSalle, Illinois	Illinois and southern Wisconsin	Hartland, Wisconsin
Laramie, Wyoming	Wyoming, Utah, Colorado and western Nebraska	Salt Lake City, Utah Denver, Colorado North Platte, Nebraska
Fernley, Nevada	Northern Nevada and northern California	Sacramento, California

Cement is distributed directly to our customers mostly through customer pickups or by common carriers from plants or distribution terminals. We transport cement principally by rail to our storage and distribution terminals, and no single customer accounted for 10% or more of our cement segment sales during fiscal 2010. Sales are made on the basis of competitive prices in each market and, as is customary in the industry, we do not typically enter into long-term sales contracts.

The cement industry is extremely competitive as a result of multiple domestic suppliers and the importation of foreign cement through various terminal operations. Approximately 85% of the U.S. cement industry is owned by foreign international companies. Competition among producers and suppliers of cement is based primarily on price, with consistency of quality and service to customers being important but of lesser significance. Price competition among individual producers and suppliers of cement within a geographic area is intense because of the fungible nature of the product. Because of cement's low value-to-weight ratio, the relative cost of transporting cement on land is high and limits the geographic area in which each company can market its products profitably; therefore, the U.S. cement industry is fragmented into regional geographic areas rather than a single national selling area. No single cement company has a distribution of plants extensive enough to serve all geographic areas, so profitability is sensitive to shifts in the balance between regional supply and demand.

Cement imports into the U.S. occur primarily to supplement domestic cement production or to supply a particular region. Cement is typically imported into deep water ports or transported on the Mississippi River system near major population centers to take advantage of lower waterborne freight costs versus higher truck and rail transportation costs that U.S. based manufacturers incur to deliver into the same areas.

The Portland Cement Association estimates that imports represented approximately 10% of cement used in the U.S. during calendar 2009 as compared with approximately 12% in 2008 and 21% in 2007. Based on the normal distribution of cement into the market, we believe that approximately 5% of the total consumption will consistently be served by imported cement.

Concrete and Aggregates. Demand for readymix concrete and aggregates largely depends on local levels of construction activity. Construction activity is also subject to weather conditions, the availability of financing at reasonable rates and overall fluctuations in local economies, and therefore tends to be cyclical. We sell readymix concrete to numerous contractors and other customers in each plant's selling area. Our batch plants in Austin and northern California are strategically located to serve each selling area. Concrete is delivered from the batch plants by company-owned trucks.

We sell aggregates to building contractors and other customers engaged in a wide variety of construction activities. Aggregates are delivered from our aggregate plants by common carriers and customer pick-up. None of our customers accounted for 10% of our segment revenues during fiscal 2010. We are continuing our efforts to secure a rail link from our principal aggregates deposit north of Sacramento, California to supply extended markets in northern California.

Both the concrete and aggregates industries are highly fragmented, with numerous participants operating in each local area. Because the cost of transporting concrete and aggregates is very high relative to product values, producers of concrete and aggregates typically can profitably sell their products only in areas within 50 miles of their production facilities. Barriers to entry in each industry are low, except with respect to environmental permitting requirements for new aggregates production facilities and zoning of land to permit mining and extraction of aggregates.

Environmental Matters

Cement. Our cement operations are subject to numerous federal, state and local laws and regulations pertaining to health, safety and the environment. Some of these laws, such as the federal Clean Air Act and the federal Clean Water Act (and analogous state laws) impose environmental permitting requirements and govern the nature and amount of emissions that may be generated when conducting particular operations. Some laws, such as the federal CERCLA (and analogous state laws) impose obligations to clean up or remediate spills of hazardous materials into the environment. Other laws require us to reclaim certain land upon completion of extraction and mining operations in our quarries. We believe that we have obtained all the material environmental permits that are necessary to conduct our operations. We further believe that we are conducting our operations in substantial compliance with these permits. In addition, none of our sites are listed as a CERCLA "Superfund" site.

Four environmental issues involving the cement manufacturing industry deserve special mention. The first issue involves cement kiln dust or CKD. The federal EPA has been evaluating the regulatory status of CKD under RCRA for a number of years. In 1999, the EPA proposed a rule that would allow states to regulate properly-managed CKD as a non-hazardous waste under state laws and regulations governing solid waste. In contrast, CKD that was not properly managed would be treated as a hazardous waste under RCRA. In 2002, the EPA confirmed its intention to continue to exempt properly-managed CKD from the hazardous waste requirements of RCRA. The agency announced that it would collect additional data over the next three to five years to determine if the states' regulation of CKD is effective. In May 2008, the EPA indicated that it continues to consider an approach whereby it would finalize its 1999 proposal to exempt properly-managed CKD wastes and establish protective CKD management standards; however, as of May 2010 the EPA has reported that it continues to consider comments received and is uncertain when its proposal will be finalized.

Currently, substantially all CKD produced in connection with our ongoing operations is recycled, and therefore such CKD is not viewed as a waste under RCRA. However, CKD was historically collected and stored on-site at our Illinois, Nevada and Wyoming cement plants and at a former plant site in Corpus Christi, Texas, which is no longer in operation. If either the EPA or the states decide to impose management standards on this CKD at some point in the future, we could incur additional costs to comply with those requirements with respect to our historically collected CKD. CKD that comes in contact with water might produce a leachate with an alkalinity high enough to be classified as hazardous and might also leach certain hazardous trace metals therein.

A second industry environmental issue involves the historical disposal of refractory brick containing chromium. Such refractory brick was formerly used widely in the cement industry to line cement kilns. We currently do not use refractory brick containing chromium, and we crush spent refractory brick which is then used as raw feed in the kiln.

A third industry environmental issue involves the potential regulation of our emission of GHG, including carbon dioxide. The consequences of GHG emission reduction regulations for our cement operations will likely be significant because (1) the cement manufacturing process requires the combustion of large amounts of fuel to generate very high kiln temperatures, and (2) the production of carbon dioxide is a byproduct of the calcination process, whereby carbon dioxide is removed from calcium carbonate to produce calcium oxide.

Legislative and regulatory measures to address emissions of GHGs are in various phases of discussions or implementation at the national, regional and state levels. On the federal level, legislation imposing restrictions on GHGs is under active consideration. Proposed legislation has passed the U.S. House of Representatives and legislation is pending in the U.S. Senate. Among other things, the bills would establish a cap on emissions of GHGs from certain industries in the United States, including cement manufacturing beginning in 2013. The bills would require these capped sources of GHG emissions to obtain GHG emission “allowances” corresponding to their annual emissions of GHGs.

In addition, the EPA is taking steps that would result in the regulation of GHGs as pollutants under the Clean Air Act. On September 22, 2009, the EPA issued a “Mandatory Reporting of Greenhouse Gases” final rule, which took effect December 29, 2009. This rule establishes a new comprehensive scheme requiring operators of stationary sources in the United States emitting more than established annual thresholds of GHGs to inventory and report their GHG emissions annually on a facility-by-facility basis. In addition, on December 15, 2009, the EPA published a final rule finding that current and projected concentrations of six key GHGs in the atmosphere threaten public health and welfare. This rule, according to EPA, will trigger construction and operating permit requirements for large stationary sources, including cement plants. In a final rule issued on May 13, 2010, known as EPA’s “Tailoring Rule,” any modification or expansion of our existing plants (or construction of a new plant) after January 1, 2011 that triggers New Source Review (“NSR”) requirements for non-GHG emissions will also trigger NSR for GHG if our proposed GHG emissions exceed 75,000 tons per year. This would require the installation of controls on those GHG emissions. Effective July 1, 2011, any modification or expansion of our existing plants (or constructing a new plant) that results in an increase of our GHG emissions in excess of 100,000 tons per year will require NSR and the implementation of control requirements even if NSR is not triggered for any other pollutant. These limitations on emissions of GHGs from our equipment or operations could require us to incur costs to reduce such emissions and could ultimately affect our operations and our ability to obtain air permits for new or modified facilities.

Several states have also taken measures to reduce emissions of greenhouse gases, primarily through the planned development of GHG inventories or registries or regional GHG “cap and trade” programs. For example, California Governor Arnold Schwarzenegger signed AB 32 into law in late 2006, calling for a cap on GHG emissions throughout California and a statewide reduction to 1990 levels by 2020. In December 2008, the California Air Resource Board approved a plan for implementing AB 32. The plan contemplates a cap-and-trade program, beginning in 2012. Many states have also joined together to form regional initiatives, which include the Regional Greenhouse Gas Initiative in the northeast, the Western Regional Climate Action Initiative and the Midwestern Greenhouse Gas Accord.

It is not possible at this time to predict how legislation that may be enacted or regulations that may be adopted to address GHG emissions would impact our business. However, any imposition of raw materials or production limitations, fuel-use or carbon taxes, or emission limitations or reductions could have a significant impact on the cement manufacturing industry and a material adverse effect on us and our results of operations.

The fourth industry environmental issue is that the EPA in 1999 promulgated regulations for certain toxic air pollutants, including standards for portland cement manufacturing. The maximum attainable control technology standards require cement plants to test for certain pollutants and meet certain emission and operating standards. We have no reason to believe, however, that these standards have placed us at a competitive disadvantage. Recently, the EPA has proposed to significantly reduce these emission standards for certain air pollutants from Portland cement kilns. The proposal would set limits on mercury emissions from existing Portland cement kilns and would increase the stringency of emission limits for new kilns. The proposal would also set emission limits for total hydrocarbons, particulate matter, and sulfur dioxide from cement kilns of all sizes, and would reduce hydrochloric acid emissions from kilns that are large emitters. It is not possible to accurately estimate how these rules (if adopted) would impact our business once they become fully implemented in 2013; however, they could materially increase our cost of production. As with the 1999 regulations, we do not believe we would be placed at a competitive disadvantage by such rules.

We believe that our current procedures and practices in our operations, including those for handling and managing hazardous materials, are consistent with industry standards and are in substantial compliance with applicable environmental laws and regulations. Nevertheless, because of the complexity of our operations and the environmental laws to which we are subject, there can be no assurance that past or future operations will not result in violations, remediation costs or other liabilities or claims. Moreover, we cannot predict what environmental laws will be enacted or adopted in the future or how such future environmental laws or regulations will be administered or interpreted. Compliance with more stringent environmental laws, or stricter interpretation of existing environmental laws, could necessitate significant capital outlays.

***Concrete and Aggregates*.** The concrete and aggregates industry is subject to environmental regulations similar to those governing our cement operations. None of our concrete or aggregates operations are presently the subject of any material local, state or federal environmental proceeding or inquiries.

Capital Expenditures

Cement. We had capital expenditures related to compliance with environmental regulations applicable to our cement operations of $0.2 million during fiscal 2010 and expect to spend an additional $0.9 million during fiscal 2011.

EMPLOYEES

As of March 31, 2010, we had approximately 1,350 employees, of which 350 were employed under collective bargaining agreements and various supplemental agreements with local unions.

WHERE YOU CAN FIND MORE INFORMATION

We make our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and all amendments to these reports available free of charge through the investor relations page of our website, located at *www.eaglematerials.com* as soon as reasonably practicable after they are filed with or furnished to the SEC. This reference to our website is merely intended to suggest where additional information may be obtained by investors, and the materials and other information presented on our website are not incorporated in and should not otherwise be considered part of this Report. Alternatively, you may contact our investor relations department directly at (214) 432-2000 or by writing to Eagle Materials Inc., Investor Relations, 3811 Turtle Creek Blvd., Suite 1100, Dallas, Texas 75219.

ITEM 1A. RISK FACTORS

The foregoing discussion of our business and operations should be read together with the risk factors set forth below. They describe various risks and uncertainties to which we are or may become subject, many of which are outside of our control. These risks and uncertainties, together with other factors described elsewhere in this Report, have affected, or may in the future affect, our business, operations, financial condition and results of operations in a material and adverse manner.

We are affected by the level of demand in the construction industry, which is currently experiencing a significant downturn.

Demand for our products is directly related to the level of activity in the construction industry, which includes residential, commercial and infrastructure construction. In particular, the downturn in residential construction and commercial construction has impacted, and will likely continue to adversely impact, our wallboard business. The residential construction industry is currently undergoing a significant downturn. The effects of this downturn have been exacerbated by market disruptions resulting from the subprime mortgage crisis, which began in the second half of 2007, and the ensuing financial crisis affecting the banking system and financial markets, which became evident in the third quarter of 2008. A similar downturn has occurred in commercial construction as well, beginning in 2008. Furthermore, activity in the infrastructure construction business is directly related to the amount of government funding available for such projects. Any decrease in the amount of government funds available for such projects or any decrease in construction activity in general (including a continued decrease in residential construction or continued weakening of commercial construction) could have a material adverse effect on our business, financial condition and results of operations.

Our customers participate in cyclical industries, which are subject to industry downturns.

A majority of our revenues are from customers who are in industries and businesses that are cyclical in nature and subject to changes in general economic conditions, including the current economic recession. In addition, since our operations are in a variety of geographic markets, our businesses are subject to the economic conditions in each such geographic market. General economic downturns or localized downturns in the regions where we have operations, including the current and any future downturns in the residential or commercial construction industries, generally have an adverse effect on demand for our products. Furthermore, additions to the production capacity of industry participants, particularly in the gypsum wallboard industry, have created an imbalance between supply and demand, which could continue to adversely affect the prices at which we sell our products and adversely affect the collectability of our receivables. In general, any further downturns in the industries to which we sell our products or any further increases in capacity in the gypsum wallboard, paperboard and cement industries could have a material adverse effect on our business, financial condition and results of operations.

Volatility and disruption of financial markets could affect access to credit.

The current difficult economic environment has caused a contraction in the availability, and increased the cost, of credit in the marketplace. This could potentially reduce the sources of liquidity for the Company and our customers.

Our business is seasonal in nature, and this causes our quarterly results to vary significantly.

A majority of our business is seasonal with peak revenues and profits occurring primarily in the months of April through November when the weather in our markets is more favorable to construction activity. Quarterly results have varied significantly in the past and are likely to vary significantly from quarter to quarter in the future. Such variations could have a negative impact on the price of our common stock.

Our operations and our customers are subject to extensive governmental regulation, which can be costly and burdensome.

Our operations and those of our customers are subject to and affected by federal, state and local laws and regulations with respect to such matters as land usage, street and highway usage, noise level and health and safety and environmental matters. In many instances, various certificates, permits or licenses are required in order for us or our customers to conduct business or for construction and related operations. Although we believe that we are in compliance in all material respects with regulatory requirements, there can be no assurance that we will not incur material costs or liabilities in connection with regulatory requirements or that demand for our products will not be adversely affected by regulatory issues affecting our customers. In addition, future developments, such as the discovery of new facts or conditions, new or stricter laws or regulations (including without limitation, climate change legislation described below), or stricter interpretations of existing laws or regulations, may impose new liabilities on us, require additional investment by us or prevent us from opening or expanding plants or facilities, any of which could have a material adverse effect on our financial condition or results of operations.

Legislative and regulatory measures to address emissions of GHGs are in various phases of discussions or implementation at the international, national, regional and state levels. On the federal level, legislation imposing restrictions on GHGs is under active consideration. Proposed legislation has passed the U.S. House of Representatives and legislation is pending in the U.S. Senate. Among other things, the bills would establish a cap on emissions of GHGs from certain industries in the United States, including cement manufacturing beginning in 2013. The bills would require these capped sources of GHG emissions to obtain GHG emission “allowances” corresponding to their annual emissions of GHGs.

In addition, the EPA is taking steps that would result in the regulation of GHGs as pollutants under the Clean Air Act. On September 22, 2009, the EPA issued a “Mandatory Reporting of Greenhouse Gases” final rule, which took effect December 29, 2009. This rule establishes a new comprehensive scheme requiring operators of stationary sources in the United States emitting more than established annual thresholds of GHGs to inventory and report their GHG emissions annually on a facility-by-facility basis. In addition, on December 15, 2009, the EPA published a final rule finding that current and projected concentrations of six key GHGs in the atmosphere threaten public health and welfare. This rule, according to EPA, will trigger construction and operating permit requirements for large stationary sources, including cement plants. In a final rule issued on May 13, 2010, known as EPA’s “Tailoring Rule,” any modification or expansion of our existing plants (or construction of a new plant) after January 1, 2011 that triggers New Source Review (“NSR”) requirements for non-GHG emissions will also trigger NSR for GHG if our proposed GHG emissions exceed 75,000 tons per year. This would require the installation of controls on those GHG emissions. Effective July 1, 2011, any modification or expansion of our existing plants (or constructing a new plant) that results in an increase of our GHG emissions in excess of 100,000 tons per year will require NSR and the implementation of control requirements even if NSR is not triggered for any other pollutant. These limitations on emissions of GHGs from our equipment or operations could require us to incur costs to reduce such emissions and could ultimately affect our operations and our ability to obtain air permits for new or modified facilities.

The potential consequences of GHG emission reduction measures for our operations are potentially significant because (1) the cement manufacturing process requires the combustion of large amounts of fuel, (2) in our cement manufacturing process, the production of carbon dioxide is a byproduct of the calcination process, whereby carbon dioxide is removed from calcium carbonate to produce calcium oxide, and (3) our gypsum wallboard manufacturing process combusts a significant amount of fossil fuel, especially natural gas.

At this time, it is not possible to accurately estimate how laws or regulations addressing GHG emissions would impact our business. Any imposition of raw materials or production limitations, fuel-use or carbon taxes, or emission limitations or reductions could have a significant impact on the cement manufacturing industry and the gypsum wallboard manufacturing industry and a material adverse effect on us and our results of operations.

During 2009, the EPA also issued a proposed rule amendment to the National Emissions Standards for Hazardous Air Pollutants, or NESHAP, that would significantly reduce the permitted levels of emissions of certain air pollutants from Portland cement kilns. The NESHAP amendment would set limits on mercury emissions from existing Portland cement kilns and would increase the stringency of emission limits for new kilns. The NESHAP amendment would also set emission limits for total hydrocarbons, particulate matter and sulfur dioxide from cement kilns of all sizes and would reduce hydrochloric acid emissions from kilns that are large emitters. The NESHAP amendment, if adopted as proposed, would take full effect no earlier than 2013, and could materially increase our cost of production.

The EPA recently released proposed regulations to address the storage and disposal of coal combustion products, which include fly ash and flue gas desulfurization gypsum ("synthetic gypsum"). We use synthetic gypsum in wallboard manufactured at our Georgetown, SC plant. In its release, the EPA is proposing two alternative regulations. Under one proposal, the EPA would characterize coal combustion products destined for disposal as a special waste under Subtitle C of the Resource Conservation and Recovery Act ("RCRA"), which is the Subtitle that regulates hazardous wastes. However, under this proposal, beneficial use of coal combustion products, including synthetic gypsum, would continue to be exempt under the Bevill Amendment and not warrant regulation. Under the other proposal, the EPA would continue to regulate coal combustion products under Subtitle D of RCRA, which regulates solid wastes that are not hazardous wastes. The EPA has emphasized that it does not wish to discourage the beneficial reuse of coal combustion products under either of its two proposals. Because the EPA's proposed regulations must go through a public comment period before becoming final, it is not possible to accurately predict which of the two proposals set forth in the proposed regulations will be ultimately adopted. However, it is possible that EPA's rulemaking could affect our business, financial condition and results of operations, depending on how any such regulation affects our costs or the demand for our products utilizing synthetic gypsum.

We are subject to the risk of unfavorable weather conditions during peak construction periods and other unexpected operational difficulties.

Because a majority of our business is seasonal, unfavorable weather conditions and other unexpected operational difficulties during peak construction periods could adversely affect operating income and cash flow and could have a disproportionate impact on our results of operations for the full year.

Our products are commodities, which are subject to significant changes in supply and demand and price fluctuations.

The products sold by us are commodities and competition among manufacturers is based largely on price. Prices are often subject to material changes in response to relatively minor fluctuations in supply and demand, general economic conditions and other market conditions beyond our control. Increases in the industry's production capacity for products such as gypsum wallboard or cement or increases in cement imports tend to create an oversupply of such products and negatively impact product prices. There can be no assurance that prices for products sold by us will not decline in the future or that such declines will not have a material adverse effect on our business, financial condition and results of operations.

We may become subject to significant clean-up, remediation and other liabilities under applicable environmental laws.

Our operations are subject to state, federal and local environmental laws and regulations, which impose liability for cleanup or remediation of environmental pollution and hazardous waste arising from past acts. These laws and regulations also require pollution control and prevention, site restoration and operating

permits and/or approvals to conduct certain of our operations. Certain of our operations may from time-to-time involve the use of substances that are classified as toxic or hazardous substances within the meaning of these laws and regulations. Additionally, any future laws or regulations addressing greenhouse gas emissions would likely have a negative impact on our business or results of operations, either through the imposition of raw material or production limitations, fuel-use or carbon taxes or emission limitations or reductions. We are unable to estimate accurately the impact on our business or results of operations of any such law or regulation at this time. Risk of environmental liability (including the incurrence of fines, penalties or other sanctions or litigation liability) is inherent in the operation of our businesses. As a result, it is possible that environmental liabilities and compliance with environmental regulations could have a material adverse effect on our operations in the future. See “Item 1. Business – Environmental Matters” for more information on our regulatory and environmental matters.

Our results of operations are subject to significant changes in the cost and availability of fuel, energy and other raw materials.

Major cost components in each of our businesses are the cost of fuel, energy and raw materials. Significant increases in the cost of fuel, energy or raw materials or substantial decreases in their availability could materially and adversely affect our sales and operating profits. Prices for fuel, energy or raw materials used in connection with our businesses could change significantly in a short period of time for reasons outside our control. Prices for fuel and electrical power, which are significant components of the costs associated with our gypsum wallboard and cement businesses, have fluctuated significantly in recent years and are expected to increase in the future. In the event of large or rapid increases in prices, we may not be able to pass the increases through to our customers in full, which would reduce our operating margin.

Increases in interest rates could adversely affect demand for our products, which would have an adverse effect on our results of operations.

Our business is significantly affected by the movement of interest rates. Interest rates have a direct impact on the level of residential, commercial and infrastructure construction activity. Higher interest rates could result in decreased demand for our products, which would have a material adverse effect on our business and results of operations. In addition, increases in interest rates could result in higher interest expense related to borrowings under our credit facilities.

Our debt agreements contain restrictive covenants and require us to meet certain financial ratios and tests, which limit our flexibility and could give rise to a default if we are unable to remain in compliance.

Our amended and restated credit agreement and the note purchase agreements governing our senior notes contain, among other things, covenants that limit our ability to finance future operations or capital needs or to engage in other business activities, including our ability to:

- Incur additional indebtedness;
- Sell assets or make other fundamental changes;
- Engage in mergers and acquisitions;
- Pay dividends and make other restricted payments;
- Make investments, loans, advances or guarantees;
- Encumber the assets of the Company and its restricted subsidiaries;
- Enter into transactions with our affiliates.

In addition, these agreements require us to meet and maintain certain financial ratios and tests, which may require that we take action to reduce our debt or to act in a manner contrary to our business objectives. Events beyond our control, including the severity and duration of the current industry downturn and changes in general business and economic conditions, may impair our ability to comply with these covenants or meet those financial ratios and tests. A breach of any of these covenants or failure to maintain the required ratios and meet the required tests may result in an event of default under those agreements. This may allow the

lenders under those agreements to declare all amounts outstanding thereunder to be immediately due and payable, terminate any commitments to extend further credit to us and pursue other remedies available to them under the applicable agreements. If this occurs, our indebtedness may be accelerated and we may not be able to refinance the accelerated indebtedness on favorable terms, or at all, or repay the accelerated indebtedness.

Our production facilities may experience unexpected equipment failures, catastrophic events and scheduled maintenance.

Interruptions in our production capabilities may cause our productivity and results of operations to decline significantly during the affected period. Our manufacturing processes are dependent upon critical pieces of equipment. Such equipment may, on occasion, be out of service as a result of unanticipated events such as fires, explosions, violent weather conditions or unexpected operational difficulties. We also have periodic scheduled shut-downs to perform maintenance on our facilities. Any significant interruption in production capability may require us to make significant capital expenditures to remedy problems or damage as well as cause us to lose revenue due to lost production time, which could have a material adverse effect on our results of operations and financial condition.

Significant changes in the cost and availability of transportation could adversely affect our business, financial condition and results of operations.

Some of the raw materials used in our manufacturing processes, such as coal or coke, are transported to our facilities by truck or rail. In addition, the transportation costs associated with the delivery of our wallboard products are a significant portion of the variable cost of our gypsum wallboard segment. Significant increases in the cost of fuel or energy can result in material increases in the cost of transportation which could materially and adversely affect our operating profits. In addition, reductions in the availability of certain modes of transportation such as rail or trucking could limit our ability to deliver product and therefore materially and adversely affect our operating profits.

Pension assets and costs associated with employee benefit plans generally are affected by economic and market conditions.

The current economic environment could negatively impact the fair value of pension assets, which could increase future funding requirements to our pension trusts. More generally, our costs are significantly affected by expenses related to our employee benefit plans. The recognition of costs and liabilities associated with these plans for financial reporting purposes is affected by assumptions made by management and used by actuaries engaged by us to calculate the projected and accumulated benefit obligations and the annual expense recognized for these plans. Economic and market factors and conditions could affect any of these assumptions and may affect our estimated and actual employee benefit plan costs and our results of operations.

Inflation and increases in interest rates could adversely affect our business and demand for our products, which would have an adverse effect on our results of operations.

Our business is significantly affected by the movement of interest rates. Interest rates have a direct impact on the level of residential, commercial and infrastructure construction activity by impacting the cost of borrowed funds to builders. Higher interest rates could result in decreased demand for our products, which would have a material adverse effect on our business and results of operations. In addition, increases in interest rates could result in higher interest expense related to borrowings under our credit facilities. Inflation can result in higher interest rates. With inflation, the costs of capital increase, and the purchasing power of our cash resources can decline. Current or future efforts by the government to stimulate the economy may increase the risk of significant inflation and its direct and indirect adverse impact on our business and results of operations.

This report includes various forward-looking statements, which are not facts or guarantees of future performance and which are subject to significant risks and uncertainties.

This report and other materials we have filed or will file with the SEC, as well as information included in oral statements or other written statements made or to be made by us, contain or may contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, Section 21E of the Exchange Act of 1934 and the Private Securities Litigation Reform Act of 1995. You can identify these statements by the fact that they do not relate to matters of a strictly factual or historical nature and generally discuss or relate to forecasts, estimates or other expectations regarding future events. Generally, the words "believe," "expect," "intend," "estimate," "anticipate," "project," "may," "can," "could," "might," "will" and similar expressions identify forward-looking statements, including statements related to expected operating and performing results, planned transactions, plans and objectives of management, future developments or conditions in the industries in which we participate, including future prices for our products, audits and legal proceedings to which we are a party and other trends, developments and uncertainties that may affect our business in the future.

Forward-looking statements are not historical facts or guarantees of future performance but instead represent only our beliefs at the time the statements were made regarding future events, which are subject to significant risks, uncertainties, and other factors, many of which are outside of our control. Any or all of the forward-looking statements made by us may turn out to be materially inaccurate. This can occur as a result of incorrect assumptions, changes in facts and circumstances or the effects of known risks and uncertainties. Many of the risks and uncertainties mentioned in this report or other reports filed by us with the SEC, including those discussed in the risk factor section of this report, will be important in determining whether these forward-looking statements prove to be accurate. Consequently, neither our stockholders nor any other person should place undue reliance on our forward-looking statements and should recognize that actual results may differ materially from those that may be anticipated by us.

All forward-looking statements made in this report are made as of the date hereof, and the risk that actual results will differ materially from expectations expressed in this report will increase with the passage of time. We undertake no obligation, and disclaim any duty, to publicly update or revise any forward-looking statements, whether as a result of new information, future events, changes in our expectations or otherwise.

ITEM 1B. UNRESOLVED STAFF COMMENTS

There are no unresolved Staff comments.

ITEM 2. PROPERTIES

We operate cement plants, quarries and related facilities at Buda, Texas; LaSalle, Illinois; Fernley, Nevada and Laramie, Wyoming. The Buda plant is owned by a partnership in which we have a 50% interest. Our principal aggregate plants and quarries are located near Austin, Texas and Marysville, California. In addition, we operate gypsum wallboard plants in Albuquerque, New Mexico; Gypsum, Colorado; Duke, Oklahoma; and in Georgetown, South Carolina. We produce recycled paperboard at Lawton, Oklahoma. None of our facilities are pledged as security for any debts. We also have a gypsum wallboard plant in Bernalillo, New Mexico that we temporarily idled beginning in December 2009. We expect to re-open this facility when business conditions improve. See "Item 1. Business" on pages 1-12 of this Report for additional information relating to the Company's properties.

ITEM 3. LEGAL PROCEEDINGS

We are a party to certain ordinary legal proceedings incidental to our business. In general, although the outcome of litigation is inherently uncertain, we believe that all of the pending litigation proceedings in which the Company or any subsidiary are currently involved are likely to be resolved without having a material adverse effect on our consolidated financial condition or operations.

As previously reported, the Internal Revenue Service (the “IRS”) completed the examination of our federal income tax returns for all of the fiscal years ended March 31, 2001 through 2006. The IRS issued Exam Reports and Notices of Proposed Adjustment on November 9, 2007 for the examination of the 2001, 2002 and 2003 tax years, and on February 5, 2010 for the examination of the 2004, 2005 and 2006 fiscal years, in which it proposes to deny certain depreciation deductions claimed by us with respect to assets acquired by us from Republic Group LLC in November 2000. We paid a deposit to the IRS of approximately $45.8 million during November 2007 for the years ended March 31, 2001, 2002 and 2003, which is comprised of $27.6 million in federal income taxes, $5.7 million for penalties and $12.5 million for interest. During March 2010, we paid the IRS an additional deposit of $29.3 million for the years ended March 31, 2004, 2005 and 2006, which is comprised of $18.1 million in federal income taxes, $3.7 million for penalties and $7.5 million for interest. These deposits were made to avoid imposition of the large corporate tax underpayment interest rates. Efforts at Appeals, most recently IRS Post Appeals Mediation on March 3, 2010, have been unsuccessful in resolving the case. We expect to receive a statutory notice of deficiency (a 90 day letter) from the IRS for all of the fiscal years ended March 31, 2001 through 2006 in the near future. We intend to resort to the courts for a final determination. See Note (G) of the Notes to the Consolidated Financial Statements for more information.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

STOCK PRICES AND DIVIDENDS

As of May 21, 2010, there were approximately 2,400 holders of record of our Common Stock which trades on the New York Stock Exchange under the symbol EXP.

The following table sets forth the high and low closing prices for our Common Stock as reported on the New York Stock Exchange for the periods indicated, as well as dividends declared during these periods:

	Fiscal Year Ended March 31, 2010			Fiscal Year Ended March 31, 2009		
Quarter ended:	High	Low	Dividends	High	Low	Dividends
June 30	$ 29.00	$ 22.32	$ 0.10	$ 37.86	$ 25.33	$ 0.20
September 30	$ 29.73	$ 22.72	$ 0.10	$ 30.74	$ 20.72	$ 0.20
December 31	$ 29.75	$ 25.00	$ 0.10	$ 21.68	$ 14.41	$ 0.10
March 31	$ 26.85	$ 22.18	$ 0.10	$ 24.90	$ 16.79	$ 0.10

The "Dividends" section of Item 7 "Management's Discussion and Analysis of Financial Condition" is hereby incorporated by reference into this Part II, Item 5.

SHARE REPURCHASES

Our Board of Directors has approved the repurchase of a cumulative total of 31,610,605 shares of our Common Stock since we became publicly held in April 1994. On November 7, 2006, the Board of Directors authorized us to repurchase up to an additional 5,156,800 shares, for a total authorization, as of that date, of 6,000,000 shares, of which 717,300 remain eligible for purchase at March 31, 2010. We repurchased 4,778,500 shares of Common Stock at a cost of $176.9 million during the fiscal year ended March 31, 2008. We did not repurchase any shares during the fiscal years ended March 31, 2010 and 2009.

Share repurchases may be made from time-to-time in the open market or in privately negotiated transactions. The timing and amount of any repurchases of shares may be determined by our management, based on its evaluation of market and economic conditions and other factors. Repurchases may also be effected pursuant to plans or instructions that meet the requirements of Rule 10b5-1 under the Securities Exchange Act of 1934.

During fiscal 2010, we reacquired shares of stock from an employee upon the vesting of restricted stock units that were granted under our Incentive Plan. These shares were surrendered by the employee and reacquired by us to satisfy the employee's minimum statutory tax withholding, which is required on restricted stock units once they become vested and payable and the surrendered shares are shown in the following table:

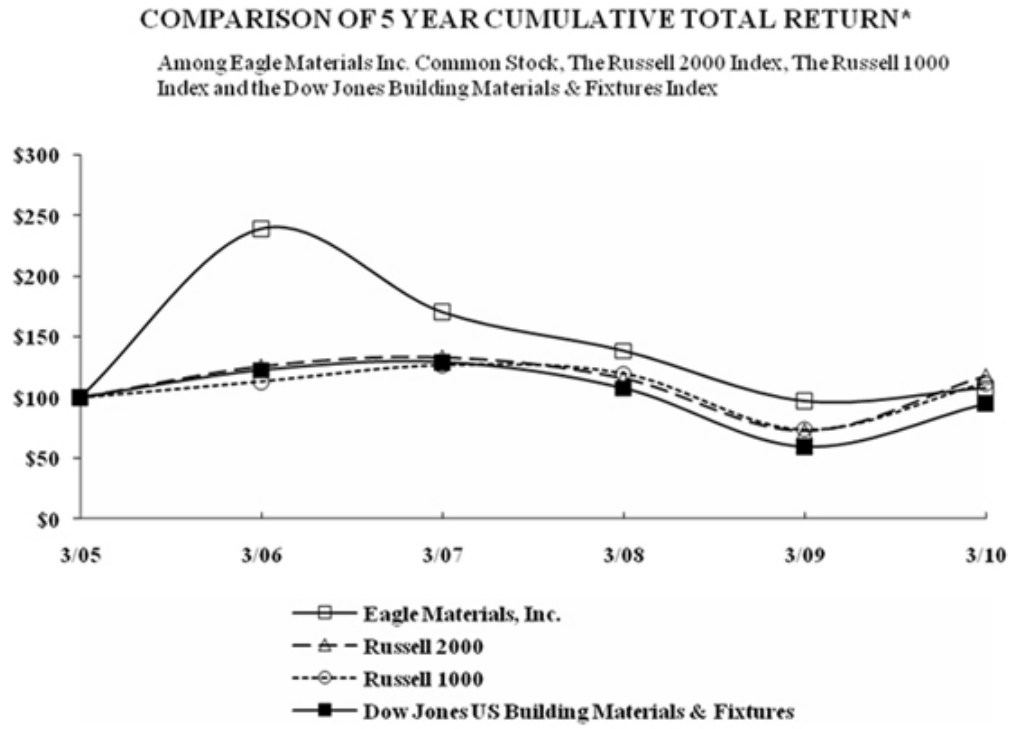
Period	Total Number of Shares Purchased	Average Price Paid Per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs	Maximum Number of Shares that May Yet be Purchased Under the Plans or Programs
January 1 through January 31, 2010	—	$ —	—	
February 1 through February 28, 2010	—	—	—	
March 1 through March 31, 2010	4,149	28.815	—	
Quarter 4 Totals	4,149	$ 28.815	—	717,300

The equity compensation plan information set forth in Part III, Item 12 of this Form 10-K is hereby incorporated by reference into this Part II, Item 5.

PERFORMANCE GRAPH

The following performance graph and related information shall not be deemed "soliciting material" or to be "filed" with the Securities and Exchange Commission, nor shall such information be incorporated by reference into any future filing under the Securities Act of 1933 or the Securities Exchange Act of 1934, each as amended, except to the extent that the Company specifically incorporates it by reference into such filing.

The graph below compares the cumulative 5-year total return to holders of common stock with the cumulative total returns of the Russell 2000 index, the Russell 1000 index and the Dow Jones US Building Materials & Fixtures index. The graph assumes that the value of the investment in the Company's common stock and in each of the indexes (including reinvestment of dividends) was 100 on March 31, 2005 and tracks it through March 31, 2010. We have included the Russell 1000 Index as a comparison during the current year as we are now one of the companies comprising the index.



* $100 invested on March 31, 2005 in stock or index, including reinvestment of dividends.

	2005	2006	2007	2008	2009	2010
Eagle Materials Inc.	100.00	238.96	170.25	138.46	96.98	107.82
Russell 2000	100.00	125.85	133.28	115.95	72.47	117.95
Russell 1000	100.00	113.20	126.59	119.75	73.93	112.08
Dow Jones US Building Materials & Fixtures	100.00	122.44	129.02	107.66	59.65	94.77

The stock price performance included in this graph is not necessarily indicative of future stock price performance.

ITEM 6. SELECTED FINANCIAL DATA

SUMMARY OF SELECTED FINANCIAL DATA [1]
(amounts in thousands, except per share data)

	For the Fiscal Years Ended March 31,				
	2010	2009	2008	2007	2006
Net Revenues	$ 467,905	$ 598,580	$ 748,023	$917,854	$857,423
Earnings Before Income Taxes	39,297	62,183	144,384	304,288	241,066
Net Earnings	28,950	41,764	97,768	202,664	160,984
Diluted Earnings Per Share	0.66	0.95	2.12	4.07	3.02
Cash Dividends Per Share	0.40	0.60	0.80	0.70	0.40
Total Assets	1,013,776	1,066,668	1,117,721	971,410	888,916
Total Debt	303,000	355,000	400,000	200,000	200,000
Stockholders' Equity	445,362	427,827	405,687	546,046	464,738
Book Value Per Share At Year End	$ 10.16	$ 9.81	$ 9.34	$ 11.40	$ 9.24
Average Diluted Shares Outstanding	44,038	43,879	46,145	49,787	53,330

(1) The Summary of Selected Financial Data should be read in conjunction with the Consolidated Financial Statements and the Notes to Consolidated Financial Statements for matters that affect the comparability of the information presented above.

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

EXECUTIVE SUMMARY

Eagle Materials Inc. is a diversified producer of basic building materials and construction products used in residential, industrial, commercial and infrastructure construction. We operate in four business segments: gypsum wallboard, cement, recycled paperboard, and concrete and aggregates, with Gypsum Wallboard and Cement being our principal lines of business. These operations are conducted in the U.S. and include the mining of gypsum and the manufacture and sale of gypsum wallboard, the mining of limestone and the manufacture, production, distribution and sale of Portland cement (a basic construction material which is the essential binding ingredient in concrete), the manufacture and sale of recycled paperboard to the gypsum wallboard industry and other paperboard converters, the sale of readymix concrete and the mining and sale of aggregates (crushed stone, sand and gravel). These products are used primarily in commercial and residential construction, public construction projects and projects to build, expand and repair roads and highways. Certain information for each of Concrete and Aggregates is broken out separately in the segment discussions.

We conduct one of our cement operations through a joint venture, Texas Lehigh Cement Company LP, which is located in Buda, Texas (the "Joint Venture"). We own a 50% interest in the joint venture and accounts for its interest under the equity method of accounting. However, for purposes of the Cement segment information presented, we proportionately consolidate our 50% share of the Joint Venture's revenues and operating earnings, which is the way management organizes the segments within the Company for making operating decisions and assessing performance. See Note (E) of the Notes to the Consolidated Financial Statements for additional segment information.

RESULTS OF OPERATIONS

Fiscal Year 2010 Compared to Fiscal Year 2009

	For the Years Ended March 31,		
	2010	2009	
	(in thousands, except per share)		Change
Revenues [1]	$ 574,932	$ 751,326	(23%)
Operating Costs [1]	(501,450)	(646,924)	(22%)
Other Income, net	3,161	3,602	(12%)
Operating Earnings	76,643	108,004	(29%)
Corporate General and Administrative	(15,886)	(16,901)	(6%)
Interest Expense, net	(21,460)	(28,920)	(26%)
Earnings Before Income Taxes	39,297	62,183	(37%)
Income Taxes	(10,347)	(20,419)	(49%)
Net Earnings	$ 28,950	$ 41,764	(31%)
Diluted Earnings per Share	$ 0.66	$ 0.95	(31%)

[1] Includes intersegment revenues and our proportionate share of our Joint Venture. See Footnote (E) to the Consolidated Financial Statements for more information.

Revenues. Consolidated revenues for fiscal 2010 decreased 23% from fiscal 2009. The decrease is primarily due to lower sales volumes and average sales prices in all four of our operating segments. The decline in sales volumes and average sales prices was due primarily to the continued depressed levels of demand in the residential and commercial sectors, which continued to be adversely impacted by the decline in the overall economic environment in the United States.

Operating Costs. Operating costs decreased during fiscal 2010, as compared to 2009, principally due to lower production in our gypsum wallboard and cement divisions. Additionally, certain operating costs declined, both in total as well as on a per unit basis, namely fiber and electricity in our recycled paperboard division, natural gas in our recycled paperboard and gypsum wallboard divisions, and transportation in our gypsum wallboard division.

Other Income, net. Included in net revenues are other income, which consists of a variety of items that are non-segment operating in nature and includes non-inventoried aggregates income, gypsum wallboard distribution center income, asset sales and other miscellaneous income and cost items. Net other income totaled $3.2 million for fiscal 2010 as compared to $3.6 million for fiscal 2009. The majority of our other income during fiscal 2010 relates to the gain on the sale of land of approximately $2.5 million, while other income during fiscal 2009 is due primarily to the $2.6 million gain on sale of railcars, both by our gypsum wallboard division.

Operating Earnings. Operating profit declined by 29% during fiscal 2010, as compared to fiscal 2009, primarily due to lower net revenues, as described above. The decline in net revenues was offset partially by the reduction in operating expenses.

Corporate General and Administrative. Corporate general and administrative expenses for fiscal 2010 declined to $15.9 million from $16.9 million in fiscal 2009. The decrease in corporate general and administrative expense in fiscal 2010, as compared to fiscal 2009, was primarily the result of decreased incentive compensation and benefits costs due to lower operating earnings, decreased stock compensation expense and improved overhead efficiency. The decrease in stock compensation expense is due to the expensing of stock options granted in August 2008 over a seven month period ended March 31, 2009.

Interest Expense, Net. Net interest expense of $21.5 million for fiscal 2010 decreased from the $28.9 million incurred in fiscal 2009. The decrease in net interest expense is related to decreased borrowings during the period, primarily in connection with early repayment of $100 million of private placement debt in February 2009, and lower rates on both our Bank Credit Facility and unrecognized tax benefit throughout the year.

Income Taxes. The effective tax rate declined to 26.3% for fiscal 2010 from an effective tax rate of 32.8% during fiscal 2009. The decline is due primarily to the larger impact of percentage depletion and lower state income taxes on lower earnings during fiscal 2010 as compared to fiscal 2009.

Net Earnings and Diluted Earnings per Share. As a result of the foregoing, pre-tax earnings of $39.3 million in fiscal 2010 were 37% below fiscal 2009 pre-tax earnings of $62.2 million. Fiscal 2010 net earnings of $29.0 million decreased 31% from net earnings of $41.8 million in fiscal 2009. Diluted earnings per share in fiscal 2010 of $0.66 were 31% lower than the $0.95 for fiscal 2009.

The following table highlights certain operating information related to our four business segments:

	For the Years Ended March 31, 2010	2009	Percentage Change
	(in thousands, except net sales prices)		
Revenues [1]			
Gypsum Wallboard	$ 210,671	$ 279,306	(25%)
Cement [2]	228,475	289,436	(21%)
Recycled Paperboard	90,164	116,337	(22%)
Concrete and Aggregates	45,622	66,247	(31%)
Gross Revenues	$ 574,932	$ 751,326	(23%)
Sales Volume			
Gypsum Wallboard (MMSF)	1,750	2,102	(17%)
Cement (M Tons) [2]	2,467	2,825	(13%)
Recycled Paperboard (M Tons)	215	232	(7%)
Concrete (M Yards)	461	611	(25%)
Aggregates (M Tons)	2,318	3,281	(29%)
Average Net Sales Prices [3]			
Gypsum Wallboard	$ 92.10	$ 99.17	(7%)
Cement [2]	85.59	96.03	(11%)
Recycled Paperboard	417.28	492.27	(15%)
Concrete	67.23	73.14	(8%)
Aggregates	6.29	6.57	(4%)
Operating Earnings			
Gypsum Wallboard	$ 1,383	$ 1,190	16%
Cement [2]	55,459	82,036	(32%)
Recycled Paperboard	14,805	16,581	(11%)
Concrete and Aggregates	1,835	4,595	(60%)
Other, net	3,161	3,602	(12%)
Operating Earnings	$ 76,643	$ 108,004	(29%)

(1) Gross revenue, before freight and delivery costs.
(2) Includes proportionate share of our Joint Venture.
(3) Net of freight and delivery costs.

Gypsum Wallboard Operations. Lower sales volumes and lower net sales prices during fiscal 2010 caused sales revenues to decline by 25% as compared to fiscal 2009. The decline in sales volume and average sales prices is primarily due to lower residential construction and the decline in commercial construction. Despite the decrease in revenue during fiscal 2010, operating earnings increased by 16% in fiscal 2010 as compared to fiscal 2009. This increase is primarily due to operating earnings of $3.4 million during the first quarter of fiscal 2010 as compared to an operating loss of $5.3 million during the first quarter of fiscal 2009. The loss in the first quarter of fiscal 2009 was due primarily to lower net sales prices, as well as increased operating expenses, namely natural gas, power and paper. Average net sales price increased for the remainder of fiscal 2009, in response to increased operating costs, before beginning to decline in the first quarter of fiscal 2010. Over the latter half of fiscal 2010, lower net sales prices and lower volumes resulted in lower operating earnings as compared to fiscal 2009.

Cement Operations. The decrease in revenues during fiscal 2010, as compared to fiscal 2009, is due primarily to the 13% decline in sales volume. The decline in demand adversely impacted average sales prices in all of our markets, resulting in a decline of 11% in average net sales price during fiscal 2010, as compared to fiscal 2009. The decline in average sales price and sales volume was most severe in our Texas and Mountain markets, which were more significantly impacted by the decline in oil well activity during fiscal 2010. The decline in revenues and sales volumes was the primary reason operating earnings declined by 32% in fiscal 2010, as compared to fiscal 2009. Operating costs remained relatively flat during fiscal 2010, as compared to fiscal 2009, with slight decreases in the cost of fuel and power and a slight increase in other

purchased raw materials. Purchased cement costs also decreased; however, the percentage of purchased cement sold decreased to 2% of total cement sold in fiscal 2010 from 16% of total cement sold in fiscal 2009, with almost all of the purchased cement being sold by our joint venture.

Recycled Paperboard Operations. The decline in net revenue during fiscal 2010 as compared to fiscal 2009 is due primarily to the decline in sales volume and average sales price. The decline in the sales volume is due primarily to the decline in the gypsum wallboard market. During fiscal 2010, sales of gypsum paper declined to 51% of total paperboard sales from 62% during fiscal 2009. In addition to adversely impacting revenues, the decline in the volume of gypsum paper sold during fiscal 2010 adversely impacted the average net sales price, which declined 15% in fiscal 2010 as compared to fiscal 2009. Operating earnings decreased 11% in fiscal 2010 as compared to fiscal 2009, primarily due to the decline in revenues, as well as a change in the sales mix. The change in the sales mix resulted in less high-margin gypsum paper being sold in fiscal 2010 than in fiscal 2009, with more tons sold of lower margin containerboard and other paper. The impact of the decline in sales volume and average net sales price on operating earnings in fiscal 2010 was partially offset by lower operating expenses, namely fiber, electricity and natural gas.

Concrete and Aggregates Operations. A decline in sales volume was the primary reason revenue declined 31% during fiscal 2010, as compared to fiscal 2009. The decline in revenue also had an adverse impact on the average net sales prices of both concrete and aggregates, which declined 8% and 4%, respectively, in fiscal 2010 as compared to fiscal 2009. The decrease in revenues negatively impacted operating earnings during fiscal 2010, as did the decline in average net sales prices.

GENERAL OUTLOOK

Calendar 2009 was a very difficult year economically in the United States, and particularly in the building materials and construction products businesses. Despite the passage of the first time homebuyer tax credit, and the American Recovery and Reinvestment Act of 2009 (the “Act”), there was little increase in infrastructure spending, and commercial and residential construction activity continued to decline. The portion of the Act related to infrastructure is expected to have more impact in calendar 2010 as more infrastructure projects are approved and funded. Although we anticipate the administration will continue to address the current financial crisis throughout calendar 2010, there can be no assurance as to the actual impact that these legislative initiatives, or any other similar governmental programs, will have on our business, financial condition or results of operations.

The U.S. wallboard industry continues to be adversely impacted by the current downturn in the residential and commercial construction markets, resulting in industry capacity utilization declining to approximately 50%. The reduction in capacity utilization continues to negatively impact gypsum wallboard pricing. Wallboard consumption during calendar 2009, as reported by the Gypsum Association, decreased approximately 27% from consumption in calendar year 2008. We do not anticipate wallboard consumption to improve significantly during calendar 2010; however, we expect an increase in capacity utilization at our plants during fiscal 2011 due to the closing of the Bernalillo plant in December 2009.

In response to the uncertainty of gypsum wallboard paper demand, we continue to seek opportunities for sales in new markets as well as supplying product to the containerboard market. Fiber prices, which is our primary raw material, increased in price throughout fiscal 2010, primarily in response to the reduced supply of Old Cardboard Containers (“OCC”). We expect fiber prices, on average, to be greater in fiscal 2011 than in fiscal 2010; however, pricing is dependent on many factors. The expected cost of natural gas and electricity, two other significant cost components, are expected to remain consistent in fiscal 2011. There is a base rate increase scheduled for review at the Oklahoma Corporation Commission in July 2010. Pending the outcome, the production costs and operating earnings may be negatively impacted in fiscal 2011.

Cement demand in all U.S. regions continues to be impacted by decreasing residential housing construction, the softening of the commercial construction market and the expanding state government budget deficits, which are expected to hinder cement consumption during the remainder of calendar 2010. Cement consumption in the U.S. declined approximately 27% in calendar 2009 as compared to calendar 2008. The

U.S. cement industry continues to reduce imports of foreign cement with imports declining to approximately 10% of total consumption during calendar 2009, as compared to approximately 12% of total consumption in calendar 2008. We have also severely curtailed importing of cement, and do not anticipate increasing our imports meaningfully during the first half of calendar 2010. The United States government has included increased infrastructure spending as part of the stimulus package passed during the first quarter of calendar 2009; however, the effects of these expenditures are not anticipated to meaningfully impact the cement industry until second half of calendar 2010.

Similarly, we expect concrete and aggregate sales volumes to be depressed throughout the remainder of calendar 2010 in both of our markets as both residential and infrastructure spending remain soft, and any impact from the stimulus bill most likely will not be realized until latter half of calendar 2010.

Fiscal Year 2009 Compared to Fiscal Year 2008

	For the Years Ended March 31,		
	2009	2008	
	(in thousands, except per share)		Change
Revenues [1]	$ 751,326	$ 908,808	(17%)
Operating Costs [1]	(646,924)	(726,124)	(11%)
Other Income, net	3,602	1,530	135%
Operating Earnings	108,004	184,214	(41%)
Corporate General and Administrative	(16,901)	(18,756)	(10%)
Interest Expense, net	(28,920)	(21,074)	37%
Earnings Before Income Taxes	62,183	144,384	(57%)
Income Taxes	(20,419)	(46,616)	(56%)
Net Earnings	$ 41,764	$ 97,768	(57%)
Diluted Earnings per Share	$ 0.95	$ 2.12	(55%)

[1] Includes intersegment revenues and our proportionate share of our Joint Venture. See Footnote (E) to the Consolidated Financial Statements for more information.

Revenues. Consolidated revenues for fiscal 2009 decreased 17% from fiscal 2008, primarily due to lower sales volumes in all of our operating segments. The decline in sales volumes was due primarily to the downturn in the residential and commercial sectors, which continued to be adversely impacted by the decline in the overall economic environment in the United States. Additionally, the decline in sales volumes adversely impacted the average net sales prices in our Gypsum Wallboard and Concrete and Aggregates segments.

Operating Costs. Operating costs decreased during fiscal 2009, as compared to 2008, principally due to lower production in our gypsum wallboard and cement divisions. Additionally, certain operating costs declined, both in total and on a per unit basis, namely fiber in our recycled paperboard division, natural gas in our recycled paperboard and gypsum wallboard divisions, and transportation in our gypsum wallboard division.

Other Income, net. Included in net revenues are other income, which consists of a variety of items that are non-segment operating in nature and includes non-inventoried aggregates income, gypsum wallboard distribution center income, asset sales and other miscellaneous income and cost items. Net other income totaled $3.6 million for fiscal 2009 as compared to $1.5 million for fiscal 2008. The increase in other income during fiscal 2009 is due primarily to the $2.6 million gain on sale of railcars by our gypsum wallboard division.

Operating Earnings. Operating profit declined by 41% during fiscal 2009, as compared to fiscal 2008, primarily due to lower net revenues, as described above. The decline in net revenues was offset partially by the reduction in operating expenses.

Corporate General and Administrative. Corporate general and administrative expenses for fiscal 2009 were $16.9 million compared to $18.8 million for last fiscal year. Corporate general and administrative expense in 2009 includes approximately $4.0 million related to fiscal 2009 stock options awards, all of which were substantially expensed in fiscal 2009, offset by a gain on the early retirement of debt of approximately $4.4 million. The decrease in corporate general and administrative expense in fiscal 2009, as compared to fiscal 2008, was primarily the result of decreased incentive compensation and benefit costs due to lower operating earnings.

Interest Expense, Net. Net interest expense of $28.9 million for fiscal 2009 increased from the $21.1 million incurred in fiscal 2008. The increase in expense is related to increased borrowings during the period, primarily in connection with the $200 million private placement, which closed in October 2007, offset slightly by the early repayment of $100 million of private placement debt in February 2009. Interest expense in fiscal 2008 was positively impacted by the capitalization of interest related to the construction of our Georgetown, S.C. plant. This plant was completed in December 2007, at which time we ceased capitalizing interest.

Income Taxes. The effective tax rate for fiscal 2009 was 32.8%, which was relatively consistent with the tax rate of 32.3% during fiscal 2008.

Net Earnings and Diluted Earnings per Share. As a result of the foregoing, pre-tax earnings of $62.2 million in fiscal 2009 were 57% below fiscal 2008 pre-tax earnings of $144.4 million. Fiscal 2009 net earnings of $41.8 million decreased 57% from net earnings of $97.8 million in fiscal 2008. Diluted earnings per share in fiscal 2009 of $0.95 were 55% lower than the $2.12 for fiscal 2008.

The following table highlights certain operating information related to our four business segments:

	For the Years Ended March 31,		
	2009	2008	Percentage Change
	(in thousands, except net sales prices)		
Revenues [1]			
Gypsum Wallboard	$ 279,306	$ 342,550	(19%)
Cement [2]	289,436	345,223	(16%)
Recycled Paperboard	116,337	133,395	(13%)
Concrete and Aggregates	66,247	87,640	(24%)
Gross Revenues	$ 751,326	$ 908,808	(17%)
Sales Volume			
Gypsum Wallboard (MMSF)	2,102	2,395	(12%)
Cement (M Tons) [2]	2,825	3,425	(18%)
Recycled Paperboard (M Tons)	232	271	(14%)
Concrete (M Yards)	611	802	(24%)
Aggregates (M Tons)	3,281	3,754	(13%)
Average Net Sales Prices [3]			
Gypsum Wallboard	$ 99.17	$ 108.36	(8%)
Cement [2]	96.03	96.04	—
Recycled Paperboard	492.27	484.22	2%
Concrete	73.14	76.74	(5%)
Aggregates	6.57	6.96	(6%)
Operating Earnings			
Gypsum Wallboard	$ 1,190	$ 45,954	(97%)
Cement [2]	82,036	106,633	(23%)
Recycled Paperboard	16,581	17,022	(3%)
Concrete and Aggregates	4,595	13,075	(65%)
Other Income, net	3,602	1,530	135%
Operating Earnings	$ 108,004	$ 184,214	(41%)

[1] Gross revenue, before freight and delivery costs.

(2) Includes proportionate share of our Joint Venture.
(3) Net of freight and delivery costs.

Gypsum Wallboard Operations. The decrease in revenues during fiscal 2009, as compared to fiscal 2008, is due to lower sales volume and sales prices. Although the average net sales price for fiscal 2009 declined from the prior year, the average net sales price for fiscal 2009 exceeded the fiscal 2008 average net sales price during the second quarter of fiscal 2009 and stayed at this level for the remainder of the fiscal year. This increase in average net sales price was more than offset by the decline in sales volume as demand in the residential and commercial sectors continued to be impacted by the economic downturn. Wallboard operating margins decreased during fiscal 2009, as compared to fiscal 2008, primarily due to lower sales volumes and higher unit costs. The increase in unit costs during fiscal 2009, as compared to fiscal 2008, was primarily attributable to increased raw material and natural gas costs. In addition, the operating margins were impacted by a full year of costs at our Georgetown, South Carolina plant versus a partial year for fiscal 2008.

Cement Operations. The decrease in revenues during fiscal 2009, as compared to fiscal 2008, is due primarily to the 18% decline in sales volume. The decline in sales volume adversely impacted average sales prices in certain of our markets, although our average sales price was flat during fiscal 2009, as compared to fiscal 2008. The decline in average sales price and sales volume was more severe in our Illinois and Nevada markets, which were more significantly impacted by the economic slowdown experienced during fiscal 2009. The decline in revenues was the primary reason operating earnings declined by 16% in fiscal 2009, as compared to fiscal 2008. Operating costs remained relatively flat during fiscal 2009, as compared to fiscal 2008, with only slight increases in the cost of fuel and power. Purchased cement costs also increased slightly; however, the percentage of purchased cement sold decreased to 16% of total cement sold in fiscal 2009 from 19% of total cement sold in fiscal 2008, with the majority of the purchased cement being sold by our joint venture.

Recycled Paperboard Operations. Net revenues and sales volume decreased 14% during fiscal 2009, as compared to 2008, due to lower gypsum paper sales. During fiscal 2009, sales of gypsum paper declined to 62% of total paperboard sales from 73% during fiscal 2008. The increase in the average selling price per ton during fiscal 2009, as compared to 2008, is primarily due to the price escalators contained in our long-term sales agreement. Operating margins per ton increased 14% during fiscal 2009, as compared to 2008, due to the decline in unit costs combined with an increase in the average net selling price per ton. The decrease in unit costs during fiscal 2009 is primarily due to a 16% decrease in fiber costs as compared to fiscal 2008, offset by a 22% increase in electrical costs during fiscal 2009. The 3% decline in operating earnings during fiscal 2009, as compared to 2008, is due to lower gypsum paper sales, partially offset by the increased operating margin per ton. The decline in gypsum paper sales is due to the decline in the demand for gypsum wallboard, which resulted in increased production and sales of lower margin non-gypsum paperboard.

Concrete and Aggregates Operations. The decline in sales volumes during fiscal 2009, as compared to fiscal 2008, was the primary reason for the decline in revenues of the concrete and aggregates division. The decline in sales volumes also negatively impacted the net average sales prices, resulting in declines of 5% and 6% for the concrete and aggregates divisions, respectively, in fiscal 2009, as compared to fiscal 2008. The decrease in revenues negatively impacted operating earnings during fiscal 2009, as did a change in the sales mix of aggregates to lower margin road base, which comprise 55% of the total product sold in fiscal 2009 as compared to approximately 45% in fiscal 2008.

CRITICAL ACCOUNTING POLICIES

Certain of our critical accounting policies require the use of judgment in their application or require estimates of inherently uncertain matters. Although our accounting policies are in compliance with generally accepted accounting principles, a change in the facts and circumstances of the underlying transactions could significantly change the application of the accounting policies and the resulting financial statement impact. Listed below are those policies that we believe are critical and require the use of complex judgment in their application.

Impairment of Long-Lived Assets. We assess our long-lived assets, including mining and related assets, for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets is measured by comparing the carrying amount of an asset to future undiscounted net cash flows expected to be generated by the asset. These evaluations for impairment are significantly impacted by estimates of revenues, costs and expenses, and in the case of our mining assets, changes in the costs and availability of extraction of our mineral assets and other factors. If these assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds the fair value of the assets.

Goodwill. Goodwill is subject to an annual assessment at least annually for impairment by applying a fair-value-based test. We have elected to test for goodwill impairment in the first quarter of each calendar year. The goodwill impairment test is a two-step process, which requires management to make judgments in determining what assumptions to use in the calculation. The first step of the process consists of estimating the fair value of each reporting unit based on a discounted cash flow model using revenues and profit forecasts and comparing those estimated fair values with the carrying value; a second step is performed, if necessary, to compute the amount of the impairment by determining an "implied fair value" of goodwill. Similar to the review for impairment of other long-lived assets, evaluations for impairment are significantly impacted by estimates of future prices for our products, capital needs, economic trends and other factors.

Environmental Liabilities. Our operations are subject to state, federal and local environmental laws and regulations, which impose liability for clean up or remediation of environmental pollution and hazardous waste arising from past acts and require pollution control and prevention, site restoration and operating permits and/or approvals to conduct certain of its operations. We record environmental accruals when it is probable that a reasonably estimable liability has been incurred. Environmental remediation accruals are based on internal studies and estimates, including shared financial liability with third parties. Environmental expenditures that extend the life, increase the capacity, improve the safety or efficiency of assets or mitigate or prevent future environmental contamination may be capitalized. Other environmental costs are expensed when incurred.

Estimation of Reserves and Valuation Allowances. We evaluate the collectability of accounts receivable based on a combination of factors. In circumstances when we are aware of a specific customer's inability to meet its financial obligation to the Company, the balance in the reserve for doubtful accounts is evaluated, and if it is determined to be deficient, a specific amount will be added to the reserve. For all other customers, the reserve for doubtful accounts is determined by the length of time the receivables are past due or the customer's financial condition.

Income Taxes. In determining net income for financial statement purposes, we must make certain estimates and judgments in the calculation of tax provisions and the resultant tax liabilities, and in the recoverability of deferred tax assets that arise from temporary differences between the tax and financial statement recognition of revenue and expense.

In the ordinary course of business, there may be many transactions and calculations where the ultimate tax outcome is uncertain. The calculation of tax liabilities involves dealing with uncertainties in the application of complex tax laws. We recognize potential liabilities for anticipated tax audit issues in both the U.S. and state tax jurisdictions based on an estimate of the ultimate resolution of whether, and the extent to which, additional taxes will be due. Although we believe the estimates are reasonable, no assurance can be given that the final outcome of these matters will not be different than what is reflected in the historical income tax provisions and accruals.

As part of our process for preparing financial statements, we must assess the likelihood that our deferred tax assets can be recovered. If recovery is not likely, the provision for taxes must be increased by recording a reserve in the form of a valuation allowance for the deferred tax assets that are estimated not to be ultimately recoverable. In this process, certain relevant criteria are evaluated including the existence of deferred tax liabilities that can be used to absorb deferred tax assets, the taxable income in prior years that can be used to absorb net operating losses and credit carrybacks, and taxable income in future years. Our judgment regarding future taxable income may change due to market conditions, changes in U.S. tax laws and other factors. These changes, if any, may require material adjustments to the deferred tax assets and an accompanying reduction or increase in net income in the period when such determinations are made.

LIQUIDITY AND CAPITAL RESOURCES

Cash Flow.

The following table provides a summary of our cash flows:

	For the Fiscal Years Ended March 31,	
	2010	2009
	(dollars in thousands)	
Net Cash Provided by Operating Activities:	$ 64,566	$ 79,385
Investing Activities:		
Proceeds from Sale of Assets	—	3,996
Capital Expenditures and Other Investing Activities, net	(13,779)	(16,078)
Net Cash Used in Investing Activities	(13,779)	(12,082)
Financing Activities:		
Excess Tax Benefits – Share Based Payments	761	655
Increase (Decrease) in Notes Payable	(52,000)	55,000
Repayment of Long-term Debt	—	(95,000)
Dividends Paid	(17,471)	(30,441)
Proceeds from Stock Option Exercises	1,541	1,321
Net Cash Used in Financing Activities	(67,169)	(68,465)
Net Decrease in Cash	$ (16,382)	$ (1,162)

Cash flows from operating activities declined by $14.8 million during fiscal 2010 from fiscal 2009. This decrease was largely attributable to decreased net earnings, which declined by approximately $12.8 million, and our payment of a $29.3 million deposit to the IRS in relation to their audit of our 2004 – 2006 tax returns, as further discussed in the following paragraph. Decreases in operating assets and liabilities in fiscal 2010 are due primarily to the payment of $29.3 million deposit to the IRS, and an increase in accounts receivable due to increased notes receivable during the fiscal year. Decreases in operating assets and liabilities in fiscal 2009 are due primarily to decreased accounts payable, due to lower purchased cement and fiber costs.

The IRS issued its Exam Report and Notice of Proposed Adjustment to the Company in February 2010 that proposes to disallow a portion of the depreciation deductions claimed by the Company during fiscal years ended March 31, 2004, 2005 and 2006. The adjustment proposed by the IRS, if sustained, would result in additional federal income taxes of approximately $31.8 million, plus penalties of $8.7 million and applicable interest, and would result in additional state income taxes, including applicable interest and penalties. The Company is expecting a notice of deficiency (a 90 day letter) and will resort to the courts for a final determination. The Company paid the IRS a deposit related to the audits of the 2004-2006 tax returns of approximately $29.3 million during March 2010, including $18.1 million in federal income taxes, the $3.7 million for penalties and $7.5 million of interest, to avoid imposition of the large corporate tax underpayment interest rates. See Notes (F) and (G) of the Notes to the Consolidated Financial Statements.

Net cash used in investing activities was fairly consistent in fiscal 2010 and fiscal 2009, and consisted primarily of maintenance capital expenditures.

Net cash used in financing activities decreased slightly to $67.2 million during fiscal 2010, as compared to $68.5 million during fiscal 2009. This slight difference is primarily due to our repaying approximately $12.0 million more in debt during fiscal 2010 than during fiscal 2009, offset by a decrease in

dividends paid during fiscal 2010 of approximately $13.0 million. Our debt-to-capitalization ratio and net-debt-to-capitalization ratio declined to 40.5% and 40.4%, respectively, at March 31, 2010 as compared to 45.3% and 44.1%, respectively, at March 31, 2009.

Working capital at March 31, 2010, was $89.4 million compared to $111.0 million at March 31, 2009, primarily due to increased accounts payable and decreased cash, offset slightly by an increase in accounts and notes receivable. We do not have any material contractual obligations related to long-term capital projects at March 31, 2010. We were in compliance at March 31, 2010 with all the terms and covenants of our credit agreements.

Debt Financing Activities.

We entered into a $350.0 million credit facility on December 16, 2004. On June 30, 2006, we amended the Bank Credit Facility (the "Bank Credit Facility") to extend the expiration date from December 2009 to June 2011, and to reduce the borrowing rates and commitment fees. Borrowings under the Bank Credit Facility are guaranteed by all major operating subsidiaries of the Company. Outstanding principal amounts on the Bank Credit Facility bear interest at a variable rate equal to LIBOR, plus an agreed margin (ranging from 55 to 150 basis points), which is to be established quarterly based upon the Company's ratio of consolidated EBITDA, which is defined as earnings before interest, taxes, depreciation and amortization, to its consolidated indebtedness. Interest payments are payable monthly or at the end of the LIBOR advance periods, which can be up to a period of six months at the option of the Company. Our Bank Credit Facility contains customary covenants that restrict our ability to incur additional debt, encumber our assets, sell assets, make or enter into certain investments, loans or guaranties and enter into sale and leaseback arrangements. The Bank Credit Facility also requires us to maintain a consolidated funded indebtedness ratio (consolidated indebtedness to earnings before interest, taxes, depreciation and amortization) of 3.5 or less and an interest coverage ratio (consolidated earnings before interest and taxes to interest expense) of at least 2.5. The Bank Credit Facility also limits our ability to make certain restricted payments, such as paying cash dividends; however, there are several exceptions to this restriction, including: (i) the Company may pay cash dividends in an aggregate amount of up to $50.0 million each fiscal year if no default exists or would result therefrom; and (ii) the Company may make restricted payments not otherwise permitted so long as no default would result therefrom and our consolidated funded indebtedness ratio does not exceed 3.0. Subsequent to our purchase of $15.0 million of our Senior Notes, we have $324.3 million of borrowings available under the Bank Credit Facility.

We entered into a Note Purchase Agreement on November 15, 2005 (the "2005 Note Purchase Agreement") related to our sale of $200 million of senior, unsecured notes, designated as Series 2005A Senior Notes (the "Series 2005A Senior Notes") in a private placement transaction. The Series 2005A Senior Notes, which are guaranteed by substantially all of our subsidiaries, were sold at par and issued in three tranches on November 15, 2005. On February 5, 2009, we repurchased $7.0 million in principal of the Series 2005A Senior Notes for $6.7 million, and on April 10, 2010 we repurchased an additional $15 million in principal at par value of these same notes. Following these repurchases, the amounts outstanding for each of the three tranches are as follows:

	Principal	Maturity Date	Interest Rate
Tranche A	$38.6 million	November 15, 2012	5.25%
Tranche B	$77.2 million	November 15, 2015	5.38%
Tranche C	$77.2 million	November 15, 2017	5.48%

Interest for each tranche of Notes is payable semi-annually on May 15 and November 15 of each year until all principal is paid for the respective tranche.

We entered into an additional Note Purchase Agreement on October 2, 2007 (the "2007 Note Purchase Agreement") related to our sale of $200 million of senior, unsecured notes, designated as Series 2007A Senior Notes (the "Series 2007A Senior Notes") in a private placement transaction. The Series 2007A Senior Notes, which are guaranteed by substantially all of our subsidiaries, were sold at par and issued in four tranches on October 2, 2007. On February 5, 2009, we repurchased $93.0 million in principal of the Series 2007A Senior Notes for $88.3 million, leaving $107.0 million outstanding. Following the repurchase, the amounts outstanding for each of the four tranches are as follows:

	Principal	Maturity Date	Interest Rate
Tranche A	$ 9.5 million	October 2, 2014	6.08%
Tranche B	$11.0 million	October 2, 2016	6.27%
Tranche C	$50.0 million	October 2, 2017	6.36%
Tranche D	$36.5 million	October 2, 2019	6.48%

Interest for each tranche of Notes is payable semi-annually on April 2 and October 2 of each year until all principal is paid for the respective tranche.

Our obligations under the 2005 Note Purchase Agreement and the 2007 Note Purchase Agreement (collectively referred to as the "Note Purchase Agreements") and the Series 2005A Senior Notes and the Series 2007A Senior Notes (collectively referred to as "the Senior Notes") are equal in right of payment with all other senior, unsecured debt of the Company, including our debt under the Bank Credit Facility. The Note Purchase Agreements contain customary restrictive covenants, including covenants that place limits on our ability to encumber our assets, to incur additional debt, to sell assets, or to merge or consolidate with third parties, as well as certain cross covenants with the Bank Credit Facility.

Other than the Bank Credit Facility, we have no other source of committed external financing in place. In the event the Bank Credit Facility was terminated, no assurance can be given as to our ability to secure a new source of financing. Consequently, if a balance was outstanding on the Bank Credit Facility at the time of termination, and an alternative source of financing cannot be secured, it would have a material adverse impact on us. None of our debt is rated by the rating agencies.

We do not have any off balance sheet debt except for operating leases. Also, we have no outstanding debt guarantees. We have available under the Bank Credit Facility a $25 million Letter of Credit Facility. At March 31, 2010, we had $7.7 million of letters of credit outstanding that renew annually. We are contingently liable for performance under $8.8 million in performance bonds relating primarily to our mining operations.

We believe that our cash flow from operations and available borrowings under our Bank Credit Facility should be sufficient to meet our currently anticipated operating needs, capital expenditures and dividend and debt service requirements for at least the next twelve months. However, our future liquidity and capital requirements may vary depending on a number of factors, including market conditions in the construction industry, our ability to maintain compliance with covenants in our Bank Credit Facility, the level of competition and general and economic factors beyond our control. We cannot predict what effect these factors will have on our future liquidity. We have begun the process of extending our existing Bank Credit Facility, or entering into a new Bank Credit Facility, which process we believe will be completed before the expiration of the existing Bank Credit Facility. These and other developments could reduce our cash flow or require that we seek additional sources of funding. For additional information on factors impacting our liquidity and capital resources, please refer to Part I, Item 1A, "Risk Factors" above.

Cash Used for Share Repurchases and Stock Repurchase Program.

See table under Item 5. "Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities" on page 20 for additional information.

On November 7, 2006, we announced that our Board of Directors authorized the repurchase of an additional 5,156,800 shares of common stock, raising our repurchase authorization to approximately 6,000,000 shares, of which 717,300 remained available at March 31, 2010. Share repurchases may be made from time-to-time in the open market or in privately negotiated transactions. The timing and amount of any repurchases of shares will be determined by the Company's management, based on its evaluation of market and economic conditions and other factors. Repurchases may also be effected pursuant to plans or instructions that meet the requirements of Rule 10b5-1 under the Securities Exchange Act of 1934. We did not repurchase any shares during the fiscal years ended March 31, 2010 and 2009. We repurchased 4,778,500 shares of Common Stock at a cost of $176.9 million during the fiscal year ended March 31, 2008.

Dividends.

Dividends paid in fiscal years 2010 and 2009 were $17.5 million and $30.4 million, respectively. During November 2008, we announced a decrease in our annual dividend from $0.80 to $0.40 per share, beginning with the February 2009 dividend payment. Each quarterly dividend payment is subject to review and approval by our Board of Directors, and we will continue to evaluate our dividend payment amount on an ongoing basis.

Capital Expenditures.

The following table compares capital expenditures:

	For the Fiscal Years Ended March 31,	
	2010	2009
	(dollars in thousands)	
Land and Quarries	$ 6,067	$ 366
Plants	5,105	11,909
Buildings, Machinery and Equipment	2,607	3,803
Total Capital Expenditures	$ 13,779	$ 16,078

Historically, we have financed such expenditures with cash from operations and borrowings under our revolving credit facility. Capital expenditures in fiscal 2010 and fiscal 2009 were primarily related to necessary replacements and upgrading of equipment, as well as acquisitions of additional reserves. We expect capital expenditures during fiscal 2011 to be consistent with the amount spent in fiscal 2010.

Contractual and Other Obligations.

The Company has certain contractual obligations arising from indebtedness, operating leases and purchase obligations. Future payments due, aggregated by type of contractual obligation are set forth as follows:

	Payments Due by Period				
	Total	Less than 1 year	1-3 years	3-5 years	More than 5 years
	(dollars in thousands)				
Contractual Obligations:					
Long-term Debt/Notes Payable	$303,000	$ —	$56,600	$ 97,700	$148,700
Operating Leases	14,531	1,314	647	900	11,670
Purchase Obligations	70,637	4,690	11,797	11,250	42,900
Total	$388,168	$ 6,004	$69,044	$109,850	$203,270

Purchase obligations are non-cancelable agreements to purchase coal, natural gas and synthetic gypsum, to pay royalty amounts and capital expenditure commitments. Additionally, we are subject to potential tax liabilities of approximately $83.9 million. We have paid cash deposits of $45.7 towards this liability at March 31, 2010; therefore, we potentially may owe an additional $38.2 million in the next 1 to 5 year period. See Notes (D), (F) and (G) of the Notes to the Consolidated Financial Statements for more information.

Based on our current actuarial estimates, we anticipate making contributions of approximately $1.0 to $1.5 million to our defined benefit plans for fiscal year 2010.

Inflation and Changing Prices.

The Consumer Price Index rose approximately 2.7% in calendar 2009, 0.1% in 2008, and 4.1% in 2007. Prices of materials and services, with the exception of power, natural gas, coal, petroleum coke, and transportation freight, have remained relatively stable over the three year period. During fiscal 2010, the Consumer Price Index for energy declined approximately 5.4%, but increased for transportation by 3.9%. Strict cost control and improved productivity in our cement and paperboard segments in fiscal 2010 has minimized the impact of inflation on our operations, while our other segments remain more exposed to inflationary changes. The ability to increase sales prices to cover future increases varies with the level of activity in the construction industry, the number, size, and strength of competitors and the availability of products to supply a local market.

GENERAL OUTLOOK

See “General Outlook” within Item 7. Management’s Discussion and Analysis of Financial Condition and Results of Operations on pages 26- 27.

RECENT ACCOUNTING PRONOUNCEMENTS

See Note (A) to the Notes to the Consolidated Financial Statements on pages 41-46.

FORWARD-LOOKING STATEMENTS

Certain information included in this report or in other materials we have filed or will file with the SEC, as well as information included in oral statements or other written statements made or to be made by us, contains or may contain forward-looking statements within the meaning of Section 27A of the Securities Act of 1933, Section 21E of the Securities Exchange Act of 1934 and the Private Litigation Reform Act of 1995. Forward-looking statements may be identified by the context of the statement and generally arise when we are discussing our beliefs, estimates or expectations. From time to time, forward-looking statements also are included in our other periodic reports on Forms 10-K, 10-Q and 8-K, press releases and presentations, on our web site and in other material released to the public. We specifically disclaim any duty to update any of the information set forth in this report, including any forward-looking statements. Forward-looking statements are made based on management’s current expectations and beliefs concerning future events and, therefore, involve a number of risks and uncertainties. Management cautions that forward-looking statements are not guarantees, and our actual results could differ materially from those expressed or implied in the forward looking statements. See Item 1A for a more detailed discussion of specific risks and uncertainties.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to market risks related to fluctuations in interest rates on our Bank Credit Facility. From time-to-time we have utilized derivative instruments, including interest rate swaps, in conjunction with our overall strategy to manage the debt outstanding that is subject to changes in interest rates. At March 31, 2010 outstanding borrowings under the Bank Credit Facility totaled $3.0 million. At present, we do not utilize derivative financial instruments.

We are subject to commodity risk with respect to price changes principally in coal, coke, natural gas and power. We attempt to limit our exposure to changes in commodity prices by entering into contracts or increasing use of alternative fuels.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

Financial Information

Index to Financial Statements and Related Information

Eagle Materials Inc. and Subsidiaries
Consolidated Statements of Earnings
(dollars in thousands, except share and per share data)

	For the Years Ended March 31,		
	2010	2009	2008
Revenues	$ 467,905	$ 598,580	$ 748,023
Cost of Goods Sold	418,580	526,604	599,321
Gross Profit	49,325	71,976	148,702
Equity in Earnings of Unconsolidated Joint Venture	24,157	32,426	33,982
Other Income	3,161	3,602	1,530
Operating Earnings	76,643	108,004	184,214
Corporate General and Administrative Expense	(15,886)	(16,901)	(18,756)
Earnings before Interest and Income Taxes	60,757	91,103	165,458
Interest Expense, Net	(21,460)	(28,920)	(21,074)
Earnings before Income Taxes	39,297	62,183	144,384
Income Taxes	(10,347)	(20,419)	(46,616)
Net Earnings	$ 28,950	$ 41,764	$ 97,768
EARNINGS PER SHARE			
Basic	$ 0.66	$ 0.96	$ 2.15
Diluted	$ 0.66	$ 0.95	$ 2.12
AVERAGE SHARES OUTSTANDING			
Basic	43,684,942	43,486,728	45,557,094
Diluted	44,038,401	43,879,416	46,145,219
CASH DIVIDENDS PER SHARE	$ 0.40	$ 0.60	$ 0.80

See notes to consolidated financial statements.

Eagle Materials Inc. and Subsidiaries
Consolidated Balance Sheets
(dollars in thousands)

	March 31, 2010	March 31, 2009
ASSETS		
Current Assets -		
Cash and Cash Equivalents	$ 1,416	$ 17,798
Accounts and Notes Receivable, net	49,721	44,261
Inventories	105,871	107,063
Prepaid and Other Assets	4,266	6,161
Total Current Assets	161,274	175,283
Property, Plant and Equipment -	1,100,590	1,088,597
Less: Accumulated Depreciation	(468,121)	(419,669)
Property, Plant and Equipment, net	632,469	668,928
Notes Receivable	10,586	6,301
Investment in Joint Venture	33,928	39,521
Goodwill and Intangible Assets	152,175	152,812
Other Assets	23,344	23,823
	$1,013,776	$1,066,668
LIABILITIES AND STOCKHOLDERS' EQUITY		
Current Liabilities -		
Accounts Payable	$ 27,840	$ 19,645
Accrued Liabilities	44,044	44,604
Total Current Liabilities	71,884	64,249
Long-term Debt	303,000	355,000
Other Long-term Liabilities	67,946	97,104
Deferred Income Taxes	125,584	122,488
Total Liabilities	568,414	638,841
Stockholders' Equity -		
Preferred Stock, Par Value $0.01; Authorized 5,000,000 Shares; None Issued	—	—
Common Stock, Par Value $0.01; Authorized 100,000,000 Shares; Issued and Outstanding 43,830,794 and 43,589,775 Shares, respectively.	438	436
Capital in Excess of Par Value	14,723	11,166
Accumulated Other Comprehensive Losses	(3,518)	(6,040)
Retained Earnings	433,719	422,265
Total Stockholders' Equity	445,362	427,827
	$1,013,776	$1,066,668

See notes to consolidated financial statements.

Eagle Materials Inc. and Subsidiaries
Consolidated Statements of Cash Flows
(dollars in thousands)

	For the Years Ended March 31,		
	2010	2009	2008
CASH FLOWS FROM OPERATING ACTIVITIES			
Net Earnings	$ 28,950	$ 41,764	$ 97,768
Adjustments to Reconcile Net Earnings to Net Cash Provided by Operating Activities, Net of Effect of Non-Cash Activity - -			
Depreciation, Depletion and Amortization	50,781	51,232	44,850
Gain on Sale of Property, Plant and Equipment	(2,510)	(2,536)	—
Gain on Purchase of Debt, net	—	(4,763)	—
Deferred Income Tax Provision	1,201	5,769	1,414
Stock Compensation Expense	2,825	9,192	5,949
Equity in Earnings of Unconsolidated Joint Venture	(24,157)	(32,426)	(33,982)
Excess Tax Benefits from Share Based Payment Arrangements	(761)	(655)	(2,848)
Distributions from Joint Venture	29,750	33,000	37,750
Changes in Operating Assets and Liabilities:			
Accounts and Notes Receivable	(7,008)	19,673	15,521
Inventories	1,192	(8,346)	(19,809)
Accounts Payable and Accrued Liabilities	(16,026)	(33,944)	(10,658)
Other Assets	682	(1,965)	(3,508)
Income Taxes Payable	(353)	3,390	(27,695)
Net Cash Provided by Operating Activities	64,566	79,385	104,752
CASH FLOWS FROM INVESTING ACTIVITIES			
Additions to Property, Plant and Equipment	(13,779)	(16,078)	(96,857)
Proceeds from Sale of Property, Plant and Equipment	—	3,996	—
Net Cash Used in Investing Activities	(13,779)	(12,082)	(96,857)
CASH FLOWS FROM FINANCING ACTIVITIES			
Excess Tax Benefits from Share Based Payment Arrangements	761	655	2,848
Increase (Decrease) in Bank Credit Facility	(52,000)	55,000	—
Proceeds from (Repayment of) Senior Notes	—	(95,000)	200,000
Dividends Paid to Stockholders	(17,471)	(30,441)	(35,600)
Retirement of Common Stock	—	—	(176,895)
Proceeds from Stock Option Exercises	1,541	1,321	3,497
Net Cash Used in Financing Activities	(67,169)	(68,465)	(6,150)
NET INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	(16,382)	(1,162)	1,745
CASH AND CASH EQUIVALENTS AT BEGINNING OF PERIOD	17,798	18,960	17,215
CASH AND CASH EQUIVALENTS AT END OF PERIOD	$ 1,416	$ 17,798	$ 18,960

See notes to consolidated financial statements.

Eagle Materials Inc. and Subsidiaries
Consolidated Statements of Stockholders' Equity
(dollars in thousands)

	Common Stock	Capital in Excess of Par Value	Retained Earnings	Accumulated Other Comprehensive Losses	Total
Balance March 31, 2007	$ 479	$ —	$ 546,417	$ (850)	$ 546,046
Net Earnings	—	—	97,768	—	97,768
Stock Option Exercises	3	3,494	—	—	3,497
Tax Benefit-Stock Option Exercise	—	2,848	—	—	2,848
Dividends to Stockholders	—	—	(35,900)	—	(35,900)
Stock Compensation Expense	—	5,949	—	—	5,949
Retirement of Common Stock	(48)	(12,291)	(164,556)	—	(176,895)
Cumulative effect of the adoption of FIN 48	—	—	(37,108)	—	(37,108)
Increase in Unfunded Pension Liability			—	(518)	(518)
Balance March 31, 2008	$ 434	$ —	$ 406,621	$ (1,368)	$ 405,687
Net Earnings	—	—	41,764	—	41,764
Stock Option Exercises	2	1,319	—	—	1,321
Tax Benefit-Stock Option Exercise	—	655	—	—	655
Dividends to Stockholders	—	—	(26,120)	—	(26,120)
Stock Compensation Expense	—	9,192	—	—	9,192
Increase in Unfunded Pension Liability	—	—	—	(4,672)	(4,672)
Balance March 31, 2009	$ 436	$ 11,166	$ 422,265	$ (6,040)	$ 427,827
Net Earnings	—	—	28,950	—	28,950
Stock Option Exercises	2	1,539	—	—	1,541
Tax Loss-Stock Option Exercise	—	(807)	—	—	(807)
Dividends to Stockholders	—	—	(17,496)	—	(17,496)
Stock Compensation Expense	—	2,825	—	—	2,825
Decrease in Unfunded Pension Liability	—	—	—	2,522	2,522
Balance March 31, 2010	$ 438	$ 14,723	$ 433,719	$ (3,518)	$ 445,362

See notes to consolidated financial statements.

Eagle Materials Inc. and Subsidiaries
Notes to Consolidated Financial Statements
(dollars in thousands, except per share data)

(A) Significant Accounting Policies

Basis of Presentation –

The consolidated financial statements include the accounts of Eagle Materials Inc. and its majority-owned subsidiaries ("EXP" or the "Company"), which may be referred to as "our", "we", or "us". All intercompany balances and transactions have been eliminated. EXP is a holding company whose assets consist of its investments in its subsidiaries, joint venture, intercompany balances and holdings of cash and cash equivalents. The businesses of the consolidated group are conducted through EXP's subsidiaries. The Company conducts one of its cement plant operations through a joint venture, Texas Lehigh Cement Company L.P., which is located in Buda, Texas (the "Joint Venture"). Investments in the Joint Venture and affiliated companies owned 50% or less are accounted for using the equity method of accounting. The Equity in Earnings of Unconsolidated Joint Venture has been included for the same period as our March 31 year end.

The preparation of financial statements in conformity with accounting principles generally accepted in the U.S. requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures 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.

We evaluated all events or transactions that occurred after March 31, 2010 through the filing of these financial statements.

Reclassifications –

We have changed the presentation of our income statement to more closely reflect the format used by other registrants in our industry. This change resulted in disclosure of consolidated revenues and cost of sales instead of by segment, and has included such subtotals as Earnings before Interest and Taxes and Earnings before Taxes, which are also consistent with the presentation of those of our competitors. Additionally, certain prior period reclassifications have been made to conform to the current period presentation.

Cash and Cash Equivalents –

Cash equivalents include short-term, highly liquid investments with original maturities of three months or less and are recorded at cost, which approximates market value.

Accounts and Notes Receivable –

Accounts and notes receivable have been shown net of the allowance for doubtful accounts of $3.7 million at both March 31, 2010 and 2009. We perform ongoing credit evaluations of our customers' financial condition and generally require no collateral from our customers. The allowance for non-collection of receivables is based upon analysis of economic trends in the construction industry, detailed analysis of the expected collectability of accounts receivable that are past due and the expected collectability of overall receivables. We have no significant credit risk concentration among our diversified customer base.

Notes receivable at March 31, 2010 bear interest, on average, at the prime rate plus 1.5%, and are payable in quarterly installments of approximately $0.5 million. Remaining unpaid amounts, plus accrued interest, mature on various dates between 2011 and 2017. The notes are collateralized by certain assets of the borrowers, namely property and equipment. The current portion of notes receivable was $1.8 million and $1.1 million at March 31, 2010 and 2009, respectively. The weighted-average interest rate at March 31, 2010 and 2009 was 4.4% and 3.9%, respectively.

Inventories –

Inventories are stated at the lower of average cost (including applicable material, labor, depreciation, and plant overhead) or market. Inventories consist of the following:

	March 31,	
	2010	2009
	(dollars in thousands)	
Raw Materials and Materials-in-Progress	$ 33,092	$ 32,580
Gypsum Wallboard	5,587	9,622
Finished Cement	11,639	11,303
Aggregates	12,691	11,684
Paperboard	1,789	4,142
Repair Parts and Supplies	38,743	36,429
Fuel and Coal	2,330	1,303
	$105,871	$107,063

Property, Plant and Equipment –

Property, plant and equipment are stated at cost. Major renewals and improvements are capitalized and depreciated. Repairs and maintenance are expensed as incurred. Depreciation is provided on a straight-line basis over the estimated useful lives of depreciable assets and totaled $49.7 million, $50.0 million and $43.6 million for the years ended March 31, 2010, 2009 and 2008, respectively. Raw material deposits are depleted as such deposits are extracted for production utilizing the units-of-production method. Costs and accumulated depreciation applicable to assets retired or sold are eliminated from the accounts and any resulting gains or losses are recognized at such time. The estimated lives of the related assets are as follows:

Plants	20 to 30 years
Buildings	20 to 40 years
Machinery and Equipment	3 to 25 years

We periodically evaluate whether current events or circumstances indicate that the carrying value of our depreciable assets may not be recoverable. At March 31, 2010 and 2009, management believes no events or circumstances indicate that the carrying value may not be recoverable.

Impairment or Disposal of Long-Lived Assets –

We evaluate the recoverability of our long-lived assets and certain identifiable intangibles, such as permits and customer contracts, for impairment whenever events or changes in circumstances indicate that the carrying amount of an asset may not be recoverable. Recoverability of assets, such as plants, buildings and machinery and equipment, including mining assets, is measured by comparing the carrying amount of an asset to future undiscounted net cash flows expected to be generated by the asset. Such evaluations for impairment are significantly impacted by estimates of future prices for our products, capital needs, economic trends in the construction sector and other factors. If such assets are considered to be impaired, the impairment to be recognized is measured by the amount by which the carrying amount of the assets exceeds their fair value. Assets to be disposed of by sale are reflected at the lower of their carrying amount or fair value less cost to sell.

Goodwill and Intangible Assets –

Goodwill. Goodwill is subject to at least an annual assessment for impairment by applying a fair-value-based test. We have elected to test for goodwill impairment in the first quarter of each calendar year. The goodwill impairment test is a two-step process, which requires us to make judgments in determining what assumptions to use in the calculation. The first step of the process consists of estimating the fair value of each reporting unit based on a discounted cash flow model using revenues and profit forecasts and comparing those estimated fair values with the carrying value; a second step is performed, if necessary, to compute the amount of the impairment by determining an "implied fair value" of goodwill. Similar to the review for impairment of other long-lived assets, evaluations for impairment are significantly impacted by estimates of future prices for our products, capital needs, economic trends and other factors. Given the relative weakness in gypsum wallboard pricing, coupled with the slowdown in residential housing, we expect to perform impairment tests at the end of each quarter on our gypsum wallboard assets and related goodwill during fiscal 2011, unless we determine that impairment loss is not reasonably likely to occur.

		March 31, 2010		
	Amortization Period	Cost	Accumulated Amortization	Net
		(dollars in thousands)		
Intangible Assets Subject to Amortization:				
Customer contracts	15 years	$ 1,300	$ (809)	$ 491
Permits	40 years	22,000	(2,831)	19,169
Goodwill		132,515	—	132,515
Total intangible assets and goodwill		$155,815	$ (3,640)	$152,175

		March 31, 2009		
	Amortization Period	Cost	Accumulated Amortization	Net
		(dollars in thousands)		
Intangible Assets Subject to Amortization:				
Customer contracts	15 years	$ 1,300	$ (723)	$ 577
Permits	40 years	22,000	(2,280)	19,720
Goodwill		132,515	—	132,515
Total intangible assets and goodwill		$155,815	$ (3,003)	$152,812

Amortization expense of intangibles was $0.6 million for each of the years ended March 31, 2010, 2009 and 2008.

Other Assets –

Other assets are primarily composed of loan fees and financing costs, deferred expenses, and deposits.

Income Taxes –

Income taxes are accounted for using the asset and liability method. Deferred taxes are recognized for the tax consequences of temporary differences by applying enacted statutory tax rates applicable to future years to differences between the financial statement carrying amounts and the tax bases of existing assets and liabilities. The effect on deferred taxes of a change in tax rates is recognized in income in the period that includes the enactment date. In addition, we recognize future tax benefits to the extent that such benefits are more likely than not to be realized.

Stock Repurchases –

Our Board of Directors has approved the repurchase of a cumulative total of 31,610,605 shares, of which approximately 717,300 shares remain available for repurchase at March 31, 2010. We did not repurchase any shares during the years ended March 31, 2010 and 2009. We repurchased and retired 4,778,500 shares of Common Stock at a cost of $176.9 million during the year ended March 31, 2008.

Revenue Recognition –

Revenue from the sale of cement, gypsum wallboard, paperboard, concrete and aggregates is recognized when title and ownership are transferred upon shipment to the customer. Fees for shipping and handling are recorded as revenue, while costs incurred for shipping and handling are recorded as expenses.

We classify amounts billed to customers for freight as revenues and freight costs as cost of goods sold, respectively, in the Consolidated Statements of Earnings. Approximately $59.1 million, $82.6 million and $101.7 million were classified as cost of goods sold in the years ended March 31, 2010, 2009 and 2008, respectively.

Other income includes lease and rental income, asset sale income, non-inventoried aggregates sales income, distribution center income and trucking income as well as other miscellaneous revenue items and costs which have not been allocated to a business segment.

Comprehensive Income/Losses –

A summary of comprehensive income for the fiscal years ended March 31, 2010, 2009 and 2008 is presented below:

	For the Years Ended March 31,		
	2010	2009	2008
		(dollars in thousands)	
Net Earnings	$28,950	$41,764	$97,768
Other Comprehensive Income , net of tax:			
Pension Plan Actuarial Gain (Loss), net of tax	2,522	(4,672)	(518)
Comprehensive Income	$31,472	$37,092	$97,250

As of March 31, 2010, we have an accumulated other comprehensive loss of $3.5 million, which is net of income taxes of $1.8 million, in connection with recognizing the difference between the fair value of the pension assets and the projected benefit obligation.

Consolidated Cash Flows – Supplemental Disclosures –

Interest payments made during the years ended March 31, 2010, 2009 and 2008 were $21.4 million, $26.9 million and $15.6 million, respectively.

We made net payments of $6.8 million, $12.8 million and $73.5 million for federal and state income taxes in the years ended March 31, 2010, 2009 and 2008, respectively.

Statements of Consolidated Earnings – Supplemental Disclosures –

Selling, general and administrative expenses of the operating units are included in Cost of Goods Sold on the Consolidated Statements of Earnings. Corporate general and administrative ("G&A") expenses include administration, financial, legal, employee benefits and other corporate activities and are shown separately in the consolidated statements of earnings. Corporate G&A also includes stock compensation expense. See Note (I) for more information. See Note (D) for more information regarding the net gain on purchase of long-term debt.

Total selling, general and administrative expenses for each of the periods are summarized as follows:

	For the Years Ended March 31,		
	2010	2009	2008
	(dollars in thousands)		
Operating Units Selling, G&A	$29,064	$30,493	$37,143
Corporate G&A	15,866	21,304	18,756
Net Gain on Purchase of Long-term Debt	—	(4,403)	—
	$44,930	$47,394	$55,899

Maintenance and repair expenses are included in each segment's costs and expenses. The Company incurred $38.9 million, $49.5 million and $58.2 million in the years ended March 31, 2010, 2009 and 2008, respectively.

Earnings Per Share –

	For the Years Ended March 31,		
	2010	2009	2008
Weighted-Average Shares of Common Stock Outstanding	43,684,942	43,486,728	45,557,094
Common Equivalent Shares:			
Assumed Exercise of Outstanding Dilutive Options	1,026,667	846,935	1,341,693
Less Shares Repurchased from Proceeds of Assumed Exercised Options[(1)]	(745,235)	(559,663)	(820,276)
Restricted Stock Units	72,027	105,416	66,708
Weighted-Average Common and Common Equivalent Shares Outstanding	44,038,401	43,879,416	46,145,219

(1) Includes unearned compensation related to outstanding stock options.

There were 2,738,219, 2,865,700 and 1,631,037 stock options at an average exercise price of $39.15, $38.70 and $47.11 that were excluded from the computation of diluted earnings per share for the years ended March 31, 2010, 2009 and 2008, respectively, because such inclusion would have been anti-dilutive.

Fair Value Measures

Certain assets and liabilities are required to be recorded at fair value. The estimated fair values of those assets and liabilities have been determined using market information and valuation methodologies. Changes in assumptions or estimation methods could affect the fair value estimates; however, we do not believe any such changes would have a material impact on our financial condition, results of operations or cash flows. There are three levels of inputs that may be used to measure fair value:

Level 1 – Quoted prices for identical assets and liabilities in active markets.

Level 2 – Quoted prices for similar assets and liabilities in active markets; quoted prices for identical or similar assets and liabilities in markets that are not active; or other inputs that are observable or can be corroborated by observable market data; and

Level 3 – Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets and liabilities. This includes certain pricing models, discounted cash flow methodologies and similar techniques that use significant unobservable inputs.

New Accounting Standards –

Effective with the quarter ended December 31, 2009, we adopted the Financial Accounting Standards Board (FASB) Accounting Standards Codification Topic 105, “Generally Accepted Accounting Principles” (ASC 105). ASC 105 establishes the FASB Accounting Standards Codification (“Codification”) as the source of authoritative accounting principles recognized by the FASB to be applied by non-governmental entities in the preparation of financial statements in conformity with generally accepted accounting principles (GAAP) in the United States. The FASB will make all future changes to guidance in the Codification by issuing Accounting Standards Updates. The Codification also provides that rules and interpretive releases of the U. S. Securities and Exchange Commission (SEC) issued under the authority of federal securities laws will continue to be sources of authoritative GAAP for SEC registrants. The Codification does not create any new GAAP standards but incorporates existing accounting and reporting standards into a new topical structure so that users can more easily access authoritative accounting guidance. Therefore, we have updated all references to authoritative standards to be consistent with those set forth in the Codification. The adoption of ASC 105 had no impact on our consolidated financial position, results of operations or cash flows.

(B) Property, Plant and Equipment

Cost by major category and accumulated depreciation are summarized as follows:

	March 31,	
	2010	2009
	(dollars in thousands)	
Land and Quarries	$ 68,472	$ 62,782
Plants	949,873	946,327
Buildings, Machinery and Equipment	78,911	77,193
Construction in Progress	3,334	2,295
	1,100,590	1,088,597
Accumulated Depreciation	(468,121)	(419,669)
	$ 632,469	$ 668,928

Included in Property, Plant and Equipment are $35.8 and $38.6 million of mining and related assets (net of accumulated depreciation) at March 31, 2010 and 2009, respectively.

(C) Accrued Expenses

Accrued expenses at March 31, 2010 and 2009 consist of the following:

	March 31, 2010	March 31, 2009
	(dollars in thousands)	
Payroll and Incentive Compensation	$ 8,507	$10,813
Benefits	8,436	9,152
Interest	7,310	7,310
Insurance	6,384	5,665
Property Taxes	3,976	3,915
Other	9,431	7,749
	$44,044	$44,604

(D) Indebtedness

Long-term debt consists of the following:

	As of March 31, 2010	As of March 31, 2009
	(dollars in thousands)	
Bank Credit Facility	$ 3,000	$ 55,000
Senior Notes	300,000	300,000
	$303,000	$355,000

The weighted-average interest rate of Senior Notes during fiscal 2010 and 2009 was 5.7% and 5.9%, respectively. The weighted average interest rate of Senior Notes was 5.7% at March 31, 2010 and 2009, and subsequent to our repurchase of Senior Notes on April 5, 2010 our weighted average interest rate is 5.8%.

The weighted-average interest rate of bank debt borrowings during fiscal 2010, 2009 and 2008 was 1.6%, 2.4% and 6.9%, respectively. The interest rate on the bank debt was 1.5% and 1.7% at March 31, 2010 and 2009, respectively.

On April 5, 2010, we accepted for repurchase $15.0 million in aggregate principal amount of our Series 2005A Senior Notes at par value, plus accrued interest of $0.3 million. The purchase of the Senior Notes was funded through borrowings under our Bank Credit Facility.

Subsequent to the repurchase of Senior Notes on April 5, 2010, our maturities of long-term debt during the next five fiscal years are as follows:

Fiscal Year	Amount
2011	$ —
2012	18,000
2013	38,600
2014	—
2015	9,500
Thereafter	236,900
Total	$303,000

The impact of the repurchase was to increase amounts due in 2012 by $15 million, and reduce amounts due after 2015 by the same amount.

Senior Notes –

We entered into a Note Purchase Agreement on November 15, 2005 (the "2005 Note Purchase Agreement") related to our sale of $200 million of senior, unsecured notes, designated as Series 2005A Senior Notes (the "Series 2005A Senior Notes") in a private placement transaction. The Series 2005A Senior Notes, which are guaranteed by substantially all of our subsidiaries, were sold at par and issued in three tranches on November 15, 2005. On February 5, 2009, we repurchased $7.0 million in principal of the Series 2005A Senior Notes for $6.7 million, and on April 5, 2010 we repurchased an additional $15.0 million in principal at par value from Tranche C of these same notes. Following these repurchases, the amounts outstanding for each of the three tranches are as follows:

	Principal	Maturity Date	Interest Rate
Tranche A	$38.6 million	November 15, 2012	5.25%
Tranche B	$77.2 million	November 15, 2015	5.38%
Tranche C	$62.2 million	November 15, 2017	5.48%

Interest for each tranche of Notes is payable semi-annually on the 15th day of May and the 15th day of November of each year until all principal is paid for the respective tranche.

We entered into an additional Note Purchase Agreement on October 2, 2007 (the "2007 Note Purchase Agreement") related to our sale of $200 million of senior, unsecured notes, designated as Series 2007A Senior Notes (the "Series 2007A Senior Notes") in a private placement transaction. The Series 2007A Senior Notes, which are guaranteed by substantially all of our subsidiaries, were sold at par and issued in four tranches on October 2, 2007. On February 5, 2009, we repurchased $93.0 million in principal of the Series 2007A Senior Notes for $88.3 million. Following the repurchase, the amounts outstanding for each of the four tranches are as follows:

	Principal	Maturity Date	Interest Rate
Tranche A	$ 9.5 million	October 2, 2014	6.08%
Tranche B	$11.0 million	October 2, 2016	6.27%
Tranche C	$50.0 million	October 2, 2017	6.36%
Tranche D	$36.5 million	October 2, 2019	6.48%

Interest for each tranche of Notes is payable semi-annually on the second day of April and the second day of October of each year until all principal is paid for the respective tranche.

Our obligations under the 2005 Note Purchase Agreement and the 2007 Note Purchase Agreement (collectively referred to as the "Note Purchase Agreements") and the Series 2005A Senior Notes and the Series 2007A Senior Notes (collectively referred to as "the Senior Notes") are equal in right of payment with all other senior, unsecured debt of the Company, including our debt under the Bank Credit Facility. The Note Purchase Agreements contain customary restrictive covenants, including covenants that place limits on our ability to encumber our assets, to incur additional debt, to sell assets, or to merge or consolidate with third parties, as well as certain cross covenants with the Bank Credit Facility. We were in compliance with all financial ratios and tests at March 31, 2010 and throughout the fiscal year.

Pursuant to a Subsidiary Guaranty Agreement, substantially all of our subsidiaries have guaranteed the punctual payment of all principal, interest, and Make-Whole Amounts (as defined in the Note Purchase Agreements) on the Senior Notes and the other payment and performance obligations of the Company contained in the Senior Notes and in the Note Purchase Agreements. We are permitted, at our option and without penalty, to prepay from time to time at least 10% of the original aggregate principal amount of the

Senior Notes at 100% of the principal amount to be prepaid, together with interest accrued on such amount to be prepaid to the date of payment, plus a Make-Whole Amount. The Make-Whole Amount is computed by discounting the remaining scheduled payments of interest and principal of the Senior Notes being prepaid at a discount rate equal to the sum of 50 basis points and the yield to maturity of U.S. treasury securities having a maturity equal to the remaining average life of the Senior Notes being prepaid.

Bank Debt –

We entered into a $350.0 million credit facility on December 16, 2004. On June 30, 2006, we amended the Bank Credit Facility (the "Bank Credit Facility") to extend the expiration date from December 2009 to June 2011, and to reduce the borrowing rates and commitment fees. Borrowings under the Bank Credit Facility are guaranteed by all major operating subsidiaries of the Company. Outstanding principal amounts on the Bank Credit Facility bear interest at a variable rate equal to LIBOR, plus an agreed margin (ranging from 55 to 150 basis points), which is to be established quarterly based upon the Company's ratio of consolidated EBITDA, which is defined as earnings before interest, taxes, depreciation and amortization, to its consolidated indebtedness. Interest payments are payable monthly or at the end of the LIBOR advance periods, which can be up to a period of six months at the option of the Company. Our Bank Credit Facility contains customary covenants that restrict our ability to incur additional debt, encumber our assets, sell assets, make or enter into certain investments, loans or guaranties and enter into sale and leaseback arrangements. The Bank Credit Facility also requires us to maintain a consolidated funded indebtedness ratio (consolidated indebtedness to earnings before interest, taxes, depreciation and amortization) of 3.5 or less and an interest coverage ratio (consolidated earnings before interest and taxes to interest expense) of at least 2.5. The Bank Credit Facility also limits our ability to make certain restricted payments, such as paying cash dividends; however, there are several exceptions to this restriction, including: (i) the Company may pay cash dividends in an aggregate amount of up to $50.0 million each fiscal year if no default exists or would result therefrom; and (ii) the Company may make restricted payments not otherwise permitted so long as no default would result therefrom and our consolidated funded indebtedness ratio does not exceed 3.0. Subsequent to our purchase of $15.0 million of our Senior Notes, we have $324.3 million of borrowings available under the Bank Credit Facility.

The Bank Credit Facility has a $25 million letter of credit facility. Under the letter of credit facility, the Company pays a fee at a per annum rate equal to the applicable margin for Eurodollar loans in effect from time to time plus a one-time letter of credit fee in an amount equal to 0.125% of the initial stated amount. At March 31, 2010, we had $7.7 million of letters of credit outstanding.

(E) Business Segments

Operating segments are defined as components of an enterprise that engage in business activities that earn revenues, incur expenses and prepare separate financial information that is evaluated regularly by our chief operating decision maker in order to allocate resources and assess performance.

We operate in four business segments: Gypsum Wallboard, Cement, Recycled Paperboard, and Concrete and Aggregates, with Gypsum Wallboard and Cement being our principal lines of business. These operations are conducted in the U.S. and include the mining of gypsum and the manufacture and sale of gypsum wallboard, the mining of limestone and the manufacture, production, distribution and sale of Portland cement (a basic construction material which is the essential binding ingredient in concrete), the manufacture and sale of recycled paperboard to the gypsum wallboard industry and other paperboard converters, the sale of readymix concrete and the mining and sale of aggregates (crushed stone, sand and gravel). These products are used primarily in commercial and residential construction, public construction projects and projects to build, expand and repair roads and highways.

As further discussed below, we operate five gypsum wallboard plants, including the plant temporarily idled in Bernalillo, N.M., a gypsum wallboard distribution center, four cement plants, eleven cement distribution terminals, a recycled paperboard mill, nine readymix concrete batch plant locations and two aggregates processing plant locations. The principal markets for our cement products are Texas, northern Illinois (including Chicago), the Rocky Mountains, northern Nevada, and northern California. Gypsum wallboard and recycled paperboard are distributed throughout the continental U.S. Concrete and aggregates are sold to local readymix producers and paving contractors in the Austin, Texas area and northern California.

We conduct one of our four cement plant operations, Texas Lehigh Cement Company LP in Buda, Texas, through a Joint Venture. For segment reporting purposes only, we proportionately consolidate our 50% share of the Joint Venture's revenues and operating earnings, which is consistent with the way management reports the segments within the Company for making operating decisions and assessing performance.

The Company accounts for intersegment sales at market prices. The following table sets forth certain financial information relating to the Company's operations by segment:

	For the Years Ended March 31,		
	2010	2009	2008
	(dollars in thousands)		
Revenues -			
Gypsum Wallboard	$210,671	$279,306	$342,550
Cement	228,475	289,436	345,223
Paperboard	90,164	116,337	133,395
Concrete and Aggregates	45,622	66,247	87,640
	574,932	751,326	908,808
Less: Intersegment Revenues	(41,589)	(57,098)	(63,645)
Less: Joint Venture Revenues	(65,438)	(95,648)	(97,140)
	$467,905	$598,580	$748,023

	For the Years Ended March 31,		
	2010	2009	2008
	(dollars in thousands)		
Intersegment Revenues -			
Cement	$ 4,449	$ 6,634	$ 9,054
Paperboard	36,369	49,555	53,545
Concrete and Aggregates	771	909	1,046
	$41,589	$57,098	$63,645
Cement Sales Volumes (M tons) -			
Wholly-Owned	1,754	1,859	2,377
Joint Ventures	713	967	1,048
	2,467	2,826	3,425

	For the Years Ended March 31,		
	2010	2009	2008
	(dollars in thousands)		
Operating Earnings -			
Gypsum Wallboard	$ 1,383	$ 1,190	$ 45,954
Cement	55,459	82,036	106,633
Paperboard	14,805	16,581	17,022
Concrete and Aggregates	1,835	4,595	13,075
Other, net	3,161	3,602	1,530
Sub-Total	76,643	108,004	184,214
Corporate General and Administrative	(15,886)	(16,901)	(18,756)
Earnings Before Interest and Income Taxes	60,757	91,103	165,458
Interest Expense, net	(21,460)	(28,920)	(21,074)
Earnings Before Income Taxes	$ 39,297	$ 62,183	$ 144,384
Cement Operating Earnings -			
Wholly-Owned	$ 31,302	$ 49,610	$ 72,651
Joint Ventures	24,157	32,426	33,982
	$ 55,459	$ 82,036	$ 106,633
Identifiable Assets [1] -			
Gypsum Wallboard	$ 466,426	$ 489,518	$ 516,706
Cement	308,606	317,555	320,869
Paperboard	149,602	154,541	174,071
Concrete and Aggregates	51,787	56,334	62,410
Corporate and Other	37,355	48,720	43,665
	$1,013,776	$1,066,668	$1,117,721
Capital Expenditures [1] -			
Gypsum Wallboard	$ 184	$ 3,717	$ 71,186
Cement	12,744	10,785	18,986
Paperboard	236	566	2,728
Concrete and Aggregates	520	994	3,820
Other, net	95	16	137
	$ 13,779	$ 16,078	$ 96,857
Depreciation, Depletion and Amortization[1]			
Gypsum Wallboard	$ 22,328	$ 23,016	$ 18,436
Cement	14,683	14,186	13,061
Paperboard	9,090	9,094	8,524
Concrete and Aggregates	3,975	4,033	4,021
Other, net	705	903	808
	$ 50,781	$ 51,232	$ 44,850

[1] Basis conforms with equity method accounting.

Segment operating earnings, including the proportionately consolidated 50% interest in the revenues and expenses of the Joint Venture, represent revenues less direct operating expenses, segment depreciation, and segment selling, general and administrative expenses. We account for intersegment sales at market prices. Corporate assets consist primarily of cash and cash equivalents, general office assets and miscellaneous other assets.

The segment breakdown of goodwill at March 31, 2010 and 2009 is as follows:

	For the Years Ended March 31,	
	2010	2009
	(dollars in thousands)	
Cement	$ 8,359	$ 8,359
Gypsum Wallboard	116,618	116,618
Paperboard	7,538	7,538
	$132,515	$132,515

(F) Income Taxes

The provision for income taxes includes the following components:

	For the Years Ended March 31,		
	2010	2009	2008
	(dollars in thousands)		
Current Provision -			
Federal	$ 8,872	$13,262	$39,468
State	274	1,388	5,734
	9,146	14,650	45,202
Deferred Provision -			
Federal	2,493	5,373	(4,081)
State	(1,292)	396	5,495
	1,201	5,769	1,414
Provision for Income Taxes	$10,347	$20,419	$46,616

The effective tax rates vary from the federal statutory rates due to the following items:

	For the Years Ended March 31,		
	2010	2009	2008
	(dollars in thousands)		
Earnings Before Income Taxes	$39,297	$62,183	$144,384
Income Taxes at Statutory Rate	$13,754	$21,764	$ 50,534
Increases (Decreases) in Tax Resulting from -			
State Income Taxes, net	(662)	1,160	7,299
Statutory Depletion in Excess of Cost	(3,180)	(2,636)	(9,420)
Domestic Production Activities Deduction	(495)	(720)	(2,558)
Other	930	851	761
Provision for Income Taxes	$10,347	$20,419	$ 46,616
Effective Tax Rate	26%	33%	32%

The deferred income tax provision results from the following temporary differences in the recognition of revenues and expenses for tax and financial reporting purposes:

	For the Years Ended March 31,		
	2010	2009	2008
	(dollars in thousands)		
Excess Tax Depreciation and Amortization	$ 187	$ 6,981	$ 6,088
Bad Debts	27	825	(288)
Uniform Capitalization	139	90	(464)
Accrual Changes	1,493	(1,522)	(1,849)
Other	(645)	(605)	(2,073)
	$1,201	$ 5,769	$ 1,414

Components of deferred income taxes are as follows:

	March 31,	
	2010	2009
	(dollars in thousands)	
Items Giving Rise to Deferred Tax Liabilities -		
Excess Tax Depreciation and Amortization	$148,618	$148,431
Items Giving Rise to Deferred Tax Assets -		
Accrual Changes	(19,429)	(20,922)
Bad Debts	(1,382)	(1,409)
Uniform Capitalization	(667)	(806)
Other	(1,408)	(4,365)
Total Deferred Tax Assets	$ (22,886)	$ (27,502)

Deferred income taxes are classified in the consolidated balance sheet as follows:

	March 31,	
	2010	2009
	(dollars in thousands)	
Prepaid and Other Assets	$ —	$ 1,559
Accrued Liabilities	$ 148	$ —
Deferred Income Taxes	$125,584	$122,488

Uncertain tax positions –

We are subject to audit examinations at federal, state and local levels by tax authorities in those jurisdictions who may challenge the treatment or reporting of any return item. The tax matters challenged by the tax authorities are typically complex; therefore, the ultimate outcome of these challenges is subject to uncertainty.

Through March 31, 2007, in accordance with prior standards, we assessed the ultimate resolution of uncertain tax matters as they arose and established reserves for tax contingencies when we believed an unfavorable outcome was probable and the liability could be reasonably estimated.

Effective April 1, 2007, we adopted the provisions of FASB Topic 740-10-5, which differs from the prior standards in that it requires companies to determine that it is "more likely than not" that a tax position will be sustained by the appropriate taxing authorities before any benefit can be recorded in the financial statements.

As a result of adopting 740-10-5, we increased the tax reserves by $84.8 million, from $3.6 million to $88.4 million as of April 1, 2007, with the corresponding offset representing an increase in goodwill. As a result of the $84.8 million increase in the liability for uncertain tax positions, we recorded a $37.1 million increase in the amount of accrued interest expense as of April 1, 2007, of which $18.2 million was recorded in Accrued Liabilities and the remaining amount of $18.9 million was recorded in Other Long-term Liabilities. Our policy is to recognize accrued interest related to uncertain tax positions as a component of interest expense, and to recognize penalties as a component of income tax expense.

The increase in accrued interest expense resulted in a decrease to the April 1, 2007, balance of retained earnings.

Our uncertain tax position was $83.9 million at March 31, 2010 and 2009. There were no additions to or reductions from our uncertain tax positions during these years.

The following is a summary of the amounts of interest and penalties recognized in relation to our uncertain tax position:

	For the Years Ended March 31,		
	2010	2009	2008
	(dollars in thousands)		
Accrued interest recognized	$2,741	$4,934	$7,626
Accrued penalties recognized	$ 491	$ 821	$ —

None of the $83.9 million liability for uncertain tax positions as of March 31, 2010, if recognized, would impact the effective tax rate. If these tax positions were recognized, other long-term liabilities would be reduced by $38.2 million, and we would receive a refund of $45.7 million related to taxes paid during fiscal 2008 and 2010 (see Note (G) for more information). Additionally, we would reduce other long-term liabilities by $24.3 million for accrued interest and penalties on the uncertain tax positions. Since tax penalties are recognized as a component of income tax expense, future penalty accruals and resolution of uncertain tax positions will impact our effective tax rate. As of March 31, 2010, we may be assessed additional federal and state income taxes, interest and penalties for tax years 2001 through 2009.

We currently are unable to estimate the range of possible increase or decrease in uncertain tax positions that may occur within the next twelve months from the eventual outcome of the years currently under audit or appeal, and therefore cannot anticipate whether such outcome will result in a material change to our financial position or results of operations.

(G) Commitments and Contingencies

We have various litigation, commitments and contingencies in the ordinary course of business. Management believes that none of the litigation in which it or any subsidiary is currently involved is likely to have a material adverse effect on our consolidated financial condition or results of operations.

Our operations and properties are subject to extensive and changing federal, state and local laws, regulations and ordinances governing the protection of the environment, as well as laws relating to worker health and workplace safety. We carefully consider the requirements mandated by such laws and regulations and have procedures in place at all of our operating units to monitor compliance. Any matters which are identified as potential exposures under these laws and regulations are carefully reviewed by management to determine our potential liability. Although management is not aware of any exposures, other than the item listed below, which would require an accrual under generally accepted accounting principles, there can be no assurance that prior or future operations will not ultimately result in violations, claims or other liabilities associated with these regulations.

The Internal Revenue Service (the "IRS") completed the examination of our federal income tax returns for all of the fiscal years ended March 31, 2001 through 2006. The IRS issued Exam Reports and Notices of Proposed Adjustment on November 9, 2007 for the examination of the 2001, 2002 and 2003 tax years, and on February 5, 2010 for the examination of the 2004, 2005 and 2006 tax years, in which it proposes to deny certain depreciation deductions claimed by us with respect to assets acquired by us from Republic Group LLC in November 2000 (the "Republic Assets").

If sustained, the adjustment proposed by the IRS would result in additional federal income taxes owed by us of approximately $59.3 million, plus penalties of $14.3 million and applicable interest for the audits of the fiscal years ended March 31, 2001 through 2006. Moreover, for taxable years subsequent to fiscal 2006, we also claimed depreciation deductions with respect to the Republic Assets, as originally recorded. If challenged on the same basis as set forth in the Notices of Proposed Adjustment, additional federal income taxes of approximately $8.0 million, plus applicable interest and possible civil penalties for the years through March 31, 2009, could be asserted by the IRS for those periods. Also, additional state income taxes, interest, and civil penalties of approximately $16.4 million would be owed by us for the fiscal years under exam and subsequent taxable years through March 31, 2009 if the IRS' position is sustained. See Note (F) for more information on the potential impact of open tax years.

On December 7, 2007, we filed an administrative appeal of the IRS's proposed adjustments for the years 2001, 2002 and 2003. We completed our IRS Appeals effort in late August 2009 and we were unable to resolve the case. We then went to IRS Post Appeals Mediation on March 3, 2010 and were again unsuccessful in resolving the case. We expect to receive a statutory notice of deficiency (a 90 day letter) from the IRS for all of the fiscal years ended March 31, 2001 through 2006 in the near future. We intend to vigorously contest the adjustments in court.

We paid the IRS a deposit of approximately $45.8 million during November 2007 for the years ended March 31, 2001, 2002 and 2003, which is comprised of $27.6 million in federal income taxes, $5.7 million for penalties and $12.5 million for interest. During March 2010, we paid the IRS an additional deposit $29.3 million for the years ended March 31, 2004, 2005 and 2006, which is comprised of $18.1 million in federal income taxes, $3.7 million for penalties and $7.5 million for interest. These deposits were made to avoid additional imposition of the large corporate tax underpayment interest rates. In the event we reach a settlement with the IRS through the appeals process or in the courts, we will reverse any accrued interest and penalties in excess of the negotiated settlement through the Consolidated Statement of Earnings. In the event we are unable to reach a settlement, we believe we have a substantial basis for our tax position, and intend to vigorously contest the proposed adjustment in court. At this time, we are unable to predict with certainty the ultimate outcome or how much of the amounts paid for tax, interest, and penalties to the IRS and state taxing authorities will be recovered, if any.

We have certain deductible limits under our workers' compensation and liability insurance policies for which reserves are established based on the undiscounted estimated costs of known and anticipated claims. We have entered into standby letter of credit agreements to secure funding obligation on retentions relating to workers' compensation and auto and general liability self-insurance. At March 31, 2010, we had contingent liabilities under these outstanding letters of credit of approximately $7.7 million.

The following table compares insurance accruals and payments for our operations:

	For the Years Ended March 31,	
	2010	2009
	(dollars in thousands)	
Accrual Balances at Beginning of Period	$ 5,665	$ 5,673
Insurance Expense Accrued	3,834	3,852
Payments	(3,115)	(3,860)
Accrual Balance at End of Period	$ 6,384	$ 5,665

We are currently contingently liable for performance under $8.8 million in performance bonds required by certain states and municipalities, and their related agencies. The bonds are principally for certain reclamation obligations and mining permits. We have indemnified the underwriting insurance company against any exposure under the performance bonds. In our past experience, no material claims have been made against these financial instruments.

In the ordinary course of business, we execute contracts involving indemnifications that are standard in the industry and indemnifications specific to a transaction such as the sale of a business. These indemnifications might include claims relating to any of the following: environmental and tax matters; intellectual property rights; governmental regulations and employment-related matters; customer, supplier, construction contractor and other commercial contractual relationships; and financial matters. While the maximum amount to which we may be exposed under such agreements cannot be estimated, it is the opinion of management that these indemnifications are not expected to have a material adverse effect on the Company's consolidated financial position or results of operations. We currently have no outstanding guarantees of third party debt.

Our paperboard operation, Republic Paperboard Company LLC ("Republic"), is a party to a long-term paper supply agreement with St. Gobain pursuant to which Republic is obligated to sell to St. Gobain at least 90% of the gypsum-grade recycled paperboard requirements for three of St. Gobain's wallboard plants. This comprises approximately 15% to 20% of Republic's current annual output of gypsum-grade recycled paperboard.

We have certain forward purchase contracts, primarily for natural gas, that expire during calendar 2010. The contracts are for approximately 25% of our expected natural gas usage.

We have certain operating leases covering manufacturing, transportation and certain other facilities and equipment. Rental expense for fiscal years 2010, 2009 and 2008 totaled $2.1 million, $1.9 million and $2.2 million, respectively. Minimum annual rental commitments as of March 31, 2010, under noncancellable leases are set forth as follows (dollars in thousands):

Fiscal Year	Amount
2011	$1,314
2012	$ 445
2013	$ 118
2014	$ 84
2015	$ 76
Thereafter	$9,822

(H) Hedging Activities

We do not use derivative financial instruments for trading purposes, but have utilized them in the past to convert a portion of our variable-rate debt to fixed-rate debt and to manage our fixed to variable-rate debt ratio. All derivatives, whether designated in hedging relationships or not, are required to be recorded on the balance sheet at fair value. If the derivative is designated as a cash flow hedge, the effective portions of changes in the fair value of the derivative are recorded in other comprehensive income (loss) and are recognized in the statement of earnings when the hedged item affects earnings. Ineffective portions of changes in the fair value of cash flow hedges are immediately recognized in earnings.

(I) Stock Option Plans

On January 8, 2004, the Company's stockholders approved a new incentive plan (the "Plan") that combined and amended the two previously existing stock option plans. In August 2009, our shareholders approved an amendment to the Plan which, among other things, increased the number of shares available for award under the Plan by 3 million shares.

Long-Term Compensation Plans –

Options. During August 2008 and 2009, we granted options to members of the Board of Directors (the "Board of Directors Grants"). Options granted under the Board of Directors Grants vested immediately, and can be exercised from the date of grant until their expiration at the end of seven years.

In late August 2008, the Compensation Committee of the Board of Directors approved an incentive equity award to certain individuals that was earned by satisfying certain performance conditions (the "Fiscal 2009 Stock Option Grant"). The Fiscal 2009 Stock Option Grant was structured to provide short-term incentives to address the changed circumstances in the economy and our business since the issuance of the previous stock option grant in June 2007. The performance and vesting criteria for the Fiscal 2009 Stock Option Grant were based on the achievement of specified levels of earnings before interest, taxes, depreciation and amortization, as well as achievement of certain safety metrics for the nine month period ending March 31, 2009. Under the terms of the option grant, all of the stock options were earned at March 31, 2009. The options have a term of seven years, and became vested when earned. These stock options were valued at the grant date using the Black-Scholes option pricing model. We expensed the fair value of the Fiscal 2009 Stock Option Grant over the nine month period ended March 31, 2009, as adjusted for actual forfeitures.

All stock options issued during fiscal 2010 and 2009 were valued at the grant date using the Black-Scholes option pricing model. The weighted-average assumptions used in the Black-Scholes model to value the option awards in fiscal 2010 and 2009 are as follows:

	2010	2009
Dividend Yield	2.0%	2.0%
Expected Volatility	42.5%	36.0%
Risk Free Interest Rate	2.7%	3.4%
Expected Life	5.0 years	6.0 years

For the years ended March 31, 2010, 2009 and 2008, we expensed approximately $2.4 million, $7.1 million and $5.4 million, respectively. At March 31, 2010, there was approximately $3.4 million of unrecognized compensation cost related to outstanding stock options which is expected to be recognized over a weighted-average period of 4.2 years.

The following table represents stock option activity for the years presented:

	For the Years Ended March 31,					
	2010		2009		2008	
	Number of Shares	Weighted Average Exercise Price	Number of Shares	Weighted Average Exercise Price	Number of Shares	Weighted Average Exercise Price
Outstanding Options at Beginning of Year	3,568,431	$ 33.32	2,787,047	$ 34.26	1,636,852	$ 19.07
Granted	138,651	$ 27.72	912,910	$ 27.84	1,457,148	$ 47.12
Exercised	(136,230)	$ 27.09	(121,228)	$ 11.01	(281,033)	$ 12.44
Cancelled	(124,400)	$ 32.83	(10,298)	$ 62.83	(25,920)	$ 34.11
Outstanding Options at End of Year	3,446,452	$ 33.97	3,568,431	$ 33.32	2,787,047	$ 34.26
Options Exercisable at End of Year	1,976,852		1,995,631		1,325,176	
Weighted Average Fair Value of Options Granted during the Year		$ 9.38		$ 9.07		$ 14.38

The following table summarizes information about stock options outstanding at March 31, 2010:

	Options Outstanding			Options Exercisable	
Range of Exercise Prices	Number of Shares Outstanding	Weighted Average Remaining Contractual Life	Weighted Average Exercise Price	Number of Shares Outstanding	Weighted Average Exercise Price
$6.80 - $8.15	144,142	0.85	$ 7.74	144,142	$ 7.74
$9.57 - $13.43	380,152	2.69	$ 12.10	380,152	$ 12.10
$21.52 - $29.08	1,189,849	4.63	$ 26.31	1,159,849	$ 26.27
$34.09 - $40.78	316,270	3.69	$ 37.83	236,670	$ 38.25
$47.53 - $62.83	1,416,039	4.32	$ 48.09	56,039	$ 61.43
	3,446,452	4.04	$ 33.97	1,976,852	$ 24.62

As of March 31, 2010 there was no aggregate intrinsic value of stock options outstanding for non-exercisable options. Aggregate intrinsic value for exercisable stock options on March 31, 2010 totaled $3.8 million.

During the year ended March 31, 2010, the total intrinsic value of options exercised was approximately $2.0 million.

Restricted Stock Units. As part of the Fiscal 2009 Stock Option Grant, the same employees receiving options also received 100,750 restricted stock units (“RSUs”). The vesting criteria for the RSUs are the same as the criteria for the Fiscal 2009 Stock Option Grant and, accordingly, all of the RSUs were earned and vested on August 21, 2009. The RSUs earned were expensed over a one year period. The value of RSUs granted in previous years is being amortized over a three year period for grants to employees and a period not to exceed ten years for grants to directors. Expense related to RSUs was approximately $0.4 million, $1.9 million and $0.5 million in fiscal years ended March 31, 2010, 2009 and 2008, respectively. At March 31, 2010 there was approximately $0.3 million of unrecognized compensation cost from restricted stock units that will be recognized over a weighted-average period of 4.9 years.

Restricted Stock. We granted 15,000 shares of restricted stock to an employee on June 10, 2008. The restricted stock was valued at approximately $0.5 million, based on the closing price of the stock on the date of the grant. During June 2009, the restrictions on 2,143 shares lapsed, and the remaining shares were forfeited. We granted an additional 30,000 shares of restricted stock on August 21, 2009. The restricted stock was valued at approximately $0.8 million, based on the closing price of the stock on the date of the grant. The restrictions lapse in annual increments over a five-year period, with the expense recognized ratably over the same five-year period.

Shares available for future stock option, restricted stock and restricted stock unit grants were 3,264,690 at March 31, 2010.

(J) Net Interest Expense

The following components are included in interest expense, net:

	For the Years Ended March 31,		
	2010	2009	2008
	(dollars in thousands)		
Interest Income	$ (41)	$ (447)	$ (1,075)
Interest Expense	18,414	23,937	18,851
Interest Expense – IRS	2,741	4,934	7,626
Interest Capitalized	—	—	(4,788)
Other Expenses	346	496	460
Interest Expense, net	$21,460	$28,920	$21,074

Interest income includes interest on investments of excess cash. Components of interest expense primarily include interest associated with the Bank Credit Facility the Senior Notes, and commitment fees based on the unused portion of the Bank Credit Facility. Interest expense – IRS is comprised of interest charges related to our unrecognized tax benefits for both federal and state purposes. Other expenses include amortization of debt issue costs and costs associated with the Bank Credit Facility and the Senior Notes. Capitalized interest relates to our construction of a gypsum wallboard facility in Georgetown, South Carolina during fiscal years 2007 and 2008 and was calculated by applying our average borrowing rate to the average balance of our construction in progress account. We ceased capitalizing interest upon the start-up of the plant.

(K) Fair Value of Financial Instruments

The fair value of our long-term debt has been estimated based upon our current incremental borrowing rates for similar types of borrowing arrangements. The fair value of our Senior Notes, subsequent to the repurchase of Senior Notes on April 5, 2010, as discussed in Footnote (D), is as follows:

	Fair Value (dollars in thousands)
Series 2005A Tranche A	$ 41,214
Series 2005A Tranche B	80,295
Series 2005A Tranche C	62,650
Series 2007A Tranche A	10,373
Series 2007A Tranche B	11,940
Series 2007A Tranche C	54,042
Series 2007A Tranche D	39,020

All assets and liabilities which are not considered financial instruments have been valued using historical cost accounting. The carrying values of cash and cash equivalents, accounts and notes receivable, accounts payable, accrued liabilities and our Bank Credit Facility approximate their fair values due to the short-term maturities of these assets and liabilities.

(L) Pension and Profit Sharing Plans

We have several defined benefit and defined contribution retirement plans which together cover substantially all of our employees. We are not a party to any multi-employer pension plan. Benefits paid under the defined benefit plans covering certain hourly employees are based on years of service and the employee's qualifying compensation over the last few years of employment. Our funding policy is to generally contribute amounts that are deductible for income tax purposes. The annual measurement date is March 31 for the benefit obligations, fair value of plan assets and the funded status of the defined benefit plans.

The following table provides a reconciliation of the obligations and fair values of plan assets for all of our defined benefit plans over the two year period ended March 31, 2010 and a statement of the funded status as of March 31, 2010 and 2009:

	For the Years Ended March 31,	
	2010	2009
	(dollars in thousands)	
Reconciliation of Benefit Obligations -		
Benefit Obligation at April 1,	$18,091	$16,187
Service Cost - Benefits Earned During the Period	538	558
Interest Cost on Projected Benefit Obligation	1,024	1,003
Actuarial (Gain) Loss	(94)	828
Benefits Paid	(500)	(485)
Benefit Obligation at March 31,	$19,059	$18,091
Reconciliation of Fair Value of Plan Assets -		
Fair Value of Plan Assets at April 1,	$10,319	$14,082
Actual Return on Plan Assets	3,710	(3,786)
Employer Contributions	1,113	508
Benefits Paid	(500)	(485)
Fair Value of Plans at March 31,	14,642	10,319
Funded Status -		
Funded Status at March 31,	$ (4,417)	$ (7,772)
Amounts Recognized in the Balance Sheet Consist of -		
Accrued Benefit Liability	$ (4,417)	$ (7,772)
Accumulated Other Comprehensive Losses:		
Net Actuarial Loss	5,257	9,008
Prior Service Cost	155	285
Net Accumulated Other Comprehensive Losses	$ 5,412	$ 9,293

Information for pension plans with an accumulated benefit obligation in excess of plan assets:

	March 31,	
	2010	2009
	(dollars in thousands)	
Projected Benefit Obligation	$19,059	$18,091
Accumulated Benefit Obligation	$19,030	$17,945
Fair Value of Plan Assets	$14,642	$10,319

Net periodic pension cost for the fiscal years ended March 31, 2010, 2009 and 2008, included the following components:

	For the Years Ended March 31,		
	2010	2009	2008
	(dollars in thousands)		
Service Cost - Benefits Earned During the Period	$ 538	$ 558	$ 533
Interest Cost of Projected Benefit Obligation	1,024	1,003	898
Expected Return on Plan Assets	(826)	(1,118)	(1,120)
Recognized Net Actuarial Loss	774	306	130
Amortization of Prior-Service Cost	130	143	147
Net Periodic Pension Cost	$1,640	$ 892	$ 588

Expected benefit payments over the next five years, and the following five years under the pension plans are expected to be as follows:

Fiscal Years	Total
2011	$ 720
2012	$ 778
2013	$ 849
2014	$ 945
2015	$1,029
2016-2020	$6,309

The following table sets forth the assumptions used in the actuarial calculations of the present value of net periodic benefit cost and benefit obligations:

	March 31,		
	2010	2009	2008
Net Periodic Benefit Costs -			
Discount Rate	6.0%	6.0%	6.0%
Expected Return on Plan Assets	8.0%	8.0%	8.0%
Rate of Compensation Increase	3.5%	3.5%	3.5%

	March 31,	
	2010	2009
Benefit Obligations -		
Discount Rate	5.8%	6.0%
Rate of Compensation Increase	3.5%	3.5%

The expected long-term rate of return on plan assets is an assumption reflecting the anticipated weighted-average rate of earnings on the portfolio over the long-term. To arrive at this rate, we developed estimates of the key components underlying capital asset returns including: market-based estimates of inflation, real risk-free rates of return, yield curve structure, credit risk premiums and equity risk premiums.

As appropriate, these components were used to develop benchmark estimates of the expected long-term management approach employed by us, and a return premium was added to the weighted-average benchmark portfolio return.

The pension plans' weighted-average asset allocation at March 31, 2010 and 2009 and the range of target allocation are as follows:

	Range of Target Allocation	Percentage of Plan Assets at March 31, 2010	2009
Asset Category -			
Equity Securities	40 – 60%	60%	70%
Debt Securities	35 – 60%	35%	30%
Other	0 – 5%	5%	—
Total		100%	100%

Our pension investment strategies have been developed as part of a comprehensive asset/liability management process that considers the interaction between both the assets and liabilities of the plan. These strategies consider not only the expected risk and returns on plan assets, but also the detailed actuarial projections of liabilities as well as plan-level objectives such as projected contributions, expense and funded status.

The principal pension investment strategies include asset allocation and active asset management. The range of target asset allocations have been determined after giving consideration to the expected returns of each asset class, the expected variability or volatility of the asset class returns over time, and the complementary nature or correlation of the asset classes within the portfolio. We also employ an active management approach for the portfolio. Each asset class is managed by one or more external money managers with the objective of generating returns, net of management fees that exceed market-based benchmarks. None of the plans hold any EXP stock.

Based on our current actuarial estimates, we anticipate making contributions of approximately $1.0 to $1.5 million to our defined benefit plans for fiscal year 2010.

The fair values of our defined benefit plans' consolidated assets by category as of March 31, 2010 were as follows:

	March 31, 2010	2009
	(dollars in thousands)	
Equity Securities	$ 8,684	$ 6,238
Fixed Income Securities	5,011	3,443
Real Estate Funds	226	—
Commodity Linked Funds	204	622
Cash Equivalents	517	16
Total	$14,642	$10,319

The fair values of our defined benefit plans' consolidated assets were determined using the fair value hierarchy of inputs described in Note (A). The fair values by category of inputs as of March 31, 2010 were as follows:

Asset Categories	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total
	(dollars in thousands)			
Equity Securities [a]	$ 8,684	$ —	$ —	$ 8,684
Fixed Income Securities [b]	5,011	—	—	5,011
Real Estate Funds	226	—	—	226
Commodity Linked Funds	204	—	—	204
Cash Equivalents	300	217	—	517
	$ 14,425	$ 217	$ —	$14,642

(a) These funds are maintained by an investment manager and are primarily invested in indexes.

(b) Primarily consists of investments in institutional funds that invest in fixed income securities.

We also provide a profit sharing plan, which covers substantially all salaried and certain hourly employees. The profit sharing plan is a defined contribution plan funded by employer discretionary contributions and also allows employees to contribute on an after-tax basis up to 10% of their base annual salary. Employees are fully vested to the extent of their contributions at all times. Employees become fully vested in our contributions over a seven year period for contributions made prior to 2007, and over a six year period for contributions made beginning in 2007. Costs relating to the employer discretionary contributions for our contribution plan totaled $1.7 million, $3.3 million and $3.0 million in fiscal years 2010, 2009 and 2008, respectively.

Employees who became employed by us as a result of a previous transaction are provided benefits substantially comparable to those provided under the seller's welfare plans. These welfare plans included the seller's 401(k) plan which included employer matching percentages. As a result, we made matching contributions to its 401(k) plan totaling $0.1 million for these employees during each of the fiscal years 2010, 2009 and 2008.

(M) Stockholders' Equity

On January 8, 2004, our stockholders approved an amendment to our certificate of incorporation to increase the authorized number of shares of capital stock that we may issue from 50,000,000 shares of common stock and 2,000,000 shares of preferred stock to 100,000,000 shares of common stock and 5,000,000 shares of preferred stock. The amendment to the Certificate of Incorporation became effective on January 30, 2004. Our Board of Directors designated 40,000 shares of preferred stock for use in connection with the Rights Agreement discussed below.

Effective February 2, 2004, we entered into a Rights Agreement as amended and restated on April 11, 2006 (as amended and restated, "Rights Agreement") that was approved by stockholders at the Special Meeting of Stockholders held on January 8, 2004. In connection with the Rights Agreement, the Board authorized and declared a dividend of one right per share of common stock (the "Common Stock"). The Rights entitle our stockholders to purchase Common Stock (the "Rights") in the event certain efforts are made to acquire control of the Company. There are no separate certificates or market for the Rights.

The Rights are represented by and trade with our Common Stock. The Rights will separate from the Common Stock upon the earlier of: (1) a public announcement that a person has acquired beneficial ownership of shares of Common Stock representing in the aggregate 15% or more of the total number of votes entitled to be cast generally by the holders of Common Stock then outstanding, or (2) the commencement of a tender or exchange offer that would result in a person beneficially owning shares of Common Stock representing in the aggregate 15% or more of the total number of votes entitled to be cast generally by the holders of Common Stock then outstanding. Should either of these conditions be met and the Rights become exercisable, each Right will entitle the holder to buy 1/1,000th of a share of our Preferred Stock at an exercise price of $140.00. Each 1/1,000th of a share of the Preferred Stock will essentially be the economic equivalent of three shares of Common Stock.

Under certain circumstances, the Rights entitle the holders to buy our stock or shares of the acquirer's stock at a 50% discount. The Rights may be redeemed by us for $0.001 per Right at any time prior to the first public announcement of the acquisition of beneficial ownership of shares of Common Stock representing 15% or more of the total number of votes entitled to be cast generally by the holders of Common Stock then outstanding. If not redeemed, the Rights will expire on January 7, 2014.

(N) Quarterly Results (unaudited)

	For the Years Ended March 31,		
	2010 As reported	2010 As adjusted	2009 Actual
	(dollars in thousands, except per share data)		
First Quarter -			
Revenues	$ 127,892		$ 176,803
Earnings Before Income Taxes	17,193		10,932
Net Earnings	11,920		7,830
Diluted Earnings Per Share	0.27		0.18
Second Quarter -			
Revenues	138,185	138,185	178,934
Earnings Before Income Taxes	17,490	14,942	22,244
Net Earnings	12,194	10,422	15,645
Diluted Earnings Per Share	0.28	0.24	0.36
Third Quarter -			
Revenues	104,639		137,829
Earnings Before Income Taxes	5,467		16,550
Net Earnings	4,684		11,259
Diluted Earnings Per Share	0.11		0.26
Fourth Quarter -			
Revenues	117,192		108,859
Earnings Before Income Taxes	1,695		12,457
Net Earnings	1,924		7,030
Diluted Earnings Per Share	$ 0.06		$ 0.16

Due to improved operational efficiencies and reduced costs at our Mountain Cement facility, we withdrew our permit application with the Wyoming Department of Environmental Quality in September 2009. During the fourth quarter it was noted that deferred costs of approximately $2.5 million associated with this permit application had not been expensed during our second quarter, at the time the permit application was withdrawn. Accordingly, we have adjusted our second quarter results to reflect the permit application withdrawal in the proper quarter.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders of
Eagle Materials Inc.

We have audited the accompanying consolidated balance sheets of Eagle Materials Inc. and subsidiaries (the "Company") as of March 31, 2010 and 2009, and the related consolidated statements of earnings, cash flows and stockholders' equity, for each of the three years in the period ended March 31, 2010. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Eagle Materials Inc. and subsidiaries at March 31, 2010 and 2009, and the consolidated results of their operations and their cash flows for each of the three years in the period ended March 31, 2010, in conformity with U.S. generally accepted accounting principles.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the Company's internal control over financial reporting as of March 31, 2010, based on criteria established in *Internal Control-Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission and our report dated May 27, 2010 expressed an unqualified opinion thereon.

/s/ ERNST & YOUNG

Dallas, Texas
May 27, 2010

Texas Lehigh Cement Company LP
Statements of Operations

	Year ended December 31,		
	2009	2008	2007
Net sales	$124,288,747	$189,111,196	$177,340,557
Cost of goods sold	70,669,128	115,934,362	105,717,188
Gross margin	53,619,619	73,176,834	71,623,369
Selling, general, and administrative expenses	2,897,854	5,079,855	4,719,573
Operating income	50,721,765	68,096,979	66,903,796
Interest and other income	335,956	801,063	811,284
Equity in loss of joint venture	(1,873)	(3,311)	(63,128)
Texas margin tax	(492,948)	(695,723)	(703,000)
Net income	$ 50,562,900	$ 68,199,008	$ 66,948,952

See notes to financial statements.

Texas Lehigh Cement Company LP
Balance Sheets

	December 31, 2009	December 31, 2008
ASSETS		
Current assets:		
Cash and cash equivalents	$ 1,634,212	$ 6,399,572
Receivables:		
Trade accounts receivable, net of allowance for doubtful accounts and discounts of $537,200 and $938,071	17,495,900	21,688,271
Inventories:		
Cement	2,814,526	3,926,033
Raw materials and materials-in-process	4,587,441	3,882,046
Parts and supplies	11,608,791	10,510,102
	19,010,758	18,318,181
Prepaid assets	893,389	901,289
Total current assets	39,034,259	47,307,313
Property, plant, and equipment:		
Land, including quarry	3,752,219	3,752,219
Cement plant	104,853,887	103,854,819
Mobile equipment and other	4,700,141	4,696,930
Furniture and fixtures	421,025	554,783
Construction-in-progress	527,648	342,640
	114,254,920	113,201,391
Less accumulated depreciation and depletion	(97,596,105)	(94,551,966)
	16,658,815	18,649,425
Investment in joint venture	20,592,224	23,294,097
Note receivable	742,164	798,020
Total assets	$ 77,027,462	$ 90,048,855
LIABILITIES AND PARTNERS' CAPITAL		
Current liabilities:		
Accounts payable	$ 4,110,536	$ 6,900,035
Accrued liabilities	7,001,792	9,188,927
Due to affiliates	134,434	161,929
Total liabilities	11,246,762	16,250,891
Commitments and contingencies	—	—
Partners' capital:		
General Partners' Capital:		
TLCC GP LLC	65,781	73,798
Lehigh Portland Holdings, LLC	65,781	73,798
Limited Partners' Capital:		
TLCC LP LLC	32,824,569	36,825,184
Lehigh Portland Investments, LLC	32,824,569	36,825,184
Total partners' capital	65,780,700	73,797,964
Total liabilities and partners' capital	$ 77,027,462	$ 90,048,855

See notes to financial statements.

Texas Lehigh Cement Company LP
Statements of Changes in Partners' Capital

	General Partners' Capital		Limited Partners' Capital		
	TLCC GP LLC	Lehigh Portland Holdings, LLC	TLCC LP LLC	Lehigh Portland Investments, LLC	Total
Balance at December 31, 2006 (unaudited)	$ 84,439	$ 84,439	$ 42,135,067	$ 42,135,067	$ 84,439,012
Net income for the year	66,949	66,949	33,407,527	33,407,527	66,948,952
Other comprehensive loss	(18)	(18)	(9,003)	(9,003)	(18,042)
Distribution of earnings	(74,000)	(74,000)	(36,926,000)	(36,926,000)	(74,000,000)
Balance at December 31, 2007	77,370	77,370	38,607,591	38,607,591	77,369,922
Net income for the year	68,199	68,199	34,031,305	34,031,305	68,199,008
Other comprehensive loss	(1,271)	(1,271)	(634,212)	(634,212)	(1,270,966)
Distribution of earnings	(70,500)	(70,500)	(35,179,500)	(35,179,500)	(70,500,000)
Balance at December 31, 2008	73,798	73,798	36,825,184	36,825,184	73,797,964
Net income for the year	50,563	50,563	25,230,887	25,230,887	50,562,900
Other comprehensive gain	420	420	209,498	209,498	419,836
Distribution of earnings	(59,000)	(59,000)	(29,441,000)	(29,441,000)	(59,000,000)
Balance at December 31, 2009	$ 65,781	$ 65,781	$ 32,824,569	$ 32,824,569	$ 65,780,700

See notes to financial statements.

Texas Lehigh Cement Company LP
Statements of Cash Flows

	Year ended December 31,		
	2009	2008	2007
CASH FLOWS FROM OPERATING ACTIVITIES			
Net income	$ 50,562,900	$ 68,199,008	$ 66,948,952
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and depletion	3,585,216	4,121,831	4,705,343
Gain on sales of equipment	(3,925)	(157,177)	(10,727)
Equity in loss of unconsolidated joint venture	1,873	3,311	63,128
Changes in assets and liabilities:			
Trade accounts receivable	4,192,371	2,020,422	(4,229,503)
Notes receivable	55,856	(315,583)	11,769
Inventories	(692,577)	(4,463,453)	2,400,804
Prepaid assets	7,900	(85,805)	157,118
Accounts payable	(2,789,499)	(906,320)	1,740,047
Accrued liabilities and due to affiliates	(1,794,794)	704,036	1,266,924
Net cash provided by operating activities	53,125,321	69,120,270	73,053,855
CASH FLOWS FROM INVESTING ACTIVITIES			
Additions to property, plant, and equipment	(1,597,456)	(1,566,666)	(449,944)
Distributions from joint venture	2,700,000	1,200,000	—
Proceeds from sale of equipment	6,775	686,825	12,755
Net cash provided by (used in) investing activities	1,109,319	320,159	(437,189)
CASH FLOWS FROM FINANCING ACTIVITIES			
Distributions of earnings	(59,000,000)	(70,500,000)	(74,000,000)
Net cash used in financing activity	(59,000,000)	(70,500,000)	(74,000,000)
Net decrease in cash and cash equivalents	(4,765,360)	(1,059,571)	(1,383,334)
Cash and cash equivalents at beginning of year	6,399,572	7,459,143	8,842,477
Cash and cash equivalents at end of year	$ 1,634,212	$ 6,399,572	$ 7,459,143

See notes to financial statements.

Texas-Lehigh Cement Company LP
Notes to Financial Statements

(A) Organization

Texas Lehigh Cement Company ("Texas Lehigh"), a Texas general partnership, was formed June 27, 1986 to operate a cement plant near Austin, Texas. Texas Lehigh was a fifty-fifty joint venture between Texas Cement Company (TCC), a wholly owned subsidiary of Eagle Materials, Inc. (EXP, formerly known as Centex Construction Products, Inc.), and Lehigh Portland Cement Company (Lehigh). On October 1, 2000, the existing Texas general partnership was converted to a Texas limited partnership. Subsequent to the limited partnership formation, TCC and Lehigh each contributed a 0.1% interest to a general partner, TLCC GP LLC and Lehigh Portland Holdings, LLC, and a 49.9% interest to a limited partner, TLCC LP LLC and Lehigh Portland Investments, LLC. The conversion and subsequent contributions were done to afford the former partners additional liability protection. Texas Lehigh Cement Company LP continues to do business as "Texas Lehigh Cement Company."

TCC's initial capital contribution consisted of a cement plant and related real property located in Buda, Texas; four distribution terminals; various operating agreements, licenses, and excavation rights; and net working capital as specified in the joint venture agreement. Lehigh's initial capital contribution consisted of a distribution terminal and related operating agreements, licenses, inventory, and cash.

In September 2006, Texas Lehigh paid $24.5 million for a 15% interest in Houston Cement Company ("HCC"), a joint venture. HCC operates two terminals in Houston, Texas. Under the terms of the joint venture agreement, Texas Lehigh is entitled to sell up to 495,000 tons from the terminals each year.

Due to a number of factors, namely the shared risks and rights under the joint venture agreement, Texas Lehigh accounts for its investment in HCC using the equity method.

We evaluated all events or transactions that occurred after December 31, 2009 up through May 27, 2010, the date we issued these financial statements. During this period, we did not have any material recognizable subsequent events.

(B) Significant Accounting Policies

Cash and Cash Equivalents -

Cash and cash equivalents include investments with original maturities of three months or less. The carrying amount approximates fair value due to the short maturity of those investments.

Inventories -

Inventories are valued at the lower of average cost or market. Cement and materials-in-process include materials, labor, and manufacturing overhead.

Concentration of Risk -

One customer accounted for 16.1%, 17.5% and 12.8% of cement sales for 2009, 2008 and 2007, respectively, and 13.3% and 16.8% of accounts receivable at December 31, 2009 and 2008, respectively.

Notes Receivable -

The note receivable to Texas Lehigh is secured by liens on various pieces of equipment and bears interest at LIBOR plus 3%, which was approximately 4.7% and 6.6% at December 31, 2009 and 2008, respectively. The note is scheduled to mature in August 2011.

Texas-Lehigh Cement Company LP
Notes to Financial Statements

Property, Plant, and Equipment -

Property, plant, and equipment are stated at cost. Texas Lehigh's policy is to capitalize renewals and betterments and to expense repairs and maintenance when incurred. The cost and related accumulated depreciation of assets sold or retired are removed from the financial statements, and any gain or loss is recorded in interest and other income on the statement of operations. Texas Lehigh periodically evaluates whether current events or circumstances indicate that the carrying value of its depreciable assets may not be recoverable. At December 31, 2009 and 2008, management believes no events or circumstances indicate that the carrying value may not be recoverable.

Depreciation and Depletion-

Depreciation is computed on a straight-line basis over the estimated useful lives of the related assets, which are as follows:

Cement plant	5 to 30 years
Mobile equipment and other	2 to 10 years

Raw material deposits are depleted as such deposits are extracted for production utilizing the units-of-production method.

Revenue Recognition -

Revenue from the sale of cement is recognized when title and ownership are transferred upon shipment to the customer.

Federal Income Taxes -

No federal income taxes are payable by Texas Lehigh, and none have been provided for in the accompanying financial statements. The partners include their respective share of Company income or loss in their tax returns. Texas Lehigh is subject to Texas margin tax on its income earned in Texas.

Texas Lehigh's tax return and the amount of allocable Company income or losses are subject to examination by federal and state taxing authorities. If such examinations result in changes to Company income or losses, the tax liability of the partners could be changed accordingly. No such examinations are presently in process.

Shipping and Handling Fees and Costs -

Texas Lehigh classifies its freight revenue as sales and freight cost as cost of goods sold, respectively. Approximately $6,500,532, $9,983,446 and $8,834,655 were classified as cost of goods sold in 2009, 2008 and 2007, respectively.

Use of Estimates-

The preparation of financial statements in conformity with accounting principles generally accepted in the United States requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates.

Texas-Lehigh Cement Company LP
Notes to Financial Statements

Comprehensive Income -

A summary of comprehensive income for the years ended December 31, 2009, 2008 and 2007 is presented below:

	Year ended December 31,		
	2009	2008	2007
Net income	$50,562,900	$68,199,008	$66,948,952
Other comprehensive income:			
Actuarial changes	419,836	(1,270,966)	(18,042)
Comprehensive income	$50,982,736	$66,928,042	$66,930,910

As of December 31, 2009, Texas Lehigh has an accumulated comprehensive loss of $1,813,869 in connection with recognizing the difference between the fair value of the pension assets and the projected benefit obligation. This amount is excluded from earnings and reported in a separate component of partners' capital as "Other Comprehensive Gain".

Fair Value Measures

Certain assets and liabilities are required to be recorded at fair value. The estimated fair values of those assets and liabilities have been determined using market information and valuation methodologies. Changes in assumptions or estimation methods could affect the fair value estimates. However, we do not believe any such changes would have a material impact on our financial condition, results of operations or cash flows. There are three levels of inputs that may be used to measure fair value:

Level 1 – Quoted prices for identical assets and liabilities in active markets.

Level 2 – Quoted prices for similar assets and liabilities in active markets; quoted prices for identical or similar assets and liabilities in markets that are not active; or other inputs that are observable or can be corroborated by observable market data; and

Level 3 – Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets and liabilities. This includes certain pricing models, discounted cash flow methodologies and similar techniques that use significant unobservable inputs.

(C) Accrued Liabilities

Accrued liabilities at December 31, 2009 and 2008 consist of the following:

	Year ended December 31,	
	2009	2008
Payroll and incentive compensation	$2,069,470	$3,597,988
Benefits and insurance	1,564,404	1,649,817
Property taxes	1,499,633	1,501,250
Other	1,868,285	2,439,872
	$7,001,792	$9,188,927

Texas-Lehigh Cement Company LP
Notes to Financial Statements

(D) Purchased Cement

Texas Lehigh purchases cement for resale primarily in the Houston, Texas market. Sales of purchased cement were approximately $15,670,265, $61,587,087 and $52,865,877, and cost of sales was approximately $15,166,462, $56,773,370 and $47,450,765 for 2009, 2008 and 2007, respectively.

(E) Pension and Profit Sharing Plans

Texas Lehigh provides a profit sharing plan, a defined contribution plan ("401(k) plan") and a noncontributory defined benefit pension plan, which together covers substantially all employees and provides specified benefits to qualified employees. Texas Lehigh is not a party to any multi-employer pension plan. Benefits paid under the defined benefit plan cover hourly employees and are based on years of service and the employee's qualifying compensation over the last few years of employment. Texas Lehigh's funding policy is to generally contribute amounts that are deductible for income tax purposes.

The annual measurement date is December 31 for the benefit obligations, fair value of plan assets and the funded status of the defined benefit plan.

The following table provides a reconciliation of the defined benefit pension plan obligations and fair value of plan assets over the two-year period ended December 31, 2009 and a statement of the funded status as of December 31, 2009 and 2008:

	Year ended December 31,	
	2009	2008
Reconciliation of Benefit Obligations		
Benefit obligation at January 1	$ 4,107,101	$ 3,680,372
Service cost	153,512	138,718
Interest cost on projected benefit obligation	238,472	216,770
Actuarial gain (loss)	82,297	146,116
Benefits paid	(76,521)	(74,875)
Benefit obligation at December 31	4,504,861	4,107,101
Reconciliation of Fair Value of Plan Assets		
Fair value of plan assets at January 1	2,541,874	3,533,066
Actual return on plan assets	489,820	(916,317)
Employer contributions	283,830	0
Benefits paid	(76,521)	(74,875)
Fair value of plan assets at December 31	$ 3,239,003	$ 2,541,874
Funded status at December 31	$(1,265,858)	$(1,565,227)

Texas-Lehigh Cement Company LP
Notes to Financial Statements

	December 31, 2009	December 31, 2008
Amounts Recognized in the Balance Sheet Consist of		
Accrued Benefit Liability	$(1,265,858)	$(1,565,227)
Accumulated Other Comprehensive Loss:		
Net Actuarial Loss	1,745,052	2,143,100
Prior Service Cost	68,817	90,605
Net Accumulated Other Comprehensive Income	$ 1,813,869	$ 2,233,705

Information for pension plans with an accumulated benefit obligation in excess of plan assets:

	Year ended December 31, 2009	Year ended December 31, 2008
Projected Benefit Obligation	$4,504,861	$4,107,101
Accumulated Benefit Obligation	$4,484,717	$4,082,404
Fair Value of Plan Assets	$3,239,003	$2,541,874

Net periodic pension cost for the fiscal years ended December 31, 2009, 2008 and 2007 included the following components:

	Year ended December 31, 2009	2008	2007
Service cost – benefits earned during the period	$ 153,512	$ 138,718	$ 133,683
Interest cost of projected benefit obligation	238,472	216,770	202,793
Expected return on plan assets	(208,424)	(279,726)	(255,770)
Recognized net actuarial loss	198,949	49,404	49,844
Amortization of prior-service cost	21,788	21,788	21,788
Net periodic pension cost	$ 404,297	$ 146,954	$ 152,338

Expected benefit payments over the next five years, and the following five years under the pension plan are expected to be as follows:

2010	$ 93,386
2011	96,793
2012	96,243
2013	108,527
2014	143,268
2015 – 2019	$984,717

Texas-Lehigh Cement Company LP
Notes to Financial Statements

The following table sets forth the rates used in the actuarial calculations of the present value of benefit obligations and the rate of return on plan assets:

	Year ended December 31,		
	2009	2008	2007
Assumptions used to determine benefit obligations at the annual measurement date were:			
Obligation discount rate	5.75%	5.75%	6.00%
Compensation increase rate	4.00%	4.00%	4.00%
Assumptions used to determine net periodic benefit costs were:			
Obligation discount rate	5.75%	6.00%	6.00%
Long-term rate of return on plan assets	8.00%	8.00%	8.00%
Compensation increase rate	4.00%	4.00%	4.00%

The expected long-term rate of return on plan assets is an assumption reflecting the anticipated weighted average rate of earnings on the portfolio over the long-term. To arrive at this rate, Texas Lehigh developed estimates of the key components underlying capital asset returns including: market-based estimates of inflation, real risk-free rates of return, yield curve structure, credit risk premiums and equity risk premiums. As appropriate, these components were used to develop benchmark estimates of expected long-term rates of return for each asset class, which were portfolio weighted.

The pension plan weighted-average asset allocation at year-end 2009 and 2008 and the range of target follows:

	Range of Target Allocation	Percentage of Plan Assets at Year-End	
		2009	2008
Asset category:			
Equity securities	40-60%	60%	61%
Debt securities	35-60%	37%	37%
Other	0-5%	3%	2%
Total		100%	100%

Texas Lehigh's pension investment strategies have been developed as part of a comprehensive asset/liability management process that considers the interaction between both the assets and liabilities of the plan. These strategies consider not only the expected risks and returns on plan assets, but also the detailed actuarial projections of liabilities as well as plan-level objectives such as projected contributions, expense and funded status.

The principal pension investment strategies include asset allocation and active asset management. The range of target asset allocations have been determined after giving consideration to the expected returns of each asset class, the expected variability or volatility of the asset class returns over time, and the complementary nature or correlation of the asset classes within the portfolio. Texas Lehigh also employs an active management approach for the portfolio. Each asset class is managed by one or more external money managers with the objective of generating returns, net of management fees that exceed market-based benchmarks.

Based on current actuarial estimates, Texas Lehigh anticipates making contributions of approximately $450,000 to the pension plan during 2010.

Texas-Lehigh Cement Company LP
Notes to Financial Statements

The fair values of our defined benefit plans' consolidated assets by category as of December 31, 2009 were as follows:

	December 31, 2009	December 31, 2008
Equity Securities	$1,962,955	$1,551,205
Fixed Income Securities	1,191,805	931,801
Cash Equivalents	84,243	58,868
Total	$3,239,003	$2,541,874

The fair values of our defined benefit plans' consolidated assets were determined using the fair value hierarchy of inputs described in Note A. The fair values by category of inputs as of December 31, 2009 were as follows:

Asset Categories	Quoted Prices in Active Markets for Identical Assets (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)	Total
Equity Securities [a]	$ —	$ 1,962,955	$ —	$1,962,955
Fixed Income Securities [a]	—	1,191,805	—	1,191,805
Cash Equivalents [a]	—	84,243	—	84,243
	$ —	$ 3,239,003	$ —	$3,239,003

[a] These funds are maintained by an investment manager and consist of collective funds that are not actively traded.

Texas Lehigh also provides a profit sharing plan, which covers substantially all salaried employees, and a 401(k) plan, which covers substantially all employees. Texas Lehigh matches employees' 401(k) contributions up to 4% of employees' salaries. Texas Lehigh's contributions to the profit sharing and 401(k) plans were approximately $436,342, $570,683 and $548,870 in 2009, 2008 and 2007, respectively.

(F) Related-Party Transactions

Texas Lehigh had sales to affiliates of $26,950,759, $26,767,216 and $33,713,492 in 2009, 2008 and 2007, respectively, of which approximately $3,596,201 and $2,963,356 is included in trade accounts receivable at December 31, 2009 and 2008. Texas Lehigh purchased $1,474,238, $2,519,675 and $855,067 of cement from Lehigh in 2009, 2008 and 2007, respectively, and also purchased $5,984,422, $20,819,610 and $32,454,516 of cement from HCC in 2009, 2008 and 2007, respectively. Texas Lehigh accrued $125,887 and $1,247,135 for purchased cement received from these affiliates but not paid for at December 31, 2009 and 2008, respectively.

Texas Lehigh reimburses EXP for certain expenses paid by EXP on Texas Lehigh's behalf. Total payments made to EXP for reimbursement of expenses were $2,051,460, $1,755,854 and $2,147,865 during 2009, 2008 and 2007. At December 31, 2009 and 2008, Texas Lehigh had accrued liabilities of $129,858 and $133,728, respectively, for the reimbursement of expenses paid by EXP.

(G) Commitments and Contingencies

Texas Lehigh is involved in certain legal actions arising in the ordinary course of its business. Management is of the opinion that all outstanding litigation will be resolved without material effect to the financial position or results of operations of Texas Lehigh.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Management Committee
Texas Lehigh Cement Company LP

We have audited the accompanying balance sheets of Texas Lehigh Cement Company LP (a Texas Limited partnership) as of December 31, 2009 and 2008, and the related statements of operations, changes in partners' capital, and cash flows for each of the three years in the period ended December 31, 2009. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with auditing standards generally accepted in the United States. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of Texas Lehigh Cement Company LP at December 31, 2009 and 2008, and the results of its operations and its cash flows for each of the three years in the period ended December 31, 2009 in conformity with U.S. generally accepted accounting principles.

/s/ ERNST & YOUNG LLP

Dallas, Texas
May 27, 2010

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. CONTROLS AND PROCEDURES

EVALUATION OF DISCLOSURE CONTROLS AND PROCEDURES

We have established a system of disclosure controls and other procedures that are designed to ensure that information required to be disclosed by us in the reports that we file or submit under the Securities Exchange Act of 1934 ("Exchange Act"), is recorded, processed, summarized and reported within the time periods specified by the SEC's rules and forms, and that such information is accumulated and communicated to management, including our Chief Executive Officer and Chief Financial Officer, as appropriate to allow timely decisions regarding required disclosure. An evaluation of the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) under the Exchange Act) was performed as of the end of the period covered by this annual report. This evaluation was performed under the supervision and with the participation of management, including our CEO and CFO. Based upon that evaluation, our CEO and CFO have concluded that these disclosure controls and procedures were effective.

There were no changes in our internal control over financial reporting that occurred during our last fiscal quarter that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

MANAGEMENT REPORT ON INTERNAL CONTROL OVER FINANCIAL REPORTING

Our management is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Exchange Act Rule 13a-15(f). Under the supervision and with the participation of our management, including our CEO and CFO, we conducted an evaluation of the effectiveness of our internal control over financial reporting based on the framework in "Internal Control – Integrated Framework" issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on our evaluation under the framework in "Internal Control – Integrated Framework," our management concluded that our internal control over financial reporting was effective as of March 31, 2010. The effectiveness of our internal control over financial reporting as of March 31, 2010, has been audited by Ernst & Young LLP, an independent registered public accounting firm, as stated in their report which is included herein.

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders of
Eagle Materials Inc.

We have audited Eagle Materials Inc. and subsidiaries' internal control over financial reporting as of March 31, 2010, based on criteria established in *Internal Control — Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (the COSO criteria). Eagle Materials Inc.'s management is responsible for maintaining effective internal control over financial reporting, and for its assessment of the effectiveness of internal control over financial reporting included in the accompanying Management Report on Internal Control over Financial Reporting. Our responsibility is to express an opinion on the company's internal control over financial reporting based on our audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (1) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (2) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (3) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In our opinion, Eagle Materials Inc. and subsidiaries maintained, in all material respects, effective internal control over financial reporting as of March 31, 2010, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States), the consolidated balance sheets of Eagle Materials Inc. and subsidiaries as of March 31, 2010 and 2009, and the related consolidated statements of earnings, cash flows, and stockholders' equity for each of the three years in the period ended March 31, 2010 of Eagle Materials Inc. and our report dated May 27, 2010 expressed an unqualified opinion thereon.

/s/ ERNST & YOUNG

Dallas, Texas
May 27, 2010

ITEM 9B. OTHER INFORMATION

None.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

Except for the information below regarding our code of ethics, the information called for by Items 10, 11, 12, 13 and 14 is incorporated herein by reference to the information included and referenced under the following captions in the Company's Proxy Statement for the Company's August 5, 2010 Annual Meeting of Stockholders (the "2010 EXP Proxy Statement"):

Items	Caption in the 2010 EXP Proxy Statement
10	Executive Officers who are not Directors
10	Election of Directors and Related Matters
10	Stock Ownership-Section 16(a) Beneficial Ownership Reporting Compliance
10	Stock Ownership – Code of Conduct
11	Executive Compensation
11	Compensation Discussion and Analysis
11	Potential Payments Upon Termination or Change of Control
12	Stock Ownership
13	Stock Ownership – Related Party Transactions
13	Election of Directors and Related Matters
14	Relationship with Independent Public Accountants

Code of Ethics. The policies comprising the Company's code of ethics ("*Eagle Ethics - A Guide to Decision - Making on Business Conduct Issues"*) will represent both the code of ethics for the principal executive officer, principal financial officer, and principal accounting officer under SEC rules, and the code of business conduct and ethics for directors, officers, and employees under NYSE listing standards. The code of ethics is published on the corporate governance section of the Company's website at www.eaglematerials.com.

Although the Company does not envision that any waivers of the code of ethics will be granted, should a waiver occur for the principal executive officer, principal financial officer, the principal accounting officer or controller, it will be promptly disclosed on our internet site. Also, any amendments of the code will be promptly posted on our internet site.

ITEM 11. EXECUTIVE COMPENSATION

See Item 10 above.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED SHAREHOLDER MATTERS

See Item 10 above.

EQUITY COMPENSATION PLANS

The following table shows the number of outstanding options and shares available for future issuance of options under the Company's equity compensation plans as of March 31, 2010. Our equity compensation plans have been approved by the Company's shareholders.

Plan Category	Incentive Plan	Number of securities to be issued upon exercise of outstanding options, warrants and rights (a)	Weighted average exercise price of outstanding options, warrants and rights (b)	Number of securities remaining available for future issuance under equity compensation plans excluding securities reflected in column (a)(c)
Equity compensation plans approved by stockholders	2004	3,446,452	$ 33.97	3,264,690
Equity compensation plans not approved by shareholders		—	—	—
		3,446,452	$ 33.97	3,264,690

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

See Item 10 above.

ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

See Item 10 above.

PART IV

ITEM 15. EXHIBITS, FINANCIAL STATEMENT SCHEDULES

a) The following documents are filed as part of this Report:

(1) Financial Statements

Reference is made to the Index to Financial Statements under Item 8 in Part II hereof, where these documents are listed.

(2) Schedules

Schedules are omitted because they are not applicable or not required or the information required to be set forth therein is included in the consolidated financial statements referenced above in section (a) (1) of this Item 15.

(3) Exhibits

The information on exhibits required by this Item 15 is set forth in the Eagle Materials Inc. Index to Exhibits appearing on pages 84-87 of this Report.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this Form 10-K to be signed on its behalf by the undersigned, thereunto duly authorized.

EAGLE MATERIALS INC.
Registrant

May 27, 2010 /s/ STEVEN R. ROWLEY
Steven R. Rowley, Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant in the capacities and on the dates indicated.

May 27, 2010 /s/ STEVEN R. ROWLEY
Steven R. Rowley
President and Chief Executive Officer
(principal executive officer)

May 27, 2010 /s/ D. CRAIG KESLER
D. Craig Kesler
Executive Vice President – Finance and
Administration and Chief Financial Officer
(principal financial officer)

May 27, 2010 /s/ WILLIAM R. DEVLIN
William R. Devlin
Senior Vice President – Controller and
Chief Accounting Officer
(principal accounting officer)

May 27, 2010 /s/ F. WILLIAM BARNETT
F. William Barnett, Director

May 27, 2010 /s/ ROBERT L. CLARKE
Robert L. Clarke, Director

May 27, 2010	/s/ LAURENCE E. HIRSCH Laurence E. Hirsch, Director
May 27, 2010	/s/ FRANK W. MARESH Frank W. Maresh, Director
May 27, 2010	/s/ MICHAEL R. NICOLAIS Michael R. Nicolais, Director
May 27, 2010	/s/ DAVID W. QUINN David W. Quinn, Director
May 27, 2010	/s/ RICHARD R. STEWART Richard R. Stewart, Director

INDEX TO EXHIBITS
EAGLE MATERIALS INC.
AND SUBSIDIARIES

Exhibit Number	Description of Exhibits
2.1	Amended and Restated Agreement and Plan of Merger, dated as of November 4, 2003, among Centex Corporation, Centex Construction Products, Inc. (now known as Eagle Materials Inc.) and ARG Merger Corporation filed as Exhibit 2.1 to the Company's Current Report on Form 8-K/A filed with the Securities and Exchange Commission (the "Commission") on November 12, 2003 and incorporated herein by reference.
2.2	Amended and Restated Distribution Agreement dated as of November 4, 2003 between Centex Corporation and Centex Construction Products, Inc. (now known as Eagle Materials Inc.) filed as Exhibit 2.2 to the Company's Current Report on Form 8-K/A filed with the Commission on November 12, 2003 and incorporated herein by reference.
3.1	Restated Certificate of Incorporation filed as Exhibit 3.1 to the Company's Current Report on Form 8-K filed with the Commission on April 11, 2006 and incorporated herein by reference.
3.2	Restated Certificate of Designation, Preferences and Rights of Series A Preferred Stock filed as Exhibit 3.2 to the Company's Current Report on Form 8-K filed with the Commission on April 11, 2006 and incorporated herein by reference.
3.3	Amended and Restated Bylaws filed as Exhibit 3.3 to the Company's Annual Report on Form 10-K for the fiscal year ended March 31, 2007, filed with the Commission on May 29, 2007 and incorporated herein by reference.
3.4	Amendment to Amended and Restated Bylaws filed as Exhibit 3.1 to the Company's Current Report on Form 8-K filed with the Commission on November 24, 2008 and incorporated herein by reference.
4.1*	Amended and Restated Credit Agreement dated as of December 16, 2004 among Eagle Materials Inc., the lenders party thereto, JPMorgan Chase Bank, N.A. as Administrative Agent, Bank of America, N.A. and PNC Bank, N.A. as Co-Syndication Agents, and Sun Trust Bank and Wells Fargo Bank, N.A. as Co-Documentation Agents, originally filed as Exhibit 4.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended December 31, 2005, and filed herein.
4.2	Note Purchase Agreement dated as of November 15, 2005, among the Company and the purchasers named therein filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on November 18, 2005 and incorporated herein by reference.
4.3	Note Purchase Agreement, dated as of October 2, 2007, among the Company and the purchasers named therein filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on October 3, 2007 and incorporated herein by reference.
4.4	Amended and Restated Rights Agreement, dated as of April 11, 2006, between Eagle Materials Inc. and Mellon Investor Services LLC, as Rights Agent, filed as Exhibit 99.1 to the Company's Registration Statement on Form 8-A/A filed with the Commission on April 11, 2006 and incorporated herein by reference.
10.2	Limited Partnership Agreement of Texas Lehigh Cement Company LP by and between Texas Cement Company and Lehigh Portland Cement Company effective as of October 1, 2000 filed as Exhibit 10.2 to the Company's Annual Report on Form 10-K for the fiscal year ended March 31, 2001, filed with the Commission on June 27, 2001 (the "2001 Form 10-K") and incorporated herein by reference.

10.2(a)	Amendment No. 1 to Agreement of Limited Partnership by and among Texas Cement Company, TLCC LP LLC, TLCC GP LLC, Lehigh Portland Cement Company, Lehigh Portland Investments, LLC and Lehigh Portland Holdings, LLC effective as of October 2, 2000 filed as Exhibit 10.2(a) to the 2001 Form 10-K and incorporated herein by reference.
10.3	The Eagle Materials Inc. Incentive Plan, as amended and restated, filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on August 10, 2009 and incorporated herein by reference. (1)
10.3(a)	Form of Restricted Stock Unit Agreement filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on August 30, 2004 and incorporated herein by reference. (1)
10.3(b)	Form of Non-Qualified Stock Option Agreement (EBIT) filed as Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the Commission on August 30, 2004 and incorporated herein by reference. (1)
10.3(c)	Form of Non-Qualified Stock Option Agreement (ROE) filed as Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the Commission on August 30, 2004 and incorporated herein by reference. (1)
10.3(d)	Form of Non-Qualified Director Stock Option Agreement filed as Exhibit 10.4 to the Company's Current Report on Form 8-K filed with the Commission on August 30, 2004 and incorporated herein by reference. (1)
10.3(e)	Form of Restricted Stock Unit Agreement filed as Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2005, filed with the Commission on August 9, 2005 and incorporated herein by reference. (1)
10.3(f)	Form of Non-Qualified Stock Option Agreement filed as Exhibit 10.6 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2005, filed with the Commission on August 9, 2005 and incorporated herein by reference. (1)
10.3(g)	Form of Restricted Stock Unit Agreement for Non-Employee Directors filed as Exhibit 10.1 to the Company's Current Report on Form 8-K filed with the Commission on August 1, 2006 and incorporated by reference herein. (1)
10.3(h)	Form of Non-Qualified Stock Option Agreement for Non-Employee Directors filed as Exhibit 10.2 to the Company's Current Report on Form 8-K filed with the Commission on August 1, 2006 and incorporated by reference herein. (1)
10.3(i)	Form of Restricted Stock Unit Agreement for Senior Executives filed as Exhibit 10.3 to the Company's Current Report on Form 8-K filed with the Commission on August 1, 2006 and incorporated by reference herein. (1)
10.3(j)	Form of Non-Qualified Stock Option Agreement for Senior Executives filed as Exhibit 10.4 to the Company's Current Report on Form 8-K filed with the Commission on August 1, 2006 and incorporated by reference herein. (1)
10.3(k)	Form of Non-Qualified Stock Option Agreement for Senior Executives filed as Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2007, filed with the Commission on August 7, 2007 and incorporated herein by reference. (1)
10.3(l)	Form of Non-Qualified Stock Option Agreement for Senior Executives filed as Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2008, filed with the Commission on November 7, 2008 and incorporated herein by reference.(1)

10.3(m)	Form of Restricted Stock Unit Agreement for Senior Executives filed as Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2008, filed with the Commission on November 7, 2008 and incorporated herein by reference.(1)
10.3(n)	Restricted Stock Agreement, dated June 10, 2008, between the Company and Mark V. Dendle filed as Exhibit 10.6 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2008, filed with the Commission on August 8, 2008 and incorporated herein by reference.(1)
10.3(o)	Eagle Materials Inc. Salaried Incentive Compensation Program for Fiscal Year 2010 (filed as Exhibit 10.1 to the Current Report on Form 8-K filed with the Commission on May 22, 2009, and incorporated herein by reference).(1)
10.3(p)	Eagle Materials Inc. Cement Companies Salaried Incentive Compensation Program for Fiscal Year 2010 (filed as Exhibit 10.2 to the Current Report on Form 8-K filed with the Commission on May 22, 2009, and incorporated herein by reference).(1)
10.3(q)	Eagle Materials Inc. Concrete and Aggregates Companies Salaried Incentive Compensation Program for Fiscal Year 2010 (filed as Exhibit 10.3 to the Current Report on Form 8-K filed with the Commission on May 22, 2009, and incorporated herein by reference). (1)
10.3(r)	American Gypsum Company Salaried Incentive Compensation Program for Fiscal Year 2010 (filed as Exhibit 10.4 to the Current Report on Form 8-K filed with the Commission on May 22, 2009, and incorporated herein by reference).(1)
10.3(s)	Eagle Materials Inc. Special Situation Program for Fiscal Year 2010 (filed as Exhibit 10.5 to the Current Report on Form 8-K filed with the Commission on May 22, 2009 and incorporated herein by reference.(1)
10.4	The Eagle Materials Inc. Amended and Restated Supplemental Executive Retirement Plan filed as Exhibit 10.4 to the Company's Annual Report on Form 10-K for the fiscal year ended March 31, 2000, filed with the Commission on June 21, 2000 and incorporated herein by reference.(1)
10.4(a)	First Amendment to the Eagle Materials Inc. Amended and Restated Supplemental Executive Retirement Plan, dated as of May 11, 2004, filed as Exhibit 10.4(a) to the Company's Annual Report on Form 10-K for the fiscal year ended March 31, 2006, filed with the Commission on June 2, 2006 and incorporated herein by reference. (1)
10.5	Trademark License and Name Domain Agreement dated January 30, 2004 between the Company and Centex Corporation filed as Exhibit 10.5 to the Company's Annual Report on Form 10-K for the fiscal year ended March 31, 2004, filed with the Commission on June 14, 2004 (the "2004 Form 10-K") and incorporated herein by reference.
10.6	Tax Separation Agreement dated as of April 1, 1994, among Centex, the Company and its subsidiaries filed as Exhibit 10.6 to the Company's Annual Report on Form 10-K for the fiscal year ended March 31, 2005, filed with the Commission on June 10, 2005 and incorporated herein by reference.
10.7	Paperboard Supply Agreement, dated May 14, 1998, by and among Republic Paperboard Company (n/k/a Republic Paperboard Company LLC), Republic Group, Inc., and James Hardie Gypsum, Inc. filed as Exhibit 10.11 to the 2001 Form 10-K and incorporated herein by reference. Portions of this Exhibit were omitted pursuant to a request for confidential treatment filed with the Office of the Secretary of the Securities and Exchange Commission.
10.8	Form of Indemnification Agreement between the Company and each of its directors filed as Exhibit 10.9 to the 2004 Form 10-K and incorporated herein by reference.
10.9	Eagle Materials Inc. Director Compensation Summary (filed as Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2009, filed with the Commission on November 9, 2009 and incorporated herein by reference). (1)

12.1*	Computation of Ratio of Earnings to Fixed Charges.
21*	Subsidiaries of the Company.
23.1*	Consent of Registered Independent Public Accounting Firm – Ernst & Young LLP.
31.1*	Certification of the Chief Executive Officer of Eagle Materials Inc. pursuant to Rules 13a-14 and 15d-14 promulgated under the Securities Exchange Act of 1934, as amended.
31.2*	Certification of the Chief Financial Officer of Eagle Materials Inc. pursuant to Rules 13a-14 and 15d-14 promulgated under the Securities Exchange Act of 1934, as amended.
32.1*	Certification of the Chief Executive Officer of Eagle Materials Inc. pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.
32.2*	Certification of the Chief Financial Officer of Eagle Materials Inc. pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002.

* Filed herewith.

(1) Required to be identified as a management contract or a compensatory plan or arrangement pursuant to Item 15(a) (3) of Form 10-K.

Exhibit 4.1

AMENDED AND RESTATED
CREDIT AGREEMENT

among

EAGLE MATERIALS INC.
(formerly Centex Construction Products, Inc.)

as Borrower,

JPMORGAN CHASE BANK, N.A.
(formerly known as JPMorgan Chase Bank and successor by merger to Bank One, N.A.),
as Administrative Agent and a Lender,

and

BANK OF AMERICA, N.A.
and
BRANCH BANKING AND TRUST COMPANY,
as
Co–Syndication Agents
and Lenders

and

UNION BANK OF CALIFORNIA, N.A.
and
WELLS FARGO BANK, N.A.
as Co–Documentation Agents
and a Lender
and
the other Lenders from time to time party hereto

16 December 2004

J.P. MORGAN SECURITIES INC.,
as Sole Bookrunner and Sole Lead Arranger

Conformed Copy
[Incorporating First through Seventh Amendments]

TABLE OF CONTENTS

LIST OF SCHEDULES AND EXHIBITS

Schedules:

Schedule 1.01(a)	–	Existing Letters of Credit
Schedule 2.01	–	Commitments
Schedule 3.05	–	Existing Liens
Schedule 3.06	–	Disclosed Matters
Schedule 3.12	–	Subsidiaries
Schedule 3.13	–	Existing Indebtedness
Schedule 6.04	–	Existing Investments
Schedule 6.08	–	Existing Restrictions

Exhibits:

Exhibit A	–	Form of Assignment and Assumption
Exhibit B	–	Form of Opinion of Borrower’s Counsel
Exhibit C	–	Form of Guaranty Agreement
Exhibit D	–	Form of Notice of Borrowing
Exhibit E	–	Form of Increased Commitment Supplement

AMENDED AND RESTATED CREDIT AGREEMENT (this "Agreement") dated as of December 16, 2004, among EAGLE MATERIALS INC. (formerly know as Centex Construction Products, Inc.) as the Borrower, the LENDERS party hereto, and JPMORGAN CHASE BANK, N.A. (formerly known as JPMorgan Chase Bank and successor by merger to Bank One, N.A.), as Administrative Agent.

Centex Construction Products, Inc. (who is now known as the Borrower), the lenders identified therein named and JPMorgan Chase Bank (who is now known as JPMorgan Chase Bank, N.A.) as administrative agent previously entered into that certain Credit Agreement dated as of December 18, 2003 (as the same has been amended by that certain First Amendment to Credit Agreement dated May 21, 2004, herein referred to as the "Prior Agreement").

Since the date of the Prior Agreement:

(a) JPMorgan Chase Bank changed its name to JPMorgan Chase Bank, N.A.;

(b) Bank One, N.A., a lender under the Prior Agreement, merged with and into JPMorgan Chase Bank; and

(c) Calyon New York Branch (formerly Credit Lyonnais New York Branch) assigned to JPMorgan Chase Bank, N.A. all of its right, title and interest in and to the Prior Agreement.

The Borrower, the lenders party hereto and the Administrative Agent now desire to enter into this Agreement to amend and restate the Prior Agreement in its entirety and agree as follows:

ARTICLE I.

Definitions

Section 1.01. Defined Terms. As used in this Agreement, the following terms have the meanings specified below:

"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.

"Acquisition" means any transaction, or any series of related transactions, by which the Borrower or any of the Subsidiaries (i) acquires any going business or all or substantially all of the assets of any Person or division or business unit thereof, whether through purchase of assets, merger or otherwise or (ii) directly or indirectly acquires (in one transaction or as the most recent transaction in a series of transactions) 50% or more (in number of votes) of the Equity Interests of a Person having ordinary voting power for the election of the board of directors or other applicable governing body (other than securities having such power only by reason of the happening of a contingency) or 50% or more (by percentage or voting power) of the outstanding Equity Interests of a partnership or limited liability company.

"Adjusted LIBO Rate" means, with respect to any Eurodollar Borrowing for any Interest Period, an interest rate per annum (rounded upwards, if necessary, to the next 1/16 of 1%) equal to (a) the LIBO Rate for such Interest Period multiplied by (b) the Statutory Reserve Rate.

"Adjusted Net Income" has the meaning assigned to such term in the definition of the term "Consolidated EBITDA".

"Administrative Agent" means JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank) in its capacity as administrative agent for the Lenders hereunder.

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

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

"Alternate Base Rate" means, for any day, a rate per annum equal to the greatest of (a) the Prime Rate in effect on such day, and (b) 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 or the Federal Funds Effective Rate shall be effective from and including the effective date of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

"Applicable Percentage" means, with respect to any Lender, the percentage of the total Commitments 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 Rate" means, for any day, with respect to any ABR Loan or Eurodollar Revolving Loan, or with respect to the commitment fees payable hereunder, as the case may be, the applicable rate per annum set forth below under the caption "ABR Spread", "Eurodollar Spread" or "Commitment Fee Rate", as the case may be, opposite the category in the table below which corresponds with the actual Leverage Ratio as of the most recent determination date:

Leverage Ratio	Eurodollar Spread	ABR Spread	Commitment Fee Rate
Category 1 <1.00 to 1.00	0.550%	0.000%	0.100%
Category 2 > 1.00 to 1.00 but < 1.50 to 1.00	0.650%	0.000%	0.125%
Category 3 > 1.50 to 1.00 but < 2.00 to 1.00	0.875%	0.000%	0.175%
Category 4 > 2.00 to 1.00 but < 2.50 to 1.00	1.000%	0.000%	0.200%
Category 5 > 2.50 to 1.00 but < 3.00 to 1.00	1.250%	0.250%	0.250%
Category 6 > 3.00 to 1.00	1.50%	0.500%	0.300%

For purposes of the foregoing, (i) the Leverage Ratio shall be determined as of the end of each fiscal quarter of the Borrower's fiscal year based upon the Borrower's consolidated financial statements delivered pursuant to Section 5.01(a) or (b), beginning with the fiscal quarter ended June 30, 2007 and (ii) each change in the Applicable Rate resulting from a change in the Leverage Ratio shall be effective during the period commencing on and including the date of delivery to the Administrative Agent of such consolidated financial statements indicating such change and ending on the date immediately preceding the effective date of the next such change; provided that the Leverage Ratio shall be deemed to be in Category 6: (A) at any time that an Event of Default has occurred and is continuing or (B) at the option of the Administrative Agent or at the request of the Required Lenders, if the Borrower fails to deliver the consolidated financial statements required to be delivered by it pursuant to Section 5.01(a) or (b), during the period from the expiration of the time for delivery thereof until such consolidated financial statements are delivered.

"Approved Fund" has the meaning assigned to such term in Section 9.04(b)(ii)(D).

"Assignment and Assumption" means 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" means the period from and including the Effective Date to but excluding the earlier of the Maturity Date and the date of termination of the Commitments.

"Board" means the Board of Governors of the Federal Reserve System of the United States of America.

"Borrower" means Eagle Materials Inc. (formerly Centex Construction Products, Inc.).

"Borrowing" means (a) Revolving Loans of the same Type, made, converted or continued on the same date and, in the case of Eurodollar Loans, as to which a single Interest Period is in effect or (b) a Swingline Loan.

"Borrowing Request" means a request by the Borrower for a Revolving Borrowing in accordance with Section 2.03 and in substantially the form of Exhibit D hereto.

"Business Day" means any day that is not a Saturday, Sunday or other day on which commercial banks in Dallas, Texas and New York, New York 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 means 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.

"Cash Collateral Account" has the meaning assigned to such term in Section 2.05(j).

"Change in Control" means (a) the acquisition by any party, or two or more parties acting in concert, of beneficial ownership (within the meaning of Rule 13d-3 of the Securities and Exchange Commission under the Securities Exchange Act of 1934) of 50% or more of the outstanding shares of the stock of the Borrower entitled to elect 50% or more of the members of the board of directors of the Borrower, or (b) during any period of twelve (12) consecutive months, a majority of the members of the board of directors or other equivalent governing body of the Borrower cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body, or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body (excluding, in the case of both clause (ii) and clause (iii), any individual whose initial nomination for, or assumption of office as, a member of that board or equivalent governing body occurs as a result of an actual or threatened solicitation of proxies or consents for the election or removal of one or more directors by any Person or group other than a solicitation for the election of one or more directors by or on behalf of the board of directors).

"Change in Law" means (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 any Issuing Bank (or, for purposes of Section 2.14(b), by any lending office of such Lender or by such Lender's or an Issuing Bank'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.

"Class", when used in reference to any Loan or Borrowing, refers to whether such Loan, or the Loans comprising such Borrowing, are Revolving Loans or Swingline Loans.

"Code" means the Internal Revenue Code of 1986, as amended from time to time.

"Commitment" means, with respect to each Lender, the commitment of such Lender to make Revolving Loans and to acquire participations in Letters of Credit and Swingline Loans hereunder, expressed as an amount representing the maximum aggregate amount of such Lender's Revolving Credit Exposure hereunder, as such commitment may be (a) reduced from time to time pursuant to Section 2.08; (b) reduced or increased from time to time pursuant to assignments by or to such Lender pursuant to Section 9.04; and (c) increased from time to time pursuant to Section 2.19. The initial amount of each Lender's Commitment is set forth on Schedule 2.01 or in the Assignment and Assumption pursuant to which such Lender shall have assumed its Commitment. The initial aggregate amount of the Lenders' Commitments is $350,000,000.00.

"Consolidated EBIT" means, for any period, the sum of Consolidated EBITDA for such period minus depreciation and amortization for such period, all calculated for the Borrower and the Subsidiaries on a consolidated basis.

"Consolidated EBITDA" means, with respect to any Person and any period, the sum of the following calculated for such Person on a consolidated basis:

(a) the total of: (i) its Consolidated Net Income minus; (ii) the income (or plus the loss) of any third party (other than a subsidiary of the Person) in which the Person or a subsidiary of such Person has an ownership interest; plus (iii) the income of any such third party to the extent actually received in cash by the Person or a subsidiary of such Person in the form of dividends or similar distributions (the amount determined in accordance with this clause (a), herein the "Adjusted Net Income"); plus

(b) to the extent deducted from revenues in determining Adjusted Net Income: (i) its Consolidated Interest Expense; (ii) expense for taxes paid or accrued; (iii) depreciation; (iv) amortization; and (v) extraordinary non-cash losses incurred other than in the ordinary course of business; minus

(c) to the extent included in its Adjusted Net Income, extraordinary, nonrecurring or other nonoperating income or gains.

Notwithstanding anything herein to the contrary, but without duplication, the Borrower's Consolidated EBITDA for any period shall: (i) include, to the extent the following can be determined from audited financial statements delivered to the Administrative Agent and to the extent not already included in the Borrower's Consolidated EBITDA for such period: (a) in the case of an Acquisition of Equity Interests in a Person, the Consolidated EBITDA of such Person for the portion of the calculation period before it became a Subsidiary and (b) in the case of an Acquisition of assets, the Consolidated EBITDA associated with such acquired assets for the portion of the calculation period before such acquisition by the Borrower or any Subsidiary and (ii) exclude: (a) in the case of a disposition of Equity Interests in a Person, the Consolidated EBITDA of such Person for the portion of the calculation period after it is directly or indirectly disposed of and (b) in the case of a disposition of assets, the Consolidated EBITDA associated with such assets for the portion of the calculation period after such assets were disposed of.

"Consolidated Indebtedness" means, at any time, the Indebtedness of the Borrower and the Subsidiaries calculated on a consolidated basis as of such time, excluding however, any Indebtedness under Swap Agreements that is not then due.

"Consolidated Interest Expense" means, with reference to any period and any Person, the interest expense and preferred stock dividends of such Person calculated on a consolidated basis for such period.

"Consolidated Net Income" means, with reference to any period and any Person, the net income (or loss) of such Person calculated on a consolidated basis for such period.

"Consolidated Net Worth" means, at any time, the consolidated stockholders' equity of the Borrower and the Subsidiaries calculated on a consolidated basis as of such time.

"Consolidated Tangible Net Worth" means, at any time, the Consolidated Net Worth, minus (a) any intangible assets, including, without limitation, patents, patent rights, trademarks, trade names, franchises, copyrights, goodwill, and other similar intangible assets of the Borrower and the Subsidiaries calculated on a consolidated basis as of such time, minus (b) any non-cash gain (or plus any non-cash loss, as applicable) resulting from any mark-to-market adjustments made directly to Consolidated Net Worth as a result of fluctuations in the value of financial instruments owned by the Borrower or any of the Subsidiaries as mandated under Financial Accounting Standards Board Statement 133.

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

"Default" means 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.

"Disclosed Matters" means the actions, suits and proceedings and the environmental matters disclosed in Schedule 3.06.

"dollars" or "$" refers to lawful money of the United States of America.

"Effective Date" means the date on which the conditions specified in Section 4.01 are satisfied (or waived in accordance with Section 9.02).

"Environmental Laws" means all laws, rules, regulations, codes, ordinances, orders, decrees, judgments, injunctions, 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.

"Environmental Liability" means 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.

"Equity Interests" means shares of capital stock, partnership interests, membership interests in a limited liability company, beneficial interests in a trust or other equity ownership interests in a Person, and any warrants, options or other rights entitling the holder thereof to purchase or acquire any such equity interest.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time.

"ERISA Affiliate" means 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" means (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 is waived); (b) the existence with respect to any Plan of an "accumulated funding deficiency" (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(d) of the Code or Section 303(d) of ERISA of an application for a waiver of the minimum funding standard with respect to any 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; (e) 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; (f) 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 (g) 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 or in reorganization, within the meaning of Title IV of ERISA.

"Eurodollar", 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 Adjusted LIBO Rate.

"Event of Default" has the meaning assigned to such term in Article VII.

"Excluded Taxes" means, with respect to the Administrative Agent, any Lender, any Issuing Bank or any other recipient of any payment to be made by or on account of any obligation of the Borrower hereunder, (a) income or franchise taxes imposed on (or measured by) its net income by the United States of America, or by the jurisdiction under the laws of which such recipient is organized or in which its principal office is located or, in the case of any Lender, in which its applicable lending office is located, (b) any branch profits taxes imposed by the United States of America or any similar tax imposed by any other jurisdiction in which the Borrower is located and (c) in the case of a Foreign Lender (other than an assignee pursuant to a request by the Borrower under Section 2.18(b)), any withholding tax that is imposed on amounts payable to such Foreign Lender at the time such Foreign Lender becomes a party to this Agreement (or designates a new lending office) or is attributable to such Foreign Lender's failure to comply with Section 2.16(e), except to the extent that such Foreign Lender (or its assignor, if any) was entitled, at the time of designation of a new lending office (or assignment), to receive additional amounts from the Borrower with respect to such withholding tax pursuant to Section 2.16(a).

"Existing Letters of Credit" shall mean the letters of credit which are "Letters of Credit" under the Prior Agreement, which are outstanding on the Effective Date and are listed on Schedule 1.01(a) hereto.

"Federal Funds Effective Rate" means, 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.

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

"Foreign Lender" means any Lender that is organized under the laws of a jurisdiction other than that in which the Borrower is located. For purposes of this definition, the United States of America, each State thereof and the District of Columbia shall be deemed to constitute a single jurisdiction.

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

"Governmental Authority" means 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.

"Guaranty" of or by any Person (the "guarantor") means any obligation, contingent or otherwise, of the guarantor guarantying or having the economic effect of guarantying any Indebtedness or other obligation (including any obligation under an operating lease) 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 other obligation 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 or other obligation (including any obligation under an operating lease) 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 other obligation or (d) as an account party in respect of any letter of credit or letter of guaranty issued to support such Indebtedness or obligation; provided, that the term Guaranty shall not include endorsements for collection or deposit in the ordinary course of business.

"Guarantor" means any Subsidiary of the Borrower who is a guarantor under the Subsidiary Guaranty as required by Section 5.09.

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

"Indebtedness" of any Person means, without duplication, (a) all obligations of such Person for borrowed money; (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; (d) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business and payable on customary trade terms); (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; (f) all Guaranties by such Person 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; (i) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances; (j) all obligations of such Person in respect of mandatory redemption or mandatory dividend rights on Equity Interests but excluding dividends payable solely in additional Equity Interests; (k) all obligations of such Person, contingent or otherwise, for the payment of money under any noncompete, consulting or similar agreement entered into with the seller of a target or any other similar arrangements providing for the deferred payment of the purchase price for an Acquisition permitted hereby or an Acquisition consummated prior to the date hereof; (l) all obligations of such Person under any Swap Agreement but not including the amount of such obligations to the extent that they may be settled with issuance of the Equity Interest of the Borrower; (m) all Limited Recourse Liabilities of such Person; (n) all obligations of such Person to purchase securities or other property arising out of or in connection with the sale of the same or substantially similar securities or property; and (o) any other obligation for borrowed money or other financial accommodation which in accordance with GAAP would be shown as a liability on the consolidated balance sheet of such Person. 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. For purposes of the forgoing sentence and as of the Effective Date, "any other entity" when considered with respect to any Subsidiary that is a general partner of a Joint Venture, shall include the applicable Joint Venture. The amount of the obligations of any Person in respect of any Swap Agreement shall, at any time of determination and for all purposes under this Agreement, be the maximum aggregate amount (giving effect to any netting agreements) that such Person would be required to pay if such Swap Agreement were terminated at such time giving effect to current market conditions notwithstanding any contrary treatment in accordance with GAAP.

"Indemnified Taxes" means Taxes other than Excluded Taxes.

"Information Memorandum" means the Confidential Information Memorandum dated November 2004 relating to the Borrower and the Transactions.

"Interest Election Request" means a request by the Borrower to convert or continue a Revolving Borrowing in accordance with Section 2.07.

"Interest Payment Date" means (a) with respect to any ABR Loan (other than a Swingline Loan), the last day of each March, June, September and December, (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, and (c) with respect to any Swingline Loan, the day that such Loan is required to be repaid.

"Interest Period" means with respect to any Eurodollar Borrowing, a period of one week or one, two, three or six months commencing on a Business Day selected by the Borrower pursuant to this Agreement or the Prior Agreement. A weekly Interest Period shall end on the day of the next following week which corresponds to the day of the week on which such Interest Period began, however, if such Interest Period would end on a day other than a Business Day, such Interest Period shall be extended to the next succeeding Business Day. A monthly Interest Period shall end on the day which corresponds numerically to such date one, two, three or six months thereafter, as the Borrower may elect, however: (i) if any monthly 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 immediately preceding Business Day and (ii) any monthly 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, in the case of a Revolving Borrowing, thereafter shall be the effective date of the most recent conversion or continuation of such Borrowing.

"Issuing Bank" means JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank and successor by merger to Bank One, N.A.) in its capacity as the issuer of Letters of Credit, and its successors or predecessors in such capacity. JPMorgan Chase Bank, N.A. may, in its discretion, arrange for one or more Letters of Credit to be issued by its Affiliates, in which case the term "Issuing Bank" shall include any such Affiliate with respect to Letters of Credit issued by such Affiliate.

"Joint Venture" means Illinois Cement Company and Texas–Lehigh Cement Company, L.P.

"LC Disbursement" means a payment made by an Issuing Bank pursuant to a Letter of Credit.

"LC Exposure" means, at any time, the sum of (a) the aggregate undrawn amount of all outstanding Letters of Credit at such time plus (b) the aggregate amount of all LC Disbursements that have not yet been reimbursed by or on behalf of the Borrower at such time. The LC Exposure of any Lender at any time shall be its Applicable Percentage of the total LC Exposure at such time.

"Lenders" means the Persons listed on Schedule 2.01 and any other Person that shall have become a party hereto pursuant to an Assignment and Assumption or Increase Commitment Supplement, other than any such Person that ceases to be a party hereto pursuant to an Assignment and Assumption. Unless the context otherwise requires, the term "Lenders" includes the Swingline Lender.

"Letter of Credit" means any letter of credit issued pursuant to this Agreement and any Existing Letter of Credit.

"Leverage Ratio" means, as of any date, the ratio of Consolidated Indebtedness to Consolidated EBITDA then most recently calculated in accordance with Section 6.10.

"LIBO Rate" means, with respect to any Eurodollar Borrowing for any Interest Period, the rate appearing on Page 3750 of the Dow Jones Market Service (or on any successor or substitute page of such Service, or any successor to or substitute for such Service, providing rate quotations comparable to those currently provided on such page of such Service, as determined by the Administrative Agent from time to time for purposes of providing quotations of interest rates applicable to dollar deposits in the London interbank market) at approximately 11:00 A.M., London time, two Business Days prior to the commencement of such Interest Period, as the rate for dollar deposits with a maturity comparable to such Interest Period. In the event that such rate is not available at such time for any reason, then the "LIBO Rate" with respect to such Eurodollar Borrowing for such Interest Period shall be the rate at which dollar deposits of $5,000,000 and for a maturity comparable to such Interest Period are offered by the principal London office of the Administrative Agent in immediately available funds in the London interbank market at approximately 11:00 A.M., London time, two Business Days prior to the commencement of such Interest Period.

"Lien" means, 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 Liability" of a Person means (i) any repurchase obligation or liability of such Person with respect to accounts or notes receivable sold by such Person, (ii) any liability under any sale and leaseback transaction which is not characterized as a Capital Lease Obligation, (iii) any liability under any Synthetic Lease entered into by such Person, (iv) any obligation or liability arising with respect to any sale or transfer of an interest in accounts receivable of the Borrower or any Subsidiary on a limited recourse basis, or (v) any obligation for which such Person is liable arising with respect to any other transaction which is the functional equivalent of or takes the place of borrowing but which does not constitute a liability on the balance sheet of such Person, but excluding from this clause (v) any lease classified as an operating lease in accordance with GAAP.

"Loans" means the loans made by the Lenders to the Borrower pursuant to this Agreement or pursuant to the Prior Agreement which are outstanding on the Effective Date.

"Loan Documents" means this Agreement, any notes executed pursuant hereto, the Subsidiary Guaranty and all other documentation now or hereafter executed and/or delivered by Borrower or any Guarantor in connection with any of the foregoing.

"Material Adverse Effect" means any event, development or circumstance that has had or could reasonably be expected to have a material adverse effect on (a) the business, property, financial condition or results of operation of the Borrower and the Subsidiaries taken as a whole; (b) the ability of the Borrower and the Subsidiaries (taken as a whole) to perform their respective obligations under the Loan Documents; or (c) the validity or enforceability of any of the Loan Documents or the rights or remedies of the Administrative Agent and the Lenders thereunder.

"Material Indebtedness" means Indebtedness (other than the Loans and Letters of Credit), or obligations in respect of one or more Swap Agreements, of any one or more of the Borrower and the Subsidiaries in an aggregate principal or notional amount, respectively, exceeding $2,500,000.

"Material Subsidiary" means, as of any date of determination, any Subsidiary whose: (i) total assets are, at that date, equal to or greater than 15% of the Borrower's consolidated total assets; or (ii) Consolidated EBITDA for the 12 completed months immediately prior to the date of determination is equal to or greater than 15% of the Borrower's Consolidated EBITDA for such period.

"Maturity Date" means June 30, 2011.

"Moody's" means Moody's Investors Service, Inc.

"Multiemployer Plan" means a multiemployer plan as defined in Section 4001(a)(3) of ERISA.

"New Lender" has the meaning specified in Section 2.19.

"New Material Subsidiary" has the meaning set forth in Section 5.09.

"Non-Guarantor Amount" has the meaning set forth in clause (c) of Section 6.01.

"Non-Guarantor Subsidiary" means a Subsidiary that is not a Guarantor.

"Other Taxes" means 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.

"Participant" has the meaning set forth in Section 9.04(c)(i).

"PBGC" means the Pension Benefit Guaranty Corporation referred to and defined in ERISA and any successor entity performing similar functions.

"Permitted Encumbrances" means:

(a) Liens created pursuant to the terms of the Loan Documents;

(b) Liens imposed by law for taxes, assessments or governmental charges or levies that are not yet due or are being contested in compliance with Section 5.04;

(c) carriers', warehousemen's, mechanics', materialmen's, repairmen's and other like Liens imposed by law, arising in the ordinary course of business and securing obligations that are not overdue by more than 60 days or are being contested in compliance with Section 5.04;

(d) pledges and deposits made in the ordinary course of business in compliance with workers' compensation, unemployment insurance and other social security, retirement or similar laws or regulations;

(e) judgment liens in respect of judgments that do not constitute an Event of Default under clause (k) of Article VII;

(f) easements, zoning restrictions, rights-of-way and similar encumbrances on real property imposed by law or arising in the ordinary course of business or of a nature generally existing with respect to properties of a similar character, in each case 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; and

(g) liens arising from filing UCC financing statements regarding leases permitted by this Agreement.

"Permitted Investments" means:

(a) direct obligations of, or obligations the principal of and interest on which are unconditionally guarantied by, the United States of America (or by any agency thereof to the extent such obligations are backed by the full faith and credit of the United States of America), in each case maturing within one year from the date of acquisition thereof;

(b) investments in commercial paper maturing within 270 days from the date of acquisition thereof and having, at such date of acquisition, a credit rating of at least A–1 from S&P or at least P–1 from Moody's;

(c) investments in certificates of deposit, banker's acceptances and time deposits maturing within 180 days from the date of acquisition thereof issued or guarantied by or placed with, and money market deposit accounts issued or offered by, any domestic office of any commercial bank organized under the laws of the United States of America or any State thereof which has a combined capital and surplus and undivided profits of not less than $500,000,000;

(d) fully collateralized repurchase agreements with a term of not more than 30 days for securities described in clause (a) above and entered into with a financial institution satisfying the criteria described in clause (c) above;

(e) money market funds that (i) comply with the criteria set forth in Securities and Exchange Commission Rule 2a-7 under the Investment Company Act of 1940, (ii) are rated at least A- by S&P and A3 by Moody's and (iii) have portfolio assets of at least $5,000,000,000;

(f) any Equity Interests, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the forgoing) representing the noncash portion of the sales price of any assets disposed of under the permissions of Section 6.03(c)(iv); provided that the related disposition was consummated in accordance with the limitations in Section 6.03; and

(g) any Equity Interest, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the forgoing) received in connection the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in each case in the ordinary course of business.

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

"Plan" means 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.

"Prime Rate" means 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 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.

"Prior Agreement" has the meaning set forth in the introduction to this Agreement.

"Purchase Price" has the meaning set forth in Section 6.04(h)(v).

"Receivable Financing Amount" means the aggregate amount of all loans and advances to, receivables due from, capital contributions to or guaranties of the obligations of, a special purpose bankruptcy remote entity; provided that for such a loan, advance, receivable, capital contribution or guaranty (each a "SPV Investments") to be included in the Receivable Financing Amount, the following conditions must be satisfied:

(a) The SPV Investment must be made in connection with a Receivable Securitization Financing otherwise permitted hereby;

(b) The special purpose bankruptcy remote entity must be the special purpose entity utilized in connection with the Receivable Securitization Financing;

(c) The aggregate amount of the SPV Investments made with respect to any one Receivable Securitization Financing may not exceed the aggregate amount of the receivables transferred in the securitization;

(d) The SPV Investment, if a loan, advance, or receivable, may only be made in consideration for receivables transferred in the securitization to evidence the consideration given by the special purpose entity in return therefor;

(e) The SPV Investment, if a capital contribution, may only be made with receivables, or as a discounted sale of receivables, to be transferred in the securitization;

(f) If the SPV Investment is a guaranty, such guaranty shall be non-recourse to the Borrower or the applicable Subsidiary and their respective assets except the beneficiary of the guaranty may have recourse to the Borrower's or the applicable Subsidiary's interests in the receivables transferred in the securitization; and

(g) The SPV Investment must not otherwise impair the limited recourse or true sale nature of the Receivable Securitization Financing.

"Receivable Securitization Financings" means a transaction or group of transactions typically referred to as a securitization in which a Person sells, directly or indirectly through another Person, its accounts receivable on a limited recourse basis in a transaction treated as a legal true sale to a special purpose bankruptcy remote entity who obtains debt financing or sells interests in such receivables to finance the purchase price.

"Register" has the meaning set forth in Section 9.04(b)(iv).

"Related Parties" means, 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" means, at any time, Lenders having Revolving Credit Exposures and unused Commitments representing at least 51% of the sum of the total Revolving Credit Exposures and unused Commitments at such time.

"Restricted Payment" means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests in the Borrower or any Subsidiary, or any payment (whether in cash, securities or other property but not including any payment to the extent settled by the issuance of Equity Interests of the Borrower), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Equity Interest in the Borrower or any option, warrant or other right to acquire any such Equity Interest in the Borrower (including any payment in respect of Equity Interests under a Swap Agreement but not including any payment under a Swap Agreement to the extent paid or settled by the issuance of Equity Interests of the Borrower).

"Revolving Credit Exposure" means, with respect to any Lender at any time, the sum of the outstanding principal amount of such Lender's Revolving Loans and its LC Exposure and Swingline Exposure at such time.

"Revolving Loan" means a Loan made pursuant to Section 2.03 or made pursuant to Section 2.03 of the Prior Agreement and outstanding on the Effective Date.

"S&P" means Standard & Poor's.

"Statutory Reserve Rate" means a fraction (expressed as a decimal), the numerator of which is the number one and the denominator of which is the number one minus the aggregate of the maximum reserve percentages (including any marginal, special, emergency or supplemental reserves) expressed as a decimal established by the Board to which the Administrative Agent is subject for eurocurrency funding (currently referred to as "Eurocurrency Liabilities" in Regulation D of the Board). Such reserve percentages shall include those imposed pursuant to such Regulation D. Eurodollar Loans shall be deemed to constitute eurocurrency funding and to be subject to such reserve requirements without benefit of or credit for proration, exemptions or offsets that may be available from time to time to any Lender under such Regulation D or any comparable regulation. The Statutory Reserve Rate shall be adjusted automatically on and as of the effective date of any change in any reserve percentage.

"subsidiary" means, with respect to any Person (the "parent") at any date, any 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, by the parent or one or more subsidiaries of the parent or by the parent and one or more subsidiaries of the parent.

"Subsidiary" means any subsidiary of the Borrower. As of the Effective Date, neither Illinois Cement Company nor Texas–Lehigh Cement Company, L.P. is a Subsidiary and as a result, nothing in this Agreement shall prohibit or otherwise restrict: (i) the creation, incurrence or assumption by either Illinois Cement Company or Texas–Lehigh Cement Company, L.P. of any Indebtedness of any kind (except to the extent that the Indebtedness of a Joint Venture may be limited by the fact that the Indebtedness of a Subsidiary that is its general partner, if any, may be limited hereby) or (ii) the creation, incurrence or assumption by either Illinois Cement Company or Texas–Lehigh Cement Company, L.P. of any Liens on any of its properties or assets.

"Subsidiary Guaranty" means that certain Amended and Restated Guaranty Agreement dated the date hereof executed by certain of the Subsidiaries, substantially in the form of Exhibit C hereto.

"Substantial Portion" has the meaning set forth in Section 6.03(c).

"Swap Agreement" means 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 the Subsidiaries shall be a Swap Agreement.

"Swingline Exposure" means, at any time, the aggregate principal amount of all Swingline Loans outstanding at such time. The Swingline Exposure of any Lender at any time shall be its Applicable Percentage of the total Swingline Exposure at such time.

"Swingline Lender" means JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank) in its capacity as lender of Swingline Loans hereunder.

"Swingline Loan" means a Loan made pursuant to Section 2.04.

"Synthetic Lease" means a lease (i) that is treated as an operating lease under GAAP and (ii) (a) in respect of which the leased asset is treated as owned by the lessee for purposes of the Code and/or (b) that is treated as a loan to the lessee for commercial law or insolvency law purposes.

"Taxes" means any and all present or future taxes, levies, imposts, duties, deductions, charges or withholdings imposed by any Governmental Authority.

"Transactions" means the execution, delivery and performance by the Borrower of this Agreement, the borrowing of Loans, the use of the proceeds thereof, the execution, delivery and performance by each Guarantor of the Subsidiary Guaranty and the issuance of Letters of Credit hereunder.

"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.

"Withdrawal Liability" means liability to a Multiemployer Plan as a result of a complete or partial withdrawal from such Multiemployer Plan, as such terms are defined in Part I of Subtitle E of Title IV of ERISA.

Section 1.02. Classification of Loans and Borrowings. For purposes of this Agreement, Loans may be classified and referred to by Class (e.g., a "Revolving Loan") or by Type (e.g., a "Eurodollar Loan") or by Class and Type (e.g., a "Eurodollar Revolving Loan"). Borrowings also may be classified and referred to by Class (e.g., a "Revolving Borrowing") or by Type (e.g., a "Eurodollar Borrowing") or by Class and Type (e.g., a "Eurodollar Revolving Borrowing").

Section 1.03. Terms Generally. The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise (a) any definition of or reference to any 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), (b) any reference herein to any Person shall be construed to include such Person's successors and assigns, (c) the words "herein", "hereof" and "hereunder", and words of similar import, shall be construed to refer to this Agreement in its entirety and not to any particular provision hereof, (d) all references herein to Articles, Sections, Exhibits and Schedules shall be construed to refer to Articles and Sections of, and Exhibits and Schedules to, this Agreement and (e) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

Section 1.04. Accounting Terms; GAAP. Except as otherwise expressly provided herein, all terms of an accounting or financial nature shall be construed in accordance with 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 date hereof 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.

ARTICLE II.

The Credits

Section 2.01. Commitments. Subject to the terms and conditions set forth herein, each Lender agrees to make Revolving Loans to the Borrower from time to time during the Availability Period in an aggregate principal amount that will not result in (a) such Lender's Revolving Credit Exposure exceeding such Lender's Commitment or (b) the total Revolving Credit Exposures exceeding the total Commitments. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Revolving Loans.

Section 2.02. Loans and Borrowings.

(a) Each Revolving Loan shall be made as part of a Borrowing consisting of Revolving 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 2.13, each Revolving Borrowing shall be comprised entirely of ABR Loans or Eurodollar Loans as the Borrower may request in accordance herewith. Each Swingline Loan shall be an ABR Loan. 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 Revolving Borrowing, such Borrowing shall be in an aggregate amount that is an integral multiple of $100,000 and not less than $1,000,000. At the time that each ABR Revolving Borrowing is made, such Borrowing shall be in an aggregate amount that is an integral multiple of $100,000 and not less than $1,000,000; provided that an ABR Revolving Borrowing may be in an aggregate amount that is equal to the entire unused balance of the total Commitments or that is required to finance the reimbursement of an LC Disbursement as contemplated by Section 2.05(e). Each Swingline Loan shall be in an amount that is an integral multiple of $100,000 and not less than $100,000. Borrowings of more than one Type and Class may be outstanding at the same time; provided that there shall not at any time be more than a total of 6 Eurodollar Revolving 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 Revolving Borrowings. To request a Revolving Borrowing, the Borrower shall notify the Administrative Agent of such request by telephone (a) in the case of a Eurodollar Borrowing, not later than 10:00 A.M., Dallas, Texas time, three Business Days before the date of the proposed Borrowing or (b) in the case of an ABR Borrowing, not later than 10:00 A.M., Dallas, Texas time, one Business Day before the date of the proposed Borrowing; provided that any such notice of an ABR Revolving Borrowing to finance the reimbursement of an LC Disbursement as contemplated by Section 2.05(e) may be given not later than 9:00 A.M., Dallas, Texas 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 telecopy 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, which shall comply with the requirements of Section 2.06.

If no election as to the Type of Revolving Borrowing is specified, then the requested Revolving Borrowing shall be an ABR Borrowing. If no Interest Period is specified with respect to any requested Eurodollar Revolving 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. Swingline Loans.

(a) Subject to the terms and conditions set forth herein, the Swingline Lender agrees to make Swingline Loans to the Borrower from time to time during the Availability Period, in an aggregate principal amount at any time outstanding that will not result in (i) the aggregate principal amount of outstanding Swingline Loans exceeding $15,000,000 or (ii) the total Revolving Credit Exposures exceeding the total Commitments; provided that the Swingline Lender shall not be required to make a Swingline Loan to refinance an outstanding Swingline Loan. Within the foregoing limits and subject to the terms and conditions set forth herein, the Borrower may borrow, prepay and reborrow Swingline Loans.

(b) To request a Swingline Loan, the Borrower shall notify the Administrative Agent of such request by telephone (confirmed by telecopy), not later than 1:00 P.M., Dallas, Texas time, on the day of a proposed Swingline Loan. Each such notice shall be irrevocable and shall specify the requested date (which shall be a Business Day) and amount of the requested Swingline Loan. The Administrative Agent will promptly advise the Swingline Lender of any such notice received from the Borrower. The Swingline Lender shall make each Swingline Loan available to the Borrower by means of a credit to the general deposit account of the Borrower with the Swingline Lender (or, in the case of a Swingline Loan made to finance the reimbursement of an LC Disbursement as provided in Section 2.05(e), by remittance to an Issuing Bank) by 12:00 P.M., Dallas, Texas time, on the requested date of such Swingline Loan.

(c) The Swingline Lender may by written notice given to the Administrative Agent not later than 11:00 A.M., Dallas, Texas time, on any Business Day require the Lenders to acquire participations on such Business Day in all or a portion of the Swingline Loans outstanding. Such notice shall specify the aggregate amount of Swingline Loans in which Lenders will participate. Promptly upon receipt of such notice, the Administrative Agent will give notice thereof to each Lender, specifying in such notice such Lender's Applicable Percentage of such Swingline Loan or Loans. Each Lender hereby absolutely and unconditionally agrees, upon receipt of notice as provided above, to pay to the Administrative Agent, for the account of the Swingline Lender, such Lender's Applicable Percentage of such Swingline Loan or Loans excluding however, any such Swingline Loan or Loans made by the Swingline Lender after it received from any Lender a notice that any applicable condition precedent set forth in Section 4.02 had not then been satisfied. Each Lender acknowledges and agrees that, except as set forth in the immediately preceding sentence, its obligation to acquire participations in Swingline Loans pursuant to this paragraph is absolute and unconditional and shall not be affected by any circumstance whatsoever, including the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever. Each Lender shall comply with its obligation under this paragraph by wire transfer of immediately available funds, in the same manner as provided in Section 2.06 with respect to Loans made by such Lender (and Section 2.06 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the Swingline Lender the amounts so received by it from the Lenders. The Administrative Agent shall notify the Borrower of any participations in any Swingline Loan acquired pursuant to this paragraph, and thereafter payments in respect of such Swingline Loan shall be made to the Administrative Agent and not to the Swingline Lender. Any amounts received by the Swingline Lender from the Borrower (or other party on behalf of the Borrower) in respect of a Swingline Loan after receipt by the Swingline Lender of the proceeds of a sale of participations therein shall be promptly remitted to the Administrative Agent; any such amounts received by the Administrative Agent shall be promptly remitted by the Administrative Agent to the Lenders that shall have made their payments pursuant to this paragraph and to the Swingline Lender, as their interests may appear; provided that any such payment so remitted shall be repaid to the Swingline Lender or to the Administrative Agent, as applicable, if and to the extent such payment is required to be refunded to the Borrower for any reason. The purchase of participations in a Swingline Loan pursuant to this paragraph shall not relieve the Borrower of any default in the payment thereof.

Section 2.05. Letters of Credit.

(a) General. The Borrower may request the issuance of standby and commercial Letters of Credit for its own account, in a form reasonably acceptable to the Administrative Agent and JPMorgan Chase Bank, N.A. and may request the amendment, renewal and extension of outstanding Letters of Credit. Subject to the terms and conditions set forth in this Agreement and at any time and from time to time during the Availability Period, at the Borrower's request, JPMorgan Chase Bank, N.A. agrees to issue Letters of Credit. In the event of any inconsistency between the terms and conditions of this Agreement and the terms and conditions of any form of letter of credit application or other agreement submitted by the Borrower to, or entered into by the Borrower with, an Issuing Bank relating to any Letter of Credit, the terms and conditions of this Agreement shall control.

(b) Notice of Issuance, Amendment, Renewal, Extension; Certain Conditions. To request the issuance of a Letter of Credit (or the amendment, renewal or extension of an outstanding Letter of Credit), the Borrower shall hand deliver or telecopy (or transmit by electronic communication, if arrangements for doing so have been approved by the applicable Issuing Bank) to the applicable Issuing Bank and the Administrative Agent (reasonably in advance of the requested date of issuance, amendment, renewal or extension) a notice requesting the issuance of a Letter of Credit, or identifying the Letter of Credit to be amended, renewed or extended, and specifying the date of issuance, amendment, renewal or extension (which shall be a Business Day), the date on which such Letter of Credit is to expire (which shall comply with paragraph (c) of this Section), the amount of such Letter of Credit, the name and address of the beneficiary thereof and such other information as shall be necessary to prepare, amend, renew or extend such Letter of Credit. If requested by the applicable Issuing Bank, the Borrower also shall submit a letter of credit application on such Issuing Bank's standard form in connection with any request for a Letter of Credit. A Letter of Credit shall be issued, amended, renewed or extended only if (and upon issuance, amendment, renewal or extension of each Letter of Credit the Borrower shall be deemed to represent and warrant that), after giving effect to such issuance, amendment, renewal or extension (i) the LC Exposure shall not exceed $25,000,000 and (ii) the total Revolving Credit Exposures shall not exceed the total Commitments.

(c) Expiration Date; Collateralization of Extended Term Letters of Credit. Each Letter of Credit shall expire at or prior to the close of business on the earlier of (i) the date one year after the date of the issuance of such Letter of Credit (or, in the case of any renewal or extension thereof, one year after such renewal or extension) and (ii) the date that is six months after the Maturity Date; provided however, that with respect to each Letter of Credit with an expiry date beyond the Maturity Date, the Borrower shall pledge to the Administrative Agent cash collateral in the amount, at the time and in the manner provided for in Section 2.05(j).

(d) Participations. By the issuance of a Letter of Credit (or an amendment to a Letter of Credit increasing the amount thereof) or on the Effective Date with respect to the Existing Letters of Credit, and without any further action on the part of an Issuing Bank or the Lenders, the applicable Issuing Bank hereby grants to each Lender, and each Lender hereby acquires from the applicable Issuing Bank, a participation in such Letter of Credit equal to such Lender's Applicable Percentage of the aggregate amount available to be drawn under such Letter of Credit. In consideration and in furtherance of the foregoing, each Lender hereby absolutely and unconditionally agrees to pay to the Administrative Agent, for the account of the applicable Issuing Bank, such Lender's Applicable Percentage of each LC Disbursement made by an Issuing Bank and not reimbursed by the Borrower on the date due as provided in paragraph (e) of this Section, or of any reimbursement payment required to be refunded to the Borrower for any reason; provided that a Lender shall not be obligated to pay to the Administrative Agent the Applicable Percentage of any LC Disbursement if the Letter of Credit under which such LC Disbursement was made was issued by the Issuing Bank after it received from any Lender a notice that any applicable condition precedent set forth in Section 4.02 had not then been satisfied. Each Lender acknowledges and agrees that its obligation to acquire participations pursuant to this paragraph in respect of Letters of Credit is absolute and unconditional and shall not be affected by any circumstance whatsoever, including any amendment, renewal or extension of any Letter of Credit or the occurrence and continuance of a Default or reduction or termination of the Commitments, and that each such payment shall be made without any offset, abatement, withholding or reduction whatsoever.

(e) Reimbursement. If an Issuing Bank shall make any LC Disbursement in respect of a Letter of Credit, the Borrower shall reimburse such LC Disbursement by paying to the Administrative Agent an amount equal to such LC Disbursement not later than 11:00 A.M., Dallas, Texas time, on the date that such LC Disbursement is made, if the Borrower shall have received notice of such LC Disbursement prior to 9:00 A.M., Dallas, Texas time, on such date, or, if such notice has not been received by the Borrower prior to such time on such date, then not later than 11:00 A.M., Dallas, Texas time, on (i) the Business Day that the Borrower receives such notice, if such notice is received prior to 9:00 A.M., Dallas, Texas time, on the day of receipt, or (ii) the Business Day immediately following the day that the Borrower receives such notice, if such notice is not received prior to such time on the day of receipt; provided that the Borrower may, subject to the conditions to borrowing set forth herein, request in accordance with Section 2.03 or 2.04 that such payment be financed with an ABR Revolving Borrowing or Swingline Loan in an equivalent amount and, to the extent so financed, the Borrower's obligation to make such payment shall be discharged and replaced by the resulting ABR Revolving Borrowing or Swingline Loan. If the Borrower fails to make such payment when due, the Administrative Agent shall notify each Lender of the applicable LC Disbursement, the payment then due from the Borrower in respect thereof and such Lender's Applicable Percentage thereof. Promptly following receipt of such notice, each Lender shall pay to the Administrative Agent its Applicable Percentage of the payment then due from the Borrower, in the same manner as provided in Section 2.06 with respect to Loans made by such Lender (and Section 2.06 shall apply, mutatis mutandis, to the payment obligations of the Lenders), and the Administrative Agent shall promptly pay to the applicable Issuing Bank the amounts so received by it from the Lenders. Promptly following receipt by the Administrative Agent of any payment from the Borrower pursuant to this paragraph, the Administrative Agent shall distribute such payment to the applicable Issuing Bank or, to the extent that Lenders have made payments pursuant to this paragraph to reimburse the applicable Issuing Bank, then to such Lenders and the applicable Issuing Bank as their interests may appear. Any payment made by a Lender pursuant to this paragraph to reimburse an Issuing Bank for any LC Disbursement (other than the funding of ABR Revolving Loans or a Swingline Loan as contemplated above) shall not constitute a Loan and shall not relieve the Borrower of its obligation to reimburse such LC Disbursement.

(f) Obligations Absolute. The Borrower's obligation to reimburse LC Disbursements as provided in paragraph (e) of this Section shall be absolute, unconditional and irrevocable, and shall be performed strictly in accordance with the terms of this Agreement under any and all circumstances whatsoever and irrespective of (i) any lack of validity or enforceability of any Letter of Credit or this Agreement, or any term or provision therein, (ii) any draft or other document presented under a Letter of Credit proving to be forged, fraudulent or invalid in any respect or any statement therein being untrue or inaccurate in any respect, (iii) payment by an Issuing Bank under a Letter of Credit against presentation of a draft or other document that does not comply with the terms of such Letter of Credit, or (iv) any other event or circumstance whatsoever, whether or not similar to any of the foregoing, that might, but for the provisions of this Section, constitute a legal or equitable discharge of, or provide a right of setoff against, the Borrower's obligations hereunder. Neither the Administrative Agent, the Lenders nor any Issuing Bank, nor any of their Related Parties, shall have any liability or responsibility by reason of or in connection with the issuance or transfer of any Letter of Credit or any payment or failure to make any payment thereunder (irrespective of any of the circumstances referred to in the preceding sentence), or any error, omission, interruption, loss or delay in transmission or delivery of any draft, notice or other communication under or relating to any Letter of Credit (including any document required to make a drawing thereunder), any error in interpretation of technical terms or any consequence arising from causes beyond the control of an Issuing Bank; provided that the foregoing shall not be construed to excuse an Issuing Bank from liability to the Borrower to the extent of any direct damages (as opposed to consequential damages, claims in respect of which are hereby waived by the Borrower to the extent permitted by applicable law) suffered by the Borrower that are caused by (i) an Issuing Bank's failure to exercise care when determining whether drafts and other documents presented under a Letter of Credit comply with the terms thereof or (ii) an Issuing Bank's failure to pay under any Letter of Credit after the presentation to it of drafts or other documents strictly complying with the terms and conditions of such Letter of Credit. The parties hereto expressly agree that, in the absence of gross negligence or willful misconduct on the part of an Issuing Bank (as finally determined by a court of competent jurisdiction), the Issuing Bank shall be deemed to have exercised care in each such determination referred to in clause (i) of the preceding sentence. In furtherance of the foregoing and without limiting the generality thereof, the parties agree that, with respect to documents presented which appear on their face to be in substantial compliance with the terms of a Letter of Credit, an Issuing Bank may, in its sole discretion, either accept and make payment upon such documents without responsibility for further investigation, regardless of any notice or information to the contrary, or refuse to accept and make payment upon such documents if such documents are not in strict compliance with the terms of such Letter of Credit.

(g) Disbursement Procedures. An Issuing Bank shall, promptly following its receipt thereof, examine all documents purporting to represent a demand for payment under a Letter of Credit. The Issuing Bank under such Letter of Credit shall promptly notify the Administrative Agent and the Borrower by telephone (confirmed by telecopy) of such demand for payment, including the amount thereof and the proposed payment date, and whether it has made or will make an LC Disbursement thereunder; provided that any failure to give or delay in giving such notice shall not relieve the Borrower of its obligation to reimburse the applicable Issuing Bank and the Lenders with respect to any such LC Disbursement.

(h) Interim Interest. If an Issuing Bank shall make any LC Disbursement, then, unless the Borrower shall reimburse such LC Disbursement in full on the date such LC Disbursement is made, the unpaid amount thereof shall bear interest, for each day from and including the date such LC Disbursement is made to but excluding the date that the Borrower reimburses such LC Disbursement, at the rate per annum then applicable to ABR Revolving Loans; provided that, if the Borrower fails to reimburse such LC Disbursement when due pursuant to paragraph (e) of this Section, then Section 2.12(e) shall apply. Interest accrued pursuant to this paragraph shall be for the account of the applicable Issuing Bank, except that interest accrued on and after the date of payment by any Lender pursuant to paragraph (e) of this Section to reimburse an Issuing Bank shall be for the account of such Lender to the extent of such payment.

(i) Replacement of the Issuing Bank. JPMorgan Chase Bank, N.A. may be replaced as an Issuing Bank hereunder at any time by written agreement among the Borrower, the Administrative Agent, JPMorgan Chase Bank, N.A. and the successor. The Administrative Agent shall notify the Lenders of any such replacement of JPMorgan Chase Bank, N.A. At the time any such replacement shall become effective, the Borrower shall pay all unpaid fees accrued for the account of JPMorgan Chase Bank, N.A. in its capacity as the replaced Issuing Bank pursuant to Section 2.11(b). From and after the effective date of any such replacement, (i) the successor shall have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit to be issued thereafter and (ii) references herein to the term “Issuing Bank” shall be deemed to refer to such successor or to any previous Issuing Bank, or to such successor and all previous Issuing Banks, as the context shall require. After the replacement of an Issuing Bank hereunder, the replaced Issuing Bank shall remain a party hereto and shall continue to have all the rights and obligations of an Issuing Bank under this Agreement with respect to Letters of Credit issued by it prior to such replacement, but shall not be required to issue additional Letters of Credit.

(j) Cash Collateralization. If any Event of Default shall occur and be continuing, on the Business Day that the Borrower receives notice from the Administrative Agent or the Required Lenders demanding the deposit of cash collateral pursuant to this paragraph, the Borrower shall deposit in an account with the Administrative Agent, in the name of the Administrative Agent and for the benefit of the Lenders (the "Cash Collateral Account"), an amount in cash equal to the LC Exposure as of such date plus any accrued and unpaid interest thereon; provided that the obligation to deposit such cash collateral shall become effective immediately, and such deposit shall become immediately due and payable, without demand or other notice of any kind, upon the occurrence of any Event of Default with respect to the Borrower described in clause (h) or (i) of Article VII. If the Borrower is required to deposit cash collateral pursuant to Section 2.10(b) because the Revolving Credit Exposures exceed the total Commitments, the Borrower shall deposit cash collateral in the Cash Collateral Account in an aggregate amount equal to such excess plus any accrued and unpaid interest thereon. If the Borrower is required to pledge cash collateral pursuant to clause (c) of this Section, then on or before the date 30 days prior to the Maturity Date, the Borrower shall deposit in the Cash Collateral Account an amount in cash equal to the aggregate LC Exposure for all Letters of Credit that have expiry dates past the Maturity Date plus any accrued and unpaid interest thereon. The deposits made under this paragraph shall be held by the Administrative Agent as collateral for the payment and performance of the obligations of the Borrower under this Agreement. The Administrative Agent shall have exclusive dominion and control, including the exclusive right of withdrawal, over the Cash Collateral Account. Other than any interest earned on the investment of such deposits, which investments shall be made at the option and sole discretion of the Administrative Agent and at the Borrower's risk and expense, such deposits shall not bear interest. Interest or profits, if any, on such investments shall accumulate in the Cash Collateral Account. Money in the Cash Collateral Account shall be applied by the Administrative Agent to reimburse the Issuing Banks for LC Disbursements for which they have not been reimbursed and, to the extent not so applied, shall be held for the satisfaction of the reimbursement obligations of the Borrower for the LC Exposure at such time or, if the maturity of the Loans has been accelerated, be applied to satisfy other obligations of the Borrower and the Subsidiaries under the Loan Documents and under the Swap Agreements entered into with a Lender or Affiliate of a Lender. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the occurrence of an Event of Default, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three Business Days after all Events of Default have been cured or waived. If the Borrower is required to provide an amount of cash collateral hereunder to secure Letters of Credit with expiry dates beyond the Maturity Date, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three Business Days after the Letter of Credit with the latest expiry date has expired if as of such date no further Letters of Credit are outstanding and all LC Disbursements have been reimbursed. If the Borrower is required to provide an amount of cash collateral hereunder as a result of the fact that the Revolving Credit Exposure exceeds the total Commitments, such amount (to the extent not applied as aforesaid) shall be returned to the Borrower within three Business Days after the date when the Revolving Credit Exposures no longer exceed the total Commitments.

Section 2.06. 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 11:00 A.M., Dallas, Texas time, to the account of the Administrative Agent most recently designated by it for such purpose by notice to the Lenders; provided that Swingline Loans shall be made as provided in Section 2.04. 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 Dallas, Texas and designated by the Borrower in the applicable Borrowing Request; provided that ABR Revolving Loans made to finance the reimbursement of an LC Disbursement as provided in Section 2.05(e) shall be remitted by the Administrative Agent to the applicable Issuing Bank.

(b) Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date 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 such 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 2.07. Interest Elections.

(a) Each Revolving Borrowing initially shall be of the Type specified in the applicable Borrowing Request and, in the case of a Eurodollar Revolving Borrowing, shall have an initial Interest Period as specified in such Borrowing Request. 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 Revolving 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. This Section shall not apply to Swingline Borrowings, which may not be converted or continued.

(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 Revolving 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 telecopy 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 Revolving 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 Revolving Borrowing may be converted to or continued as a Eurodollar Borrowing and (ii) unless repaid, each Eurodollar Revolving Borrowing shall be converted to an ABR Borrowing at the end of the Interest Period applicable thereto.

Section 2.08. Termination and Reduction of Commitments.

(a) Unless previously terminated, the Commitments shall terminate on the Maturity Date.

(b) 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 $5,000,000 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 2.10, the Revolving Credit Exposures would exceed the total Commitments.

(c) The Borrower shall notify the Administrative Agent of any election to terminate or reduce the Commitments under paragraph (b) 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 Section 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 effectiveness of other credit facilities, 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. Any termination or reduction of the Commitments shall be permanent. Each reduction of the Commitments shall be made ratably among the Lenders in accordance with their respective Commitments.

Section 2.09. Repayment of Loans; Evidence of Debt.

(a) The Borrower hereby unconditionally promises to pay (i) to the Administrative Agent for the account of each Lender the then unpaid principal amount of each Revolving Loan on the Maturity Date and (ii) to the Swingline Lender the then unpaid principal amount of each Swingline Loan on the earlier of the Maturity Date and the first date after such Swingline Loan is made that is the 15th or last day of a calendar month and is at least two Business Days after such Swingline Loan is made; provided that on each date that a Revolving Borrowing is made, the Borrower shall repay all Swingline Loans then outstanding.

(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 Class and 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 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 promissory 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) and in a form approved by the Administrative Agent. Thereafter, the Loans evidenced by such promissory note and interest thereon shall at all times (including after assignment pursuant to Section 9.04) be represented by one or more promissory notes in such form payable to the order of the payee named therein (or, if such promissory note is a registered note, to such payee and its registered assigns).

Section 2.10. Prepayment of Loans.

(a) The Borrower shall have the right at any time and from time to time to prepay any Borrowing, in whole or in part without premium or penalty except as provided in Section 2.15, subject to prior notice in accordance with paragraph (c) of this Section. Each optional prepayment of the Loans shall be in an amount that is an integral multiple of $100,000 and not less than $1,000,000.

(b) In the event and on such occasion that the Revolving Credit Exposures exceed the total Commitments, the Borrower shall prepay Revolving Borrowings or Swingline Borrowings (or, if no such Borrowings are outstanding, deposit cash collateral in the Cash Collateral Account pursuant to Section 2.05(j)) in an aggregate amount equal to such excess.

(c) The Borrower shall notify the Administrative Agent (and, in the case of prepayment of a Swingline Loan, the Swingline Lender) by telephone (confirmed by telecopy) of any prepayment hereunder (i) in the case of prepayment of a Eurodollar Revolving Borrowing, not later than 10:00 A.M., Dallas, Texas time, three Business Days before the date of prepayment, (ii) in the case of prepayment of an ABR Revolving Borrowing, not later than 10:00 A.M., Dallas, Texas time, one Business Day before the date of prepayment or (iii) in the case of prepayment of a Swingline Loan, not later than 11:00 A.M., Dallas, Texas time, on the date of 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 2.08, then such notice of prepayment may be revoked if such notice of termination is revoked in accordance with Section 2.08. Promptly following receipt of any such notice relating to a Revolving Borrowing, the Administrative Agent shall advise the Lenders of the contents thereof. Each partial prepayment of any Revolving Borrowing shall be in an amount that would be permitted in the case of an advance of a Revolving Borrowing of the same Type as provided in Section 2.02. Each prepayment of a Revolving Borrowing shall be applied ratably to the Loans included in the prepaid Borrowing. Prepayments shall be accompanied by accrued interest to the extent required by Section 2.12.

Section 2.11. Fees.

(a) The Borrower agrees to pay to the Administrative Agent for the account of each Lender a commitment fee, which shall accrue at the Applicable Rate on the daily amount of the unused Commitment of such Lender during the Availability Period. Accrued commitment fees shall be payable in arrears on the last day of March, June, September and December of each year and on the date on which the Commitments terminate, commencing on the first such date to occur after the date hereof. All 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). For purposes of computing commitment fees, a Commitment of a Lender shall be deemed to be used to the extent of the outstanding Loans and LC Exposure of such Lender (and the Swingline Exposure of such Lender shall be disregarded for such purpose).

(b) The Borrower agrees to pay (i) to the Administrative Agent for the account of each Lender a participation fee with respect to its participations in Letters of Credit, which shall accrue at the same Applicable Rate used to determine the interest rate applicable to Eurodollar Revolving Loans on the average daily amount of such Lender's LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) during the period from and including the Effective Date to but excluding the later of the date on which such Lender's Commitment terminates and the date on which such Lender ceases to have any LC Exposure, and (ii) to each Issuing Bank a fronting fee, which shall accrue at the rate of 0.125% per annum on the average daily amount of the LC Exposure (excluding any portion thereof attributable to unreimbursed LC Disbursements) attributable to the Letters of Credit issued by such Issuing Bank during the period from and including the Effective Date to but excluding the later of the date of termination of the Commitments and the date on which there ceases to be any such LC Exposure, as well as each Issuing Bank's standard fees with respect to the issuance, amendment, renewal or extension of any Letter of Credit or processing of drawings thereunder. Participation fees and fronting fees accrued through and including the last day of March, June, September and December of each year shall be payable on the third Business Day following such last day, commencing on the first such date to occur after the Effective Date; provided that all such fees shall be payable on the date on which the Commitments terminate and any such fees accruing after the date on which the Commitments terminate shall be payable on demand. Any other fees payable to an Issuing Bank pursuant to this paragraph shall be payable within 10 days after demand. All participation fees and fronting 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).

(c) The Borrower agrees to pay to the Administrative Agent, for its own account, fees payable in the amounts and at the times separately agreed upon between the Borrower and the Administrative Agent.

(d) All fees payable hereunder shall be paid on the dates due, in immediately available funds, to the Administrative Agent (or to an Issuing Bank, in the case of fees payable to it) for distribution, in the case of commitment fees and participation fees, to the Lenders. Fees paid shall not be refundable under any circumstances.

Section 2.12. Interest.

(a) The Loans comprising each ABR Borrowing (including each Swingline Loan) 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, in the case of Revolving Loans, upon termination of the Commitments; 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 (other than a prepayment of an ABR Revolving Loan prior to the end of the Availability Period), 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 Revolving 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) or unless such calculation would result in a usurious rate, in which case interest shall be calculated 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 2.13. 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 by the Required Lenders that the Adjusted LIBO Rate for such Interest Period will not adequately and fairly reflect the cost to such Lenders (or Lender) of making or maintaining their Loans (or its Loan) 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 telecopy 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 Revolving Borrowing to, or continuation of any Revolving Borrowing as, a Eurodollar Borrowing shall be ineffective, and (ii) if any Borrowing Request requests a Eurodollar Revolving Borrowing, such Borrowing shall be made as an ABR Borrowing.

Section 2.14. Increased Costs.

(a) If any Change in Law shall:

(i) 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 any Issuing Bank; or

(ii) impose on any Lender or any Issuing Bank or the London interbank market any other condition affecting this Agreement or Eurodollar Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender of making or maintaining any Eurodollar Loan (or of maintaining its obligation to make any such Loan) or to increase the cost to such Lender or an Issuing Bank of participating in, issuing or maintaining any Letter of Credit or to reduce the amount of any sum received or receivable by such Lender or an Issuing Bank hereunder (whether of principal, interest or otherwise), then the Borrower will pay to such Lender or the applicable Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank, as the case may be, for such additional costs incurred or reduction suffered.

(b) If any Lender or any Issuing Bank 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 or such Issuing Bank's capital or on the capital of such Lender's or such Issuing Bank's holding company, if any, as a consequence of this Agreement or the Loans made by, or participations in Letters of Credit held by, such Lender, or the Letters of Credit issued by an Issuing Bank, to a level below that which such Lender or applicable Issuing Bank or such Lender's or such Issuing Bank's holding company could have achieved but for such Change in Law (taking into consideration such Lender's or such Issuing Bank's policies and the policies of such Lender's or such Issuing Bank's holding company with respect to capital adequacy), then from time to time the Borrower will pay to such Lender or such Issuing Bank, as the case may be, such additional amount or amounts as will compensate such Lender or such Issuing Bank or such Lender's or such Issuing Bank's holding company for any such reduction suffered.

(c) A certificate of a Lender or an Issuing Bank setting forth the amount or amounts necessary to compensate such Lender or such Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section shall be delivered to the Borrower and shall be conclusive absent manifest error. The Borrower shall pay such Lender or such Issuing Bank, as the case may be, 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 or any Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or such Issuing Bank's right to demand such compensation; provided that the Borrower shall not be required to compensate a Lender or an Issuing Bank pursuant to this Section for any increased costs or reductions incurred more than 270 days prior to the date that such Lender or such Issuing Bank, as the case may be, notifies the Borrower of the Change in Law giving rise to such increased costs or reductions and of such Lender's or such Issuing Bank'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 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

Section 2.15. 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 2.10(c) 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 2.18, then, in any such event, the Borrower shall compensate each Lender for the loss, cost and expense attributable to such event. In the case of a Eurodollar Loan, 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, 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 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 2.16. Taxes.

(a) Any and all payments by or on account of any obligation of the Borrower hereunder shall be made free and clear of and without deduction for any Indemnified Taxes or 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, Lender or Issuing Bank (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) The Borrower shall indemnify the Administrative Agent, each Lender and each Issuing Bank, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes or Other Taxes paid by the Administrative Agent, such Lender or such Issuing Bank, as the case may be, on or with respect to any payment by or on account of any obligation of the Borrower hereunder (including Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section) and any penalties, interest and reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes or Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to the Borrower by a Lender or an Issuing Bank, or by the Administrative Agent on its own behalf or on behalf of a Lender or an Issuing Bank, shall be conclusive absent manifest error.

(d) As soon as practicable after any payment of Indemnified Taxes or Other Taxes by the Borrower to a Governmental Authority, the Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(e) Any Foreign Lender that is entitled to an exemption from or reduction of withholding tax under the law of the jurisdiction in which the Borrower is located, or any treaty to which such jurisdiction is a party, with respect to payments under this Agreement shall deliver to the Borrower (with a copy to the Administrative Agent), at the time or times prescribed by applicable law, such properly completed and executed documentation prescribed by applicable law or reasonably requested by the Borrower as will permit such payments to be made without withholding or at a reduced rate.

(f) If the Administrative Agent or a Lender determines, in its sole discretion, that it has received a refund of any Taxes or Other Taxes as to which it has been indemnified by the Borrower or with respect to which the Borrower has paid additional amounts pursuant to this Section 2.16, it shall pay over such refund to the Borrower (but only to the extent of indemnity payments made, or additional amounts paid, by the Borrower under this Section 2.16 with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses 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); provided, that the Borrower, upon the request of the Administrative Agent or such Lender, agrees to repay the amount paid over to the Borrower (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) to the Administrative Agent or such Lender in the event the Administrative Agent or such Lender is required to repay such refund to such Governmental Authority. This Section 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 which it deems confidential) to the Borrower or any other Person.

Section 2.17. 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, fees or reimbursement of LC Disbursements, or of amounts payable under Section 2.14, 2.15 or 2.16, or otherwise) prior to 11:00 A.M., Dallas, Texas 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 in New York, New York, except payments to be made directly to an Issuing Bank or the Swingline Lender as expressly provided herein and except that payments pursuant to Sections 2.14, 2.15, 2.16 and 9.03 shall be made directly to the Persons entitled thereto. The Administrative Agent shall distribute any such payments received by it and any payments received under the terms of the Subsidiary Guaranty 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 from the Borrower by and available to the Administrative Agent to pay fully all amounts of principal, unreimbursed LC Disbursements, 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 and unreimbursed LC Disbursements then due hereunder, ratably among the parties entitled thereto in accordance with the amounts of principal and unreimbursed LC Disbursements then due to such parties. If at any time funds are received by the Administrative Agent from a Guarantor under the Subsidiary Guaranty that are insufficient to pay fully all amounts of principal, unreimbursed LC Disbursements, interest and fees then due hereunder and all amounts due under any Swap Agreement the Borrower or a Subsidiary has entered into with a Lender or an Affiliate of a Lender, such funds shall be applied: (i) first, towards payment of interest and fees then due, 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, unreimbursed LC Disbursements and the amounts owing under such Swap Agreements then due, ratably among the parties entitled thereto in accordance with the amounts thereof.

(c) 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 Revolving Loans or participations in LC Disbursements or Swingline Loans resulting in such Lender receiving payment of a greater proportion of the aggregate amount of its Revolving Loans and participations in LC Disbursements and Swingline 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 Revolving Loans and participations in LC Disbursements and Swingline 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 Revolving Loans and participations in LC Disbursements and Swingline 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 or any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in LC Disbursements to any assignee or participant, other than to the Borrower or any Subsidiary or Affiliate thereof (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.

(d) 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 or an Issuing Bank 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 or the applicable Issuing Bank, as the case may be, the amount due. In such event, if the Borrower has not in fact made such payment, then each of the Lenders or the applicable Issuing Bank, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such Issuing Bank 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.

(e) If any Lender shall fail to make any payment required to be made by it pursuant to Section 2.04(c), 2.05(d) or (e), 2.06(b) or 2.17(d), 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 2.18. Mitigation Obligations; Replacement of Lenders.

(a) If any Lender requests compensation under Section 2.14, 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 2.16, then such Lender shall use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 2.14 or 2.16, as the case may be, in the future and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. The Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

(b) If any Lender requests compensation under Section 2.14, 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 2.16, or if any Lender defaults in its obligation to fund Loans hereunder, 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), 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) the Borrower shall have received the prior written consent of the Administrative Agent which consent shall not unreasonably be withheld, (ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in LC Disbursements and Swingline 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) and (iii) in the case of any such assignment resulting from a claim for compensation under Section 2.14 or payments required to be made pursuant to Section 2.16, such assignment will result in a reduction in such compensation or payments. 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.

Section 2.19. Increase of Revolving Commitments. By written notice sent to the Administrative Agent (which the Administrative Agent shall promptly distribute to the Lenders), the Borrower may request an increase of the aggregate amount of the Commitments: (i) by an aggregate amount equal to any integral multiple of $5,000,000 but no less than $10,000,000; (ii) by an aggregate amount up to $150,000,000; and (iii) to an amount not to exceed $500,000,000; provided that (i) no Default shall have occurred and be continuing and (ii) the aggregate amount of the Commitments shall not previously have been increased more than two times pursuant to this Section 2.19. Each Lender, in its sole and absolute discretion, shall determine whether it will increase its Commitment. If one or more of the Lenders will not be increasing its Revolving Commitment pursuant to such request, then, with notice to the Administrative Agent and the other Lenders, another one or more financial institutions, each as approved by the Borrower, and the Administrative Agent (a "New Lender"), may commit to provide an amount equal to the aggregate amount of the requested increase that will not be provided by the existing Lenders (the "Increase Amount"); provided, that the Commitment of each New Lender shall be at least $10,000,000 and the maximum number of New Lenders shall be five (5). Upon receipt of notice from the Administrative Agent to the Lenders and the Borrower that the Lenders, or sufficient Lenders and New Lenders, have agreed to commit to an aggregate amount equal to the Increase Amount (or such lesser amount as the Borrower shall agree, which shall be at least $5,000,000 and an integral multiple of $5,000,000 in excess thereof), then: provided that no Default exists at such time or after giving effect to the requested increase, the Borrower, the Administrative Agent and the Lenders willing to increase their respective Commitments and the New Lenders (if any) shall execute and deliver an Increased Commitment Supplement (herein so called) in the form attached hereto as Exhibit E. If all existing Lenders shall not have provided their pro rata portion of the requested increase, then after giving effect to the requested increase the outstanding Revolving Loans may not be held pro rata in accordance with the new Commitments. In order to remedy the forgoing, on the effective date of the Increased Commitment Supplement, the Lenders shall make advances among themselves (either directly or through the Administrative Agent) so that after giving effect thereto the Revolving Loans will be held by the Lenders, pro rata in accordance with their respective Commitments. Any advances made under this Section 2.19 by a Lender shall be deemed to be a purchase of a corresponding amount of the Revolving Loans of the Lender or Lenders who shall receive such advances. The Commitments of the Lenders who do not agree to increase their Commitments can not be reduced or otherwise changed pursuant to this Section 2.19.

ARTICLE III.

Representations and Warranties

The Borrower represents and warrants to the Lenders that:

Section 3.01. Organization; Powers. Each of the Borrower and the Subsidiaries is duly organized, validly existing and in good standing under the laws of the jurisdiction of its organization, has all requisite corporate, limited liability company or partnership power and authority to carry on its business as now conducted and, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required.

Section 3.02. Authorization; Enforceability. The Transactions to be entered into by the Borrower and each Guarantor are within such party's corporate, limited liability company or partnership powers and have been duly authorized by all necessary corporate, company or partnership action and, if required, stockholder, member, manager or partner action. This Agreement has been duly executed and delivered by the Borrower and constitutes a legal, valid and binding obligation of the Borrower, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law. The Subsidiary Guaranty has been duly executed and delivered by the Guarantors and constitutes a legal, valid and binding obligation of each such Guarantor, enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

Section 3.03. Governmental Approvals; No Conflicts. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect or are not yet required, (b) will not violate any applicable law or regulation or the charter, by-laws or other organizational documents of the Borrower or any of the Subsidiaries or any order of any Governmental Authority, (c) will not violate or result in a default under any indenture, agreement or other instrument binding upon the Borrower or any of the Subsidiaries or its assets, or give rise to a right thereunder to require any payment to be made by the Borrower or any of the Subsidiaries, and (d) will not result in the creation or imposition of any Lien on any asset of the Borrower or any of the Subsidiaries.

Section 3.04. Financial Condition; No Material Adverse Change.

(a) The Borrower has heretofore furnished to the Lenders its consolidated balance sheet and statements of income, stockholders equity and cash flows (i) as of and for the fiscal year ended March 31, 2004, reported by independent public accountants, and (ii) as of and for the fiscal quarter and the portion of the fiscal year ended September 30, 2004, certified by its chief financial officer. Such financial statements present fairly, in all material respects, the financial position and results of operations and cash flows of the Borrower and its consolidated Subsidiaries as of such dates and for such periods in accordance with GAAP, subject to year-end audit adjustments and the absence of footnotes in the case of the statements referred to in clause (ii) above.

(b) Since March 31, 2004, there has been no material adverse change in the business, assets, results of operations, or financial condition of the Borrower and the Subsidiaries, taken as a whole.

Section 3.05. Properties.

(a) Each of the Borrower and the Subsidiaries has good title to, or valid leasehold interests in, all its real and personal property material to its business, free and clear of all Liens except for (i) minor defects in title that do not interfere with its ability to conduct its business as currently conducted or to utilize such properties for their intended purposes; (ii) as of the Effective Date, Permitted Encumbrances and other Liens disclosed on Schedule 3.05 or otherwise permitted by Section 6.02(d) or Section 6.02(f), and (iii) at all times after the Effective Date, as permitted by Section 6.02.

(b) Each of the Borrower and the Subsidiaries owns, or is licensed to use, all trademarks, tradenames, copyrights, patents and other intellectual property the failure to own or be licensed to use could reasonably be expected to result in a Material Adverse Effect, and the use thereof by the Borrower and the Subsidiaries does not infringe upon the rights of any other Person, except for any such infringements that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

Section 3.06. Litigation and Environmental Matters.

(a) There are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or, to the knowledge of the Borrower, threatened against or affecting the Borrower or any of the Subsidiaries (i) as to which there is a reasonable expectation of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to result in a Material Adverse Effect (other than the Disclosed Matters) or (ii) that involve this Agreement or the Transactions.

(b) Except for the Disclosed Matters and except with respect to any other matters that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, neither the Borrower nor any of the Subsidiaries (i) 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, (ii) has become subject to any Environmental Liability, (iii) has received notice of any claim with respect to any Environmental Liability or (iv) knows of any basis for any Environmental Liability.

(c) Since the date of this Agreement, there has been no change in the status of the Disclosed Matters that, individually or in the aggregate, has resulted in, or materially increased the likelihood of, a Material Adverse Effect.

Section 3.07. Compliance with Laws and Agreements. Each of the Borrower and the 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, except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. No Default has occurred and is continuing.

Section 3.08. Investment and Holding Company Status. Neither the Borrower nor any of the Subsidiaries is (a) an “investment company” as defined in, or subject to regulation under, the Investment Company Act of 1940 or (b) a “holding company” as defined in, or subject to regulation under, the Public Utility Holding Company Act of 1935.

Section 3.09. Taxes. Each of the Borrower and the Subsidiaries has timely filed or caused to be filed all Tax returns and reports required to have been filed 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 or (b) to the extent that the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

Section 3.10. ERISA. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect. The present value of all accumulated benefit obligations under each Plan (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed by more than $2,500,000 the fair market value of the assets of such Plan, and the present value of all accumulated benefit obligations of all underfunded Plans (based on the assumptions used for purposes of Statement of Financial Accounting Standards No. 87) did not, as of the date of the most recent financial statements reflecting such amounts, exceed by more than $10,000,000 the fair market value of the assets of all such underfunded Plans.

Section 3.11. Disclosure. Neither the Information Memorandum nor any of the other reports, financial statements, certificates or other information furnished by or on behalf of the Borrower to the Administrative Agent or any Lender in connection with the negotiation of this Agreement or delivered hereunder (as modified or supplemented by other information so furnished) contains any material misstatement of fact or omits to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading; provided that, with respect to projected financial information, the Borrower represents only that such information was prepared in good faith based upon assumptions believed to be reasonable at the time.

Section 3.12. Subsidiaries. Schedule 3.12 contains an accurate list of all Subsidiaries of the Borrower as of the Effective Date, setting forth their respective jurisdictions of organization, whether such Subsidiary is a Material Subsidiary, and the percentage of their respective capital stock or other Equity Interests owned directly by the Borrower and each other Subsidiary. All of the issued and outstanding shares of capital stock or other Equity Interests of such Subsidiaries have been duly authorized and issued and are fully paid and non-assessable. There are no outstanding subscriptions, options, warrants, calls, or rights (including preemptive rights) to acquire, and no outstanding securities or instruments convertible into, any Equity Interests of any Subsidiary.

Section 3.13. Indebtedness. The Borrower has no Indebtedness, except, as of the Effective Date, as reflected on Schedule 3.13 or otherwise permitted by clauses (c), (d), (f), (g), (h), (i), (j), (k), or (l)(ii) of Section 6.01 and, at all times after the Effective Date, as permitted by Section 6.01. As of the Effective Date, the Non-Guarantor Amount does not exceed $15,000,000.

Section 3.14. Solvency. Immediately after the consummation of the Transactions to occur on the Effective Date and immediately following the making of each Loan and after giving effect to the application of the proceeds of such Loans, (a) the fair value of the assets of Borrower and each Subsidiary, at a fair valuation, will exceed its debts and liabilities, subordinated, contingent or otherwise; (b) the present fair saleable value of the property of each such party will be greater than the amount that will be required to pay the probable liability of its debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (c) each such party will be able to pay its debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (d) each such party will not have unreasonably small capital with which to conduct the business in which it is engaged as such business is now conducted and is proposed to be conducted following the Effective Date. The term “fair value” means the amount at which the applicable assets would change hands between a willing buyer and a willing seller within a reasonable time, each having reasonable knowledge of the relevant facts, neither being under any compulsion to act, with equity to both and “present fair saleable value” means the amount that may be realized if the applicable company’s aggregate assets are sold with reasonable promptness in an arm’s length transaction under present conditions for the sale of a comparable business enterprises.

Section 3.15. Margin Securities. Neither the Borrower nor any Subsidiary is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulations U or X of the Board of Governors of the Federal Reserve System), and, except for the repurchases of the Borrower's capital stock in accordance with the limitations in Section 6.06, no part of the proceeds of any Loan will be used to purchase or carry any margin stock or to extend credit to others for the purpose of purchasing or carrying margin stock.

ARTICLE IV.

Conditions

Section 4.01. Effective Date. The effectiveness of this Agreement to amend and restate the Prior Agreement and the obligations of the Lenders to make Loans and of JPMorgan Chase Bank, N.A. to issue Letters of Credit hereunder shall not become effective until the date on which each of the following conditions is satisfied (or waived in accordance with Section 9.02):

(a) The Administrative Agent (or its counsel) shall have received from each party hereto either (i) a counterpart of this Agreement signed on behalf of such party or (ii) written evidence satisfactory to the Administrative Agent (which may include telecopy transmission of a signed signature page of this Agreement) that such party has signed a counterpart of this Agreement.

(b) The Administrative Agent shall have received a favorable written opinion (addressed to the Administrative Agent and the Lenders and dated the Effective Date) of counsel for the Borrower and the Guarantors, substantially in the form of Exhibit B, and covering such other matters relating to the Borrower, the Guarantors, this Agreement or the Transactions as the Required Lenders shall reasonably request. The Borrower hereby requests such counsel to deliver such opinion.

(c) The Administrative Agent shall have received a fully executed copy of the Subsidiary Guaranty executed by each Subsidiary party thereto.

(d) The Administrative Agent shall have received such documents and certificates as the Administrative Agent or its counsel may reasonably request relating to the organization, existence and good standing of the Borrower and the Guarantors, the authorization of the Transactions and any other legal matters relating to the Borrower, the Guarantors, this Agreement or the Transactions, all in form and substance reasonably satisfactory to the Administrative Agent and its counsel.

(e) The Administrative Agent shall have received a certificate, dated the Effective Date and signed by the President, a Vice President or a Financial Officer of the Borrower, confirming compliance with the conditions set forth in paragraphs (a) and (b) of Section 4.02.

(f) The Administrative Agent shall have received all fees and other amounts due and payable by Borrower on or prior to the Effective Date hereunder or under the Fee Letter between Borrower and Administrative Agent dated November 2, 2004, including, to the extent invoiced, reimbursement or payment of all out-of-pocket expenses required to be reimbursed or paid by the Borrower hereunder.

(g) The Administrative Agent shall have received all unpaid interest and fees accrued under the Prior Agreement through the Effective Date and all other fees, expenses and other charges outstanding thereunder (including all amounts due under Section 2.15 thereof arising as a result of the termination of all interest periods thereunder on the Effective Date.

The Administrative Agent shall notify the Borrower and the Lenders of the Effective Date, and such notice shall be conclusive and binding. Notwithstanding the foregoing, the effectiveness of this Agreement to amend and restate the Prior Agreement and the obligations of the Lenders to make Loans and of JPMorgan Chase Bank, N.A. to issue Letters of Credit hereunder shall not become effective unless each of the foregoing conditions is satisfied (as evidenced by the Administrative Agent's notice pursuant to the immediately preceding sentence) or waived pursuant to Section 9.02, at or prior to 3:00 P.M., Dallas, Texas time, on December 31, 2004 (and, in the event such conditions are not so satisfied or waived, the Commitments shall terminate at such time).

Section 4.02. Each Credit Event. The obligation of each Lender to make a Loan on the occasion of any Borrowing, and of an Issuing Bank to issue, amend, renew or extend any Letter of Credit, is subject to the satisfaction of the following conditions:

(a) The representations and warranties of the Borrower set forth in this Agreement shall be true and correct in all material respects on and as of the date of such Borrowing or the date of issuance, amendment, renewal or extension of such Letter of Credit, as applicable, except to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall be true and correct in all material respects on and as of such earlier date.

(b) At the time of and immediately after giving effect to such Borrowing or the issuance, amendment, renewal or extension of such Letter of Credit, as applicable, no Default shall have occurred and be continuing.

Each Borrowing and each issuance, amendment, renewal or extension of a Letter of Credit shall be deemed to constitute a representation and warranty by the Borrower on the date thereof as to the matters specified in paragraphs (a) and (b) of this Section.

Section 4.03. Effective Date Adjustments. If as a result of the amendment to the amount of the Commitments under Prior Agreement contemplated hereby, any outstanding Revolving Loans are not be held pro rata in accordance with the new Commitments as of the Effective Date, then on the Effective Date, the Lenders shall make advances among themselves (either directly or through the Administrative Agent) so that after giving effect thereto the Revolving Loans will be held by the Lenders, pro rata in accordance with their respective Commitments. Any advances made under this Section 4.03 by a Lender shall be deemed to be a purchase of a corresponding amount of the Revolving Loans of the Lender or Lenders who shall receive such advances.

ARTICLE V.

Affirmative Covenants

Until the Commitments have expired or been terminated and the principal of and interest on each Loan and all fees payable hereunder shall have been paid in full and all Letters of Credit shall have expired or terminated and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

Section 5.01. Financial Statements; Ratings Change and Other Information. The Borrower will furnish to the Administrative Agent and each Lender:

(a) within 120 days after the end of each fiscal year of the Borrower, its audited consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such year, setting forth in each case in comparative form the figures for the previous fiscal year, all reported on by independent public accountants of recognized national standing (without a "going concern" or like qualification or exception and without any qualification or exception as to the scope of such audit) to the effect that such consolidated financial statements present fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied;

(b) within 60 days after the end of each of the first three fiscal quarters of each fiscal year of the Borrower, its consolidated balance sheet and related statements of operations, stockholders' equity and cash flows as of the end of and for such fiscal quarter and the then elapsed portion of the fiscal year, setting forth in each case in comparative form the figures for the corresponding period or periods of (or, in the case of the balance sheet, as of the end of) the previous fiscal year, all certified by one of its Financial Officers as presenting fairly in all material respects the financial condition and results of operations of the Borrower and its consolidated Subsidiaries on a consolidated basis in accordance with GAAP consistently applied, subject to normal year-end audit adjustments and the absence of footnotes;

(c) concurrently with any delivery of financial statements under clause (a) or (b) above, a certificate of a Financial Officer of the Borrower (i) certifying as to whether a Default has occurred and, if a Default has occurred, specifying the details thereof and any action taken or proposed to be taken with respect thereto, (ii) setting forth reasonably detailed calculations demonstrating compliance with Sections 5.09, 6.06, 6.09 and 6.10 and (iii) stating whether any change in GAAP or in the application thereof which has affected or will affect the Borrower's financial statements has occurred since the date of the most recent audited financial statements of Borrower delivered to the Administrative Agent hereunder and specifying the effect of such change on the financial statements accompanying such certificate;

(d) As soon as available, but in any event within 15 days before the beginning of each fiscal year of the Borrower, a copy of the plan and forecast (including a projected consolidated balance sheet, income statement and funds flow statement) of the Borrower for the forthcoming fiscal year;

(e) concurrently with any delivery of financial statements under clause (a) or (b) above, copies of all registration statements, all annual, quarterly or other regular reports and all proxy statements filed by the Borrower or any Subsidiary with the Securities and Exchange Commission, or any Governmental Authority succeeding to any or all of the functions of said Commission, or distributed by the Borrower to its shareholders generally, which have been filed or distributed since the date of the last delivery under this clause (e) or, with respect to the first such delivery under this clause (e), since the Effective Date;

(f) promptly upon receipt thereof, a copy of any management letter submitted to the Borrower or any Subsidiary by independent certified public accountants with respect to the financial statements required to be delivered under clause (a) above; and

(g) promptly following any request therefor, such other information regarding the operations, business affairs and financial condition of the Borrower or any Subsidiary, or compliance with the terms of this Agreement, as the Administrative Agent or any Lender may reasonably request.

Section 5.02. Notices of Material Events. The Borrower will furnish to the Administrative Agent and each Lender prompt written notice of the following:

(a) the occurrence of any Default;

(b) 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 Subsidiary that is reasonably expected to be determined adversely and, if adversely determined, could reasonably be expected to result in a Material Adverse Effect;

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

(d) any other development that results in, or could reasonably be expected to result in, a Material Adverse Effect.

Each notice delivered under this Section shall be accompanied by a statement of a Financial Officer or other executive officer of the Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

Section 5.03. Existence; Conduct of Business. The Borrower will, and will cause each of the Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect its legal existence; provided that the foregoing shall not prohibit any merger, consolidation, liquidation or dissolution permitted under Section 6.03. The Borrower will, and will cause each of the Subsidiaries to, do or cause to be done all things necessary to preserve, renew and keep in full force and effect all the rights, licenses, permits, privileges and franchises used in the conduct of its business, except for such rights, licenses, permits, privileges and franchises the failure to preserve, renew or keep effective could not reasonably be expected to result in a Material Adverse Effect.

Section 5.04. Payment of Obligations. The Borrower will, and will cause each of the Subsidiaries to, pay its obligations, including Tax liabilities, that, if not paid, could result in a Material Adverse Effect before the same shall become delinquent or in default, except where (a) the validity or amount thereof is being contested in good faith by appropriate proceedings, (b) the Borrower or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP and (c) the failure to make payment pending such contest could not reasonably be expected to result in a Material Adverse Effect.

Section 5.05. Maintenance of Properties; Insurance. The Borrower will, and will cause each of the Subsidiaries to, (a) keep and maintain all its property in good working order and condition, ordinary wear and tear excepted, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect and (b) maintain, with financially sound and reputable insurance companies, insurance in such amounts and against such risks as are customarily maintained by companies engaged in the same or similar businesses operating in the same or similar locations.

Section 5.06. Books and Records; Inspection Rights. The Borrower will, and will cause each of the Subsidiaries to, keep 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 to the extent necessary to permit financial statements to be prepared in conformity with GAAP and otherwise in all material respects with all requirements of law. The Borrower will, and will cause each of the 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 and make extracts from its books and records, and to discuss its affairs, finances and condition with its officers and independent accountants, all at such reasonable times and as often as reasonably requested.

Section 5.07. Compliance with Laws and Agreements. The Borrower will, and will cause each of the Subsidiaries to, comply with all 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, could not reasonably be expected to result in a Material Adverse Effect. The Borrower will, and will cause each Subsidiary to, comply with all agreements, contracts, and instruments binding on it or affecting its properties or business, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

Section 5.08. Use of Proceeds. The proceeds of the Loans will be used for general corporate purposes of the Borrower and the Subsidiaries, including to refinance debt and make acquisitions. No part of the proceeds of any Loan will be used, whether directly or indirectly, for any purpose that entails a violation of any of the Regulations of the Board, including Regulations G, U and X. Letters of Credit will be issued to support transactions entered into by the Borrower and the Subsidiaries in their ordinary course of business.

Section 5.09. Joinder of Subsidiaries to Subsidiary Guaranty. Within 60 days after the end of each fiscal quarter, the Borrower shall make the calculations to determine whether: (i) any Subsidiary who is not a party to the Subsidiary Guaranty is a "Material Subsidiary" as of such fiscal quarter end; and (ii) if the Subsidiaries who are party to the Subsidiary Guaranty met the Aggregation Test as of such fiscal quarter end. The "Aggregation Test" shall be deemed to be met as of a fiscal quarter end if all the following conditions are satisfied as of such fiscal quarter end: (i) the combined total assets of the Subsidiaries who are party to the Subsidiary Guaranty as of such fiscal quarter end are equal to or greater than 85% of the Borrower's consolidated total assets as of such fiscal quarter end; and (ii) the total combined Consolidated EBITDA of the Subsidiaries who are party to the Subsidiary Guaranty for the 12 completed months ending as of such fiscal quarter end is equal to or greater than 85% of the Borrower's Consolidated EBITDA for such period. If any Subsidiary who is not a party to the Subsidiary Guaranty is a Material Subsidiary as of such fiscal quarter end, then within 60 days after the end of such fiscal quarter the Borrower shall cause each such Subsidiary (any such Material Subsidiary, herein a "New Material Subsidiary") to execute and deliver to the Administrative Agent a Subsidiary Joinder Agreement in the form attached to the Subsidiary Guaranty as Exhibit "A" joining it as a guarantor under the Subsidiary Guaranty and shall execute and/or deliver such other documentation as the Administrative Agent may reasonably request to cause such New Material Subsidiary to evidence its authority to enter into or otherwise implement the guaranty of the repayment of the obligations contemplated by the Subsidiary Guaranty and this Agreement. If as of the end of any fiscal quarter, the Aggregation Test is not satisfied, then within 60 days after the end of such fiscal quarter the Borrower shall cause such number of Subsidiaries to join into the Subsidiary Guaranty (as if they were each a New Material Subsidiary as provided in the foregoing sentence) so that after giving effect thereto, the Aggregation Test is satisfied.

Section 5.10. Further Assurances. The Borrower will execute, and will cause each Guarantor to execute, any and all further documents, agreements and instruments, and take all such further actions, which may be required under any applicable law, or which either the Administrative Agent or the Required Lenders may reasonably request, to effectuate the Transactions all at the expense of the Borrower.

Section 5.11. Receivables Securitization. The Borrower shall deliver to the Administrative Agent copies of any agreements or other documents relating to any Receivables Securitization Financing entered into by the Borrower or any Subsidiary promptly following the execution thereof.

ARTICLE VI.

Negative Covenants

Until the Commitments have expired or terminated and the principal of and interest on each Loan and all fees payable hereunder have been paid in full and all Letters of Credit have expired or terminated and all LC Disbursements shall have been reimbursed, the Borrower covenants and agrees with the Lenders that:

Section 6.01. Indebtedness. The Borrower will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Indebtedness, except:

(a) Indebtedness created under the Loan Documents;

(b) Indebtedness existing on the Effective Date and set forth in Schedule 3.13 and extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof;

(c) Indebtedness of any Subsidiary to Borrower, of Borrower to any Subsidiary or of any Subsidiary to any other Subsidiary; provided that: (i) such Indebtedness must be incurred in the ordinary course of business or incurred to finance general corporate needs; and (ii) the sum of the aggregate outstanding amount of all of the obligations of Non-Guarantor Subsidiaries guarantied by the Borrower or any Guarantor pursuant to clause (f) below plus the aggregate outstanding principal amount of all of the loans and advances made to Non-Guarantor Subsidiaries by Borrower or any Guarantor plus the aggregate amount of all of the investments made after the Effective Date in Non-Guarantor Subsidiaries by the Borrower or any Guarantor excluding all Receivable Financing Amounts (such sum the "Non-Guarantor Amount") shall not at any time exceed an aggregate amount equal to $15,000,000;

(d) Indebtedness of the Borrower or 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 extensions, renewals and replacements of any such Indebtedness that do not increase the outstanding principal amount thereof;

(e) Indebtedness of any Person that becomes a Subsidiary after the date hereof; provided that such Indebtedness exists at the time such Person becomes a Subsidiary and is not created in contemplation of or in connection with such Person becoming a Subsidiary;

(f) Guaranties by the Borrower of Indebtedness or other obligations of any Subsidiary and by any Subsidiary of Indebtedness or other obligations of the Borrower or any other Subsidiary; provided that the Non-Guarantor Amount shall not exceed $15,000,000;

(g) Indebtedness outstanding under Receivable Securitization Financings provided that the aggregate purchase commitment under all of the Borrower's and the Subsidiaries' Receivable Securitization Financings shall not exceed $75,000,000;

(h) Indebtedness arising in connection with Swap Agreements permitted by Section 6.05;

(i) Indebtedness for borrowed money owed by Subsidiaries (with the phrase "Indebtedness for borrowed money" not including any Indebtedness arising under Guaranties), provided that: (i) the aggregate principal amount of all the Indebtedness for borrowed money owed by the Subsidiaries (including that permitted under other clauses of this Section 6.01, but excluding the Indebtedness permitted under clauses (a), (c), (g), (l)(i) and (l)(ii) of this Section 6.01) does not exceed at any time an amount equal to 15% of the Consolidated Tangible Net Worth of the Borrower and (ii) the Non-Guarantor Amount shall not exceed $15,000,000;

(j) Indebtedness incurred in the ordinary course of business with respect to surety and appeal bonds, performance and return-of-money bonds, and other similar obligations;

(k) Indebtedness constituting obligations to reimburse worker's compensation insurance companies for claims paid by such companies on Borrower's or a Subsidiaries' behalf in accordance with the policies issued to Borrower and the Subsidiaries; and

(l) The following Indebtedness, in addition to the other Indebtedness permitted by this Section, as long as on the date of the incurrence of any of the Indebtedness described below in this clause: (i) no Default exists or would result therefrom; (ii) with respect to clauses (iii) and (iv) below only, the limitations on Subsidiary Indebtedness under clause (i) of this Section 6.01 are not exceeded; and (iii) the Borrower shall have provided to the Administrative Agent and each Lender prior to or on the date of the incurrence thereof, a certificate of a Financial Officer of the Borrower: (A) certifying that no Default exists or could reasonably be expected to occur as a result of the proposed Indebtedness, and (B) demonstrating that as of the date of any such incurrence, the Borrower is and, on a pro forma basis after giving effect to such Indebtedness, will be, in compliance with the financial covenants set forth in Sections 6.09 and 6.10 of this Agreement:

(i) Guaranties by the Borrower and the Guarantors of the Indebtedness of Illinois Cement Company and Texas-Lehigh Cement Company, L.P.;

(ii) Indebtedness of a Subsidiary who is a general partner of a Joint Venture arising for Indebtedness incurred by the Joint Venture as a result of the fact that the Subsidiary is the general partner of the Joint Venture;

(iii) Indebtedness for borrowed money incurred by the Borrower and the guaranty thereof by the Guarantors; and

(iv) Indebtedness of the type described in clause (k) of the definition of the term Indebtedness of Borrower or any Subsidiary.

Section 6.02. Liens. The Borrower will not, and will not permit any Subsidiary to, create, incur, assume or permit to exist any Lien on any property or asset now owned or hereafter acquired by it, except:

(a) Permitted Encumbrances;

(b) any Lien on any property or asset of the Borrower or any Subsidiary existing on the Effective Date and set forth in Schedule 3.05; provided that (i) such Lien shall not apply to any other property or asset of the Borrower or any Subsidiary and (ii) such Lien shall secure only those obligations which it secures on the date hereof and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(c) 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 that becomes a Subsidiary after the date hereof prior to the time such Person becomes a Subsidiary; provided that (i) such Lien is not created in contemplation of or in connection with such acquisition or such Person becoming a Subsidiary, as the case may be, (ii) such Lien shall not apply to any other property or assets of the Borrower or any Subsidiary 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, as the case may be and extensions, renewals and replacements thereof that do not increase the outstanding principal amount thereof;

(d) Liens on fixed or capital assets acquired, constructed or improved by the Borrower or any Subsidiary; provided that (i) such Liens secure Indebtedness permitted by clause (d) of Section 6.01, (ii) such Liens and the Indebtedness secured thereby are incurred prior to or within 90 days after such acquisition or the completion of such construction or improvement, (iii) the Indebtedness secured thereby does not exceed 100% of 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;

(e) Liens arising out of pledges or deposits made in the ordinary course of business of the Borrower and the Subsidiaries to secure the performance of bids, tenders, insurance or other contracts (other than for the repayment of borrowed money) or to secure statutory obligations, surety or appeal bonds or indemnity, performance or other similar bonds so long as such amounts secured by such Liens shall not exceed at any time an aggregate amount equal to $15,000,000;

(f) Liens granted in connection with Receivables Securitization Financings permitted by Section 6.01(g) on the accounts receivable sold or transferred pursuant thereto (together with all collections and other proceeds thereof, any collateral securing the payment thereof and all rights, interest and claims of the Borrower or any Subsidiary in or under the agreements or instruments evidencing, supporting or securing payment thereof), all right, title and interest in and to the lockboxes and other collection accounts in which proceeds of such accounts receivable are deposited, the rights under the documents executed in connection with such Receivables Securitization Financings and in the Equity Interests issued by any special purpose entity organized to purchase the receivables thereunder; and

(g) Liens, in addition to those permitted by the foregoing clauses of this Section, provided that the aggregate market value of the property and assets encumbered by all Liens incurred under the permissions of this clause (g) shall not exceed $15,000,000 and the aggregate principal amount of the Indebtedness secured by all such Liens does not exceed $15,000,000.

Section 6.03. Fundamental Changes; Sale of Assets.

(a) The Borrower will not, and will not permit any Subsidiary to, 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 of its assets, or all or substantially all of the Equity Interest of any of the Subsidiaries (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: (i) any Person may merge into the Borrower in a transaction in which the Borrower is the surviving corporation, (ii) any Person may merge into or consolidate with any Subsidiary or any Subsidiary may merge into or consolidate with any Person, in each case in a transaction in which the surviving entity is a Subsidiary, (iii) Borrower or any Subsidiary may sell or transfer Equity Interests of a Subsidiary to another Subsidiary or Borrower, (iv) any Subsidiary may sell, transfer, lease or otherwise dispose of its assets to the Borrower or to another Subsidiary, (v) any Subsidiary may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and is not materially disadvantageous to the Lenders; and (vi) the Borrower and the Subsidiaries may dispose of property and assets, including Equity Interests of a Subsidiary, either directly or through a merger or consolidation, in accordance with the permissions set forth in clause (c) of this Section; provided that any merger or consolidation permitted under this clause (a) involving a Person that is not a wholly owned Subsidiary immediately prior to such merger or consolidation shall not be permitted unless also permitted by Section 6.04 to the extent such Section otherwise restricts such transaction.

(b) The Borrower will not, and will not permit any of the Subsidiaries to, engage to any material extent in any business other than businesses of the type conducted by the Borrower and the Subsidiaries on the date of execution of this Agreement and businesses reasonably related thereto.

(c) The Borrower will not, and will not permit any of the Subsidiaries to, sell, transfer, lease or otherwise dispose of any of its property or assets, including any Equity Interests owned by it, except:

(i) sales of inventory, used, obsolete or surplus equipment and Permitted Investments in the ordinary course of business;

(ii) as long as no Default exists or would result therefrom, sales, transfers, leases and other dispositions to the Borrower or a Subsidiary; provided that any such sales, transfers, leases or other dispositions involving a Subsidiary shall be made in compliance with Section 6.07;

(iii) the sale of accounts receivable on a limited recourse basis pursuant to a Receivable Securitization Financing permitted by Section 6.01(g); and

(iv) in addition to the dispositions permitted by (i) through (iii) immediately above, leases, sales or other dispositions of property, either directly or through a merger or consolidation, that, together with all other property of the Borrower and the Subsidiaries previously disposed of under the permissions of this clause (iv) during the twelve-month period ending with the month in which any such other disposition occurs (the "Calculation Period"), do not constitute a Substantial Portion of the property of the Borrower and the Subsidiaries;

provided that all sales, transfers, leases and other dispositions permitted hereby (other than those permitted by clause (ii) above) shall be made for fair value and, if the sale, transfer, lease or disposition in question together with any related series of sales, transfers, leases or other dispositions, involves assets that have a fair value of more than $10,000,000, then at least 75% of the consideration therefor shall be in cash. The term "Substantial Portion" means, on any date, property with a book value that: (A) represents more than 15% of the consolidated assets of the Borrower and the Subsidiaries as would be shown in the consolidated financial statements of the Borrower as of the last day of the last month before the start of the applicable Calculation Period or (B) is responsible for more than 15% of the consolidated sales or 15% of the Consolidated EBITDA of the Borrower for the last 12 months as reflected or calculated from in the financial statements referred to in clause (A) above.

Section 6.04. Investments, Loans, Advances, Guaranties and Acquisitions. The Borrower will not, and will not permit any of the Subsidiaries to, purchase, hold or acquire (including pursuant to any merger with any Person that was not a wholly owned Subsidiary prior to such merger) any Equity Interests, evidences of indebtedness or other securities (including any option, warrant or other right to acquire any of the foregoing) of, make or permit to exist any loans or advances to, Guaranty any obligations of, or make or permit to exist any investment or any other ownership interest in, any other Person, or purchase or otherwise acquire (in one transaction or a series of transactions) any assets of any other Person constituting a business unit, except:

(a) acquisitions by the Borrower or a Subsidiary of Equity Interests in, and capital contribution made by the Borrower or a Subsidiary to, one or more Persons who are not Subsidiaries in a transaction not constituting an Acquisition and loans and advances by the Borrower or any Subsidiary to one or more Persons that are not Subsidiaries so long as in each case: (i) no Default then exists or would result therefrom and (ii) the sum of the following does not exceed $50,000,000 at any time: (A) the aggregate total of all Purchase Prices paid for all such acquisitions consummated under the permissions of this clause (a) since the Effective Date (including, if applicable, the then proposed acquisition); plus (B) aggregate amount of capital contributions made under the permissions of this clause (c) since the Effective Date (including, if applicable, the then proposed capital contribution); plus (C) the then aggregate outstanding principal amount of all loans and advances made under the permissions of this clause (a);

(b) Permitted Investments;

(c) investments by the Borrower or any Subsidiary existing on the date hereof and identified on Schedule 6.04;

(d) Equity Interests in Subsidiaries owned as of the Effective Date or in Subsidiaries formed or created by Borrower or a Subsidiary after the Effective Date; provided that the Non-Guarantor Amount shall at no time exceed $10,000,000;

(e) loans or advances and other evidence of Indebtedness including any Receivable Financing Amount and any promissory note evidencing such amount made by the Borrower to any Subsidiary, by any Subsidiary to the Borrower or by any Subsidiary to any other Subsidiary, in each case to the extent permitted by Section 6.01(c);

(f) loans and advances to directors, officers, consultants or employees as payroll advances or for business expenses incurred in the ordinary course of business or for other purposes so long as the aggregate principal amount of the loans and advances made for such other purposes does not exceed $1,000,000 at any one time outstanding;

(g) Guaranties permitted by Section 6.01 and Swap Agreements permitted by Section 6.05;

(h) Acquisitions so long as:

(i) no Default exists or would result therefrom;

(ii) the target company is involved in a similar type of business activities as the Borrower or the Subsidiary;

(iii) Borrower shall have: (A) completed customary due diligence on the acquisition target, including due diligence as to compliance with all laws, including without limitation Environmental Laws, and provided the Administrative Agent, if requested by the Administrative Agent, reasonable evidence thereof, and (B) provided the Administrative Agent and each Lender, if requested by the Administrative Agent, with copies of the financial statements (which to the extent available, shall be audited financial statements) of the acquisition target for the most recent twelve (12) month period prior to the closing of the Acquisition and the interim financial statements of the acquisition target, each containing at a minimum a balance sheet, statement of income, and a statement of cash flow;

(iv) Such Acquisition has been: (i) in the event a corporation or its assets is the acquisition target, either (x) approved by the Board of Directors of the corporation which is the acquisition target, or (y) recommended by such Board of Directors to the shareholders of such acquisition target, (ii) in the event a partnership is the acquisition target, approved by a majority (by percentage of voting power) of the partners of the acquisition target, (iii) in the event an organization or entity other than a corporation or partnership is the acquisition target, approved by a majority (by percentage of voting power) of the governing body, if any, or by a majority (by percentage of ownership interest) of the owners of the acquisition target or (iv) in the event the corporation, partnership or other organization or entity which is the acquisition target is in bankruptcy, approved by the bankruptcy court or another court of competent jurisdiction;

(v) the total Purchase Price (as defined below) paid or to be paid for the proposed Acquisition in question does not exceed a dollar amount equal to 30% of the Borrower's Consolidated Tangible Net Worth, determined as of the date of each acquisition based on the most recent financial statements then available (the term "Purchase Price" means, as of any date of determination and with respect to a proposed Acquisition or acquisition of other Equity Interests, the purchase price to be paid for the target, its assets or such Equity Interests, including all cash consideration paid (whether classified as purchase price, noncompete or consulting payments or otherwise), the value of all other assets to be transferred by the purchaser in connection with such acquisition to the seller (including any stock issued to the seller) all valued in accordance with the applicable purchase agreement and the outstanding principal amount of all Indebtedness of the target or the seller assumed or acquired in connection with such acquisition);

(vi) Borrower shall have provided to the Administrative Agent and each Lender prior to or on the date that the proposed Acquisition is to be consummated, among other documents relating to the Acquisition in question reasonably requested by the Administrative Agent, a certificate of a Financial Officer: (A) certifying that no Default exists or could reasonably be expected to occur as a result of the proposed Acquisition, and (B) demonstrating compliance with the criteria set forth in the next clause and that as of the date of any such Acquisition, the Borrower is and, on a pro forma basis after giving effect to the Acquisition and the incurrence or assumption of any Indebtedness in connection therewith will be, in compliance with the financial covenants set forth in Sections 6.09 and 6.10 of this Agreement; and

(vii) After giving proforma effect to any Indebtedness incurred or acquired in connection with the Acquisition and any Consolidated EBITDA of the target to be acquired or whose assets are to be acquired (to the extent that such Consolidated EBITDA can be established from audited financial statements delivered to the Administrative Agent and the Lenders), Borrower shall have a Leverage Ratio of no more than 3.00 to 1.00 calculated in the same manner as in Section 6.10 but on a pro forma basis as set forth in this clause for the most recently ended fiscal quarter of Borrower prior to the date of the proposed Acquisition; and

(i) To the extent not otherwise permitted by the foregoing clause (h), the acquisitions of all of the Equity Interest in Illinois Cement Company and Texas-Lehigh Cement Company, L.P. so long as:

(i) no Default exists or would result therefrom;

(ii) Borrower shall have provided the Administrative Agent and each Lender copies of the financial statements (which to the extent available, shall be audited financial statements) of the acquisition target for the most recent twelve (12) month period prior to the closing of the Acquisition and the interim financial statements of the acquisition target, each containing at a minimum a balance sheet, statement of income, and a statement of cash flow;

(iii) Borrower shall have provided to the Administrative Agent and each Lender prior to or on the date that the proposed Acquisition is to be consummated, among other documents relating to the Acquisition in question reasonably requested by the Administrative Agent, a certificate of a Financial Officer of the Borrower (A) certifying that no Default exists or could reasonably be expected to occur as a result of the proposed Acquisition, and (B) demonstrating compliance with the criteria set forth in the next clause and that as of the date of any such Acquisition and immediately following such Acquisition, the Borrower is and, on a pro forma basis after giving effect to the Acquisition and the incurrence or assumption of any Indebtedness in connection therewith will be, in compliance with the financial covenants set forth in Sections 6.09 and 6.10 of this Agreement;

(iv) after giving proforma effect to any Indebtedness incurred or acquired in connection with the Acquisition and any Consolidated EBITDA of the target to be acquired (to the extent that such Consolidated EBITDA can be established from audited financial statements delivered to the Administrative Agent and the Lenders and only to the extent such Consolidated EBITDA is not already included in the Borrower's consolidated financial statements), Borrower shall have a Leverage Ratio of no more than 3.00 to 1.00 calculated in the same manner as in Section 6.10 but on a pro forma basis as set forth in this clause for the most recently ended fiscal quarter of Borrower prior to the date of the proposed Acquisition.

Section 6.05. Swap Agreements. The Borrower will not, and will not permit any of the Subsidiaries to, enter into any Swap Agreement, except (a) Swap Agreements entered into to hedge or mitigate risks to which the Borrower or any Subsidiary has actual exposure (including those in respect of Equity Interests of the Borrower or any of the Subsidiaries but only if such Swap Agreements of the type described in this parenthetical can be settled with the issuance of Equity Interests in the Borrower or will be settled with the net cash proceeds received by the Borrower from the substantially concurrent issue or sale of other Equity Interest of the Borrower), and (b) Swap Agreements entered into in order to effectively cap, collar or exchange interest rates (from fixed to floating rates, from one floating rate to another floating rate or otherwise) with respect to any interest-bearing liability or investment of the Borrower or any Subsidiary.

Section 6.06. Restricted Payments; Prepayments of Indebtedness.

(a) The Borrower will not, and will not permit any of the Subsidiaries to, declare or make, or agree to pay or make, directly or indirectly, any Restricted Payment, except:

(i) the Borrower may declare and pay dividends or make other distributions with respect to its capital stock payable solely in additional shares of its capital stock or warrants, options or other rights to acquire capital stock;

(ii) Subsidiaries may declare and pay dividends or make other distributions ratably with respect to their capital stock;

(iii) the Borrower and the Subsidiaries may make Restricted Payments pursuant to and in accordance with (or otherwise under) stock option plans or other benefit plans for directors, officers, consultants or employees of the Borrower and the Subsidiaries;

(iv) the purchase or redemption by the Borrower of capital stock of the Borrower out of the net cash proceeds of a substantially concurrent issue or sale of capital stock by the Borrower;

(v) Borrower may declare and make a Restricted Payment on any date if on the date of the declaration thereof, on the date of the payment thereof and immediately after giving effect thereto: (A) no Default exists or would result therefrom; and (B) neither the Borrower nor any Subsidiary has any Indebtedness (other than Indebtedness relating to letters of credit and Indebtedness of the type described in clauses (c), (d), (f), (i), (j) and (k) of Section 6.01) outstanding;

(vi) the Borrower may declare and pay cash dividends in an aggregate amount of up to $50,000,000 each fiscal year if no Default exists or would result therefrom;

(vii) In any fiscal quarter of any fiscal year, the Borrower may declare and make other Restricted Payments not otherwise permitted by this Section as long as: (A) no Default exists or would result therefrom as of the date of the declaration and payment thereof and (B) the Borrower shall have a Leverage Ratio of no more than 3.00 to 1.00 as calculated: (i) on a pro forma basis; (ii) after giving effect to any Indebtedness incurred in connection with the proposed Restricted Payment (including any Indebtedness incurred under this Agreement) and (iii) for the most recently ended fiscal quarter of the Borrower prior to the date of the proposed Restricted Payment; provided that if the Borrower shall have a Leverage Ratio of more than 3.00 to 1.00 as so calculated, then the aggregate amount of all such Restricted Payments made during a fiscal quarter under the permissions of this clause (vii) shall not exceed the total of 50% of the Borrower’s Consolidated Net Income for the immediately preceding fiscal year minus all Restricted Payments previously made under the permissions of clause (vi) above and this clause (vii) in the current fiscal year in which such proposed Restricted Payment is to be paid.

(b) If a Default exists, the Borrower will not, nor will it permit any Subsidiary to, make or agree to pay or make, directly or indirectly, any payment or other distribution (whether in cash, securities or other property but not including any payment or other distribution to the extent settled by the issuance of Equity Interests of the Borrower) of or in respect of principal of or interest on any Indebtedness of Borrower or any Subsidiary, or any payment or other distribution (whether in cash, securities or other property but not including any payment or other distribution to the extent settled by the issuance of Equity Interests of the Borrower), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any Indebtedness of Borrower or any Subsidiary, except:

(i) payment of Indebtedness created under the Loan Documents;

(ii) payment of regularly scheduled interest, principal or other payments as and when due in respect of any Indebtedness;

(iii) refinancing of Indebtedness to the extent permitted by Section 6.01; and

(iv) payment of secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness.

Section 6.07. Transactions with Affiliates. The Borrower will not, and will not permit any of the Subsidiaries to, sell, lease or otherwise transfer any property or assets to, or purchase, lease or otherwise acquire any property or assets from, or otherwise engage in any other transactions with, any of its Affiliates, except (a) in the ordinary course of business at prices and on terms and conditions not less favorable to the Borrower or such Subsidiary than could be obtained on an arm's-length basis from unrelated third parties, (b) transactions between or among the Borrower and the Guarantors not involving any other Affiliate, (c) any Restricted Payment permitted by Section 6.06, (d) Indebtedness permitted by clauses (c), (f) and (l)(i) of Section 6.01, (e) Acquisitions permitted by Section 6.04(i) provided that such Acquisitions are on terms and conditions not less favorable to the Borrower and the Subsidiaries than could be obtained on an arm's-length basis from unrelated third parties and (f) transactions between or among Borrower and its Affiliates in connection with Receivable Securitization Financings permitted by and consummated in accordance with Section 6.01(g).

Section 6.08. Restrictive Agreements. The Borrower will not, and will not permit any of the Subsidiaries to, directly or indirectly, enter into, incur or permit to exist any agreement or other arrangement that prohibits, restricts or imposes any condition upon (a) the ability of the Borrower or any Subsidiary to create, incur or permit to exist any Lien upon any of its property or assets, or (b) the ability of any Subsidiary to pay dividends or other distributions with respect to any shares of its capital stock or to make or repay loans or advances to the Borrower or any other Subsidiary or to Guaranty Indebtedness of the Borrower or any other Subsidiary; provided that (i) the foregoing shall not apply to restrictions and conditions imposed by law or by this Agreement, (ii) the foregoing shall not apply to restrictions and conditions existing on the date hereof identified on Schedule 6.08 (but shall apply to any extension or renewal of, or any amendment or modification expanding the scope of, any such restriction or condition), (iii) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of the assets of, or an Equity Interest in, a Subsidiary pending such sale, provided such restrictions and conditions apply only to the Subsidiary that is to be sold and such sale is permitted hereunder, (iv) clause (a) of the foregoing shall not apply to restrictions or conditions imposed by (1) any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions or conditions apply only to the property or assets securing such Indebtedness or (2) Liens permitted by Section 6.02 if such restrictions or conditions apply only to the property or assets that are the subject of such Liens, (v) clause (a) of the foregoing shall not apply to customary provisions in leases and other contracts restricting the assignment thereof, (vi) clause (b) of the foregoing shall not apply to customary provisions contained in agreements entered into in connection with Receivables Securitization Financings permitted by Section 6.01(g) that impose restrictions on the ability of the special purpose entity party thereto to declare, pay or set aside funds for the making of any distribution in respect of the Equity Interests issued by such entity or to make or repay loans or advances to or guaranty indebtedness of the Borrower or any other Subsidiary, and (vii) the foregoing shall not apply to restrictions and conditions imposed by the documentation executed in connection with a financing permitted by clauses (iii) of Section 6.01(l) as long as such restrictions and conditions are no more onerous to the Borrower and the Subsidiaries, and no more beneficial to the parties entitled to the protections thereof, than the restrictions and conditions hereunder.

Section 6.09. Interest Coverage Ratio. The Borrower will not permit the ratio, determined as of the end of each of its fiscal quarters beginning with the fiscal quarter ended September 30, 2007, of (i) Consolidated EBIT for the then most-recently ended four fiscal quarters to (ii) its Consolidated Interest Expense for such four fiscal quarters to be less than 2.50 to 1.00.

Section 6.10. Leverage Ratio. The Borrower will not permit the ratio, determined as of the end of each of its fiscal quarters beginning with the fiscal quarter ended September 30, 2007, of (i) its Consolidated Indebtedness as of such fiscal quarter end to (ii) its Consolidated EBITDA for the then most-recently ended four fiscal quarters to be greater than 3.50 to 1.00.

Section 6.11. Sale and Lease-Back Transactions. The Borrower will not, and will not permit any Subsidiary to, enter into any arrangement, directly or indirectly, whereby it shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property sold or transferred, except for any such sale of any fixed or capital assets that is made for cash consideration in an amount not less than the cost of such fixed or capital asset and is consummated within 90 days after the Borrower or such Subsidiary acquires or completes the construction of such fixed or capital asset.

ARTICLE VII.

Events of Default

If any of the following events ("Events of Default") shall occur:

(a) The Borrower shall fail to pay any principal of any Loan when and as the same shall become due and payable, whether at the due date thereof or at a date fixed for prepayment thereof or otherwise. The Borrower shall fail to pay any reimbursement obligation in respect of any LC Disbursement when and as the same shall become due and payable, and such failure shall continue unremedied for one Business Day;

(b) The Borrower shall fail to pay any interest on any Loan or any fee or any other amount (other than an amount referred to in clause (a) of this Article) payable under this Agreement, when and as the same shall become due and payable, and such failure shall continue unremedied for a period of five Business Days;

(c) any representation or warranty made or deemed made by or on behalf of the Borrower or any Subsidiary in or in connection with this Agreement or any amendment or modification hereof or waiver hereunder, or in any report, certificate, financial statement or other document furnished pursuant to or in connection with this Agreement or any amendment or modification hereof or waiver hereunder, shall prove to have been incorrect in any material respect when made or deemed made;

(d) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in Sections 5.01(a), (b) or (c), 5.02, 5.03 (with respect to the Borrower's existence) or 5.08 or in Article VI;

(e) the Borrower shall fail to observe or perform any covenant, condition or agreement contained in this Agreement (other than those specified in clause (a), (b) or (d) of this Article), and such failure shall continue unremedied for a period of 15 days after written notice thereof from the Administrative Agent to the Borrower (which notice will be given at the request of any Lender);

(f) the Borrower or any Subsidiary shall fail to make any payment (whether of principal or interest and regardless of amount) in respect of any Material Indebtedness, when and as the same shall become due and payable (after expiration of any applicable grace period);

(g) any event or condition occurs that results in any Material Indebtedness becoming due prior to its scheduled maturity or that enables or permits (with or without the giving of notice, the lapse of time or both) the holder or holders of any Material Indebtedness or any trustee or agent on its or their behalf to cause any Material Indebtedness to become due, or to require the prepayment, repurchase, redemption or defeasance thereof, prior to its scheduled maturity; provided that this clause (g) shall not apply to secured Indebtedness that becomes due as a result of the voluntary sale or transfer of the property or assets securing such Indebtedness;

(h) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of the Borrower or any Subsidiary or its debts, or of a substantial part of its assets, under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect or (ii) the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Subsidiary or for a substantial part of its assets, and, in any such case, such proceeding or petition shall continue undismissed for 60 days or an order or decree approving or ordering any of the foregoing shall be entered;

(i) the Borrower or any Subsidiary shall (i) voluntarily commence any proceeding or file any petition seeking liquidation, reorganization or other relief under any Federal, state or foreign bankruptcy, insolvency, receivership or similar law now or hereafter in effect, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (h) of this Article, (iii) apply for or consent to the appointment of a receiver, trustee, custodian, sequestrator, conservator or similar official for the Borrower or any Subsidiary or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors or (vi) take any action for the purpose of effecting any of the foregoing;

(j) the Borrower or any Subsidiary shall become unable, admit in writing its inability or fail generally to pay its debts as they become due;

(k) one or more judgments for the payment of money in an aggregate amount in excess of $2,500,000 shall be rendered against the Borrower, any Subsidiary or any combination thereof and the same shall remain undischarged for a period of 60 consecutive days during which execution shall not be effectively stayed, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of the Borrower or any Subsidiary to enforce any such judgment;

(l) an ERISA Event shall have occurred that, in the opinion of the Required Lenders, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect;

(m) a Change in Control shall occur; or

(n) the Subsidiary Guaranty shall for any reason cease to be in full force and effect and valid, binding and enforceable in accordance with its terms after its date of execution, or the Borrower or any Material Subsidiary shall so state in writing;

then, and in every such event (other than an event with respect to the Borrower described in clause (h) or (i) of this Article), and at any time thereafter during the continuance of such event, the Administrative Agent may, and at the request of the Required Lenders shall, by notice to the Borrower, take either or both of the following actions, at the same or different times: (i) terminate the Commitments, and thereupon the Commitments shall terminate immediately, and (ii) declare the Loans then outstanding to be due and payable in whole (or in part, in which case any principal not so declared to be due and payable may thereafter be declared to be due and payable), and thereupon the principal of the Loans so declared to be due and payable, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall become due and payable immediately, without presentment, demand, protest, notice of intent to accelerate, notice of acceleration or other notice of any kind, all of which are hereby waived by the Borrower; and in case of any event with respect to the Borrower described in clause (h) or (i) of this Article, the Commitments shall automatically terminate and the principal of the Loans then outstanding, together with accrued interest thereon and all fees and other obligations of the Borrower accrued hereunder, shall automatically become due and payable, without presentment, demand, protest notice of intent to accelerate, notice of acceleration or other notice of any kind, all of which are hereby waived by the Borrower.

ARTICLE VIII.

The Administrative Agent

Each of the Lenders and each Issuing Bank hereby irrevocably appoints (and continues the appointment under the terms of the Prior Agreement) the Administrative Agent as its (and for purposes of the Subsidiary Guaranty, its Affiliates) agent and authorizes the Administrative Agent to take such actions on its behalf and its Affiliates behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof and of the Subsidiary Guaranty, 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 or any Subsidiary or other Affiliate thereof 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 or any of the 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 willful 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.

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, the Issuing Banks and the Borrower. Upon any such resignation, the Required Lenders shall have the right, with the approval of 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 and the Issuing Banks, appoint a successor Administrative Agent. 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. By accepting the benefits of the Subsidiary Guaranty, each Affiliate of the Lenders who is owed any obligations guarantied pursuant to the terms thereof agrees to be bound by the Loan Documents as if it were a Lender.

Bank of America, N.A. and Branch Banking and Trust Company have been designated as "co-syndication agents" hereunder and Wells Fargo Bank, N.A. and Union Bank of California, N.A. have been designated as "co-documentation agents" hereunder. No such Lender is an agent for the Lenders and no such Lender shall have any obligation hereunder, in each case, other than those existing in its capacity as a Lender. Without limiting the foregoing, no such Lender shall have or deemed to have any fiduciary relationship with or duty to any Lender.

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 telecopy, as follows:

(i) if to the Borrower, to it at 3811 Turtle Creek Blvd., Suite 1100, Dallas, Texas, 75219, Attention of Arthur R. Zunker, Jr., (Telecopy No. 214-432-2110); and

(ii) if to the Administrative Agent, JPMorgan Chase Bank, N.A. as an Issuing Bank or the Swingline Lender, to JPMorgan Chase Bank, N.A. 2200 Ross Avenue, 3rd Floor, Dallas, Texas, 75201, Attention of David L. Howard, (Telecopy No. 214/965–2044), with a copy to JPMorgan Chase Bank, N.A., 1111 Fannin Street, 10th Floor, Houston, TX 77002; Attention: Bernie Gonzales, Telephone 713/750-3755; Telecopy No. 713/750–2823; and

(iii) if to any other Lender, to it at its address (or telecopy 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. Any party hereto may change its address or telecopy number for notices and other communications hereunder by 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, any Issuing Bank 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, the Issuing Banks 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 or issuance of a Letter of Credit shall not be construed as a waiver of any Default, regardless of whether the Administrative Agent, any Lender or any Issuing Bank 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: (x) pursuant to an Increased Commitment Supplement executed in accordance with Section 2.19 which only needs to be signed by the Borrower, the Administrative Agent and the Lenders increasing or providing new Commitments thereunder if the Increased Commitment Supplement does not increase the aggregate amount of the Commitments to an amount in excess of $500,000,000 and (y) in the case of this Agreement and any circumstance other than as described in clause (x), pursuant to an agreement or agreements in writing entered into by the Borrower and the Required Lenders or, in the case of any other Loan Document, pursuant to an agreement or agreements in writing entered into by the parties thereto, in each case with the consent of the Required Lenders; provided that no such agreement shall (i) increase the Commitment of any Lender without the written consent of such Lender, (ii) reduce the principal amount of any Loan or LC Disbursement or reduce the rate of interest thereon, or reduce any fees payable hereunder, without the written consent of each Lender affected thereby, (iii) postpone the scheduled date of payment of the principal amount of any Loan or LC Disbursement, or any interest thereon, 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, (iv) change Section 2.17(b) or (c) in a manner that would alter the pro rata sharing of payments required thereby, without the written consent of each Lender, (v) change any of the provisions of this Section or 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, or (vi) release any Guarantor from its obligations under the Subsidiary Guaranty except in connection with a disposition of such Subsidiary otherwise permitted hereby (in which case the Administrative Agent shall be authorized to release the applicable Guarantor without the consent or approval of any Lender); provided further that no such agreement shall amend, modify or otherwise affect the rights or duties of the Administrative Agent, an Issuing Bank or the Swingline Lender hereunder without the prior written consent of the Administrative Agent, the applicable Issuing Bank or the Swingline Lender, as the case may be. The Loan Documents may be amended or otherwise modified without the consent or agreement of any Affiliate of any Lender.

Section 9.03. Expenses; Indemnity; Damage Waiver.

(a) The Borrower shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates, including the reasonable fees, charges and disbursements of counsel for the Administrative Agent, in connection with the syndication of the credit facilities provided for herein, the preparation, execution, delivery and administration of this Agreement or any amendments, modifications or waivers of the provisions hereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by each Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all out-of-pocket expenses incurred by the Administrative Agent, each Issuing Bank or any Lender, including the fees, charges and disbursements of any counsel for the Administrative Agent, any Issuing Bank or any Lender, in connection with the enforcement or protection of its rights in connection with this Agreement, including its rights under this Section, or in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) SUBJECT TO CLAUSE (d) BELOW, THE BORROWER SHALL INDEMNIFY THE ADMINISTRATIVE AGENT, EACH ISSUING BANK AND EACH LENDER, AND EACH RELATED PARTY OF ANY OF THE FOREGOING PERSONS (EACH SUCH PERSON BEING CALLED AN "INDEMNITEE") AGAINST, AND HOLD EACH INDEMNITEE HARMLESS FROM, ANY AND ALL LOSSES, CLAIMS, DAMAGES, LIABILITIES AND RELATED EXPENSES, INCLUDING THE FEES, CHARGES AND DISBURSEMENTS OF ANY COUNSEL FOR ANY INDEMNITEE, INCURRED BY OR ASSERTED AGAINST ANY INDEMNITEE ARISING OUT OF, IN CONNECTION WITH, OR AS A RESULT OF (I) THE EXECUTION OR DELIVERY OF THE PRIOR AGREEMENT, THIS AGREEMENT OR ANY AGREEMENT OR INSTRUMENT CONTEMPLATED THEREBY OR HEREBY, THE PERFORMANCE BY THE PARTIES HERETO OF THEIR RESPECTIVE OBLIGATIONS HEREUNDER OR THEREBY OR THE CONSUMMATION OF THE TRANSACTIONS OR ANY OTHER TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY, (II) ANY LOAN OR LETTER OF CREDIT OR THE USE OF THE PROCEEDS THEREFROM (INCLUDING ANY REFUSAL BY AN ISSUING BANK TO HONOR A DEMAND FOR PAYMENT UNDER A LETTER OF CREDIT IF THE DOCUMENTS PRESENTED IN CONNECTION WITH SUCH DEMAND DO NOT STRICTLY COMPLY WITH THE TERMS OF SUCH LETTER OF CREDIT), (III) ANY ACTUAL OR ALLEGED PRESENCE OR RELEASE OF HAZARDOUS MATERIALS ON OR FROM ANY PROPERTY OWNED OR OPERATED BY THE BORROWER OR ANY OF THE SUBSIDIARIES, OR ANY ENVIRONMENTAL LIABILITY RELATED IN ANY WAY TO THE BORROWER OR ANY OF THE SUBSIDIARIES, OR (IV) ANY ACTUAL OR PROSPECTIVE CLAIM, LITIGATION, INVESTIGATION OR PROCEEDING RELATING TO ANY OF THE FOREGOING, WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY AND REGARDLESS OF WHETHER ANY INDEMNITEE IS A PARTY THERETO; PROVIDED THAT SUCH INDEMNITY SHALL NOT, AS TO ANY INDEMNITEE, BE AVAILABLE TO THE EXTENT THAT SUCH LOSSES, CLAIMS, DAMAGES, LIABILITIES OR RELATED EXPENSES RESULTED FROM THE GROSS NEGLIGENCE, UNLAWFUL CONDUCT OR WILLFUL MISCONDUCT OF SUCH INDEMNITEE. IT IS THE EXPRESSED INTENT OF THE PARTIES HERETO THAT THE INDEMNITY IN THIS CLAUSE (b) SHALL, AS TO ANY INDEMNITEE, BE AVAILABLE TO THE EXTENT THAT SUCH LOSSES, CLAIMS, DAMAGES, LIABILITIES OR RELATED EXPENSES ARE DETERMINED TO HAVE RESULTED FROM THE SOLE OR CONTRIBUTORY NEGLIGENCE OF SUCH INDEMNITEE.

(c) To the extent that the Borrower fails to pay any amount required to be paid by it to the Administrative Agent, an Issuing Bank or the Swingline Lender under paragraph (a) or (b) of this Section, each Lender severally agrees to pay to the Administrative Agent, the applicable Issuing Bank or the Swingline Lender, as the case may be, 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, the Issuing Bank or the Swingline Lender 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 Indemnitee, and each Indemnitee shall not assert, and hereby waives, any claim against Borrower or any Guarantor, 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 Letter of Credit or the use of the proceeds thereof.

(e) All amounts due under this Section shall be payable promptly after written demand therefor and may be funded as a Swingline Loan or Revolving Loan.

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 (including any Affiliate of JPMorgan Chase Bank, N.A. that issues any Letter of Credit), 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 or in accordance with Section 2.18. 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 (including any Affiliate of JPMorgan Chase Bank, N.A. that issues any Letter of Credit), 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, each Issuing Bank 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 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) of:

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

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

"Approved Fund" means 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.

(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 2.14, 2.15, 2.16 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 and LC Disbursements owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrower, the Administrative Agent, each Issuing Bank 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, each Issuing Bank 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(c), 2.05(d), or (e), 2.06 (b), 2.17(d) 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, the Administrative Agent, any Issuing Bank or the Swingline Lender, 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, each Issuing Bank 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 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 2.14, 2.15 and 2.16 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 2.17(c) as though it were a Lender.

(ii) A Participant shall not be entitled to receive any greater payment under Section 2.14 or 2.16 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. A Participant that would be a Foreign Lender if it were a Lender shall not be entitled to the benefits of Section 2.16 unless the Borrower is notified of the participation sold to such Participant and such Participant agrees, for the benefit of the Borrower, to comply with Section 2.16(e) 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 and issuance of any Letters of Credit, regardless of any investigation made by any such other party or on its behalf and notwithstanding that the Administrative Agent, any Issuing Bank 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 or any Letter of Credit is outstanding and so long as the Commitments have not expired or terminated. The provisions of Sections 2.14, 2.15, 2.16 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 Letters of Credit and 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, THE OTHER DOCUMENTS EXECUTED IN CONNECTION HEREWITH AND ANY SEPARATE LETTER AGREEMENTS WITH RESPECT TO FEES PAYABLE TO THE ADMINISTRATIVE AGENT EMBODY THE FINAL, ENTIRE AGREEMENT AMONG THE PARTIES RELATING TO THE SUBJECT MATTER HEREOF AND SUPERSEDE ANY AND ALL PREVIOUS COMMITMENTS, AGREEMENTS, REPRESENTATIONS AND UNDERSTANDINGS, WHETHER ORAL OR WRITTEN, RELATING TO THE SUBJECT MATTER HEREOF (INCLUDING WITHOUT LIMITATION, THE PRIOR AGREEMENT) AND MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF THE PARTIES HERETO THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES HERETO. This Agreement amends and restates in its entirety the Prior Agreement. However, for all matters arising prior to the Effective Date (including, without limitation, the accrual and payment of interest and fees, and matters relating to indemnification and compliance with financial covenants), the terms of the Prior Agreement (as unmodified by this Agreement) shall control and are hereby ratified and confirmed. 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 telecopy shall be effective as delivery of a manually executed counterpart of this Agreement. Borrower represents and warrants that as of the Effective Date there are no claims or offsets against or rights of recoupment with respect to or defenses or counterclaims to its obligations under the Prior Agreement. TO INDUCE THE LENDERS AND ADMINISTRATIVE AGENT TO ENTER INTO THIS AGREEMENT, BORROWER WAIVES ANY AND ALL SUCH CLAIMS, OFFSETS, RIGHTS OF RECOUPMENT, DEFENSES OR COUNTERCLAIMS, WHETHER KNOWN OR UNKNOWN, ARISING PRIOR TO THE CLOSING DATE AND RELATING TO THE PRIOR AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

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 now or hereafter existing under this Agreement held by such Lender, irrespective of whether or not such Lender shall have made any demand under this Agreement and although such obligations may be unmatured. 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 Texas.

(b) THE BORROWER HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE STATE COURTS OF THE STATE OF TEXAS SITTING IN DALLAS COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE NORTHERN DISTRICT OF TEXAS, 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 TEXAS 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, ANY ISSUING BANK 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. Each of the Administrative Agent, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) 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), (b) to the extent requested by any regulatory authority, (c) to the extent required by applicable laws or regulations or by any subpoena or similar legal process, (d) to any other party to this Agreement, (e) 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, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in, any of its rights or obligations under this Agreement and (ii) any actual or prospective counterparty (or its advisors) to any swap or derivative transaction relating to the Borrower and its obligations, (g) with the consent of the Borrower or (h) to the extent such Information becomes publicly available other than as a result of a breach of this Section or becomes available to the Administrative Agent, an Issuing Bank or any Lender on a non–confidential basis from a source other than the Borrower or any of its Affiliates; provided such source is not known by the receiving party to be bound by a confidentiality agreement with or other contractual, legal or fiduciary obligation of confidentiality to Borrower, or (i) to any direct or indirect contractual counterparty with a Lender or its Affiliates in a Swap Agreement or such counterparty's professional advisor (so long as such contractual counterparty or professional advisor to such contractual counterparty agrees to be bound by the provisions of this Section 9.12); provided that, unless specifically prohibited by applicable law or court order, each Lender shall notify the Borrower of any request by any regulatory authority or representative thereof or pursuant to legal process (other than any such request in connection with any examination of the financial condition of such Lender by such regulatory authority) for disclosure of any such nonpublic information prior to disclosure of such information. For the purposes of this Section, "Information" means all information received from the Borrower or any of its Affiliates relating to the Borrower or any of the Subsidiaries or their respective businesses; provided that, in the case of information received from the Borrower after the date hereof, such information is clearly identified at the time of delivery as confidential. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Section 9.13. Maximum Interest Rate.

(a) No interest rate specified in any Loan Document shall at any time exceed the Maximum Rate. If at any time the interest rate (the "Contract Rate") for any obligation under the Loan Documents shall exceed the Maximum Rate, thereby causing the interest accruing on such obligation to be limited to the Maximum Rate, then any subsequent reduction in the Contract Rate for such obligation shall not reduce the rate of interest on such obligation below the Maximum Rate until the aggregate amount of interest accrued on such obligation equals the aggregate amount of interest which would have accrued on such obligation if the Contract Rate for such obligation had at all times been in effect. As used herein, the term "Maximum Rate" means, at any time with respect to any Lender, the maximum rate of nonusurious interest under applicable law that such Lender may contract for, charge, reserve, or receive. The Maximum Rate shall be calculated in a manner that takes into account any and all fees, payments, and other charges contracted for, charged, reserved, or received in connection with the Loan Documents that constitute interest under applicable law. Each change in any interest rate provided for herein based upon the Maximum Rate resulting from a change in the Maximum Rate shall take effect without notice to Borrower at the time of such change in the Maximum Rate. For purposes of determining the Maximum Rate under Texas law, the applicable rate ceiling shall be the weekly rate ceiling described in, and computed in accordance with, Chapter 303 of the Texas Finance Code.

(b) No provision of any Loan Document shall require the payment or the collection of interest in excess of the maximum amount permitted by applicable law. If any excess interest is hereby provided for, or shall be adjudicated to be so provided, in any Loan Document or otherwise in connection with this loan transaction, the provisions of this Section shall govern and prevail and neither Borrower nor the sureties, guarantors, successors, or assigns of Borrower shall be obligated to pay the excess amount of such interest or any other excess sum paid for the use, forbearance, or detention of sums loaned pursuant hereto. In the event any Lender ever receives, or collects, interest in excess of the maximum lawful amount of interest, such amount which is or would be in excess of the maximum amount permitted by applicable law shall be applied as a payment and reduction of the principal of the obligations outstanding hereunder, and, if the principal of the obligations outstanding hereunder has been paid in full or would be paid in full by all or part of such application, any remaining excess shall forthwith be paid to the Borrower. In determining whether or not the interest contracted for, charged, reserved or received exceeds the Maximum Rate, Borrower and each Lender shall, to the extent permitted by applicable law, (a) characterize any non-principal payment as an expense, fee, or premium rather than as interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread the total amount of interest contracted for, charged, reserved and received throughout the entire contemplated term of the obligations outstanding hereunder so that interest for the entire term does not exceed the Maximum Rate.

(c) The provisions of Chapter 346 of the Finance Code of Texas are specifically declared by the parties hereto not to be applicable to this Agreement or to the transactions contemplated hereby.

Section 9.14. No Fiduciary Relationship. The relationship between the Borrower and the Guarantors on the one hand and the Administrative Agent and each Lender on the other is solely that of debtor and creditor, and neither the Administrative Agent nor any Lender has any fiduciary or other special relationship with either the Borrower or any Guarantor, and no term or condition of any of the Loan Documents shall be construed so as to deem the relationship between the Borrower and the Guarantors on the one hand and the Administrative Agent and each Lender on the other to be other than that of debtor and creditor.

Section 9.15. Construction. The Borrower, the Guarantors (by its execution of the Loan Documents to which it is a party), the Administrative Agent and each Lender acknowledges that each of them has had the benefit of legal counsel of its own choice and has been afforded an opportunity to review the Loan Documents with its legal counsel and that the Loan Documents shall be construed as if jointly drafted by the parties thereto.

Section 9.16. Independence of Covenants. All covenants under the Loan Documents shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or be otherwise within the limitations of, another covenant shall not avoid the occurrence of a Default if such action is taken or such condition exists.

Section 9.17. 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 “Act”) hereby notifies the Borrower that pursuant to the requirements of the Act, it is required to obtain, verify and record information that identifies the Borrower, which information includes the name and address of the Borrower and other information that will allow such Lender to identify the Borrower in accordance with the Act.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the day and year first above written.

EAGLE MATERIALS INC. (formerly Centex Construction Products, Inc.)

By: _____
Arthur R. Zunker, Jr., Chief Financial Officer

JPMORGAN CHASE BANK, N.A.
(formerly known as JPMorgan Chase Bank and successor by merger to Bank One, N.A.) individually and as Administrative Agent,

By: _____
David L. Howard, Vice President

PNC BANK, N.A.

By: _____
Name: _____
Title: _____

BANK OF TEXAS, N.A.

By: _____
Name: _____
Title: _____

SUNTRUST BANK

By: _____
Name: _____
Title: _____

BRANCH BANKING AND TRUST COMPANY

By: _____
Name: _____
Title: _____

U.S. BANK NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____

WELLS FARGO BANK, N.A.

By: _____
Name: _____
Title: _____

BNP PARIBAS

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

BANK OF AMERICA, N.A.

By: _____
Name: _____
Title: _____

THE NORTHERN TRUST COMPANY

By: _____
Name: _____
Title: _____

COMERICA BANK

By: _____
Name: _____
Title: _____

UNION BANK OF CALIFORNIA, N.A.

By: _____

Name: _____

Title: _____

LIST OF SCHEDULES AND EXHIBITS

Schedules:

Schedule 1.01(a)	–	Existing Letters of Credit
Schedule 2.01	–	Commitments
Schedule 3.05	–	Existing Liens
Schedule 3.06	–	Disclosed Matters
Schedule 3.12	–	Subsidiaries
Schedule 3.13	–	Existing Indebtedness
Schedule 6.04	–	Existing Investments
Schedule 6.08	–	Existing Restrictions

Exhibits:

Exhibit A	–	Form of Assignment and Assumption
Exhibit B	–	Form of Opinion of Borrower’s Counsel
Exhibit C	–	Form of Guaranty Agreement
Exhibit D	–	Form of Notice of Borrowing
Exhibit E	–	Form of Increased Commitment Supplement

EXHIBIT A
TO
EAGLE MATERIALS INC.
AMENDED AND RESTATED CREDIT AGREEMENT

Form of Assignment and Assumption

EXHIBIT A, FORM OF ASSIGNMENT AND ASSUMPTION, Cover Page

ASSIGNMENT AND ASSUMPTION

This Assignment and Assumption (the "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the "Assignor") and [*Insert name of Assignee*] (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Amended and Restated Credit Agreement identified below (as amended, the "Credit Agreement"), receipt of a copy of which is hereby acknowledged by the Assignee. The Standard Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Standard Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below (i) all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto to the extent related to the amount and percentage interest identified below of all of such outstanding rights and obligations of the Assignor under the respective facilities identified below (including any letters of credit, guaranties, and swingline loans included in such facilities) and (ii) to the extent permitted to be assigned under applicable law, all claims, suits, causes of action and any other right of the Assignor (in its capacity as a Lender) against any Person, whether known or unknown, arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby or in any way based on or related to any of the foregoing, including contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity related to the rights and obligations sold and assigned pursuant to clause (i) above (the rights and obligations sold and assigned pursuant to clauses (i) and (ii) above being referred to herein collectively as the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor:

2. Assignee:

[and is an Affiliate/Approved Fund of [*identify Lender*][1]]

3. Borrower: Eagle Materials Inc. (formerly Centex Construction Products, Inc.)

4. Administrative Agent: JPMorgan Chase Bank, N.A. as the administrative agent under the Credit Agreement

5. Credit Agreement: The $350,000,000 Amended and Restated Credit Agreement dated as of December 16, 2004 among Eagle Materials Inc., the Lenders parties thereto and JPMorgan Chase Bank, N.A. as Administrative Agent.

6. Assigned Interest:

Facility Assigned[2]	Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/Loans Assigned	Percentage Assigned of Commitment/Loans[3]
	$	$	%
	$	$	%
	$	$	%

Effective Date: , 20 [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER IN THE REGISTER THEREFOR.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR

[NAME OF ASSIGNOR]

By: _____
Name: _____
Title: _____

ASSIGNEE

[NAME OF ASSIGNEE]

By: _____
Name: _____
Title: _____

[Consented to and] Accepted:

JPMORGAN CHASE BANK, N.A.
(formerly known as JPMorgan Chase Bank), as
Administrative Agent

By: _____
Name: _____
Title: _____

[Consented to:]

EAGLE MATERIALS INC.

By: _____
Name: _____
Title: _____

EAGLE MATERIALS INC.
AMENDED AND RESTATED CREDIT AGREEMENT
DATED
16 DECEMBER 2004
STANDARD TERMS AND CONDITIONS
FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor (a) represents and warrants that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby; and (b) assumes no responsibility with respect to (i) any statements, warranties or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrower, any of the Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by the Borrower, any of the Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2. Assignee. The Assignee (a) represents and warrants that (i) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it satisfies the requirements, if any, specified in the Credit Agreement that are required to be satisfied by it in order to acquire the Assigned Interest and become a Lender, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iv) it has received a copy of the Credit Agreement, together with copies of the most recent financial statements delivered pursuant to Section 5.01 thereof, as applicable, and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (v) if it is a Foreign Lender, attached to the Assignment and Assumption is any documentation required to be delivered by it pursuant to the terms of the Credit Agreement, duly completed and executed by the Assignee; and (b) agrees that (i) it will, independently and without reliance on the Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of Texas.

EXHIBIT B
TO
EAGLE MATERIALS INC.
AMENDED AND RESTATED CREDIT AGREEMENT

Form of Opinion of Counsel for the Borrower

16 December 2004

To the Lenders and the Administrative
Agent Referred to Below
c/o JPMorgan Chase Bank, N.A. as
Administrative Agent
2200 Ross Avenue, 3rd Floor
Dallas, Texas, TX 75201

Dear Sirs:

We have acted as counsel for Eagle Materials Inc. (formerly Centex Construction Products, Inc.), a Delaware corporation (the "Borrower") and the guarantors listed in Appendix 1 attached hereto (the "Guarantors") (the Borrower and the Guarantors being collectively referred to hereafter as the "Obligated Parties") in connection with the Amended and Restated Credit Agreement dated as of December 16, 2004 (the "Credit Agreement") among the Borrower, the banks and other financial institutions identified therein as Lenders, and JPMorgan Chase Bank, N.A. as Administrative Agent. Terms defined in the Credit Agreement are used herein with the same meanings.

We have examined originals or copies, certified or otherwise identified to our satisfaction, of such documents, corporate records, certificates of public officials and other instruments and have conducted such other investigations of fact and law as we have deemed necessary or advisable for purposes of this opinion.

Upon the basis of the foregoing, we are of the opinion that:

1. Each of the Obligated Parties (a) is a business entity duly organized, validly existing and in good standing under the laws of its state of formation, (b) has all requisite corporate, limited liability company or partnership power and authority to carry on its business as now conducted and (c) except where the failure to do so, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, is qualified to do business in, and is in good standing in, every jurisdiction where such qualification is required.

2. The Transactions are within each of the Obligated Parties' corporate, limited liability company or partnership powers and have been duly authorized by all necessary corporate, company or partnership action and, if required, stockholder, member, manager or partner action. Each of the Obligated Parties has duly executed and delivered the Loan Documents to which it is a party and such Loan Documents constitute the legal, valid and binding obligation of each of the Obligated Parties which are parties thereto, enforceable in accordance with their terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

3. The Transactions (a) do not require any consent or approval of, registration or filing with, or any other action by, any Governmental Authority, except such as have been obtained or made and are in full force and effect, (b) will not violate any applicable law or regulation or the charter, by-laws or other organizational documents of Borrower or any of the Subsidiaries or any order of any Governmental Authority, (c) to the best of our knowledge after due inquiry, will not violate or result in a default under any indenture, agreement or other instrument binding upon Borrower or any of the Subsidiaries or any of their respective assets, or give rise to a right thereunder to require any payment to be made by Borrower or any of the Subsidiaries, and (d) to the best of our knowledge after due inquiry, will not result in the creation or imposition of any Lien on any asset of Borrower or any Subsidiary.

4. To the best of our knowledge after due inquiry, there are no actions, suits or proceedings by or before any arbitrator or Governmental Authority pending against or threatened against or affecting Borrower or any Subsidiary (a) as to which there is a reasonable expectation of an adverse determination and that, if adversely determined, could reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect (other than the Disclosed Matters) or (b) that involve the Loan Documents or the Transactions.

We are members of the bar of the State of Texas and the foregoing opinion is limited to the laws of the State of Texas, the General Corporation Law of each state in which any Obligated Party is organized and the Federal laws of the United States of America. This opinion is rendered solely to you in connection with the above matter. This opinion may not be relied upon by you for any other purpose or relied upon by any other Person (other than your successors and assigns as Lenders and Persons that acquire participations in your Loans) without our prior written consent.

Very truly yours,

APPENDIX 1
TO
LEGAL OPINION

Guarantors

AMERICAN GYPSUM COMPANY
AMERICAN GYPSUM MARKETING COMPANY
CCP CEMENT COMPANY
CCP CONCRETE/AGGREGATES LLC
CCP GYPSUM COMPANY
CCP LAND COMPANY
CENTEX CEMENT CORPORATION
CENTEX MATERIALS LLC
HOLLIS & EASTERN RAILROAD COMPANY LLC
MATHEWS READYMIX LLC
M&W DRYWALL SUPPLY COMPANY
MOUNTAIN CEMENT COMPANY
NEVADA CEMENT COMPANY
REPUBLIC PAPERBOARD COMPANY LLC
TLCC GP LLC
TLCC LP LLC
TEXAS CEMENT COMPANY
WESTERN AGGREGATES LLC (formerly Western Aggregates, Inc.)
WESTERN CEMENT COMPANY OF CALIFORNIA

EXHIBIT C
TO
EAGLE MATERIALS INC.
AMENDED AND RESTATED CREDIT AGREEMENT

Form of Subsidiary Guaranty

EXHIBIT C, FORM OF GUARANTY AGREEMENT, Cover Page

WHEREAS, EAGLE MATERIALS INC. (formerly Centex Construction Products, Inc.), a Delaware corporation (the "Borrower") has entered into that certain Amended and Restated Credit Agreement dated as of December 16, 2004, among Borrower, the lenders party thereto (the "Lenders"), and JPMORGAN CHASE BANK, N.A. (formerly known as JPMorgan Chase Bank), as the administrative agent for such Lenders (the "Agent") (such Amended and Restated Credit Agreement, as it may hereafter be amended or otherwise modified from time to time, being hereinafter referred to as the "Credit Agreement", and capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Credit Agreement);

WHEREAS, certain of the parties hereto have executed and delivered that certain Guaranty Agreement dated as of December 18, 2003 in connection with and for the benefit of the lenders under the Prior Agreement (as defined in the Credit Agreement and such Guaranty Agreement, herein the "Prior Guaranty") and the execution of this Amended and Restated Guaranty Agreement (herein the "Guaranty Agreement") is a condition to the Agent's and each Lender's obligations under the Credit Agreement and amends and restates the Prior Guaranty in its entirety;

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, each of the undersigned Subsidiaries and any Subsidiary hereafter added as a "Guarantor" hereto pursuant to a Subsidiary Joinder Agreement in the form attached hereto as Exhibit A (individually a "Guarantor" and collectively the "Guarantors"), hereby irrevocably and unconditionally guaranties to the Agent, the Lenders, the Issuing Banks and their respective Related Parties (collectively the "Creditors") the full and prompt payment and performance of the Guarantied Indebtedness (hereinafter defined), this Guaranty Agreement being upon the following terms:

1. The term "Guarantied Indebtedness", as used herein, means: (i) all obligations, indebtedness, and liabilities of the Borrower to any Creditor arising pursuant to the Credit Agreement, any note executed pursuant thereto or any other Loan Document, whether now existing or hereafter arising, whether direct, indirect, related, unrelated, fixed, contingent, liquidated, unliquidated, joint, several, or joint and several, including, without limitation, the obligation of the Borrower to repay the Loans, the LC Disbursements, interest on the Loans and LC Disbursements, and all fees, costs, and expenses (including attorneys' fees and expenses) provided for in the Credit Agreement and the notes executed pursuant thereto and (ii) all obligations, indebtedness, and liabilities of the Borrower or any Subsidiaries, or any one of them, to any Lender or any Affiliate of any Lender arising pursuant to any Swap Agreements entered into by such Creditor with the Borrower or any Subsidiaries, or any one of them, whether now existing or hereafter arising, whether direct, indirect, related, unrelated, fixed, contingent, liquidated, unliquidated, joint, several, or joint and several, including, without limitation, all fees, costs, and expenses (including attorneys' fees and expenses) provided for in such Swap Agreements. The "Guarantied Indebtedness" shall include any and all post-petition interest and expenses (including attorneys' fees) whether or not allowed under any bankruptcy, insolvency, or other similar law; provided that the Guarantied Indebtedness shall be limited, with respect to each Guarantor, to an aggregate amount equal to the largest amount that would not render such Guarantor's obligations hereunder subject to avoidance under Section 544 or 548 of the United States Bankruptcy Code or under any applicable state law relating to fraudulent transfers or conveyances.

2. The Guarantors together desire to allocate among themselves (collectively, the "Contributing Guarantors"), in a fair and equitable manner, their obligations arising under this Guaranty Agreement. Accordingly, in the event any payment or distribution is made by a Guarantor under this Guaranty Agreement (a "Funding Guarantor") that exceeds its Fair Share (as defined below), that Funding Guarantor shall be entitled to a contribution from each of the other Contributing Guarantors in the amount of such other Contributing Guarantor's Fair Share Shortfall (as defined below), with the result that all such contributions will cause each Contributing Guarantor's Aggregate Payments (as defined below) to equal its Fair Share. "Fair Share" means, with respect to a Contributing Guarantor as of any date of determination, an amount equal to (i) the ratio of (x) the Adjusted Maximum Amount (as defined below) with respect to such Contributing Guarantor to (y) the aggregate of the Adjusted Maximum Amounts with respect to all Contributing Guarantors, multiplied by (ii) the aggregate amount paid or distributed on or before such date by all Funding Guarantors under this Guaranty Agreement in respect of the obligations guarantied. "Fair Share Shortfall" means, with respect to a Contributing Guarantor as of any date of determination, the excess, if any, of the Fair Share of such Contributing Guarantor over the Aggregate Payments of such Contributing Guarantor. "Adjusted Maximum Amount" means, with respect to a Contributing Guarantor as of any date of determination, the maximum aggregate amount of the obligations of such Contributing Guarantor under this Guaranty Agreement determined in accordance with the provisions hereof; provided that, solely for purposes of calculating the "Adjusted Maximum Amount" with respect to any Contributing Guarantor for purposes of this paragraph 2, the assets or liabilities arising by virtue of any rights to or obligations of contribution hereunder shall not be considered as assets or liabilities of such Contributing Guarantor. "Aggregate Payments" means, with respect to a Contributing Guarantor as of any date of determination, the aggregate amount of all payments and distributions made on or before such date by such Contributing Guarantor in respect of this Guaranty Agreement (including, without limitation, in respect of this paragraph 2). The amounts payable as contributions hereunder shall be determined as of the date on which the related payment or distribution is made by the applicable Funding Guarantor. The allocation among Contributing Guarantors of their obligations as set forth in this paragraph 2 shall not be construed in any way to limit the liability of any Contributing Guarantor hereunder.

3. This instrument shall be an absolute, continuing, irrevocable and unconditional guaranty of payment and performance, and not a guaranty of collection, and each Guarantor shall remain liable on its obligations hereunder until the payment and performance in full of the Guarantied Indebtedness. No set-off, counterclaim, recoupment, reduction, or diminution of any obligation, or any defense of any kind or nature which Borrower or any Subsidiary may have against any Creditor or any other party, or which any Guarantor may have against Borrower or any Subsidiary, any Creditor or any other party, shall be available to, or shall be asserted by, any Guarantor against any Creditor or any subsequent holder of the Guarantied Indebtedness or any part thereof or against payment of the Guarantied Indebtedness or any part thereof.

4. If a Guarantor becomes liable for any indebtedness owing by Borrower or any Subsidiary to any Creditor by endorsement or otherwise, other than under this Guaranty Agreement, such liability shall not be in any manner impaired or affected hereby, and the rights of the Creditors hereunder shall be cumulative of any and all other rights that any Creditor may ever have against such Guarantor. The exercise by any Creditor of any right or remedy hereunder or under any other instrument, or at law or in equity, shall not preclude the concurrent or subsequent exercise of any other right or remedy.

5. In the event of default by Borrower or any Subsidiary in payment or performance of the Guarantied Indebtedness, or any part thereof, when such Guarantied Indebtedness becomes due, whether by its terms, by acceleration, or otherwise, the Guarantors shall, jointly and severally, promptly pay the amount due thereon to Agent, without notice or demand, in lawful currency of the United States of America, and it shall not be necessary for Agent or any other Creditor, in order to enforce such payment by any Guarantor, first to institute suit or exhaust its remedies against Borrower, any Subsidiary or others liable on such Guarantied Indebtedness, or to enforce any rights against any collateral which shall ever have been given to secure such Guarantied Indebtedness. In the event such payment is made by a Guarantor, then such Guarantor shall be subrogated to the rights then held by Agent and any other Creditor with respect to the Guarantied Indebtedness to the extent to which the Guarantied Indebtedness was discharged by such Guarantor and, in addition, upon payment by such Guarantor of any sums to Agent or any other Creditor hereunder, all rights of such Guarantor against Borrower, any Subsidiary, any other guarantor or any collateral arising as a result therefrom by way of right of subrogation, reimbursement, or otherwise shall in all respects be subordinate and junior in right of payment to the prior indefeasible payment in full of the Guarantied Indebtedness. All payments received by the Agent hereunder shall be applied by the Agent to payment of the Guarantied Indebtedness in the order provided for in Section 2.17 of the Credit Agreement.

6. If acceleration of the time for payment of any amount payable by Borrower or any Subsidiary under the Guarantied Indebtedness is stayed upon the insolvency, bankruptcy, or reorganization of Borrower or any Subsidiary, all such amounts otherwise subject to acceleration under the terms of the Guarantied Indebtedness shall nonetheless be payable by the Guarantors hereunder forthwith on demand by Agent or any other Creditor.

7. Each Guarantor hereby agrees that its obligations under this Guaranty Agreement shall not be released, discharged, diminished, impaired, reduced, or affected for any reason or by the occurrence of any event, including, without limitation, one or more of the following events, whether or not with notice to or the consent of any Guarantor: (a) the taking or accepting of collateral as security for any or all of the Guarantied Indebtedness or the release, surrender, exchange, or subordination of any collateral now or hereafter securing any or all of the Guarantied Indebtedness; (b) any partial release of the liability of any Guarantor hereunder, or the full or partial release of any other guarantor from liability for any or all of the Guarantied Indebtedness; (c) any disability of Borrower or any Subsidiary, or the dissolution, insolvency, or bankruptcy of Borrower, any Subsidiary, any Guarantor, or any other party at any time liable for the payment of any or all of the Guarantied Indebtedness; (d) any renewal, extension, modification, waiver, amendment, or rearrangement of any or all of the Guarantied Indebtedness or any instrument, document, or agreement evidencing, securing, or otherwise relating to any or all of the Guarantied Indebtedness; (e) any adjustment, indulgence, forbearance, waiver, or compromise that may be granted or given by Agent or any other Creditor to Borrower, any Subsidiary, any Guarantor, or any other party ever liable for any or all of the Guarantied Indebtedness; (f) any neglect, delay, omission, failure, or refusal of Agent or any other Creditor to take or prosecute any action for the collection of any of the Guarantied Indebtedness or to foreclose or take or prosecute any action in connection with any instrument, document, or agreement evidencing, securing, or otherwise relating to any or all of the Guarantied Indebtedness; (g) the unenforceability or invalidity of any or all of the Guarantied Indebtedness or of any instrument, document, or agreement evidencing, securing, or otherwise relating to any or all of the Guarantied Indebtedness; (h) any payment by Borrower, any Subsidiary or any other party to Agent or any other Creditor is held to constitute a preference under applicable bankruptcy or insolvency law or if for any other reason Agent or any other Creditor is required to refund any payment or pay the amount thereof to someone else; (i) the settlement or compromise of any of the Guarantied Indebtedness; (j) the non-perfection of any security interest or lien securing any or all of the Guarantied Indebtedness; (k) any impairment of any collateral securing any or all of the Guarantied Indebtedness; (l) the failure of Agent or any other Creditor to sell any collateral securing any or all of the Guarantied Indebtedness in a commercially reasonable manner or as otherwise required by law; (m) any change in the corporate existence, structure, or ownership of Borrower or any Subsidiary; or (n) any other circumstance which might otherwise constitute a defense available to, or discharge of, Borrower, any Subsidiary or any other Guarantor (other than payment of the Guarantied Indebtedness).

8. Each Guarantor represents and warrants to Agent and the Lenders as follows:

(a) All representations and warranties in the Credit Agreement relating to it are true and correct as of the date hereof and on each date the representations and warranties hereunder are restated pursuant to the Credit Agreement with the same force and effect as if such representations and warranties had been made on and as of such date.

(b) It has, independently and without reliance upon any Creditor and based upon such documents and information as it has deemed appropriate, made its own analysis and decision to enter into this Guaranty Agreement.

(c) It has adequate means to obtain from Borrower and the Subsidiaries on a continuing basis information concerning the financial condition and assets of Borrower and the Subsidiaries and it is not relying upon any Creditor to provide (and no Creditor shall have any duty to provide) any such information to it either now or in the future.

(2) The value of the consideration received and to be received by each Guarantor as a result of Borrower's and the Lenders' entering into the Credit Agreement and the Borrower and the Subsidiaries entering into the Swap Agreements and each Guarantor's executing and delivering this Guaranty Agreement is reasonably worth at least as much as the liability and obligation of each Guarantor hereunder, and such liability and obligation, the Credit Agreement and such Swap Agreements have benefited and may reasonably be expected to benefit each Guarantor directly or indirectly.

9. Each Guarantor covenants and agrees that, as long as the Guarantied Indebtedness or any part thereof is outstanding or any Lender has any commitment under the Credit Agreement, it will comply with all covenants set forth in the Credit Agreement specifically applicable to it.

10. When an Event of Default exists and subject to the terms of Section 2.17 of the Credit Agreement, Agent and each other Creditor shall have the right to set-off and apply against this Guaranty Agreement or the Guarantied Indebtedness or both, at any time and without notice to any Guarantor, any and all deposits (general or special, time or demand, provisional or final) or other sums at any time credited by or owing from Agent and each other Creditor to any Guarantor whether or not the Guarantied Indebtedness is then due and irrespective of whether or not Agent or any other Creditor shall have made any demand under this Guaranty Agreement. Each Creditor agrees promptly to notify the Borrower (with a copy to the Agent) after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application. The rights and remedies of Agent and other Creditors hereunder are in addition to other rights and remedies (including, without limitation, other rights of set-off) which Agent or any other Creditor may have.

11. (a) Each Guarantor hereby agrees that the Subordinated Indebtedness (as defined below) shall be subordinate and junior in right of payment to the prior payment in full of all Guarantied Indebtedness as herein provided. The Subordinated Indebtedness shall not be payable, and no payment of principal, interest or other amounts on account thereof, and no property or guaranty of any nature to secure or pay the Subordinated Indebtedness shall be made or given, directly or indirectly by or on behalf of any Debtor (hereafter defined) or received, accepted, retained or applied by any Guarantor unless and until the Guarantied Indebtedness shall have been paid in full in cash; except that prior to the occurrence and continuance of an Event of Default, each Debtor shall have the right to make payments and a Guarantor shall have the right to receive payments on the Subordinated Indebtedness from time to time in the ordinary course of business. After the occurrence and during the continuance of an Event of Default, no payments may be made or given on the Subordinated Indebtedness, directly or indirectly, by or on behalf of any Debtor or received, accepted, retained or applied by any Guarantor unless and until the Guarantied Indebtedness shall have been paid in full in cash. If any sums shall be paid to a Guarantor by any Debtor or any other Person on account of the Subordinated Indebtedness when such payment is not permitted hereunder, such sums shall be held in trust by such Guarantor for the benefit of Agent and the other Creditors and shall forthwith be paid to the Agent and applied by Agent against the Guarantied Indebtedness in accordance with this Guaranty Agreement. For purposes of this Guaranty Agreement and with respect to a Guarantor, the term "Subordinated Indebtedness" means all indebtedness, liabilities, and obligations of Borrower or any other Subsidiary (Borrower and such other Subsidiaries herein the "Debtors") to such Guarantor, whether such indebtedness, liabilities, and obligations now exist or are hereafter incurred or arise, or are direct, indirect, contingent, primary, secondary, several, joint and several, or otherwise, and irrespective of whether such indebtedness, liabilities, or obligations are evidenced by a note, contract, open account, or otherwise, and irrespective of the Person or Persons in whose favor such indebtedness, obligations, or liabilities may, at their inception, have been, or may hereafter be created, or the manner in which they have been or may hereafter be acquired by such Guarantor.

(b) Each Guarantor agrees that any and all Liens (including any judgment liens), upon any Debtor's assets securing payment of any Subordinated Indebtedness shall be and remain inferior and subordinate to any and all Liens upon any Debtor's assets securing payment of the Guarantied Indebtedness or any part thereof, regardless of whether such Liens in favor of a Guarantor, Agent or any other Creditor presently exist or are hereafter created or attached. Without the prior written consent of Agent, no Guarantor shall (i) file suit against any Debtor or exercise or enforce any other creditor's right it may have against any Debtor, or (ii) foreclose, repossess, sequester, or otherwise take steps or institute any action or proceedings (judicial or otherwise, including without limitation the commencement of, or joinder in, any liquidation, bankruptcy, rearrangement, debtor's relief or insolvency proceeding) to enforce any obligations of any Debtor to such Guarantor or any Liens held by such Guarantor on assets of any Debtor.

(c) In the event of any receivership, bankruptcy, reorganization, rearrangement, debtor's relief, or other insolvency proceeding involving any Debtor as debtor, Agent shall have the right to prove and vote any claim under the Subordinated Indebtedness and to receive directly from the receiver, trustee or other court custodian all dividends, distributions, and payments made in respect of the Subordinated Indebtedness until the Guarantied Indebtedness has been paid in full in cash. Agent may apply any such dividends, distributions, and payments against the Guarantied Indebtedness in accordance with the Credit Agreement.

12. Except for modifications made pursuant to the execution and delivery of a Subsidiary Joinder Agreement (which needs to be signed only by the Subsidiary party thereto) and the release of any Guarantor from its obligations hereunder (which shall require the consent of all Lenders unless such release is authorized by Section 9.02 of the Credit Agreement); no amendment or waiver of any provision of this Guaranty Agreement or consent to any departure by any Guarantor therefrom shall in any event be effective unless the same shall be in writing and signed by Agent and Required Lenders except as otherwise provided in the Credit Agreement. No failure on the part of Agent or any other Creditor to exercise, and no delay in exercising, any right, power, or privilege hereunder shall operate as a waiver thereof; nor shall any single or partial exercise of any right, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, power, or privilege. The remedies herein provided are cumulative and not exclusive of any remedies provided by law.

13. To the extent permitted by law, any acknowledgment or new promise, whether by payment of principal or interest or otherwise and whether by Borrower or others (including any Guarantor), with respect to any of the Guarantied Indebtedness shall, if the statute of limitations in favor of a Guarantor against Agent or any other Creditor shall have commenced to run, toll the running of such statute of limitations and, if the period of such statute of limitations shall have expired, prevent the operation of such statute of limitations.

14. This Guaranty Agreement is for the benefit of the Creditors and their successors and assigns, and in the event of an assignment of the Guarantied Indebtedness, or any part thereof, the rights and benefits hereunder, to the extent applicable to the indebtedness so assigned, may be transferred with such indebtedness. This Guaranty Agreement is binding not only on each Guarantor, but on each Guarantor's successors and assigns.

15. Each Guarantor recognizes that Agent and the Lenders are relying upon this Guaranty Agreement and the undertakings of each Guarantor hereunder in making extensions of credit to Borrower under the Credit Agreement and further recognizes that the execution and delivery of this Guaranty Agreement is a material inducement to Agent and the Lenders in entering into the Credit Agreement and continuing to extend credit thereunder. Each Guarantor hereby acknowledges that there are no conditions to the full effectiveness of this Guaranty Agreement.

16. Any notice or demand to any Guarantor under or in connection with this Guaranty Agreement shall be deemed effective if given to the Guarantor, care of Borrower in accordance with the notice provisions in the Credit Agreement.

17. The Guarantors shall, jointly and severally, pay on demand all reasonable attorneys' fees and all other reasonable costs and expenses incurred by Agent and the other Creditors in connection with the administration, enforcement, or collection of this Guaranty Agreement.

18. Except as otherwise specifically provided in the Credit Agreement, each Guarantor hereby waives promptness, diligence, notice of any default under the Guarantied Indebtedness, demand of payment, notice of acceptance of this Guaranty Agreement, presentment, notice of protest, notice of dishonor, notice of the incurring by Borrower of additional indebtedness, notice of intent to accelerate, notice of acceleration and all other notices and demands with respect to the Guarantied Indebtedness and this Guaranty Agreement.

19. The Credit Agreement, and all of the terms thereof, are incorporated herein by reference, the same as if stated verbatim herein, and each Guarantor agrees that Agent and the Lenders may exercise any and all rights granted to any of them under the Credit Agreement without affecting the validity or enforceability of this Guaranty Agreement.

20. THIS GUARANTY AGREEMENT EMBODIES THE FINAL, ENTIRE AGREEMENT OF EACH GUARANTOR, AGENT AND THE OTHER CREDITORS WITH RESPECT TO EACH GUARANTOR'S GUARANTY OF THE GUARANTIED INDEBTEDNESS AND SUPERSEDES ANY AND ALL PRIOR COMMITMENTS, AGREEMENTS, REPRESENTATIONS, AND UNDERSTANDINGS, WHETHER WRITTEN OR ORAL, RELATING TO THE SUBJECT MATTER HEREOF, INCLUDING THE PRIOR GUARANTY. THIS GUARANTY AGREEMENT IS INTENDED BY EACH GUARANTOR, AGENT AND THE OTHER CREDITORS AS A FINAL AND COMPLETE EXPRESSION OF THE TERMS OF THE GUARANTY AGREEMENT, AND NO COURSE OF DEALING AMONG ANY GUARANTOR, AGENT AND ANY OTHER CREDITOR, NO COURSE OF PERFORMANCE, NO TRADE PRACTICES, AND NO EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OR OTHER EXTRINSIC EVIDENCE OF ANY NATURE SHALL BE USED TO CONTRADICT, VARY, SUPPLEMENT OR MODIFY ANY TERM OF THIS GUARANTY AGREEMENT. THERE ARE NO ORAL AGREEMENTS AMONG ANY GUARANTOR, AGENT AND ANY OTHER CREDITOR. This Guaranty Agreement amends and restates in its entirety the Prior Guaranty. However, for all matters arising prior to the date hereof (including, without limitation, the accrual and payment of interest and fees, and matters relating to indemnification), the terms of the Prior Guaranty (as unmodified by this Guaranty Agreement) shall control and are hereby ratified and confirmed. Each Guarantor represents and warrants that as of the date hereof there are no claims or offsets against or rights of recoupment with respect to or defenses or counterclaims to its obligations under the Prior Guaranty. TO INDUCE THE LENDERS AND ADMINISTRATIVE AGENT TO ENTER INTO THE CREDIT AGREEMENT, EACH GUARANTOR WAIVES ANY AND ALL SUCH CLAIMS, OFFSETS, RIGHTS OF RECOUPMENT, DEFENSES OR COUNTERCLAIMS, WHETHER KNOWN OR UNKNOWN, ARISING PRIOR TO THE DATE HEREOF AND RELATING TO THE PRIOR GUARANTY OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

21. This Guaranty Agreement shall be construed in accordance with and governed by the law of the State of Texas. EACH GUARANTOR HEREBY IRREVOCABLY AND UNCONDITIONALLY SUBMITS, FOR ITSELF AND ITS PROPERTY, TO THE NONEXCLUSIVE JURISDICTION OF THE STATE COURTS OF THE STATE OF TEXAS SITTING IN DALLAS COUNTY AND OF THE UNITED STATES DISTRICT COURT OF THE NORTHERN DISTRICT OF TEXAS, AND ANY APPELLATE COURT FROM ANY THEREOF, IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS GUARANTY 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 TEXAS 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 ANY CREDITOR MAY OTHERWISE HAVE TO BRING ANY ACTION OR PROCEEDING RELATING TO THIS GUARANTY AGREEMENT AGAINST ANY GUARANTOR OR ITS PROPERTIES IN THE COURTS OF ANY JURISDICTION. Each Guarantor 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 Guaranty Agreement in any court referred to in 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. Each party to this Guaranty Agreement irrevocably consents to service of process in the manner provided for notices in Section 9.01 of the Credit Agreement. Nothing in this Guaranty Agreement will affect the right of any party to this Guaranty Agreement to serve process in any other manner permitted by law.

22. 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.

EXECUTED as of the date first written above.

GUARANTORS:

AMERICAN GYPSUM COMPANY
AMERICAN GYPSUM MARKETING COMPANY
CCP CEMENT COMPANY
CCP CONCRETE/AGGREGATES LLC
CCP GYPSUM COMPANY
CCP LAND COMPANY
CENTEX CEMENT CORPORATION
HOLLIS & EASTERN RAILROAD COMPANY LLC
MATHEWS READYMIX LLC
M&W DRYWALL SUPPLY COMPANY
MOUNTAIN CEMENT COMPANY
NEVADA CEMENT COMPANY
REPUBLIC PAPERBOARD COMPANY LLC
TEXAS CEMENT COMPANY
WESTERN AGGREGATES LLC (formerly Western Aggregates, Inc.)
WESTERN CEMENT COMPANY OF CALIFORNIA

By: _____
Arthur R. Zunker, Jr., Senior Vice President
Finance and Treasurer of each Guarantor

CENTEX MATERIALS LLC
TLCC GP LLC

By: _____
Arthur R. Zunker, Jr., Manager of the Guarantors listed

TLCC LP LLC

By: _____
Nicholas Stiren, Manager of the Guarantor listed

EXHIBIT “A”
TO
GUARANTY AGREEMENT

Subsidiary Joinder Agreement

EXHIBIT “A” to GUARANTY AGREEMENT, Cover Page

SUBSIDIARY JOINDER AGREEMENT

This SUBSIDIARY JOINDER AGREEMENT (the "Agreement") dated as of , is executed by the undersigned (the "Guarantor") for the benefit of JPMORGAN CHASE BANK, N.A. (formerly known as JPMorgan Chase Bank) in its capacity as agent for the lenders party to the hereafter identified Credit Agreement and for the benefit of such lenders and certain other creditors in connection with that certain Amended and Restated Credit Agreement dated as of December 16, 2004 among Eagle Materials Inc. (formerly Centex Construction Products, Inc. and herein "Borrower"), the lenders party thereto, JPMORGAN CHASE BANK, N.A. (formerly known as JPMorgan Chase Bank), as the administrative agent for the Lenders (the "Agent") (such Amended and Restated Credit Agreement, as it may hereafter be amended or otherwise modified from time to time, being hereinafter referred to as the "Credit Agreement", and capitalized terms not otherwise defined herein shall have the same meaning as set forth in the Credit Agreement).

The Guarantor is a newly formed or newly acquired Subsidiary and is required to execute this Agreement pursuant to Section 5.09 of the Credit Agreement.

NOW THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Guarantor hereby agrees as follows:

1. The Guarantor hereby assumes all the obligations of a "Guarantor" under the Subsidiary Guaranty and agrees that it is a "Guarantor" and bound as a "Guarantor" under the terms of the Subsidiary Guaranty as if it had been an original signatory thereto. In accordance with the foregoing and for valuable consideration, the receipt and adequacy of which are hereby acknowledged, Guarantor irrevocably and unconditionally guaranties to the Agent and the other Creditors the full and prompt payment and performance of the Guarantied Indebtedness (as defined in the Subsidiary Guaranty) upon the terms and conditions set forth in the Subsidiary Guaranty.

2. This Agreement shall be deemed to be part of, and a modification to, the Subsidiary Guaranty and shall be governed by all the terms and provisions of the Subsidiary Guaranty, which terms are incorporated herein by reference, are ratified and confirmed and shall continue in full force and effect as valid and binding agreements of Guarantor enforceable against Guarantor. The Guarantor hereby waives notice of Agent's, the Issuing Banks' or any other Lender's acceptance of this Agreement.

IN WITNESS WHEREOF, the Guarantor has executed this Agreement as of the day and year first written above.

Guarantor:

_____

By: _____

Name: _____

Title: _____

EXHIBIT D
TO
EAGLE MATERIALS INC.
AMENDED AND RESTATED CREDIT AGREEMENT

Form of Notice of Borrowing

EXHIBIT D, FORM OF NOTICE OF BORROWING, Cover Page

[Date]

JPMorgan Chase Bank, N.A., as Administrative
Agent for the Lenders referred to below
2200 Ross Avenue, 3rd Floor
Dallas, TX 75201
Attn: David L. Howard
Telecopy: 214-965-2044

and

JPMorgan Chase Bank, N.A.
1111 Fannin St., 10th Floor
Houston, Texas 77002
Attn: Rese Comley
Telecopy: 713-750-2892

Ladies and Gentlemen:

The undersigned, Eagle Materials Inc. (the "Borrower"), refers to the Amended and Restated Credit Agreement dated as of December 16, 2004 among the Borrower, the Lenders named therein and JPMorgan Chase Bank, N.A. (formerly known as JPMorgan Chase Bank), as Administrative Agent (as amended, modified, extended or restated from time to time, the "Agreement"). Capitalized terms used herein and not otherwise defined herein shall have the meanings assigned to such terms in the Agreement.

1. The Borrower hereby gives you notice pursuant to Section 2.03 of the Agreement that it requests a Borrowing under the Agreement, and sets forth below the terms on which such Borrowing is requested to be made:

(A) Date of Borrowing (which is a Business Day) _____

(B) Type of Loan (*i.e.*, ABR Borrowing or Eurodollar Borrowing) _____

(C) Facility (*i.e.*, Revolver or Swingline) _____

(D) Principal amount of Borrowing[4] _____

(E) Interest Period and the last day thereof[5] _____

(F) Total outstanding Revolving Loans (including, if applicable, Borrowing requested) $ _____

(G) Total outstanding Swingline Loans (including, if applicable, Borrowing requested) $ _____

[4] Not less than $1,000,000 (and in integral multiples of $100,000) with respect to Revolving Loans. Not less than $100,000 (and in integral multiples of $100,000) with respect to Swingline Loans.

[5] Which shall be subject to the definition of "Interest Period" and end not later than the Maturity Date.

(H) Total LC Exposure $ _____

(I) Total Revolving Exposure (sum of (F), (G) and (H)) $ _____

(J) Total Commitments $ _____

(K) Availability ((J) – (I)) $ _____

2. The Borrower instructs you to disburse the proceeds of the requested Borrowing into the following account:

Account Name:
Bank Name:
ABA Routing No.:
Bank Account No.:
Ref.:

The Borrower represents and warrants that the conditions to lending specified in Section 4.02(a) and (b) of the Agreement have been satisfied and that after giving effect to the Borrowing requested hereby, the total Revolving Credit Exposures of all Lenders shall not exceed the total Commitment.

Very truly yours,

EAGLE MATERIALS INC.

By: _____
Name: _____
Title: _____

EXHIBIT E
TO
EAGLE MATERIALS INC.
AMENDED AND RESTATED CREDIT AGREEMENT

Form of Increased Commitment Supplement

EXHIBIT C, Cover Page

INCREASED COMMITMENT SUPPLEMENT

This INCREASED COMMITMENT SUPPLEMENT (this "Supplement") is dated as of , 20 and entered into by and among EAGLE MATERIALS INC. (formerly Centex Construction Products, Inc.), a Delaware corporation (the "Borrower"), each of the banks or other lending institutions which is a signatory hereto (the "Lenders"), JPMORGAN CHASE BANK, N.A. (formerly known as JPMorgan Chase Bank), as Administrative Agent for itself and the other lenders (in such capacity, together with its successors in such capacity, the "Agent"), and is made with reference to that certain Amended and Restated Credit Agreement dated as of December 16, 2004 (as amended, the "Credit Agreement"), by and among the Borrower, certain lenders and JPMORGAN CHASE BANK, N.A. (formerly known as JPMorgan Chase Bank), as Administrative Agent. Capitalized terms used herein without definition shall have the same meanings herein as set forth in the Credit Agreement.

RECITALS

WHEREAS, pursuant to Section 2.19 of the Credit Agreement, the Borrower and the Lenders are entering into this Increased Commitment Supplement to provide for the increase of the aggregate Commitments;

WHEREAS, each Lender **[party hereto and already a party to the Credit Agreement]** wishes to increase its Commitment **[, and each Lender, to the extent not already a Lender party to the Credit Agreement (herein a "New Lender"), wishes to become a Lender party to the Credit Agreement];**[1]

WHEREAS, the Lenders are willing to agree to supplement the Credit Agreement in the manner provided herein.

NOW, THEREFORE, in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto agree as follows:

Section 1. Increase in Commitments. Subject to the terms and conditions hereof, each Lender severally agrees that its Commitment shall be increased to **[or in the case of a New Lender, shall be]** the amount set forth opposite its name on the signature pages hereof.

Section 2. [New Lenders. Each New Lender (i) confirms that it has received a copy of the Credit Agreement, together with copies of the most recent financial statements of the Borrower delivered under Section 5.01 and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Supplement; (ii) agrees that it has, independently and without reliance upon the Agent, any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Supplement; (iii) agrees that it will, independently and without reliance upon the Agent, any other Lender or any of their Related Parties 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; (iv) appoints and authorizes the Agent to take such action as agent on its behalf and to exercise such powers and discretion under the Credit Agreement as are delegated to the Agent by the terms thereof, together with such powers and discretion as are reasonably incidental thereto; and (v) agrees that it is a "Lender" under the Credit Agreement and will perform in accordance with their terms all of the obligations that by the terms of the Credit Agreement are required to be performed by it as a Lender.

[1] Bracketed alternatives should be included if there are New Banks.

Section 3. Conditions to Effectiveness. Section 1 of this Supplement shall become effective only upon the satisfaction of the following conditions precedent:

(a) receipt by the Agent of an opinion of counsel to the Borrower as to the matters referred to in Section 3.01, 3.02 and 3.03 of the Credit Agreement (with the term "Agreement" as used therein meaning this Supplement for purposes of such opinion), dated the date hereof, satisfactory in form and substance to the Agent;

(b) receipt by the Agent of certified copies of all corporate action taken by the Borrower to authorize the execution, delivery and performance of this Supplement; and

(c) receipt by the Agent of a certificate of the Secretary or an Assistant Secretary of the Borrower certifying the names and true signatures of the officers of the Borrower authorized to sign this Supplement and the other documents to be delivered hereunder.

Section 4. Representations and Warranties. In order to induce the Lenders to enter into this Supplement and to supplement the Credit Agreement in the manner provided herein, Borrower represents and warrants to Agent and each Lender that (a) the representations and warranties contained in Article III of the Credit Agreement are and will be true, correct and complete in all material respects on and as of the effective date hereof to the same extent as though made on and as of that date and for that purpose, this Supplement shall be deemed to be included as part of the Agreement referred to therein, and (b) no event has occurred and is continuing or will result from the consummation of the transactions contemplated by this Supplement that would constitute a Default.

Section 5. Effect of Supplement. The terms and provisions set forth in this Supplement shall modify and supersede all inconsistent terms and provisions set forth in the Credit Agreement and except as expressly modified and superseded by this Supplement, the terms and provisions of the Credit Agreement are ratified and confirmed and shall continue in full force and effect. The Borrower, the Agent, and the Lenders party hereto agree that the Credit Agreement as supplemented hereby shall continue to be legal, valid, binding and enforceable in accordance with their respective terms. Any and all agreements, documents, or instruments now or hereafter executed and delivered pursuant to the terms hereof or pursuant to the terms of the Credit Agreement as supplemented hereby, are hereby amended so that any reference in such documents to the Agreement shall mean a reference to the Agreement as supplemented hereby.

Section 6. Applicable Law. This Supplement shall be governed by, and construed in accordance with, the laws of the State of Texas and applicable laws of the United States of America.

Section 7. Counterparts, Effectiveness. This Supplement may be executed in any number of counterparts, by different parties hereto in separate counterparts and on telecopy counterparts, each of which when so executed and delivered shall be deemed an original, but all such counterparts together shall constitute but one and the same instrument; signature pages may be detached from multiple separate counterparts and attached to a single counterpart so that all signature pages are physically attached to the same document. This Supplement (other than the provisions of Section 1 hereof, the effectiveness of which is governed by Section 3 hereof) shall become effective upon the execution of a counterpart hereof by the Borrower, the Lenders and receipt by the Borrower and the Agent of written or telephonic notification of such execution and authorization of delivery thereof.

Section 8. ENTIRE AGREEMENT. THIS SUPPLEMENT EMBODIES THE FINAL, ENTIRE AGREEMENT AMONG THE PARTIES RELATING TO THE SUBJECT MATTER HEREOF AND SUPERSEDE ANY AND ALL PREVIOUS COMMITMENTS, AGREEMENTS, REPRESENTATIONS AND UNDERSTANDINGS, WHETHER ORAL OR WRITTEN, RELATING TO THE SUBJECT MATTER HEREOF AND MAY NOT BE CONTRADICTED OR VARIED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OR DISCUSSIONS OF THE PARTIES HERETO THERE ARE NO UNWRITTEN ORAL AGREEMENTS AMONG THE PARTIES HERETO.

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

EAGLE MATERIALS INC.

By: _____
Name: _____
Title: _____

New Total Commitment:
$_____

JPMORGAN CHASE BANK, N.A. (formerly known as JPMorgan Chase Bank), as the Administrative Agent

By: _____
Name: _____
Title: _____

$_____ **[Lender]**

By: _____
Name: _____
Title: _____

$_____ **[NEW LENDER]**

By: _____
Name: _____
Title: _____

CONSENT OF GUARANTORS

Each Guarantor: (i) consents and agrees to this Supplement; (ii) agrees that each of the Subsidiary Guaranty is in full force and effect and continues to be its legal, valid and binding obligation enforceable in accordance with its respective terms; and (iii) agrees that the obligations, indebtedness and liabilities of the Borrower arising as a result of the increase in the Commitments contemplated hereby are "Guaranteed Indebtedness" as defined in the Subsidiary Guaranty.

GUARANTORS:

AMERICAN GYPSUM COMPANY
AMERICAN GYPSUM MARKETING COMPANY
CCP CEMENT COMPANY
CCP CONCRETE/AGGREGATES LLC
CCP GYPSUM COMPANY
CCP LAND COMPANY
CENTEX CEMENT CORPORATION
HOLLIS & EASTERN RAILROAD COMPANY LLC
MATHEWS READYMIX LLC
M&W DRYWALL SUPPLY COMPANY
MOUNTAIN CEMENT COMPANY
NEVADA CEMENT COMPANY
REPUBLIC PAPERBOARD COMPANY LLC
TEXAS CEMENT COMPANY
WESTERN AGGREGATES LLC (formerly Western Aggregates, Inc.)
WESTERN CEMENT COMPANY OF CALIFORNIA

By: _____
Arthur R. Zunker, Jr., Senior Vice President Finance and Treasurer of each Guarantor

CENTEX MATERIALS LLC
TLCC GP LLC

By: _____
Arthur R. Zunker, Jr., Manager of the Guarantors listed

TLCC LP LLC

By: _____
Nicholas Stiren, Manager of the Guarantor listed

SCHEDULE 1.01(a)
TO
EAGLE MATERIALS INC.
AMENDED AND RESTATED CREDIT AGREEMENT

Existing Letters of Credit

1. Letter of Credit Number 247260 issued by JPMorgan Chase Bank, N.A. in the face amount of $5,968,689.00 in favor of Ace American Insurance, with an expiry date of May 1, 2005.

2. Letter of Credit Number 247795 issued by JPMorgan Chase Bank, N.A. in the face amount of $425,000.00 in favor of St. Paul Fire and Marine Insurance Company, with an expiry date of May 1, 2005.

3. Letter of Credit Number 291129 issued by JPMorgan Chase Bank, N.A. in the face amount of $47,725.00 in favor of City of Austin Development and Review Inspection Department, with an expiry date of July 31, 2005.

SCHEDULE 2.01
TO
EAGLE MATERIALS INC.
AMENDED AND RESTATED CREDIT AGREEMENT

Commitments

Lender	Commitment
JPMorgan Chase Bank, N.A.	$ 50,000,000
Bank of America, N.A.	$ 50,000,000
Union Bank of California, N.A.	$ 50,000,000
Wells Fargo Bank, N.A.	$ 50,000,000
Branch Banking and Trust Company	$ 45,000,000
PNC Bank, N.A.	$ 35,000,000
Comerica Bank	$ 30,000,000
Bank of Texas, N.A.	$ 20,000,000
The Northern Trust Company	$ 20,000,000
Total	$ 350,000,000

SCHEDULE 2.01, Solo Page

SCHEDULE 3.05
TO
EAGLE MATERIALS INC.
AMENDED AND RESTATED CREDIT AGREEMENT

Existing Liens

	Lender	Balance	Collateral
1.	Weaver Ranch, Inc.	$80,000	Land purchased by Mountain Cement Company for use as limestone quarry

SCHEDULE 3.06
TO
EAGLE MATERIALS INC.
AMENDED AND RESTATED CREDIT AGREEMENT

Disclosed Matters

See the following disclosures set forth in the Annual Report on Form 10-K for the year ended March 31, 2004:

1. Item 1. Business – Cement Operations – Environmental Matters;
2. Item 1. Business – Gypsum Wallboard Operations – Environmental Matters;
3. Item 1. Business – Recycled Paperboard Operations – Environmental Matters.
4. Item 1. Business – Concrete and Aggregates Operations – Environmental Operations.

SCHEDULE 3.12
TO
EAGLE MATERIALS INC.
AMENDED AND RESTATED CREDIT AGREEMENT

Subsidiaries

Directly owned Subsidiaries of Eagle Materials, Inc.

Subsidiary	State of Organization	Ownership	Material Subsidiary as of December 16, 2004
CCP Cement Company	Nevada	100%	Yes
CCP Concrete/Aggregates LLC	Nevada	100%	Yes
CCP Gypsum Company	Nevada	100%	Yes
CXP Funding LLC	Delaware	100%	No

Directly owned Subsidiaries of CCP Cement Company

Subsidiary	State of Organization	Ownership	Material Subsidiary as of December 16, 2004
CCP Land Company	Nevada	100%	Yes
Mountain Cement Company	Nevada	100%	Yes
Nevada Cement Company	Nevada	100%	Yes
Texas Cement Company	Nevada	100%	Yes

Directly owned Subsidiaries of CCP Concrete/Aggregates LLC

Subsidiary	State of Organization	Ownership	Material Subsidiary as of December 16, 2004
Centex Materials LLC	Delaware	100%	Yes
Mathews Readymix LLC	California	100%	Yes
Western Aggregates LLC (formerly Western Aggregates, Inc.)	Nevada	100%	Yes

Directly owned Subsidiaries of CCP Gypsum Company

Subsidiary	State of Organization	Ownership	Material Subsidiary as of December 16, 2004
American Gypsum Company	Delaware	100%	Yes

Directly owned Subsidiaries of CCP Land Company

Subsidiary	State of Organization	Ownership	Material Subsidiary as of December 16, 2004
Centex Cement Corporation	Nevada	100%	No

Directly owned Subsidiaries of Texas Cement Company

Subsidiary	State of Organization	Ownership	Material Subsidiary as of December 16, 2004
TLCC GP LLC	Delaware	100%	Yes
TLCC LP LCC	Delaware	100%	Yes
Western Cement Company of California	California	100%	No

Directly owned Subsidiaries of American Gypsum Company

Subsidiary	State of Organization	Ownership	Material Subsidiary as of December 16, 2004
American Gypsum Marketing Company	Delaware	100%	Yes
Hollis and Eastern Railroad Company LLC	Delaware	100%	Yes
M&W Drywall Supply Company	Nevada	100%	Yes
Republic Paperboard Company LLC	Delaware	100%	Yes

SCHEDULE 3.13
TO
EAGLE MATERIALS INC.
AMENDED AND RESTATED CREDIT AGREEMENT

Existing Indebtedness

Existing Indebtedness

($ in thousands)

					Payment Information					
	Lender	Date of Note	Maturity Date	Interest Rate	Due Date	Payment Period	Amount	Recourse or Non-Recourse	Debt Secured By	Balance at 11/30/04
Mountain Cement Co.	Weaver Ranch, Inc.	3/96	3/05	7%	March 1	Annual	$ 80	N	Weaver Land	$ 80

SCHEDULE 6.04
TO
EAGLE MATERIALS INC.
AMENDED AND RESTATED CREDIT AGREEMENT

Existing Investments

Equity Interest in the following companies directly owned by Texas Cement Company

Company	State of Organization	Ownership
Illinois Cement Company (joint venture)	Texas	50%

Directly owned subsidiaries of Illinois Cement Company
(joint venture)

Subsidiary	State of Organization	Ownership
Illinois Cement Company	Illinois	100%
Wisconsin Cement Company	Wisconsin	100%

Equity Interest in the following companies directly owned by TLCC GP LLC

Company	State of Organization	Ownership
Texas-Lehigh Cement Company LP	Texas	0.1% (general partnership)

Equity Interest in the following companies directly owned by TLCC LP LLC

Company	State of Organization	Ownership
Texas-Lehigh Cement Company LP	Texas	49.9% (limited partnership)

Other Investments:

1. Texas Stadium Bonds - $64,000

2. Promissory Note dated October 16, 2002 payable to Republic Paperboard Company LLC from JBC Holding Company LLC in the principal amount of $2,500,000 (“JBC Note”). This note is fully reserved.

3. Security Agreement between Republic Paperboard Company of West Virginia LLC (“RPCWV”) and Republic Paperboard Company LLC covering certain assets of RPCWV and securing the JBC Note.

4. Guaranty dated October 16, 2001 by RPCWV of the JBC Note.

5. Deed of Trust dated October 16, 2001 by RPCWV for the benefit of RPC and securing the JBC Note.

6. First Extension Agreement dated effective as of October 16, 2003 between JBC Holding Company LLC, Jefferson Investment LLC and Republic Paperboard Company LLC.

7. Promissory Note dated as of July 30, 2004 executed by Folsom Readymix, Inc. to Mathews Readymix LLC in the original principal amount of $1,258,000.

8. Guaranty dated as of July 30, 2004 by Scott Silva and Lisa Silva in favor of Mathews Readymix LLC.

9. Security Agreement dated as of July 30, 2004 by and between Mathews Readymix LLC and Folsom Readymix Inc.

10. Deed of Trust dated as of July 30, 2004 between Mathews Readymix LLC and Folsom Readymix Inc.

SCHEDULE 6.08
TO
EAGLE MATERIALS INC.
AMENDED AND RESTATED CREDIT AGREEMENT

Existing Restrictions

None

Exhibit 12.1

	Fiscal Year Ended March 31,				
	2010	2009	2008	2007	2006
Earnings [1]:					
Earnings before income taxes	39,297	62,183	144,384	304,288	241,066
Add: Fixed charges	18,480	24,714	20,866	12,050	8,675
Add: Amortization of capitalized interest and FIN 48 Interest	3,857	5,358	6,597	30	—
Add: Cash distributions from equity method investments	29,750	33,000	37,750	29,000	27,250
Subtract: Income from equity method investments	(24,157)	(32,426)	(33,982)	(32,765)	(26,917)
Total Earnings	67,227	92,829	175,615	312,603	250,074
Fixed Charges [2]:					
Interest expense	18,180	24,433	20,530	11,709	8,290
Interest component of rent expense	300	281	336	341	385
Total Fixed Charges	18,480	24,714	20,866	12,050	8,675
Ratio of Earnings to Fixed Charges	**3.6x**	**3.8x**	**8.4x**	**25.9x**	**28.8x**

(1) Earnings represent earnings before income taxes and before income from equity method investments plus: (a) fixed charges; and (b) cash distributions from equity method investments.

(2) Fixed charges include: (a) interest expense, whether expensed or capitalized, less interest accrued for uncertain tax positions; and (b) the portion of operating rental expense which management believes is representative of the interest component of rent expense.

Exhibit 21

The following is a list of subsidiaries of Eagle Materials Inc., wholly-owned unless otherwise stated. This list of subsidiaries includes all of the significant subsidiaries of Eagle Materials Inc. as of May 27, 2010.

Entity Name		Jurisdiction of Organization
AG SOUTH CAROLINA LLC		Delaware
AMERICAN GYPSUM COMPANY LLC		Delaware
AMERICAN GYPSUM MARKETING COMPANY d/b/a American Gypsum Marketing Company, Inc.		Delaware
CCP CEMENT COMPANY		Nevada
CCP CONCRETE/AGGREGATES LLC		Delaware
CCP GYPSUM LLC		Nevada
CENTEX MATERIALS LLC		Delaware
ILLINOIS CEMENT COMPANY LLC		Delaware
MATHEWS READYMIX LLC		California
MOUNTAIN CEMENT COMPANY		Nevada
NEVADA CEMENT COMPANY		Nevada
REPUBLIC PAPERBOARD COMPANY LLC		Delaware
TEXAS CEMENT COMPANY		Nevada
TEXAS LEHIGH CEMENT COMPANY LP d/b/a Texas Lehigh Cement	50%	Texas
TLCC GP LLC		Delaware
TLCC LP LLC		Delaware
WESTERN AGGREGATES LLC		Nevada

EXHIBIT 23.1

CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

We consent to the incorporation by reference in the Registration Statements (Form S-8 Nos. 33-82820, 33-82928, 33-84394, 333-54102, 333-163061 and Form S-3 Nos. 333-159113) of Eagle Materials Inc. of our reports dated May 27, 2010, with respect to the consolidated financial statements of Eagle Materials Inc., and the effectiveness of internal control over financial reporting of Eagle Materials Inc., included in the Annual Report (Form 10-K) for the year ended March 31, 2010.

We also consent to the incorporation by reference in the registration statements (Form S-8 Nos. 33-82820, 33-82928, 33-84394, 333-54102, 333-163061 and Form S-3 Nos. 333-159113) of Eagle Materials Inc. of our reports dated May 27, 2010, with respect to the financial statements of Texas Lehigh Cement Company LP as of and for the year ended December 31, 2009, included in the Annual Report (Form 10-K) of Eagle Materials Inc. for the year ended March 31, 2010.

/s/ Ernst & Young LLP

Dallas, Texas
May 27, 2010

Exhibit 31.1

Certification of Periodic Report Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, Steven R. Rowley, certify that:

1. I have reviewed this report on Form 10-K of Eagle Materials 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 auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: May 27, 2010

By: /s/ STEVEN R. ROWLEY
Steven R. Rowley
President and Chief Executive Officer

Exhibit 31.2

Certification of Periodic Report Pursuant to Section 302 of the Sarbanes-Oxley Act of 2002

I, D. Craig Kesler, certify that:

1. I have reviewed this report on Form 10-K of Eagle Materials 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 auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: May 27, 2010

By: /s/ D. CRAIG KESLER
D. Craig Kesler
Chief Financial Officer

Exhibit 32.1

Certification of Periodic Report Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

In connection with the Annual Report of Eagle Materials Inc. and subsidiaries (the "Company") on Form 10-K for the period ended March 31, 2010 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Steven R. Rowley, President and Chief Executive 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, to the best of my knowledge:

(i) the Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: May 27, 2010

By: /s/ STEVEN R. ROWLEY
Steven R. Rowley
President and Chief Executive Officer

Exhibit 32.2

Certification of Periodic Report Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002

In connection with the Annual Report of Eagle Materials Inc. and subsidiaries (the "Company") on Form 10-K for the period ended March 31, 2010 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, D. Craig Kesler, 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, to the best of my knowledge:

(i) the Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(ii) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Dated: May 27, 2010

By: /s/ D. CRAIG KESLER
D. Craig Kesler
Chief Financial Officer