# 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 December 31, 2011**

**OR**

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

**Commission file number 1-35416**

# U.S. Silica Holdings, Inc.

**(Exact name of registrant as specified in its charter)**

| **Delaware** | **26-3718801** |
|---|---|
| **(State or other jurisdiction of Incorporation or Organization)** | **(I.R.S. Employer Identification No.)** |

**8490 Progress Drive, Suite 300**
**Frederick, Maryland 21701**
**(Address of Principal Executive Offices) (Zip Code)**
**(301) 682-0600**
**(Registrant's telephone number, including area code)**

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

| Title of each class: | Name of each exchange on which registered: |
|---|---|
| **Common Stock, par value $0.01 per share** | **New York Stock Exchange** |

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

Indicate by a 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 website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☐ No ☒

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K (§229.405 of this chapter) is not contained herein, and will not be contained, to the best of the 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 the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

| | | | |
|---|---|---|---|
| Large accelerated filer | ☐ | Accelerated filer | ☐ |
| Non-accelerated filer | ☒ | 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 ☒

As of June 30, 2011, the last business day of the registrant's most recently completed second fiscal quarter, there was no established public trading market for the registrant's common stock.

As of March 20, 2012, 52,941,176 shares of the common stock of the registrant were issued and outstanding.

**DOCUMENTS INCORPORATED BY REFERENCE**

None.

**U.S. Silica Holdings, Inc.**
**FORM 10-K**
**For the Fiscal Year Ended December 31, 2011**

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**Forward-Looking Statements**

This Annual Report on Form 10-K contains forward-looking statements that are subject to risks and uncertainties. All statements other than statements of historical fact included in this Annual Report on Form 10-K are forward-looking statements. Forward-looking statements give our current expectations and projections relating to our financial condition, results of operations, plans, objectives, future performance and business. You can identify forward-looking statements by the fact that they do not relate strictly to historical or current facts. These statements may include words such as “anticipate,” “estimate,” “expect,” “project,” “plan,” “intend,” “believe,” “may,” “will,” “should,” “can have,” “likely” and other words and terms of similar meaning in connection with any discussion of the timing or nature of future operating or financial performance or other events. For example, all statements we make relating to our estimated and projected costs, expenditures, cash flows, growth rates and financial results, our plans and objectives for future operations, growth or initiatives, strategies or the expected outcome or impact of pending or threatened litigation are forward-looking statements. All forward-looking statements are subject to risks and uncertainties that may cause actual results to differ materially from those that we expected, including:

- fluctuations in demand for commercial silica;
- the cyclical nature of our customers’ businesses;
- operating risks that are beyond our control, such as changes in the price and availability of transportation, natural gas or electricity; unusual or unexpected geological formations or pressures; cave-ins, pit wall failures or rock falls; or unanticipated ground, grade or water conditions;
- our dependence on two of our plants for a significant portion of our sales;
- the level of activity in the natural gas and oil industries;
- decreased demand for frac sand or the development of either effective alternative proppants or new processes to replace hydraulic fracturing;
- federal, state and local legislative and regulatory initiatives relating to hydraulic fracturing and the potential for related regulatory action or litigation affecting our customers’ operations;
- our rights and ability to mine our properties and our renewal or receipt of the required permits and approvals from governmental authorities and other third parties;
- our ability to implement our capacity expansion plans within our current timetable and budget and our ability to secure offtake agreements for our increased production capacity, and the actual operating costs once we have completed the capacity expansion;
- our ability to succeed in competitive markets;
- loss of, or reduction in, business from our largest customers;
- increasing costs or a lack of dependability or availability of transportation services or infrastructure;
- increases in the prices of, or interruptions in the supply of, natural gas and electricity, or any other energy sources;
- increases in the price of diesel fuel;
- diminished access to water;
- our ability to effectively integrate the manufacture of resin-coated sand with our existing processes;
- our ability to successfully complete acquisitions or integrate acquired businesses;
- our ability to make capital expenditures to maintain, develop and increase our asset base and our ability to obtain needed capital or financing on satisfactory terms;
- substantial indebtedness and pension obligations;
- restrictions imposed by our indebtedness on our current and future operations;

- the accuracy of our estimates of mineral reserves and resource deposits;
- substantial costs of mine closures;
- a shortage of skilled labor and rising costs in the mining industry;
- our ability to attract and retain key personnel;
- our ability to maintain satisfactory labor relations;
- our reliance on trade secrets and contractual restrictions, rather than patents, to protect our proprietary rights;
- silica-related health issues and corresponding litigation;
- our significant unfunded pension obligations and post-retirement health care liabilities;
- our ability to maintain effective quality control systems at our mining, processing and production facilities;
- seasonal and severe weather conditions;
- fluctuations in our sales and results of operations due to seasonality and other factors;
- interruptions or failures in our information technology systems;
- our reliance on different sources for our 2010 and 2011 industry and market data than for the same data in prior years;
- the impact of a terrorist attack or armed conflict;
- our failure to maintain adequate internal controls;
- extensive and evolving environmental, mining, health and safety, licensing, reclamation and other regulation (and changes in their enforcement or interpretation);
- our ability to acquire, maintain or renew financial assurances related to the reclamation and restoration of mining property; and
- other factors disclosed in Item 1A, “Risk Factors” and elsewhere in this Annual Report on Form 10-K.

We derive many of our forward-looking statements from our operating budgets and forecasts, which are based on many detailed assumptions. While we believe that our assumptions are reasonable, we caution that it is very difficult to predict the impact of known factors, and it is impossible for us to anticipate all factors that could affect our actual results. Important factors that could cause actual results to differ materially from our expectations, or cautionary statements, are disclosed under Item 1A, “Risk Factors” and Item 7, “Management’s Discussion and Analysis of Financial Condition and Results of Operations” in this Annual Report on Form 10-K. All written and oral forward-looking statements attributable to us, or persons acting on our behalf, are expressly qualified in their entirety by these cautionary statements as well as other cautionary statements that are made from time to time in our other filings with the Securities and Exchange Commission (the “SEC”) and public communications. You should evaluate all forward-looking statements made in this Annual Report on Form 10-K in the context of these risks and uncertainties.

We caution you that the important factors referenced above may not contain all of the factors that are important to you. In addition, we cannot assure you that we will realize the results or developments we expect or anticipate or, even if substantially realized, that they will result in the consequences or affect us or our operations in the way we expect. The forward-looking statements included in this Annual Report on Form 10-K are made only as of the date hereof. We undertake no obligation to update or revise any forward-looking statement as a result of new information, future events or otherwise, except as otherwise required by law.

# PART I.

## ITEM 1. BUSINESS

*Unless we state otherwise or the context otherwise requires, the terms "we," "us," "our," "U.S. Silica," "the Company," "our business," "our company" refer to U.S. Silica Holdings, Inc. and its consolidated subsidiaries as a combined entity.*

### Our Company

#### *Business Overview*

We are the second largest domestic producer of commercial silica, a specialized mineral that is a critical input into a variety of attractive end markets. During our 111-year history, we have developed core competencies in mining, processing, logistics and materials science that enable us to produce and cost-effectively deliver over 200 products to customers across these end markets. In our largest end market, oil and gas proppants, our frac sand is used to stimulate and maintain the flow of hydrocarbons in horizontally drilled oil and natural gas wells. This segment of our business is experiencing rapid growth due to recent technological advances in the hydraulic fracturing process, which have made the extraction of large volumes of oil and natural gas from U.S. shale formations economically feasible. Our commercial silica is also used as an economically irreplaceable raw material in a wide range of industrial applications, including glassmaking and chemical manufacturing. Additionally, in recent years a number of attractive new end markets have developed for our high-margin, performance silica products, including solar panels, specialty coatings, wind turbines, polymer additives and geothermal energy systems.

We operate 13 production facilities across the United States and control 316 million tons of reserves, including approximately 148 million tons of reserves that can be processed to meet the American Petroleum Institute ("API") frac sand size specifications. We produce a wide range of frac sand sizes and are one of the few commercial silica producers capable of rail delivery of large quantities of API grade frac sand to each of the major U.S. shale basins. We believe that due to a combination of these favorable attributes and robust drilling activity in the oil and natural gas industry, we have become a preferred commercial silica supplier to our customers in the oil and gas proppants end market and, consequently, are experiencing high demand for our frac sand. To meet this demand, in 2011 we invested significant resources to increase our proppant production, including expanding our frac sand capabilities by approximately 1.2 million tons, or approximately 75% above tons sold in 2010, and are currently constructing a new facility to produce resin-coated sand, which significantly expands our addressable proppant market.

Our operations are organized into two segments based on end markets served: (1) Oil & Gas Proppants and (2) Industrial & Specialty Products. Our segments are complementary because our ability to sell to a wide range of customers across end markets allows us to maximize recovery rates in our mining operations, optimize our asset utilization and reduce the cyclicality of our earnings. In 2011, we generated approximately $295.6 million of sales, $93.6 million of Adjusted EBITDA and $30.3 million of net income. These figures represent increases of 21%, 30% and 166%, respectively, compared to 2010. In particular, the Oil & Gas Proppants segment contribution margin grew by 57% in 2011 and represented approximately 56% of total segment contribution margin, compared to 48% for the prior year.

#### *Corporate History*

In August 2007, we were acquired by an affiliate of Harvest Partners, LLC. Soon thereafter, in October 2007, we were acquired by Hourglass Acquisition I, LLC, a direct, wholly owned subsidiary of Harbinger Capital Partners. In November 2008, Hourglass Acquisition I, LLC was acquired by U.S. Silica Holdings, Inc., formerly GGC USS Holdings, Inc., a wholly-owned subsidiary of GGC USS Holdings, LLC, an affiliate of Golden Gate Capital ("Golden Gate Capital"). The Company was formed by Golden Gate Capital as a Delaware corporation to effect the acquisition of Hourglass Acquisition I, LLC, and through that acquisition U.S. Silica Company, our principal operating subsidiary, became an indirect, wholly owned subsidiary of the Company.

On January 31, 2012, simultaneous with the initial public offering of our common stock, GGC USS Holdings, LLC contributed to the Company, all of the stock of its wholly-owned subsidiary, GGC RCS Holdings, Inc., whose operating subsidiary is Coated Sand Solutions, LLC ("Coated Sand Solutions"). Coated Sand Solutions is developing resin-coated sand proppants for sale into the oil and gas market for use in the hydraulic fracturing process.

***Our Strengths***

We attribute our success to the following strengths:

- *Large-scale producer with a diverse and high-quality reserve base.* Our 13 geographically dispersed production facilities control 316 million tons of reserves, including API size frac sand and large quantities of silica with distinct characteristics, giving us the ability to sell over 200 products to over 1,400 customers. Our large-scale production capabilities and long reserve life make us a preferred commercial silica supplier to our customers. A consistent, reliable supply of large quantities of silica gives our customers the security to customize their production processes around our commercial silica. Furthermore, our scale provides us earnings diversification and a larger addressable market.
- *Geographically advantaged footprint with intrinsic transportation advantages.* The strategic location of our facilities and our logistics capabilities enable us to enjoy high customer retention and a larger addressable market. In our Oil & Gas Proppants segment, our network of frac sand producing plants with access to on-site rail and the strategic locations of our transloads serve to expand our addressable market to every major U.S. shale basin. We believe we are one of the few frac sand producers capable of delivering API grade frac sand cost-effectively to most all of the major U.S. shale basins by on-site rail. Additionally, due to the high weight-to-value ratio of many silica products in our Industrial & Specialty Products segment, the proximity of our facilities to our customers' facilities often results in us being their sole supplier. This advantage has enabled us to enjoy strong customer retention in this segment, with our top five Industrial & Specialty Products segment customers purchasing from us for an average of over 50 years.
- *Low-cost operating structure.* We believe the combination of the following factors contributes to our low-cost structure and our high margins:
  - our ownership of the vast majority of our reserves, resulting in mineral royalty rates that were less than 0.4% of our sales in 2011;
  - the close proximity of our mines to their respective processing plants, which allows for a cost-efficient and highly automated production process;
  - our processing expertise, which enables us to create over 200 products with unique characteristics while minimizing waste material;
  - our integrated logistics management expertise and geographically advantaged facility network, which enables us to reliably ship products by the most cost-effective method available, whether by truck, rail or barge;
  - our large customer base across numerous end markets, which allows us to maximize our mining recovery rate and asset utilization; and
  - our large overall and plant-level operating scale.
- *Strong reputation with our customers and the communities in which we operate.* We believe that we have built a strong reputation during our 111-year operating history. Our customers know us for our dependability and our high-quality, innovative products, as we have a long track record of timely delivery of our products according to customer specifications. We also have an extensive network of technical resources, including materials science and petroleum engineering expertise, which enables us to collaborate with our customers to develop new products and improve the performance of their

existing applications. We are also well known in the communities in which we operate as a preferred employer and a responsible corporate citizen, which generally serves us well in hiring new employees and securing difficult-to-obtain permits for expansions and new facilities.

- *Experienced management team.* The members of our senior management team bring significant experience to the dynamic environment in which we operate. Their expertise covers a range of disciplines, including industry-specific operating and technical knowledge as well as experience managing high-growth businesses. We believe we have assembled a flexible, creative and responsive team with a mentality that is particularly well suited to the rapidly evolving unconventional oil and natural gas drilling landscape, which is the principal driver of our growth.

***Our Strategy***

The key drivers of our growth strategy include:

- *Expand our proppant production capacity and product portfolio.* We are currently executing several initiatives to increase our frac sand production capacity and augment our proppant product portfolio. At our Ottawa, Illinois facility, we recently implemented operating improvements and installed a new dryer and six mineral separators to increase our annual frac sand production capacity by 900,000 tons. At our Rockwood, Michigan facility, we recently added 250,000 tons of annual frac sand production capacity by installing an entirely new processing circuit to run on a continuous basis alongside our existing state-of-the-art low-iron silica circuit. These two projects were completed during the fourth quarter of 2011. We are also in the initial stages of building a new facility to produce resin-coated sand that will be designed to coat up to 400 million pounds annually, which is scheduled for completion and start-up in 2013. We expect to fund all of these projects through a combination of cash on our balance sheet and cash generated from our operations.
- *Increase our exposure to attractive industrial and specialty products end markets.* We intend to increase our exposure and market share in certain industrial and specialty products end markets that we believe are poised for growth. For example, at our Rockwood facility, we have doubled our production capacity for low-iron silica, which is used to maximize light transmission in ultra-clear architectural glass and solar panels. In addition, we recently opened a representative office in Shanghai, China to market our fine ground silica products across the Asia Pacific region for use in specialty end markets. We are also exploring opportunities to grow our presence in the specialty coatings and polymer additives end markets, where our ultra-fine ground silica is used to enhance strength, scratch resistance and stability.
- *Optimize product mix and further develop value-added capabilities to maximize margins.* We will continue to actively manage our product mix at each of our plants to ensure we are maximizing our profit margins. This requires us to use our proprietary expertise in balancing key variables, such as mine geology, processing capacities, transportation availability, customer requirements and pricing. In 2011, while our tons sold increased by 5%, we believe this expertise helped enable us to increase our operating income by 31%. We also expect to continue investing in ways to increase the value we provide to our customers by expanding our product offerings, increasing our transportation assets, improving our supply chain management and upgrading our information technology. We hope to use these strategies to increase our operating income faster than our tons sold into the future.
- *Evaluate both Greenfield and Brownfield expansion opportunities.* We will continue to leverage our reputation, processing capabilities and infrastructure to increase production, as well as explore other opportunities to expand our reserve base. We may accomplish this by developing Greenfield projects, where we can capitalize on our technical knowledge of geology, mining and processing and our strong reputation within local communities. For instance, on December 30, 2011, we purchased land in Sparta, Wisconsin, for which we recently received initial permitting for a new mining and production facility that will add to our annual frac sand production capacity. Our board of directors has approved $10.0

million in spending for initial site development, engineering and the procurement of certain equipment and materials that have long lead times. However, we are currently in the engineering and design phase of the facility and the ultimate production capacity and process flow are yet to be finalized.

We are also continuously exploring potential Brownfield projects, such as the possibility of increasing the capacity at some subsequent date of the new resin-coating facility that we are currently constructing. Additionally, we may pursue "bolt on" and other opportunistic acquisitions, taking advantage of our asset footprint, our management's experience with high-growth businesses and our strong customer relationships. We may also evaluate international acquisitions as unconventional oil and natural gas drilling expands globally.

- *Maintain financial strength and flexibility.* We intend to maintain financial strength and flexibility to enable us to pursue acquisitions and new growth opportunities as they arise. As of December 31, 2011, we had $59.2 million of cash on hand and $24.0 million of available borrowings under our credit facilities.

**Our Industry**

The commercial silica industry consists of businesses that are involved in the mining, processing and sale of commercial silica. Commercial silica, also referred to as "silica," "industrial sand and gravel," "silica sand" and "quartz sand," is a term applied to sands and gravels containing a high percentage of silica (silicon dioxide, SiO2) in the form of quartz. Commercial silica deposits occur throughout the United States, but mines and processing facilities are typically located near end markets and in areas with access to transportation infrastructure. Other factors affecting the feasibility of commercial silica production include deposit composition, product quality specifications, land-use and environmental regulation, including permitting requirements, access to electricity, natural gas and water and a producer's expertise and know-how.

**Market and Industry Data**

We obtained the industry, market and competitive position data throughout this Annual Report on Form 10-K from our own internal estimates and research as well as from industry and general publications and research, surveys and studies conducted by third parties. We have relied upon publications of the United States Geological Survey (the "USGS") and The Freedonia Group, Inc. ("Freedonia") as our primary sources for third-party market and industry data. Industry publications, surveys and studies generally state that the information contained therein has been obtained from sources believed to be reliable, although they do not guarantee the accuracy or completeness of such information. While we believe that each of these publications, surveys and studies is reliable, we have not independently verified market and industry data from third-party sources. While we believe our internal company research is reliable and the definitions of our market and industry are appropriate, neither such research nor these definitions have been verified by any independent source.

The Minerals Yearbook produced by the USGS is the only comprehensive third-party publication of which we are aware that compiles data on the U.S. commercial silica industry as a whole. The data in the Minerals Yearbook is voluntarily self-reported by U.S. silica producers and there can be no assurance that all major U.S. silica producers have reported data or that the data that has been reported is reliable. The most recent Minerals Yearbook pertains to 2010, and it estimates that 39.0 million tons of silica was consumed that year, with the Industrial & Specialty Products segment generating 22.0 million tons of demand and the Oil & Gas Proppants segment generating 13.3 million tons of demand. Based on our internal estimates and consultations with third parties, we believe that such data, as it relates to the Industrial & Specialty Products segment, is accurate at the reasonable assurance level and we have included it throughout this Annual Report on Form 10-K. However, based on our experience and results of operations in 2010 and 2011, we believe that our internal estimate of 2010 market demand in the Oil & Gas Proppants segment of 17.0 million tons is more accurate than the USGS estimate.

The reason for this discrepancy results from the unprecedented demand that we saw in 2010 and 2011 for our frac sand products from our customers in the Oil & Gas Proppants segment. Our estimates for 2010 are based on the demand we experienced for our own products, as well as discussions with our customers regarding their aggregate demand for frac sand. In addition, our familiarity with competitive sources of frac sand supply, as well as shipment data from major logistics providers, confirmed our estimates of the overall size and growth of the frac sand market.

***Extraction and Production Processes***

Commercial silica deposits are formed from a variety of sedimentary processes and have distinct characteristics that range from hard sandstone rock to loose, unconsolidated dune sands. While the specific extraction method utilized depends primarily on the deposit composition, most silica is mined using conventional open-pit bench extraction methods and begins after clearing the deposit of any overlaying soil and organic matter. The silica deposit composition and chemical purity also dictate the processing methods and equipment utilized. For example, broken rock from a sandstone deposit may require one, two or three stages of crushing to liberate the silica grains required for most markets. Unconsolidated deposits may require little or no crushing, as silica grains are not tightly cemented together.

After extracting the ore, the silica is washed with water to remove fine impurities such as clay and organic particles. In some deposits, these fine contaminants or impurities are tightly bonded to the surface of the silica grain and require attrition scrubbing to be removed. Other deposits require the use of flotation to collect and separate contaminates from the silica. When these contaminants are weakly magnetic, special high intensity magnets may be utilized in the process to improve the purity of the final commercial silica product. After the silica has been washed, most output is dried prior to sale.

The final step in the production process involves the classification of commercial silica products according to their chemical purity, particle shape and particle size distribution. Generally, commercial silica is produced and sold in whole grain (unground) form and in ground form. Whole grain silica generally ranges from 12 to 140 mesh (the number of openings per linear inch on a sizing screen). Whole grain silica products are sold in a range of shapes, sizes and purity levels to be used in a variety of industrial applications, such as glass, foundry, building products, oil and natural gas recovery, filtration and recreation. Some whole grain silica is further processed to ground silica of much smaller particle sizes, ranging from 5 to 250 microns (one-millionth of a meter).

***Product Distribution***

Most commercial silica is shipped in bulk to customers by truck or rail. According to the 2010 USGS Minerals Yearbook, of the total commercial silica produced in the United States in 2010, approximately 52% was transported by truck from the plant to the site of first sale or use, 20% was transported by rail and 28% by unspecified modes of transportation. There has been a shift away from truck to rail, as more volumes have been directed to the oil and gas proppants end market, which typically utilizes rail transportation.

For bulk commercial silica, transportation cost represents a significant portion of the overall product cost. Consequently, the majority of production transported by truck is sold within approximately 200 miles of the producing facility. This limitation emphasizes the importance of rail or barge access for low cost delivery outside of the 200-mile truck radius. As a result, facility location is one of the most important considerations for producers and customers. These factors dictate the all-in delivered cost of silica production. Exceptions to this include frac sands used in oil and natural gas recovery and finer grade commercial silica, where transporting the materials long distances is economically feasible due to their relatively high unit values.

In addition to bulk shipments, commercial silica products can be packaged and shipped in 50 to 100 pound bags or bulk super sacks. Bag shipments are usually made to smaller customers with batch operations, warehouse distributor locations or for ocean container shipments made overseas. The products that are shipped in bags are often higher-value products, such as ground and fine ground industrial silica.

***Primary End Markets***

The special properties of commercial silica—chemistry, purity, grain size, color, inertness, hardness and resistance to high temperatures—make it critical to a variety of industries. Commercial silica is a key input in the well completion process, specifically, in the hydraulic fracturing techniques used in unconventional oil and natural gas wells. In the industrial and specialty products end markets, stringent quality requirements must be met when commercial silica is used as an ingredient to produce thousands of everyday applications, including glass, building and foundry products and metal castings, as well as certain specialty applications such as solar panels, wind turbines, geothermal energy systems and catalytic converters. Due to the unique properties of commercial silica, it is an economically irreplaceable raw material in a wide range of industrial applications. Major end markets include:

*Oil and Gas Proppants*

Commercial silica is used as a proppant by companies involved in oil and natural gas recovery in unconventional resource plays. Unconventional oil and natural gas production requires fracturing and other well stimulation techniques to recover oil or natural gas that is trapped in the source rock and typically involves horizontal drilling. Frac sand is pumped down oil and natural gas wells at high pressures to prop open rock fissures in order to increase the flow rate of hydrocarbons from the wells. Additionally, every 4 to 5 years proppants may be used to “re-fracture” the shale and keep the fractures open. Proppants represent the single largest class of materials used in the stimulation of oil and natural gas wells, accounting for more than 40% of market value in 2010 according to a Freedonia report dated April 2011. The 2010 USGS Minerals Yearbook reports that sales of commercial silica products for oil and natural gas recovery accounted for approximately 41% by volume and 54% by value of total commercial silica product sales in 2010. Based on our own internal and other third-party estimates, we believe commercial silica used by the oil and gas proppants end market increased significantly in 2010 and likely accounted for approximately 48% of total commercial silica volumes.

*Glass*

Commercial silica is a critical input into and accounts for 60% to 70% of the raw materials in glass production. According to the 2010 USGS Minerals Yearbook, approximately 27% by volume and 19% by value of all commercial silica products sold in the United States in 2010 were used in glassmaking. The glassmaking markets served by commercial silica producers include containers, flat glass, specialty glass and fiberglass. Demand typically varies within each of these end markets.

The container glass, flat glass and fiberglass end markets are generally mature end markets. Demand for container glass has historically grown in line with population growth, and we expect similar growth in the future. Flat glass and fiberglass tend to be correlated with construction and automotive production activity, and as a result remain depressed relative to peak demand given the contraction of these end markets over the past few years. To the extent construction and domestic automotive production activity continues its recovery in the coming years (which is difficult to predict given current economic uncertainty), we expect that demand in these end markets will continue to increase. See “Risk Factors—Risks Related to Our Business—Our operations are subject to the cyclical nature of our customers’ businesses, and we may not be able to mitigate that risk.”

The demand for low-iron glass, which is utilized in glass for solar panels and certain grades of architectural glass has been experiencing more rapid growth. In addition, glass fibers are being incorporated in high strength wind turbines, a fast growing alternative energy source. Commercial silica used in production of these products is generally of higher quality and tighter specifications than the commercial silica used in the manufacturing of other glass products.

*Building Products*

Commercial silica is used in the manufacturing of building products for commercial and residential construction. The 2010 USGS Minerals Yearbook reports that commercial silica sold to manufacturers of building products accounted for approximately 7% by volume and 7% by value of all commercial silica sold in the United States in 2010. Whole grain commercial silica products are used in flooring compounds, mortars and grouts, specialty cements, stucco and roofing shingles. Ground commercial silica products are used by building products manufacturers as functional extenders and to add durability and weathering properties to cementious compounds. In addition, geothermal wells are a fast growing alternative energy source that require specialized ground silica products in their well casings for effectiveness. The market for commercial silica used to manufacture building products is driven primarily by the demand in the construction markets. The historical trend for this market has been one of growth, especially in demand for cementious compounds for new construction, renovation and repair. Although the housing construction market has recently declined, to the extent the housing market recovers in the coming years (which is difficult to predict given current economic uncertainty), we expect that demand in this end market will increase. See “Risk Factors—Risks Related to Our Business—Our operations are subject to the cyclical nature of our customers’ businesses, and we may not be able to mitigate that risk.”

*Foundry*

According to the 2010 USGS Minerals Yearbook, in 2010, commercial silica products used for foundry purposes represented approximately 11% by volume and 6% by value of all commercial silica products sold in the United States. Commercial silica products are used in the production of molds for metal castings and in metal casting products. In addition, commercial whole grain silica is sold to coaters of foundry silica who then sell their product to foundries for cores and shell casting processes. The demand for foundry silica depends on the rate of automobile and light truck production, construction and production of heavy equipment like rail cars. Over the past decade, there has been some movement of foundry supply chains to Mexico and other offshore production areas. In 2010, foundry demand decreased significantly in 2010 as a result of the decrease in automotive and heavy equipment production however, we began seeing increases in foundry demand throughout 2011. To the extent production levels recover in the coming years (which is difficult to predict given current economic uncertainty), we expect foundry demand to improve. See “Risk Factors—Risks Related to Our Business—Our operations are subject to the cyclical nature of our customers’ businesses, and we may not be able to mitigate that risk.”

*Chemicals*

In 2010, sales of commercial silica products to manufacturers of chemicals equaled approximately 3% by volume and 2% by value of the total commercial silica products sold in the United States according to the 2010 USGS Minerals Yearbook. Both whole grain and ground silica products are used in the manufacturing of silicon-based chemicals, such as sodium silicate, that are used in a variety of applications, including food processing, detergent products, paper textiles and specialty foundry applications. This end market is driven by the development of new products by the chemicals manufacturers, including specialty coatings and polymer additives. We expect this end market to grow as these manufacturers continue their product and applications development.

*Fillers and Extenders*

According to the 2010 USGS Minerals Yearbook, in 2010, commercial silica products sold for use as fillers represented approximately 1% by volume and 2% by value of all commercial silica products sold in the United States. Commercial silica products are sold to producers of paints and coating products for use as fillers and extenders in architectural, industrial and traffic paints and are sold to producers of rubber and plastic for us in the production of epoxy molding compounds and silicone rubber. The commercial silica products used in this end market are most often ground silica, including finer ground classifications. The market for fillers and extenders is

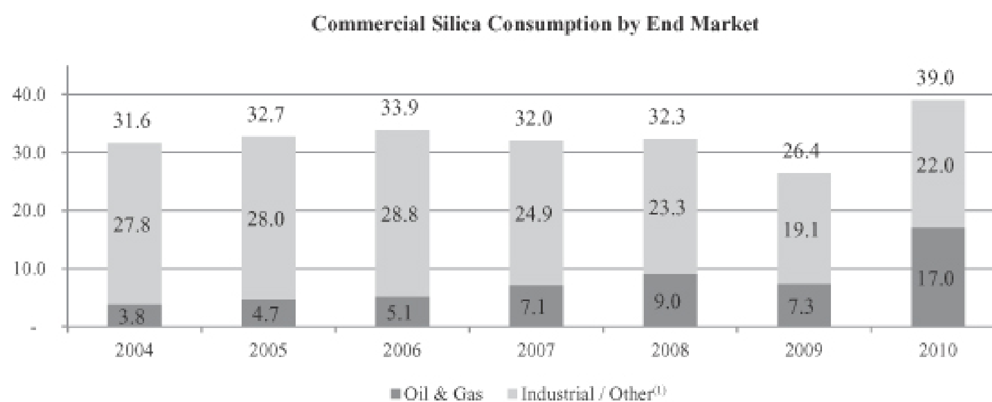
driven by demand in the construction and automotive production industries as well as by demand for materials in the housing remodeling industry. Although construction, domestic automotive production and housing remodeling demand decreased in 2009, to the extent these industries continue to recover in the coming years (which is difficult to predict given current economic uncertainty), we expect demand to improve. See “Risk Factors—Risks Related to Our Business—Our operations are subject to the cyclical nature of our customers’ businesses, and we may not be able to mitigate that risk.”

***Demand Trends***

From 1980 to 2008, U.S. commercial silica industry volumes generally grew in line with U.S industrial production, primarily influenced by the manufacture of glass, building materials, foundry moldings and chemicals. The economic downturn of 2008 and 2009 decreased demand for commercial silica products, particularly in the glassmaking, foundry, specialty coatings and building products end markets. With the recent economic recovery, however, we estimate overall demand for commercial silica increased greater than 45% in 2010. Demand for commercial silica in industrial and specialty products end markets once again began to grow. We also continue to see increased demand for new specialty applications, such as solar panels, specialty coatings, wind turbines, polymer additives and geothermal energy systems.

In addition to rebounding industrial end markets and increasing demand for commercial silica products for certain specialty applications, the significant demand growth in 2010 and 2011 was primarily driven by acceleration in demand for frac sand. Based on industry data and our own internal estimates, we believe frac sand demand has grown by more than 28% per annum since 2004.

The following chart depicts consumption in each of the oil and gas proppants and industrial and specialty products end markets from 2004 through 2010.

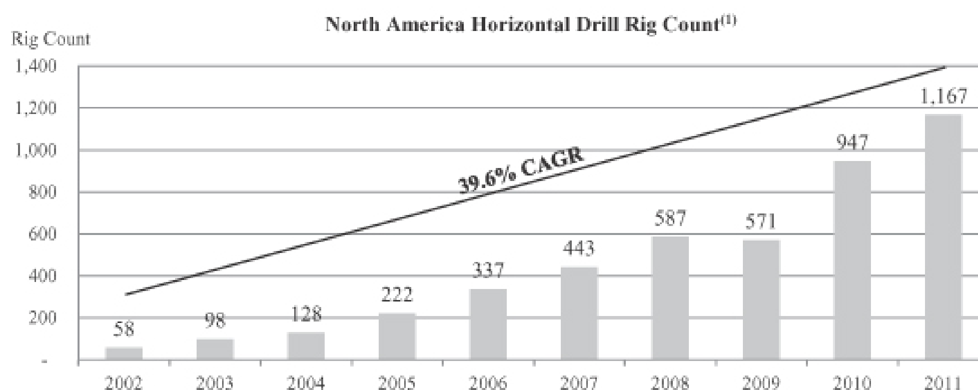



Data Source: For years 2004 through 2009, the 2009 USGS Minerals Yearbook; for 2010, internal estimates compiled through consultation with third parties and management; see “Market and Industry Data.”

(1) Industrial/Other end markets include glassmaking, foundry, metallurgical, abrasives, filtration, recreational, traction/engine, coal washing, roofing granules, and fillers and other, as defined by the USGS.

The 2010 USGS Minerals Yearbook estimated the value of the commercial silica market value at approximately $1,020.0 million. The oil and gas proppants end market was estimated at $556.1 million, while remaining industrial segments aggregated to $463.9 million. Given our estimates of the significant growth in frac sand production in 2010, as well as the recovery in industrial end markets, we believe the overall commercial silica market exceeded $1.1 billion in 2010, with the oil and gas proppants end market contributing in excess of $600.0 million.

We believe that commercial silica consumption increased at an average annual rate of 9.9% from 2008 to 2010 and that this growth was principally driven by the acceleration in growth in frac sand demand. This demand growth is primarily due to technological developments, such as improvements in horizontal drilling that have made the extraction of oil and natural gas increasingly cost-effective in areas that historically would have been economically impractical to develop. Frac sand is an essential component in the efficient exploitation of these reservoirs, and as more of these reservoirs have been developed, the demand for frac sand has correspondingly increased. The following chart identifies trends in the number of horizontal drill rigs from 2002 to 2011 and the CAGR over such period.




Data Source: Baker Hughes, Inc., January 2012

(1) Data reported as year-end rig count for period (2002-2011). As of March 16, 2012, the horizontal drill rig count was 1,180.

In addition to the increase in the number of horizontal drill rigs, the growth in demand is also the product of an increase in the amount of frac sand used per rig, which is growing as a result of the following factors:

- improved drill rig productivity, resulting in more wells drilled per year, per rig;
- the increase in the number of fracturing sites within each well where fracturing occurs and proppant is needed;
- the increase in the length of the horizontal distance covered in lateral wells due to advances in horizontal drilling technologies; and
- the increase in proppant use per foot completed in each fracturing stage.

Based on these drivers, demand for all proppants is projected to increase approximately 16% per year to $5.1 billion in 2015, and, more specifically, demand for frac sand and resin-coated sand in the United States and Canada is projected to increase 15% per year to $1.9 billion in 2015, according to a Freedonia report dated April 2011.

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***Supply***

Supplies of commercial silica have failed to keep pace with demand for approximately the past 24 months. During the economic downturn of 2008 and 2009, demand for commercial silica from customers in various industrial and specialty products end markets decreased. As a result, there was no significant expansion of domestic commercial silica. This, combined with the continued growth in demand for frac sand in 2010 and 2011, and the rebound in industrial and specialty products end markets, has created a supply-demand disparity over approximately the past 24 months. We believe that if the present level of demand growth continues for the foreseeable future (which is difficult to predict given current economic uncertainty), a significant expansion in the supply of commercial silica will be needed to balance the market. However, there are several key constraints to increasing production on an industry-wide basis, including:

- the difficulty of finding silica reserves suitable for use as frac sand, which, according to the API, must meet stringent technical specifications, including, among others, sphericity, grain size, crush resistance, acid solubility, purity and turbidity;
- the difficulty of securing contiguous reserves of silica large enough to justify the capital investment required to develop a mine and processing plant;
- a lack of industry-specific geological, exploration, development and mining knowledge and experience needed to enable the identification, acquisition and development of high-quality reserves;
- the difficulty of identifying reserves with the above characteristics that either are located in close proximity to oil and natural gas reservoirs or have the rail access needed for low-cost transportation to major shale basins;
- the difficulty of securing mining, production, water, air, refuse and other federal, state and local operating permits from the proper authorities, a process that can require up to three years; and
- the difficulty of assembling a large, diverse portfolio of customers to optimize operations.

***Pricing***

Historically, commercial silica has been characterized by regional markets created by the high weight-to-value ratio of silica. According to a USGS report dated October 2010, from 1970 to 2000, commercial silica prices increased at an average annual rate of 4.5%. Since 2000, the increased demand for commercial silica from our customers in both the oil and gas proppants end market and industrial and specialty products end markets and limited supply increases have resulted in favorable pricing trends in both of our operating segments. From 2000 to 2010, commercial silica prices increased at an average annual rate of 9.0%.

The following chart presents historical silica prices from 2000 to 2010.

Data Source: USGS, October 2010

If the use of hydraulic fracturing continues to increase, and if the general economic recovery continues to result in increased demand from our customers in industrial and specialty products end markets, we expect the prices that our products command will continue to increase.

**Our Products**

In order to serve a broad range of end markets, we produce and sell a variety of commercial silica products, including whole grain and ground products, as well as other industrial mineral products that we believe complement our commercial silica products.

*Whole Grain Silica Products*—We sell whole grain commercial silica products in a range of shapes, sizes and purity levels. We sell whole grain silica that has a round shape and high crush strength to be used as frac sand in connection with oil and natural gas recovery, and we have begun investing in the construction of a production facility for resin-coated sand. We also sell whole grain silica products in a range of size distributions, grain shapes and chemical purity levels to our customers involved in the manufacturing of glass products, including a low-iron whole grain product sold to manufacturers of architectural and solar glass applications. In addition, we sell over 80 grades of whole grain round silica to the foundry industry and provide whole grain commercial silica to the building products industry. In 2011, sales of whole grain commercial silica products accounted for approximately 78% of our total sales revenue.

*Ground Silica Products*—Our ground commercial silica products are inherently inert, white and bright, with high purity. We market our ground silica in sizes ranging from 40 to 250 microns for use in plastics, rubber, polishes, cleansers, paints, ceramic frits and glazes, textile fiberglass and precision castings. We also produce and market fine ground silica in sizes ranging from 5 to 40 microns for use in premium paints, specialty coatings, sealants, silicone rubber and epoxies. We believe we are currently the only commercial silica producer in the United States that manufactures a 5-micron product. In 2011, sales of ground silica products accounted for approximately 16% of our total sales revenue.

*Other Industrial Mineral Products*—We also produce and sell certain other industrial mineral products, such as aplite, calcined kaolin clay and magnesium silicate. Aplite is a mineral used to produce container glass and insulation fiberglass and is a source of alumina that has a low melting point and a low tendency to form defects in glass. Calcined kaolin clay is a mineral primarily used as a functional extender. Calcined kaolin clay is chemically inert, has a high covering power, gives desirable flow properties and reduces the amount of expensive pigments required. These characteristics make calcined kaolin clay an ideal functional extender in paints, plastics, specialty coatings and rubber. We also produce and sell a highly selective adsorbent made from a mixture of silica and magnesium, used extensively in preparative and analytical chromatography. In 2011, sales of these other industrial mineral products accounted for approximately 6% of our total sales revenue.

**Our Primary End Markets and Customers**

We sell our products to a variety of end markets. At the end of 2008, we began investing heavily in our capacity to supply frac sand to customers in the oil and gas proppants end market. Our high-quality reserves of frac sand have enabled us to quickly build a presence in this fast-growing market, and we are currently investing in our capacity to offer resin-coated sand for the same purpose. Our customers in the oil and gas proppants end market include, among others, Schlumberger Ltd., Halliburton Company, Nabors Industries Ltd., Weatherford International Ltd. and Baker Hughes, Inc. Sales to the oil and gas proppants end market comprised approximately 36%, 28% and 19% of our total sales revenue in 2011, 2010 and 2009, respectively.

Our primary markets have historically been core industrial end markets with customers engaged in the production of glass, building products, foundry products, chemicals and fillers and extenders. Our diverse customer base drives high recovery rates across our production. We also benefit from strong and long-standing relationships with our customers in each of the industrial and specialty products end markets we serve. In our industrial and specialty products end markets, our customers include such industry leaders as Owens-Illinois,

Inc., Owens Corning, Saint-Gobain Glass, The Sherwin-Williams Company and PPG Industries. Sales to our industrial and specialty products end markets comprised approximately 64%, 72% and 81% of our total sales revenue in 2011, 2010 and 2009, respectively.

We primarily sell our products under short term price agreements or at prevailing market rates. For a limited number of our customers, particularly in the oil and gas proppants end market, we sell under long-term, competitively-bid contracts. These long-term contracts are at fixed prices that are presently below market, and these below-market prices are adjustable only for certain cost increases. Sales under these long-term contracts collectively accounted for 17%, 18% and 9% of total sales revenue in 2011, 2010 and 2009, respectively. Although these long-term contracts would provide us with some downside protection if there were to be a significant reduction in demand for frac sand, we believe that there is, and that there will continue to be, sufficient demand for frac sand such that we would not experience an adverse effect if these long-term contracts are not renewed or are canceled. Historically we have not entered into long-term contracts with our customers in the industrial and specialty products end markets because of the high cost to our customers of switching providers. We typically renegotiate our price agreements with these customers annually.

The following table provides more detail regarding the end markets that we serve and our significant customer relationships in those markets:

| End Market | Primary Customers |
| --- | --- |
| Oil and Gas Proppants | Schlumberger Limited, Halliburton Company, Nabors Industries Ltd., Weatherford International Ltd., Baker Hughes, Inc. |
| Glass | PPG Industries, Owens-Illinois, Inc., Owens Corning, Saint-Gobain Glass |
| Building Products | Owens Corning, BASF Corporation |
| Foundry | Porter Warner Industries, LLC, Thyssen Krupp Waupaca |
| Chemicals | PQ Corporation, Occidental Chemical Corporation |
| Fillers and Extenders | The Sherwin-Williams Company, Dow Corning Corporation |

**Production**

Our 13 production facilities are located primarily in the eastern half of the United States, with operations in Alabama, Illinois, Louisiana, Michigan, Missouri, New Jersey, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and West Virginia.

We conduct only surface mining operations and do not operate any underground mines. Mining methods at our facilities include conventional hard rock mining, hydraulic mining, surface or open-pit mining of loosely consolidated silica deposits and dredge mining. Hard rock mining involves drilling and blasting in order to break up sandstone into sizes suitable for transport to the processing facility by truck or conveyer. Hydraulic mining involves spraying high-pressure water to break up loosely consolidated sandstone at the mine face. Surface or open-pit mining involves using earthmoving equipment, such as bucket loaders, to gather silica deposits for processing. Lastly, dredging involves gathering silica deposits from mining ponds and transporting them by slurry pipelines for processing. We may also use slurry pipelines in our hydraulic and open-pit mining efforts to expedite processing. Silica mining and processing typically has less of an environmental impact than the mining and processing of other minerals, in part because it uses fewer chemicals.

Our processing plants are equipped to receive the mined sand, wash away impurities, eliminate oversized or undersized particles and remove moisture through a multi-stage drying process. Each of our facilities operates year-round, typically in shift schedules designed to optimize facility utilization in accordance with market

demand. Our facilities receive regular preventative maintenance, and we make additional capital investments in our facilities as required to support customer volumes and internal performance goals. For more information related to our production facilities, see Item 2, “Properties”.

In connection with expanding our presence in the oil and gas proppants end market, we are in the process of constructing a facility to produce resin-coated sand for use in the hydraulic fracturing process. In advance of opening that facility, we are negotiating a tolling agreement with a third party whereby we will ship sand processed at our facilities to a third-party facility to be coated in resin. The resin-coated sand will then be shipped back to us to be sold to customers.

**Quality Control**

We maintain a standard of excellence through our ISO 9001-registered quality systems at our mining and processing facilities. We use automated process control systems that efficiently manage the majority of the mining and processing functions, and we monitor the quality and consistency of our products by conducting hourly tests throughout the production process to detect variances. We generally test each customer load prior to shipment, and all of our major facilities operate a testing laboratory to evaluate and ensure the quality of our products and services. We also provide customers with documentation verifying that all products shipped meet customer specifications. These quality assurance functions ensure that we deliver quality products to our customers and maintain customer trust and loyalty.

In addition, we have certain company-wide quality control mechanisms. We maintain a company-wide quality assurance database that facilitates easy access and analysis of product and process data from all plants. We also have a fully staffed and equipped corporate laboratory that provides critical technical expertise, analytical testing resources and application development to promote product value and cost savings. The lab consists of four departments: a foundry lab, a paint and coatings lab, an analytical lab and a minerals-processing lab. The foundry lab is fully equipped for analyzing foundry silica based on grain size distribution, acidity, acid demand value and turbidity, which is a measure of silica cleanliness. The paint and coatings lab provides formulation, application, and testing of paints, coatings and grouts for end use in fillers and extenders as well as building products. The analytical lab performs various analyses on products for quality control assessment. The minerals-processing lab models plant production processes to test variations in deposits and improve our ability to meet customer requirements, and also performs some limited testing of our frac sand products to verify that they meet API size and crush specifications.

**Distribution**

We ship our commercial silica products direct to our customers by truck, rail or barge. Generally, we utilize trucks for shipments of 200 miles or less from our plant sites and to distribute our bagged products. Given the weight-to-value ratio of most of our products, the majority of our shipments outside this 200-mile radius are by rail. We frequently utilize rail-truck transfer stations to deliver our products to the oil and natural gas industry when this method of transportation provides us with lower delivery costs to specific customers or regions. We are continuously looking to increase the number of available transload points to which we have access. When cost effective, we also occasionally ship products by barge, both domestically and internationally. All three methods of shipping are typically performed with equipment owned by third parties. Both we and our customers lease a significant number of railcars for shipping purposes, as well as to facilitate the short-term storage of our products, particularly our frac sand products. The railcar leasing market is increasingly tight due to rising demand, and we expect to require additional rail cars as we continue to expand our commercial silica production. As of December 31, 2011, we had a leased fleet of 1,087 rail cars and are currently negotiating additional leases. We believe that we will have access to a sufficient supply of railcars to meet our needs.

For some of our high-margin, finer ground commercial silica and other specialty products such as calcined kaolin clay, we can effectively distribute our products nationally and, in some cases, internationally. These sales are typically made through distributors and are shipped by rail for North American locations and by ocean going barge for international locations.

**Our Reserves**

We believe we have a broad and high-quality mineral reserves base due to our strategically located mines and facilities. At December 31, 2011, we estimate that we had a total of approximately 316 million tons of proven and probable recoverable mineral reserves. The quantity and nature of the mineral reserves at each of our properties are estimated by our internal geologists and mining engineers. Our internal geologists and engineers update our reserve estimates annually, making necessary adjustments for operations at each location during the year and additions or reductions due to property acquisitions and dispositions, quality adjustments and mine plan updates. Before acquiring new reserves, we perform surveying, drill core analysis and other tests to confirm the quantity and quality of the acquired reserves. In some instances, we acquire the mineral rights to reserves without actually taking ownership of the properties. For more information related to our production facilities, deposits and reserves, see Item 2, "Properties".

**Commercial Team**

Our commercial team consists of more than 40 individuals responsible for all aspects of our sales process, including pricing, marketing, transportation and logistics, product development and general customer service. This necessitates a highly organized staff and extensive coordination between departments. For example, product development requires the collaboration of our sales team, our production facilities and our corporate laboratory. Our sales team interacts directly with our customers in determining their needs, our production facilities fulfill the orders and our corporate laboratory is responsible for ensuring that our products meet those needs.

Our commercial team can be divided into four units:

- *Sales*—Our sales team is organized by both region and end market. Domestically, we have an experienced group of regional sales managers underneath a national sales director, along with dedicated team members for the oil and gas proppants and the industrial and specialty end markets. Our oil and gas proppants team is based out of an office in Houston staffed by a petroleum engineer and other experts with in-depth market and technical knowledge. Internationally, we opened our first office abroad in 2011 in Shanghai, China, which will establish key partnerships with local industry leaders and develop business opportunities across the Asia Pacific region. As we make decisions to enter or expand our presence in certain end markets or regions, we will continue to add dedicated team members to support that growth.
- *Marketing*—Our marketing team coordinates all of our new and existing customer outreach efforts. This includes producing exhibits for trade shows and exhibitions, manufacturing product overview materials, participating in regional industry meetings and other trade associations and managing our advertising efforts in trade journals.
- *Transportation and Logistics*—Our transportation and logistics team manages over 100,000 domestic and international shipments annually by directing inbound and outbound rail and truck traffic, supervising equipment maintenance, coordinating with rail carriers to ensure equipment availability, ensuring compliance with shipping regulations and strategically planning for future growth.
- *Technical*—Our technical team is anchored by our corporate laboratory in Berkeley Springs, West Virginia. At this facility, we perform a variety of analyses including:
  - analytical chemistry by X-Ray Fluorescence (XRF) and Inductively Coupled Plasma (ICP) spectroscopy;
  - particle characterization by sieve, SediGraph, Brunauer, Emmett and Teller (BET) surface area and microscopy;
  - ore evaluation by mineral processing, flotation and magnetic separation;
  - API frac sand evaluation, including crush resistance; and
  - AFS green sand evaluation by various foundry sand tests.

We utilize these analytical capabilities to develop new product offerings for customers in the solar panels, ceramics and fillers and extenders end markets, among others. Many other product analyses are performed locally at our 13 production facilities to support plant operations and customer quality requirements.

We also have a variety of other technical competencies including process engineering, equipment design, facility construction, maintenance excellence, environmental engineering, geology and mine planning and development. Effective integration of these capabilities has been a critical component of our business success and has allowed us to establish and maintain an extensive, high-quality silica sand reserve base, maximize the value of our reserves by producing and selling a wide range of high-quality products, optimize processing costs to provide strong value to customers and prioritize operating in a safe and environmentally sustainable manner.

**Competition**

Both of our reporting segments operate in highly competitive markets that are characterized by a small number of large, national producers and a larger number of small, regional or local producers. According to the 2010 USGS Minerals Yearbook, in 2010, there were 68 producers of commercial silica with a combined 113 active operations in 33 states within the United States. Competition in the industry across both of our reporting segments is based on price, consistency and quality of product, site location, distribution capability, customer service, reliability of supply, breadth of product offering and technical support. As transportation costs are a significant portion of the total cost to customers of commercial silica—in many instances transportation costs can represent more than 50% of delivered cost—the commercial silica market is typically local, and competition from beyond the local area is limited. Notable exceptions to this are the frac sand and fillers and extenders markets, where certain product characteristics are not available in all deposits and not all plants have the requisite processing capabilities, necessitating that some products be shipped for extended distances.

We believe the five leading producers of commercial silica across both of our reporting segments represented in excess of 60% of total industry production in 2010 and we compete with these large, national producers such as Unimin Corporation, Fairmount Minerals, Ltd., Preferred Sands and Carmeuse Industrial Sands. Our larger competitors may have greater financial and other resources than we do, may develop technology superior to ours or may have production facilities that are located closer to key customers than ours.

Because the markets for our products are typically local, we also compete with smaller, regional or local producers. For instance, in recent years there has been an increase in the number of small producers servicing the frac sand market due to an increased demand for hydraulic fracturing services.

**Intellectual Property**

Other than operating licenses for our mining and processing facilities, there are no third party patents, licenses or franchises material to our business. Our intellectual property primarily consists of trade secrets, know-how and trademarks, including our name “U.S. Silica” and products such as “OTTAWA WHITE.” We strategically rely on trade secrets, rather than patents, to protect our proprietary processes, methods, documentation and other technologies, as well as certain other business information. Patent protection requires a costly and uncertain federal registration process that would place our confidential information in the public domain. Typically, we utilize trade secrets to protect the formulations and processes we use to manufacture our products and to safeguard our proprietary formulations and methods. We believe we can effectively protect our trade secrets indefinitely through the use of confidentiality agreements and other security measures.

**Condition of Physical Assets and Insurance**

Our business is capital intensive and requires ongoing capital investment for the replacement, modernization and/or expansion of equipment and facilities. For more information, see Item 7, “Management’s Discussion and Analysis of Financial Condition and Results of Operations – Liquidity and Capital Resources”.

We maintain insurance policies against property loss and business interruption and insure against risks that are typical in the operation of our business, in amounts that we believe to be reasonable. Such insurance, however, contains exclusions and limitations on coverage, particularly with respect to environmental liability and political risk. There can be no assurance that claims would be paid under such insurance policies in connection with a particular event. See Item 1A, “Risk Factors”.

**Employees**

As of December 31, 2011, we employed a workforce of 701 employees, the majority of whom are hourly wage plant workers living in the areas surrounding our mining facilities. The majority of our hourly employees are represented by labor unions that include the Teamsters, United Steelworkers, Paper Allied-Industrial Chemical & Energy, Glass/Molders/Pottery/Plastics and Laborers. We believe that we maintain good relations with our workers and their respective unions and have not experienced any material strikes or work stoppages since 1987.

The majority of our employees have tenure with us of approximately 15 years, and we have an annual employee turnover rate of less than 1.0%. We believe this low turnover rate has directly contributed to improved process efficiencies and safety, which in turn help drive cost reductions. We believe our labor rates compare favorably to other mining and manufacturing facilities in the same geographic areas. We maintain workers’ compensation coverage in amounts required by law and have no material claims pending. We also offer all full-time employees a competitive package of employee benefits, which includes medical, dental, life and disability coverage.

See Item 10, “Directors, Executive Officers and Corporate Governance” for information about our executive officers.

**Seasonality**

Our business is affected to some extent by seasonal fluctuations in weather that impact our production levels and our customers’ business needs. For example, in the second and third quarters, we sell more commercial silica to our customers in the building products and recreation end markets due to the seasonal rise in construction driven by more favorable weather conditions. Our sales and sometimes our production levels are lower in the first and fourth quarters due to lower market demand and due to our customers in these end markets experiencing slowdowns largely as a result of adverse weather conditions.

**Regulation and Legislation**

***Mining and Workplace Safety***

*Federal Regulation*

The U.S. Mine Safety and Health Administration (“MSHA”) is the primary regulatory organization governing the commercial silica industry. Accordingly, MSHA regulates quarries, surface mines, underground mines and the industrial mineral processing facilities associated with quarries and mines. The mission of MSHA is to administer the provisions of the Federal Mine Safety and Health Act of 1977 and to enforce compliance with mandatory safety and health standards. MSHA works closely with the Industrial Minerals Association, a trade association in which we have a significant leadership role, in pursuing this mission. As part of MSHA’s oversight, representatives perform at least two unannounced inspections annually for each above-ground facility. To date these inspections have not resulted in any citations for material violations of MSHA standards. For additional information regarding mining and workplace safety, including MSHA safety and health violations and assessments in 2011, see Item 4, “Mine Safety Disclosures”.

We also are subject to the requirements of the U.S. Occupational Safety and Health Act (“OSHA”) and comparable state statutes that regulate the protection of the health and safety of workers. In addition, the OSHA Hazard Communication Standard requires that information be maintained about hazardous materials used or

produced in operations and that this information be provided to employees, state and local government authorities and the public. OSHA regulates the customers and users of commercial silica and provides detailed regulations requiring employers to protect employees from overexposure to silica through the enforcement of permissible exposure limits and the OSHA Hazard Communication Standard.

*Internal Controls*

We adhere to a strict occupational health program aimed at controlling exposure to silica dust, which includes dust sampling, a respiratory protection program, medical surveillance, training and other components. Our safety program is designed to ensure compliance with the standards of our Occupational Health and Safety Manual and MSHA regulations. For both health and safety issues, extensive training is provided to employees. We have safety committees at our plants made up of salaried and hourly employees. We perform annual internal health and safety audits and conduct semi-annual crisis management drills to test our plants' abilities to respond to various situations. Health and safety programs are administered by our corporate health and safety department with the assistance of plant Environmental, Health and Safety Coordinators.

***Environmental Matters***

We and the commercial silica industry are subject to extensive governmental regulation on, among other things, matters such as permitting and licensing requirements, plant and wildlife protection, hazardous materials, air and water emissions and environmental contamination and reclamation. A variety of state, local and federal agencies conduct this regulation.

*Federal Regulation*

At the federal level, we may be required to obtain permits under Section 404 of the Clean Water Act from the U.S. Army Corps of Engineers for the discharge of dredged or fill material into waters of the United States, including wetlands and streams, in connection with our operations. We also may be required to obtain permits under Section 402 of the Clean Water Act from the EPA (or the relevant state environmental agency in states where the permit program has been delegated to the state) for discharges of pollutants into waters of the United States, including discharges of wastewater or storm water runoff associated with construction activities. Failure to obtain these required permits or to comply with their terms could subject us to administrative, civil and criminal penalties as well as injunctive relief.

The U.S. Clean Air Act and comparable state laws regulate emissions of various air pollutants through air emissions permitting programs and the imposition of other requirements. These regulatory programs may require us to install expensive emissions abatement equipment, modify our operational practices and obtain permits for our existing operations, and before commencing construction on a new or modified source of air emissions, such laws may require us to reduce emissions at existing facilities. As a result, we may be required to incur increased capital and operating costs because of these regulations. We could be subject to administrative, civil and criminal penalties as well as injunctive relief for noncompliance with air permits or other requirements of the U.S. Clean Air Act and comparable state laws and regulations.

As part of our operations, we utilize or store petroleum products and other substances such as diesel fuel, lubricating oils and hydraulic fluid. We are subject to applicable requirements regarding the storage, use, transportation and disposal of these substances, including the relevant Spill Prevention, Control and Countermeasure requirements that the EPA imposes on us. Spills or releases may occur in the course of our operations, and we could incur substantial costs and liabilities as a result of such spills or releases, including those relating to claims for damage or injury to property and persons.

Additionally, some of our operations are located on properties that historically have been used in ways that resulted in the release of contaminants, including hazardous substances, into the environment, and we could be

held liable for the remediation of such historical contamination. CERCLA, also known as the Superfund law, and comparable state laws impose joint and several liability, without regard to fault or legality of conduct, on classes of persons who are considered to be responsible for the release of hazardous substances into the environment. These persons include the owner or operator of the site where the release occurred and anyone who disposed or arranged for the disposal of a hazardous substance released at the site. Under CERCLA, such persons may be subject to liability for the costs of cleaning up the hazardous substances, for damages to natural resources, and for the costs of certain health studies. In addition, it is not uncommon for neighboring landowners and other third parties to file claims for personal injury and property damage allegedly caused by the hazardous substances released into the environment.

In addition, the Resource Conservation and Recovery Act ("RCRA") and comparable state statutes regulate the generation, transportation, treatment, storage, disposal and cleanup of hazardous and non-hazardous wastes. Under the auspices of the EPA, the individual states administer some or all of the provisions of RCRA, sometimes in conjunction with their own, more stringent requirements. In the course of our operations, we generate industrial solid wastes that may be regulated as hazardous wastes.

Our operations may also be subject to broad environmental review under the National Environmental Policy Act ("NEPA"). NEPA requires federal agencies to evaluate the environmental impact of all "major federal actions" significantly affecting the quality of the human environment. The granting of a federal permit for a major development project, such as a mining operation, may be considered a "major federal action" that requires review under NEPA. Therefore, our projects may require review and evaluation under NEPA. As part of this evaluation, the federal agency considers a broad array of environmental impacts, including, among other things, impacts on air quality, water quality, wildlife (including threatened and endangered species), historical and archeological resources, geology, socioeconomics and aesthetics. NEPA also requires the consideration of alternatives to the project. The NEPA review process, especially the preparation of a full environmental impact statement, can be time consuming and expensive. The purpose of the NEPA review process is to inform federal agencies' decision-making on whether federal approval should be granted for a project and to provide the public with an opportunity to comment on the environmental impacts of a proposed project. While NEPA requires only that an environmental evaluation be conducted and does not mandate a result, a federal agency could decide to deny a permit, or impose certain conditions on its approval, based on its environmental review under NEPA, or a third party may challenge the adequacy of a NEPA review.

Federal agencies granting permits for our operations also must consider impacts to endangered and threatened species and their habitat under the Endangered Species Act. We also must comply with and are subject to liability under the Endangered Species Act, which prohibits and imposes stringent penalties for the harming of endangered or threatened species and their habitat. Federal agencies also must consider a project's impacts on historic or archeological resources under the National Historic Preservation Act, and we may be required to conduct archeological surveys of project sites and to avoid or preserve historical areas or artifacts.

*State and Local Regulation*

Because our operations are located in numerous states, we are also subject to a variety of different state and local environmental review and permitting requirements. Some states in which our projects are located or are being developed have state laws similar to NEPA; thus our development of new sites or the expansion of existing sites may be subject to comprehensive state environmental reviews even if it is not subject to NEPA. In some cases, the state environmental review may be more stringent than the federal review. Our operations may require state-law based permits in addition to federal permits, requiring state agencies to consider a range of issues, many the same as federal agencies, including, among other things, a project's impact on wildlife and their habitats, historic and archaeological sites, aesthetics, agricultural operations and scenic areas. Some states also have specific permitting and review processes for commercial silica mining operations, and states may impose different or additional monitoring or mitigation requirements than federal agencies. The development of new sites and our existing operations also are subject to a variety of local environmental and regulatory requirements, including land use, zoning, building and transportation requirements.

As demand for frac sand in the oil and natural gas industry has driven a significant increase in current and expected future production of commercial silica, some local communities have expressed concern regarding silica sand mining operations. These concerns have generally included exposure to ambient silica sand dust, truck traffic, water usage and blasting. In response, certain state and local communities have developed or are in the process of developing regulations or zoning restrictions intended to minimize dust from getting airborne, control the flow of truck traffic, significantly curtail the amount of practicable area for mining activities, provide compensation to local residents for potential impacts of mining activities and, in some cases, ban issuance of new permits for mining activities. To date, we have not experienced any material impact or disruption to our existing mining operations or planned capacity expansions as a result of these types of concerns. We are not aware of any pending laws or regulations for significant increased scrutiny on the part of state or local regulators in the jurisdictions in which we operate, however we cannot guarantee that laws, regulations and community concerns with respect to our operations will not arise that could have a material adverse effect on our business, financial condition or results of operations going forward.

We have a long history of positive engagement with the communities that surround our existing mining operations. We have less than 1% employee turnover and have had no significant strikes in more than 20 years, evidence of the strong relationship we have with our employees. We believe this strong relationship helps foster good relations with the communities in which we operate. Although additional regulatory requirements could negatively impact our business, financial condition and results of operations, we believe our existing operations are less likely to be negatively impacted by virtue of our good community relations.

Planned expansion of our mining and production capacity in new communities could be more significantly impacted by increased regulatory activity. Difficulty or delays in obtaining or inability to obtain new mining permits or increased costs of compliance with future state and local regulatory requirements could have a material negative impact on our ability to grow our business. In an effort to minimize these risks, we continue to be engaged with local communities in order to grow and maintain strong relationships with residents and regulators.

*Costs of Compliance*

We may incur significant costs and liabilities as a result of environmental, health and safety requirements applicable to our activities. Failure to comply with environmental laws and regulations may result in the assessment of administrative, civil and criminal penalties, imposition of investigatory, cleanup and site restoration costs and liens, the denial or revocation of permits or other authorizations and the issuance of injunctions to limit or cease operations. Compliance with these laws and regulations may also increase the cost of the development, construction and operation of our projects and may prevent or delay the commencement or continuance of a given project. In addition, claims for damages to persons or property may result from environmental and other impacts of our activities.

The process for performing environmental impact studies and reviews for federal, state and local permits for our operations involves a significant investment of time and monetary resources. We cannot control the permit approval process. We cannot predict whether all permits required for a given project will be granted or whether such permits will be the subject of significant opposition. The denial of a permit essential to a project or the imposition of conditions with which it is not practicable or feasible to comply could impair or prevent our ability to develop a project. Significant opposition and delay in the environmental review and permitting process also could impair or delay our ability to develop a project. Additionally, the passage of more stringent environmental laws could impair our ability to develop new operations and have an adverse effect on our financial condition and results of operations.

**Availability of Reports; Website Access; Other Information**

Our internet address is http://www.ussilica.com. Through “Investor Relations” — “SEC Filings” on our home page, we make available free of charge our annual report on Form 10-K, our quarterly reports on Form 10-Q, our proxy statements, our current reports on Form 8-K, SEC Forms 3, 4 and 5 and any amendments

to those reports filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934 as soon as reasonably practicable after we electronically file such material with, or furnish it to, the SEC. Our reports filed with the SEC are also made available to read and copy at the SEC's Public Reference Room at 100 F Street, N.E., Washington, D.C. 20549. You may obtain information about the Public Reference Room by contacting the SEC at 1-800-SEC-0330. Reports filed with the SEC are also made available on its website at www.sec.gov.

Copies of the Corporate Governance Guidelines, the Charters of the Audit, Compensation and Governance Committees of the Board of Directors, the Code of Conduct for our Board of Directors and Code of Conduct and Ethics for U.S. Silica employees (including the chief executive officer, chief financial officer and corporate controller) can also be found on the U.S. Silica website. Any amendments or waivers to the Code of Business Ethics applicable to the chief executive officer, chief financial officer and corporate controller can also be found in the "Investor Relations" section of the U.S. Silica website. Stockholders may also request a free copy of these documents from: U.S. Silica Holdings, Inc., attn.: Investor Relations, 8490 Progress Drive, Suite 300, Frederick, Maryland 21701 (phone: (855) SILICA-7), or IR@ussilica.com.

## ITEM 1A. RISK FACTORS

*Our operations and financial results are subject to various risks and uncertainties, including those described below and elsewhere in this Annual Report on Form 10-K. You should carefully consider the risk factors set forth below as well as the other information contained in this Annual Report on Form 10-K in connection with evaluating us. Additional risks and uncertainties not currently known to us or that we currently deem to be immaterial may also materially and adversely affect our business, results of operations or financial condition. Certain statements in "Risk Factors" are forward-looking statements.*

### Risks Related to Our Business

***The demand for commercial silica fluctuates, which could adversely affect our results of operations.***

Demand in the end markets served by our customers is influenced by many factors, including the following:

- global and regional economic, political and military events and conditions;
- fluctuations in energy, fuel, oil and natural gas prices and the availability of such fuels;
- demand for oil, natural gas and petroleum products;
- changes in residential and commercial construction demands, driven in part by fluctuating interest rates and demographic shifts;
- demand for automobiles and other vehicles;
- the substitution of plastic or other materials for glass;
- competition from offshore producers of glass products;
- changes in demand for our products due to technological innovations;
- changes in laws and regulations (or the interpretation thereof) related to the mining and hydraulic fracturing industries, silica dust exposure or the environment;
- prices, availability and other factors relating to our products;
- increases in costs of labor and labor strikes; and
- population growth rates.

We cannot predict or control the factors that affect demand for our products. Negative developments in the above factors, among others, could cause the demand for commercial silica or other minerals to decline, which could adversely affect our business, financial condition, results of operations, cash flows and prospects.

***Our operations are subject to the cyclical nature of our customers' businesses, and we may not be able to mitigate that risk.***

The substantial majority of our sales are to customers in industries that have historically been cyclical, such as glassmaking, building products, foundry and oil and natural gas recovery. These industries were adversely affected by the uncertain global economic climate in the second half of 2008 and in 2009. During periods of economic slowdown, our customers often reduce their production rates and also reduce capital expenditures and defer or cancel pending projects. Such developments occur even among customers that are not experiencing financial difficulties.

Demand in many of the end markets for commercial silica is driven by the construction and automotive industries. For example, the flat glass market depends on the automotive and commercial and residential construction and remodeling markets. The market for commercial silica used to manufacture building products is driven primarily by demand in the construction markets. The demand for foundry silica depends on the rate of

automobile, light truck and heavy equipment production as well as construction. In the automotive industry, North American car and truck production was up 11% in 2011, but remains well below pre-recession levels. Housing starts in 2011 were approximately 609,000 units, a 4% improvement over 2010 but still only a fraction of the peak rate of 2.1 million units in 2005. The demand for frac sand is driven by demand for oil and natural gas. In periods of lower economic productivity or recession, oil and natural gas prices tend to decrease, as they did during late 2008 and portions of 2009, which, in turn, causes exploration and production companies to reduce their exploration, development, production and well completion activities. The reduced level of such activities could result in a corresponding decline in the demand for frac sand. In addition, given that silica transportation represents one of our customers' largest costs, if, in response to economic pressures, our customers choose to move their production offshore, the increased logistics costs could reduce demand for our products. Continued weakness in the industries we serve has had, and may in the future have, an adverse effect on sales of our products and our results of operations. A continued or renewed economic downturn in one or more of the industries or geographic regions that we serve, or in the worldwide economy, could cause actual results of operations to differ materially from historical and expected results.

***Our operations are subject to operating risks that are often beyond our control and could adversely affect production levels and costs, and such risks may not be covered by insurance.***

Our mining, processing and production facilities are subject to risks normally encountered in the commercial silica industry. These risks include:

- changes in the price and availability of transportation;
- changes in the price and availability of natural gas or electricity;
- unusual or unexpected geological formations or pressures;
- cave-ins, pit wall failures or rock falls;
- unanticipated ground, grade or water conditions;
- inclement or hazardous weather conditions, including flooding, and the physical impacts of climate change;
- environmental hazards;
- industrial accidents;
- changes in laws and regulations (or the interpretation thereof) related to the mining and hydraulic fracturing industries, silica dust exposure or the environment;
- inability to acquire or maintain necessary permits or mining or water rights;
- restrictions on blasting operations;
- inability to obtain necessary production equipment or replacement parts;
- reduction in the amount of water available for processing;
- technical difficulties or failures;
- labor disputes;
- late delivery of supplies;
- fires, explosions or other accidents; and
- facility shutdowns in response to environmental regulatory actions.

Any of these risks could result in damage to, or destruction of, our mining properties or production facilities, personal injury, environmental damage, delays in mining or processing, losses or possible legal liability. Any prolonged downtime or shutdowns at our mining properties or production facilities could have a material adverse effect on us.

Not all of these risks are reasonably insurable, and our insurance coverage contains limits, deductibles, exclusions and endorsements. Our insurance coverage may not be sufficient to meet our needs in the event of loss and any such loss may have a material adverse effect on us.

***A significant portion of our sales is generated at two of our plants. Any adverse developments at either of those plants or in the end markets those plants serve could have a material adverse effect on our financial condition and results of operations.***

A significant portion of our sales are generated at our plants located in Ottawa, Illinois and Mill Creek, Oklahoma. In 2011, these plants represented a combined 52% of our product sales. Any adverse development at either of these plants or in the end markets these plants serve, including adverse developments due to catastrophic events or weather, decreased demand for commercial silica products, a decrease in the availability of transportation services or adverse developments affecting our customers, could have a material adverse effect on our financial condition and results of operations.

***Our business and financial performance depend on the level of activity in the natural gas and oil industries.***

Our operations that produce frac sand are materially dependent on the levels of activity in natural gas and oil exploration, development and production. More specifically, the demand for the frac sand we produce is closely related to the number of natural gas and oil wells completed in geological formations where sand-based proppants are used in fracture treatments. These activity levels are affected by both short- and long-term trends in natural gas and oil prices. In recent years, natural gas and oil prices and, therefore, the level of exploration, development and production activity, have experienced significant fluctuations. Worldwide economic, political and military events, including war, terrorist activity, events in the Middle East and initiatives by the Organization of the Petroleum Exporting Countries (“OPEC”), have contributed, and are likely to continue to contribute, to price volatility. Additionally, warmer than normal winters in North America and other weather patterns may adversely impact the short-term demand for natural gas and, therefore, demand for our products. Reduction in demand for natural gas to generate electricity could also adversely impact the demand for frac sand. Natural gas and oil prices experienced a decline in the second half of 2008 and during portions of 2009, and natural gas prices continued to be low in 2011. A prolonged reduction in natural gas and oil prices would generally depress the level of natural gas and oil exploration, development, production and well completion activity and result in a corresponding decline in the demand for the frac sand we produce. Such a decline could have a material adverse effect on our results of operations and financial condition. In addition, any future decreases in the rate at which oil and natural gas reserves are discovered or developed, whether due to increased governmental regulation, limitations on exploration and drilling activity or other factors, could have a material adverse effect on our business, even in a stronger natural gas and oil price environment.

***We may be adversely affected by decreased demand for frac sand or the development of either effective alternative proppants or new processes to replace hydraulic fracturing.***

Frac sand is a proppant used in the completion and re-completion of natural gas and oil wells through the process of hydraulic fracturing. Frac sand is the most commonly used proppant and is less expensive than ceramic proppant, which is also used in the hydraulic fracturing process to stimulate and maintain oil and natural gas production. A significant shift in demand from frac sand to other proppants, such as ceramic proppants, could have a material adverse effect on our financial condition and results of operations. The development and use of other effective alternative proppants or the development of new processes to replace hydraulic fracturing altogether, could also cause a decline in demand for the frac sand we produce and could have a material adverse effect on our financial condition and results of operations.

***Federal, state and local legislative and regulatory initiatives relating to hydraulic fracturing and the potential for related regulatory action or litigation could result in increased costs and additional operating restrictions or delays for our customers, which could negatively impact our business, financial condition and results of operations.***

A significant portion of our business supplies frac sand to hydraulic fracturing operators in the oil and natural gas industry. Increased regulation of hydraulic fracturing may adversely impact our business, financial condition and results of operations.

The federal Safe Drinking Water Act (the "SDWA") regulates the underground injection of substances through the Underground Injection Control Program (the "UIC Program"). Hydraulic fracturing generally is exempt from federal regulation under the UIC Program, and the hydraulic fracturing process is typically regulated by state or local governmental authorities. Although we do not directly engage in hydraulic fracturing activities, our customers purchase our frac sand for use in their hydraulic fracturing operations. The U.S. Environmental Protection Agency ("EPA") has recently taken the position that hydraulic fracturing with fluids containing diesel fuel is subject to regulation under the UIC Program, specifically as "Class II" UIC wells. At the same time, the EPA has commenced a study of the potential environmental impacts of hydraulic fracturing activities, a committee of the U.S. House of Representatives (the "House") is conducting an investigation of hydraulic fracturing practices and a subcommittee of the Secretary of Energy Advisory Board (the "SEAB") of the U.S. Department of Energy was tasked with recommending steps to improve the safety and environmental performance of hydraulic fracturing. As part of these studies, the EPA, the House committee and the SEAB subcommittee requested that certain companies provide them with information concerning the chemicals used in the hydraulic fracturing process. These studies, depending on their results, could spur initiatives to regulate hydraulic fracturing under the SDWA or otherwise. The SEAB subcommittee issued a preliminary report in August 2011 and a final report in November 2011 recommending, among other things, measures to improve and protect air and water quality, improvements in communication among state and federal regulators, elimination of diesel fuel in shale gas production, disclosure of fracturing fluid composition and the creation of a publicly accessible database organizing all publicly disclosed information with respect to hydraulic fracturing operations. Legislation is currently before Congress to provide for federal regulation of hydraulic fracturing under the SDWA and to require disclosure of the chemicals used in the hydraulic fracturing process. If this or similar legislation becomes law, the legislation could establish an additional level of regulation that may lead to additional permitting requirements or other operating restrictions, making it more difficult to complete natural gas wells in shale formations. This could increase our customers' costs of compliance and doing business or otherwise adversely affect the hydraulic fracturing services they perform, which may negatively impact demand for our frac sand products**.**

In addition, the federal Bureau of Land Management (the "BLM") and various state, local and foreign governments have implemented, or are considering, increased regulatory oversight of hydraulic fracturing through additional permitting requirements, operational restrictions, disclosure requirements and temporary or permanent bans on hydraulic fracturing in certain areas such as environmentally sensitive watersheds. For example, the BLM has proposed regulations requiring disclosure of chemicals used in the hydraulic fracturing process both before and after any drilling on federal public land, and Wyoming, Colorado, Arkansas, Texas and Pennsylvania have imposed disclosure requirements on hydraulic fracturing operators. The availability of information regarding the constituents of hydraulic fracturing fluids could make it easier for third parties opposing the hydraulic fracturing process to initiate individual or class action legal proceedings based on allegations that specific chemicals used in the hydraulic fracturing process could adversely affect groundwater and drinking water supplies or otherwise cause harm to human health or the environment. Moreover, disclosure to third parties or to the public, even if inadvertent, of our customers' proprietary chemical formulas could diminish the value of those formulas and result in competitive harm to our customers, which could indirectly impact our business, financial condition and results of operations.

The adoption of new laws or regulations at the federal, state, local or foreign levels imposing reporting obligations on, or otherwise limiting or delaying, the hydraulic fracturing process could make it more difficult to complete natural gas wells in shale formations, increase our customers' costs of compliance and doing business

and otherwise adversely affect the hydraulic fracturing services they perform, which could negatively impact demand for our frac sand products. In addition, heightened political, regulatory and public scrutiny of hydraulic fracturing practices could potentially expose us or our customers to increased legal and regulatory proceedings, and any such proceedings could be time- consuming, costly or result in substantial legal liability or significant reputational harm. Any such developments could have a material adverse effect on our business, financial condition and results of operations, whether directly or indirectly. For example, we could be directly affected by adverse litigation involving us, or indirectly affected if the cost of compliance limits the ability of our customers to operate in the geographic areas we serve.

***Our operations are dependent on our rights and ability to mine our properties and on our having renewed or received the required permits and approvals from governmental authorities and other third parties.***

We hold numerous governmental, environmental, mining and other permits, water rights and approvals authorizing operations at each of our facilities. A decision by a governmental agency or other third party to deny or delay issuing a new or renewed permit or approval, or to revoke or substantially modify an existing permit or approval, could have a material adverse effect on our ability to continue operations at the affected facility. Expansion of our existing operations is also predicated on securing the necessary environmental or other permits, water rights or approvals, which we may not receive in a timely manner or at all. In addition, our facilities are located near existing and proposed third-party industrial operations that could affect our ability to fully extract, or the manner in which we extract, the mineral deposits to which we have mining rights.

Title to, and the area of, mineral properties and water rights may also be disputed. Mineral properties sometimes contain claims or transfer histories that examiners cannot verify. A successful claim that we do not have title to one or more of our properties or lack appropriate water rights could cause us to lose any rights to explore, develop and extract any minerals on that property, without compensation for our prior expenditures relating to such property. Our business may suffer a material adverse effect in the event one or more of our properties are determined to have title deficiencies.

In some instances, we have received access rights or easements from third parties, which allow for a more efficient operation than would exist without the access or easement. A third party could take action to suspend the access or easement, and any such action could be materially adverse to our results of operations or financial condition.

***We may not be able to successfully implement our capacity expansion plans within our current timetable, the actual costs of the capacity expansion may exceed our current estimated costs and we may not be able to secure offtake agreements for the incremental production capacity. In addition, actual operating costs once we have completed the capacity expansion may be higher than anticipated.***

We are currently in the initial stages of constructing a new facility to produce resin-coated sand, a higher crush-strength alternative to traditional frac sand, in Rochelle, Illinois, that will be designed to coat up to 400 million pounds annually. This project is scheduled for completion and start-up in 2013.

In December 2011, we acquired land in Sparta, Wisconsin, for which we are currently designing and engineering a production facility that will provide additional frac sand production capacity. Our board of directors has approved $10.0 million in spending for initial site development, engineering and the procurement of certain equipment and materials that have long lead times. However, we are currently in the engineering and design phase of the facility and the ultimate production capacity and process flow are yet to be finalized.

Under our current business plan, we expect to fund our expansion plan through a combination of cash on our balance sheet, cash generated from our operations and the proceeds of our recent offering of common stock. If the assumptions on which we based our estimated capital expenditures change or are inaccurate, we may require additional funding. Such funding may not be available on terms acceptable to us, or at all. Moreover, actual

operating costs once we have completed the capacity expansion may be higher than initially anticipated. We also have not secured off-take commitments for the incremental production from our capacity expansion plans, and we may not be able to secure such commitments. Furthermore, substantial investments in transportation infrastructure will be required to effectively execute the capacity expansion, and we may not be successful in expanding our logistical capabilities to accommodate the additional production capacity.

Any failure to successfully implement our capacity expansion plans due to an inability to obtain necessary permits, insufficient funding, delays, unanticipated costs or other factors, or failure to realize the anticipated benefits of our capacity expansion plans, including securing off-take commitments for the incremental production, could have a material adverse effect on our business, financial condition and results of operations.

***Our future performance will depend on our ability to succeed in competitive markets, and on our ability to appropriately react to potential fluctuations in demand for and supply of for our products.***

We operate in a highly competitive market that is characterized by a small number of large, national producers and a larger number of small, regional or local producers. Competition in the industry is based on price, consistency and quality of product, site location, distribution capability, customer service, reliability of supply, breadth of product offering and technical support. As transportation costs are a significant portion of the total cost to customers of commercial silica—in many instances transportation costs can represent more than 50% of delivered cost—the commercial silica market is typically local, and competition from beyond the local area is limited. Notable exceptions to this are the frac sand and fillers and extenders markets, where certain product characteristics are not available in all deposits and not all plants have the requisite processing capabilities, necessitating that some products be shipped for extended distances.

We compete with large, national producers such as Unimin Corporation, Fairmount Minerals, Ltd., Badger Mining Corporation and Carmeuse Industrial Sands. Our larger competitors may have greater financial and other resources than we do, may develop technology superior to ours or may have production facilities that are located closer to key customers than ours.

Because the markets for our products are typically local, we also compete with smaller, regional or local producers. For instance, in recent years there has been an increase in the number of small producers servicing the frac sand market due to an increased demand for hydraulic fracturing services. Should the demand for hydraulic fracturing services decrease, prices in the frac sand market could materially decrease as smaller, regional producers exit the market, selling frac sand at below market prices. In addition, oil and natural gas exploration and production companies and other providers of hydraulic fracturing services could acquire their own frac sand reserves, expand their existing frac sand production capacity or otherwise fulfill their own proppant requirements and existing or new frac sand producers could add to or expand their frac sand production capacity, which would negatively impact demand for our frac sand products. We may not be able to compete successfully against either our larger or smaller competitors in the future, and competition could have a material adverse effect on our business, financial condition, results of operations, cash flows and prospects.

***A large portion of our sales is generated by our top ten customers, and the loss of, or a significant reduction in, purchases by our largest customers could adversely affect our operations.***

During 2011, our top ten customers represented 44% of our sales from continuing operations, with no single customer accounting for more than 8%. During 2011, we had long-term, competitively-bid supply agreements with three of our top ten customers in the oil and gas proppants end market, including our top customer, that have initial terms expiring between 2014 and 2016. During the fourth quarter of 2011, we signed six additional take-or-pay supply agreements with other customers in the oil and gas proppants end market that became effective January 1, 2012. The terms of these new agreements range from 12 to 36 months. These customers may not continue to purchase the same levels of our commercial silica products in the future due to a variety of reasons, contract requirements notwithstanding. For example, some of our top customers could go out of business or, alternatively, be acquired by other companies that purchase the same products and services provided by us

from other third-party providers. Our customers could also seek to capture and develop their own sources of commercial silica. If any of our major customers substantially reduces or altogether ceases purchasing our commercial silica products, we could suffer a material adverse effect on our business, financial condition, results of operations, cash flows and prospects.

In addition, the long-term supply agreements we have may negatively impact our results of operations. Certain of our long-term agreements are for sales at fixed prices that are adjusted only for certain cost increases. As a result, in periods with increasing prices, such as the period we are currently experiencing, our sales will grow at a slower rate than industry spot prices.

***Increasing costs or a lack of dependability or availability of transportation services or infrastructure could have an adverse effect on our ability to deliver products at competitive prices.***

Because of the relatively low cost of producing commercial silica, transportation and handling costs tend to be a significant component of the total delivered cost of sales. The high relative cost of transportation tends to favor manufacturers located in close proximity to the customer. In addition, as we continue to expand our commercial silica production, we will need increased transportation services, including rail cars. We contract with truck, rail and barge services to move commercial silica from our production facilities to distribution outlets and our customers, and increased costs under these contracts could adversely affect our results of operations if we are unable to pass these costs on to our customers. In addition, we bear the risk of non-delivery under our customer contracts. In certain instances we commit to deliver products to our customers prior to production, under penalty of nonperformance. Labor disputes, derailments, adverse weather conditions or other environmental events, an increasingly tight railcar leasing market and changes to rail freight systems could interrupt or limit available transportation services. A significant increase in transportation service rates, a reduction in the dependability or availability of transportation services or relocation of our customers' businesses to areas farther from our plants could impair our ability to deliver our products economically to our customers and to expand our markets.

***Our production process consumes large amounts of natural gas and electricity. An increase in the price or a significant interruption in the supply of these or any other energy sources could have a material adverse effect on our financial condition or results of operations.***

Energy costs, primarily natural gas and electricity, represented approximately 8% of our total sales in 2011. Natural gas is the primary fuel source used for drying in the commercial silica production process and, as such, our profitability is impacted by the price and availability of natural gas we purchase from third parties. The price and supply of natural gas are unpredictable and can fluctuate significantly based on international, political and economic circumstances, as well as other events outside our control, such as changes in supply and demand due to weather conditions, actions by OPEC and other oil and natural gas producers, regional production patterns and environmental concerns. In addition, potential climate change regulations or carbon or emissions taxes could result in higher production costs for energy, which may be passed on to us in whole or in part. In the past, the price of natural gas has been extremely volatile, and we expect this volatility to continue. For example, during the year ended December 31, 2011, the monthly closing price of natural gas on the New York Mercantile Exchange ranged from a high of $4.37 per million British Thermal Units ("BTUs") to a low of $3.36 per million BTUs. In order to manage this risk, we may hedge natural gas prices through the use of derivative financial instruments, such as forwards, swaps and futures. However, these measures carry risk (including nonperformance by counterparties) and do not in any event entirely eliminate the risk of decreased margins as a result of natural gas price increases. A significant increase in the price of energy that is not recovered through an increase in the price of our products or covered through our hedging arrangements or an extended interruption in the supply of natural gas or electricity to our production facilities could have a material adverse effect on our business, financial condition, results of operations, cash flows and prospects.

***Increases in the price of diesel fuel may adversely affect our results of operations.***

Diesel fuel costs generally fluctuate with increasing and decreasing world crude oil prices, and accordingly are subject to political, economic and market factors that are outside of our control. Our operations are dependent on earthmoving equipment, railcars and tractor trailers, and diesel fuel costs are a significant component of the operating expense of these vehicles. We use earthmoving equipment in our mining operations, and we ship the vast majority of our products by either railcar or tractor trailer. To the extent that we perform these services with equipment that we own, we are responsible for buying and supplying the diesel fuel needed to operate these vehicles. To the extent that these services are provided by independent contractors, we may be subject to fuel surcharges that attempt to recoup increased diesel fuel expenses. To the extent we are unable to pass along increased diesel fuel costs to our customers, our results of operations could be adversely affected.

***Diminished access to water may adversely affect our operations.***

The mining and processing activities in which we engage at a number of our facilities require significant amounts of water, and some of our facilities are located in areas that are water-constrained. We have obtained water rights that we currently use to service the activities on our various properties, and we plan to obtain all required water rights to service other properties we may develop or acquire in the future. However, the amount of water that we are entitled to use pursuant to our water rights must be determined by the appropriate regulatory authorities in the jurisdictions in which we operate. Such regulatory authorities may amend the regulations regarding such water rights, increase the cost of maintaining such water rights or eliminate our current water rights, and we may be unable to retain all or a portion of such water rights. For instance, there are proposed regulations reducing water rights per acre for the aquifer accessed by our Mill Creek, Oklahoma facility. These new regulations, which could also affect local municipalities and other industrial operations, could have a material adverse effect on our operating costs and effectiveness if implemented. Such changes in laws, regulations or government policy and related interpretations pertaining to water rights may alter the environment in which we do business, which may negatively affect our financial condition and results of operations.

Title to, and the area of, water rights may also be disputed, including by Native American tribes asserting historical water rights. A successful claim that we lack appropriate water rights on one or more of our properties could cause us to lose any rights to explore, develop and operate mines on that property. Any decrease or disruption in our water rights or available water supply as a result of any of the above factors may adversely affect our operations.

***The manufacture of resin-coated sand will be a new process for us, and failure to effectively integrate this new process with our existing processes could have a material adverse effect on our financial condition and results of operations.***

We are currently constructing a resin-coating facility in Rochelle, Illinois that will produce resin-coated sand, which is a higher-strength alternative to traditional frac sand and involves a manufacturing process with which we are relatively inexperienced. Commercialization of resin-coated sand involves capital expenditures, which we have begun to incur, and new operational requirements. If we are unable to secure adequate, cost-effective supply commitments for the raw materials associated with resin-coated sand or if we are unable to successfully and efficiently construct the needed additional manufacturing capacity and infrastructure to produce resin-coated sand, our ability to sell this product to the marketplace may be adversely impacted. In addition, there are attendant risks of market acceptance and product performance that could result in less demand than anticipated and our having excess capacity. A lack of sales of resin-coated sand could have a material adverse effect on our financial condition and results of operations.

***If we cannot successfully complete acquisitions or integrate acquired businesses, our growth may be limited and our financial condition may be adversely affected.***

Our business strategy includes supplementing internal growth by pursuing acquisitions of complementary businesses. Any acquisition involves potential risks, including, among other things:

- the validity of our assumptions about mineral reserves, future production, sales, capital expenditures, operating expenses and costs, including synergies;
- an inability to successfully integrate the businesses we acquire;
- the use of a significant portion of our available cash or borrowing capacity to finance acquisitions and the subsequent decrease in our liquidity;
- a significant increase in our interest expense or financial leverage if we incur additional debt to finance acquisitions;
- the assumption of unknown liabilities, losses or costs for which we are not indemnified or for which our indemnity is inadequate;
- the diversion of management's attention from other business concerns;
- an inability to hire, train or retain qualified personnel both to manage and to operate our growing business and assets;
- the incurrence of other significant charges, such as impairment of goodwill or other intangible assets, asset devaluation or restructuring charges;
- unforeseen difficulties encountered in operating in new geographic areas;
- customer or key employee losses at the acquired businesses; and
- the accuracy of data obtained from production reports and engineering studies, geophysical and geological analyses and other information used when deciding to acquire a property, the results of which are often inconclusive and subject to various interpretations.

If we cannot successfully complete acquisitions or integrate acquired businesses, our growth may be limited and our financial condition may be adversely affected.

***We will be required to make substantial capital expenditures to maintain, develop and increase our asset base. The inability to obtain needed capital or financing on satisfactory terms, or at all, could have an adverse effect on our growth and profitability.***

Although we currently use a significant amount of our cash reserves and cash generated from our operations to fund the maintenance and development of our existing mineral reserves and our acquisitions of new mineral reserves, we may depend on the availability of credit to fund future capital expenditures. Our ability to obtain bank financing or to access the capital markets for future equity or debt offerings may be limited by our financial condition at the time of any such financing or offering, the covenants contained in our existing credit facilities or future debt agreements, adverse market conditions or other contingencies and uncertainties that are beyond our control. Our failure to obtain the funds necessary to maintain, develop and increase our asset base could adversely impact our growth and profitability.

Even if we are able to obtain financing or access the capital markets, incurring additional debt may significantly increase our interest expense and financial leverage, and our level of indebtedness could restrict our ability to fund future development and acquisition activities. In addition, the issuance of additional common stock in an equity offering may result in significant stockholder dilution.

***Our substantial indebtedness and pension obligations could adversely affect our financial flexibility and our competitive position.***

We have, and we will continue to have, a significant amount of indebtedness. As of December 31, 2011, we had $261.8 million of outstanding indebtedness. Under our ABL facility, as of December 31, 2011, we had no outstanding borrowings, $9.8 million of outstanding letters of credit, $1.2 million reserved against derivative agreements and $24.0 million of borrowing availability. Our substantial level of indebtedness increases the risk that we may be unable to generate cash sufficient to pay amounts due in respect of our indebtedness. We also have, and will continue to have, significant pension obligations. As of December 31, 2011, our unfunded pension obligations totaled $25.5 million. Our substantial indebtedness and pension obligations could have other important consequences to you and significant effects on our business. For example, they could:

- increase our vulnerability to adverse changes in general economic, industry and competitive conditions;
- require us to dedicate a substantial portion of our cash flow from operations to make payments on our indebtedness and pension obligations, thereby reducing the availability of our cash flow to fund working capital, capital expenditures and other general corporate purposes;
- limit our flexibility in planning for, or reacting to, changes in our business and the industry in which we operate;
- restrict us from exploiting business opportunities;
- make it more difficult to satisfy our financial obligations, including payments on our indebtedness;
- place us at a disadvantage compared to our competitors that have less debt and pension obligations; and
- limit our ability to borrow additional funds for working capital, capital expenditures, acquisitions, debt service requirements, execution of our business strategy or other general corporate purposes.

***Our credit facilities contain certain restrictions and financial covenants that may restrict our business and financing activities.***

Our existing credit facilities contain, and any future financing agreements that we may enter into will likely contain, operating and financial restrictions and covenants that may restrict our ability to finance future operations or capital needs or to engage in, expand or pursue our business activities.

Our ability to comply with these restrictions and covenants is uncertain and will be affected by the levels of cash flow from our operations and events or circumstances beyond our control. If market or other economic conditions deteriorate, our ability to comply with these covenants may be impaired. If we violate any of the restrictions, covenants, ratios or tests in our credit facilities, a significant portion of our indebtedness may become immediately due and payable and our lenders' commitment to make further loans to us may terminate. We might not have, or be able to obtain, sufficient funds to make these accelerated payments. In addition, our obligations under our credit facilities are secured by substantially all of our assets, and if we are unable to repay our indebtedness under our credit facilities, the lenders could seek to foreclose on our assets. Our ABL Facility limits the amounts we can borrow to a borrowing base amount. Outstanding borrowings in excess of the borrowing base are required to be repaid immediately upon demand by the lender.

***We may incur substantial debt in the future to enable us to maintain or increase our production levels and to otherwise pursue our business plan. This debt may impair our ability to operate our business.***

Our business plan requires a significant amount of capital expenditures to maintain and grow our production levels. If commercial silica prices were to decline for an extended period of time, if the costs of our acquisition and development operations were to increase substantially or if other events were to occur which reduced our sales or increased our costs, we may be required to borrow significant amounts in the future to enable us to finance the expenditures necessary to replace the reserves we produce. The cost of the borrowings and our obligations to repay the borrowings could have important consequences to us, including:

- our ability to obtain additional financing, if necessary, for working capital, capital expenditures, acquisitions or other purposes may be impaired or such financing may not be available on favorable terms, or at all;
- covenants contained in our existing and future credit and debt arrangements will require us to meet financial tests that may affect our flexibility in planning for, and reacting to, changes in our business, including possible acquisition opportunities;
- we will need a substantial portion of our cash flow to make principal and interest payments on our indebtedness and to improve the funded status of our defined benefit pension plan, reducing the funds that would otherwise be available for operations and future business opportunities; and
- our debt level will make us more vulnerable than our less leveraged competitors to competitive pressures or a downturn in our business or the economy generally.

Our ability to service our indebtedness will depend on, among other things, our future financial and operating performance, which will be affected by prevailing economic conditions and financial, business, regulatory and other factors, some of which are beyond our control. If our operating results are not sufficient to service our current or future indebtedness, we will be forced to take actions such as reducing or delaying business activities, acquisitions, investments and/or capital expenditures; selling assets; restructuring or refinancing our indebtedness; or seeking additional equity capital or bankruptcy protection. We may not be able to effect any of these remedies on satisfactory terms or at all.

***Inaccuracies in our estimates of mineral reserves and resource deposits could result in lower than expected sales and higher than expected costs.***

We base our mineral reserve and resource estimates on engineering, economic and geological data assembled and analyzed by our engineers and geologists, which are reviewed by outside firms. However, commercial silica reserve estimates are necessarily imprecise and depend to some extent on statistical inferences drawn from available drilling data, which may prove unreliable. There are numerous uncertainties inherent in estimating quantities and qualities of commercial silica reserves and non-reserve commercial silica deposits and costs to mine recoverable reserves, including many factors beyond our control. Estimates of economically recoverable commercial silica reserves necessarily depend on a number of factors and assumptions, all of which may vary considerably from actual results, such as:

- geological and mining conditions and/or effects from prior mining that may not be fully identified by available data or that may differ from experience;
- assumptions concerning future prices of commercial silica products, operating costs, mining technology improvements, development costs and reclamation costs; and
- assumptions concerning future effects of regulation, including the issuance of required permits and taxes by governmental agencies.

Any inaccuracy in our estimates related to our mineral reserves and non-reserve mineral deposits could result in lower than expected sales and higher than expected costs.

***A shortage of skilled labor together with rising labor costs in the mining industry may further increase operating costs, which could adversely affect our results of operations.***

Efficient mining using modern techniques and equipment requires skilled laborers, preferably with several years of experience and proficiency in multiple mining tasks, including processing of mined minerals. If the shortage of experienced labor continues or worsens or if we are unable to train the necessary number of skilled laborers, there could be an adverse impact on our labor productivity and costs and our ability to expand production.

As a result of current market conditions and the high demand for skilled labor in certain regions in which we operate, we are experiencing a record level of labor costs, and we expect the cost of labor to increase in the future. If the prices for our products decrease in the future, labor costs may not be commensurately reduced.

***Our business may suffer if we lose, or are unable to attract and retain, key personnel.***

We depend to a large extent on the services of our senior management team and other key personnel, and we are seeking to hire several key management personnel in the near term. Members of our senior management and other key employees have extensive experience and expertise in evaluating and analyzing industrial mineral properties, maximizing production from such properties, marketing industrial mineral production and developing and executing financing and hedging strategies. Competition for management and key personnel is intense, and the pool of qualified candidates is limited. The loss of any of these individuals or the failure to attract additional personnel, as needed, could have a material adverse effect on our operations and could lead to higher labor costs or the use of less-qualified personnel. In addition, if any of our executives or other key employees were to join a competitor or form a competing company, we could lose customers, suppliers, know-how and key personnel. We do not maintain key-man life insurance with respect to any of our employees. Our success will be dependent on our ability to continue to attract, employ and retain highly skilled personnel.

***Our profitability could be negatively affected if we fail to maintain satisfactory labor relations.***

As of December 31, 2011, various labor unions represented approximately 56% of our employees. If we are unable to renegotiate acceptable collective bargaining agreements with these labor unions in the future, we could experience, among other things, strikes, work stoppages or other slowdowns by our workers and increased operating costs as a result of higher wages, health care costs or benefits paid to our employees. An inability to maintain good relations with our workforce could cause a material adverse effect on our business and results of operations.

***We rely upon trade secrets and contractual restrictions, and not patents, to protect our proprietary rights. Failure to protect our intellectual property rights may undermine our competitive position, and protecting our rights or defending against third-party allegations of infringement may be costly.***

Our commercial success depends on our proprietary information and technologies, know-how and other intellectual property. Because of the technical nature of our business, we rely on trade secrets, trademarks and contractual restrictions to protect our intellectual property rights and currently do not hold any patents related to our business. The measures we take to protect our trade secrets and other intellectual property rights may be insufficient. Failure to protect, monitor and control the use of our existing intellectual property rights could cause us to lose our competitive advantage and incur significant expenses. It is possible that our competitors or others could independently develop the same or similar technologies or otherwise obtain access to our unpatented technologies. In such case, our trade secrets would not prevent third parties from competing with us. As a result, our results of operations may be adversely affected. Furthermore, third parties or employees may infringe or misappropriate our proprietary technologies or other intellectual property rights, which could also harm our business and results of operations. Policing unauthorized use of intellectual property rights can be difficult and expensive, and adequate remedies may not be available.

In addition, third parties may claim that our products infringe or otherwise violate their patents or other proprietary rights and seek corresponding damages or injunctive relief. Defending ourselves against such claims, with or without merit, could be time-consuming and result in costly litigation. An adverse outcome in any such litigation could subject us to significant liability to third parties (potentially including treble damages) or temporary or permanent injunctions prohibiting the manufacture or sale of our products, the use of our technologies or the conduct of our business. Any adverse outcome could also require us to seek licenses from third parties (which may not be available on acceptable terms, or at all) or to make substantial one-time or ongoing royalty payments. Protracted litigation could also result in our customers or potential customers deferring or limiting their purchase or use of our products until resolution of such litigation. In addition, we may not have insurance coverage in connection with such litigation and may have to bear all costs arising from any such litigation to the extent we are unable to recover them from other parties. Any of these outcomes could have a material adverse effect on our business, financial condition, results of operations, cash flows and prospects.

***We may have to utilize significant cash to meet our unfunded pension obligations and post-retirement health care liabilities and these obligations are subject to increase.***

Many of our employees participate in our defined benefit pension plans. In 2011, we made payments totaling $11.0 million toward reducing the unfunded liability of our defined benefit pension plans. Declines in interest rates or the market values of the securities held by the plans, or other adverse changes, could materially increase the underfunded status of our plans and affect the level and timing of required cash contributions. To the extent we use cash to reduce these unfunded liabilities, the amount of cash available for our working capital needs would be reduced. In addition, under the Employee Retirement Income Security Act of 1974, as amended (“ERISA”), the Pension Benefit Guaranty Corporation (“PBGC”) has the authority to institute proceedings to terminate a pension plan if (1) the plan has not met the minimum funding requirements, (2) the plan cannot pay current benefits when due, (3) a lump sum payment has been made to a participant who is a substantial owner of the sponsoring company (and certain other technical conditions exist) or (4) the loss to the PBGC is reasonably expected to increase unreasonably over time if the plan is not terminated. In the event our tax-qualified pension plans are terminated by the PBGC, we could be liable to the PBGC for the underfunded amount, which could trigger default provisions in our credit facilities. As of December 31, 2011, our pension obligation was $100.1 million (with plan assets of $74.6 million). The amount of cash ultimately required to fund these obligations will vary based on a number of factors including future return on assets, mortality rates and other such actuarial assumptions. Based on current assumptions, we expect to pay $5.3 million in the year 2012, a total of $10.3 million for the two-year period from 2013 through 2014, a total of $5.3 million for the two-year period from 2015 through 2016 and a total of $0.6 million thereafter.

We also have a post-retirement health and life insurance plan for many of our employees. The post-retirement benefit plan is unfunded. We derive post-retirement benefit expense from an actuarial calculation based on the provisions of the plan and a number of assumptions provided by us including information about employee demographics, retirement age, future health care costs, turnover, mortality, discount rate, amount and timing of claims and a health care inflation trend rate. Our post-retirement healthcare obligations were $26.5 million as of December 31, 2011. Based on current assumptions, we expect to pay $1.4 million in the year 2012, a total of $3.1 million for the two-year period from 2013 through 2014, a total of $3.3 million for the two-year period from 2015 through 2016 and a total of $9.4 million thereafter. See “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Contractual Obligations.”

***Failure to maintain effective quality control systems at our mining, processing and production facilities could have a material adverse effect on our business and operations.***

The performance, quality and safety of our products are critical to the success of our business. These factors depend significantly on the effectiveness of our quality control systems, which, in turn, depends on a number of factors, including the design of our quality control systems, our quality-training program and our ability to ensure

that our employees adhere to the quality control policies and guidelines. Any significant failure or deterioration of our quality control systems could have a material adverse effect on our business, financial condition, results of operations and reputation.

***Seasonal and severe weather conditions could have a material adverse impact on our business.***

Our business could be materially adversely affected by weather conditions. Severe weather conditions may affect our customers' operations, thus reducing their need for our products. Weather conditions may impact our operations, resulting in weather-related damage to our facilities and equipment or an inability to deliver equipment, personnel and products to job sites in accordance with contract schedules. In addition, the EPA has stated that climate change may lead to the increased frequency and severity of extreme weather events. Any such interference with our operations could force us to delay or curtail services and potentially breach our contractual obligations or result in a loss of productivity and an increase in our operating costs.

***Our sales and profitability fluctuate on a seasonal basis and are affected by a variety of other factors.***

Our sales and profitability are affected by a variety of factors, including actions of competitors, changes in general economic conditions, weather conditions and seasonal periods. As a result, our results of operations fluctuate on a quarterly basis and relative to corresponding periods in prior years, and any of these factors could adversely affect our business and cause our results of operations to decline. For example, we sell more of our products in the second and third quarters in the building products and recreation end markets due to the seasonal rise in construction driven by more favorable weather conditions. We sell fewer of our products in the first and fourth quarters due to reduced construction and recreational activity largely as a result of adverse weather conditions. Any unanticipated decrease in demand for our products during the second and third quarters could have a material adverse effect on our sales and profitability.

***We may be subject to interruptions or failures in our information technology systems.***

We rely on sophisticated information technology systems and infrastructure to support our business, including process control technology. Any of these systems may be susceptible to outages due to fire, floods, power loss, telecommunications failures and similar events. The failure of any of our information technology systems may cause disruptions in our operations, which could adversely affect our sales and profitability.

***We rely on a different source for our 2010 industry and market data than for the same data in prior years. Neither the 2010 data nor the data prior to 2010 can be verified with certainty, and either the 2010 data or the data prior to 2010 may prove to be inaccurate.***

We have relied on the Minerals Yearbook produced by the USGS for our industry and market data for years prior to, and including 2010. While we believe the USGS industry and market data for industrial and other end markets, we continue to experience unprecedented demand for our frac sand products from producers of oil and natural gas in 2010, and based on our experience and results of operations in 2011, 2010 and 2009, we believe that our internal estimates of market demand for 2010, compiled through consultation with independent third parties, more accurately represent 2010 demand for commercial silica than the USGS reported figures within the 2010 USGS Minerals Yearbook. Neither the 2010 data nor the data prior to 2010 can be verified with certainty, and either the 2010 data or the data prior to 2010 may prove to be inaccurate.

In addition, certain of this industry data constitute forward-looking statements. We cannot guarantee the accuracy of such forward-looking statements, and you should be aware that results and events could differ materially and adversely from those contained in these forward-looking statements. See Item 1, "Business—Forward Looking Statements".

***A terrorist attack or armed conflict could harm our business.***

Terrorist activities, anti-terrorist efforts and other armed conflicts involving the United States could adversely affect the U.S. and global economies and could prevent us from meeting financial and other obligations. We could experience loss of business, delays or defaults in payments from payors or disruptions of fuel supplies and markets if pipelines, production facilities, processing plants or refineries are direct targets or indirect casualties of an act of terror or war. Such activities could reduce the overall demand for oil and natural gas, which, in turn, could also reduce the demand for our products and services. Terrorist activities and the threat of potential terrorist activities and any resulting economic downturn could adversely affect our results of operations, impair our ability to raise capital or otherwise adversely impact our ability to realize certain business strategies.

***If we fail to establish and maintain adequate internal controls over financial reporting, we may not be able to report our financial results in a timely and reliable manner, which could harm our business and impact the value of our common stock.***

We depend on our ability to produce accurate and timely financial statements in order to run our business. If we fail to do so, our business could be negatively affected and our independent registered public accounting firm may be unable to attest to the accuracy of our financial statements and effectiveness of our internal controls.

If we fail to maintain effective internal controls in the future, it could result in a material misstatement of our financial statements that would not be prevented or detected on a timely basis, which could cause investors to lose confidence in our financial information or cause our stock price to decline.

**Risks Related to Environmental, Mining and Other Regulation**

***We and our customers are subject to extensive environmental and health and safety regulations that impose, and will continue to impose, significant costs and liabilities. In addition, future regulations, or more stringent enforcement of existing regulations, could increase those costs and liabilities, which could adversely affect our results of operations.***

We are subject to a variety of federal, state and local regulatory environmental requirements affecting the mining and mineral processing industry, including among others, those relating to employee health and safety, environmental permitting and licensing, air and water emissions, greenhouse gas emissions, water pollution, waste management, remediation of soil and groundwater contamination, land use, reclamation and restoration of properties, hazardous materials and natural resources. These laws, regulations and permits have had, and will continue to have, a significant effect on our business. Some environmental laws impose substantial penalties for noncompliance, and others, such as the federal Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), impose strict, retroactive and joint and several liability for the remediation of releases of hazardous substances. Liability under CERCLA, or similar state and local laws, may be imposed as a result of conduct that was lawful at the time it occurred or for the conduct of, or conditions caused by, prior operators or other third parties. Failure to properly handle, transport, store or dispose of hazardous materials or otherwise conduct our operations in compliance with environmental laws could expose us to liability for governmental penalties, cleanup costs and civil or criminal liability associated with releases of such materials into the environment, damages to property or natural resources and other damages, as well as potentially impair our ability to conduct our operations. In addition, future environmental laws and regulations could restrict our ability to expand our facilities or extract our mineral deposits or could require us to acquire costly equipment or to incur other significant expenses in connection with our business. Future events, including changes in any environmental requirements (or their interpretation or enforcement) and the costs associated with complying with such requirements, could have a material adverse effect on us.

Any failure by us to comply with applicable environmental laws and regulations may cause governmental authorities to take actions that could adversely impact our operations and financial condition, including:

- issuance of administrative, civil and criminal penalties;
- denial, modification or revocation of permits or other authorizations;
- imposition of injunctive obligations or other limitations on our operations, including cessation of operations; and
- requirements to perform site investigatory, remedial or other corrective actions.

Moreover, environmental requirements, and the interpretation and enforcement thereof, change frequently and have tended to become more stringent over time. For example, greenhouse gas emission regulation is becoming more rigorous. We expect to be required to report annual greenhouse gas emissions from our operations to the EPA, and additional greenhouse gas emission related requirements at the supranational, federal, state, regional and local levels are in various stages of development. The U.S. Congress has considered, and may adopt in the future, various legislative proposals to address climate change, including a nationwide limit on greenhouse gas emissions. In addition, the EPA has issued regulations, including the "Tailoring Rule," that subject greenhouse gas emissions from certain stationary sources to the Prevention of Significant Deterioration and Title V provisions of the federal Clean Air Act. Any such regulations could require us to modify existing permits or obtain new permits, implement additional pollution control technology, curtail operations or increase significantly our operating costs. Any regulation of greenhouse gas emissions, including, for example, through a cap-and-trade system, technology mandate, emissions tax, reporting requirement or other program, could adversely affect our business, financial condition, reputation, operating performance and product demand.

In addition to environmental regulation, we are subject to laws and regulations relating to human exposure to crystalline silica. Several federal and state regulatory authorities, including the U.S. Mining Safety and Health Administration, may continue to propose changes in their regulations regarding workplace exposure to crystalline silica, such as permissible exposure limits and required controls and personal protective equipment. Both the North American Industrial Mining Association and the National Industrial Sand Association, both of which we are a member, track silicosis-related issues and aim to work with government policymakers in crafting such regulations.

We may not be able to comply with any new laws and regulations that are adopted, and any new laws and regulations could have a material adverse effect on our operating results by requiring us to modify our operations or equipment or shut down some or all of our plants. Additionally, our customers may not be able to comply with any new laws and regulations, and any new laws and regulations could have a material adverse effect on our customers by requiring them to shut down old plants or to relocate plants to locations with less stringent regulations farther away from our facilities. We cannot at this time reasonably estimate our costs of compliance or the timing of any costs associated with any new laws and regulations, or any material adverse effect that any new standards will have on our customers and, consequently, on our operations.

We are subject to various lawsuits relating to the actual or alleged exposure of persons to silica. See "—Risks Related to Our Business—Silica-related health issues and litigation could have a material adverse effect on our business, reputation or results of operations."

***We are subject to the Federal Mine Safety and Health Act of 1977, which imposes stringent health and safety standards on numerous aspects of our operations.***

Our operations are subject to the Federal Mine Safety and Health Act of 1977, as amended by the Mine Improvement and New Emergency Response Act of 2006, which imposes stringent health and safety standards on numerous aspects of mineral extraction and processing operations, including the training of personnel, operating procedures, operating equipment and other matters. Our failure to comply with such standards, or

changes in such standards or the interpretation or enforcement thereof, could have a material adverse effect on our business and financial condition or otherwise impose significant restrictions on our ability to conduct mineral extraction and processing operations.

***Silica-related health issues and litigation could have a material adverse effect on our business, reputation or results of operations.***

The inhalation of respirable crystalline silica is associated with the lung disease silicosis. There is recent evidence of an association between crystalline silica exposure or silicosis and lung cancer and a possible association with other diseases, including immune system disorders such as scleroderma. These health risks have been, and may continue to be, a significant issue confronting the commercial silica industry. Concerns over silicosis and other potential adverse health effects, as well as concerns regarding potential liability from the use of silica, may have the effect of discouraging our customers' use of our silica products. The actual or perceived health risks of mining, processing and handling silica could materially and adversely affect silica producers, including us, through reduced use of silica products, the threat of product liability or employee lawsuits, increased scrutiny by federal, state and local regulatory authorities of us and our customers or reduced financing sources available to the commercial silica industry.

Since at least 1975, we and/or our predecessors have been named as a defendant, usually among many defendants, in numerous products liability lawsuits brought by or on behalf of current or former employees of our customers alleging damages caused by silica exposure. As of December 31, 2011, we were the subject of approximately 105 active silica exposure claims, and, as of March 20, 2012, approximately 3,154 inactive claims. Almost all of the claims pending against us arise out of the alleged use of our silica products in foundries or as an abrasive blast media and have been filed in the states of Texas, Louisiana and Mississippi, although some cases have been brought in many other jurisdictions over the years.

We currently have certain limited sources of recovery for silica exposure claims to date, including an indemnity for those claims from a successor to our former owner and some insurance coverage. The indemnity covers only claims filed prior to 2005 for alleged exposure to our products only for the period prior to September 12, 1985 and contains other limitations. Existing and potential insurance coverage applies only to occurrences of alleged silica exposure prior to certain dates in 1985 and 1986, respectively. We have no insurance or indemnity for claims relating to silica exposure after these dates. Although the scope of coverage under certain insurance policies is currently being litigated, we believe, based on currently available information, they and the indemnity will remain in force. The silica-related litigation brought against us to date and associated litigation costs, settlements and verdicts have not resulted in a material liability to us to date. However, we continue to have silica exposure claims filed against us, including claims that allege silica exposure for periods not covered by insurance or an indemnity, and the costs, outcome and impact to us of any pending or future claims is not certain. Any such pending or future claims or inadequacies of our indemnity or insurance coverage could have a material adverse effect on our business, reputation, financial condition, results of operations, cash flows and prospects. For further information, see "Business—Legal Proceedings."

***We and our customers are subject to other extensive regulations, including licensing, plant and wildlife protection and reclamation regulation, that impose, and will continue to impose, significant costs and liabilities. In addition, future regulations, or more stringent enforcement of existing regulations, could increase those costs and liabilities, which could adversely affect our results of operations.***

In addition to the regulatory matters described above, we and our customers are subject to extensive governmental regulation on matters such as permitting and licensing requirements, plant and wildlife protection, wetlands protection, reclamation and restoration of mining properties after mining is completed, the discharge of materials into the environment and the effects that mining and hydraulic fracturing have on groundwater quality and availability. Our future success depends, among other things, on the quantity of our commercial silica and other mineral deposits and our ability to extract these deposits profitably, and our customers being able to operate their businesses as they currently do.

In order to obtain permits and renewals of permits in the future, we may be required to prepare and present data to governmental authorities pertaining to the impact that any proposed exploration or production activities may have on the environment. Certain approval procedures may require preparation of archaeological surveys, endangered species studies and other studies to assess the environmental impact of new sites or the expansion of existing sites. Compliance with these regulatory requirements is expensive and significantly lengthens the time needed to develop a site. Finally, obtaining or renewing required permits is sometimes delayed or prevented due to community opposition and other factors beyond our control. The denial of a permit essential to our operations or the imposition of conditions with which it is not practicable or feasible to comply could impair or prevent our ability to develop or expand a site. Significant opposition to a permit by neighboring property owners, members of the public or other third parties or delay in the environmental review and permitting process also could impair or delay our ability to develop or expand a site. New legal requirements, including those related to the protection of the environment, could be adopted that could materially adversely affect our mining operations (including our ability to extract mineral deposits), our cost structure or our customers' ability to use our commercial silica products. Such current or future regulations could have a material adverse effect on our business and we may not be able to obtain or renew permits in the future.

***Our inability to acquire, maintain or renew financial assurances related to the reclamation and restoration of mining property could have a material adverse effect on our business, financial condition and results of operations.***

We are generally obligated to restore property in accordance with regulatory standards and our approved reclamation plan after it has been mined. We are required under federal, state and local laws to maintain financial assurances, such as surety bonds, to secure such obligations. The inability to acquire, maintain or renew such assurances, as required by federal, state and local laws, could subject us to fines and penalties as well as the revocation of our operating permits. Such inability could result from a variety of factors, including:

- the lack of availability, higher expense or unreasonable terms of such financial assurances;
- the ability of current and future financial assurance counterparties to increase required collateral; and
- the exercise by financial assurance counterparties of any rights to refuse to renew the financial assurance instruments.

Our inability to acquire, maintain or renew necessary financial assurances related to the reclamation and restoration of mining property could have a material adverse effect on our business, financial condition and results of operations.

***Mine closures entail substantial costs, and if we close one or more of our mines sooner than anticipated, our results of operations may be adversely affected.***

We base our assumptions regarding the life of our mines on detailed studies that we perform from time to time, but our studies and assumptions do not always prove to be accurate. If we close any of our mines sooner than expected, sales will decline unless we are able to increase production at any of our other mines, which may not be possible. The closure of an open pit mine also involves significant fixed closure costs, including accelerated employment legacy costs, severance-related obligations, reclamation and other environmental costs and the costs of terminating long-term obligations, including energy contracts and equipment leases. We accrue for the costs of reclaiming open pits, stockpiles, tailings ponds, roads and other mining support areas over the estimated mining life of our property. If we were to reduce the estimated life of any of our mines, the fixed mine closure costs would be applied to a shorter period of production, which would increase production costs per ton produced and could materially and adversely affect our results of operations and financial condition.

Applicable statutes and regulations require that mining property be reclaimed following a mine closure in accordance with specified standards and an approved reclamation plan. The plan addresses matters such as removal of facilities and equipment, regrading, prevention of erosion and other forms of water pollution, re-vegetation and post-mining land use. We may be required to post a surety bond or other form of financial

assurance equal to the cost of reclamation as set forth in the approved reclamation plan. The establishment of the final mine closure reclamation liability is based on permit requirements and requires various estimates and assumptions, principally associated with reclamation costs and production levels. If our accruals for expected reclamation and other costs associated with mine closures for which we will be responsible were later determined to be insufficient, our business, results of operations and financial condition would be adversely affected.

**Risks Related to the Ownership of Our Common Stock**

***Our stock price could be volatile, and you may not be able to resell shares of your common stock at or above the price you paid.***

The stock market has and continues to experience extreme price and volume fluctuations that have often been unrelated or disproportionate to the operating performance of the underlying businesses. Given that we are a newly public company, these fluctuations may be even more pronounced in the trading market for our stock. In addition, many industries have experienced a period of significant disruption characterized by the bankruptcy, failure, collapse or sale of various companies, which led to increased volatility in securities prices and a significant level of intervention from the U.S. and other governments in securities markets. These broad market and industry factors may seriously harm the market price of our common stock, regardless of our actual operating performance.

In addition to the risks described in this section, the market price of our common stock may fluctuate significantly in response to a number of factors, most of which we cannot control, including:

- quarterly variations in our operating results compared to market expectations;
- announcements of acquisitions of or investments in other businesses and properties or dispositions;
- changes in preferences of our customers;
- announcements of new services or products or significant price reductions by us or our competitors;
- size of the public float;
- stock price performance of our competitors;
- fluctuations in stock market prices and volumes;
- default on our indebtedness or foreclosure on our properties;
- actions by competitors;
- changes in our management team or key personnel;
- changes in financial estimates by securities analysts;
- negative earnings or other announcements by us or other industrial companies;
- downgrades in our credit ratings or the credit ratings of our competitors;
- issuances capital stock; and
- global economic, legal and regulatory factors unrelated to our performance.

Numerous factors affect our business and cause variations in our operating results and affect our net sales, including overall economic trends, our ability to identify and respond effectively to customer preferences, actions by competitors, pricing, the level of customer service that we provide, changes in product mix or sales channels, our ability to source and distribute products effectively and weather conditions.

Volatility in the market price of our common stock may prevent investors from being able to sell their common stock at or above the price at which you purchased the stock. As a result, you may suffer a loss on your investment.

Securities class action litigation has often been instituted against companies following periods of volatility in the overall market and in the market price of a company's securities. This litigation, if instituted against us, could result in substantial costs, reduce our profits, divert our management's attention and resources and harm our business.

***An active public market for our common stock may not develop, which could limit your ability to sell your shares of our common stock at an attractive price, or at all.***

Prior to our initial public offering on January 31, 2012, there was no public market for our common stock. We cannot predict the extent to which investor interest in our company will lead to the development of an active trading market in our common stock or how liquid that market might become. An active public market for our common stock may not be sustained. If an active public market is not sustained, it may be difficult for you to sell your shares of common stock at a price that is attractive to you, or at all.

***We are a "controlled company," controlled by Golden Gate Capital, whose interests in our business may be different from yours.***

As of March 20, 2012, our parent LLC, which is controlled by Golden Gate Capital, owns approximately 41,176,471 shares, or 77.8%, of our outstanding common stock. Accordingly, our parent LLC is able to control virtually all matters requiring stockholder approval, including amendments to our certificate of incorporation and bylaws and approval of significant corporate transactions, including mergers and sales of substantially all of our assets. Additionally, we have entered into a director designation agreement that provides certain rights to our parent LLC, including with respect to director nominations.

Because of the equity ownership of our parent LLC, we are considered a "controlled company" for purposes of the New York Stock Exchange ("NYSE") listing requirements. As such, we are exempt from the NYSE corporate governance requirements that our board of directors meet the standard of independence established by those corporate governance requirements and are exempt from the requirements that we have separate compensation and nominating and corporate governance committees made up entirely of directors who meet such independence standards. The NYSE independence standards are intended to ensure that directors who meet the independence standards are free of any conflicting interest that could influence their actions as directors. It is possible that the interests of our parent LLC may in some circumstances conflict with our interests and the interests of our other stockholders, including you.

***Future sales of our common stock, or the perception in the public markets that these sales may occur, may depress our stock price.***

Sales of substantial amounts of our common stock in the public market or the perception that these sales could occur, could adversely affect the price of our common stock and could impair our ability to raise capital through the sale of additional shares. As of March 20, 2012, we have 52,941,176 shares of common stock outstanding, of which 11,764,705 shares were held by non-affiliates of the company. These shares of common stock are freely tradable without restriction under the Securities Act, except for any shares of our common stock that may be held or acquired by our directors, executive officers and other affiliates, as that term is defined in the Securities Act, which will be restricted or control shares under the Securities Act. Restricted or control shares may not be sold in the public market unless the sale is registered under the Securities Act or an exemption from registration is available.

In connection with our initial public offering on January 31, 2012, we, each of our officers and directors and the selling stockholder have agreed, subject to certain exceptions, with the underwriters not to dispose of or hedge any of the shares of common stock or securities convertible into or exchangeable for, or that represent the right to receive, shares of common stock during the period from the initial public offering continuing through the date 180 days after the date of the initial public offering, except with the prior written consent of the

representative of the underwriters, Morgan Stanley & Co. LLC. All of our shares of common stock outstanding as of the date of this Annual Report on Form 10-K may be sold in the public market by existing stockholders 180 days after the date of the initial public offering, subject to applicable limitations imposed under federal securities laws.

In the future, we may also issue our securities if we need to raise capital in connection with a capital raise or acquisition. The amount of shares of our common stock issued in connection with a capital raise or acquisition could constitute a material portion of our then outstanding shares of common stock.

***Anti-takeover provisions in our charter documents and Delaware law might discourage or delay acquisition attempts for us that you might consider favorable.***

Our certificate of incorporation and bylaws will contain provisions that may make the acquisition of our company more difficult without the approval of our board of directors. These provisions, which in some cases do not apply to our parent LLC until it holds less than 35% of our outstanding shares:

- authorize the issuance of undesignated preferred stock, the terms of which may be established and the shares of which may be issued without stockholder approval, and which may include super voting, special approval, dividend, or other rights or preferences superior to the rights of the holders of common stock;
- prohibit stockholder action by written consent, which requires all stockholder actions to be taken at a meeting of our stockholders;
- provide that the board of directors is expressly authorized to make, alter or repeal our bylaws; and
- establish advance notice requirements for nominations for elections to our board or for proposing matters that can be acted upon by stockholders at stockholder meetings.

Our certificate of incorporation also contains a provision that provides us with protections similar to Section 203 of the Delaware General Corporation Law (the “DGCL”), and will prevent us from engaging in a business combination with a person who acquires at least 15% of our common stock for a period of three years from the date such person acquired such common stock, except for our parent LLC (or its members) and, in certain instances, persons who purchase common stock from our parent LLC (or its members), and unless board or stockholder approval is obtained prior to the acquisition. These anti-takeover provisions and other provisions under Delaware law could discourage, delay or prevent a transaction involving a change in control of our company, even if doing so would benefit our stockholders. These provisions could also discourage proxy contests and make it more difficult for you and other stockholders to elect directors of your choosing and to cause us to take other corporate actions you desire.

***Our certificate of incorporation contains a provision renouncing our interest and expectancy in certain corporate opportunities.***

Our certificate of incorporation provides for the allocation of certain corporate opportunities between us and Golden Gate Capital. Under these provisions, neither Golden Gate Capital, its affiliates and subsidiaries, nor any of their officers, directors, agents, stockholders, members or partners will have any duty to refrain from engaging, directly or indirectly, in the same business activities or similar business activities or lines of business in which we operate. For instance, a director of our company who also serves as a director, officer or employee of Golden Gate Capital or any of its subsidiaries or affiliates may pursue certain acquisitions or other opportunities that may be complementary to our business and, as a result, such acquisition or other opportunities may not be available to us. These potential conflicts of interest could have a material adverse effect on our business, financial condition, results of operations or prospects if attractive corporate opportunities are allocated by Golden Gate Capital to itself or its subsidiaries or affiliates instead of to us.

***If securities or industry analysts do not publish research or publish inaccurate or unfavorable research about our business, our stock price and trading volume could decline.***

The trading market for our common stock will depend in part on the research and reports that securities or industry analysts publish about us or our business. We do not currently have and may never obtain research coverage by securities and industry analysts. If no securities or industry analysts commence coverage of our company, the trading price for our stock would be negatively impacted. If we obtain securities or industry analyst coverage and if one or more of the analysts who covers us downgrades our stock or publishes inaccurate or unfavorable research about our business, our stock price would likely decline. If one or more of these analysts ceases coverage of us or fails to publish reports on us regularly, demand for our stock could decrease, which could cause our stock price and trading volume to decline.

***We do not expect to pay any cash dividends for the foreseeable future.***

The continued operation and expansion of our business will require substantial funding. Accordingly, we do not anticipate that we will pay any cash dividends on shares of our common stock for the foreseeable future. Any determination to pay dividends in the future will be at the discretion of our board of directors and will depend on our results of operations and financial condition, contractual restrictions, restrictions imposed by applicable law and other factors our board of directors deems relevant. Additionally, we currently have limited restrictions from paying cash dividends by the agreements governing our indebtedness, and we expect these restrictions to continue in the future. Accordingly, realization of a gain on your investment will depend solely on the appreciation of the price of our common stock, which may never occur. Investors seeking cash dividends in the foreseeable future should not purchase our common stock.

***We incur increased costs as a result of becoming a public company.***

As a public company, we incur significant legal, accounting, insurance and other expenses, including costs associated with public company reporting requirements. We also have incurred and will incur costs associated with complying with the requirements of the Sarbanes-Oxley Act of 2002, the Dodd-Frank Act of 2010, and related rules implemented by the SEC and the NYSE. In particular, we are required to do the following:

- prepare and distribute periodic public reports and other stockholder communications in compliance with our obligations under the federal securities laws and NYSE rules;
- create or expand the roles and duties of our board of directors, our board committees and management;
- institute more comprehensive financial reporting and disclosure compliance functions;
- hire additional financial and accounting personnel and other experienced accounting and finance staff with the expertise to address the complex accounting matters applicable to public companies;
- enhance and formalize closing procedures at the end of our accounting periods;
- enhance our internal audit function;
- establish an investor relations function;
- establish new internal policies, such as those relating to disclosure controls and procedures and insider trading; and
- retain and involve to a greater degree outside counsel and accountants in the activities listed above.

The expenses incurred by public companies generally for reporting and corporate governance purposes have been increasing. We expect these rules and regulations to increase our legal and financial compliance costs and to make some activities more time-consuming and costly, although we are currently unable to estimate these costs with any degree of certainty.

These laws and regulations could also make it more difficult or costly for us to obtain certain types of insurance, including director and officer liability insurance, and we may be forced to accept reduced policy limits and coverage or incur substantially higher costs to obtain the same or similar coverage. These laws and regulations could also make it more difficult for us to attract and retain qualified persons to serve on our board of directors, our board committees or as our executive officers. Furthermore, if we are unable to satisfy our obligations as a public company, we could be subject to delisting of our common stock, fines, sanctions and other regulatory action and potentially civil litigation.

***We are obligated to develop and maintain proper and effective internal control over financial reporting. We may not complete our analysis of our internal control over financial reporting in a timely manner, or these internal controls may not be determined to be effective, which may adversely affect investor confidence in our company and, as a result, the value of our common stock.***

Pursuant to Section 404 of the Sarbanes-Oxley Act of 2002 and related rules and regulations and beginning with our Annual Report on Form 10-K for the year ending December 31, 2012, our management will be required to report on, and our independent registered public accounting firm to attest to, the effectiveness of our internal control over financial reporting. The rules governing the standards that must be met for management to assess our internal control over financial reporting are complex and require significant documentation, testing and possible remediation. This assessment will need to include disclosure of any material weaknesses identified by our management in our internal control over financial reporting, as well as a statement that our independent registered public accounting firm has issued an attestation report on effectiveness of our internal controls over financial reporting. We do not currently have comprehensive documentation of our internal controls, nor do we document or test our compliance with these controls on a periodic basis in accordance with Section 404. Furthermore, we have not tested our internal controls in accordance with Section 404 and, due to our lack of documentation, such a test would not be possible to perform at this time.

We are currently in the process of reviewing, documenting and testing our internal control over financial reporting. We may encounter problems or delays in completing the implementation of any changes necessary to make a favorable assessment of our internal control over financial reporting. In addition, in connection with the attestation process by our independent registered public accounting firm, we may encounter problems or delays in completing the implementation of any requested improvements and receiving a favorable attestation. If we cannot favorably assess the effectiveness of our internal control over financial reporting, or if our independent registered public accounting firm is unable to provide an unqualified attestation report on our internal controls, investors could lose confidence in our financial information and our stock price could decline.

In addition, we have incurred and will incur additional incremental costs and expect to devote substantial management effort in order to improve our internal control over financial reporting and comply with Section 404, including increased auditing and legal fees and costs associated with hiring additional accounting and financial staff with appropriate public company experience and technical accounting knowledge. These additional costs will increase our operating expenses and could impact our profitability.

## ITEM 1B. UNRESOLVED STAFF COMMENTS

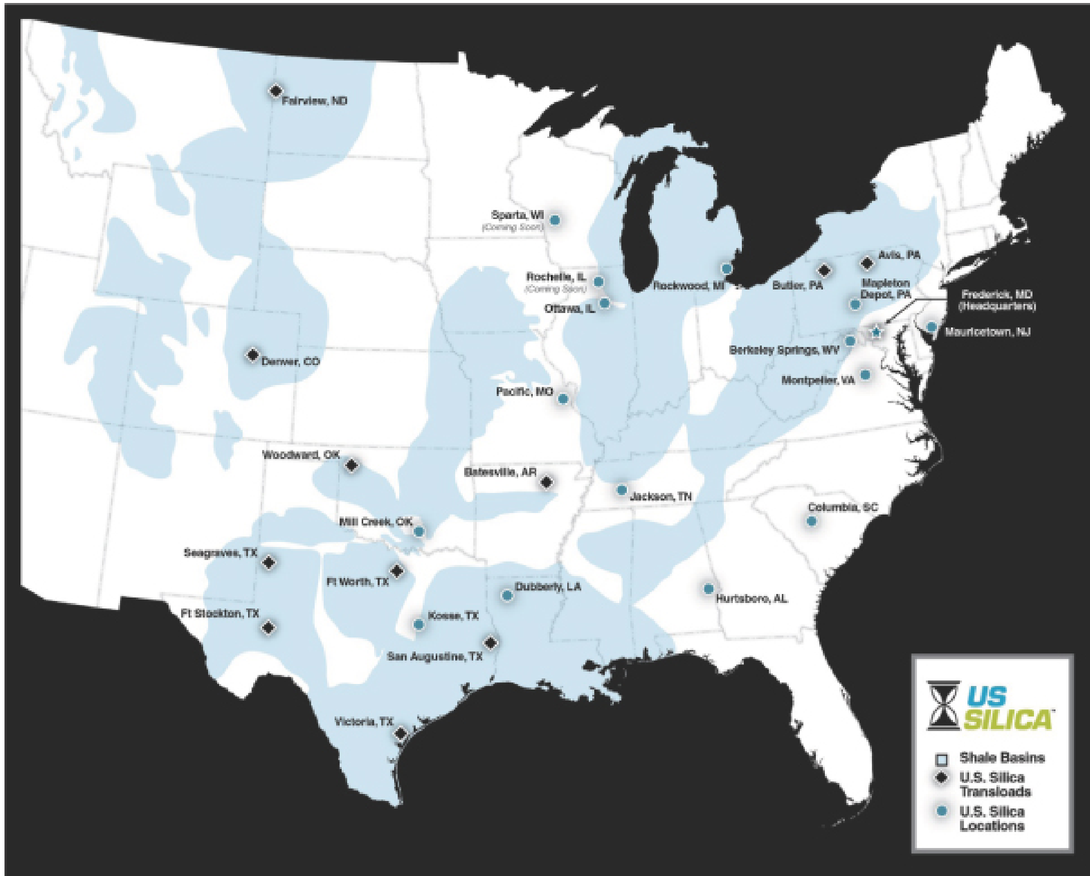
None.

## ITEM 2. PROPERTIES

Our corporate headquarters is located in Frederick, Maryland. In addition, we maintain corporate support centers and sales offices in Chicago, Illinois, Houston, Texas and Shanghai, China.

As of March 20, 2012, we operate 13 production facilities located primarily in the eastern half of the United States, with operations in Alabama, Illinois, Louisiana, Michigan, Missouri, New Jersey, Oklahoma, Pennsylvania, South Carolina, Tennessee, Texas, Virginia and West Virginia. We also own two undeveloped sites, one in Arkansas and another in Wisconsin, and are currently in the initial stages of building a new resin-coated sand facility on a site in Illinois which will have the capacity to coat 400 million pounds of sand annually. This facility is scheduled for completion and start-up in 2013.

Additionally, we operate a corporate laboratory located on-site at our Berkeley Springs, West Virginia facility that provides critical technical expertise, analytical testing resources and application development to promote product value and cost savings. The following map shows the locations of our facilities.




We generally own our principal production properties, although some land is leased. Substantially all of our owned assets are pledged as security under our Term Loan Facility; for additional information regarding our indebtedness, see Item 7, “Management’s Discussion and Analysis of Financial Condition and Results of Operations–Liquidity and Capital Resources”. Corporate offices, including sales locations are leased. In general,

we consider our facilities, taken as a whole, to be suitable and adequate for our current operations. However, we will continue to invest significant resources to increase production capacity through strategic initiatives, including Greenfield projects such as our acquisition of the land in Sparta, Wisconsin on December 30, 2011, and Brownfield expansion projects such as the potential expansion of capacity at our existing facilities, including our new resin-coating facility that we are currently constructing.

**Our Facilities**

The following is a detailed description of our 13 production facilities and our currently undeveloped sites in Batesville, Arkansas and Sparta, Wisconsin.

*Ottawa, Illinois*

Our surface mines in Ottawa use natural gas and electricity to produce whole grain and ground silica through a variety of mining methods, including hard rock mining, mechanical mining and hydraulic mining. The reserves are part of the St. Peter Sandstone deposit that stretches north-south from Minnesota to Missouri and east-west from Illinois to Nebraska and South Dakota. The facility is located approximately 80 miles southwest of Chicago and is accessible by major highways including U.S. Interstate 80.

We acquired the Ottawa facility in 1987 by merger with the Ottawa Silica Company, which had historically used the property to produce whole grain and ground silica for customers in industrial and specialty products end markets. Since acquiring the facility we have renovated and upgraded its production capabilities to enable it to produce multiple products through various processing methods, including washing, hydraulic sizing, grinding, screening and blending. These production techniques allow the Ottawa facility to meet a wide variety of focused specifications on product composition from customers. As such, the Ottawa facility services multiple end markets, such as glass, building products, foundry, fillers and extenders, chemicals and oil and gas proppants. In November 2009, we expanded the frac sand capacity of this facility by 500,000 tons. During the fourth quarter of 2011, we completed a follow-on expansion project that added an additional 900,000 tons of frac sand capacity. Once the product is appropriately processed, it is shipped either in bulk or packaged form by rail by either the CSX Corporation or the BNSF Railway Company (via the Illinois Railway short line), truck or barge through terminals located on the plant site and at a leased site approximately three miles from the plant.

*Mill Creek, Oklahoma*

Our surface mines in Mill Creek use natural gas and electricity to produce whole grain, ground and fine ground silica through a variety of mining methods, including hard rock and hydraulic mining. The reserves are part of the Oil Creek Formation in south central Oklahoma. The facility is located approximately 100 miles southeast of Oklahoma City and is accessible by major highways including U.S. Interstate 35.

We acquired the Mill Creek facility in 1987 by merger with the Pennsylvania Glass Sand Corporation, which had historically used the property to produce whole grain silica for customers in industrial and specialty products end markets. Since acquiring the facility we have renovated and upgraded its production capabilities to enable it to produce multiple products through various processing methods, including hydraulic sizing, fluid bed drying, grinding and scalping. These production techniques allow the Mill Creek facility to meet a wide variety of focused specifications on product composition from customers. As such, the Mill Creek facility services multiple end markets, such as glass, foundry, fillers and extenders, building products and oil and gas proppants. Once the product is appropriately processed, it is packaged in bulk and shipped either by rail by BNSF Railway Company or by truck.

*Pacific, Missouri*

Our surface mines at the Pacific facility use natural gas and electricity to produce whole grain, ground and fine ground silica through a variety of mining methods, including hard rock and hydraulic mining. The reserves

are part of the St. Peter Sandstone deposit that stretches north-south from Minnesota to Missouri and east-west from Illinois to Nebraska and South Dakota. The facility is located approximately 50 miles southwest of St. Louis and is accessible by major highways including U.S. Interstate 44.

We acquired the Pacific facility in 1987 by merger with the Pennsylvania Glass Sand Corporation, which had historically used the property to produce whole grain silica for customers in industrial and specialty products end markets. Since acquiring the facility we have renovated and upgraded its production capabilities to enable it to produce multiple products through various processing methods, including hydraulic sizing, fluid bed drying, grinding, dry screening, classifying and micro sizing. In August 2010, we expanded this facility's processing capabilities to include the processing of frac sand. These production techniques allow the Pacific facility to meet a wide variety of focused specifications on product composition from customers. As such, the Pacific facility services multiple end markets, such as glass, foundry, fillers and extenders and oil and gas proppants. Once the product is appropriately processed, it is packaged in bulk and shipped either by rail directly by Union Pacific Corporation and through open switching on the same line by BNSF Railway Company or by truck.

*Berkeley Springs, West Virginia*

Our surface mines at the Berkeley Springs facility use fuel oil and electricity to produce whole grain, ground and fine ground silica and florisil through hard rock mining. The reserves are part of the Oriskany Sandstone deposit along the Warm Springs Ridge in eastern West Virginia. The facility is located approximately 100 miles northwest of Baltimore and is accessible by major highways including U.S. Interstate 70.

We acquired the Berkeley Springs facility in 1987 by merger with the Pennsylvania Glass Sand Corporation, which had historically used the property to produce whole grain silica for customers in industrial and specialty products end markets. Since acquiring the facility we have renovated and upgraded its production capabilities to enable it to produce multiple products through various processing methods, including primary, secondary and tertiary crushing, grinding, flotation, de-watering, fluid bed drying, mechanical screening and rotary drying processing. These production techniques allow the Berkeley Springs facility to meet a wide variety of focused specifications from customers producing specialty epoxies, resins and polymers, geothermal energy equipment and fiberglass. As such, the Berkeley Springs facility services multiple end markets, such as glass, building products, foundry, chemicals and fillers and extenders. Once the product is appropriately processed, it is packaged in bulk and shipped by rail by the CSX Corporation or truck.

*Rockwood, Michigan*

Our surface mines at the Rockwood facility use natural gas and electricity to produce whole grain silica. The reserves are part of the Sylvania Formation and are notable for their low iron content, making them particularly valuable to customers producing specialty glass for architectural or alternative energy applications. The facility is located approximately 30 miles southwest of Detroit and is accessible by major highways including U.S. Interstate 75.

We acquired the Rockwood facility in 1987 by merger with the Ottawa Silica Company, which had historically used the property to produce whole grain and ground silica for customers in industrial and specialty products end markets. Since acquiring the facility we have renovated and upgraded its production capabilities to enable it to produce multiple products through various processing methods, including fluid bed drying, dry screening and classifying. These production techniques allow the Rockwood facility to meet a wide variety of focused specifications on product composition from customers. As such, the Rockwood facility services multiple end markets, such as glass, building products, oil and gas proppants and chemicals. During the fourth quarter of 2011, we completed the addition of 250,000 tons of annual frac sand capacity at the Rockwood facility by installing an entirely new processing circuit. Once the product is appropriately processed, it is packaged in bulk and shipped by rail by the Canadian National Railway or truck.

*Mapleton Depot, Pennsylvania*

Our surface mines in Mapleton Depot use natural gas, fuel oil and electricity to produce whole grain silica through hard rock mining. The reserves are part of the Oriskany Sandstone deposit in central Pennsylvania. The facility is located approximately 40 miles northwest of Harrisburg and is accessible by major highways including U.S. Interstates 99, 80 and 76.

We acquired the Mapleton Depot facility in 1987 by merger with the Pennsylvania Glass Sand Corporation, which had historically used the property to produce whole grain silica for customers in industrial and specialty products end markets. Since acquiring the facility, we have renovated and upgraded its production capabilities to enable it to produce multiple products through various processing methods, including hydraulic sizing, fluid bed drying, scalping and a low iron circuit. These production techniques allow the Mapleton Depot facility to meet a wide variety of focused specifications on product composition from customers. As such, the Mapleton Depot facility services multiple end markets, such as glass, specialty glass, building products and recreation. Once the product is appropriately processed, it is packaged in bulk and shipped either by rail by Norfolk Southern Corporation or by truck.

*Kosse, Texas*

Our surface mines in Kosse use natural gas and electricity to produce whole grain silica and kaolin clay through scraping mining. The reserves are part of the Simsboro member of the Rockdale Formation in central Texas. The facility is located approximately 90 miles south of Dallas and is accessible by major highways including U.S. Interstates 45 and 35.

We acquired the Kosse facility in 1987 by merger with the Ottawa Silica Company, which had historically used the property to produce whole grain silica and kaolin clay for customers in industrial and specialty products end markets. Since acquiring the facility, we have renovated and upgraded its production capabilities to enable it to produce multiple products through various processing methods, including washing, hydraulic sizing, fluid bed drying, dry screening, centrifuging and spray drying. These production techniques allow the Kosse facility to meet a wide variety of focused specifications on product composition from customers. As such, the Kosse facility services multiple end markets, such as glass, building products, fillers and extenders and recreation. Once the product is appropriately processed, it is packaged in bag or bulk and shipped either by rail by Union Pacific Railroad or by truck.

*Mauricetown, New Jersey*

Our surface mines near the Mauricetown facility use natural gas, fuel oil and electricity, to produce whole grain silica through dredge mining. The reserves are mined from the Maurice River and are similar to those found in the Cohansey, Bridgeton and Cape May deposits. The facility is located approximately 50 miles south of Philadelphia and is accessible by major highways including U.S. Interstate 295 and state Highway 55.

We acquired the Mauricetown facility in 1999 from Unimin Corporation, which had historically used the property to produce whole grain silica for customers in industrial and specialty products end markets. Since acquiring the facility, we have renovated and upgraded its production capabilities, including the construction of a new wet processing plant, to enable it to produce multiple products through various processing methods, including washing, hydraulic sizing, fluid bed drying, rotary drying and scalping. These production techniques allow the Mauricetown facility to meet a wide variety of focused specifications on product composition from customers. As such, the Mauricetown facility services multiple end markets, such as foundry, filtration, building products and recreation. Once the product is appropriately processed, it is packaged in bags or bulk and shipped either by rail by Winchester & Western Railroad or by truck.

*Columbia, South Carolina*

Our surface mines in Columbia use natural gas, fuel oil and electricity to produce whole grain, ground and fine ground silica through dune mining. The reserves are part of the Tuscaloosa Formation near central South Carolina. The facility is located approximately 10 miles west of Columbia and is accessible by major highways including U.S. Interstates 26 and 20.

We acquired the Columbia facility in 1987 by merger with the Pennsylvania Glass Sand Corporation, which had historically used the property to produce whole grain silica for customers in industrial and specialty products end markets. Since acquiring the facility, we have renovated and upgraded its production capabilities to enable it to produce multiple products through various processing methods, including hydraulic sizing, fluid bed drying, scalping and grinding. These production techniques allow the Columbia facility to meet a wide variety of focused specifications on product composition from customers. As such, the Columbia facility services multiple end markets, such as glass, building products, fillers and extenders, filtration and oil and gas proppants. Once the product is appropriately processed, it is bagged or shipped in bulk either by rail by Norfolk Southern Corporation or by truck.

*Montpelier, Virginia*

Our surface mines in Montpelier use natural gas, fuel oil and electricity to produce mineral aplite through hard rock mining. The reserves are part of igneous rock deposits that are unique to this location. The facility is located approximately 20 miles northwest of Richmond and is accessible by major highways including U.S. Interstates 64 and 95.

We acquired the Montpelier facility in 1993 from The Feldspar Company, which had historically used the property to produce mineral aplite for customers in industrial and specialty products end markets. Since acquiring the facility, we have renovated and upgraded its production capabilities to enable it to produce multiple products through various processing methods, including hydraulic crushing and sizing, washing, fluid bed drying and grinding. These production techniques allow the Montpelier facility to meet a wide variety of focused specifications on product composition from customers. As such, the Montpelier facility services multiple end markets, such as glass, building products and recreation. Once the product is appropriately processed, it is packaged in bulk and shipped either by rail by Norfolk Southern Corporation or CSX Corporation or by truck.

*Jackson, Tennessee*

Our surface mines in Jackson use natural gas and electricity to produce whole grain, ground and fine ground silica through dredge mining. The reserves are part of the Clairborne Formation, which is part of the Gulf Coastal Plain-Upper Mississippi Embayment. The facility is located approximately 75 miles northeast of Memphis and is accessible by major highways including U.S. Interstate 40.

We acquired the Jackson facility in 1997 from Nicks Silica Company, which had historically used the property to produce whole grain and ground silica for customers in industrial and specialty products end markets. Since acquiring the facility, we have renovated and upgraded its production capabilities, turning it into one of our premier grinding facilities and enabling it to produce multiple products through various processing methods, including rotary drying, screening and grinding.

These production techniques allow the Jackson facility to meet a wide variety of focused specifications on product composition from customers. As such, the Jackson facility services multiple end markets, such as fiberglass, building products, ceramics, fillers and extenders and recreation. Once the product is appropriately processed, it is shipped in bulk by truck.

*Dubberly, Louisiana*

Our surface mines in Dubberly use natural gas and electricity to produce whole grain silica through dredge mining. The reserves are part of the Sparta deposit. The facility is located approximately 30 miles east of Shreveport and is accessible by major highways including U.S. Interstate 20 and state Highway 63.

We acquired the Dubberly facility in 1987 by merger with the Ottawa Silica Company, which had historically used the property to produce whole grain silica for customers in industrial and specialty products end markets. Since acquiring the facility, we have renovated and upgraded its production capabilities to enable it to produce multiple products through various processing methods, including screening, washing, rotary drying and conditioning to remove heavy and iron bearing minerals. These production techniques allow the Dubberly facility to meet a wide variety of focused specifications on product composition from customers. As such, the Dubberly facility services multiple end markets, such as glass, foundry and building products. Once the product is appropriately processed, it is bagged or shipped in bulk by truck.

*Hurtsboro, Alabama*

Our surface mines in Hurtsboro use propane and electricity, to produce whole grain silica. Sand feed for processing is trucked in from surrounding mine locations. The reserves are part of the Cusseta member of the lower Ripley deposit. The facility is located approximately 75 miles east of Montgomery and is accessible by major highways including U.S. Interstate 85 and state Highway 431.

We acquired the Hurtsboro facility in 1988 from Warrior Sand & Gravel Company, which had historically used the property to produce whole grain silica for customers in industrial and specialty products end markets. Since acquiring the facility, we have renovated and upgraded its production capabilities to enable it to produce multiple products through various processing methods, including trucking in sand from surrounding locations, hydraulic sizing, screening and fluid bed drying. These production techniques allow the Hurtsboro facility to meet a wide variety of focused specifications on product composition from customers. As such, the Hurtsboro facility services multiple end markets, such as foundry, building products and recreation. Once the product is appropriately processed, it is shipped in bulk by truck.

*Batesville, Arkansas*

Whitebuck is a sandstone deposit with over 34 million tons of probable reserves near the town of Batesville, Arkansas. We acquired the reserves in 2010 from White Buck, LLC. There is no facility on the property and it is not currently permitted. We have submitted an application for a mine permit and are awaiting a response from the issuing agency. The deposit has high purity sandstone and can provide a long-term supplement to the reserves at our Mill Creek operations. The reserves are part of the St. Peter Sandstone deposit, which is part of the same formation being mined at our Ottawa and Pacific operations. The property is located approximately 85 miles northeast of Little Rock and is accessible by highways including state Highways 67 and 167.

*Sparta, Wisconsin*

On December 30, 2011, we acquired the deposit in Sparta from Sharon Wagman, following the receipt of a conditional use permit on December 9, 2011 for the development of a new mining and production facility. Sparta City Council reaffirmed this permit on January 3, 2012 after an appeals review. There is currently no facility on the property; however, our board of directors has approved $10.0 million in spending for initial site development, engineering and the procurement of certain equipment and materials that have long lead times. We are currently in the engineering and design phase of the facility and the ultimate production capacity and process flow are yet to be finalized. In January 2012, we acquired an additional 80 acres of land adjacent to the existing location for buffer use and plant and rail infrastructure needs. The deposit is a high purity reworked Van Oser member of the Jordan sandstone with over 38 million tons of proven reserves and provides a supplement to the frac sand reserves at our Ottawa operations. The Jordan sandstone is known for its round grains and superior crush strength properties. The property is located approximately 30 miles northeast of La Crosse, Wisconsin, approximately 120 miles northwest of Madison and is accessible by highways including Interstate 90 and the CP railroad.

**Our Reserves**

We believe we have a broad and high-quality mineral reserves base due to our strategically located mines and facilities. "Reserves" are defined by SEC Industry Guide 7 as that part of a mineral deposit which could be economically and legally extracted or produced at the time of the reserve determination. Industry Guide 7 divides reserves between "proven (measured) reserves" and "probable (indicated) reserves" which are defined as follows:

- *Proven (measured) reserves.* Reserves for which (1) quantity is computed from dimensions revealed in outcrops, trenches, workings or drill holes; grade and/or quality are computed from the results of detailed sampling and (2) the sites for inspection, sampling and measurement are spaced so closely and the geologic character is so well defined that size, shape, depth and mineral content of reserves are well-established.
- *Probable (indicated) reserves.* Reserves for which quantity and grade and/or quality are computed from information similar to that used for proven (measured) reserves, but the sites for inspection, sampling, and measurement are farther apart or are otherwise less adequately spaced. The degree of assurance, although lower than that for proven (measured) reserves, is high enough to assume continuity between points of observation.

We categorize our reserves as proven or probable in accordance with these SEC definitions. We estimate that we had a total of approximately 316 million tons of proven and probable recoverable mineral reserves as of December 31, 2011. The quantity and nature of the mineral reserves at each of our properties are estimated by our internal geologists and mining engineers. Our internal geologists and engineers update our reserve estimates annually, making necessary adjustments for operations at each location during the year and additions or reductions due to property acquisitions and dispositions, quality adjustments and mine plan updates. We review these estimates on a periodic basis with an independent third party to assure their reasonableness. Before acquiring new reserves, we perform surveying, drill core analysis and other tests to confirm the quantity and quality of the acquired reserves. In some instances, we acquire the mineral rights to reserves without actually taking ownership of the properties.

***Description of Deposits***

The following is a description of the nature of our silica and aplite deposits for each of our reserve locations:

*Ottawa, Illinois*

The deposit has a minimum silica (SiO2) content of 99%. The controlling attributes are iron (Fe2O3) content and grain size distribution. Iron is concentrated near the surface, where orange iron staining is evident and also increases where the bottom contact becomes concentrated in iron pyrite. Maximum average full face iron content is 0.045%. The deposit tends to run a coarser grain size distribution in top half of deposit.

*Mill Creek, Oklahoma*

The deposit has a minimum silica (SiO2) content of 99%. The controlling attributes are iron (Fe2O3) content, calcium (CaO) and grain size distribution. Multiple faces are exposed to average out variability in grain size and iron. The sand/overburden contact is occasionally concentrated in CaO, and any sand with greater than 0.30% CaO is removed during the overburden removal process. Sand with iron greater than 0.025% is not mined.

*Pacific, Missouri*

The deposit has a minimum silica (SiO2) content of 99%. The controlling attributes are iron (Fe2O3) and calcium (CaO). Calcium can be concentrated at upper sand contact with overlying carbonate cap rock. This enriched calcium zone is known from drill sample results and is stripped during the overburden removal process. Average full mining face washed sand samples are less than 0.03% iron and 0.05% calcium.

*Berkeley Springs, West Virginia*

The deposit has a minimum silica (SiO2) content of 99%. The controlling attribute is iron (Fe2O3). Ore that is higher than 0.06% iron is not mined. Ore less than 0.06% iron is mined and blended for feed to plant.

*Mapleton Depot, Pennsylvania*

The deposit has a minimum silica (SiO2) content of 99%. The controlling attribute is iron (Fe2O3). Ore that is higher than 0.06% iron is not mined. Ore less than 0.06% iron is mined and blended for feed to plant.

*Kosse, Texas*

The deposit has a minimum silica (SiO2) content of 99%. The controlling attributes are iron content (Fe2O3) for kaolin and sand and size distribution for sand. Up to three different pits are mined at any one time to assure consistency of ore and to smooth out variability of attributes. Maximum sand irons are 0.045% and clay irons are 1.05%.

*Mauricetown, New Jersey*

The deposit has a minimum silica (SiO2) content of 99%. There is no critical attribute in the mining of this deposit other than that occasional zones high in clay are avoided in the course of dredge mining.

*Columbia, South Carolina*

The deposit has a minimum silica (SiO2) content of 99%. The controlling attributes are iron content (Fe2O3) and percentage of clay/slimes. Clay content increases at depth and generally the pit bottom follows a marker bed at 250-foot elevation where clay content is in excess of 11%. Sand having iron values greater than 0.03% are avoided and not mined.

*Montpelier, Virginia*

Montpelier produces alumina sands (aplite) from an andesine anorthosite, which intruded into the Sabot Gneiss, a Precambrian amphibolite. The ore body is characterized as a dome-like structure and comprised of two general phases: a coarse-grained, non-foliated phase and a granulated, medium-grained, foliated phase.

The deposit is variable in its geologic nature and contains masses of host rock (consisting of granite gneiss, biotite gneiss and amphibolites) along with occasional dikes. The deposit is highly weathered and soft near the surface. Hardness and strength increase with depth.

Aplite is used as a flux agent in glass making and is sold to the same glass end markets and used in the same processes and in a similar manner as our silica product.

Aplite ore (Andesine Feldspar) deposit is intermixed with an assemblage of other minerals that must be separated out to make an acceptable product. The controlling attributes are titanium (TiO2), aluminum (AI2O3), iron (Fe2O3) and phosphorous (P2O5). Ore is blended from multiple faces to produce a product generally at 21% AI2O3, 0.25% Fe2O3, 0.11% TiO2, and 0.55% P2O5.

*Rockwood, Michigan*

The deposit has a minimum silica (SiO2) content of 99%. The controlling attribute is iron content (Fe2O3). Mineable sand must have less than 0.01% Fe2O3.

*Jackson, Tennessee*

The deposit has a minimum silica (SiO2) content of 99%. The controlling attribute of iron (Fe2O3) content is managed through keeping clay overburden from intermixing with the sand and maintaining adequate washing of sand in the wet processing of the sand.

*Dubberly, Louisiana*

The deposit has a minimum silica ($SiO_2$) content of 99%. The controlling attributes are iron ($Fe_2O_3$) content and grain size distribution. Mining full-face average for iron is 0.045%. The grain size distribution averages greater than 25% plus 50 mesh. Fine and coarse areas are blended to meet the grain size average.

*Hurtsboro, Alabama*

The deposit has a minimum silica ($SiO_2$) content of 99%. The controlling attribute is grain size distribution. Sand reserves are located on the crests of rolling hills and mining occurs from multiple pits and faces within pits to assure optimum grain size distribution is available to meet the market product mix.

*Batesville, Arkansas*

The deposit has a minimum silica ($SiO_2$) content of 99%. The controlling attribute is iron ($Fe_2O_3$) content. Deposit has two horizons; a low iron horizon where sand has less than 0.009% $Fe_2O_3$ and a regular iron horizon where sand has greater than 0.009% $Fe_2O_3$.

*Sparta, Wisconsin*

The deposit has a minimum silica ($SiO_2$) content of 99%. The controlling attributes are sand grain crush strength and size distribution. A thin layer of silt overlies the deposit that ranges between 50 to 100 feet thick. The deposit is unconsolidated, well sorted and falls predominantly within the 20/70 grain size distribution.

***Mineral Rights***

The mineral rights and access to mineral reserves for the majority of our operations are secured through land that is owned in fee. There are no underlying agreements and/or royalties associated with these lands. The operations in this category include: Berkeley Springs, Dubberly, Jackson, Kosse, Mauricetown, Montpelier, Ottawa, Pacific, Batesville, Rockwood and Sparta.

The mineral rights and access to mineral reserves at our Mill Creek operation are a combination of land owned in fee that includes a non-participating royalty payment of $0.11 per saleable ton that was contractually negotiated with and paid to the original sellers of the property that covers 95% of the reserves and a lease agreement on one property that involves an annual minimum payment of $50,000 and a production royalty payment of $0.55 per saleable ton on the remaining 5% of reserves.

The Columbia operation mineral reserves and rights are secured under a long-term mineral lease. The lease expires in 2033 and includes an annual minimum payment of $175,000 and a production royalty of 5.5% of the gross revenue.

The Hurtsboro operation mineral reserves and rights are secured under two mineral leases. The majority of the reserves are under a long-term lease that expires in 2019 and includes an annual minimum payment of $8,000 and a production royalty payment of 3% of weighted average selling price. The second mineral lease expires in 2013 and includes an annual minimum payment of $15,000 and a production royalty of 3% of the weighted average selling price. All reserves will be mined from the property prior to the expiration of lease in 2013. The mineral lease that expires in 2019 has been renewed in the past, and it is expected that if mining is still occurring on this property we will have no problem negotiating an extension of this lease.

The Mapleton Depot operation mineral reserves and rights are secured under two long-term mineral leases that expire in 2025 but may continue thereafter on a year-to-year basis if mining is still occurring. Annual minimums are $1,000, and production royalty payments are either 6.5% of free on board pit price or 0.255 cents per mined ton, whichever is higher.

None of our operations are on government land and, accordingly, we do not have any mineral rights or associated mining claims.

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*Summary of Reserves*

The following table provides information on each of our 13 production facilities and currently undeveloped sites in Batesville, Arkansas, and Sparta, Wisconsin, as of December 31, 2011. Included is the location and area of the facility; the type, amount and ownership status of its reserves; and the primary end markets that it serves.

| Mine/Plant Location | Owned/ Leased | Area | Proven Reserves | Probable Reserves | Combined Proven and Probable Reserves | 2011 Production | Primary End Markets Served |
|---|---|---|---|---|---|---|---|
| | | (in acres) | (amounts in thousands) | | | | |
| Ottawa, IL | Owned | 1,781 owned | 77,312 | 40,800 | 118,112 | 2,171 | Oil and gas proppants, glass, chemicals and foundry |
| Mill Creek, OK | Owned | 2,214 owned<br>15 mineral lease | — | 20,516 | 20,516 | 1,081 | Oil and gas proppants, glass, foundry and building products |
| Pacific, MO | Owned | 524 owned | 17,094 | 7,994 | 25,088 | 426 | Oil gas proppants, glass, foundry and fillers and extenders |
| Berkeley Springs, WV | Owned | 4,435 owned | 3,404 | — | 3,404 | 286 | Glass, building products and fillers and extenders |
| Mapleton Depot, PA | Owned/ Leased | 1,761 owned<br>194 mineral lease<br>98 access lease | 6,006 | 10,000 | 16,006 | 632 | Glass and building products |
| Kosse, TX (1) | Owned | 960 owned<br>118 mineral lease | 12,674 | — | 12,674 | 234 | Glass, building products and fillers and extenders |
| Mauricetown, NJ | Owned | 1,279 owned | 3,058 | 9,750 | 12,808 | 218 | Filtration, foundry and building products |
| Columbia, SC | Leased | 648 lease<br>204 owned | 5,520 | 1,680 | 7,200 | 360 | Glass, building products and fillers and extenders |
| Montpelier, VA (2) | Owned | 824 owned | — | 14,454 | 14,454 | 153 | Glass and building products |
| Rockwood, MI (3) | Owned | 847 owned | 5,563 | — | 5,563 | 270 | Glass and building products |
| Jackson, TN | Owned | 132 owned | 714 | 725 | 1,439 | 133 | Fiberglass and building products |
| Dubberly, LA | Owned | 356 owned<br>25 tailings lease | 4,683 | — | 4,683 | 153 | Glass, foundry and building products |
| Batesville, AR | Owned | 477 owned | — | 34,732 | 34,732 | — | — |
| Hurtsboro, AL | Leased | 117 owned<br>1,108 mineral lease | 1,402 | — | 1,402 | 143 | Foundry and building products |
| Sparta, WI (4) | Owned | 440 owned | 38,394 | — | 38,394 | — | Oil and gas proppants |
| Total | | | 175,824 | 140,651 | 316,475 | 6,260 | |

(1) Kosse's reserves are comprised of 8,872 tons of silica sand (70.0%) and 3,802 tons of kaolin clay (30.0%).

(2) Montpelier's reserves are comprised entirely of the mineral aplite.

(3) On November 14, 2011, we acquired 17 acres of land adjacent to the existing production facility in Rockwood, MI with an estimated 1,000 tons of proven reserves. In February 2012, we acquired an additional 25 acres of land adjacent to the existing facility with 1,000 tons of additional proven reserves.

(4) On December 30, 2011, we acquired 440 acres of land with in Sparta, WI with an estimated 38,394 tons of proven reserves. In January 2012, we acquired an additional 80 acres of land adjacent to the existing location for buffer use and plant and rail infrastructure needs.

## ITEM 3. LEGAL PROCEEDINGS

In addition to the matter described below, we are subject to various legal proceedings, claims, and governmental inspections, audits or investigations arising out of our business which cover matters such as general commercial, governmental regulations, antitrust and trade regulations, product liability, environmental, intellectual property, employment and other actions. Although the outcomes of these routine claims cannot be predicted with certainty, in the opinion of management, the ultimate resolution of these matters will not have a material adverse effect on our financial position or results of operations.

Prolonged inhalation of excessive levels of respirable crystalline silica dust can result in silicosis, a disease of the lungs. Breathing large amounts of respirable silica dust over time may injure a person’s lungs by causing scar tissue to form. Crystalline silica in the form of quartz is a basic component of soil, sand, granite and most other types of rock. Cutting, breaking, crushing, drilling, grinding and abrasive blasting of or with crystalline silica containing materials can produce fine silica dust, the inhalation of which may cause silicosis, lung cancer and possibly other diseases including immune system disorders such as scleroderma. Sources of exposure to respirable crystalline silica dust include sandblasting, foundry manufacturing, crushing and drilling of rock, masonry and concrete work, mining and tunneling, and cement and asphalt pavement manufacturing.

Since at least 1975, we and/or our predecessors have been named as a defendant, usually among many defendants, in numerous lawsuits brought by or on behalf of current or former employees of our customers alleging damages caused by silica exposure. Prior to 2001, the number of silicosis lawsuits filed annually against the commercial silica industry remained relatively stable and was generally below 100, but between 2001 and 2004 the number of silicosis lawsuits filed against the commercial silica industry substantially increased. This increase led to greater scrutiny of the nature of the claims filed, and in June 2005 the U.S. District Court for the Southern District of Texas issued an opinion in the former federal silica multi-district litigation remanding almost all of the 10,000 cases then pending in the multi-district litigation back to the state courts from which they originated for further review and medical qualification, leading to a number of silicosis case dismissals across the United States. In conjunction with this and other favorable court rulings establishing “sophisticated user” and “no duty to warn” defenses for silica producers, several states, including Texas, Ohio and Florida, have passed medical criteria legislation that requires proof of actual impairment before a lawsuit can be filed.

As a result of the above developments, the filing rate of new claims against us over the past three years has decreased to below pre-2001 levels, and we were named as a defendant in two, ten and three new silicosis cases filed in 2009, 2010 and 2011, respectively. As of December 31, 2011, there were a total of approximately 105 active silica-related products liability claims pending in which we were a defendant, and, as of March 20, 2012, approximately 3,154 inactive claims. Almost all of the claims pending against us arise out of the alleged use of our silica products in foundries or as an abrasive blast media, and involve various other defendants. We have insurance policies and an indemnity from a former owner that cover certain claims for alleged silica exposure for periods prior to certain dates in 1985 (with respect to the indemnity and certain insurance) and 1986 (with respect to the balance of the insurance). Although the scope of coverage under those policies is currently being litigated, we believe, based on currently available information, they and the indemnity will remain in force.

The silica-related litigation brought against us to date has not resulted in material liability to us. However, we continue to have silica-related products liability claims filed against us, including claims that allege silica exposure for periods for which we have neither insurance nor indemnity coverage. Any such pending or future claims or inadequacies of our insurance coverage or indemnity could have a material adverse effect on our business, reputation or results of operations. For more information regarding silica-related litigation, see “Risk Factors—Risks Related to Our Business—Silica-related health issues and litigation could have a material adverse effect on our business, reputation or results of operations.”

## ITEM 4. MINE SAFETY DISCLOSURES

At U.S. Silica, safety is a core value and we strive for excellence in the achievement of a workplace free of injuries and occupational illnesses. Our health and safety leadership team has developed comprehensive safety policies and standards, which include detailed standards and procedures for safe production, addresses topics such as employee training, risk management, workplace inspection, emergency response, accident investigation and program auditing. We place special emphasis on the importance of continuous improvement in occupational health, personal injury avoidance and prevention, emergency preparedness, and property damage elimination. In addition to strong leadership and involvement from all levels of the organization, these programs and procedures form the cornerstone of safety at U.S. Silica, ensuring that employees are provided a safe and healthy environment and are intended as a means to reduce workplace accidents, incidents and losses, comply with all mining-related regulations and provide support for both regulators and the industry to improve mine safety. While we want to have productive operations in full regulatory compliance, we know it is equally essential that we motivate and train our people to think, practice and feel a personal responsibility for health and safety on and off the job.

All of our production facilities are classified as mines and are subject to regulation by the Federal Mine Safety and Health Administration (“MSHA”) under the Federal Mine Safety and Health Act of 1977 (the “Mine Act”). MSHA inspects our mines on a regular basis and issues various citations and orders when it believes a violation has occurred under the Mine Act. Following passage of The Mine Improvement and New Emergency Response Act of 2006, MSHA significantly increased the numbers of citations and orders charged against mining operations. The dollar penalties assessed for citations issued has also increased in recent years. Information concerning mine safety violations or other regulatory matters required by Section 1503(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act and Item 104 of Regulation S-K (17 CFR 229.104) is included in Exhibit 95.1 to this Annual Report filed on Form 10-K.

## PART II

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

### Market Information

Shares of our common stock, traded under the symbol "SLCA", have been publicly traded since February 1, 2012, when our common stock was listed and began trading on the NYSE. Accordingly, no market for our stock existed prior to February 1, 2012.

### Holders of Record

As of March 20, 2012, there were approximately 2,871 stockholders of record of our common stock. Because many of our shares of common stock are held by brokers and other institutions on behalf of stockholders, we are unable to estimate the total number of stockholders represented by these record holders. For additional information related to ownership of our stock by certain beneficial owners and management, refer to Item 12, "Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters."

### Dividend Policy

We anticipate that we will retain all of our future earnings for use in the development and expansion of our business and for general corporate purposes. Any determination to pay dividends and other distributions in cash, stock, or property by U.S. Silica in the future will be at the discretion of our Board of Directors and will be dependent on then-existing conditions, including our business conditions, our financial condition, results of operations, liquidity, capital requirements, contractual restrictions including restrictive covenants contained in debt agreement, and other factors. Additionally, because we are a holding company, our ability to pay dividends on our common stock is limited by restrictions on the ability of our subsidiaries to pay dividends or make distributions to us, including restrictions under the terms of the agreements governing our indebtedness.

### Recent Sales of Unregistered Securities

We have sold no securities within the past three years which were not registered under the Securities Act, including the sale of reacquired securities, as well as new issues, securities issued in exchange for property, services, or other securities, and new securities resulting from the modification of outstanding securities.

### Use of Proceeds from Registered Securities

Our initial public offering of common stock was effected through a Registration Statement on Form S-1 (file no. 333-175636) which was declared effective by the SEC on January 31, 2012, pursuant to which we registered the offering and sale of 2,941,176 shares of our common stock and 8,823,529 shares of selling stockholders' common stock at an offering price of $17.00 per share. On February 6, 2012, we sold all 2,941,176 shares of common stock for an aggregate offering price of approximately $50.0 million and the selling stockholders sold all 8,823,529 shares of common stock for an aggregate offering price of approximately $150.0 million and the offering terminated thereafter.

As a result of the offering, we received net proceeds of approximately $46.5 million, after deducting $3.5 million of underwriting discounts and commissions and before deducting estimated offering expenses payable by us of approximately $4.0 million. We intend to use the net proceeds from the sale of common stock by us in this offering to make an $8.0 million payment to terminate the Advisory Agreement entered into in connection with the Golden Gate Acquisition and to provide approximately $34.5 million to fund future capital expenditures for our business, including the construction of our new resin-coating facility in Rochelle, Illinois.

Pending application of the net proceeds as described above, we intend to invest the net proceeds in short-term, investment-grade, interest-bearing securities. Except as set forth above with respect to the Advisory Agreement, none of the payments will be direct or indirect payments to any of the Company’s directors or officers or their associates or to persons owning 10 percent or more of the Company’s common stock or direct or indirect payments to others.

**Purchase of Equity Securities by the Issuer and Affiliated Purchasers**

None of our common stock has been reacquired since its initial issuance on February 1, 2012. There are currently no share repurchase programs authorized by our board of directors.

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**ITEM 6. SELECTED FINANCIAL DATA**

The following table and discussion sets forth our combined statement of operations data and the historical combined financial data of our predecessor for the periods presented. The results of operations by segment are discussed in further detail following this combined overview.

| | Successor | | | Predecessor 1/ Successor Combined (Non-GAAP) (1) | Predecessor 3/ Predecessor 2/ Predecessor 1/ Combined (Non-GAAP) (2) |
|---|---|---|---|---|---|
| | Year Ended December 31, | | | | |
| | 2011 | 2010 | 2009 | 2008 | 2007 |
| | (amounts in thousands, excluding per ton figures) | | | | |
| **Statement of Operations Data:** | | | | | |
| Sales | $295,596 | $244,953 | $191,623 | $ 233,583 | $ 217,776 |
| Operating income | 60,803 | 45,991 | 25,614 | 26,573 | 13,568 |
| Income (loss) before income taxes | 37,415 | 13,721 | 2,280 | 24,061 | (11,496) |
| Net income (loss) | 30,253 | 11,392 | 5,539 | 17,277 | (7,469) |
| **Statement of Cash Flows Data:** | | | | | |
| Net cash provided by (used in): | | | | | |
| Operating activities | $ 42,565 | $ 36,738 | $ 13,863 | $ 38,256 | $ (5,792) |
| Investing activities | (66,639) | (15,163) | (13,308) | (332,206) | (184,262) |
| Financing activities | 18,773 | 28,451 | (288) | 303,719 | 185,410 |
| **Other Financial Data:** | | | | | |
| Capital expenditures | $ 66,745 | $ 15,241 | $ 13,350 | $ 10,042 | $ 10,325 |
| **Operating Data:** | | | | | |
| Total tons sold | 6,289 | 5,965 | 5,089 | 6,389 | 6,623 |
| Average realized price (per ton) | $ 47.00 | $ 41.07 | $ 37.65 | $ 36.56 | $ 32.88 |
| Production costs (per ton) (3) | $ 28.81 | $ 26.49 | $ 26.76 | $ 26.33 | $ 25.10 |
| *Oil & Gas Proppants:* | | | | | |
| Sales | $107,074 | $ 69,556 | $ 35,836 | $ 37,875 | $ 18,019 |
| Segment contribution margin(4) | $ 67,590 | $ 43,118 | $ 23,515 | $ 23,557 | |
| *Industrial and Specialty Products:* | | | | | |
| Sales | $188,522 | $175,397 | $155,787 | $ 195,708 | $ 199,757 |
| Segment contribution margin(4) | $ 53,013 | $ 46,031 | $ 37,419 | $ 41,688 | |
| **Balance Sheet Data:** | | | | | |
| Cash and cash equivalents | $ 59,199 | $ 64,500 | $ 14,474 | $ 14,207 | $ 4,438 |
| Total assets | 605,796 | 508,534 | 463,967 | 471,190 | 383,782 |
| Total long-term debt, including current portion | 261,789 | 238,442 | 179,107 | 177,018 | 111 |
| Total liabilities | 483,862 | 410,970 | 336,937 | 349,527 | 91,680 |
| Total stockholders' equity | 121,934 | 97,564 | 127,030 | 121,663 | 292,102 |

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(1) As a result of our acquisition by an affiliate of Golden Gate Private Equity, Inc. ("Golden Gate Capital" and the "Golden Gate Capital Acquisition") in November 2008, our financial data is presented on a predecessor and successor basis. We refer to U.S. Silica as it existed for the period from October 18, 2007 until November 24, 2008 as the "Predecessor 1" period, and we refer to U.S. Silica for the period from and after November 25, 2008 as the "Successor" period. The Golden Gate Capital Acquisition established a new basis of accounting that primarily affected inventory, intangible assets, goodwill, taxes, debt and equity. The combined data is not presented in accordance with GAAP and Article 11 of Regulation S-X. Except for purchase accounting adjustments primarily relating to depreciation, depletion and amortization, the results for the two combined periods are comparable. Therefore, we believe that combining the two periods into a single period for comparative purposes gives the most clarity for the users of this financial information.

| | Period from January 1, 2008 to November 24, 2008 (Predecessor 3) | Period from November 25, 2008 to December 31, 2008 (Predecessor 2) |
|---|---|---|
| | (amounts in thousands, excluding per ton figures) | |
| **Statement of Operations Data:** | | |
| Sales | $ 216,386 | $ 17,197 |
| Operating income | 26,906 | (333) |
| Income before income taxes | 27,592 | (3,531) |
| Net income | 19,135 | (1,858) |
| **Statement of Cash Flows Data:** | | |
| Net cash provided by (used in): | | |
| Operating activities | $ 27,913 | $ 10,343 |
| Investing activities | (7,043) | (325,163) |
| Financing activities | (18,803) | 322,522 |
| **Other Financial Data:** | | |
| Capital expenditures | $ 7,818 | $ 2,224 |
| **Operating Data:** | | |
| Total tons sold | 5,896 | 493 |
| Average realized price (per ton) | $ 36.70 | $ 34.88 |
| Production costs (per ton) | $ 26.22 | $ 27.60 |
| *Oil & Gas Proppants:* | | |
| Sales | $ 34,684 | $ 3,191 |
| Segment contribution margin | 21,649 | 1,908 |
| *Industrial and Specialty Products:* | | |
| Sales | $ 181,702 | $ 14,006 |
| Segment contribution margin | 41,666 | 22 |
| **Balance Sheet Data:** | | |
| Cash and cash equivalents | $ 14,440 | $ 14,207 |
| Total assets | 476,135 | 471,190 |
| Total long-term debt, including current portion | 176,615 | 177,018 |
| Total liabilities | 354,935 | 349,527 |
| Total stockholders' equity | 121,200 | 121,663 |

(2) As a result of our acquisition by an affiliate of Harvest Partners, LLC in August 2007, by an affiliate of Harbinger Capital Partners ("Harbinger Capital") in October 2007, our financial data is presented on a predecessor and successor basis. We refer to U.S. Silica as it existed prior to the acquisition by Harvest Partners, LLC on August 9, 2007 as the "Predecessor 3" period, and we refer to U.S. Silica for the period from August 9, 2007 until October 17, 2007 as the "Predecessor 2" period. Our acquisition by an affiliate of Harvest Partners, LLC in August 2007, by an affiliate of Harbinger Capital in October 2007 and the Golden Gate Acquisition established a new basis of accounting that primarily affected inventory, intangible assets, goodwill, taxes, debt and equity. The combined data is not presented in accordance with GAAP and Article 11 of Regulation S-X. Except for purchase accounting adjustments primarily relating to depreciation, depletion and amortization, the results for the three combined periods are comparable. Therefore, we believe that combining the three periods into a single period for comparative purposes gives the most meaningful presentation for the users of this financial information.

| | Period from January 1, 2007 to August 8, 2007 (Predecessor 3) | Period from August 9, 2007 to October 17, 2007 (Predecessor 2) | Period from October 17, 2007 to December 31, 2007 (Predecessor 1) |
|---|---|---|---|
| | (amounts in thousands, excluding per ton figures) | | |
| **Statement of Operations Data:** | | | |
| Sales | $ 132,085 | $ 43,981 | $ 41,710 |
| Operating income | 14,538 | (4,269) | 3,299 |
| Income before income taxes | (3,235) | (11,995) | 3,734 |
| Net income | (2,751) | (7,976) | 3,258 |
| **Statement of Cash Flows Data:** | | | |
| Net cash provided by (used in): | | | |
| Operating activities | $ 9,820 | $ (7,630) | $ (7,982) |
| Investing activities | 58 | (117,583) | (66,737) |
| Financing activities | (8,638) | 123,654 | 70,394 |
| **Other Financial Data:** | | | |
| Capital expenditures | $ 6,977 | $ 1,338 | $ 2,010 |
| **Operating Data:** | | | |
| Total tons sold | 4,123 | 1,287 | 1,213 |
| Average realized price (per ton) | $ 32.04 | $ 34.17 | $ 34.39 |
| Production costs (per ton) | $ 23.91 | $ 27.16 | $ 26.97 |
| *Oil & Gas Proppants:* | | | |
| Sales | $ 10,053 | $ 3,730 | $ 4,236 |
| *Industrial and Specialty Products:* | | | |
| Sales | $ 122,032 | $ 40,251 | $ 37,474 |
| **Balance Sheet Data:** | | | |
| Cash and cash equivalents | $ 9,057 | $ 608 | $ 4,438 |
| Total assets | 337,067 | 383,039 | 383,782 |
| Total long-term debt, including current portion | 196,803 | 112 | 111 |
| Total liabilities | 293,243 | 93,866 | 91,680 |
| Total stockholders' equity | 43,824 | 289,172 | 292,102 |

(3) Production costs (per ton) equal cost of goods sold, divided by total tons sold.

(4) In the second quarter of 2011 we changed our segment reporting structure to two segments 1.) Oil & Gas Proppants and 2.) Industrial & Specialty Products, and recast the historical financial statements presented within this report and as required by GAAP. Segment contribution margin was not reported for 2007.

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

*The following discussion and analysis of our financial condition and results of operations should be read together with Item 6, "Selected Financial Data," the description of the business appearing in Item 1, "Business," of this report, and the Combined Financial Statements in Part II, Item 8 of this Annual Report on Form 10-K and the related notes included elsewhere in this report. This discussion contains forward-looking statements as a result of many factors, including those set forth under Item 1, "Business—Forward-Looking Statements" and Item 1A, "Risk Factors," and elsewhere in this Annual Report on Form 10-K. These statements are based on current expectations and assumptions that are subject to risks and uncertainties. Actual results could differ materially from those discussed in or implied by forward-looking statements. Factors that could cause or contribute to these differences include those discussed below and elsewhere in this report, particularly in Item 1A, "Risk Factors."*

Management's discussion and analysis of financial condition and results of operations ("MD&A"), is organized into the following sections:

- *Overview* — A general description of our business, our strategic initiatives and the commercial silica industry.
- *Results of Operations* — An analysis of our consolidated and combined results of operations for the three years presented in our Combined Financial Statements in Part II, Item 8 of this Annual Report on Form 10-K.
- *Liquidity, Capital Resources and Financial Position* — An analysis of our cash flows, sources and uses of cash, contractual obligations and an overview of financial position.
- *Critical Accounting Policies* — A discussion of accounting policies that require critical judgments and estimates.
- *Recently Issued Accounting Pronouncements* — A summary of accounting pronouncements which have been issued by relevant accounting standards.

In addition to disclosing financial results that are determined in accordance with United States generally accepted accounting principles, or GAAP, we also use certain non-GAAP financial information, such as:

- Segment contribution margin;
- Net income (loss) adjusted to remove interest, taxes, depreciation, amortization, impairment, and other special items in order to arrive at Adjusted EBITDA as defined in our new senior secured credit facility;

Segment contribution margin and Adjusted EBITDA are not recognized measures under GAAP and should not be considered alternatives to or superior to expense and profitability measures derived in accordance with GAAP. For a detailed description of the non-GAAP measures used in this MD&A, please see the discussion under "How We Evaluate Our Business—Non-GAAP Financial Performance Measures" beginning on page 58.

### Overview

We are the second largest domestic producer of commercial silica, a specialized mineral that is a critical input into a variety of attractive end markets. During our 111-year history, we have developed core competencies in mining, processing, logistics and materials science that enable us to produce and cost-effectively deliver products to customers across these markets. In our largest end market, oil and gas proppants, our frac sand is used to stimulate and maintain the flow of hydrocarbons in horizontally drilled oil and natural gas wells. This segment of our business is experiencing rapid growth due to recent technological advances in the hydraulic fracturing process, which have made the extraction of large volumes of oil and natural gas from U.S. shale

formations economically feasible. Our silica is also used as an economically irreplaceable raw material in a wide range of industrial applications, including glassmaking and chemical manufacturing. Additionally, in recent years a number of attractive new end markets have developed for our high-margin, performance silica products, including solar panels, specialty coatings, wind turbines, polymer additives and geothermal energy systems.

We operate 13 facilities across the United States and control 316 million tons of reserves. We own one of the largest frac sand processing plants in the United States and control approximately 148 million tons of reserves that can be processed to meet API frac sand size specifications. Our operations are organized into two segments based on end markets served: (1) Oil & Gas Proppants and (2) Industrial & Specialty Products. Our segments are complementary because our ability to sell to a wide range of customers across end markets allows us to maximize recovery rates in our mining operations, optimize our asset utilization and reduce the cyclicality of our earnings.

**Recent Trends and Outlook**

From 1980 to 2008, U.S. commercial silica industry volumes generally grew in line with U.S industrial production, primarily influenced by the manufacture of glass, building materials, foundry moldings and chemicals. Beginning in 2004, demand for oil and gas proppants supplemented growth in industrial and specialty products end markets. The economic downturn of 2008 and 2009 decreased demand for commercial silica products, particularly in the glassmaking, foundry, building products, chemicals and fillers and extenders end markets. With the recent economic recovery, however, we estimate overall demand for commercial silica grew in excess of 45% in 2010. Trends driving the acceleration in demand include:

- *Increased demand in the oil and gas proppants end market.* The increased demand for frac sand has been driven by the growth in the use of hydraulic fracturing as a means to extract hydrocarbons from shale formations. Based on independent third party market data and our internal estimates, we believe total consumption of frac sand increased from 3.8 million tons in 2004 to approximately 17.0 million tons in 2010. In addition, Freedonia projected in April 2011 that domestic proppant producers will experience annual increases in sales of 15% through 2015. We significantly expanded our sales efforts to the frac sand market in 2008 and have since experienced rapid growth in our sales associated with our oil and gas activities.
- *Rebound of demand in industrial end markets and continued growth in specialty end markets*. The economic downturn resulting from the financial crisis negatively impacted demand for our products in industrial and specialty products end markets, most notably in the glassmaking, building products foundry and chemicals end markets. This drop coincided with a similar drop in key economic demand drivers, including housing starts, light vehicle sales, repair and remodel activity and industrial production. To the extent these demand drivers recover to historical levels (which is difficult to predict given current economic uncertainty), we expect to see a corresponding increase in the demand for commercial silica. In addition, to the extent commercial silica products continue to be used in key alternative energy markets, we anticipate continued volume growth in specialty end markets such as solar panels and geothermal energy systems as well as the increased use of commercial silica in new applications such as specialty coatings and polymer additives.
- *Rapid increases in prices of commercial silica.* Rapid increases in demand and constrained supply have led to rapid increases in price in the last several years. The USGS estimated in February 2011 an industry-wide average price of $23.86 per ton in 2006 relative to a $31.53 per ton price in 2010, which represents a 7.2% annual increase. For reference, our average realized price per ton was $30.98 in 2006, $41.07 in 2010 and $47.00 in 2011. We expect continued growth of horizontal drilling, increased innovation in specialty markets and supply tightness to exert continued upward pressure on prices in both of our operating segments.

During the first quarter of 2012, as natural gas prices continued to decline, the Company has become aware of certain oil and gas producers curtailing there drilling efforts in dry gas basins and redeploying their drilling rigs to various domestic basins rich in oil and liquid gas due to the higher market price of oil relative to dry

natural gas. This shift in drilling activity has resulted in increased demand for coarser grade frac sands relative to the finer grades typically used for drilling dry natural gas. Because of the geographic position of our facilities, we are able to service our customers and ship materials to the basins where demand calls for it. While it is too early to evaluate the full impact of this shift in drilling emphasis, the changes in our production and shipments has not had a material impact on our operations to date. However, there can be no assurance that such changes will not have a material impact on our revenues and results of operations in the future.

**Our Strategy**

The key drivers of our growth strategy include:

- *Expand our proppant production capacity and product portfolio*. During the fourth quarter of 2011, we executed several initiatives to increase our frac sand production capacity and augment our proppant product portfolio. At our Ottawa, Illinois facility, we implemented operating improvements and installed a new dryer with six mineral separators to increase our annual frac sand production capacity by 900,000 tons. At our Rockwood, Michigan facility, we added 250,000 tons of annual frac sand production capacity by installing an entirely new processing circuit. We are also in the initial stages of building a new facility to produce resin-coated sand that will be designed to coat up to 400 million pounds annually, which is scheduled for completion and start-up in 2013. We expect to fund all of these projects through a combination of cash on our balance sheet and cash generated from our operations.
- *Increase our exposure to attractive industrial and specialty products end markets.* We intend to increase our exposure and market share in certain industrial and specialty products end markets that we believe are poised for growth. For example, at our Rockwood facility, we have doubled our production capacity for low-iron silica, which is used to maximize light transmission in ultra-clear architectural glass and solar panels. In addition, we recently opened a representative office in Shanghai, China to market our fine ground silica products across the Asia Pacific region for use in specialty end markets. We are also exploring opportunities to grow our presence in the specialty coatings and polymer additives end markets, where our ultra-fine ground silica is used to enhance strength, scratch resistance and stability.
- *Optimize product mix and further develop value-added capabilities to maximize margins*. We will continue to actively manage our product mix at each of our plants to ensure we are maximizing our profit margins. This requires us to use our proprietary expertise in balancing key variables, such as mine geology, processing capacities, transportation availability, customer requirements and pricing. In 2011, while our tons sold increased by 5%, we believe this expertise helped enable us to increase our operating income by 31%. We also expect to continue investing in ways to increase the value we provide to our customers by expanding our product offerings, increasing our transportation assets, improving our supply chain management and upgrading our information technology. We hope to use these strategies to increase our operating income faster than our tons sold into the future.
- *Evaluate both Greenfield and Brownfield expansion opportunities*. We will continue to leverage our reputation, processing capabilities and infrastructure to increase production, as well as explore other opportunities to expand our reserve base. We may accomplish this by developing Greenfield projects, where we can capitalize on our technical knowledge of geology, mining and processing and our strong reputation within local communities. Additionally, we may pursue “bolt on” and other opportunistic acquisitions, taking advantage of our asset footprint, our management’s experience with high-growth businesses and our strong customer relationships. We may also evaluate international acquisitions as unconventional oil and natural gas drilling expands globally.
- *Maintain financial strength and flexibility*. We intend to maintain financial strength and flexibility to enable us to pursue acquisitions and new growth opportunities as they arise. As of December 31, 2011, we had $59.2 million of cash on hand and $24.0 million of available borrowings under our credit facilities.

**How We Generate Our Sales**

We derive our sales by mining and processing minerals that our customers purchase for various uses. Our sales are primarily a function of the price per ton realized and the volumes sold. In some instances, our sales also include a charge for transportation services we provide to our customers. Our transportation revenue fluctuates based on a number of factors, including the volume of product we transport under contract, service agreements with our customers, the mode of transportation utilized and the distance between our plants and customers.

We primarily sell our products under short-term price agreements or at prevailing market rates. For a limited number of customers, we sell under long-term, competitively-bid supply agreements. As of March 20, 2012, we have nine take-or-pay supply agreements with nine of our customers in the oil and gas proppants end market with initial terms expiring between 2012 and 2016. These agreements define, among other commitments, the volume of product that our customers must purchase, the volume of product that we must provide and the price that we will charge and that our customers will pay for each product. Prices under these agreements are generally fixed and subject to upward adjustment in response to certain cost increases. As a result, our realized prices may not grow at rates consistent with broader industry pricing. For example, during periods of rapid price growth, our realized prices may grow more slowly than those of competitors, and during periods of price decline, our realized prices may outperform industry averages. Additionally, at the time the take-or-pay supply agreements were signed, two of these customers provided advance payments for future shipments aggregating $27.0 million ($12.5 million of these payments was recorded on the balance sheet as deferred revenue as of December 31, 2011). A percentage of these advance payments is recognized as revenue with each ton of applicable product shipped to the customer. The pricing terms of these agreements are currently less than prevailing market prices. Collectively, sales to customers with supply agreements accounted for 17%, 18% and 9% of our total sales in 2011, 2010 and 2009, respectively.

We invoice the majority of our clients on a per shipment basis, although for some larger customers, we consolidate invoices weekly or monthly. The amounts invoiced include the amount charged for the product, transportation costs (if paid by us) and costs for additional services as applicable, such as costs related to transload the product from railcars to trucks for delivery to the customer site.

**The Costs of Conducting Our Business**

The principal expenses involved in conducting our business are labor costs, electricity and drying fuel costs, maintenance and repair costs for our mining and processing equipment and facilities and transportation costs. We believe the majority of our operating costs are relatively stable in price, but can vary significantly based on the volume of product produced. We benefit from owning the majority of the mineral deposits that we mine and having long-term mineral rights leases or supply agreements for our other primary sources of raw material, which limit royalty payments.

Operating labor costs represented our largest spend category at approximately 17%, 19% and 22% of our sales in 2011, 2010 and 2009, respectively. We employ a mix of union and non-union labor, with 56% of our workforce being unionized as of December 31, 2011. Our union contracts stipulate annual escalation factors for certain wages and benefits.

We incur significant electricity and drying fuel (principally natural gas) costs in connection with the operation of our processing facilities. Energy costs directly related to the production of our products represented 8%, 9% and 10% of our total sales in 2011, 2010 and 2009, respectively.

We capitalize the costs of our mining equipment and generally depreciate it over its expected useful life. Depreciation, depletion and amortization costs represented approximately 7%, 8% and 9% of our sales for 2011, 2010 and 2009, respectively. Preventive and remedial repair and maintenance costs that do not involve the replacement of major components of our equipment and facilities are expensed as incurred. These repair and maintenance costs can be significant due to the abrasive nature of our products and represented approximately 6% of our sales in 2011 and 7% of our sales in both 2010 and 2009.

We also provide a range of transportation services to our customers, including management of truck, rail and barge shipments of our products. Total transportation costs represented approximately 15%, 13% and 12% of sales in 2011, 2010 and 2009, respectively.

Additionally, we incur expenses related to our corporate operations, including costs for the sales and marketing; research and development; finance; legal; and environmental, health and safety functions of our organization. These costs are principally driven by personnel expenses. In total, our selling, general and administrative costs represented approximately 8%, 9% and 6% of sales in 2011, 2010 and 2009, respectively. As a public company we will continue to incur additional legal, accounting, insurance and other expenses that we had not incurred as a private company, including costs associated with public company reporting requirements. These requirements include compliance with the Sarbanes-Oxley Act as well as other rules implemented by the SEC, and applicable stock exchange rules. We expect these rules and regulations to substantially increase our legal and financial compliance costs and to make certain financial reporting and other activities more time-consuming and costly.

Our effective income tax rate was approximately 19% and 17% of pretax earnings in 2011 and 2010, respectively. In 2009, we had an effective income tax benefit equal to approximately 143% due to an increase in the statutory depletion deduction which, although it occurs in both years, is driven by mine site profitability rather than pre-tax earnings. Historically, our actual effective tax rates have been lower than the statutory effective rate primarily due to the benefit received from statutory percentage depletion allowances.

**How We Evaluate Our Business**

Our management team evaluates our business using a variety of financial and operational metrics to analyze our performance. Our business is organized into two segments, Oil & Gas Proppants and Industrial & Specialty Products. We evaluate the performance of these segments based on their volumes sold, average realized price and contribution margin earned. Additionally, we consider a number of factors in evaluating the performance of the business as a whole, including total volumes sold, average realized price, segment contribution margin and Adjusted EBITDA. We view these metrics as important factors in evaluating our profitability and review these measurements frequently to analyze trends and make decisions.

*Segment Contribution Margin*

Segment contribution margin, a non-GAAP measure, is a key metric that management uses to evaluate our operating performance and to determine resource allocation between segments. Segment contribution margin excludes certain corporate costs not associated with the operations of the segment. These unallocated costs include costs related to corporate functional areas such as sales, production and engineering, corporate purchasing, accounting, treasury, information technology, legal and human resources.

*Adjusted EBITDA*

Adjusted EBITDA, a non-GAAP measure, is included in this report because it is a key metric used by management to assess our operating performance and by our lenders to evaluate our covenant compliance. Our target performance goals under our incentive compensation plan are tied, in part to our Adjusted EBITDA. In addition, the ABL Facility contains a fixed charge coverage ratio covenant that we must meet if our excess availability (as defined in the ABL Facility) falls below $10.0 million, and Term Loan Facility contains a consolidated leverage ratio covenant that we must meet at the end of each fiscal quarter, both of which are calculated based on our Adjusted EBITDA. Noncompliance with the financial ratio covenants contained in the ABL Facility and the Term Loan Facility could result in the acceleration of our obligations to repay all amounts outstanding under those agreements. Moreover, the ABL Facility and the Term Loan Facility contain covenants that restrict, subject to certain exceptions, our ability to make permitted acquisitions, incur additional indebtedness, make restricted payments (including dividends) and retain excess cash flow based, in some cases, on our ability to meet leverage ratios calculated based on our Adjusted EBITDA.

**Results of Operations**

| | For the Years Ended December 31, | | | Percent Change | |
|---|---|---|---|---|---|
| | 2011 | 2010 | 2009 | ’11 vs. ’10 | ’10 vs. ’09 |
| | (amounts in thousands) | | | | |
| Sales | | | | | |
| Oil & Gas Proppants | $107,074 | $ 69,556 | $ 35,836 | 53.9% | 94.1% |
| Industrial & Specialty Products | 188,522 | 175,397 | 155,787 | 7.5% | 12.6% |
| Total Sales | $295,596 | $244,953 | $191,623 | 20.7% | 27.8% |

*Sales*

Sales increased $50.6 million, or nearly 21%, to $295.6 million for the year ended December 31, 2011 compared to $245.0 million for the year ended December 31, 2010. Oil & Gas Proppants sales increased by $37.5 million, accounting for 75% of the total growth. Industrial & Specialty Products sales increased $13.1 million, representing 26% of the growth in overall sales. Overall, average realized price increased 15% and volumes increased 5% from the comparable prior period.

Oil & Gas Proppant sales increased $37.5 million, or nearly 54%, to $107.1 million for the year ended December 31, 2011 compared to $69.6 million for the year ended December 31, 2010. The growth was driven by a combination of increases in volume and pricing. Volume increased 33% due to our ability to reallocate certain production from industrial end markets to the oil and gas proppants end market in response to continued growth in hydraulic fracturing activity. Additionally, increases in pricing and a more favorable product mix in the year ended December 31, 2011 contributed to a 16% increase in average realized price.

Industrial & Specialty Products sales increased $13.1 million, or 7%, to $188.5 million for the year ended December 31, 2011 compared to $175.4 million for the year ended December 31, 2010. Increases in pricing across all of our end markets drove a nearly 12% increase in average realized price. Volumes decreased by nearly 4%, due to the reallocation of some production away from certain industrial and specialty products end markets to the oil and gas proppants end market.

For the year ended December 31, 2010, sales increased $53.4 million, or nearly 28%, to $245.0 million compared to $191.6 million for the year ended December 31, 2009. Oil & Gas Proppants sales increased by $33.8 million while Industrial & Specialty Products sales increased $19.6 million, driven by overall increases in average realized price and volume of 9% and 17%, respectively.

Oil & Gas Proppant sales increased $33.8 million, or 94%, to $69.6 million for the year ended December 31, 2010 compared to $35.8 million for the year ended December 31, 2009. The increase was primarily driven by a 93% increase in volumes. In 2011, we initiated an effort to reallocate certain production from industrial end markets to the oil and gas proppants end market in response to increased hydraulic fracturing activity. Average realized price remained relatively constant as increased transportation revenues were offset by unfavorable product mix.

Industrial & Specialty Products sales increased $19.6 million, or 13%, to $175.4 million for the year ended December 31, 2010 compared to $155.8 million for the year ended December 31, 2009. An increase in pricing in most end markets, as well as a favorable shift in product mix to higher price markets such as the fiberglass, foundry and fillers and extenders end markets, which serve the automotive and construction industries, drove a nearly 9% increase in average realized price. Volumes increased by nearly 3%, as our reallocation of some production away from certain industrial and specialty products end markets to the oil and gas proppants end market was more than offset by growth in many other industrial and specialty products end markets as the result of the economic recovery.

*Selling, General and Administrative Expenses*

Selling, general and administrative expenses increased $2.9 million, or 14%, to $23.3 million for the year ended December 31, 2011 compared to $20.4 million for the year ended December 31, 2010 driven by increases in employee compensation and benefits related to headcount increase in our sales and marketing function to support the continued growth in our oil and gas business as well as increases in corporate headcount to support our transformation as a public company. We also incurred $0.6 million of additional rental expense related to our new corporate headquarters in Frederick, Maryland. These increases were partially offset in 2011 as we recognized a gain of $2.6 million due to the revised estimate of our silica litigation accrual, whereas in 2010 we recognized $0.8 million of expense related to our silica litigation reserve.

Selling, general and administrative expenses increased $9.7 million, or 91%, to $20.4 million for the year ended December 31, 2010 compared to $10.7 million for the year ended December 31, 2009 led by increases in employee compensation and benefits related to headcount increase in our sales and marketing function in our oil and gas business. Additionally, in 2010 we recognized $0.8 million of expense related to our silica litigation reserve, whereas in 2009 we recognized a gain equal to $4.1 million due to revised estimate of our silica litigation accrual.

*Depreciation, Depletion and Amortization*

Depreciation, depletion and amortization expense was $21.0 million, $19.3 million and $17.9 million for the years ended December 31, 2011, 2010 and 2009, respectively. Year over year increases have been driven by continued increases in capital spending combined with increased depletion due to additional volume of mined silica sands. We expect depreciation, depletion and amortization expense to continue to grow due to a significant increase in capital spending in 2011 for assets which will be placed into service in 2012.

*Operating Income*

Operating income increased $14.8 million, or 32%, to $60.8 million for the year ended December 31, 2011 compared to $46.0 million for the year ended December 31, 2010 guided by a 21% increase in sales and a 9% increase in gross margin. Included in operating income for the year ended December 31, 2011 was $8.0 million of expense related to the termination of the advisory agreement with our parent. The termination fee was accrued at December 31, 2011 and paid to our parent on February 6, 2012.

Operating income increased $20.4 million, or 80%, to $46.0 million for the year ended December 31, 2010 compared to $25.6 million for the year ended December 31, 2009 guided primarily by a 28% increase in sales and a 23% increase in gross margin.

*Interest Expense*

Interest expense decreased $4.6 million, or 20%, to $18.4 million for the year ended December 31, 2011 compared to $23.0 million for the year ended December 31, 2010. This was primarily due to an effective interest rate on our debt equal to 7.2% compared to an effective rate of 10.7% for the year ended December 31, 2010. These savings were partially offset by a higher average debt balance for the year.

Interest expense decreased $5.2 million, or 18%, to $23.0 million for the year ended December 31, 2010 compared to $28.2 million for the year ended December 31, 2009 due to the refinancing of the Term Loan Facility and Mezzanine Loan Facility in the second quarter of 2010. While the overall amount of debt outstanding increased, the refinancing resulted in a substantially lower average effective interest rate on our debt, reducing overall interest expense.

*Early Extinguishment of Debt*

On June 8, 2011, the Term Loan Facility was refinanced to increase the principal borrowings, reduce the overall interest rate by 25 basis points ("bps") and extend the maturity date to June 8, 2017. As a result, we recognized $6.0 million of expense related to the transaction. These expenses included non-cash charges related to unamortized original issue discounts and debt issuance costs, and payments for lender fees.

On May 7, 2010, both the Term Loan Facility and the Mezzanine Loan Facility were refinanced with significantly favorable terms to prior loan agreements. As a result, expenses related to the early extinguishment of the existing debt were incurred totaling $10.2 million. These expenses included non-cash charges related to unamortized original issue discounts and debt issuance costs, payments for lender fees and a prepayment penalty on the Mezzanine Loan Facility.

*Provision for Income Taxes*

The provision for income taxes increased $4.9 million, or 213%, to $7.2 million for the year ended December 31, 2011, compared to $2.3 million for the year ended December 31, 2010 due to the increase in pre-tax income of 173%. The effective tax rates were 19.1% for the year ended December 31, 2011 and 17.0% for the year ended December 31, 2010.

The provision for income taxes increased $5.6 million, or 170%, to $2.3 million for the year ended December 31, 2010, compared to a $3.3 million benefit for the year ended December 31, 2009. The effective tax rates were 17.0% for the year ended December 31, 2010 and (143)% for the year ended December 31, 2009. The most significant factor contributing to the 2009 tax benefit was the increase in the statutory depletion deduction which, although it occurs in both years, is driven by mine site profitability rather than pre-tax earnings.

*Net Income/Loss*

Net income was $30.3 million, $11.4 million and $5.5 million for the years ended December 31, 2011, 2010 and 2009, respectively. Year over year increases are due to the factors noted above.

**Liquidity and Capital Resources**

***Overview***

Our principal liquidity requirements have historically been to service our debt, to meet our working capital, capital expenditure and mine development expenditure needs, to pay dividends to our shareholder, and to finance acquisitions. We have historically met our liquidity and capital investment needs with funds generated through operations. We have historically funded our acquisitions through borrowings under our credit facilities and equity investments. Our working capital is the amount by which current assets exceed current liabilities and is a measure of our ability to pay our liabilities as they become due. As of December 31, 2011, our working capital was $105.2 million and we had $24.0 million of availability under the ABL Facility. See "—Credit Facilities—ABL Facility."

We believe that cash generated through operations and our financing arrangements will be sufficient to meet working capital requirements, anticipated capital expenditures and scheduled debt payments for at least the next 12 months.

***Cash Flow Analysis***

A summary of operating, investing and financing activities is shown in the following table:

| | As of December 31, | | | Percent Change | |
|---|---|---|---|---|---|
| | 2011 | 2010 | 2009 | ’11 vs. ’10 | ’10 vs. ’09 |
| | (amounts in thousands) | | | | |
| **Net cash provided by (used in):** | | | | | |
| Operating activities | $ 42,565 | $ 36,738 | $ 13,863 | 15.9% | >100.0% |
| Investing activities | (66,639) | (15,163) | (13,308) | >100.0% | 13.9% |
| Financing activities | 18,773 | 28,451 | (288) | (34.0)% | >100.0% |

*Net Cash Provided by Operating Activities*

Operating activities consist primarily of net income adjusted for non-cash items, including depreciation and amortization and the effect of working capital changes.

Net cash provided by operating activities was $42.6 million for the year ended December 31, 2011 compared to $36.7 million for the year ended December 31, 2010. This $5.9 million increase was primarily the result of a $23.7 million improvement in earnings before income taxes, offset by a $4.6 million increase in contributions to our employee pension plan, the collection of a $4.4 million insurance settlement in 2010 that did not occur in 2011, non-cash adjustments related to the early extinguishment of debt in 2011 and 2010 and a net build in working capital year over year of $8.3 million.

Net cash provided by operating activities was $36.7 million in 2010 compared to $13.9 million in 2009. The $22.8 million increase in cash provided by operating activities was due primarily to a $20.4 million increase in operating income in 2010.

*Net Cash Used in Investing Activities*

Investing activities consist primarily of capital expenditures for growth and maintenance.

Net cash used in investing activities was $66.6 million in the year ended December 31, 2011. This use of cash is due to capital expenditures which totaled $66.7 million for the year ended December 31, 2011 and included the acquisition of land in Sparta, Wisconsin for $8.0 million and the investment in our Ottawa and Rockwood facilities of $38.2 million and $8.7 million, respectively, for the expansion of our production capacity which we finalized during the fourth quarter of 2011. These two projects at our Ottawa and Rockwood facilities are expected to increase annual production capacity of frac sand by 900,000 tons and 250,000 tons, respectively.

Net cash used in investing activities was $15.2 million in 2010. This use of cash is primarily due to customary maintenance capital spending, as well as $3.0 million in reserves acquisition costs and $3.8 million to expand production capacity at one of our facilities.

Net cash used in investing activities was $13.3 million in 2009. This use of cash is primarily due to capital spending, including $9.9 million to expand production capacity at two of our facilities.

Management anticipates that our capital expenditures in 2012 will be approximately $70-95 million, which is primarily associated with the construction of our resin coating production facility and the expected spending on construction of a Greenfield raw sand plant in Sparta, Wisconsin. We anticipate that this amount will be sufficient to complete these projects.

*Net Cash Provided by (Used in) Financing Activities*

Financing activities consisted primarily of borrowings and repayments related to the ABL Facility, the Term Loan Facility, the Mezzanine Loan Facility and a short-term note in connection with the acquisition of land in Sparta, Wisconsin as well as dividends to our parent, fees and expenses paid in connection with our credit facilities and outstanding checks from our customers.

Net cash provided by financing activities was $18.8 million in the year ended December 31, 2011. During the period, net outstanding debt increased $22.5 million and included an increase in the Term Loan Facility of $95.6 million with $75.0 million of those proceeds used to repay the entire amount outstanding on the Mezzanine Loan Facility as well as new borrowings of $4.0 million related to the acquisition of the land in Sparta, Wisconsin. We incurred financing fees of $4.1 million and a prepayment penalty of $1.5 million in connection with this refinancing.

Net cash provided by financing activities in 2010 was $28.5 million, which included a $64.7 million increase in the size of the Term Loan Facility, a $6.5 million decrease in the size of the Mezzanine Loan Facility, the issuance of a $15.0 million note to our parent LLC, an $11.8 million capital contribution from our parent and a $51.6 million dividend paid to our parent LLC. In addition, we paid $3.9 million in financing fees and prepayment penalties related to the debt refinancing.

Net cash used in financing activities in 2009 was $0.3 million, which resulted from a $3.3 million increase in our Mezzanine Loan Facility, which is partially offset by $2.0 million in amortization of the term loan.

***Credit Facilities***

*ABL Facility*

On August 9, 2007, we entered into the ABL Facility with various banks and other financial institutions as lenders thereunder and Wells Fargo Bank, National Association (successor by merger to Wachovia Bank, National Association) (“Wells Fargo”), as administrative agent and lender. The ABL Facility provides for borrowings in the aggregate amount of up to $35.0 million, with a letter of credit facility sublimit of $15.0 million; provided, however, that the aggregate principal amount of the loans and letter of credit obligations outstanding at any one time shall not exceed the applicable borrowing base.

Borrowing availability under the ABL Facility is determined by a formula that considers eligible accounts receivable and inventory less any outstanding letters of credit plus a reserve for derivatives. We had no borrowings outstanding as of December 31, 2011, $9.8 million of outstanding letters of credit and $1.2 million reserved against derivative agreements, which left $24.0 million available under the ABL Facility.

Borrowings under the ABL Facility are subject to the accuracy of representations and warranties in all material respects and the absence of any defaults under the ABL Facility and the Term Loan Facility.

On January 31, 2012, the ABL Facility was amended and restated to reduce the covenants and restrictions on our activities. The ABL Facility, as amended, contains customary covenants and restrictions on our activities related to, among other things: the incurrence of additional indebtedness; liens; dividends and distributions; investments, acquisitions and speculative transactions; contingent obligations; transactions with affiliates; fundamental changes to our business, property and assets; insurance; sale lease-backs; the ability to change the nature of our business, our fiscal year and our accounting policies; the ability to amend or waive any of the terms of any permitted subordinated debt, the Term Loan Facility and our organizational documents; designations of senior debt other than the ABL Facility obligations and the Term Loan Facility obligations; and the performance of material contracts, including intellectual property licenses. The ABL Facility also requires that we maintain (a) during any fiscal quarter, if excess availability falls below $6.5 million, a fixed charge coverage ratio of not less than 1.10 to 1.00 until excess availability is equal to or greater than $10.0 million and (b) aggregate excess availability of not less than $5.0 million at all times.

*Term Loan Facility*

On November 25, 2008, in connection with the Golden Gate Capital Acquisition, we entered into the Term Loan Facility with various banks and other financial institutions as lenders thereunder and BNP Paribas, as administrative agent. On May 7, 2010, the Term Loan Facility was amended and restated to, among other things, (1) increase the aggregate principal amount available thereunder from $102.0 million to $165.0 million and (2) add an incremental term loan facility in the maximum aggregate principal amount of $25.0 million. On June 8, 2011, the Term Loan Facility was again amended and restated to, among other things, (1) further increase the aggregate principal amount available thereunder to $260.0 million, and (2) increase the maximum aggregate principal amount under the incremental term loan facility to $50.0 million.

On January 27, 2012, we again amended and restated the Term Loan Facility to reduce the covenants and restrictions on our activities. The Term Loan Facility, as amended, contains customary covenants and restrictions on our activities related to, among other things: the incurrence of additional indebtedness; liens and negative pledges; dividends and distributions; investments and acquisitions; contingent obligations; transactions with shareholders (holders of at least 10% of the equity securities) and affiliates; fundamental changes to our business, property and assets; sale lease-backs; the ability to change the nature of our business, our fiscal year and our accounting policies; the ability to amend or waive any of the terms of the ABL Facility and other material agreements; designations of senior debt other than the Term Loan Facility obligations and the ABL Facility obligations; and the performance of material contracts, including real property leases and intellectual property licenses.

## Off-Balance Sheet Arrangements

We have no off-balance sheet arrangements that have or are likely to have a current or future material effect on our financial condition, changes in financial condition, sales, expenses, results of operations, liquidity, capital expenditures or capital resources.

## Contractual Obligations

As of December 31, 2011, the total of our future contractual cash commitments, including the repayment of our debt obligations under the ABL Facility and the Term Loan Facility, is summarized as follows:

| | Total | Less than 1 year | 1-3 years | 3-5 years | More than 5 years |
|---|---|---|---|---|---|
| | (amounts in thousands) | | | | |
| Long-term debt obligations (1) | $261,789 | $ 6,364 | $ 4,868 | $127,085 | $123,472 |
| Estimated interest payments on long-term debt | 61,449 | 12,242 | 24,113 | 22,894 | 2,200 |
| Retirement plans | 38,780 | 6,783 | 13,416 | 8,627 | 9,954 |
| Operating lease obligations (2) | 43,637 | 9,675 | 15,078 | 11,013 | 7,871 |
| Other long-term liabilities (3) | 2,459 | 225 | 426 | 420 | 1,388 |
| Total Contractual Cash Obligations (4)(5) | $408,114 | $35,289 | $57,901 | $170,039 | $144,885 |

(1) On June 8, 2011, we amended and restated the Term Loan Facility to, among other things, increase the aggregate principal amount available thereunder to $260.0 million and adjust the interest rate to the London Interbank Offered Rate ("LIBOR"), plus 375 basis points, and used the proceeds to prepay the Mezzanine Loan Facility in its entirety. As of December 31, 2011, we had the following amounts outstanding under our credit facilities: $257.8 million, net of unamortized original issue discount, outstanding under the Term Loan Facility; and $4.0 million outstanding under a short-term note issued in connection with the land acquisition in Sparta, Wisconsin on December 30, 2011. See "—Liquidity and Capital Resources—Credit Facilities."

[2] We are obligated under certain operating leases for railroad cars, mining properties, mining and processing equipment, office space, transportation and other equipment. Certain of our operating lease arrangements include options to purchase the equipment for fair market value at the end of the original lease term. Annual operating lease commitments are presented in more detail in Note M to our Combined Financial Statements in Part II, Item 8 of this Annual Report on Form 10-K.

[3] Other long-term obligations include estimated future minimum royalty payments provided for under our mineral leases.

[4] The above table excludes discounted asset retirement obligations in the amount of $9.5 million at December 31, 2011, the majority of which have a settlement date beyond 2025.

[5] We have indemnified underwriters for surety bonds issued on our behalf and are a contingent guarantor on a railcar lease, both of which are excluded from this table. See Note Q to our Combined Financial Statements in Part II, Item 8 of this Annual Report on Form 10-K.

**Environmental Matters**

We are subject to various federal, state and local laws and regulations governing, among other things, hazardous materials, air and water emissions, environmental contamination and reclamation and the protection of the environment and natural resources. We have made, and expect to make in the future, expenditures to comply with such laws and regulations, but cannot predict the full amount of such future expenditures. We may also from time to time incur fines and penalties associated with noncompliance with such laws and regulations. In particular, on September 8, 2011 we voluntarily disclosed potential violations of air emission permits at our Rockwood, Michigan facility to the EPA and the Michigan Department of Environmental Quality, and while no proceedings have been instituted at this time by either agency we could incur penalties or be subject to other requirements in the future as a result of such potential violations. As of December 31, 2011, we had $9.5 million accrued for future reclamation costs, as compared to $6.4 million as of December 31, 2010.

We discuss certain environmental matters relating to our various production and other facilities, certain regulatory requirements relating to human exposure to crystalline silica and our mining activity and how such matters may affect our business in the future under Item 1, “Business,” Item 1A, “Risk Factors” and Item 3, “Legal Proceedings.”

**Non-GAAP Financial Performance Measures**

***Segment Contribution Margin***

Oil & Gas Proppants contribution margin increased $24.5 million, or 57%, to $67.6 million for the year ended December 31, 2011 compared to $43.1 million for the year ended December 31, 2010 due to the factors noted above. For the year ended December 31, 2010, contribution margin increased $19.6 million, or 83% to $43.1 million compared to $23.5 million for the year ended December 31, 2009 due to the factors noted above.

Industrial & Specialty Products contribution margin increased $7.0 million, or 15%, to $53.0 million for the year ended December 31, 2011 compared to $46.0 million for the year ended December 31, 2010 due to the factors noted above. For the year ended December 31, 2010, contribution margin increased $8.6 million, or 23% to $46.0 million compared to $37.4 million for the year ended December 31, 2009 due to the factors noted above.

Segment contribution margin is not a measure of our financial performance under GAAP. For more detail on the reconciliation of segment contribution margin to its most directly comparable GAAP financial measure, income (loss) before income taxes, see Note S to our Combined Financial Statements in Part II, Item 8 of this report on Form 10-K.

***Adjusted EBITDA***

Adjusted EBITDA is not a measure of our financial performance or liquidity under GAAP and should not be considered as an alternative to net income as a measure of operating performance, cash flows from operating activities as a measure of liquidity or any other performance measure derived in accordance with GAAP. Additionally, Adjusted EBITDA is not intended to be a measure of free cash flow for management's discretionary use, as it does not consider certain cash requirements such as interest payments, tax payments and debt service requirements. Adjusted EBITDA contains certain other limitations, including the failure to reflect our cash expenditures, cash requirements for working capital needs and cash costs to replace assets being depreciated and amortized, and excludes certain non-recurring charges that may recur in the future. Management compensates for these limitations by relying primarily on our GAAP results and by using Adjusted EBITDA only supplementally. Our measure of Adjusted EBITDA is not necessarily comparable to other similarly titled captions of other companies due to potential inconsistencies in the methods of calculation.

The following table sets forth a reconciliation of net income, the most directly comparable GAAP financial measure, to Adjusted EBITDA.

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2011 | 2010 | 2009 |
| | (amount in thousands) | | |
| Net income | $30,253 | $11,392 | $ 5,539 |
| Total interest expense, net of interest income | 18,347 | 22,989 | 28,153 |
| Provision for taxes (benefit) | 7,162 | 2,329 | (3,259) |
| Total depreciation, depletion and amortization expenses | 20,999 | 19,305 | 17,887 |
| EBITDA | 76,761 | 56,015 | 48,320 |
| Non-cash deductions, losses and charges[1] | (526) | 1,364 | (3,337) |
| Non-recurring expenses (income)[2] | (2,028) | — | (3,837) |
| Transaction expenses[3] | 6,043 | 10,669 | 4,263 |
| Permitted management fees and expenses[4] | 9,250 | 1,250 | 1,250 |
| Non-cash incentive compensation[5] | 1,237 | 383 | 949 |
| Post-employment expenses (excluding service costs)[6] | 1,689 | 2,113 | 2,224 |
| Other adjustments allowable under our existing credit agreements[7] | 1,131 | 358 | 181 |
| Adjusted EBITDA | $93,557 | $72,152 | $50,013 |

(1) Includes non-cash deductions, losses and charges arising from adjustments to estimates of a future litigation liability and the decision by our hourly workforce at our Rockwood facility to withdraw from a pension plan administered by a third party.

(2) Includes non-recurring expenses related to a former insurer's liquidation.

(3) Includes natural gas hedging losses, purchase accounting adjustments, management bonuses and other expenses related to the Golden Gate Capital acquisition, as well as unamortized transaction fees and expenses arising from the refinancing of our Term Loan Facility.

(4) Includes fees and expense paid to Golden Gate Capital for ongoing consulting and management services provided pursuant to an Advisory Agreement entered into in connection with the Golden Gate Capital Acquisition. At December 31, 2011, we recorded an accrual for $8.0 million related to the termination fee paid to Golden Gate Capital in connection with our initial public offering on January 31, 2012

(5) Includes vesting of incentive equity compensation issued to our employees.

(6) Includes net pension cost and net post-retirement cost relating to pension and other post-retirement benefit obligations during the applicable period, but in each case excluding the service cost relating to benefits earned during such period. See Note P to our Combined Financial Statements in Part II, Item 8 of this Annual Report on Form 10-K.

(7) Reflects miscellaneous adjustments permitted under our existing credit agreements, including such items as expenses related to reviewing potential acquisitions and costs associated with relocating the corporate headquarters.

**Critical Accounting Policies**

Our discussion and analysis of our financial condition and results of operations are based upon our combined financial statements, which have been prepared in accordance with accounting principles generally acceptable in the United States of America. The preparation of these financial statements requires us to make estimates and assumptions that affect the reported amounts of assets and liabilities and the disclosure of contingent assets and liabilities at the dates of the financial statements and the reported revenues and expenses during the reporting periods. We evaluate these estimates and assumptions on an ongoing basis and base our estimates on historical experience, current conditions and various other assumptions that are believed to be reasonable under the circumstances. The results of these estimates form the basis for making judgments about the carrying values of assets and liabilities as well as identifying and assessing the accounting treatment with respect to commitments and contingencies. Our actual results may materially differ from these estimates.

A summary of the Company's significant accounting policies is included in Note B to the Combined Financial Statements in Part II, Item 8 of this Annual Report on Form 10-K. Management believes that the application of these policies on a consistent basis enables the Company to provide the users of the Combined Financial Statements with useful and reliable information about the Company's operating results and financial condition.

Listed below are the accounting policies we believe are critical to our financial statements due to the degree of uncertainty regarding the estimates or assumptions involved, and that we believe are critical to the understanding of our operations.

***Impairment of Long-Lived Assets***

We periodically evaluate whether current events or circumstances indicate that the carrying value of our long-lived assets, including goodwill and other intangible assets, to be held and used may not be recoverable. If such circumstances are determined to exist, an estimate of future cash flows produced by the long-lived assets, or the appropriate grouping of assets, is compared to the carrying value to determine whether an impairment exists. If an asset is determined to be impaired, the loss is measured based on quoted market prices in active markets, if available. If quoted market prices are not available, the estimate of fair value is based on various valuation techniques, including a discounted value of estimated future cash flows. A detailed determination of the fair value may be carried forward from one year to the next if certain criteria have been met. We report an asset to be disposed of at the lower of its carrying value or its estimated net realizable value.

Factors we generally consider important in our evaluation and that could trigger an impairment review of the carrying value of long-lived assets include significant underperformance relative to expected operating trends, significant changes in the way assets are used, underutilization of our tangible assets, discontinuance of certain products by us or by our customers, a decrease in estimated mineral reserves, and significant negative industry or economic trends.

The recoverability of the carrying value of our mineral properties is dependent upon the successful development, start-up and commercial production of our mineral deposit and the related processing facilities. Our evaluation of mineral properties for potential impairment primarily includes assessing the existence or availability of required permits and evaluating changes in our mineral reserves, or the underlying estimates and assumptions, including estimated production costs. Assessing the economic feasibility requires certain estimates, including the prices of products to be produced and processing recovery rates, as well as operating and capital costs.

Although we believe the carrying values of our long-lived assets were realizable as of the relevant balance sheet date, future events could cause us to conclude otherwise.

***Mine Reclamation Costs***

We recognize the fair value of any liability for conditional asset retirement obligations, including environmental remediation liabilities when incurred, which is generally upon acquisition, construction or development and/or through the normal operation of the asset, if sufficient information exists to reasonably estimate the fair value of the liability. These obligations generally include the estimated net future costs of dismantling, restoring and reclaiming operating mines and related mine sites, in accordance with federal, state and local regulatory requirements. The liability is accreted over time through periodic charges to earnings. In addition, the asset retirement cost is capitalized as part of the asset's carrying value and amortized over the life of the related asset. Reclamation costs are periodically adjusted to reflect changes in the estimated present value resulting from the passage of time and revisions to the estimates of either the timing or amount of the reclamation and abandonment costs. The reclamation obligation is based on when spending for an existing environmental disturbance will occur. If the asset retirement obligation is settled for other than the carrying amount of the liability, a gain or loss is recognized on settlement. The Company reviews, on an annual basis, unless otherwise deemed necessary, the reclamation obligation at each mine site in accordance with ASC guidance for accounting reclamation obligations.

Future remediation costs for inactive mines are accrued based on management's best estimate at the end of each period of the costs expected to be incurred at a site. Such cost estimates include, where applicable, ongoing care, maintenance and monitoring costs. Changes in estimates at inactive mines are reflected in earnings in the period an estimate is revised.

***Self-Insurance and Product Liability Claim Reserves***

We are self-insured for various levels of employee health insurance coverage, workers' compensation and third party product liability claims alleging occupational disease. We purchase insurance coverage for claim amounts which exceed our self-insured retentions. Depending on the type of insurance, these self-insured retentions range from $100,000 to $500,000 per occurrence.

Our insurance reserves are accrued bases on estimates of the ultimate cost of claims expected to occur during the covered period. These estimates are prepared with the assistance of outside actuaries and consultants. Our actuaries periodically review the volume and amount of claims activity, and based upon their findings, we adjust our insurance reserves accordingly. The ultimate cost of claims for a covered period may differ from our original estimates.

***Employee Benefit Plans***

We provide a range of benefits to our employees and retired employees, including pensions and post-retirement healthcare and life insurance benefits. We record annual amounts relating to these plans based on calculations specified by generally accepted accounting principles, which include various actuarial assumptions, including discount rates, assumed rates of returns, compensation increases, turnover rates and healthcare cost trend rates. We review the actuarial assumptions on an annual basis and make modifications to the assumptions based on current rates and trends when it is deemed appropriate to do so. As required by U.S. generally accepted accounting principles, the effect of the modifications is generally recorded or amortized over future periods. We believe that the assumptions utilized in recording our obligations under the plans, which are presented in Note P to our audited Combined Financial Statements in Part II, Item 8 of this Annual Report on Form 10-K, are reasonable based on advice from our actuaries and information as to assumptions used by other employers.

***Equity-Based Awards***

In July 2011, the Company adopted the U.S Silica Holdings, Inc. 2011 Incentive Compensation Plan (the "2011 Plan"), which provides for grants of stock options, stock appreciation rights, restricted stock and other incentive-based awards. In 2011, we only awarded equity-based awards from the provisions of the 2011 Plan.

We account for equity-based awards in accordance with applicable guidance, which establishes standards of accounting for transactions in which an entity exchanges its equity instruments for goods or services. Equity-based compensation expense is recorded based upon the fair value of the award at grant date. Such costs are recognized as expense on a straight-line basis over the corresponding vesting period. The fair value of the grants issued was calculated based on a Black-Scholes pricing model. This model included certain market assumptions related to future volumes, projected fees and/or prices, expected costs of sales and direct operating costs and risk adjusted discount rates. We also take into consideration the rights and preferences of awarded equity incentives. The application of this valuation model involves assumptions that are judgmental and highly sensitive in the valuation of incentive awards, which affects compensation expense related to these awards. These assumptions include an estimate of the time to liquidity event, volatility and risk free rate over a period of time corresponding to the time to liquidity event.

The fair value of the equity units granted in 2011 was estimated using the following assumptions:

| | |
|---|---|
| Risk-free interest rate | 1.21 – 2.01% |
| Expected volatility | 45% |
| Time to liquidity event | 5.48 – 6.25 years |

Our risk-free interest rate is an interpolated rate from the U.S. constant maturity treasury rate for a term corresponding to the time to liquidity event, as described below. An increase in the risk-free rate will increase compensation expense.

Our expected volatility is a measure of the amount by which the price of various comparable company’s common stock has fluctuated or is expected to fluctuate, as our common stock is not publicly-traded. The comparable companies were selected by analyzing public companies in the industry based on various factors including, but not limited to, company size, financial data availability, active trading volume and capital structure. An increase in the expected volatility will increase compensation expense.

Our time to liquidity event is the period of time over which the underlying equity units are expected to remain outstanding. An increase in the expected term will increase compensation expense.

We will continue to use judgment in evaluating the risk-free interest rate, expected volatility and lives related to our equity-based compensation on a prospective basis and incorporating these factors into our pricing model.

***Taxes***

Deferred taxes are provided on the liability method whereby deferred tax assets are recognized for deductible temporary differences and operating loss and tax credit carry-forwards and deferred tax liabilities are recognized for taxable temporary differences. This approach requires recognition of deferred tax liabilities and assets for the expected future tax consequences of events that have been included in the financial statements or tax returns. Under this method, deferred tax liabilities and assets are determined based upon the difference between the financial statement and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the expenses are expected to reverse. Valuation allowances are provided if, based on the weight of available evidence, it is more likely than not that some or all of the deferred tax assets will not be realized.

We recognize a tax benefit associated with an uncertain tax position when, in our judgment, it is more likely than not that the position will be sustained upon examination by a taxing authority. For a tax position that meets the more-likely-than-not recognition threshold, we initially and subsequently measure the tax benefit as the largest amount that it judges to have a greater than 50% likelihood of being realized upon ultimate settlement with a taxing authority. The liability associated with unrecognized tax benefits is adjusted periodically due to changing circumstances, such as the progress of tax audits, case law developments and new or emerging

legislation. Such adjustments are recognized entirely in the period in which they are identified. The effective tax rate includes the net impact of changes in the liability for unrecognized tax benefits and subsequent adjustments as considered appropriate by management. At the adoption date, we applied the uncertain tax position guidance to all tax positions for which the statute of limitations remained open. The adoption of this guidance did not have a material impact on our combined financial condition or results of operations.

We evaluate quarterly the realizability of our deferred tax assets by assessing the need for a valuation allowance and by adjusting the amount of such allowance, if necessary. The factors used to assess the likelihood of realization are our forecast of future taxable income and available tax planning strategies that could be implemented to realize the net deferred tax assets. Failure to achieve forecasted taxable income might affect the ultimate realization of the net deferred tax assets. Factors that may affect our ability to achieve sufficient forecasted taxable income include, but are not limited to, the following: a decline in sales or margins, increased competition or loss of market share. In addition, we operate within multiple taxing jurisdictions and are subject to audit in these jurisdictions. These audits can involve complex issues, which may require an extended time to resolve. We believe that adequate provisions for income taxes have been made for all years.

The largest permanent item in computing both our effective tax rate and taxable income is the deduction allowed for statutory depletion. The impact of statutory depletion on the effective tax rate is presented in Note O to our Combined Financial Statements in Part II, Item 8 of this Annual Report on Form 10-K. The deduction for statutory depletion does not necessarily change proportionately to changes in income before income taxes.

**Recent Accounting Pronouncements**

New accounting guidance that we have recently adopted, as well as accounting guidance that has been recently issued but not yet adopted by us, are included in Note B to our Combined Financial Statements in Part II, Item 8 of this Annual Report on Form 10-K.

**Internal Control over Financial Reporting**

We reissued our 2010 financial statements after management identified a material weakness in its internal controls related to stock-based compensation. Based on a misinterpretation of accounting guidance, management did not properly record compensation for equity-based awards granted at our parent LLC to certain of our employees. This resulted in an understatement of stock-based compensation expense in 2009 and 2010. A material weakness is a control deficiency, or combination of control deficiencies, that results in more than a remote likelihood that a material misstatement of the annual or interim financial statements will not be prevented or detected. No additional equity-based awards are expected to be granted to our employees at our parent LLC in the future and, therefore, no additional remediation efforts are necessary.

If we fail to maintain effective internal controls in the future, it could result in a material misstatement of our financial statements that would not be prevented or detected on a timely basis, which could cause investors to lose confidence in our financial information or cause our stock price to decline.

## ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

We are exposed to certain market risks, which exist as a part of our ongoing business operations. We use derivative financial and commodity instruments, where appropriate, to manage these risks. As a matter of policy, we do not engage in trading or speculative transactions. Refer to Note K to our Combined Financial Statements in Part II, Item 8 of this Annual Report on Form 10-K for further information on our derivative financial and commodity instruments.

### *Interest Rate and Commodity Price Risks*

We use interest rate and natural gas hedge agreements in the normal course of our business to manage both our interest and energy costs and the risks associated with changing interest rates and natural gas prices. These hedge agreements are used to exchange the difference between fixed and variable-rate interest amounts or natural gas prices calculated by reference to an agreed-upon notional principal amount or natural gas quantity. We do not use derivative financial instruments for trading or speculative purposes. By their nature, all such instruments involve risk, including the possibility that a loss may occur from the failure of another party to perform according to the terms of a contract (credit risk) or the possibility that future changes in market price may make a financial instrument less valuable or more onerous (market risk). As is customary for these types of instruments, we do not require collateral or other security from other parties to these instruments. In management's opinion, there is no significant risk of loss in the event of nonperformance of the counterparties to these financial instruments.

The fair value of the hedge agreements represents the estimated receipts or payments that would be required to settle the agreements at year-end. Quoted market prices were used to estimate the fair values of the interest rate and natural gas hedge agreements. The notional amount represents agreed upon amounts on which calculations of dollars to be exchanged are based. They do not represent amounts exchanged by the parties and, therefore, are not a measure of our exposure. Our credit exposure is limited to the fair value of the contracts with a positive fair value plus interest receivable, if any, as of the reporting date.

| | | December 31, 2011 | | | December 31, 2010 | | |
|---|---|---|---|---|---|---|---|
| | Maturity Date | Contract/Notional Amount | Carrying Amount | Fair Value | Contract/Notional Amount | Carrying Amount | Fair Value |
| | | | (dollars in thousands) | | | (dollars in thousands) | |
| Natural gas rate swap agreements | 2011 | | | | 420,000 MMBTU | $ (109) | $ (109) |
| Interest rate cap agreement[1] | 2012 | $ 100 million | $ — | $ — | $100 million | $ 13 | $ 13 |
| Interest rate cap agreement[1] | 2013 | $ 20 million | $ 11 | $ 11 | $20 million | $ 244 | $ 244 |

(1) Agreements limit the LIBOR floating interest rate base to 4%.

We have designated these contracts as qualified cash flow hedges. Accordingly, the effective portion of the gain or loss on the derivative instrument is reported as a component of other comprehensive income and recognized in earnings in the same period or periods during which the hedged transaction affects earnings. We had no ineffective contracts as of December 31, 2011.

A hypothetical increase or decrease in interest rates by 1.0% would have changed our interest expense by $2.5, $2.4 and $1.8 million for the years ended December 31, 2011, 2010 and 2009, respectively.

### *Market Risk*

We are exposed to various market risks, including changes in interest rates. Market risk related to interest rates is the potential loss arising from adverse changes in interest rates. We do not believe that inflation has a material impact on our financial position or results of operations during periods covered by the financial statements included in this Annual Report on Form 10-K.

### *Credit Risk*

We are subject to risks of loss resulting from nonpayment or nonperformance by our customers. We examine the creditworthiness of third-party customers to whom we extend credit and manage our exposure to credit risk through credit analysis, credit approval, credit limits and monitoring procedures, and for certain transactions, we may request letters of credit, prepayments or guarantees, although collateral is generally not required.

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## ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The following Combined Financial Statements are filed as part of this Annual Report on Form 10-K:

**U.S. SILICA HOLDINGS, INC.**

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Combined Balance Sheets as of December 31, 2011 and 2010 85
Combined Statements of Operations for the Years Ended December 31, 2011, 2010 and 2009 86
Combined Statements of Stockholders' Equity for the Years Ended December 31, 2011, 2010 and 2009 87
Combined Statements of Cash Flows for the Years Ended December 31, 2011, 2010 and 2009 88
Notes to the Combined Financial Statements 89

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**Report of Independent Registered Public Accounting Firm**

Board of Directors and Stockholders
U.S. Silica Holdings, Inc. and Subsidiaries and GGC RCS Holdings, Inc.

We have audited the accompanying combined balance sheets of U.S. Silica Holdings, Inc. (a Delaware Corporation) and Subsidiaries and GGC RCS Holdings, Inc. as of as of December 31, 2011 and 2010, and the related combined statements of operations, stockholders' equity, and cash flows for each of the three years in the period ended December 31, 2011. These financial statements are the responsibility of the Company's management. Our responsibility is to express an opinion on the 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 and schedule are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its 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 and schedule, assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the financial statements and schedule. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the combined financial statements referred to above present fairly, in all material respects, the financial position of U.S. Silica Holdings, Inc. and Subsidiaries and GGC RCS Holdings, Inc. as of December 31, 2011 and 2010, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2011 in conformity with accounting principles generally accepted in the United States of America.

Grant Thornton LLP

Baltimore, Maryland

March 20, 2012

**Grant Thornton LLP**
**U.S. member firm of Grant Thornton International Ltd.**

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**U.S. SILICA HOLDINGS, INC.**

**COMBINED BALANCE SHEETS**

| | December 31, 2011 | December 31, 2010 |
|---|---|---|
| | (in thousands) | |
| **ASSETS** | | |
| **Current Assets:** | | |
| Cash and cash equivalents | $ 59,199 | $ 64,500 |
| Accounts receivable, net | 46,600 | 30,044 |
| Inventories | 29,307 | 22,418 |
| Prepaid expenses and other current assets | 8,561 | 3,191 |
| Deferred income taxes, net | 28,007 | 4,557 |
| Income tax receivable | 3,895 | 2,150 |
| Total current assets | 175,569 | 126,860 |
| Property, plant and mine development, net | 336,788 | 287,595 |
| Debt issuance costs, net | 1,291 | 1,322 |
| Goodwill | 68,403 | 68,403 |
| Trade names | 10,436 | 10,436 |
| Customer relationships, net | 6,942 | 7,353 |
| Other assets | 6,367 | 6,565 |
| Total assets | $605,796 | $508,534 |
| **LIABILITIES AND STOCKHOLDERS' EQUITY** | | |
| **Current Liabilities:** | | |
| Book overdraft | $ 5,588 | $ 3,727 |
| Accounts payable | 36,579 | 12,027 |
| Accrued liabilities | 9,875 | 8,949 |
| Accrued interest | 1,659 | 101 |
| Current portion of long-term debt | 6,364 | 1,510 |
| Current portion of deferred revenue | 10,393 | 6,512 |
| Total current liabilities | 70,458 | 32,826 |
| Long-term debt | 255,425 | 236,932 |
| Note payable to parent | 15,000 | 15,000 |
| Liability for pension and other post-retirement benefits | 52,078 | 49,460 |
| Deferred revenue | 2,128 | 13,077 |
| Deferred income taxes, net | 75,915 | 53,124 |
| Other long-term obligations | 12,858 | 10,551 |
| Total liabilities | 483,862 | 410,970 |
| Commitments and contingencies | | |
| **Stockholders' Equity:** | | |
| Common stock - $0.01 par value, 100 million authorized shares, 50 million shares issued and outstanding | 500 | 500 |
| Additional paid-in capital | 103,757 | 102,519 |
| Retained earnings (accumulated deficit) | 30,038 | (215) |
| Accumulated other comprehensive loss | (12,361) | (5,240) |
| Total stockholders' equity | 121,934 | 97,564 |
| Total liabilities and stockholders' equity | $605,796 | $508,534 |

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

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**U.S. SILICA HOLDINGS, INC.**

**COMBINED STATEMENTS OF OPERATIONS**

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2011 | 2010 | 2009 |
| | (in thousands, except per share amounts) | | |
| Sales | $295,596 | $244,953 | $191,623 |
| Cost of goods sold (excluding depreciation, depletion and amortization) | 181,196 | 157,994 | 136,200 |
| Operating expenses | | | |
| Selling, general and administrative | 23,348 | 20,413 | 10,672 |
| Advisory fees to parent | 9,250 | 1,250 | 1,250 |
| Depreciation, depletion and amortization | 20,999 | 19,305 | 17,887 |
| | 53,597 | 40,968 | 29,809 |
| Operating income | 60,803 | 45,991 | 25,614 |
| Other (expense) income | | | |
| Interest expense | (18,407) | (23,034) | (28,228) |
| Early extinguishment of debt | (6,043) | (10,195) | — |
| Other income, net, including interest income | 1,062 | 959 | 4,894 |
| | (23,388) | (32,270) | (23,334) |
| Income before income taxes | 37,415 | 13,721 | 2,280 |
| Income tax (expense) benefit | (7,162) | (2,329) | 3,259 |
| Net income | $ 30,253 | $ 11,392 | $ 5,539 |
| Earnings per share: | | | |
| Basic | $ 0.61 | $ 0.23 | $ 0.11 |
| Diluted | $ 0.61 | $ 0.23 | $ 0.11 |

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

## U.S. SILICA HOLDINGS, INC.

## COMBINED STATEMENTS OF STOCKHOLDERS' EQUITY

| | Common Stock | Additional Paid-In Capital | Retained Earnings (Deficit) | Accumulated Other Comprehensive Income (Loss): Unrealized (Loss) Gain on Derivatives | Accumulated Other Comprehensive Income (Loss): Pension and Other Post-retirement Benefits Liability | Accumulated Other Comprehensive Income (Loss): Total | Total Stockholders' Equity |
|---|---|---|---|---|---|---|---|
| | | | | (in thousands) | | | |
| Balance at December 31, 2008 | $ 500 | $ 125,700 | $ (1,858) | $ (1,688) | $ (991) | $ (2,679) | $ 121,663 |
| Comprehensive income, net of income taxes: | | | | | | | |
| Net income | — | — | 5,539 | — | — | — | 5,539 |
| Unrealized gain (loss) on derivatives (net of $1,044 tax expense) | — | — | — | 1,639 | — | 1,639 | 1,639 |
| Minimum pension liability (net of $966 tax benefit) | — | — | — | — | (2,760) | (2,760) | (2,760) |
| Total comprehensive income | — | — | — | — | — | — | 4,418 |
| Equity-based compensation | — | 949 | — | — | — | — | 949 |
| Balance at December 31, 2009 | 500 | 126,649 | 3,681 | (49) | (3,751) | (3,800) | 127,030 |
| Comprehensive income, net of income taxes: | | | | | | | |
| Net income | — | — | 11,392 | — | — | — | 11,392 |
| Unrealized gain (loss) on derivatives (net of $308 tax benefit) | — | — | — | (483) | — | (483) | (483) |
| Minimum pension liability (net of $1,339 tax benefit) | — | — | — | — | (957) | (957) | (957) |
| Total comprehensive income | — | — | — | — | — | — | 9,952 |
| Capital contributed by parent | — | 11,800 | — | — | — | — | 11,800 |
| Equity-based compensation | — | 383 | — | — | — | — | 383 |
| Dividend | — | (36,313) | (15,288) | — | — | — | (51,601) |
| Balance at December 31, 2010 | 500 | 102,519 | (215) | (532) | (4,708) | (5,240) | 97,564 |
| Comprehensive income, net of income taxes: | | | | | | | |
| Net income | — | — | 30,253 | — | — | — | 30,253 |
| Unrealized gain (loss) on derivatives (net of $14 tax expense) | — | — | — | 123 | — | 123 | 123 |
| Minimum pension liability (net of $4,627 tax benefit) | — | — | — | — | (7,244) | (7,244) | (7,244) |
| Total comprehensive income | — | — | — | — | — | — | 23,132 |
| Equity-based compensation | — | 1,238 | — | — | — | — | 1,238 |
| Balance at December 31, 2011 | $ 500 | 103,757 | $ 30,038 | $ (409) | $ (11,952) | $(12,361) | $ 121,934 |

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

## U.S. SILICA HOLDINGS, INC.

## COMBINED STATEMENTS OF CASH FLOWS

| | Year Ended December 31, | | |
|---|---|---|---|
| | 2011 | 2010 | 2009 |
| | | (in thousands) | |
| Operating activities: | | | |
| Net income | $ 30,253 | $ 11,392 | $ 5,539 |
| Adjustments: | | | |
| Depreciation, depletion and amortization | 20,999 | 19,305 | 17,887 |
| Debt issuance amortization | 265 | 450 | 853 |
| Original issue discount amortization | 157 | 383 | 830 |
| Early extinguishment of debt | 6,043 | 10,195 | — |
| Deferred income taxes | (659) | (1,324) | (4,236) |
| (Gain)/loss on disposal of property, plant and equipment | (35) | 2 | 8 |
| Deferred revenue | (7,068) | (5,812) | (1,693) |
| Equity-based compensation | 1,238 | 383 | 949 |
| Other | (5,105) | (2,979) | (2,740) |
| Changes in assets and liabilities: | | | |
| Accounts receivable | (16,437) | 1,717 | (289) |
| Inventories | (6,889) | 869 | (225) |
| Prepaid expenses and other current assets | (5,370) | 194 | 1,521 |
| Income taxes | (1,745) | (2,341) | 840 |
| Accounts payable and accrued liabilities | 25,360 | 4,282 | (5,293) |
| Accrued interest | 1,558 | 22 | (88) |
| Net cash provided by operating activities | 42,565 | 36,738 | 13,863 |
| Investing activities: | | | |
| Capital expenditures | (66,745) | (15,241) | (13,350) |
| Proceeds from sale of property, plant and equipment | 106 | 78 | 42 |
| Net cash used in investing activities | (66,639) | (15,163) | (13,308) |
| Financing activities: | | | |
| Change in book overdraft | 1,861 | 2,497 | (1,488) |
| Capital contributed by parent | — | 11,800 | — |
| Proceeds from issuance of note to parent | — | 15,000 | — |
| Dividends paid | — | (51,601) | — |
| Issuance of long-term debt | 259,061 | 65,909 | 3,307 |
| Issuance of short-term debt | 3,932 | — | — |
| Repayment of long-term debt | (240,476) | (11,214) | (2,048) |
| Principal payments on capital lease obligations | — | (5) | (4) |
| Prepayment penalties on long-term debt | (1,500) | (392) | — |
| Financing fees | (4,105) | (3,543) | (55) |
| Net cash provided by (used in) financing activities | 18,773 | 28,451 | (288) |
| Net increase (decrease) in cash and cash equivalents | (5,301) | 50,026 | 267 |
| **Cash and cash equivalents, beginning of period** | 64,500 | 14,474 | 14,207 |
| **Cash and cash equivalents, end of period** | $ 59,199 | $ 64,500 | $ 14,474 |
| **Supplemental cash flow information:** | | | |
| Cash paid during the period for: | | | |
| Interest | $ 18,404 | $ 20,108 | $ 22,103 |
| Taxes | $ 6,915 | $ 4,246 | $ 301 |

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

**U.S. SILICA HOLDINGS, INC.**

**NOTES TO COMBINED FINANCIAL STATEMENTS**

**(dollars in thousands, except per share amounts)**

## NOTE A—ORGANIZATION

U.S. Silica Holdings, Inc. ("Holdings"), formerly GGC USS Holdings, Inc., was organized November 14, 2008 and is a wholly-owned subsidiary of GGC USS Holdings, LLC. On November 25, 2008, U.S. Silica Holdings, Inc. acquired Hourglass Acquisitions I, LLC, whose only operating subsidiary was U.S. Silica Company ("U.S. Silica"). In addition, effective January 31, 2012, with the offering of securities under Form S-1, as filed with the Securities and Exchange Commission, GGC USS Holdings, LLC contributed to Holdings all of the stock of its wholly-owned subsidiary, GGC RCS Holdings, Inc., whose operating subsidiary is Coated Sand Solutions, LLC ("Coated Sand Solutions"). Coated Sand Solutions is developing resin-coated sand products for sale into the oil and gas market.

In consideration of the contribution of GGC RCS Holdings, Inc. to Holdings on January 31, 2012, Holdings and its subsidiaries are presented on a combined basis with GGC RCS Holdings, Inc. for all periods presented and are collectively referred to herein, as the "Company".

## NOTE B—SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

***Use of Estimates and Assumptions***

The Company's Combined Financial Statements have been prepared in accordance with accounting principles generally accepted in the United States of America ("GAAP"). The preparation of the Company's Combined Financial Statements requires the Company to make estimates and assumptions that affect the reported amounts of assets and liabilities and the related disclosure of contingent assets and liabilities at the date of the Combined Financial Statements and the reported amounts of revenues and expenses during the reporting period. The more significant areas requiring the use of management estimates and assumptions relate to mineral reserves that are the basis for future cash flow estimates utilized in impairment calculations and units-of-production amortization calculations; environmental, reclamation and closure obligations; estimates of recoverable minerals; estimates of fair value for certain reporting units and asset impairments (including impairments of goodwill and other long-lived assets); write-downs of inventory to net realizable value; post-employment, post-retirement and other employee benefit liabilities; valuation allowances for deferred tax assets; reserves for contingencies and litigation; and the fair value and accounting treatment of financial instruments including derivative instruments. The Company bases its estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances. Accordingly, actual results may differ significantly from these estimates under different assumptions or conditions.

***Principles of Combination***

The Combined Financial Statements include the accounts of Holdings and its direct and indirect wholly-owned subsidiaries and GGC RCS Holdings, Inc. (formed in 2010). All significant intercompany balances and transactions have been eliminated in combination.

The Company follows FASB Accounting Standards Codification ("ASC") guidance for identification and reporting of entities over which control is achieved through means other than voting rights. The guidance defines such entities as Variable Interest Entities ("VIEs"). As of December 31, 2011 and for the periods presented herein, the Company has identified no entities over which we maintain any level of control that would qualify for consolidation under ASC guidance.

U.S. SILICA HOLDINGS, INC.

NOTES TO COMBINED FINANCIAL STATEMENTS

(dollars in thousands, except per share amounts)

***Revenue Recognition***

Revenue is recognized from a sale when persuasive evidence of an arrangement exists, the price is fixed or determinable, the product has been delivered or legal title has been transferred to the customer and collection of the sales price is reasonably assured. Amounts received from customers in advance of revenue recognition are deferred as liabilities.

The Company derives its sales by mining and processing minerals that its customers purchase for various uses. Its sales are primarily a function of the price per ton realized and the volumes sold. In some instances, its sales also include a charge for transportation services it provides to its customers. The Company's transportation revenue fluctuates based on a number of factors, including the volume of product it transports under contract, service agreements with its customers, the mode of transportation utilized and the distance between its plants and customers.

The Company primarily sells its products under short-term price agreements or at prevailing market rates. For a limited number of customers, the Company sells under long-term, competitively-bid supply agreements. For the year ended December 31, 2011, the Company had take-or-pay supply agreements with three of its customers in the oil & gas proppants segment with initial terms expiring between 2014 and 2016. These agreements define, among other commitments, the volume of product that its customers must purchase, the volume of product that it must provide and the price that it will charge and that its customers will pay for each product. Prices under these agreements are generally fixed and subject to upward adjustment in response to certain cost increases. As a result, the Company's realized prices may not grow at rates consistent with broader industry pricing. For example, during periods of rapid price growth, its realized prices may grow more slowly than those of competitors, and during periods of price decline, its realized prices may outperform industry averages.

The Company invoices the majority of its clients on a per shipment basis, although for some larger customers, the Company consolidates invoices weekly or monthly. Standard terms are net 30 days, although extended terms are offered in competitive situations. The amounts invoiced include the amount charged for the product, transportation costs (if paid by the Company) and costs for additional services as applicable, such as costs related to transload the product from railcars to trucks for delivery to the customer site.

***Cash and Cash Equivalents***

Cash and cash equivalents consist of all highly liquid investments with a maturity of three months or less when purchased. Because of the short maturity of these investments, the carrying amounts approximate their fair value. Cash and cash equivalents are invested primarily in money market securities with high quality institutions. Accounts at each institution are insured by Federal Deposit Insurance Corporation. Cash balances at times may exceed federally-insured limits. The Company has not experienced any losses in such accounts and believes it is not exposed to any significant credit risk on cash.

***Accounts Receivable***

The majority of the Company's accounts receivable are due from companies in the glass, oil and natural gas drilling, building products, filler and extenders, foundries and other major industries. Credit is extended based on evaluation of a customers' financial condition and, generally, collateral is not required. Accounts receivable are generally due within 30 days and are stated at amounts due from customers net of an allowance for doubtful accounts. Accounts outstanding longer than the payment terms are considered past due. The Company

determines its allowance by considering a number of factors, including the length of time trade accounts receivable are past due, the Company's previous loss history, the customer's current ability to pay its obligation to the Company, and the condition of the general economy and the industry as a whole. The Company writes-off accounts receivable when they are deemed uncollectible, and payments subsequently received on such receivables are credited to the allowance for doubtful accounts. Management believes it maintains adequate reserves for potential credit losses; ongoing credit evaluations are performed and collateral is generally not required.

The Company's five largest customers accounted for approximately 25%, 29% and 23% of sales in the years ended December 31, 2011, 2010 and 2009, respectively. No single individual customer accounted for more than 10% of sales in the years ended December 31, 2011, 2010 and 2009.

***Inventories***

Inventories represent silica and other industrial sand available for shipment. The Company values inventory at the lower of cost or market. Cost is determined using the first-in, first-out and average cost methods.

***Property, Plant and Mine Development***

*Property and equipment*

Property and equipment is recorded at cost and depreciated over their estimated useful lives. Interest incurred during construction of facilities is capitalized and depreciated over the life of the asset. Depreciable properties, mining properties, and mineral deposits acquired in connection with business acquisitions are recorded at fair market value as of the date of acquisition.

Costs for normal repairs and maintenance that do not extend economic life or improve service potential are expensed as incurred. Costs of improvements that extend economic life or improve service potential are capitalized and depreciated over the estimated remaining useful life.

Depreciation is recorded using the straight-line method over the assets' estimated useful life as follows: buildings (15 years); land improvements (10 years); machinery & equipment, including computer equipment and software (3-10 years); furniture & fixtures (8 years). Leasehold improvements are depreciated over the shorter of the asset life or lease term. Construction-in-progress is primarily comprised of machinery and equipment, which has not yet been placed in service.

Gains on the sale of assets are included in income when the assets are disposed of provided there is more than reasonable certainty of the collectability of the sales price and any future activities required to be performed by us relating to the disposal of the assets are complete or insignificant. Upon retirement or disposal of assets, all costs and related accumulated depreciation or amortization are written-off.

Depletion and amortization of mineral deposits are recorded as the minerals are extracted, based on units of production and engineering estimates of mineable reserves. The impact of revisions to reserve estimates is recognized on a prospective basis.

We evaluate the carrying value of our property and equipment if impairment evaluation triggering events occur. If it is determined that the current net book value is in excess of the fair value, the excess of the net book value over the estimated fair value is recorded in our combined statements of operations as impairment loss. Fair

value is generally estimated using valuation techniques that consider the discounted cash flows of the asset at rates deemed reasonable for the type of asset and prevailing market conditions, appraisals, including recent similar transactions in the market and if appropriate and available, current estimated net sales proceeds from pending offers.

We will classify an asset as held for sale when we have committed to a plan to sell the asset, the sale of the asset is probable within one year, and actions to complete the sale are unlikely to change or that the sale will be withdrawn. Accordingly, we typically classify assets as held for sale when our Board of Directors has approved the sale, a binding agreement to purchase the property has been signed under which the buyer has committed a significant amount of nonrefundable cash and no significant financing contingencies exist which could prevent the transaction from being completed in a timely manner. If these criteria are met, we will record an impairment loss if the fair value, less cost to sell, is lower than the carrying amount of the asset and will cease recording depreciation. We will classify the loss, together with the related operating results, including related interest expense on any debt assumed by the buyer or that is required to be repaid as a result of the sale, as discontinued operations on our combined statement of operations, presuming that we will not have continuing involvement with the property or asset after the sale, and classify the asset and related liability as held for sale on our combined balance sheet. Gains on sales of assets are recognized at the time of sale or deferred and recognized as income in subsequent periods as conditions requiring deferral are satisfied or expire without further cost to us.

*Mine exploration and development*

Mine exploration and development costs include engineering and mineral studies, drilling and other related costs to delineate an ore body, the removal of overburden to initially expose an ore body for production. Costs incurred before mineralization are classified as proven and probable reserves are expensed and classified as exploration or advanced projects, research and development expense. Capitalization of mine development project costs, that meet the definition of an asset, begins once mineralization is classified as proven and probable reserves.

Drilling and related costs are capitalized for an ore body where proven and probable reserves exist and the activities are directed at obtaining additional information on the ore body or converting non-reserve mineralization to proven and probable reserves and the benefit is expected to be realized over a period beyond one year. All other drilling and related costs are expensed as incurred. Drilling costs incurred during the production phase for operational ore control are allocated to inventory costs and then included as a component of costs applicable to sales.

The cost of removing overburden and waste materials to access the ore body at an open pit mine prior to the production phase are referred to as “pre-stripping costs.” Pre-stripping costs are capitalized during the development of an open pit mine. Where multiple open pits exist at a mining complex utilizing common processing facilities, pre-stripping costs are capitalized at each pit. The removal, production, and sale of de minimis saleable materials may occur during development and are recorded as other income, net of incremental mining and processing costs.

The production phase of an open pit mine commences when saleable minerals, beyond a de minimis amount, are produced. Stripping costs incurred during the production phase of a mine are variable production costs that are included as a component of inventory to be recognized in costs applicable to sales in the same period as the revenue from the sale of inventory. The Company’s definition of a mine and the mine’s production

**U.S. SILICA HOLDINGS, INC.**

**NOTES TO COMBINED FINANCIAL STATEMENTS**

**(dollars in thousands, except per share amounts)**

phase may differ from that of other companies in the mining industry resulting in incomparable allocations of stripping costs to deferred mine development and production costs. Other mining companies may expense pre-stripping costs associated with subsequent pits within a mining complex.

Mine development costs are amortized using the units-of-production ("UOP") method based on estimated recoverable tons in proven and probable reserves. To the extent that these costs benefit an entire ore body, they are amortized over the estimated life of the ore body. Costs incurred to access specific ore blocks or areas that only provide benefit over the life of that area are amortized over the estimated life of that specific ore block or area.

*Mine reclamation costs*

We recognize the fair value of any liability for conditional asset retirement obligations, including environmental remediation liabilities when incurred, which is generally upon acquisition, construction or development and/or through the normal operation of the asset, if sufficient information exists to reasonably estimate the fair value of the liability. These obligations generally include the estimated net future costs of dismantling, restoring and reclaiming operating mines and related mine sites, in accordance with federal, state and local regulatory requirements. The liability is accreted over time through periodic charges to earnings. In addition, the asset retirement cost is capitalized as part of the asset's carrying value and amortized over the life of the related asset. Reclamation costs are periodically adjusted to reflect changes in the estimated present value resulting from the passage of time and revisions to the estimates of either the timing or amount of the reclamation and abandonment costs. The reclamation obligation is based on when spending for an existing environmental disturbance will occur. If the asset retirement obligation is settled for other than the carrying amount of the liability, a gain or loss is recognized on settlement. The Company reviews, on an annual basis, unless otherwise deemed necessary, the reclamation obligation at each mine site in accordance with ASC guidance for accounting reclamation obligations.

Future remediation costs for inactive mines are accrued based on management's best estimate at the end of each period of the costs expected to be incurred at a site. Such cost estimates include, where applicable, ongoing care, maintenance and monitoring costs. Changes in estimates at inactive mines are reflected in earnings in the period an estimate is revised.

In connection with our annual review of our reclamation obligations in 2011, we have determined that some of our estimates required revision due to changes in cost estimates and settlement dates at numerous sites. These changes in estimates resulted in the recognition of an additional $2.6 million of reclamation obligations in 2011. As these adjustments are due to a change in estimate and not a correction of an error, we have accounted for the effect of these changes in estimates on a prospective basis and have recognized the related adjustment in the current period.

The Company reported a liability of $9.5 million and $6.4 million in other long-term obligations related to this obligation as of December 31, 2011 and 2010, respectively. Changes in the asset retirement obligation are as follows:

| | 2011 | 2010 |
|---|---|---|
| Beginning balance | $6,401 | $5,905 |
| Payments | — | — |
| Accretion | 537 | 496 |
| Revisions of prior estimates | 2,566 | — |
| Ending balance | $9,504 | $6,401 |

*Goodwill and Other Intangible Assets and Related Impairment*

The Company's intangible assets consist of goodwill, which is not being amortized; indefinite lived intangibles, which consist of certain trade names that are not subject to amortization; and customer relationships, which are being amortized on a straight-line basis over their useful life of 20 years.

Goodwill represents the excess of purchase price over the fair value of net assets from the business acquisition. Goodwill and other intangible assets with indefinite lives are reviewed for impairment annually as of October 31 or more frequently whenever events or circumstances change that would more likely than not reduce the fair value of those assets. The impairment test for goodwill requires a comparison of the fair value with the carrying amount, including goodwill. If this comparison reflects impairment, then the loss would be measured as the excess of recorded goodwill over its implied fair value. Implied fair value is the excess of the fair value of the Company over the fair value of all recognized and unrecognized assets and liabilities.

The evaluation of goodwill for possible impairment includes estimating the fair value of the Company using discounted cash flows and multiples of cash earnings valuation techniques, plus valuation comparisons to similar businesses. These valuations require the Company to make estimates and assumptions regarding future operating results, cash flows, changes in working capital and capital expenditures, selling prices, profitability, and the cost of capital. Although the Company believes that the estimates and assumptions used were reasonable, actual results could differ from those estimates and assumptions.

As of December 31, 2011, the gross carrying amount of the customer relationships intangible asset was $8.2 million with accumulated amortization of $1.2 million. We review all finite-lived intangible assets for impairment when circumstances indicate that their carrying amounts may not be recoverable. We evaluate the carrying value of all finite-lived intangible assets for impairment by comparing the expected undiscounted future cash flows of the asset to the net book value of the asset. If the expected undiscounted future cash flows are less than the net book value of the assets, the excess of the net book value over the estimated fair value is recorded in our combined statements of operations as impairment loss. Fair value is generally estimated using valuation techniques that consider the discounted cash flows of the asset at rates deemed reasonable for the type of asset and prevailing market conditions, replacement cost, appraisals, including recent similar transactions in the market and if appropriate, current estimated net sales proceeds from pending offers. As of December 31, 2011, the remaining useful life of our customer relationships was 16.9 years. The estimated annual amortization in each of the next five years is $411.

*Debt Issuance Costs*

Debt issuance costs consist of loan origination costs, which are being amortized using the effective interest method over the term of the related debt principal. Amortization included in interest expense was $265, $447 and $853 for the years ended December 31, 2011, 2010 and 2009, respectively.

*Transportation Revenue and Expense*

Transportation revenue is the revenue the Company receives from charging its customers to deliver product to their locations or to a transload site from which customers are able to take possession and is included in revenue. Transportation expense is the cost the Company pays to ship product from its production facilities to customer facilities or to a transload site from which customers can take possession and is included in cost of goods sold.

U.S. SILICA HOLDINGS, INC.

NOTES TO COMBINED FINANCIAL STATEMENTS

(dollars in thousands, except per share amounts)

***Environmental Costs***

Environmental costs, other than qualifying capital expenditures, are accrued at the time the exposure becomes known and costs can be reasonably estimated. Costs are accrued based upon management's estimates of all direct costs, after taking into account expected reimbursement by third parties (primarily the sellers of acquired businesses), and are reviewed by outside consultants. Environmental costs are charged to expense unless a settlement with an indemnifying party has been reached.

***Self-Insurance***

We are self-insured for various levels of employee health insurance coverage, workers' compensation and third party product liability claims alleging occupational disease. We purchase insurance coverage for claim amounts which exceed our self-insured retentions. Depending on the type of insurance, these self-insured retentions range from $100,000 to $500,000 per occurrence.

Our insurance reserves are accrued based on estimates of the ultimate cost of claims expected to occur during the covered period. These estimates are prepared with the assistance of outside actuaries and consultants. Our actuaries periodically review the volume and amount of claims activity, and based upon their findings, we adjust our insurance reserves accordingly. The ultimate cost of claims for a covered period may differ from our original estimates.

The current portion of our self-insurance reserves is included in accrued liabilities and the non-current portion is included in other long-term obligations in our combined balance sheets. Our self-insurance reserves totaled $3.6 million and $4.2 million at December 31, 2011 and 2010, respectively. Of these amounts, $1.2 million and $1.0 million, respectively, were classified as current.

***Equity-based Compensation***

The Company recognizes the cost of employee services rendered in exchange for awards of equity instruments, such as stock options and restricted stock, based on the fair value of those awards at the date of the grant. Compensation expense for equity units is recognized, on a straight-line basis, net of forfeitures, over the requisite service period for the fair value of the awards that actually vest.

***Income Taxes***

Deferred taxes are provided on the liability method whereby deferred tax assets are recognized for deductible temporary differences and operating loss and tax credit carry forwards and deferred tax liabilities are recognized for taxable temporary differences. This approach requires recognition of deferred tax liabilities and assets for the expected future tax consequences of events that have been included in the financial statements or tax returns. Under this method, deferred tax liabilities and assets are determined based upon the difference between the financial statement and tax basis of assets and liabilities using enacted tax rates in effect for the year in which the expenses are expected to reverse. Valuation allowances are provided if, based on the weight of available evidence, it is more likely than not that some or all of the deferred tax assets will not be realized.

The Company recognizes a tax benefit associated with an uncertain tax position when, in management's judgment, it is more likely than not that the position will be sustained upon examination by a taxing authority. For a tax position that meets the more-likely-than-not recognition threshold, the Company initially and subsequently measures the tax benefit as the largest amount that it judges to have a greater than 50% likelihood

of being realized upon ultimate settlement with a taxing authority. The liability associated with unrecognized tax benefits is adjusted periodically due to changing circumstances, such as the progress of tax audits, case law developments and new or emerging legislation. Such adjustments are recognized entirely in the period in which they are identified. The effective tax rate includes the net impact of changes in the liability for unrecognized tax benefits and subsequent adjustments as considered appropriate by management.

The largest permanent item in computing both the Company's effective tax rate and taxable income is the deduction allowed for statutory depletion. The impact of statutory depletion on the effective tax rate is presented in Note O to these financial statements. The deduction for statutory depletion does not necessarily change proportionately to changes in income before income taxes.

***Net Income per Common Share***

Basic and diluted income per share is presented for net income. Basic income per share is computed by dividing income available to common shareholders by the weighted-average number of outstanding common shares for the period. Diluted income per share reflects the potential dilution that could occur if securities or other contracts that may require the issuance of common shares in the future were converted. Diluted income per share is computed by increasing the weighted-average number of outstanding common shares to include the additional common shares that would be outstanding after conversion and adjusting net income for changes that would result from the conversion. Only those securities or other contracts that result in a reduction in earnings per share are included in the calculation.

***Comprehensive Income***

In addition to net income, comprehensive income (loss) includes all changes in equity during a period, such as adjustments to minimum pension liabilities and the effective portion of changes in fair value of derivative instruments that qualify as cash flow hedges.

***Financial Instruments***

The Company uses interest rate and natural gas hedge agreements to manage interest and energy costs and the risk associated with changing interest rates and natural gas prices. Amounts to be paid or received under these hedge agreements are accrued as interest rates or natural gas prices change and are recognized over the life of the hedge agreements as an adjustment to interest expense or, in the case of natural gas, cost of goods sold. The Company's policy is to not hold or issue derivative financial instruments for trading or speculative purposes. When entered into, these financial instruments are designated as hedges of underlying exposures, associated with the Company's long-term debt and energy costs, and are monitored to determine if they remain effective hedges. Gains and losses on derivatives designated as cash flow hedges are recorded in other comprehensive income net of tax and reclassified to earnings in a manner that matches the timing of the earnings impact of the hedged transactions. The ineffective portion of all hedges, if any, is recognized currently in income. Additional disclosures for derivative instruments are presented in Note K to these financial statements.

***Reclassifications***

The Combined Financial Statements for prior years reflect certain reclassifications to conform to classification adopted in 2011. These classifications relate specifically to the presentation of advisory fees to our parent and have no effect on our net income.

U.S. SILICA HOLDINGS, INC.

NOTES TO COMBINED FINANCIAL STATEMENTS

(dollars in thousands, except per share amounts)

***Recently Issued Accounting Pronouncements***

In May 2011, the FASB issued changes to conform existing guidance regarding fair value measurement and disclosure between GAAP and International Financial Reporting Standards. These changes both clarify the FASB's intent about the application of existing fair value measurement and disclosure requirements and amend certain principles or requirements for measuring fair value or for disclosing information about fair value measurements. The clarifying changes relate to the application of the highest and best use and valuation premise concepts, measuring the fair value of an instrument classified in a reporting entity's shareholders' equity, and disclosure of quantitative information about unobservable inputs used for Level 3 fair value measurements. The amendments relate to measuring the fair value of financial instruments that are managed within a portfolio; application of premiums and discounts in a fair value measurement; and additional disclosures concerning the valuation processes used and sensitivity of the fair value measurement to changes in unobservable inputs for those items categorized as Level 3, a reporting entity's use of a nonfinancial asset in a way that differs from the asset's highest and best use, and the categorization by level in the fair value hierarchy for items required to be measured at fair value for disclosure purposes only. These changes become effective for us on January 1, 2012. Management is currently evaluating the potential impact of these changes on the Combined Financial Statements.

In June 2011, the FASB issued changes to the presentation of comprehensive income. These changes give an entity the option to present the total of comprehensive income, the components of net income, and the components of other comprehensive income either in a single continuous statement of comprehensive income or in two separate but consecutive statements; the option to present components of other comprehensive income as part of the statement of changes in stockholders' equity was eliminated. The items that must be reported in other comprehensive income or when an item of other comprehensive income must be reclassified to net income were not changed. Additionally, no changes were made to the calculation and presentation of earnings per share. These changes become effective for us on January 1, 2012. Management is currently evaluating these changes to determine which option will be chosen for the presentation of comprehensive income. Other than the change in presentation, management has determined these changes will not have an impact on the Combined Financial Statements.

In September 2011, the FASB issued changes to the testing of goodwill for impairment. These changes provide an entity the option to first assess qualitative factors to determine whether the existence of events or circumstances leads to a determination that it is more likely than not (more than 50%) that the fair value of a reporting unit is less than its carrying amount. Such qualitative factors may include the following: macroeconomic conditions; industry and market considerations; cost factors; overall financial performance; and other relevant entity-specific events. If an entity elects to perform a qualitative assessment and determines that an impairment is more likely than not, the entity is then required to perform the existing two-step quantitative impairment test, otherwise no further analysis is required. An entity also may elect not to perform the qualitative assessment and, instead, go directly to the two-step quantitative impairment test. These changes become effective for us for any goodwill impairment test performed on January 1, 2012 or later, although early adoption is permitted. As these changes should not affect the outcome of the impairment analysis of a reporting unit, management has determined these changes will not have an impact on the Combined Financial Statements.

In September 2011, the FASB issued changes to increase the level of disclosure about an employer's participation in a multiemployer pension plan. These changes require that employers provide additional separate quantitative and qualitative disclosures for multiemployer pension plans and multiemployer other post-retirement benefit plans, including the significant multiemployer plan(s) in which an employer participates, the level at which an employer participates in the plan(s), the financial health of the plan(s) and the nature of the employer

commitments to the plan(s). These changes become effective for us December 15, 2012. Other than the change with regard to additional disclosure, management has determined these changes will not have an impact on the Combined Financial Statements.

In December 2011, the FASB issued changes to the disclosure of netting arrangements. These changes require companies to disclose both gross and net information about instruments and transactions eligible for offset in the statement of financial position as well as instruments and transactions subject to an agreement similar to a master netting arrangement. These changes become effective for us January 1, 2013. Management is currently evaluating the potential impact of these changes on the Combined Financial Statements.

***Proposed Accounting Pronouncements***

In recent exposure drafts, the International Accounting Standards Board (IASB) and the FASB proposed a new approach to the accounting for leases. From a lessee's perspective, the exposure drafts propose to abolish the distinction between operating and finance/capital leases. In its place, a right-of-use model would be used. This proposal, as currently written, would require the lessee to recognize an asset for its right to use the underlying leased asset and a liability for its obligation to make lease payments. This would lead to an increase in assets and liabilities for leases currently classified as an operating lease and could also lead to a change in timing as to when the expense is recognized. This exposure draft is not yet finalized; however, we believe knowledge of this information is useful to the reader of our financial statements as some of our operating assets and machinery, including rail cars, are currently leased, and those leases are accounted for as operating leases.

***Recently Adopted Accounting Pronouncements***

On January 1, 2011, we adopted changes issued by the FASB to disclosure requirements for fair value measurements. Specifically, the changes require a reporting entity to disclose, in the reconciliation of fair value measurements using significant unobservable inputs (Level 3), separate information about purchases, sales, issuances, and settlements (that is, on a gross basis rather than as one net number). These changes were applied to the disclosures in Note J to the Combined Financial Statements.

**NOTE C—EARNINGS PER SHARE**

On November 25, 2008, we issued 1,000 shares of our common stock to our parent company and sole stockholder, GGC USS Holdings, LLC, for an aggregate purchase price of $10.00. The shares were issued in reliance on Section 4(2) of the Securities Act as the sale of the securities did not involve a public offering. Appropriate legends were affixed to the securities issued in this transaction. On July 8, 2011, our board of directors approved and the Company subsequently filed an amended and restated certificate of incorporation which, among other things, increased the authorized shares of common stock to 100 million shares. The amended and restated certificate of incorporation also created a 50,000-for-one split of the Company's common stock. All common stock share and per share data of the Company contained in the financial statements have been retroactively adjusted to reflect this stock split for all periods presented.

Basic income per common share is computed by dividing income available to common shareholders by the weighted average number of common shares outstanding for the period. Diluted income per common share is computed similarly to basic income per common share except that the weighted average number of common shares outstanding is increased to include the number of additional common shares that would have been outstanding if the potentially dilutive common shares had been issued.

U.S. SILICA HOLDINGS, INC.

NOTES TO COMBINED FINANCIAL STATEMENTS

(dollars in thousands, except per share amounts)

| | 2011 | 2010 | 2009 |
|---|---|---|---|
| Net income attributable to U.S. Silica stockholders: | | | |
| Continuing operations | $30,253 | $11,392 | $ 5,539 |
| | $30,253 | $11,392 | $ 5,539 |
| Weighted average common shares (thousands): | | | |
| Basic | 50,000 | 50,000 | 50,000 |
| Effect of employee stock based awards | 6 | — | — |
| Diluted | 50,006 | 50,000 | 50,000 |
| Net income attributable to U.S. Silica stockholders per common share | | | |
| Basic: | | | |
| Continuing operations | $ 0.61 | $ 0.23 | $ 0.11 |
| | $ 0.61 | $ 0.23 | $ 0.11 |
| Diluted: | | | |
| Continuing operations | $ 0.61 | $ 0.23 | $ 0.11 |
| | $ 0.61 | $ 0.23 | $ 0.11 |

There were no outstanding options to purchase common stock at December 31, 2011, 2010 and 2009 that were anti-dilutive.

## NOTE D—ACCOUNTS RECEIVABLE

At December 31, 2011 and 2010, accounts receivable consisted of the following:

| | At December 31, | |
|---|---|---|
| | 2011 | 2010 |
| Trade receivables | $46,094 | $30,097 |
| Less: Allowance for doubtful accounts | (779) | (832) |
| Net trade receivables | 45,315 | 29,265 |
| Other receivables | 1,285 | 779 |
| Total accounts receivable | $46,600 | $30,044 |

Trade receivables relate to sales of commercial silica, for which credit is extended based on the customer's credit history. Other receivables primarily represent amounts due from insurance claims under an indemnity (Note N) and taxes.

Changes in the Company's allowance for doubtful accounts are as follows:

| | At December 31, | |
|---|---|---|
| | 2011 | 2010 |
| Beginning balance | $ 832 | $ 729 |
| Bad debt provision | (34) | 270 |
| Accounts written off | (19) | (167) |
| Ending balance | $ 779 | $ 832 |

U.S. SILICA HOLDINGS, INC.

NOTES TO COMBINED FINANCIAL STATEMENTS

(dollars in thousands, except per share amounts)

## NOTE E—INVENTORIES

At December 31, 2011 and 2010, inventories consisted of the following:

| | At December 31, | |
|---|---|---|
| | 2011 | 2010 |
| Supplies | $12,671 | $11,475 |
| Raw materials and work in process | 8,671 | 6,208 |
| Finished goods | 7,965 | 4,735 |
| Total inventories | $29,307 | $22,418 |

## NOTE F—PROPERTY, PLANT AND MINE DEVELOPMENT

At December 31, 2011 and 2010, property, plant and mine development consisted of the following:

| | As of December 31, 2011 | | |
|---|---|---|---|
| | Cost | Accumulated Depreciation/ Amortization | Net Book Value |
| Mining property and mine development | $155,182 | $ (11,486) | $ 143,696 |
| Asset retirement cost | 8,362 | (671) | 7,691 |
| Land | 29,806 | — | 29,806 |
| Land improvements | 10,280 | (2,831) | 7,449 |
| Buildings | 17,380 | (3,257) | 14,123 |
| Machinery and equipment | 153,560 | (37,297) | 116,263 |
| Furniture and fixtures | 599 | (67) | 532 |
| | 375,169 | (55,609) | 319,560 |
| Construction-in-progress | 17,228 | — | 17,228 |
| | $392,397 | $ (55,609) | $ 336,788 |

| | As of December 31, 2010 | | |
|---|---|---|---|
| | Cost | Accumulated Depreciation/ Amortization | Net Book Value |
| Mining property and mine development | $154,529 | $ (7,567) | $ 146,962 |
| Asset retirement cost | 5,620 | (992) | 4,628 |
| Land | 21,618 | — | 21,618 |
| Land improvements | 9,261 | (1,879) | 7,382 |
| Buildings | 17,204 | (2,104) | 15,100 |
| Machinery and equipment | 111,227 | (24,082) | 87,145 |
| Furniture and fixtures | 28 | (7) | 21 |
| | 319,487 | (36,631) | 282,856 |
| Construction-in-progress | 4,739 | — | 4,739 |
| | $324,226 | $ (36,631) | $ 287,595 |

**U.S. SILICA HOLDINGS, INC.**

**NOTES TO COMBINED FINANCIAL STATEMENTS**

**(dollars in thousands, except per share amounts)**

Depreciation expense, including depletion and amortization, recognized during the year ended December 31, 2011, 2010 and 2009 was $20,999, $19,305 and $17,887, respectively. As of December 31, 2011, we hold no assets under a capital lease obligation.

The amount of interest costs capitalized in property, plant and equipment was $575, $456 and $185 for the year ended December 31, 2011, 2010 and 2009, respectively.

## NOTE G—ACCRUED LIABILITIES

At December 31, 2011 and 2010, accrued liabilities consisted of the following:

| | At December 31, | |
|---|---|---|
| | 2011 | 2010 |
| Accrued salaries and wages | $2,215 | $1,896 |
| Accrued vacation liability | 2,669 | 2,469 |
| Current portion of liability for pension and post-retirement benefits | 1,510 | 1,420 |
| Accrued healthcare liability | 1,155 | 1,017 |
| Other accrued liabilities | 2,326 | 2,147 |
| Total accrued liabilities | $9,875 | $8,949 |

The Company is self-insured for health care claims for eligible participating employees and qualified dependent medical claims, subject to deductibles and limitations. The Company's liabilities for claims incurred but not reported (IBNR) are determined based on an estimate of the ultimate aggregate liability for claims incurred. The estimate is calculated from actual historical claim rates and reviewed and adjusted periodically, as necessary.

Other accrued liabilities consist of taxes payable, accrued rebates, accrued professional fees and other immaterial items. No individual amounts in other accrued liabilities represent more than five percent of current liabilities.

## NOTE H—DEBT

At December 31, 2011 and 2010, debt consisted of the following:

| | At December 31, | |
|---|---|---|
| | 2011 | 2010 |
| Revolving line-of-credit: | $ — | $ — |
| Senior secured credit facility: | | |
| Term loan facility (final maturity May 7, 2016) (4.75% and 5.75% at December 31, 2011 and 2010, respectively), net of unamortized original issue discount of $843 and $744, respectively | 257,857 | 163,442 |
| Subordinated notes: | | |
| Promissory notes (final maturity May 7, 2017) (12.00% at December 31, 2011 and 2010, respectively) | — | 75,000 |
| Short-term notes: | | |
| 6.0% note (due December 14, 2012) | 3,932 | — |
| Total debt | 261,789 | 238,442 |
| Less: current portion | (6,364) | (1,510) |
| Total long-term portion of debt | $255,425 | $236,932 |

**U.S. SILICA HOLDINGS, INC.**

**NOTES TO COMBINED FINANCIAL STATEMENTS**

**(dollars in thousands, except per share amounts)**

***Revolving Line-of-Credit***

The Company has a $35.0 million, asset-based revolving line-of-credit agreement (the "Revolver") with Wachovia Bank, National Association ("Wachovia"), which expires October 31, 2015. Advances under the credit agreement bear interest at either, London Interbank Offered Rate ("LIBOR"), plus 275 basis points, or Prime plus 175 basis points, at the Company's sole option. The interest rate is reduced by 25 basis points when availability under the credit agreement is greater than $10 million. The interest rate on the line-of-credit was 5.0% at December 31, 2011 and 2010. The fixed charge coverage and leverage ratios are not applicable when availability is above $7.5 million.

Monthly borrowing availability (the borrowing base) is determined by a formula, taking into consideration eligible accounts receivable and inventory, reduced by any outstanding letters of credit and a provision based on the market value of any derivatives in place with Wachovia. Each day, all cash receipts are automatically applied as a reduction against any advances made by Wachovia to the Company, and subject to the satisfaction or waiver of the conditions to borrowings to meet its daily cash requirements, up to the amount available under the borrowing base. If the monthly borrowing base is less than the $35.0 million total line-of-credit, then, at Wachovia's sole discretion, advances in excess of the borrowing base may be made up to the full amount of the $35.0 million line-of-credit.

As of December 31, 2011, the available borrowing base was $35.0 million, with nothing drawn as of that date and $9.8 million allocated for letters of credit and $1.2 million reserved for derivatives, leaving $24.0 million available for general corporate use under this revolving credit agreement.

***Senior Secured Credit Facility***

The Company entered into a $102 million senior secured term loan facility (the "Term Loan") under the conditions set forth in a credit agreement dated November 25, 2008 (the "Term Loan Agreement").

On May 7, 2010 the Term Loan Agreement was amended in several ways including an increase in the principal, a reduction in the interest rate, and an extension of the expiration date to May 7, 2016. As a result of the refinancing that occurred May 7, 2010, the Company recorded a charge to the Statement of Operations of $10.2 million for early debt extinguishment. This charge includes the write-off of the debt issuance cost and the original issue discount associated with the original term loan and note purchase agreements as well as lenders fees incurred as a result of the modification of these agreements.

On June 8, 2011, the Company again refinanced the Term Loan. Significant changes to the Term Loan Agreement included an increase in principal to $260 million from $165 million, a reduction in the interest rate to either LIBOR plus 375 basis points (previously 400) or Prime plus 275 basis points (previously 300) and an extension in the maturity date from May 7, 2016 to June 8, 2017. The amended Term Loan was issued at a 0.5% original issue discount of $825 which is being amortized as additional interest expense over the life of the loan based on the effective interest method. A large portion of the proceeds from the refinancing was used to prepay the $75 million of Subordinated Notes in full. As a result of the refinancing that occurred June 8, 2011, the Company recorded a charge to the Statement of Operations of $6.0 million for early debt extinguishment. This charge includes the write-off of the debt issuance cost and the original issue discount associated with the original term loan, subordinated notes and note purchase agreements, as well as lenders fees incurred as a result of the modification of these agreements.

**U.S. SILICA HOLDINGS, INC.**

**NOTES TO COMBINED FINANCIAL STATEMENTS**

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***Subordinated Notes***

Under the terms of a Note Purchase Agreement dated November 25, 2008, the Company issued $80 million of unsecured notes (the “Subordinated Notes”). On May 7, 2010, we amended and restated the Mezzanine Loan Facility to effect the issuance of restated notes in the aggregate principal amount of $75.0 million in exchange for the original notes. The restated notes were scheduled to mature on May 7, 2017. The restated notes bore interest at a rate per annum equal to LIBOR plus 1025 basis points, all or a part of which was permitted to be paid in kind. On June 8, 2011, in connection with the refinancing of the Term Loan Facility, we prepaid the restated notes in full. The total payoff amount was $78.2 million, which consisted of a prepayment fee of $1.5 million, accrued interest of $1.7 million and a principal balance of $75.0 million.

***Short-term Notes***

On December 30, 2011, in connection with the land acquisition in Sparta, Wisconsin, the Company issued a short-term note for $4.0 million with a stated interest rate of 6%. The note requires only quarterly interest payments and matures on December 14, 2012.

***Debt Maturities***

At December 31, 2011, contractual maturities of long-term debt are as follows:

| | |
|---|---|
| 2012 | $ 6,364 |
| 2013 | 2,433 |
| 2014 | 2,435 |
| 2015 | 2,436 |
| 2016 | 124,648 |
| Thereafter | 123,473 |
| | $261,789 |

The Term Loan is secured by substantially all of our assets with the exception of our accounts receivable and inventory, for which we have pledged as collateral under the Revolver. The above agreements contain various restrictive covenants and conditions that, among other things, limit the ability of the Company to engage in certain transactions with affiliates, incur additional indebtedness, repay other indebtedness or amend other debt instruments, create liens on assets, make investments or acquisitions, engage in mergers or consolidations, dispose of assets, or pay dividends. In addition, the agreements require the Company to maintain certain financial covenants, quarterly and annually, including a leverage ratio, a fixed charge coverage ratio and a capital expenditures covenant. As of December 31, 2011, we are in compliance with these covenants.

***Interest Rate Caps***

We have entered into two interest rate cap agreements in order to provide an economic hedge against the potential effect of future interest rate fluctuations. The following table summarizes our interest rate cap agreements as of December 31, 2011:

| | Notional Amount | Maturity Date | 30-Day LIBOR Cap Rate |
|---|---|---|---|
| Interest rate cap agreement (Term Loan) | $ 100,000,000 | March 31, 2012 | 4.00% |
| Interest rate cap agreement (Term Loan) | $ 20,000,000 | June 28, 2013 | 4.00% |

**U.S. SILICA HOLDINGS, INC.**

**NOTES TO COMBINED FINANCIAL STATEMENTS**

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## NOTE I—DEFERRED REVENUE

On November 25, 2008, the Company, through an affiliate, received advances from two customers totaling $27 million. The deposits give these customers the right to purchase certain products for a fixed price at certain minimum volumes. In addition, the customers have security on their deposit in the form of promissory notes with the Company collateralized by undivided mineral interests in the Company's mineral deposits. These notes originally bore interest at 10% compounded quarterly, to the extent any interest is unpaid. The obligations and related interest are reduced as shipments occur with a portion of the sales price being received in cash and a smaller noncash portion reducing first any accrued interest and then, to the extent available, any outstanding principal. As such, the notes do not require any payments in cash. The notes mature on December 31, 2015 and November 25, 2016. In December 2009, $12 million of the notes were amended to reduce the interest rate to 5%, retroactive to November 25, 2008. Effective January 1, 2010, the remaining $15 million was amended to reduce the interest rate to 6%, prospectively.

## NOTE J—FAIR VALUE ACCOUNTING

Fair value is defined as the exchange price that would be received for an asset or paid to transfer a liability (an exit price) in the principal or most advantageous market for the asset or liability in an orderly transaction between market participants on the measurement date.

*Cash equivalents*

Due to the short-term maturity, we believe that the Company's cash equivalent instruments at December 31, 2011 and 2010 approximate their reported carrying values.

*Long-Term Debt, including current maturities*

We believe that the fair values of our long-term debt, including current maturities, approximates their carrying values and based on their effective interest rates compared to current market rates.

*Derivative Instruments*

The estimated fair value of our derivative assets (interest rate caps) are recorded at each reporting period and are based upon widely accepted valuation techniques, including discounted cash flow analysis on the expected cash flows of each derivative contract. This analysis reflects the contractual terms of the derivatives, including the period to maturity, and uses observable market-based inputs, including interest rate curves and implied volatilities. We also incorporate credit valuation adjustments to appropriately reflect both the Company's nonperformance risk as well as that of the respective counterparty in the fair value measurements.

Although we have determined that the majority of the inputs used to value our derivatives fall with Level 2 of the fair value hierarchy, the credit valuation adjustments associated with our derivatives utilize Level 3 inputs, such as estimates of current credit spreads to evaluate the likelihood of default of ourselves and our counterparties. However, as of December 31, 2011, we have assessed that the impact of the credit valuation adjustments on the overall valuation of our derivative positions is not significant. As a result, we have determined that our derivative valuations in their entirety are classified in Level 2 of the fair value hierarchy.

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**NOTES TO COMBINED FINANCIAL STATEMENTS**

**(dollars in thousands, except per share amounts)**

In accordance with the fair value hierarchy, the following table presents the fair value as of December 31, 2011, of those derivative assets that we must measure at fair value on a recurring basis:

| | Level 1 | Level 2 | Level 3 | Total |
|---|---|---|---|---|
| Interest rate derivatives | $ — | $ 11 | $ — | $ 11 |
| Net asset | $ — | $ 11 | $ — | $ 11 |

**NOTE K—DERIVATIVE INSTRUMENTS**

We are exposed to certain risk arising from both our business operations and economic conditions. We principally manage our exposure to a wide variety of business and operation risks through management of our core business activities. Specifically, we enter into derivative financial instruments to manage exposures that arise from business activities that result in the receipt or payment of future known and unknown cash amounts, the value of which are determined by interest rates and commodity rates. Interest rate and natural gas hedge agreements are utilized in the normal course of business to manage the Company's interest and energy costs and the risk associated with changing interest rates and natural gas prices. We do not use derivative financial instruments for trading or speculative purposes. By their nature, all such instruments involve risk, including the possibility that a loss may occur from the failure of another party to perform according to the terms of a contract (credit risk) or the possibility that future changes in market price may make a financial instrument less valuable or more onerous (market risk). As is customary for these types of instruments, the Company does not require collateral or other security from other parties to these instruments. In management's opinion, there is no significant risk of loss in the event of nonperformance of the counterparties to these financial instruments.

*Cash Flow Hedges of Interest Rate Risk*

Our objectives in using interest rate derivatives are to add stability to interest expense and to manage our exposure to interest rate movements. To accomplish this objective, we primarily use interest rate cap agreements as part of our interest rate risk management strategy. Interest rate caps designated as cash flow hedges involve the receipt of variable-rate amounts from a counterparty if interest rates rise above the strike rate on the contract in exchange for an upfront premium.

In connection with our Term Loan Facility, we have entered into interest rate cap agreements that effectively place an upper limit for one-month LIBOR of 4.0 percent on the interest rate charged for $120.0 million of our floating rate Term Loan Facility. These agreements mature on March 31, 2012 (notional $100 million) and June 28, 2013 (notional $20 million). These interest rate caps qualify for hedge accounting as cash flow hedges. Any gains or losses on the change in the fair value of the derivatives are included in accumulated other comprehensive income to the extent the instruments remain effective as a hedge.

We assess the effectiveness of our hedges in offsetting the variability in the cash flow of the hedged obligations on a quarterly basis. The effective portion of changes in the fair value of derivatives designated and that qualify as cash flow hedges is recorded in equity as accumulated other comprehensive income and is subsequently reclassified into earnings in the period that the hedged forecasted transaction affects earnings. The ineffective portion of the change in fair value of the derivatives is recognized directly in earnings. During the year ended December 31, 2011 and 2010, the Company had no ineffectiveness for such contracts.

**U.S. SILICA HOLDINGS, INC.**

**NOTES TO COMBINED FINANCIAL STATEMENTS**

**(dollars in thousands, except per share amounts)**

*Cash Flow Hedges of Commodities Risk*

Our objectives in using commodities derivatives are to add stability to energy costs and to manage our exposure to fluctuations in natural gas prices. To accomplish this objective, we have historically used natural gas swap agreements as part of our commodities risk management strategy. These hedge agreements are used to exchange the difference between natural gas prices calculated by reference to an agreed-upon notional principal amount or natural gas quantity.

We had entered into a natural gas swap agreements that effectively placed a fixed price for a specific quantity of natural gas. The agreements hedged against the increase in natural gas prices for the purchase of 420,000 MMBTU. The agreements matured on December 31, 2011.

The following table summarizes the fair value of our derivative instruments. See note J for additional disclosures regarding the estimated fair values of our derivative instruments at December 2011 and 2010.

| | | December 31, 2011 | | | December 31, 2010 | | |
|---|---|---|---|---|---|---|---|
| | Maturity Date | Contract/Notional Amount | Carrying Amount | Fair Value | Contract/Notional Amount | Carrying Amount | Fair Value |
| | | | (dollars in thousands) | | | (dollars in thousands) | |
| Natural gas rate swap agreements | 2011 | | | | 420,000 MMBTU | $ (109) | $ (109) |
| Interest rate cap agreement (1) | 2012 | $100 million | $ — | $ — | $100 million | $ 13 | $ 13 |
| Interest rate cap agreement (1) | 2013 | $20 million | $ 11 | $ 11 | $20 million | $ 244 | $ 244 |

(1) Agreements limit the LIBOR floating interest rate base to 4%.

The Company has designated these contracts as qualified cash flow hedges. Accordingly, the effective portion of the gain or loss on the derivative instrument is reported as a component of other comprehensive income and recognized in earnings in the same period or periods during which the hedged transaction affects earnings.

The following table summarizes the effect of derivatives instruments on our combined statements of operations and our comprehensive income for the years ended December 31, 2011, 2010 and 2009.

| | 2011 | 2010 | 2009 |
|---|---|---|---|
| Deferred gains (losses) from derivatives in OCI, beginning of period | $ (532) | $ (49) | $(1,688) |
| Gain (loss) recognized in OCI from derivative instruments | 123 | (483) | 1,639 |
| Gain (loss) reclassified from Accumulated OCI into income | — | — | — |
| Deferred gains (losses) from derivatives in OCI, end of period | $ (409) | $ (532) | $ (49) |

**NOTE L—EQUITY-BASED COMPENSATION**

During 2009, the board of directors of the Company's parent company, GGC USS Holdings, LLC, approved, and the parent company implemented, a management equity program (the "Equity Program"). The Equity Program granted Class C and Class D member units in the parent company, GGC USS Holdings, LLC, to three members of executive management. As of December 31, 2011, approximately 1,857,952 Class C and

**U.S. SILICA HOLDINGS, INC.**

**NOTES TO COMBINED FINANCIAL STATEMENTS**

**(dollars in thousands, except per share amounts)**

3,680,855 Class D equity units were vested. Under the Equity Program, as of December 31, 2011, approximately 3,680,855 and 3,680,855 Class C and Class D equity incentive units, respectively, were authorized to be granted.

The Class C units vest ratably over five years. These units have no exercise price and as such the fair value of the incentive units is equal to the fair value of the underlying equity units. The Class D units were fully vested upon grant.

Even though the equity was granted at the parent company, the Company recognized compensation expense related to Class C and D equity incentive units of $239, $383 and $949 in the years ended December 31, 2011, 2010 and 2009, respectively. During 2011, 867,625 Class C equity incentive units were forfeited. As a result, in 2011 we recorded a reversal of previously recognized compensation expense of $369 associated with these units, $25 of which was recorded in 2011 prior to forfeiture, and canceled the remaining unamortized expense of $451. As of December 31, 2011, there was approximately $497 of total unrecognized compensation expense related to unvested Class C equity incentive units. That cost is expected to be recognized over a weighted-average period of 2.5 years. The grant date fair value of Class C and D equity incentive units was $0.52 and $0.17, respectively.

The Company's activity with respect to Class C and Class D equity incentive units for 2011 and 2010 was as follows:

| | Number of Class C Units | Class C Unit Grant Date Weighted Average Fair Value | Number of Class D Units | Class D Unit Grant Date Weighted Average Fair Value |
|---|---|---|---|---|
| Unvested, December 31, 2008 | — | — | — | — |
| Granted | 3,680,855 | $ 0.52 | 3,680,855 | $ 0.17 |
| Vested | (622,239) | $ 0.52 | (3,680,855) | $ 0.17 |
| Forfeited | — | — | — | — |
| Unvested, December 31, 2009 | 3,058,616 | $ 0.52 | — | $ 0.17 |
| Granted | — | — | — | — |
| Vested | (736,171) | $ 0.52 | — | — |
| Forfeited | — | — | — | — |
| Unvested, December 31, 2010 | 2,322,445 | $ 0.52 | — | $ 0.17 |
| Granted | — | — | — | — |
| Vested | (499,542) | $ 0.52 | — | — |
| Forfeited | (867,625) | $ 0.52 | — | — |
| Unvested, December 31, 2011 | 955,278 | $ 0.52 | — | $ 0.17 |

The total fair value of equity incentive units vested for the years ended December 31, 2011, 2010 and 2009 was $239, $383 and $949, respectively.

Fair value of the underlying equity units is determined by utilizing the Black-Scholes pricing model and taking into consideration the rights and preferences of the underlying equity units.

The following table illustrates the assumptions used in the Black-Scholes pricing model:

| | |
|---|---|
| Risk-free interest rate | 1.87% |
| Expected volatility | 50% |
| Estimated term | 4 years |

U.S. SILICA HOLDINGS, INC.

NOTES TO COMBINED FINANCIAL STATEMENTS

(dollars in thousands, except per share amounts)

*Risk-free interest rate*—This is an interpolated rate from the U.S. constant maturity treasury rate for a term corresponding to the time to liquidity event, as described below. An increase in the risk-free rate will increase compensation expense.

*Expected volatility*—This is a measure of the amount by which the price of various comparable companies common stock has fluctuated or is expected to fluctuate, as the Company's common stock was not publicly-traded at the time of issuance. The comparable companies were selected by analyzing public companies in the industry based on various factors including, but not limited to, company size, financial data availability, active trading volume, and capital structure. An increase in the expected volatility will increase compensation expense.

*Estimated term*—This is the period of time over which the underlying equity units are expected to remain outstanding. An increase in the expected term will increase compensation expense.

In July 2011, the Company adopted the 2011 Plan. The U.S. Silica Holdings, Inc. 2011 Incentive Compensation Plan provides for grants of stock options, stock appreciation rights, restricted stock and other incentive-based awards. As of December 31, 2011 there were a total of 1,501,398 options outstanding, none of which are exercisable, at a weighted-average exercise price of $14.60. The options vest on a graded vesting schedule and the related compensation expense is recognized over the vesting period of each separately vesting portion. The Company recognized $1.0 million of equity-based compensation expense related to these options during the year ended December 31, 2011. As of December 31, 2011, there was $5.6 million of total unrecognized compensation expense related to these options, which is expected to be recognized over a weighted-average period of approximately 3.23 years. No options vested or were exercised in 2011.

In conjunction with the implementation of the 2011 Plan the Company filed an amended and restated certificate of incorporation which, among other things, increased the authorized shares of common stock to 100 million and changed its name from GGC USS Holdings, Inc. to U.S. Silica Holdings, Inc. The amended and restated certificate of incorporation also created a 50,000-for-one split of the Company's common stock. All common stock share and per share data of the Company contained in the financial statements have been retroactively adjusted to reflect this stock split for all periods presented.

The Company's activity with respect to stock options for the year ended December 31, 2011 was as follows:

| | Number of Shares | Range of Exercise Prices | Weighted Average Exercise Price | Fair Value |
|---|---|---|---|---|
| Unvested, July 8, 2011 (plan inception) | — | — | — | — |
| Granted | 1,650,386 | $10.33 – 25.00 | $ 14.56 | $ 4.36 |
| Exercised | — | — | — | — |
| Vested | — | — | — | — |
| Forfeited | (148,988) | — | $ 14.21 | $ 3.81 |
| Unvested, December 31, 2011 | 1,501,398 | $10.33 – 25.00 | $ 14.60 | $ 3.74 |

Fair value of the options is determined by utilizing the Black-Scholes pricing model and taking into consideration the rights and preferences of the options.

The following table illustrates the assumptions used in the Black-Scholes pricing model for the 2011 grants:

| | |
|---|---|
| Risk-free interest rate | 1.21 – 2.01% |
| Expected volatility | 45% |
| Expected term | 5.48 – 6.25 years |

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Risk-free interest rate—This is an interpolated rate from the U.S. constant maturity treasury rate for a term corresponding to the expected term, as described below. An increase in the risk-free rate will increase compensation expense.

Expected volatility—This is a measure of the amount by which the price of various comparable company's' common stock has fluctuated or is expected to fluctuate, as the Company's common stock has not been publicly-traded for an adequate period of time. The comparable companies were selected by analyzing public companies in the industry based on various factors including, but not limited to, company size, financial data availability, active trading volume, and capital structure. An increase in the expected volatility will increase compensation expense.

Expected term—This is the period of time over which the options are expected to remain outstanding. An increase in the expected term will increase compensation expense. The computation of the expected term is based on the simplified method as the Company's stock options are "plain vanilla" options and the Company has no recent history of exercise data. Under the simplified method, the expected term is presumed to be the mid-point between the vesting date and the end of the contractual term.

## NOTE M—LEASES

The Company is obligated under certain operating leases for railroad cars, office space, mining property, mining/processing equipment and transportation and other equipment. Certain operating lease agreements include options to purchase the equipment for fair market value at the end of the original lease term. Future minimum annual commitments under such operating leases at December 31, 2011 are as follows:

| | |
|---|---|
| 2012 | $ 9,675 |
| 2013 | 8,524 |
| 2014 | 6,555 |
| 2015 | 6,009 |
| 2016 | 5,005 |
| Thereafter | 7,869 |
| Total future lease commitments | $43,637 |

Rental expense for operating leases for the years ended December 31, 2011, 2010 and 2009 totaled approximately $6.5 million, $4.3 million and $3.8 million, respectively.

In general, the above leases include renewal options and provide that the Company pays for all utilities, insurance, taxes and maintenance. As of December 31, 2011, we hold no assets under a capital lease obligation.

## NOTE N—COMMITMENTS AND CONTINGENCIES

The Company's operating subsidiary, U.S. Silica, has been named as a defendant in three product liability claims alleging silica exposure causing silicosis filed in the period January 1, 2011 to December 31, 2011. U.S. Silica was named as defendant in 10 claims filed in 2010, and two filed in 2009. U.S. Silica has been named as a defendant in similar suits since 1975. As of December 31, 2011, there were 105 active silica-related products liability claims pending in which U.S. Silica is a defendant.

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**NOTES TO COMBINED FINANCIAL STATEMENTS**

**(dollars in thousands, except per share amounts)**

Prior to 1986, U.S. Silica had numerous insurance policies and an indemnity from a former owner that cover silicosis claims. Some of those coverages are currently being litigated, however the Company believes the policies and indemnity will remain in force.

The Company has recorded estimated liabilities for these claims in other long-term obligations as well as estimated recoveries under the indemnity agreement and an estimate of future recoveries under insurance in other assets on the Company's combined balance sheets. As of December 31, 2011 and 2010, other noncurrent assets included $511 and $764, respectively, for insurance for third-party products liability claims and other long-term obligations included $1.5 million and $2.4 million, respectively, in third-party products claims liability. Based on decreases in the actual claims filed during the periods along with decreases in the estimated future product liability claims and their related costs, the Company recorded pre-tax adjustments to selling, general and administrative expenses related to silica claims (including a $2.6 million gain in 2011, a $762 loss in 2010, and a $3.3 million gain in 2009).

**NOTE O—INCOME TAXES**

The tax information presented below includes the activity of U.S. Silica Holdings, Inc. and its subsidiaries which file a consolidated tax return for U.S. income tax purposes and the activity of GGC RS Holdings, Inc. which files a separate tax return for U.S. income tax purposes.

The (expense) benefit for income taxes consisted of the following for the years ended December 31, 2011, 2010 and 2009.

| | Years Ended December 31, | | |
|---|---|---|---|
| | 2011 | 2010 | 2009 |
| Current: | | | |
| Federal | $(3,222) | $(1,951) | $ (663) |
| State | (51) | (55) | (392) |
| | (3,273) | (2,006) | (1,055) |
| Deferred: | | | |
| Federal | (2,624) | 563 | 3,733 |
| State | (1,265) | (886) | 581 |
| | (3,889) | (323) | 4,314 |
| Income tax (expense) benefit | $(7,162) | $(2,329) | $ 3,259 |

Deferred tax assets and liabilities are recognized for the estimated future tax effects, based on enacted tax laws, of temporary differences between the values of assets and liabilities recorded for financial reporting and for tax purposes and of net operating loss and other carry forwards.

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**(dollars in thousands, except per share amounts)**

The tax effects of the types of temporary differences and carry forwards that gave rise to deferred tax assets and liabilities at December 31, 2011 and 2010 consisted of the following:

| | At December 31, | |
|---|---|---|
| | 2011 | 2010 |
| Gross deferred tax assets: | | |
| Net operating loss carry forward | $ 23,027 | $ 20,849 |
| Pension and post-retirement benefit costs | 21,568 | 18,201 |
| Alternative minimum tax credit carry forward | 11,884 | 8,655 |
| Property, plant and equipment | 5,344 | 5,212 |
| Accrued expenses | 2,134 | 1,939 |
| Inventories | 3,667 | 1,858 |
| Third-party products liability | 601 | 970 |
| Stock-based compensation expense | 409 | — |
| Other | 6,445 | 5,405 |
| Total deferred tax assets | $ 75,079 | $ 63,089 |
| Gross deferred tax liabilities: | | |
| Land and mineral property basis difference | $ (63,427) | $ (65,003) |
| Fixed assets and depreciation | (51,455) | (38,678) |
| Intangible assets | (7,125) | (7,293) |
| Other | (980) | (682) |
| Total deferred tax liabilities | (122,987) | (111,656) |
| Net deferred tax liabilities | (47,908) | (48,567) |
| Less: Net current deferred tax assets | (28,007) | (4,557) |
| Net long-term deferred tax liabilities | $ (75,915) | $ (53,124) |

At December 31, 2011 and 2010, the Company had federal net operating loss carry forwards of $62.5 million and $56.6 million, respectively, which begin to expire in 2021.

In addition, the Company has an alternative minimum tax credit carry forward at December 31, 2011 and 2010 of approximately $11.9 million and $8.7 million, respectively. The credit carry forward may be carried forward indefinitely to offset any excess of regular tax liability over alternative minimum tax liability subject to certain limitations.

Ultimately, the realization of deferred tax assets is dependent upon generation of future taxable income during those periods in which temporary differences become deductible and/or credits can be utilized. To this end, management considers the level of historical taxable income, the scheduled reversal of deferred tax liabilities, tax-planning strategies and projected future taxable income. Based on these considerations, and the carry-forward availability of a portion of the deferred tax assets, management believes it is more likely than not that the Company will realize the benefit of the deferred tax assets.

At the end of each reporting period as presented, there were no material amounts of interest and penalties recognized in the statement of operations or balance sheets. The Company has no material unrecognized tax benefits or any known material tax contingencies at December 31, 2011 or December 31, 2010 and does not expect this to change significantly within the next twelve months. Tax returns filed with the IRS for the years 2008 through 2010 along with tax returns filed with numerous state entities remain subject to examination.

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NOTES TO COMBINED FINANCIAL STATEMENTS

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The effective income tax rate on pretax earnings differed from the U.S. federal statutory rate for the years ended December 31, 2011, 2010 and 2009 for the following reasons:

| | Years Ended December 31, | | |
|---|---|---|---|
| | 2011 | 2010 | 2009 |
| (Expense) benefit computed at U.S. federal statutory rate | (35.0)% | (35.0)% | (35.0)% |
| Decrease (increase) resulting from: | | | |
| Percentage depletion | 17.5 | 31.5 | 149.8 |
| Prior year tax return reconciliation | 0.4 | (3.4) | 34.4 |
| State income taxes, net of federal benefit | (1.6) | (0.4) | 13.1 |
| Valuation allowance | — | — | — |
| Medicare Part D subsidy | (0.1) | (8.7) | (3.8) |
| Equity-based compensation | (0.2) | (1.0) | (14.6) |
| Other, net | (0.1) | — | (0.9) |
| Income tax (expense) benefit | (19.1)% | (17.0)% | 143.0% |

The largest permanent item in computing both the Company's effective tax rate and taxable income is the deduction allowed for statutory depletion. The deduction for statutory depletion does not necessarily change proportionately to changes in income before income taxes.

## NOTE P—PENSION AND POST-RETIREMENT BENEFITS

The Company maintains a single-employer noncontributory defined benefit pension plan covering certain employees. The plan provides benefits based on each covered employee's years of qualifying service. The Company's funding policy is to contribute amounts within the range of the minimum required and maximum deductible contributions for the plan consistent with a goal of appropriate minimization of the unfunded projected benefit obligation. The pension plan uses a benefit level per year of service for covered hourly employees and a final average pay method for covered salaried employees. The plan uses the projected unit credit cost method to determine the actuarial valuation.

The Company employs a total rate of return investment approach whereby a mix of equities and fixed income investments are used to maximize the long-term return of plan assets for a prudent level of risk. Risk tolerance is established through careful consideration of plan liabilities, plan funded status, and corporate financial condition. The investment portfolio contains a diversified blend of equity and fixed-income investments. Furthermore, equity investments are diversified across U.S. and non-U.S. stocks, as well as growth, value and small and large capitalizations. Investment risk is measured and monitored on an ongoing basis through quarterly investment portfolio reviews, annual liability measurements, and periodic asset/liability studies.

The Company employs a building block approach in determining the long-term rate of return for plan assets. Historical markets are studied and long-term historical relationships between equities and fixed-income are preserved consistent with the widely accepted capital market principle that assets with higher volatility generate a greater return over the long run. Current market factors such as inflation and interest rates are evaluated before long-term capital market assumptions are determined. The long-term portfolio return is established via a building block approach with proper consideration of diversification and rebalancing. Peer data and historical returns are reviewed to check for reasonability and appropriateness.

U.S. SILICA HOLDINGS, INC.

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(dollars in thousands, except per share amounts)

In addition, the Company provides defined benefit post-retirement healthcare and life insurance benefits to some employees. Covered employees become eligible for these benefits at retirement after meeting minimum age and service requirements. The projected future cost of providing post-retirement benefits, such as healthcare and life insurance, is recognized as an expense as employees render services.

The Company contributes to a Voluntary Employees' Beneficiary Association trust that will be used to partially fund health care benefits for future retirees. Benefits are funded to the extent contributions are tax deductible, which under current legislation is limited. In general, retiree health benefits are paid as covered expenses are incurred.

Net pension cost consisted of the following for the years ended December 31, 2011, 2010 and 2009:

| | Years Ended December 31, | | |
|---|---|---|---|
| | 2011 | 2010 | 2009 |
| Service cost—benefits earned during the period | $ 1,145 | $ 993 | $ 1,034 |
| Interest cost | 4,755 | 4,780 | 5,103 |
| Expected return on plan assets | (4,817) | (4,048) | (3,918) |
| Special termination benefit | — | 30 | — |
| Net amortization and deferral | 595 | 146 | — |
| Net pension costs | $ 1,678 | $ 1,901 | $ 2,219 |

Net post-retirement cost consisted of the following for the years ended December 31, 2011, 2010 and 2009:

| | Years Ended December 31, | | |
|---|---|---|---|
| | 2011 | 2010 | 2009 |
| Service cost—benefits earned during the period | $ 185 | $ 177 | $ 163 |
| Interest cost | 1,161 | 1,210 | 1,164 |
| Expected return on plan assets | (5) | (5) | (4) |
| Special termination benefit | — | — | 53 |
| Net amortization and deferral | — | — | (121) |
| Net pension costs | $1,341 | $1,382 | $1,255 |

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The changes in the pension projected benefit obligation, post-retirement benefit obligation, and plan assets, as well as the funded status of the Company's pension and post-retirement plans at December 31, 2011 and 2010 were as follows:

| | Pension Benefits | | Post-retirement Benefits | |
|---|---|---|---|---|
| | 2011 | 2010 | 2011 | 2010 |
| (Projected) Benefit obligation at January 1, | $ 92,054 | $ 86,783 | $ 22,522 | $ 20,582 |
| Service cost | 1,145 | 993 | 185 | 177 |
| Interest cost | 4,755 | 4,780 | 1,161 | 1,210 |
| Actuarial gain (loss) | 7,022 | 3,229 | 3,800 | 1,795 |
| Benefits paid | (5,215) | (4,956) | (1,584) | (1,658) |
| Amendments | 322 | 1,195 | — | — |
| Other | — | 30 | 444 | 416 |
| (Projected) Benefit obligation at December 31, | $100,083 | $ 92,054 | $ 26,528 | $ 22,522 |
| Fair value of plan assets at January 1, | $ 65,191 | $ 55,880 | $ 59 | $ 56 |
| Actual return on plan assets | 3,611 | 7,896 | (5) | 3 |
| Employer contributions | 11,009 | 6,371 | 1,140 | 1,242 |
| Benefits paid | (5,215) | (4,956) | (1,584) | (1,658) |
| Other | — | — | 444 | 416 |
| Fair value of plan assets at December 31, | $ 74,596 | $ 65,191 | $ 54 | $ 59 |
| Plan assets less than benefit obligations at December 31 recognized as liability for pension and other post-retirement benefits | $ (25,487) | $ (26,863) | $ (26,474) | $ (22,463) |

The accumulated benefit obligation for the defined benefit pension plans, which excludes the assumption of future salary increases, totaled $99.4 million and $91.4 million at December 31, 2011 and 2010, respectively.

The amendments in 2011 reflect plan changes including increases in the benefit multiplier for certain participants as well as the reduction of certain benefits to estimated highly compensated salary participants. The amendments in 2010 include increased monthly benefit levels for flat-benefit plans as well as a limit of 35 years of service for participants with benefits based on final average earnings.

The Company also sponsors unfunded, nonqualified pension plans. The projected benefit obligation, accumulated benefit obligation and fair value of plan assets for these plans were $1.6 million, $1.6 million and $0 at December 31, 2011 and $1.5 million, $1.5 million and $0 at December 31, 2010.

Future estimated annual benefit payments for pension and post-retirement benefit obligations as of December 31, 2011 are as follows:

| | Benefits | | |
|---|---|---|---|
| | | Post-retirement | |
| | Pension | Before Medicare Subsidy | After Medicare Subsidy |
| 2012 | $ 5,802 | $ 1,611 | $ 1,439 |
| 2013 | 6,005 | 1,518 | 1,518 |
| 2014 | 6,187 | 1,596 | 1,596 |
| 2015 | 6,374 | 1,642 | 1,642 |
| 2016 | 6,591 | 1,686 | 1,686 |
| 2017-2021 | 35,760 | 9,379 | 9,379 |

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The Company's best estimate of expected contributions to the pension and post-retirement medical benefit plans for the 2012 fiscal year are $5.8 million and $1.4 million, respectively.

The amounts in accumulated other comprehensive income expected to be recognized as components of net periodic benefit cost during the 2012 fiscal year are as follows:

| | Benefits | | |
|---|---|---|---|
| | Pension | Post-retirement | Total |
| Net actuarial loss | $1,086 | $ 429 | $1,515 |
| Prior service cost | 19 | — | 19 |
| | $1,105 | $ 429 | $1,534 |

The total amounts in accumulated other comprehensive income related to net actuarial loss and prior service costs, net of tax, as of December 31, 2011 were $11.2 million and $715, respectively.

The following weighted-average assumptions were used to determine the Company's obligations under the plans:

| | Pension Benefits | | Post-retirement Benefits | |
|---|---|---|---|---|
| | 2011 | 2010 | 2011 | 2010 |
| Discount rate | 4.85% | 5.30% | 4.85% | 5.30% |
| Long-term rate of compensation increase | 3.50% | 3.50% | N/A | N/A |
| Long-term rate of return on plan assets | 8.00% | 8.00% | 8.00% | 8.00% |
| Health care cost trend rate: | | | | |
| Pre-65 initial rate/ultimate rate | N/A | N/A | 9%/5% | 9%/5% |
| Pre-65 ultimate year | N/A | N/A | 2020 | 2017 |
| Post-65 initial rate/ultimate rate | N/A | N/A | 8.5%/5% | 8.5%/5% |
| Post-65 ultimate year | N/A | N/A | 2020 | 2016 |

The discount rate reflects the expected long-term rates of return with maturities comparable to payments for the plan obligations utilizing Aon Hewitt's AA Only Above Medium Curve for 2011 and their Top Quartile Curve for 2010, rounded down to the next 0.05%.

Assumed health care cost trend rates have a significant effect on the amounts reported for the health care plans. A one-percentage-point change in assumed health care cost trend rates would have the following effects:

| | One-Percentage-Point | |
|---|---|---|
| | Increase | Decrease |
| Effect on total of service and interest cost | $ 155 | $ (132) |
| Effect on post-retirement benefit obligation | 3,119 | (2,650) |

The major investment categories and their relative percentage of the fair value of total plan assets as invested at December 31, 2011 and 2010 were as follows:

| | Pension Benefits | | Post-retirement Benefits | |
|---|---|---|---|---|
| | 2011 | 2010 | 2011 | 2010 |
| Equity securities | 58.7% | 58.7% | 57.9% | 57.7% |
| Debt securities | 38.9% | 37.1% | 42.2% | 37.9% |
| Cash | 2.4% | 4.2% | (0.1)% | 4.4% |

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The fair values of the pension plan assets at December 31, 2011, by asset category, are as follows:

| | Level 1 | Level 2 | Level 3 | Total |
|---|---|---|---|---|
| Cash and cash equivalents | $ 1,813 | $ — | $ — | $ 1,813 |
| Mutual funds: | | | | |
| Diversified emerging markets | 7,022 | — | — | 7,022 |
| Foreign large blend | 11,776 | — | — | 11,776 |
| Large-cap blend | 15,652 | — | — | 15,652 |
| Long-term bonds | 28,951 | — | — | 28,951 |
| Mid-cap blend | 5,268 | — | — | 5,268 |
| Real estate | 4,002 | — | — | 4,002 |
| Insurance policies | — | — | 112 | 112 |
| Net asset | $74,484 | $ — | $ 112 | $74,596 |

The fair values of the pension plan assets at December 31, 2010, by asset category, are as follows:

| | Level 1 | Level 2 | Level 3 | Total |
|---|---|---|---|---|
| Cash and cash equivalents | $ 2,709 | $ — | $ — | $ 2,709 |
| Mutual funds: | | | | |
| Diversified emerging markets | 3,148 | — | — | 3,148 |
| Foreign large blend | 8,031 | — | — | 8,031 |
| Large-cap blend | 15,336 | — | — | 15,336 |
| Long-term bonds | 24,151 | — | — | 24,151 |
| Mid-cap blend | 8,505 | — | — | 8,505 |
| Real estate | 3,196 | — | — | 3,196 |
| Insurance policies | — | — | 115 | 115 |
| Net asset | $65,076 | $ — | $ 115 | $65,191 |

Certain hourly employees are covered under a multi-employer defined benefit plan. The pension cost recognized for these plans were $145, $771 and $316 for the years ended December 31, 2011, 2010 and 2009, respectively. In 2010, the Company exited one of these plans and, as a result, recorded a $603 provision for an estimated withdrawal liability.

The Company also sponsors a defined contribution plan covering certain employees. The Company contributes to the plan in two ways. For certain employees not covered by the defined benefit plan, the Company contributes 4% of a covered employee’s monthly basic income. The Company also contributes an amount equal to 25% of a covered employee’s eligible contribution, up to 8% of a participant’s salary. For certain employees, the Company also contributes from 0% to 75% of a covered employee’s eligible contribution up to 8%, if applicable, based on our profits from the previous fiscal year. Finally, for some employees, the Company makes a catch-up match of 25% of a covered employee’s eligible catch-up contributions. Contributions were $1.9 million, $1.6 million and $550 for the years ended December, 31, 2011, 2010 and 2009, respectively.

## NOTE Q—OBLIGATIONS UNDER GUARANTEES

The Company has indemnified St. Paul Travelers (“Travelers”) against any loss Travelers may incur in the event that holders of surety bonds, issued on behalf of the Company by Travelers, execute the bonds. As of

December 31, 2011, Travelers had $4.4 million in bonds outstanding for the Company. The majority of these bonds ($4.3 million) relate to reclamation requirements issued by various governmental authorities. Reclamation bonds remain outstanding until the mining area is reclaimed and the authority issues a formal release. The remaining bonds relate to such indefinite purposes as licenses, permits, and tax collection.

The Company has indemnified Safeco Insurance Company of America (“Safeco”) against any loss Safeco may incur in the event that holders of surety bonds, issued on behalf of the Company by Safeco, execute the bonds. As of December 31, 2011, Safeco had $513 in bonds outstanding for the Company. These are all reclamation bonds.

U.S. Silica is the contingent guarantor of Kanawha Rail Corporation’s (“KRC”) obligations as lessee of 200 covered hopper railroad cars, which are used by U.S. Silica to ship sand to its customers. KRC’s obligation as lessee includes paying monthly rent of $66 until June 30, 2013, maintaining the cars, paying for any cars damaged or destroyed, and indemnifying all other parties to the lease transaction against liabilities including any loss of certain tax benefits. By separate agreement between U.S. Silica and KRC, KRC may, upon the occurrence of certain events, assign the lease obligations to U.S. Silica, but none of these events have occurred.

**NOTE R—RELATED PARTY TRANSACTIONS**

In connection with the Golden Gate Capital Acquisition, we entered into an Advisory Agreement with Golden Gate Capital whereby Golden Gate Capital agreed to provide business and organizational strategy and financial and advisory services. Such services have included support and assistance to management with respect to negotiating and analyzing acquisitions and divestitures, negotiating and analyzing financing alternatives, preparing financial projections, monitoring compliance with financing agreements, marketing functions and searching for and hiring management personnel.

As compensation for these services, we agree to pay Golden Gate Capital (1) an annual advisory fee in the aggregate amount equal to $1.3 million, payable quarterly in arrears, and (2) a transaction fee of 1.25% of the aggregate value of each transaction resulting in a change in control of our parent LLC or its subsidiaries, along with each acquisition, divestiture, recapitalization and financing. In addition to the fees described above, we also reimbursed Golden Gate Capital for all out-of-pocket costs incurred by Golden Gate Capital in connection with its activities under the Advisory Agreement, and indemnified Golden Gate Capital from and against all losses, claims, damages and liabilities related to the performance of its duties under the Advisory Agreement.

Advisory fees paid to Golden Gate Capital under the Advisory Agreement in 2011, 2010 and 2009 were $1.3 million, $1.3 million and $1.0 million, respectively. Additionally, at December 31, 2011, we have accrued $8.0 million related to the termination fee paid to Golden Gate Capital in connection with our initial public offering on January 31, 2012. These expenses are recorded in selling, general and administrative expenses in our combined statements of operations.

On December 22, 2010, we entered into a $15.0 million promissory note with our parent LLC, GGS USS Holdings, LLC. The note provided working capital for a new subsidiary and matures on December 22, 2015. The note bears interest at 10%. Outstanding principal and interest under the note are payable upon demand, but no later than the maturity date. Upon sole election by the parent, any unpaid interest may be paid in cash on each December 22nd until the maturity date. Interest on the note is recorded in interest expense in the combined statement of operations and any unpaid interest is included in accrued interest on the balance sheet. In connection with our initial public offering on January 31, 2012, this note was contributed by our parent LLC.

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**NOTE S—SEGMENT REPORTING**

In the second quarter of 2011, the new chief executive officer completed the reorganization of the Company's management structure in order to manage and evaluate the Company's operations from an end market perspective. The Company has changed the segment reporting structure for the period presented to reflect these changes. Previously, the Company operated and was managed as a single operating unit.

The Company organizes its business into two reportable segments, oil & gas proppants and industrial & specialty products, based on end markets. The reportable segments are consistent with how management views the markets served by the Company and the financial information reviewed by the chief operating decision maker. The Company manages its oil & gas proppants and industrial & specialty products businesses as components of an enterprise for which separate information is available and is evaluated regularly by the chief operating decision maker in deciding how to allocate resources and assess performance.

An operating segment's performance is primarily evaluated based on segment contribution margin, which excludes certain corporate costs not associated with the operations of the segment. These corporate costs are separately stated below and include costs that are related to functional areas such as operations management, corporate purchasing, accounting, treasury, information technology, legal and human resources. The Company believes that segment contribution margin, as defined above, is an appropriate measure for evaluating the operating performance of its segments. However, this measure should be considered in addition to, not a substitute for, or superior to, income from operations or other measures of financial performance prepared in accordance with generally accepted accounting principles. The other accounting policies of each of the two reporting segments are the same as those in the summary of significant accounting policies included in Note B.

In the oil & gas proppants segment, the Company serves the oil and gas recovery market providing fracturing sand, or "frac sand," which is pumped down oil and natural gas wells to prop open rock fissures and increase the flow rate of natural gas and oil from the wells.

The industrial & specialty products segment consists of over 200 products and materials used in a variety of industries including, container glass, fiberglass, specialty glass, flat glass, building products, fillers and extenders, foundry products, chemicals, recreation products and filtration products.

Financial information for all the periods presented reflects the new segment reporting structure.

**U.S. SILICA HOLDINGS, INC.**

**NOTES TO COMBINED FINANCIAL STATEMENTS**

**(dollars in thousands, except per share amounts)**

The following table presents sales and segment contribution margin for the reporting segments and other operating results not allocated to the reported segments for the years ended December 31, 2011, 2010 and 2009:

| | Years Ended December 31, | | |
|---|---|---|---|
| | 2011 | 2010 | 2009 |
| Sales: | | | |
| Oil and gas proppants | $107,074 | $ 69,556 | $ 35,836 |
| Industrial and specialty products | 188,522 | 175,397 | 155,787 |
| Total sales | 295,596 | 244,953 | 191,623 |
| Segment contribution margin: | | | |
| Oil and gas proppants | 67,590 | 43,118 | 23,515 |
| Industrial and specialty products | 53,013 | 46,031 | 37,419 |
| Total segment contribution margin | 120,603 | 89,149 | 60,934 |
| Operating activities excluded from segment cost of goods sold | (6,203) | (2,190) | (5,511) |
| Selling, general and administrative | (23,348) | (20,413) | (10,672) |
| Advisory fees to parent | (9,250) | (1,250) | (1,250) |
| Depreciation, depletion and amortization | (20,999) | (19,305) | (17,887) |
| Interest expense | (18,407) | (23,034) | (28,228) |
| Early extinguishment of debt | (6,043) | (10,195) | — |
| Other income, net, including interest income | 1,062 | 959 | 4,894 |
| Income (loss) before income taxes | $ 37,415 | $ 13,721 | $ 2,280 |

Asset information, including capital expenditures and depreciation, depletion, and amortization, by segment is not included in reports used by management in its monitoring of performance and, therefore, is not reported by segment. Goodwill of $68.4 million has been allocated to these segments with $33.3 million assigned to oil & gas proppants and $35.1 million to industrial and specialty products. No customer exceeded 10% or more of net sales in any of the periods presented.

## NOTE T—SUBSEQUENT EVENTS

*Initial Public Offering*

Our initial public offering of common stock was effected through a Registration Statement on Form S-1 (file no. 333-175636) which was declared effective by the SEC on January 31, 2012, pursuant to which we registered the offering and sale of 2,941,176 shares of our common stock and 8,823,529 shares of selling stockholders' common stock at an offering price of $17.00 per share. On February 6, 2012, we sold all 2,941,176 shares of common stock for an aggregate offering price of approximately $50.0 million and the selling stockholders sold all 8,823,529 shares of common stock for an aggregate offering price of approximately $150.0 million and the offering terminated thereafter. As a result of the offering, we received net proceeds of approximately $46.5 million, after deducting $3.5 million of underwriting discounts and commissions and before deducting estimated offering expenses payable by us of approximately $4.0 million.

*Contribution of GGC RCS Holdings, Inc.*

On January 31, 2012, simultaneous with the initial public offering of our common stock, GGC USS Holdings, LLC, our parent and sole shareholder prior to the IPO and now largest shareholder, contributed to us all of the stock of its wholly-owned subsidiary, GGC RCS Holdings, Inc., whose operating subsidiary is Coated

**U.S. SILICA HOLDINGS, INC.**

**NOTES TO COMBINED FINANCIAL STATEMENTS**

**(dollars in thousands, except per share amounts)**

Sand Solutions. Prior to this transaction, GGC RCS Holdings, Inc. had a $15.0 million note payable to GGC USS Holdings, Inc. which was converted to an equity contribution by GGC USS Holdings, Inc. simultaneous to the IPO. Coated Sand Solutions is developing resin-coated sand proppants for sale into the oil and gas market for use in the hydraulic fracturing process. In consideration of the contribution of GGC RCS Holdings, Inc. to us, we and our subsidiaries are presented on a combined basis with GGC RCS Holdings, Inc. for all periods presented herein.

*Termination of Advisory Agreement with Golden Gate Capital*

On February 6, 2012, we paid $8.0 million to Golden Gate Capital to terminate the advisory agreement previously entered into in connection with the Golden Gate Capital Acquisition. Under the agreement, Golden Gate Capital had agreed to provide business and organizational strategy and financial and advisory services as mutually agreed upon by Golden Gate Capital and us. The Advisory Agreement had an initial term expiring on November 25, 2018. Advisory fees paid to Golden Gate Capital totaled $1.3 million for each of the years ended December 31, 2009, 2010 and $9.3 million for the year ended December 31, 2011, which included the accrual at December 31, 2011 for the $8.0 million fee paid on February 6, 2012. These expenses are included in other operating expenses and presented as advisory fees to parent within our combined statements of operations.

Amended Term Loan and ABL Agreement

On January 31, 2012, we amended our Term Loan agreement and our Revolver line-of-credit agreement. The primary revisions to the Term Loan agreement were the elimination of a requirement to provide monthly financial reports, removal of financial covenant restrictions related to capital expenditures, provide flexibility to make investments and acquisitions and to incur indebtedness, and to provide a new subsidiary guarantee from Coated Sand Solutions, LLC. The revisions to the Revolver line-of-credit agreement were primarily to revise the definitions used for this agreement to wording similar to that used for the Term Loan agreement.

U.S. SILICA HOLDINGS, INC.

NOTES TO COMBINED FINANCIAL STATEMENTS

(dollars in thousands, except per share amounts)

## NOTE U—UNAUDITED SUPPLEMENTARY DATA

The following table sets forth the Company's unaudited quarterly combined statements of operations for each of the last four quarters ended December 31, 2011 and 2010. This unaudited quarterly information has been prepared on the same basis as the Company's annual audited financial statements and includes all adjustments, consisting only of normal recurring adjustments that are necessary to present fairly the financial information for the fiscal quarters presented.

| | First Quarter | Second Quarter | Third Quarter | Fourth Quarter |
|---|---|---|---|---|
| **2011:** | | | | |
| Sales | $ 64,432 | $ 74,080 | $ 73,453 | $ 83,631 |
| Costs of goods sold | 43,275 | 42,629 | 45,241 | 50,051 |
| Operating expenses | | | | |
| Selling, general and administrative | 5,324 | 5,952 | 5,216 | 6,856 |
| Advisory fees to parent | 312 | 313 | 312 | 8,313 |
| Depreciation, depletion and amortization | 5,089 | 5,252 | 5,295 | 5,363 |
| | 10,725 | 11,517 | 10,823 | 20,532 |
| Operating income | 10,432 | 19,934 | 17,389 | 13,048 |
| Other (expense) income | | | | |
| Interest expense | (5,449) | (5,224) | (3,832) | (3,902) |
| Early extinguishment of debt | — | (6,043) | — | — |
| Other income, net, including interest income | 174 | 163 | 197 | 528 |
| | (5,275) | (11,104) | (3,635) | (3,374) |
| Income (loss) before income taxes | 5,157 | 8,830 | 13,754 | 9,674 |
| Income tax (expense) benefit | (1,647) | (2,474) | (3,412) | 371 |
| Net income (loss) | $ 3,510 | $ 6,356 | $ 10,342 | $ 10,045 |
| Earnings (loss) per share, basis and diluted | $ 0.07 | $ 0.13 | $ 0.21 | $ 0.20 |
| Weighted average common shares outstanding (in thousands) | 50,000 | 50,000 | 50,031 | 50,006 |

| | First Quarter | Second Quarter | Third Quarter | Fourth Quarter |
|---|---|---|---|---|
| **2010:** | | | | |
| Sales | $ 55,311 | $ 64,135 | $ 66,036 | $ 59,471 |
| Costs of goods sold | 37,699 | 40,087 | 41,215 | 38,993 |
| Operating expenses | | | | |
| Selling, general and administrative | 4,373 | 5,398 | 4,661 | 5,981 |
| Advisory fees to parent | 312 | 313 | 312 | 313 |
| Depreciation, depletion and amortization | 4,720 | 4,773 | 4,772 | 5,040 |
| | 9,405 | 10,484 | 9,745 | 11,334 |
| Operating income | 8,207 | 13,564 | 15,076 | 9,144 |
| Other (expense) income | | | | |
| Interest expense | (6,774) | (5,844) | (5,090) | (5,326) |
| Early extinguishment of debt | — | (10,195) | — | — |
| Other income, net, including interest income | 183 | 312 | 359 | 105 |
| | (6,591) | (15,727) | (4,731) | (5,221) |
| Income (loss) before income taxes | 1,616 | (2,163) | 10,345 | 3,923 |
| Income tax (expense) benefit | (1,275) | 107 | (1,010) | (151) |
| Net income (loss) | $ 341 | $ (2,056) | $ 9,335 | $ 3,772 |
| Earnings (loss) per share, basis and diluted | $ 0.01 | $ (0.04) | $ 0.19 | $ 0.07 |
| Weighted average common shares outstanding (in thousands) | 50,000 | 50,000 | 50,000 | 50,000 |

## 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

Our management, with the participation of our chief executive officer and chief financial officer, evaluated the effectiveness of our disclosure controls and procedures as of December 31, 2011. The term "disclosure controls and procedures," as defined in Rules 13a-15(e) and 15d-15(e) under the Exchange Act, means controls and other procedures of a company that are designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is recorded, processed, summarized and reported, within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by a company in the reports that it files or submits under the Exchange Act is accumulated and communicated to the company's management, including its principal executive and principal financial officers, as appropriate to allow timely decisions regarding required disclosure. Based on the evaluation of our disclosure controls and procedures as of December 31, 2011, our chief executive officer and chief financial officer concluded that, as of such date, our disclosure controls and procedures were effective at the reasonable assurance level.

Management recognizes that any controls and procedures, no matter how well designed and operated, can provide only reasonable, and not absolute, assurance of achieving their objectives and management necessarily applies its judgment in evaluating the cost-benefit relationship of possible controls and procedures.

### Management's Annual Report on Internal Control over Financial Reporting

This Annual Report on Form 10-K does not include a report of management's assessment regarding internal control over financial reporting or an attestation report of our registered public accounting firm as permitted in this transition period under the rules of the SEC for newly public companies.

### Changes in Internal Control over Financial Reporting

There were no changes in our internal control over financial reporting identified in management's evaluation pursuant to Rules 13a-15(d) or 15d-15(d) of the Exchange Act during the quarter ended December 31, 2011 that materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

## ITEM 9B. OTHER INFORMATION

Not applicable.

## PART III

### ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

Below is a list of the names and ages as of February 29, 2012 of our directors and executive officers and a brief account of the business experience of each of them.

| Name | Age | Position |
|---|---|---|
| Bryan A. Shinn | 50 | President, Chief Executive Officer and Director |
| William A. White | 54 | Chief Financial Officer |
| Brian Slobodow | 43 | Chief Administrative Officer and Director |
| Bradford B. Casper | 37 | Vice President of Strategic Planning |
| R. Dale Lynch | 45 | Vice President of Finance |
| Michael L. Winkler | 47 | Vice President of Operations |
| John P. Blanchard | 37 | Vice President and General Manager, Industrial and Specialties |
| Jason Tedrow | 36 | Vice President of Supply Chain |
| David Murry | 50 | Vice President Talent Management, Chief Human Resources Officer |
| James I. Manion | 61 | General Counsel |
| Charles Shaver | 53 | Chairman of the Board |
| Rajeev Amara | 35 | Director |
| Prescott H. Ashe | 44 | Director |
| William J. Kacal | 63 | Director |

### Executive Officers

**Bryan A. Shinn** has served as our President since March 2011 and as our Chief Executive Officer and a member of our board of directors since January 10, 2012. Prior to assuming this position, Mr. Shinn was our Senior Vice President of Sales and Marketing from October 2009 to February 2011. Before joining us, Mr. Shinn was employed by the E. I. du Pont de Nemours and Company from 1983 to September 2009, where he held a variety of key leadership roles in operations, sales, marketing and business management, including Global Business Director and Global Sales Director. Mr. Shinn earned a B.S. in mechanical engineering from the University of Delaware. As a result of these and other professional experiences, Mr. Shinn possesses particular knowledge and experience in operations, sales, marketing, management and corporate strategy that strengthen the board’s collective qualifications, skills and experience.

**William A. White** has served as our Chief Financial Officer since October 2006. Mr. White also served as our Vice President of Finance from January 2006 to July 2011, our Corporate Controller from 1996 to 2005 and held various other positions with us from 1991 to 1996. Before joining us, Mr. White was Corporate Accounting Manager at Union Carbide Corporation from 1985 to 1991 and worked at a regional Certified Public Accounting firm from 1980 to 1985. Mr. White earned a B.B.A. from Marshall University and is a licensed Certified Public Accountant in West Virginia.

**Brian Slobodow** has served as a member of our board of directors since March 2011 and as our Chief Administrative Officer since January 10, 2012. Prior to assuming this position, Mr. Slobodow served as our Chief Executive Officer from March 2011 to January 10, 2012, when he reduced his own responsibilities due to personal health reasons. In his role as our Chief Administrative Officer, Mr. Slobodow will focus his efforts on talent management, information technology, regulatory affairs, procurement and the implementation of process excellence throughout our company. Before joining us, Mr. Slobodow was President and Chief Operating Officer

of Neways Worldwide, a portfolio company of Golden Gate Capital, from May 2007 to March 2011, held numerous positions at Johnson & Johnson Consumer Companies, Inc. from 2003 to May 2007, including Vice President, Global Supply Chain and served as a management consultant for A.T. Kearney from 1995 to 2003. Mr. Slobodow earned a B.S. in industrial and manufacturing engineering from the University of Rhode Island and an M.B.A. from the M.I.T. Sloan School of Management. As a result of these and other professional experiences, Mr. Slobodow possesses particular knowledge and experience in operations, management, corporate strategy, organizational design and private equity management that strengthen the board’s collective qualifications, skills and experience.

**Bradford B. Casper** has served as our Vice President of Strategic Planning since May 2011. Before joining us, Mr. Casper was at Bain & Company, Inc., where he held various positions from 2002 to May 2011 in the United States, Australia and Hong Kong, most recently serving as a Principal from July 2010 to May 2011. Mr. Casper earned a B.S. in accounting from the University of Illinois at Urbana-Champaign and an M.B.A. from the Wharton School at the University of Pennsylvania.

**R. Dale Lynch** has served as our Vice President of Finance since July 2011. Before joining us, Mr. Lynch worked as a consultant from April 2010 to July 2011, served as Executive Vice President of Finance for Allied Capital Corporation from 2004 to April 2010 and held various investment banking and research positions with Lehman Brothers from 1997 to 2004 and Merrill Lynch from 1989 to 1994. Mr. Lynch earned a B.S. in accounting from The Pennsylvania State University and an M.B.A. from the University of Chicago, Booth School of Business.

**Michael L. Winkler** has served as our Vice President of Operations since June 2011. Before joining us, Mr. Winkler was Vice President of Operations for Campbell Soup Company from August 2007 to June 2011 and held various positions with Mars Inc. from 1996 to August 2007, including Plant Manager—Columbus Plant and Director of Industrial Engineering. Mr. Winkler earned a B.S. in industrial engineering from the University of Wisconsin—Platteville and an M.B.A. from the University of North Texas.

**John P. Blanchard** has served as our Vice President and General Manager of our Industrial and Specialties segment since September 2011. Mr. Blanchard possesses over 15 years’ experience in a variety of industries, including nonwovens, composites and pharmaceuticals. Prior to joining us, Mr. Blanchard was a Global Business Director at Johns Manville. Mr. Blanchard earned a B.S. in Chemical Engineering from Michigan Technological University and an M.B.A. from the University of Michigan.

**Jason Tedrow** has served as our Vice President of Supply Chain since January 2012. Before joining us, Mr. Tedrow was with Lafarge Cement where he held various distribution and supply chain management roles of increasing responsibility from 2006 through 2011, most recently serving as the Director of Distribution for Lafarge’s River Business Unit. Mr. Tedrow also held various engineering and supply chain management positions with ConAgra Foods from 2000 to January 2006 and The Amway Corporation from 1998 to August 2000. Mr. Tedrow earned a B.S. in Industrial Engineering from Western Michigan University and an M.B.A. from the University of Chicago, Booth School of Business.

**David Murry** joined U.S. Silica as Vice President of Talent Management and serves as our Chief Human Resource Officer. Most recently, David was the Director of Human Resources and Talent Management for Arkema, a diversified chemicals company. He has held positions of increasing leadership with Armstrong, Dell, and Alcoa. David oversees U.S. Silica’s Human Resources, Occupational Health, and Safety team members in the corporate office as well as at all of our operating facilities. David earned a B.S. in Mining Engineering from Texas A&M University and a Master’s of Science in Management from Antioch University.

**James I. Manion** has served as our General Counsel since 2003. Prior to assuming this position, Mr. Manion was our Assistant General Counsel from 1998 to 2003. Before joining us, Mr. Manion specialized in transactional and corporate law and was a partner in the law firm of Jackson & Kelly from 1988 to 1998. Mr. Manion earned a B.S. in foreign service from Georgetown University and a J.D. from Georgetown University Law Center.

**Directors**

**Charles Shaver** has served as a member of our board of directors since July 2011 and is currently our Chairman of the Board. Mr. Shaver has been an Operating Partner of Golden Gate Capital since April 2011. Prior to joining Golden Gate Capital, Mr. Shaver served as the Chief Executive Officer and President of the TPC Group Inc. from 2004 to April 2011, as a Vice President and General Manager for Gentek, Inc. from 2001 to 2004 and as a Vice President and General Manager for Arch Chemicals, Inc. from 2001 to 2004. Mr. Shaver began his career with The Dow Chemical Company, where he held a series of operational and business positions from 1980 to 1996. Mr. Shaver earned a B.S. in chemical engineering from Texas A&M University. As a result of these and other professional experiences, Mr. Shaver possesses particular knowledge and experience in all aspects of corporate functions and company operations that strengthen the board's collective qualifications, skills and experience.

**Rajeev Amara** has served as a member of our board of directors since November 2008. Mr. Amara is a Managing Director of Golden Gate Capital, which he joined in 2000. At Golden Gate Capital, Mr. Amara leads the investment effort in the industrials and energy sector. Prior to joining Golden Gate Capital, Mr. Amara worked as an investment banker with the Los Angeles office of Donaldson, Lufkin & Jenrette from 1997 to 1999. With respect to service on public company boards, Mr. Amara has served on the board of directors of Aspect Software, Inc. since January 2011. Mr. Amara earned a B.S. in economics from the Wharton School of the University of Pennsylvania. As a result of these and other professional experiences, Mr. Amara possesses particular knowledge and experience in accounting, finance and capital structure; strategic planning and leadership of complex organizations; and board practices of other major corporations that strengthen the board's collective qualifications, skills and experience.

**Prescott H. Ashe** has served as a member of our board of directors since November 2008. Mr. Ashe has been a Managing Director of Golden Gate Capital since 2000. Mr. Ashe has over 20 years of private equity investing experience and has participated in both growth-equity and management buyout transactions with more than $10.0 billion in value. Prior to joining Golden Gate Capital, Mr. Ashe worked at Bain Capital, LLC from 1991 to 2000 and at Bain & Company, Inc. from 1990 to 1991. With respect to service on public company boards, Mr. Ashe has served on the board of directors of Aeroflex Holding Corp. since August 2007, GXS Worldwide, Inc. since June 2010 and Aspect Software, Inc. since May 2003. Mr. Ashe earned a J.D. from Stanford Law School and a B.S. in business administration from the University of California at Berkeley. As a result of these and other professional experiences, Mr. Ashe possesses particular knowledge and experience in accounting, finance, and capital structure; strategic planning and leadership of complex organizations; and board practices of other major corporations that strengthen the board's collective qualifications, skills and experience.

**William J. Kacal** has served as a member of our board of directors since January 2012. Mr. Kacal currently serves as a director of Integrity Bank SSB ("Integrity Bank"), the National Association of Corporate Directors—Texas Tri-Cities Chapter, Goodwill Industries International ("Goodwill International"), Goodwill Industries of Houston ("Goodwill Houston") and the Boy Scouts of America—Sam Houston Area Council ("Boy Scouts Houston"). Mr. Kacal serves on the Audit Committee of Integrity Bank, and previously served as the Chairman of the Audit Committee of Goodwill International, Goodwill Houston and the Boy Scouts Houston. Mr. Kacal has over 40 years of accounting and management experience with Deloitte & Touche LLP ("Deloitte"), most recently serving as a partner from 1981 until his retirement in May 2011, and prior to that serving as a member of the audit staff from 1970 to 1981. Mr. Kacal also served as a member of the board of directors from 2004 to May 2011 and as a member of the executive committee from 2004 to 2008. During his time with Deloitte, Mr. Kacal worked extensively with companies in the oil and natural gas industry. Mr. Kacal earned a B.B.A. in Accounting from Texas A&M University and is a licensed Certified Public Accountant in Texas. As a result of these and other professional experiences, Mr. Kacal possesses particular knowledge and experience in accounting, finance and capital structure; strategic planning and leadership of complex organizations; and board practices of other entities that strengthen the board's collective qualifications, skills and experience.

### Family Relationships

There are no family relationships between any of our executive officers or directors.

### Corporate Governance

#### *Codes of Conduct*

We expect our directors, officers and employees to act ethically at all times and acknowledge their adherence to the policies comprising our Codes of Conduct. Copies of the Code of Conduct for our Board of Directors and Code of Conduct and Ethics for U.S. Silica employees (including the chief executive officer, chief financial officer and corporate controller) can be found on the U.S. Silica website. Any amendments or waivers to the Code of Business Ethics applicable to the chief executive officer, chief financial officer and corporate controller can also be found in the "Investor Relations" section of the U.S. Silica website. Stockholders may also request a free copy of these documents from: U.S. Silica Holdings, Inc., attn.: Investor Relations, 8490 Progress Drive, Suite 300, Frederick, Maryland 21701 (phone: (855) SILICA-7), or IR@ussilica.com.

#### *Board Composition*

Our board of directors consists of six members. At any time that our parent LLC owns at least a majority of our then outstanding common stock, the size of our board of directors is determined by the affirmative vote of at least a majority of our then outstanding common stock. At any time that our parent LLC does not own at least a majority of our then outstanding common stock, the size of our board of directors is determined by the affirmative vote of our board of directors.

At any time that our parent LLC owns at least a majority of our then outstanding common stock, vacancies are filled by the affirmative vote of at least a majority of our then outstanding common stock. At any time that our parent LLC does not own at least a majority of our then outstanding common stock, vacancies are filled by the affirmative vote of our board of directors. The term of office for each director is until his or her successor is elected at our annual meeting or his or her death, resignation or removal, whichever is earliest to occur. Stockholders elect directors each year at our annual meeting.

With respect to the roles of Chairman of the Board and Chief Executive Officer, our Corporate Governance Guidelines provide that the roles may be separated or combined, and our board of directors exercises its discretion in combining or separating these positions as it deems appropriate in light of prevailing circumstances. Our board of directors believes that the combination or separation of these positions should continue to be considered as part of the succession planning process. Currently the roles are separated, with Mr. Shaver serving as Chairman. Our Corporate Governance Guidelines provide the flexibility for our board to modify our leadership structure in the future as appropriate. We believe that our business, like many U.S. companies, is well served by this flexible leadership structure.

Our parent LLC continues to control a majority of the voting power of our outstanding common stock. As a result, we are a "controlled company" under the NYSE corporate governance standards. As a controlled company, exemptions under the standards will free us from the obligation to comply with certain corporate governance requirements, including the requirements:

- that we have a compensation committee or nominating and corporate governance committee;
- that a majority of our board of directors consists of "independent directors," as defined under the rules of the NYSE;
- that any corporate governance and nominating committee or compensation committee be composed entirely of independent directors with a written charter addressing the committee's purpose and responsibilities; and

- for an annual performance evaluation of the nominating and corporate governance committee and compensation committee.

These exemptions do not modify the independence requirements for our Audit Committee, and we intend to comply with the requirements of Rule 10A-3 of the Exchange Act and the rules of the NYSE within the applicable time frame.

***Nomination of Directors by Our Parent LLC***

On January 31, 2012, we entered into a director designation agreement that provides for our parent LLC to nominate designees to our board of directors. Any directors appointed pursuant to the Designation Agreement may be removed at the discretion of our parent LLC at any time with or without cause. See "Certain Relationships and Related Party Transactions—Director Designation Agreement."

***Board Committees***

Our board of directors has established an Audit Committee and a Compensation and Governance Committee. The composition, duties and responsibilities of these committees are as set forth below. In the future, our board may establish other committees, as it deems appropriate, to assist it with its responsibilities.

| Board Member | Audit Committee | Compensation and Governance Committee |
|---|---|---|
| Rajeev Amara | X | X |
| Prescott H. Ashe | — | — |
| William J. Kacal | Chair | X |
| Charles Shaver | X | Chair |
| Bryan A. Shinn | — | — |
| Brian Slobodow | — | — |

***Audit Committee***

The Audit Committee is responsible for, among other matters: (1) appointing, compensating, retaining, evaluating, terminating and overseeing our independent registered public accounting firm; (2) discussing with our independent registered public accounting firm their independence from management; (3) reviewing with our independent registered public accounting firm the scope and results of their audit; (4) approving all audit and permissible non-audit services to be performed by our independent registered public accounting firm; (5) overseeing the financial reporting process and discussing with management and our independent registered public accounting firm the interim and annual financial statements that we file with the SEC; (6) reviewing and monitoring our accounting principles, accounting policies, financial and accounting controls and compliance with legal and regulatory requirements; (7) establishing procedures for the confidential anonymous submission of concerns regarding questionable accounting, internal controls or auditing matters; (8) reviewing and approving related person transactions; and (9) overseeing our enterprise risk management program.

Our board of directors has affirmatively determined that Mr. Kacal meets the definition of "independent director" for purposes of serving on an Audit Committee under Rule 10A-3 of the Exchange Act and the NYSE rules. In addition, our board of directors has determined that Mr. Kacal qualifies as an "audit committee financial expert," as such term is defined in Item 407(d)(5) of Regulation S-K. Our board of directors has adopted a written charter for the Audit Committee.

***Compensation and Governance Committee***

The Compensation and Governance Committee is responsible for, among other matters: (1) reviewing key employee compensation goals, policies, plans and programs; (2) reviewing and providing recommendations to

the board of directors regarding the compensation of our directors, chief executive officer and other executive officers; (3) reviewing and approving employment agreements and other similar arrangements between us and our executive officers; (4) administration of stock plans and other incentive compensation plans; (5) identifying individuals qualified to become members of our board of directors, consistent with criteria approved by our board of directors; (6) overseeing the organization of our board of directors to discharge the board's duties and responsibilities properly and efficiently; (7) identifying best practices and recommending corporate governance principles; and (8) developing and recommending to our board of directors a set of Corporate Governance Guidelines and principles applicable to us.

As a controlled company, we rely upon the exemption from the requirement that we have a separate compensation committee and nominating and corporate governance committee composed entirely of independent directors. Our board of directors has adopted a written charter for the Compensation and Governance Committee.

### *Compensation Committee Interlocks and Insider Participation*

For 2011, the board of directors, which consisted of our Chief Executive Officer and persons affiliated with Golden Gate Capital, made all compensation decisions. See "Certain Relationships and Related Party Transactions" for information with respect to transactions with Golden Gate Capital.

No interlocking relationships exist between the members of our board of directors and the board of directors or compensation committee of any other company.

### *Director Compensation*

None of the three directors serving on our board of directors as of December 31, 2011 received compensation as a director during 2011. All directors receive reimbursement for reasonable out-of-pocket expenses incurred in connection with meetings of the board. All directors other than Messrs. Amara, Ashe, Shinn and Slobodow are eligible to receive compensation from us for their service on our board of directors. Such directors are paid an annual retainer of $70,000, paid in equal quarterly installments. An additional $10,000 is paid annually for each committee on which such directors serve, while the chairman of the Audit Committee is paid an additional $35,000 annually for serving in such capacity. Notwithstanding the above, Mr. Shaver will receive an annual retainer of $120,000 (inclusive of the $70,000 annual board retainer) for his service as chairman of the board of directors, chairman of the Compensation and Governance Committee and as a member of the Audit Committee. Finally, Mr. Kacal received options, upon the completion of our initial public offering on January 31, 2012, to purchase 10,000 shares of our common stock at the initial public offering price. We anticipate that our other directors apart from Messrs. Amara, Ashe, Shinn and Slobodow will receive similar option grants.

## Director and Officer Indemnification and Limitation of Liability

Our amended and restated bylaws provide that we will indemnify our directors and officers to the fullest extent permitted by the DGCL. In addition, our amended and restated certificate of incorporation provides that our directors are not liable for monetary damages for breach of fiduciary duty.

In addition, we have entered into indemnification agreements with each of our executive officers and directors. The indemnification agreements will provide the executive officers and directors with contractual rights to indemnification, expense advancement and reimbursement, to the fullest extent permitted under the DGCL. We have also entered into an indemnification priority agreement with Golden Gate Capital to clarify the priority of advancement of expenses and indemnification obligations among us, our subsidiaries and any of our directors appointed by Golden Gate Capital or its affiliates and other related matters.

There is no pending litigation or proceeding naming any of our directors or officers in which indemnification is being sought, and we are not aware of any pending or threatened litigation that may result in claims for indemnification by any director or officer.

## ITEM 11. EXECUTIVE COMPENSATION

### Compensation Discussion and Analysis

***Introduction***

This Compensation Discussion and Analysis describes the compensation arrangements we have with our named executive officers as required under the rules of the SEC. The SEC rules require disclosure for the last completed fiscal year for the principal executive officer (our Chief Executive Officer) and principal financial officer (our Chief Financial Officer), regardless of compensation level, and the three most highly compensated executive officers other than the CEO and CFO (collectively, our "NEOs").

During 2011, our entire board of directors performed all compensation-related functions. The board of directors was responsible for the oversight, implementation and administration of all of our executive compensation plans and programs. The board of directors also determined all of the components of compensation of the CEO, and, in consultation with the CEO, the compensation of the remaining executive officers.

In connection with completing our initial public offering in February 2012, we established a Compensation and Governance Committee comprised of Messrs. Amara, Kacal and Shaver. Our Compensation and Governance Committee is currently undertaking a substantial review of our existing compensation programs, objectives and philosophy and determine whether such programs, objectives and philosophy are appropriate.

***Executive Compensation Objectives and Philosophy***

The key objectives of our executive compensation programs are (1) to attract, motivate, reward and retain superior executive officers with the skills necessary to successfully lead and manage our business, (2) to achieve accountability for performance by linking annual cash incentive compensation to the achievement of measurable performance objectives, and (3) to align the interests of the executive officers and our equityholders through short-term incentive compensation programs. For our NEOs, these short-term incentives are designed to accomplish these objectives by providing a significant financial correlation between our financial results and their total compensation.

In 2011, a significant portion of the compensation of our NEOs consisted of cash incentive compensation contingent upon the achievement of financial performance metrics. We also provide our NEOs with a portion of their compensation through equity compensation pursuant to the 2011 Plan. These two elements of executive compensation are aligned with the interests of our stockholders because the amount of compensation ultimately received will vary with our company's financial performance. Equity compensation derives its value from our equity value, which is likely to fluctuate based on our financial performance.

We seek to apply a consistent philosophy to compensation for all executive officers. Our compensation philosophy is based on the following core principles:

*To Pay for Performance*

Individuals in leadership roles are compensated based on a combination of total company and, beginning with 2011, individual performance factors. Total company performance is evaluated in part based on the degree to which pre-established financial objectives are met. Individual performance is evaluated based upon several individualized leadership factors, including:

- achieving specific personal performance objectives;
- building and developing individual skills and a strong leadership team; and
- developing an effective infrastructure to support business growth and profitability.

*To Pay Competitively*

We are committed to providing a total compensation program designed to retain our high-caliber performers and attract superior leaders to our company. To achieve this goal, we compare our pay practices and overall pay levels with other industrial and mineral organizations and regularly confer with a third-party consulting firm for informational purposes.

*To Pay Equitably*

We believe that it is important to apply generally consistent guidelines for all executive officer compensation programs. In order to deliver equitable pay levels, we expect that the Compensation and Governance Committee will consider depth and scope of accountability, complexity of responsibility, qualifications and executive performance, both individually and collectively as a team.

In addition to short- and long-term compensation, we believe it important to provide our employees with competitive post-employment compensation. Post-employment compensation consists primarily of severance benefits. We believe that severance benefits are an important component in a well-structured executive officer compensation package, and we seek to ensure that the package is competitive at the time of hiring. Consistent with all of our salaried employees, our NEOs, Messrs. Slobodow, White, Winkler, Lynch and Casper are entitled to the standard company benefits. As a result of his prior employment agreement, Mr. Ulizio was entitled to additional severance prior to the end of his employment with us. See “—Potential Payments Upon Termination and Change of Control.”

***Compensation and Governance Committee Review of Compensation***

We expect the Compensation and Governance Committee will review compensation elements and amounts for NEOs on an annual basis, at the time of a promotion or other change in level of responsibilities, as well as when competitive circumstances or business needs may require. We occasionally use a third-party consulting firm to assist us with determining compensation levels and expect the Compensation and Governance Committee to continue to do so when appropriate, although we did not use such a firm in connection with determining 2011 compensation levels. We expect that each year our head of human resources will compile a report of benchmark data for executive positions for similar companies, including summaries of base salary, annual cash incentive plan opportunities and awards and long-term incentive award values. We expect that the Compensation and Governance Committee will determine the list of companies that we will benchmark our compensation packages against shortly after completion of our initial public offering and will compare our pay practices and overall pay levels with other leading industrial organizations, and, where appropriate, with non-industrial organizations when establishing our pay guidelines.

We expect that the CEO will provide compensation recommendations to the Compensation and Governance Committee for executives other than himself based on this data and the other considerations mentioned in this Compensation Discussion and Analysis. We expect that the Compensation and Governance Committee will recommend a compensation package for our CEO and determine compensation packages for our other NEOs that are consistent with our compensation philosophy to be strategically positioned above the median of our peer group and competitive with other leading industrial organizations.

We expect that the Compensation and Governance Committee will consider input from our CEO and CFO when setting financial objectives for our incentive plans. We also expect that the Compensation and Governance Committee in determining compensation will consider input from our CEO, with the assistance of our head of human resources (for officers other than themselves), regarding benchmarking and recommendations for base salary, annual incentive targets and other compensation awards. The Compensation and Governance Committee will likely give significant weight to our CEO’s judgment when assessing each of the other officer’s performance and determining appropriate compensation levels and incentive awards. The members of the board of directors (other than the CEO) meeting in executive session, will determine the compensation of the CEO, including his annual incentive targets.

***Elements of Compensation***

As discussed throughout this Compensation Discussion and Analysis, the compensation policies applicable to our NEOs are reflective of our pay-for-performance philosophy, whereby a portion of cash compensation is contingent upon achievement of measurable financial objectives, as opposed to current cash and other compensation not directly linked to objective financial performance.

The elements of our compensation program in 2011 were:

- base salary;
- equity-based incentives;
- performance-based cash incentives; and
- certain additional executive benefits and perquisites.

Beginning in 2011 with the establishment of the 2011 Plan, a significant portion of executive compensation was made in the form of grants of equity in order to tie our NEOs' compensation to enhanced equity value in order to further incentivize our executive officers to enhance equityholder value over the long term. Base salary and performance-based cash incentives are currently the most significant elements of our executive compensation program and, on an aggregate basis, they are intended to substantially satisfy our program's overall objectives. Typically, the board of directors has sought to set each of these elements of compensation at the same time to enable the board of directors to simultaneously consider all of the significant elements and their impact on total compensation and the extent to which the determinations made will reflect the principles of our compensation philosophy and related guidelines with respect to allocation of compensation among certain of these elements and total compensation. We strive to achieve an appropriate mix between the various elements of our compensation program to meet our compensation objectives and philosophy; however, we do not apply any rigid allocation formula in setting our executive compensation, and we may make adjustments to this approach for various positions after giving due consideration to prevailing circumstances.

*Base Salary*

We provide a base salary to our executive officers to compensate them for their services during the year and to provide them with a stable source of income. The base salaries for our NEOs in 2011 were established by our board of directors, based in large part on the salaries established for persons holding similar positions with similar companies and by the board of directors' review of other factors, including:

- the individual's performance, results, qualifications and tenure;
- the job's responsibilities, pay mix (base salary, annual cash incentives, perquisites and other executive benefits) and similar companies' compensation practices; and
- our ability to replace the individual.

Our NEOs' base salary levels are reviewed annually to determine whether they are near the median range for persons holding similar positions with companies that are similar in size and nature to us. In 2011, the board of directors reviewed, in lieu of conducting formal benchmarking, publicly available information about the compensation of comparable executives within industries that are complimentary to ours, as well as information regarding compensation from any third-party sources that the board of directors determined to be relevant. Upon concluding its 2011 review, the board of directors approved an increase in Mr. White's annual base salary from $196,200 to $250,000 based on the broadened scope of his position as well as his tenure and experience with us. This salary increase also more accurately positions Mr. White's annual salary with chief financial officers in complimentary industries to ours and with companies of similar size and nature to us.

The annual base salaries in effect for each of our NEOs as of December 31, 2011 were as follows:

| Name and Principal Position | Annual Salary ($) |
|---|---|
| Brian Slobodow, Chief Executive Officer | 375,000 |
| William A. White, Chief Financial Officer | 250,000 |
| R. Dale Lynch, Vice President of Finance | 300,000 |
| Michael L. Winkler, Vice President of Operations | 230,000 |
| Bradford B. Casper, Vice President of Strategic Planning | 222,000 |

In March 2011, Mr. Slobodow was appointed our new Chief Executive Officer following the resignation of John A. Ulizio. In addition, Mr. Winkler succeeded Mr. Didawick, who retired in March 2011, as our Vice President of Operations. See "—Employment and Other Agreements." On January 10, 2012, Mr. Slobodow reduced his responsibilities as our Chief Executive Officer to become our Chief Administrative Officer, and Bryan A. Shinn, our President since March 2011, assumed the additional responsibility of Chief Executive Officer.

In the future, we expect that salaries for executive officers will continue to be reviewed annually, as well as at the time of a promotion or other change in level of responsibilities, or when competitive circumstances or business needs may require. As noted above, we expect that the Compensation and Governance Committee will recommend a compensation package that is consistent with our compensation philosophy to be strategically positioned above the median of our to be determined peer group.

*Equity-Based Incentives*

Our equity award program is the primary vehicle for offering long-term incentives to our NEOs. Our equity-based incentives are granted in the form of options to purchase shares of our common stock, including the grant of options at the commencement of employment for the majority of our current NEOs. We believe that equity grants align the interests of our NEOs with our stockholders, provide our NEOs with incentives linked to long-term performance and create an ownership culture. In addition, the vesting feature of our equity grants contributes to executive retention because this feature provides an incentive to our NEOs to remain in our employ during the vesting period. To date, we have not had an established set of criteria for granting equity awards; instead the board of directors exercises its judgment and discretion, in consultation with our CEO, and considers, among other things, the role and responsibility of the NEO, competitive factors, the amount of stock-based equity compensation already held by the NEO, and the cash-based compensation received by the NEO to determine the level of equity awards that it approves.

In 2011, the board approved and granted stock options to certain members of our management team, including four of our NEOs. All 2011 stock option grants vest and become exercisable over one to four years, and all 2011 stock option grants included two tranches of stock options: Tranche I stock options and Tranche II stock options. The exercise price of the Tranche I options reflected the fair market value of our common stock on the date of grant as determined by our board of directors in reliance upon a number of factors. The exercise price of the Tranche II stock options reflected the fair market value of our common stock on the date of grant as determined by our board of directors and included a premium to such fair market value. Our board of directors granted the Tranche II options at an exercise price above fair market value to create a situation in which our NEOs realize an economic gain in connection with the Tranche II options only if there is a considerable appreciation in the value of our common stock between the date of grant and the date of exercise.

The following table sets forth the stock option grants we made to our NEOs in 2011:

| Name | Date of Grant | Number of Shares Underlying Option | Exercise Price ($) | Vesting Start Date[1] |
|---|---|---|---|---|
| Brian Slobodow | 7/12/2011 | 152,455 | 10.33 | 7/12/2012 |
| | 7/12/2011 | 207,072 | 16.90 | 7/12/2012 |
| Michael L. Winkler | 7/12/2011 | 50,818 | 10.33 | 7/12/2012 |
| | 7/12/2011 | 77,652 | 16.90 | 7/12/2012 |
| R. Dale Lynch | 7/25/2011 | 50,818 | 10.33 | 7/25/2012 |
| | 7/25/2011 | 77,652 | 16.90 | 7/25/2012 |
| Bradford B. Casper | 7/12/2011 | 50,818 | 10.33 | 7/12/2012 |
| | 7/12/2011 | 77,652 | 16.90 | 7/12/2012 |

(1) In each case, vesting remains subject to continued service through each vesting date. Refer to “—Compensation Discussion and Analysis—Compensation Tables—Outstanding Equity Awards at Fiscal Year-End” for the vesting schedule applicable to each award.

*Performance-Based Cash Incentives*

We pay performance-based cash incentives in order to align the compensation of our employees, including our NEOs, with our short-term operational and performance goals and to provide near-term rewards for employees to meet these goals. Our short-term, performance-based cash incentive plan provides for incentive payments for each fiscal year. For 2011, these incentive payments are based on the attainment of both pre-established objective financial goals and individual personal performance objectives. These incentive payments are intended to motivate our employees to work effectively to achieve financial performance and personal performance objectives and reward them when these objectives are met and results are approved by the board of directors.

The following table sets forth (1) the financial metric used to determine each NEO’s payment under our 2011 performance-based cash incentive program, and (2) the related threshold, target and maximum levels:

| Performance Metric | Threshold (in millions) | Target (in millions) | Maximum (in millions) |
|---|---|---|---|
| Adjusted EBITDA [1] | $ 86.8 | >$ 90.0 | >$ 100.0 |

(1) For a calculation of Adjusted EBITDA, see Item 7 “Management’s Discussion and Analysis of Financial Condition and Results of Operations–How We Evaluate Our Business.” Adjusted EBITDA was used because it is a key metric used by management and the board of directors to assess our operating performance. For 2011, our board of directors set the Adjusted EBITDA goal at the beginning of the year based on management projections.

Attainment of Adjusted EBITDA objectives accounts for 50% of each NEO’s bonus. The other 50% of each NEO’s bonus is determined by the accomplishment of a variety of personal performance objectives, which are designed to coincide with the achievement of our strategic overall short-term operational and performance goals. No defined weights were established for any of the performance-based objectives. Rather, each NEO was evaluated on his performance in comparison to their respective defined objectives taken as a whole.

- Messrs. Slobodow, White and Lynch objectives were primarily focused on redesigning the leadership structure, with emphasis on preparing for business growth and an initial public stock offering, accelerating the initiation and approval of any capital projects, such as the projects to expand plant production capacity and construction of a resin-coated sand facility, and improved use of technology, especially for business reporting purposes.

- Mr. Winkler's objectives were primarily focused on executing plant production capacity expansions, improved health and safety performance at our production facilities, and development of internal operational metrics.
- Mr. Casper's objectives were primarily focused on developing a comprehensive database for the Oil & Gas Proppants business and developing a methodology for evaluating strategic initiatives.

For the year ended December 31, 2011, we achieved Adjusted EBITDA of $93.6 million exceeding target by $3.6 million, or 4.0%. Based on the Company's attainment of the pre-established financial objective and in consideration of the achievement of each individual NEO's personal performance objectives in 2011, the Board has approved, and the Company has paid in February 2012, the following performance-based cash incentive payments for the 2011 calendar year.

| Name | Payout ($) |
|---|---|
| Brian Slobodow | 235,000 |
| William A. White | 140,000 |
| Michael L. Winkler | 130,000 |
| R. Dale Lynch | 82,500 |
| Bradford B. Casper | 65,000 |

The following table shows each NEO's performance-based cash incentive targets as a percentage of base salary for 2012 as of December 31, 2011. For 2012, we are again using Adjusted EBITDA as the financial measure for the plan. We are using Adjusted EBITDA for the same reasons we used Adjusted EBITDA for 2011. We do not believe that disclosure of our 2012 Adjusted EBITDA goals is relevant to an understanding of compensation for 2011. In addition, because the components of Adjusted EBITDA for 2012 contain highly sensitive data, we do not disclose specific future measures and targets because we believe that such disclosure would result in serious competitive harm and be detrimental to our operating performance. Our 2012 Adjusted EBITDA goals are intended to be realistic and reasonable, but challenging, in order to drive performance on an individual basis.

| | Fiscal 2012 Percentage of Base Salary | | |
|---|---|---|---|
| Name | Threshold Payout | Target Payout | Maximum Payout |
| Brian Slobodow | 25% | 50% | 75% |
| William A. White | 23% | 45% | 68% |
| Michael L. Winkler | 23% | 45% | 68% |
| R. Dale Lynch | 25% | 50% | 75% |
| Bradford B. Casper | 18% | 35% | 53% |

Although Adjusted EBITDA was used as the financial measure for 2011 and will be used as the financial measure for 2012, the Compensation and Governance Committee may use other objective financial performance indicators for the plan in the future, including, without limitation, the price of our common stock, shareholder return, return on equity, return on investment, return on capital, sales productivity, economic profit, economic value added, net income, operating income, gross margin, sales, free cash flow, earnings per share, operating company contribution, a derivative of Adjusted EBITDA or market share.

*Parent LLC Class C and Class D Membership Interests*

On July 30, 2009, Messrs. Ulizio and White were granted Class C Units and Class D Units in our parent LLC. This grant was intended to permit the executives to share in the increase in our value and to focus their efforts on our long-term results. Combined, Messrs. Ulizio and White own 63% of the Class C Units and 71% of

the Class D Units. The remaining Class C Units and Class D Units are held by another of our current employees. The Class C Units and the Class D Units were allocated based on the individual's relative position and responsibilities. The Class C Units vest ratably over five years, with vesting occurring on November 25 of each year. The Class D Units were fully vested upon grant. The Class C Units and the Class D Units may not be transferred without the prior written consent of Golden Gate Capital unless (1) all or substantially all of the outstanding units are being sold to an independent third party or (2) the transfer is to a spouse, lineal descendent, sibling, parent, heir, executor or similar person or entity. See "Security Ownership of Certain Beneficial Owners" for information on the holdings of Messrs. Ulizio and White in our parent LLC.

*Equity and Cash Incentives—Summary of the 2011 Plan*

On July 8, 2011, we adopted the 2011 Plan. The 2011 Plan provides for grants of stock options, stock appreciation rights, restricted stock and other incentive-based awards. Independent directors, officers and other employees of us and our subsidiaries, as well as others performing consulting or advisory services for us, will be eligible for grants under the 2011 Plan. The purpose of the 2011 Plan is to provide incentives that will attract, retain and motivate high performing officers, directors, employees and consultants by providing them with appropriate incentives and rewards either through a proprietary interest in our long-term success or compensation based on their performance in fulfilling their personal responsibilities. Each member of management that chooses to participate in the 2011 plan has signed a non-compete agreement. The following is a summary of the material terms of the 2011 Plan, but does not include all of the provisions of the 2011 Plan.

All equity incentive compensation awarded to our NEOs in 2011 was granted under the 2011 Plan. As of January 17, 2012, options to acquire 1,650,386 shares of common stock had been granted under the 2011 Plan of which 1,501,398 were outstanding. As of January 17, 2012, no other forms of awards had been granted under the 2011 Plan.

***Administration***

The 2011 Plan is administered by the Compensation and Governance Committee, as designated by our board of directors. It is the Compensation and Governance Committee's responsibility to determine the form, amount and other terms and conditions of awards; clarify, construe or resolve any ambiguity in any provision of the 2011 Plan or any award agreement; amend the terms of outstanding awards; and adopt such rules, forms, instruments and guidelines for administering the 2011 Plan as it deems necessary or proper. All actions, interpretations and determinations by the committee or by our board of directors are final and binding.

The Compensation and Governance Committee has full authority to administer and interpret the 2011 Plan, to grant discretionary awards under the 2011 Plan, to determine the persons to whom awards will be granted, to determine the types of awards to be granted, to determine the terms and conditions of each award, to determine the number of shares of common stock to be covered by each award and to make all other determinations in connection with the 2011 Plan and the awards thereunder as the Compensation and Governance Committee, in its sole discretion, deems necessary or desirable.

***Available Shares***

The aggregate number of shares of common stock which may be issued or used for reference purposes under the 2011 Plan or with respect to which awards may be granted is five million shares, subject to automatic increase on the first day of each fiscal year beginning in 2012 and ending in 2019 by the lesser of (1) 2% of the shares of common stock outstanding on the last day of the immediately preceding fiscal year, or (2) such lesser number of shares as determined by the Compensation and Governance Committee. The shares may be either authorized and unissued shares of our common stock or shares of common stock held in or acquired for our treasury. In general, if awards under the 2011 Plan are for any reason cancelled or expire or terminate unexercised, the shares covered by such awards will again be available for the grant of awards under the 2011 Plan.

***Eligibility for Participation***

Independent members of our board of directors, as well as employees of, and consultants to, us or any of our subsidiaries and affiliates are eligible to receive awards under the 2011 Plan. The selection of participants is within the sole discretion of the Compensation and Governance Committee.

***Award Agreement***

Awards granted under the 2011 Plan shall be evidenced by award agreements, which need not be identical, that provide additional terms, conditions, restrictions and/or limitations covering the grant of the award, including, without limitation, additional terms providing for the acceleration of exercisability or vesting of awards in the event of a change of control or conditions regarding the participant's employment, as determined by the committee in its sole discretion.

***Stock Options***

The committee may grant nonqualified stock options and incentive stock options to purchase shares of our common stock only to eligible employees. The Compensation and Governance Committee will determine the number of shares of our common stock subject to each option, the term of each option, which may not exceed ten years, or five years in the case of an incentive stock option granted to a 10.0% stockholder, the exercise price, the vesting schedule, if any, and the other material terms of each option. No incentive stock option or nonqualified stock option may have an exercise price less than the fair market value of a share of our common stock at the time of grant or, in the case of an incentive stock option granted to a 10.0% stockholder, 110.0% of such share's fair market value. Options will be exercisable at such time or times and subject to such terms and conditions as determined by the committee at grant and the exercisability of such options may be accelerated by the committee in its sole discretion.

***Stock Appreciation Rights***

The Compensation and Governance Committee may grant stock appreciation rights, which we refer to as SARs, either with a stock option, which may be exercised only at such times and to the extent the related option is exercisable, which we refer to as a Tandem SAR, or independent of a stock option, which we refer to as a Non-Tandem SAR. A SAR is a right to receive a payment in shares of our common stock or cash, as determined by the Compensation and Governance Committee, equal in value to the excess of the fair market value of one share of our common stock on the date of exercise over the exercise price per share established in connection with the grant of the SAR. The term of each SAR may not exceed ten years. The exercise price per share covered by an SAR will be the exercise price per share of the related option in the case of a Tandem SAR and will be the fair market value of our common stock on the date of grant in the case of a Non-Tandem SAR. The Compensation and Governance Committee may also grant limited SARs, either as Tandem SARs or Non-Tandem SARs, which may become exercisable only upon the occurrence of a change in control, as defined in the 2011 Plan, or such other event as the Compensation and Governance Committee may, in its sole discretion, designate at the time of grant or thereafter.

***Restricted Stock***

The Compensation and Governance Committee may award shares of restricted stock. Except as otherwise provided by the Compensation and Governance Committee upon the award of restricted stock, the recipient generally has the rights of a stockholder with respect to the shares, including the right to receive dividends, the right to vote the shares of restricted stock and, conditioned upon full vesting of shares of restricted stock, the right to tender such shares, subject to the conditions and restrictions generally applicable to restricted stock or specifically set forth in the recipient's restricted stock agreement. The Compensation and Governance may determine at the time of award that the payment of dividends, if any, will be deferred until the expiration of the applicable restriction period.

Recipients of restricted stock are required to enter into a restricted stock agreement with us that states the restrictions to which the shares are subject, which may include satisfaction of pre-established performance goals, and the criteria or date or dates on which such restrictions will lapse.

If the grant of restricted stock or the lapse of the relevant restrictions is based on the attainment of performance goals, the committee will establish for each recipient the applicable performance goals, formulae or standards and the applicable vesting percentages with reference to the attainment of such goals or satisfaction of such formulae or standards while the outcome of the performance goals are substantially uncertain. Such performance goals may incorporate provisions for disregarding, or adjusting for, changes in accounting methods, corporate transactions, including, without limitation, dispositions and acquisitions, and other similar events or circumstances. Section 162(m) of the Code requires that performance awards be based upon objective performance measures. The performance goals for performance-based restricted stock will be based on one or more of the objective criteria set forth on Exhibit A to the 2011 Plan and are discussed in general below.

***Other Stock-Based Awards***

The Compensation and Governance Committee may, subject to limitations under applicable law, make a grant of such other stock-based awards, including, without limitation, performance units, dividend equivalent units, stock equivalent units, restricted stock units and deferred stock units under the 2011 Plan that are payable in cash or denominated or payable in or valued by shares of our common stock or factors that influence the value of such shares. The Compensation and Governance Committee shall determine the terms and conditions of any such other awards, which may include the achievement of certain minimum performance goals for purposes of compliance with Section 162(m) of the Code and/or a minimum vesting period. The performance goals for performance-based other stock-based awards will be based on one or more of the objective criteria set forth on Exhibit A to the 2011 Plan and discussed in general below.

***Performance Awards***

The Compensation and Governance Committee may grant a performance award to a participant payable upon the attainment of specific performance goals. The Compensation and Governance Committee may grant performance awards that are intended to qualify as performance-based compensation under Section 162(m) of the Code as well as performance awards that are not intended to qualify as performance-based compensation under Section 162(m) of the Code. Based on service, performance and/or such other factors or criteria, if any, as the Compensation and Governance Committee may determine, the Compensation and Governance Committee may, at or after grant, accelerate the vesting of all or any part of any performance award.

***Performance Goals***

The Compensation and Governance Committee may grant awards of restricted stock, performance awards, and other stock-based awards that are intended to qualify as performance-based compensation for purposes of Section 162(m) of the Code. These awards may be granted, vest and be paid based on attainment of specified performance goals established by the committee. These performance goals will be based on the attainment of a certain target level of, or a specified increase or decrease in, one or more of the following measures selected by the committee: (1) earnings per share; (2) operating income; (3) gross income; (4) net income (before or after taxes); (5) cash flow; (6) gross profit; (7) gross profit return on investment; (8) gross margin return on investment; (9) gross margin; (10) operating margin; (11) working capital; (12) earnings before interest and taxes; (13) earnings before interest, tax, depreciation and amortization; (14) return on equity; (15) return on assets; (16) return on capital; (17) return on invested capital; (18) net revenues; (19) gross revenues; (20) revenue growth; (21) net revenues by segment; (22) revenue growth by segment; (23) overall revenue growth; (24) overall contribution margin; (25) contribution margin by segment; (26) sales or market share; (27) total shareholder return; (28) economic value added; (29) specified objectives with regard to limiting the level of increase in all or a portion of our bank debt or other long-term or short-term public or private debt or other

similar financial obligations, which may be calculated net of cash balances and/or other offsets and adjustments as may be established by the committee in its sole discretion; (30) the fair market value of a share of common stock; (31) the growth in the value of an investment in the common stock assuming the reinvestment of dividends; (32) reduction in operating expenses; (33) volume growth by segment; (34) overall volume growth; (35) price growth by segment; (36) overall price growth; (37) contribution margin growth; (38) reduction in variable costs; (39) reduction in fixed costs; (40) asset productivity; (41) cost per ton; (42) output per employee; (43) logistics efficiency; or (44) customer acquisitions.

To the extent permitted by law, the Compensation and Governance Committee may also exclude the impact of an event or occurrence which the committee determines should be appropriately excluded, including: (1) restructurings, discontinued operations, extraordinary items and other unusual or non-recurring charges; (2) an event either not directly related to our operations or not within the reasonable control of management; or (3) a change in accounting standards required by generally accepted accounting principles.

Performance goals may also be based on an individual participant's performance goals, as determined by the Compensation and Governance Committee, in its sole discretion.

In addition, all performance goals may be based upon the attainment of specified levels of our performance, or the performance of a subsidiary, division or other operational unit, under one or more of the measures described above relative to the performance of other corporations. The Compensation and Governance Committee may designate additional business criteria on which the performance goals may be based or adjust, modify or amend those criteria.

***Change in Control***

In connection with a change in control, as defined in the 2011 Plan, the Compensation and Governance Committee may accelerate vesting of outstanding awards under the 2011 Plan. In addition, such awards will be, in the discretion of the committee, (1) assumed and continued or substituted in accordance with applicable law, (2) purchased by us for an amount equal to the excess of the price of a share of our common stock paid in a change in control over the exercise price of the award(s), or (3) cancelled if the price of a share of our common stock paid in a change in control is less than the exercise price of the award. The Compensation and Governance Committee may also, in its sole discretion, provide for accelerated vesting or lapse of restrictions of an award at any time.

***Stockholder Rights***

Except as otherwise provided in the applicable award agreement, and with respect to an award of restricted stock a participant has no rights as a stockholder with respect to shares of our common stock covered by any award until the participant becomes the record holder of such shares.

***Amendment and Termination***

Notwithstanding any other provision of the 2011 Plan, our board of directors may at any time amend any or all of the provisions of the 2011 Plan, or suspend or terminate it entirely, retroactively or otherwise; provided, however, that, unless otherwise required by law or specifically provided in the 2011 Plan, the rights of a participant with respect to awards granted prior to such amendment, suspension or termination may not be adversely affected without the consent of such participant.

***Transferability***

Awards granted under the 2011 Plan are generally nontransferable (other than by will or the laws of descent and distribution), except that the committee may provide for the transferability of nonqualified stock options at the time of grant or thereafter to certain family members.

***Effective Date***

The 2011 Plan is effective as of its approval by our board of directors on July 8, 2011.

*Additional Executive Benefits and Perquisites*

We provide our executive officers with executive benefits and perquisites that the board of directors believes are reasonable and in the best interests of the company and its stockholders. Consistent with our compensation philosophy, we intend to continue to maintain our current benefits for our executive officers, including retirement plans, health and welfare benefits and life insurance and long-term disability insurance described below. The Compensation and Governance Committee, in its discretion, may revise, amend or add to an officer's executive benefits if it deems it advisable. We believe these benefits are generally equivalent to benefits provided by comparable companies. We have no current plans to change the levels of benefits provided thereunder.

*Retirement Plan Benefits.* We sponsor a 401(k) plan covering substantially all eligible employees. Employee contributions to the 401(k) plan are voluntary. We contribute an amount equal to 25% of a covered employee's eligible contribution up to 8% of a participant's salary. We also contribute from 0% to 75% of a covered employee's eligible contribution up to 8%, if applicable, based on our profits from the previous fiscal year as an incentive to encourage our employees to participate in the 401(k) plan. The contributions based on our profits are paid during the Spring of the following fiscal year. In the case of both the matching program and the profit sharing program, our contributions vest over a period of five years. Finally, we also provide a 4% defined contribution of monthly basic income into a participant's 401(k) account if that participant does not participate in our defined pension plan. These contributions vest each year. Contributions by participants are limited to their annual tax deferred contribution limit as allowed by the Internal Revenue Service. Our total contributions to 401(k) plan participants were $550 thousand, $1.6 million, and $1.9 million for 2009, 2010 and 2011, respectively.

*Health and Welfare Benefits.* We offer health, dental and vision coverage for all employees, including our NEOs, and pay premiums on behalf of our NEOs on the same basis as on behalf of all of our other salaried employees.

*Life Insurance and Long-Term Disability Insurance.* As of December 31, 2011, we offer life insurance up to a cap of $600,000 or five times each employee's annual salary. We offer long-term disability insurance up to a cap of $10,000 per month. We pay life insurance premiums on behalf of our NEOs, but do not pay any premiums on behalf of our NEOs related to long-term disability insurance.

**Compensation and Governance Committee Report**

The Compensation and Governance Committee has reviewed and discussed the Compensation Discussion and Analysis set forth above with management. Based on this review and discussion, the Compensation and Governance Committee recommended to the Board of Directors that the Compensation Discussion and Analysis be included in our Annual Report on Form 10-K for the year ended December 31, 2011.

*Compensation and Governance Committee*
Charles Shaver, Chair
Rajeev Amara
William J. Kacal

**Accounting and Tax Considerations**

In determining which elements of compensation are to be paid, and how they are weighted, we also take into account whether a particular form of compensation will be deductible under Section 162(m) of the Code. Section 162(m) generally limits the deductibility of compensation paid to our NEOs to $1.0 million during any

fiscal year unless such compensation is “performance-based” under Section 162(m). However, under a Section 162(m) transition rule for compensation plans or agreements of corporations which are privately held and which become publicly held in an initial public offering, compensation paid under a plan or agreement that existed prior to the initial public offering will not be subject to Section 162(m) until the earlier of (1) the expiration of the plan or agreement, (2) a material modification of the plan or agreement, (3) the issuance of all employer stock and other compensation that has been allocated under the plan, or (4) the first meeting of stockholders at which directors are to be elected that occurs after the close of the third calendar year following the year of the initial public offering (the “Transition Date”). After the Transition Date, rights or awards granted under the plan, other than options and stock appreciation rights, will not qualify as “performance-based compensation” for purposes of Section 162(m) unless such rights or awards are granted or vest upon pre-established objective performance goals, the material terms of which are disclosed to and approved by our stockholders.

Our compensation program is intended to maximize the deductibility of the compensation paid to our NEOs to the extent that we determine it is in our best interests. Consequently, we may rely on the exemption from Section 162(m) afforded to us by the transition rule described above for compensation paid pursuant to our pre-existing plans. Many other Code provisions, SEC regulations and accounting rules affect the payment of executive compensation and are generally taken into consideration as programs are developed.

### Compensation Tables

The purpose of the following tables is to provide information regarding the compensation earned during our most recently completed fiscal year by our NEOs.

#### *Summary Compensation Table*

The following table presents information concerning the total compensation of our NEOs, who are (1) our principal executive officer, (2) our principal financial officer and (3) our three most highly compensated executive officers, other than our principal executive officer and principal financial officer, who were serving as executive officers at the end of our fiscal year ended December 31, 2011. No disclosure is provided for 2010 for those persons who were not NEOs in 2010.

| Name and Principal Position | Year | Salary ($) | Bonus ($) [1] | Option Awards ($) [2] | Non-Equity Incentive Plan Compensation ($) [3] | Change in Pension Value and Nonqualified Deferred Compensation Earnings ($) | All Other Compensation ($) [4] | Total ($) |
|---|---|---|---|---|---|---|---|---|
| Brian Slobodow | 2011 | 299,760 | — | 1,326,332 | 235,000 | — | 68,328 | 1,949,420 |
| *Chief Executive Officer* | | | | | | | | |
| John A. Ulizio | 2011 | 62,500 | — | — | — | 3,495 | 290,166 | 356,161 |
| *Former Chief Executive Officer* | 2010 | 300,000 | 100,000 | — | 231,563 | 995 | 35,520 | 668,078 |
| William A. White | 2011 | 221,679 | — | — | 140,000 | — | 38,002 | 399,681 |
| *Chief Financial Officer* | 2010 | 179,450 | 75,000 | — | 104,791 | | 31,028 | 390,269 |
| Michael L. Winkler | 2011 | 127,237 | — | 500,475 | 130,000 | — | 12,688 | 770,400 |
| *Vice President of Operations* | | | | | | | | |
| R. Dale Lynch | 2011 | 130,769 | — | 502,268 | 82,500 | — | 7,413 | 722,950 |
| *Vice President of Finance* | | | | | | | | |
| Bradford B. Casper | 2011 | 138,750 | — | 498,414 | 65,000 | — | 16,239 | 718,403 |
| *Vice President of Strategic Planning* | | | | | | | | |

(1) For Messrs. Ulizio and White, bonus awards represent a special discretionary bonus paid in recognition of our NEOs’ contributions in connection with the refinancing of our credit agreements in 2010.
(2) Represents the aggregate grant date fair values of stock options computed in accordance with FASB ASC Topic 718. For information on the assumptions used by the Company in calculating the fair value of the stock options, see Note L to our unaudited condensed combined financial statements included elsewhere in this Annual Report on Form 10-K.

(3) Represents amounts paid under our performance-based cash incentive plan. See "—Compensation Discussion and Analysis—Elements of Compensation—Performance-Based Cash Incentive."

(4) "All Other Compensation" for 2011 and 2010 includes employer contributions to our NEOs' 401(k) plan accounts, premiums paid for health coverage, premiums paid for life insurance, relocation expenses and amounts reimbursed for the payment of taxes, as applicable. The table below presents an itemized account of "All Other Compensation" provided in 2011 and 2010 to our NEOs, regardless of any minimum thresholds provided under the SEC rules and regulations.

| Name | Year | Company Contributions to 401(k) Plan ($) | Company-Paid Premiums for Health Coverage ($) | Company-Paid Premiums for Life Insurance ($) | Relocation Expenses ($) | Living Expenses ($) | Severance ($) | Reimbursements for the Payment of Income Taxes ("Gross-Ups") ($) |
|---|---|---|---|---|---|---|---|---|
| Brian Slobodow | 2011 | 12,973 | 11,046 | 495 | 35,000 | 4,444 | — | 4,370 |
| John A. Ulizio | 2011 | 8,175 | 14,682 | 962 | — | — | 266,346 | — |
| | 2010 | 20,500 | 13,436 | 1,584 | — | — | — | — |
| William A. White | 2011 | 22,241 | 14,728 | 1,034 | — | — | — | — |
| | 2010 | 19,921 | 9,523 | 1,584 | — | — | — | — |
| Michael L. Winkler | 2011 | 6,133 | 6,186 | 369 | — | — | — | — |
| R. Dale Lynch | 2011 | 7,000 | — | 413 | — | — | — | — |
| Bradford B. Casper | 2011 | 7,400 | 8,591 | 248 | — | — | — | — |

### *Grants of Plan-Based Awards*

During 2011, each of our NEOs participated in our performance-based cash incentive plan in which each officer was eligible for awards set forth under "Estimated Potential Payouts Under Non-Equity Incentive Plan Awards" below. The actual payout for each of our NEOs is set forth above under the "Non-Equity Incentive Plan Compensation" column of the Summary Compensation Table. For a detailed discussion of our performance-based cash incentive plan, refer to "—Compensation Discussion and Analysis—Elements of Compensation—Performance-Based Cash Incentives."

The following table presents information concerning each grant of an award made to an NEO in fiscal 2011 under any plan.

| | | Estimated Potential Payouts Under Non-Equity Incentive Plan Awards | | | Estimated Potential Payouts Under Equity Incentive Plan Awards | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|---|
| Name | Grant Date | Threshold ($) | Target ($) | Maximum ($) | Threshold # | Target # | Maximum # | All Other Stock Awards: Number of Shares or Stock Units (#) | All Other Option Awards: Number of Securities Underlying Options (#) | Exercise or Base Price of Option Awards ($/Sh) (1) | Grant Date Fair Value of Stock and Award Options ($) (2)(3) |
| Brian Slobodow | — | 93,750 | 187,500 | 281,250 | — | — | — | — | — | — | — |
| | 7/12/2011 | — | — | — | — | — | — | — | 152,455 | 10.33 | 4.53 |
| | 7/12/2011 | — | — | — | — | — | — | — | 207,072 | 16.90 | 3.07 |
| John A. Ulizio | — | — | — | — | — | — | — | — | — | — | — |
| William A. White | — | 56,250 | 112,500 | 168,750 | — | — | — | — | — | — | — |
| Michael L. Winkler | — | 51,750 | 103,500 | 155,250 | — | — | — | — | — | — | — |
| | 7/12/2011 | — | — | — | — | — | — | — | 50,818 | 10.33 | 4.76 |
| | 7/12/2011 | — | — | — | — | — | — | — | 77,652 | 16.90 | 3.33 |
| R. Dale Lynch | — | 33,000 | 66,000 | 99,000 | — | — | — | — | — | — | — |
| | 7/25/2011 | — | — | — | — | — | — | — | 50,818 | 10.33 | 4.78 |
| | 7/25/2011 | — | — | — | — | — | — | — | 77,652 | 16.90 | 3.34 |
| Bradford B. Casper | — | 16,268 | 32,537 | 48,805 | — | — | — | — | — | — | — |
| | 7/12/2011 | — | — | — | — | — | — | — | 50,818 | 10.33 | 4.75 |
| | 7/12/2011 | — | — | — | — | — | — | — | 77,652 | 16.90 | 3.31 |

(1) For additional information regarding the different exercise prices of option awards granted in 2011, see "—Compensation Discussion and Analysis—Elements of Compensation—Equity-Based Incentives."

(2) The vesting schedule applicable to each award is set forth below in the section entitled "Outstanding Equity Awards at Fiscal Year-End.

(3) Represents the aggregate grant date fair values of stock options computed in accordance with FASB ASC Topic 718. For information on the assumptions used by the Company in calculating the fair value of the stock options, see Note L to our Combined Financial Statements in Part II, Item 8 of this Annual Report on Form 10-K.

### *Outstanding Equity Awards at Fiscal Year-End*

The following table presents information concerning unexercised options that have not vested for each NEO outstanding as of the end of fiscal 2011. None of our NEOs held any stock awards in us as of December 31, 2011. In addition, prior to 2011, we did not grant any equity awards.

| Name | Grant Date | Number of Securities Underlying Unexercised Options (#) Exercisable | Number of Securities Underlying Unexercised Options (#) Un-Exercisable | Equity Incentive Plan Awards: Number of Securities Underlying Unexercised Unearned Options (#) | Option Exercise Price ($) | Option Expiration Date |
|---|---|---|---|---|---|---|
| Brian Slobodow | 7/12/2011(1) | — | 152,455 | — | 10.33 | 7/12/2021 |
| | 7/12/2011(2) | — | 207,072 | — | 16.90 | 7/12/2021 |
| Michael L. Winkler | 7/12/2011(3) | — | 50,818 | — | 10.33 | 7/12/2021 |
| | 7/12/2011(4) | — | 77,652 | — | 16.90 | 7/12/2021 |
| R. Dale Lynch | 7/25/2011(5) | — | 50,818 | — | 10.33 | 7/25/2021 |
| | 7/25/2011(6) | — | 77,652 | — | 16.90 | 7/25/2021 |
| Bradford B. Casper | 7/12/2011(7) | — | 50,818 | — | 10.33 | 7/12/2021 |
| | 7/12/2011(8) | — | 77,652 | — | 16.90 | 7/12/2021 |

(1) 95,284 of the shares subject to the option shall vest on July 12, 2012, 19,057 of the shares subject to the option shall vest on January 1, 2013, and 38,114 of the shares subject to the option shall vest on January 1, 2014, subject to Mr. Slobodow's continued service to us on each such vesting date.

(2) 129,420 of the shares subject to the option shall vest on July 12, 2012, 25,884 of the shares subject to the option shall vest on January 1, 2013, and 51,768 of the shares subject to the option shall vest on January 1, 2014, subject to Mr. Slobodow's continued service to us on each such vesting date.

(3) 1/4th of the total number of shares subject to the option vest annually beginning on the first anniversary, July 25, 2012, and continuing through the fourth anniversary, July 25, 2015, subject to Mr. Winkler's continued service to us on each such vesting date.

(4) 1/4th of the total number of shares subject to the option vest annually beginning on the first anniversary, July 25, 2012, and continuing through the fourth anniversary, July 25, 2015, subject to Mr. Winkler's continued service to us on each such vesting date.

(5) 1/4th of the total number of shares subject to the option vest annually beginning on the first anniversary, July 25, 2012, and continuing through the fourth anniversary, July 25, 2015, subject to Mr. Lynch's continued service to us on each such vesting date.

(6) 1/4th of the total number of shares subject to the option vest annually beginning on the first anniversary, July 25, 2012, and continuing through the fourth anniversary, July 25, 2015, subject to Mr. Lynch's continued service to us on each such vesting date.

(7) 13,721 of the shares subject to the option shall vest on July 12, 2012, 12,705 of the shares subject to the option shall vest on July 12, 2013, 12,704 of the shares subject to the option shall vest on July 12, 2014, and 11,688 of the shares subject to the option shall vest on July 12, 2015, subject to Mr. Casper's continued service to us on each such vesting date.

(8) 20,966 of the shares subject to the option shall vest on July 12, 2012, 19,413 of the shares subject to the option shall vest on July 12, 2013 and July 12, 2014, and 17,860 of the shares subject to the option shall vest on July 12, 2015, subject to Mr. Casper's continued service to us on each such vesting date.

### *Exercises and Stock Vested*

None of our NEOs exercised any option awards during 2011. None of our NEOs held any stock awards in us that vested in 2011.

### *Deferred Compensation*

Our deferred compensation plan is an unfunded, nonqualified deferred compensation plan that was available to our executives and key employees beginning on January 1, 1998. There have been no new entrants to the deferred compensation plan since January 1, 2000; however the deferred compensation plan has not been terminated due to the costs associated with termination. Under the deferred compensation plan, eligible employees can elect to defer each year up to 100% of gross compensation, including bonuses and annual cash incentive awards. Although we have the discretion to provide matching credits under the deferred compensation plan, no matching credits were provided in 2011. All amounts credited to a participant's account under the deferred compensation plan are notionally invested in mutual funds or other investments available in the market. Amounts under the deferred compensation plan are generally distributed in a lump sum upon a participant's death, disability or mutual agreement of the participant and us. A participant who separates from service at or after age 70 (or after the participant's tenth anniversary of participation, whichever is later) shall be paid in the

form of ten annual installments, or in a lump sum payment at our sole discretion. Mr. Ulizio was our only NEO who participated in our nonqualified deferred compensation plan during 2011. In connection with his resignation from the company in March 2011, Mr. Ulizio elected to receive a lump sum payment equal to the aggregate balance of his account.

| Name | Executive Contributions in Last Fiscal Year ($) | Registrant Contributions in Last Fiscal Year ($) | Aggregate Earnings in Last Fiscal Year ($) | Aggregate Withdrawals / Distributions ($) | Aggregate Balance at Last Fiscal Year ($) |
|---|---|---|---|---|---|
| John A. Ulizio | — | — | 3,495 | 28,310 | — |

***Pension Benefits***

None of our NEOs participate in or have account balances in any qualified or nonqualified defined benefit plans sponsored by us. Either our board of directors or our Compensation and Governance Committee may elect to adopt qualified or nonqualified benefit plans in the future if it determines that doing so is in our best interest.

**Employment and Other Agreements**

***Brian Slobodow***

We are party to an employment agreement with Mr. Slobodow, our Chief Administrative Officer. Mr. Slobodow was originally hired as our Chief Executive Officer, but reduced his own responsibilities on January 10, 2012 due to personal health reasons. Under the terms of his employment agreement, effective June 1, 2011, Mr. Slobodow is entitled to an annual base salary of $375,000, subject to review and adjustment. Mr. Slobodow is also eligible to earn a short-term, performance-based cash incentive payment for each year. The bonus shall be equal to 50% of his annual base salary.

Mr. Slobodow is also entitled to receive benefits in accordance with the health and welfare plans we provide to other members of our senior management. Mr. Slobodow is also entitled to up to 20 days of paid time off, family relocation expenses to the Princeton, New Jersey or Frederick, Maryland region from Park City, Utah and reimbursement for all reasonable business expenses that he incurs in the course of performing his duties and responsibilities which are consistent with our policies in effect from time to time with respect to travel, entertainment and other business expenses, subject to our requirements with respect to reporting and documentation of such expenses.

Mr. Slobodow's employment continues until the earlier of his resignation (with or without good reason), death or disability or termination by us (with or without cause). If we terminate Mr. Slobodow's employment without cause or Mr. Slobodow resigns for good reason, Mr. Slobodow is entitled to receive severance equal to his annual base salary payable in regular installments from the date of termination through the later of (1) June 1, 2012 and (2) the six-month anniversary of the date of termination if Mr. Slobodow has executed and delivered a general release of any and all claims arising out of or related to his employment with us and the termination of his employment. Mr. Slobodow is also entitled to receive reimbursement of the then-prevailing monthly premium for COBRA healthcare coverage if he so elects. Mr. Slobodow is not entitled to any of these benefits solely as a result of the change in responsibilities that occurred on January 10, 2012.

Mr. Slobodow has also agreed to customary restrictions with respect to the use of our confidential information and has agreed that all intellectual property developed or conceived by Mr. Slobodow while he is employed by us which relates to our business is our property. During the term of Mr. Slobodow's employment with us and during the six-month period immediately thereafter, Mr. Slobodow has agreed not to (1) participate (whether as an officer, director, employee or otherwise) in any businesses that compete with us, (2) solicit or hire any of our employees and (3) induce or attempt to induce any customer, supplier, licensee, licensor, franchisee, distributor or other business relation of us to cease doing business with us or in any way interfere with our relationship with such person or entity. During any period in which Mr. Slobodow has breached the above restrictions, we have no obligation to pay Mr. Slobodow any severance described above.

Mr. Slobodow's compensation is not expected to change at this time due to the change in responsibilities that occurred on January 10, 2012.

***Bryan A. Shinn***

We are party to an employment agreement with Mr. Shinn, our President and Chief Executive Officer. Mr. Shinn was originally hired as our Senior Vice President of Sales and Marketing, was appointed to serve as our President in March 2011 and assumed the additional responsibility of Chief Executive Officer on January 10, 2012. Under the terms of his employment agreement, Mr. Shinn was initially entitled to an annual base salary of $232,000, subject to review and adjustment. Mr. Shinn is also eligible to participate in our short-term, performance-based cash incentive plan. In addition to bonuses received through the short-term, performance-based cash incentive plan, Mr. Shinn's employment agreement provides that we would pay Mr. Shinn a one-time special bonus of $50,000, provided that he was a full-time employee as of March 1, 2010. This special bonus was paid in the first quarter of 2010.

We also agreed to pay Mr. Shinn a special allowance equal to 80% of the difference between the purchase price of his prior home and the (1) sale price of his prior home or (2) the appraised value of his prior home if his prior home is neither sold nor under contract to be sold within 180 days of the date on which his employment began. Pursuant to these terms, we paid Mr. Shinn a special allowance in the amount of $125,000 in 2010. Also pursuant to our contract with Mr. Shinn, we agreed to pay temporary living expenses for up to 180 days, which resulted in payments to Mr. Shinn of approximately $17,000 in 2010.

Mr. Shinn's annual base salary was $300,000 as of December 31, 2011, and he is eligible to receive an annual bonus for fiscal 2012 of up to 50% of his base salary if the short-term, performance-based cash incentive plan pays out at 100%.

***William A. White***

We are party to an employment agreement with Mr. White, our Chief Financial Officer. Under the terms of his employment agreement, effective December 21, 2011, Mr. White is entitled to an annual base salary of $250,000, subject to review and adjustment. Mr. White is also eligible to earn a short-term, performance-based cash incentive payment for each year. The bonus shall be equal to 45% of his annual base salary.

Mr. White is also entitled to receive benefits in accordance with the health and welfare plans we provide to other members of our senior management. Mr. White is also entitled to up to 20 days of paid time off and reimbursement for all reasonable business expenses that he incurs in the course of performing his duties and responsibilities as Chief Financial Officer which are consistent with our policies in effect from time to time with respect to travel, entertainment and other business expenses, subject to our requirements with respect to reporting and documentation of such expenses.

Mr. White's employment continues until the earlier of his resignation (with or without good reason), death or disability or termination by us (with or without cause). If we terminate Mr. White's employment without cause or Mr. White resigns for good reason, Mr. White is entitled to receive severance equal to his annual base salary payable in regular installments from the date of termination through the twelve-month anniversary of the date of termination if Mr. White has executed and delivered a general release of any and all claims arising out of or related to his employment with us and the termination of his employment. Mr. White is also entitled to receive reimbursement of the then-prevailing monthly premium for COBRA healthcare coverage if he so elects.

Mr. White has also agreed to customary restrictions with respect to the use of our confidential information and has agreed that all intellectual property developed or conceived by Mr. White while he is employed by us which relates to our business is our property. During the term of Mr. White's employment with us and during the six-month period immediately thereafter, Mr. White has agreed not to (1) participate (whether as an officer, director, employee or otherwise) in any businesses that compete with us, (2) solicit or hire any of our employees

and (3) induce or attempt to induce any customer, supplier, licensee, licensor, franchisee, distributor or other business relation of us to cease doing business with us or in any way interfere with our relationship with such person or entity. During any period in which Mr. White has breached the above restrictions, we have no obligation to pay Mr. White any severance described above.

***John A. Ulizio***

We are party to a consulting agreement with Mr. Ulizio, our former Chief Executive Officer. Under the terms of the consulting agreement, Mr. Ulizio has agreed to provide consulting services relating to, among other things, federal, state, provincial or local legislation or regulation, the administration of our occupational health program, litigation, the preparation of articles and presentations and participation in trade association and other organization activities relating to crystalline silica.

We are obligated to pay Mr. Ulizio at a rate of $1,500 per day, subject to a minimum of $10,000 per quarter, even if we fail to use his consulting services to such extent in any quarter. Mr. Ulizio is entitled to be reimbursed by us for all ordinary and necessary out-of-pocket expenses for travel, lodging, meals or any similar expenses incurred by Mr. Ulizio in performing his consulting services. All of this is in addition to our obligation to pay Mr. Ulizio severance pursuant to the termination of his employment. As a result of such termination, we are paying him severance equal to his base salary (as in effect immediately prior to the termination of his employment) for a period of 24 months which aggregates to approximately $600,000. Mr. Ulizio is also entitled to participate in our group health plan for 18 months, which aggregates to a benefit of approximately $22,000.

The term of the consulting agreement began on April 1, 2011 and ends on March 31, 2013. Mr. Ulizio has agreed to refrain from disclosing any confidential information to any third party prior to, during or after the termination of the consulting agreement. Mr. Ulizio has also agreed to refrain from using any confidential information for his personal gain. The consulting agreement may be terminated at any time by us or by Mr. Ulizio upon 90 days' written notice to the other party.

**Potential Payments Upon Termination and Change in Control**

The information below describes and quantifies certain compensation that would become payable to our NEOs if, as of December 31, 2011, their employment with us had been terminated. Due to the number of factors that affect the nature and amount of any benefits provided upon the events discussed below, any actual amounts paid or distributed may be different. Factors that could affect these amounts include the timing during the year of any such event.

***John A. Ulizio***

Mr. Ulizio ceased to be Chief Executive Officer and president on March 8, 2011 and, therefore, Mr. Ulizio is no longer entitled to the benefits outlined in the table below. See "—Employment and Other Agreements" above for a description of the benefits that Mr. Ulizio is currently receiving from us.

| | | Involuntary without Cause or Voluntary with Good Reason | | |
|---|---|---|---|---|
| **Component** | **Voluntary Resignation ($)** | **Without Signed Release ($)** | **With Signed Release ($)** | **Involuntary without Cause following Change in Control ($)** |
| Base Salary[(1)] | 0 | 109,615 | 600,000 | 600,000 |
| Bonus | 0 | 0 | 0 | 0 |
| Total Cash Severance | 0 | 109,615 | 600,000 | 600,000 |
| Value of Accelerated Equity[(2)] | 0 | 0 | 0 | 0 |
| Benefits and Perquisites[(3)] | 0 | 4,909 | 22,091 | 22,091 |
| Total Severance | 0 | 114,524 | 622,091 | 622,091 |

(1) Mr. Ulizio's base salary and benefits are to be paid in equal installments over an 18-month period.

(2) Mr. Ulizio had no outstanding equity in us as of December 31, 2011. Any unvested interests held in our parent LLC by Mr. Ulizio would not vest unless Golden Gate Capital (in its sole discretion) affirmatively caused such interests to vest.

(3) Represents group health benefits payable over 18 months.

***Other NEOs***

Each NEO, other than Mr. Ulizio, is subject to our severance policy for salaried personnel. Such NEOs are entitled to the same payments and benefits as all other salaried personnel. Pursuant to this policy, salaried employees who are terminated due to (1) force reductions caused by lack of business or (2) job eliminations caused by downsizing or restructuring are entitled to both regular and special severance pay. Regular severance pay consists of pay based on such NEO's base salary as in effect immediately prior to the termination of his employment for one week for each complete year of employment with the company. There is no proration of severance pay for partial years of employment. Minimum regular severance pay is five weeks. Special severance pay is available to employees eligible for regular severance pay who sign a standard release agreement. Special severance pay consists of pay for based on such NEO's base salary as in effect immediately prior to the termination of his employment one week for each complete year of employment with the company. Minimum special severance pay is five weeks. When combining regular severance pay and special severance pay, maximum severance pay is limited to fifty-two weeks. As of December 31, 2011, all of the stock options held by our NEOs are subject to vesting upon a change in control.

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

The following table sets forth information as of March 20, 2012 regarding the beneficial ownership of our common stock:

- each person or group who is known by us to own beneficially more than 5% of our outstanding common stock;
- each of our named executive officers;
- each of our directors; and
- all of our executive officers and directors as a group.

Beneficial ownership for the purposes of the following table is determined in accordance with the rules and regulations of the SEC. These rules generally provide that a person is the beneficial owner of securities if such person has or shares the power to vote or direct the voting thereof, or to dispose or direct the disposition thereof or has the right to acquire such powers within 60 days. Common stock subject to options that are currently exercisable or exercisable within 60 days of January 31, 2012 are deemed to be outstanding and beneficially owned by the person holding the options. These shares, however, are not deemed outstanding for the purposes of computing the percentage ownership of any other person. Percentage of beneficial ownership is based on 52,941,176 shares of common stock outstanding. Except as disclosed in the footnotes to the following table and subject to applicable community property laws, we believe that each stockholder identified in the table possesses sole voting and investment power over all shares of common stock shown as beneficially owned by the stockholder. Unless otherwise indicated in the following table or footnotes, the address for each beneficial owner is c/o U.S. Silica Holdings, Inc., 8490 Progress Drive, Suite 300, Frederick, Maryland 21701.

| Name | Shares Beneficially Owned (#) | Percent Stock Outstanding (%) |
|---|---|---|
| **5% Stockholders:** | | |
| GGC USS Holdings, LLC[1] | 41,176,471 | 77.8 |
| **Named Executive Officers and Directors:** | | |
| Brian Slobodow | — | — |
| William A. White[1] | * | * |
| Bradford B. Casper | — | — |
| R. Dale Lynch | — | — |
| Michael L. Winkler | — | — |
| Rajeev Amara[1] | * | * |
| Prescott H. Ashe[1] | * | * |
| Charles Shaver[1] | * | * |
| Bryan A. Shinn[1] | * | * |
| William J. Kacal | — | — |
| **All Current Directors and Executive Officers as a Group (12 persons)[2]** | — | — |

(1) Interests in our parent LLC are held directly or indirectly by a private investor group, including funds managed by Golden Gate Capital, Messrs. Shaver and White and Bryan A. Shinn, our President and CEO. Although Messrs. Shaver, White and Shinn do not have voting or dispositive power over securities owned by our parent LLC, each owns interests of our parent LLC with varying rights to participate in distributions by our parent LLC. The following table sets forth information as of March 20, 2012 regarding the beneficial ownership of our common stock if our parent LLC were to distribute our common stock to its members. The percentages below are calculated using the closing price of our common stock on March 20, 2012.

| Name | Percent Stock Outstanding (%) |
|---|---|
| Funds managed by Golden Gate Capital (a) | 72.5 |
| Charles Shaver | * |
| Bryan A. Shinn | * |
| William A. White | * |
| Others | 2.4 |

* Represents beneficial ownership of less than one percent (1%) of our common stock.

(a) Each of Messrs. Amara and Ashe is a managing director of Golden Gate Capital, and each may be deemed to be the beneficial owner of shares indirectly beneficially owned by the funds managed by Golden Gate Capital. Each of the above persons and entities, other than our parent LLC, disclaims membership in any group and disclaims beneficial ownership of these securities, except to the extent of his or its pecuniary interest therein. The principal office address of our parent LLC is c/o Golden Gate Private Equity, Inc., One Embarcadero Center, 39th Floor, San Francisco, California 94111.

(2) Does not include any shares of common stock Messrs. Amara and Ashe may be deemed to indirectly beneficially own through interests held by funds managed by Golden Gate Capital in our parent LLC. See note 1 above.

**Equity Compensation Plan Information**

The table below contains information about securities authorized for issuance under our 2011 Incentive Compensation Plan (the "2011 Plan"). The material provisions of the 2011 Plan are described further in Item 11, "Executive Compensation–Elements of Compensation".

| | 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 security holders | 1,501,398 | $ 14.60 | 3,498,602 |
| Equity compensation plans not approved by security holders | — | — | — |
| Total | 1,501,398 | $ 14.60 | 3,498,602 |

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

**Policies for Approval of Related Person Transactions**

We have adopted a written policy with respect to related party transactions. Under our related person transaction policy, a "Related Person Transaction" is any transaction, arrangement or relationship between us or any of our subsidiaries and a Related Person not including any transactions involving $120,000 or less when aggregated with all similar transactions. A "Related Person" is any of our executive officers, directors or director nominees, any stockholder beneficially owning in excess of 5% of our stock or securities exchangeable for our stock, any immediate family member of any of the foregoing persons, and any firm, corporation or other entity in which any of the foregoing persons is an executive officer, a partner or principal or in a similar position or in which such person has a 5% or greater beneficial ownership interest in such entity.

Pursuant to our Related Person Transaction policy, any Related Person Transaction must be approved or ratified by a majority of the disinterested directors on the board of directors or a designated committee thereof

consisting solely of disinterested directors. In approving any Related Person Transaction, the board of directors or the committee must determine that the transaction is on terms no less favorable to us in the aggregate than those generally available to an unaffiliated third party under similar circumstances.

Transactions with Related Persons, though not classified as Related Person Transactions by our policy and thus not subject to its review and approval requirements, may still need to be disclosed if required by the applicable securities laws, rules and regulations.

Other than compensation agreements and other arrangements which are described under Item 10 "Directors, Executive Officers and Corporate Governance," Item 11 "Executive Compensation" and the transactions described below, since January 1, 2011, there has not been, and there is not currently proposed, any transaction or series of similar transactions to which we were or will be a party in which the amount involved exceeded or will exceed $120,000 and in which any of our directors, executive officers, holders of more than 5% of any class of our voting securities or any member of the immediate family of the foregoing persons had or will have a direct or indirect material interest.

### Golden Gate Capital Acquisition

#### *Advisory Agreement*

In connection with the Golden Gate Capital Acquisition, we also entered into an Advisory Agreement with Golden Gate Capital, which agreement was subsequently amended and restated in connection with the refinancing of our Term Loan Facility on June 8, 2011. Pursuant to the Advisory Agreement, Golden Gate Capital agreed to provide business and organizational strategy and financial and advisory services as mutually agreed upon by Golden Gate Capital and us. Such services have included support and assistance to management with respect to negotiating and analyzing acquisitions and divestitures, negotiating and analyzing financing alternatives, preparing financial projections, monitoring compliance with financing agreements, marketing functions and searching for and hiring management personnel.

As compensation for these services, we paid Golden Gate Capital a one-time transaction fee as of the closing of the Golden Gate Capital Acquisition in the aggregate amount of $3.0 million and we agreed to pay (1) an annual advisory fee in the aggregate amount equal to $1.3 million, payable quarterly in arrears, and (2) a transaction fee of 1.25% of the aggregate value of each transaction resulting in a change in control of our parent LLC or its subsidiaries, along with each acquisition, divestiture, recapitalization and financing. In addition to the fees described above, we also agreed to reimburse Golden Gate Capital for all out-of-pocket costs incurred by Golden Gate Capital in connection with its activities under the Advisory Agreement, and indemnify Golden Gate Capital from and against all losses, claims, damages and liabilities related to the performance of its duties under the Advisory Agreement.

The Advisory Agreement had an initial term expiring on November 25, 2018 and was automatically renewable for additional one-year terms thereafter unless we or Golden Gate Capital gave at least 90 days' notice of non-renewal. Advisory fees paid to Golden Gate Capital totaled $1.3 million for each of the years ended December 31, 2009, 2010 and $9.3 million for the year ended December 31, 2011, which included an $8.0 million fee paid on February 6, 2012, to terminate this arrangement in connection with our initial public offering on January 31, 2012. These expenses are recorded as other operating expenses and presented as advisory fees to parent within our Combined Financial Statements in Part II, Item 8 of this Annual Report on Form 10-K.

### Director Designation Agreement

On January 31, 2012, we entered into a director designation agreement with our parent LLC that provides for the rights of our parent LLC to nominate designees to our board of directors. The director designation agreement provides that, for so long as our parent LLC has nomination rights under the agreement, we may not

take any action, including making or recommending any amendment to our certificate of incorporation or bylaws, that (1) would decrease the size of our board of directors if such decrease would cause us to fail to satisfy the requirement under the NYSE corporate governance standards that a majority of our board of directors consist of independent directors without the resignation of a director nominated by our parent LLC or (2) otherwise could reasonably be expected to adversely affect our parent LLC's rights under the director designation agreement, in each case without the consent of our parent LLC.

Our parent LLC has the right to nominate individuals to our board of directors at each meeting of stockholders where directors are to be elected and, subject to limited exceptions, we will include in the slate of nominees recommended to our stockholders for election as directors the number of individuals designated by our parent LLC as follows:

- prior to the earlier of (1) one year after our parent LLC owns less than 50% of our outstanding common stock or (2) our parent LLC owns less than 35% of our outstanding common stock, such number of individuals as are designated by our parent LLC, so long as we are able to comply with the requirement under the NYSE corporate governance standards that a majority of our board of directors consist of independent directors at such time as our parent LLC owns less than 50% of our outstanding common stock; and
- during such time as our parent LLC no longer has the unfettered right to nominate individuals to our board of directors but while our parent LLC still owns at least 10% of our outstanding common stock, such number of individuals designated by our parent LLC in relative proportion to our parent LLC's then current ownership (rounded up), so long as we are able to comply with the requirement under the NYSE corporate governance standards that a majority of our board of directors consist of independent directors at such time as our parent LLC owns less than 50% of our outstanding common stock.

The director designation agreement also provides that, in the event of a vacancy on our board of directors arising through the death, resignation or removal of a director nominated by our parent LLC, such vacancy may be filled by our board of directors only with a director nominated by our parent LLC. Our certificate of incorporation provides that any director nominated by our parent LLC may, at its discretion, be removed at any time with or without cause.

**Registration Rights Agreement**

On January 31, 2012, our parent LLC entered into a registration rights agreement with us. Pursuant to the registration rights agreement, our parent LLC has the right to request a long-form registration on not more than four occasions and a short-form registration on an unlimited number of occasions. In addition, our parent LLC has piggyback registration rights in connection with offerings initiated by us.

The registration rights are subject to customary cutbacks and other limitations. We are able to postpone for a reasonable period of time, which may not exceed 120 days, the filing of a registration statement that Golden Gate Capital requests that we file pursuant to the registration rights agreement if our board of directors determines that the filing of the registration statement will have a material adverse effect on our plan to engage in certain business transactions.

We are required to pay all fees and expenses incurred in connection with the registrations, except that we are not required to pay for any underwriting discounts or commissions or transfer taxes relating to the transfer of securities by any persons other than us. We are also subject to customary cross-indemnification and contribution arrangements with respect to the registration of our common stock. Our parent LLC is required to comply with any lock-up restrictions that may be reasonably requested by the managing underwriters of an offering, regardless of whether its securities are included in a registration.

**Indemnification Agreements**

We have entered into indemnification agreements with each of our directors and executive officers. For more information regarding these agreements, see Item 10 “Directors, Executive Officers and Corporate Governance.”

**Parent LLC Promissory Note**

On December 22, 2010, we entered into a $15.0 million promissory note with our parent LLC to provide working capital for a new subsidiary. The note was scheduled to mature on December 22, 2015 and bore interest at 10%. The principal amount and interest under the note was payable on demand, but no later than the maturity date. Upon sole election by our parent LLC, any unpaid interest was payable in cash on December 22 of each year until the maturity date. Upon completion of our initial public offering, this note was contributed as a capital contribution by our parent LLC to us.

**Historical Credit Agreement**

***Mezzanine Loan Facility***

On November 25, 2008, in connection with the Golden Gate Capital Acquisition, we entered into the Mezzanine Loan Facility with GGC Finance Partnership, L.P. (“GGC Finance”) pursuant to which we issued original notes in the aggregate principal amount of $80.0 million, and GGC Finance purchased such original notes in order to provide funds to us to consummate the Golden Gate Capital Acquisition. On May 7, 2010, we amended and restated the Mezzanine Loan Facility to effect the issuance of restated notes in the aggregate principal amount of $75.0 million in exchange for the original notes. The restated notes were scheduled to mature on May 7, 2017. The restated notes bore interest, during each interest period from the date of issuance until paid in full, at a rate per annum equal to adjusted LIBOR (as defined in the Mezzanine Loan Facility) for such fiscal quarter plus the applicable margin of 10.25% per annum, all or a part of which was permitted to be paid in kind. On June 8, 2011, we prepaid the restated notes in full in connection with the refinancing of the Term Loan Facility. The total payoff amount was $78.2 million, which consisted of a prepayment fee of $1.5 million, accrued interest of $1.7 million and a principal balance of $75.0 million.

***Subordination Agreement***

On November 25, 2008, we, Wells Fargo, BNP Paribas and GGC Finance entered into a Subordination Agreement (as amended, the “Subordination Agreement”) pursuant to which GGC Finance agreed to the subordination in right of payment of our existing and future obligations owed to GGC Finance to the payment of our existing and future obligations owed under the Term Loan Facility and the ABL Facility. On May 7, 2010, the Subordination Agreement was amended in connection with the amendment and restatement of the Note Purchase Agreement. Pursuant to the Subordination Agreement, the restated notes and all of our other obligations under the Mezzanine Loan Facility were at all times to be and remain subordinate and subject in right of payment to prior payment in full of all of our obligations under the Term Loan Facility and the ABL Facility. The Subordination Agreement was terminated in connection with our repayment in full of all outstanding indebtedness under the Mezzanine Loan Facility and the concomitant termination of such facility as described above.

## ITEM 14. PRINCIPAL ACCOUNTING FEES AND SERVICES

Management is responsible for the Company's internal controls and the financial reporting process. The independent registered public accounting firm, Grant Thornton LLP ("Grant Thornton"), is responsible for performing independent audits of the Company's Combined Financial Statements and internal control over financial reporting and issuing an opinion on the conformity of those audited financial statements with United States generally accepted accounting principles and on the effectiveness of the Company's internal control over financial reporting. The Audit Committee monitors the Company's financial reporting process and reports to the Board of Directors on its findings.

Prior to us becoming a public company, in 2011 our Board of Directors selected and engaged Grant Thornton as U.S. Silica's independent registered public accounting firm to audit the combined financial statements of U.S. Silica for the fiscal year ending December 31, 2011. Grant Thornton has audited U.S. Silica's financial statements since 2004.

Historically, the Board of Directors has pre-approved services to be performed by Grant Thornton. In connection with our initial public offering and the formation of our Audit Committee, U.S. Silica has adopted a policy for pre-approving the services and associated fees of U.S. Silica's independent registered public accounting firm. Under this policy, the Audit Committee must pre-approve all services and associated fees provided to U.S. Silica by its independent registered public accounting firm, with certain exceptions described in the policy.

All Grant Thornton services and fees in fiscal 2010 and 2011 were pre-approved by the Board of Directors.

The following table presents fees billed for professional audit services and other services rendered to U.S. Silica by Grant Thornton for the years ended December 31, 2011 and 2010.

| | 2011 | 2010 |
|---|---|---|
| Audit Fees | $ 881,145 | $ 274,302 |
| All Other Fees[1] | 4,881 | 12,000 |
| Total | $ 886,036 | $ 286,302 |

(1) Represents fees related to tax compliance consultation.

The Audit Committee has established procedures for engagement of Grant Thornton to perform services other than audit, review and attest services. In order to safeguard the independence of Grant Thornton, for each engagement to perform such non-audit service, (a) management and Grant Thornton affirm to the Audit Committee that the proposed non-audit service is not prohibited by applicable laws, rules or regulations; (b) management describes the reasons for hiring Grant Thornton to perform the services; and (c) Grant Thornton affirms to the Audit Committee that it is qualified to perform the services. The Audit Committee has delegated to its Chair its authority to pre-approve such services in limited circumstances, and any such pre-approvals are reported to the Audit Committee at its next regular meeting. All services provided by Grant Thornton in 2011 were audit or audit-related and are permissible under applicable laws, rules and regulations and were pre-approved by the Board of Directors in accordance with its procedures. In 2011, the Board of Directors considered the amount of non-audit services provided by Grant Thornton in assessing its independence.

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## PART IV

### ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

The following documents are filed as a part of this report:

*a) Combined Financial Statements*

The Combined Financial Statements, together with the report thereon of Grant Thornton LLP, dated March 20, 2012, are included as part of Item 8, “Financial Statements and Supplementary Data.”


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| Reports of Independent Registered Public Accounting Firm | 84 |
| Combined Balance Sheets as of December 31, 2011 and 2010 | 85 |
| Combined Statements of Operations for the Years Ended December 31, 2011, 2010 and 2009 | 86 |
| Combined Statements of Stockholders’ Equity for the Years Ended December 31, 2011, 2010 and 2009 | 87 |
| Combined Statements of Cash Flows for the Years Ended December 31, 2011, 2010 and 2009 | 88 |
| Notes to the Combined Financial Statements | 89 |


*b) Combined Financial Statement Schedule*

All financial statement schedules are omitted because they are not applicable or the required information is shown in the Combined Financial Statements or the notes thereto and included in this Annual Report on Form 10-K.

*c) Exhibits required to be filed by Item 601 of Regulation S-K*

The information called for by this Item is incorporated herein by reference from the Exhibit Index included in this Annual Report.

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## SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this Report to be signed on its behalf by the undersigned, thereunto duly authorized, this 20th day of March, 2012.

U.S. Silica Holdings, Inc.

/s/ BRYAN A. SHINN
Name: Bryan A. Shinn
Title: 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 and in the capacities and on the dates indicated.

| Name | Capacity | Date |
|---|---|---|
| /s/ BRYAN A. SHINN<br>Bryan A. Shinn | President, Chief Executive Officer and Director<br>(Principal Executive Officer) | March 20, 2012 |
| /s/ WILLIAM A. WHITE<br>William A. White | Chief Financial Officer<br>(Principal Financial and Accounting Officer) | March 20, 2012 |
| /s/ BRIAN SLOBODOW<br>Brian Slobodow | Chief Administrative Officer and Director | March 20, 2012 |
| *<br>Charles Shaver | Chairman of the Board | March 20, 2012 |
| *<br>Rajeev Amara | Director | March 20, 2012 |
| *<br>Prescott H. Ashe | Director | March 20, 2012 |
| *<br>William J. Kacal | Director | March 20, 2012 |
| *By: /s/ BRYAN A. SHINN<br>Bryan A. Shinn | Attorney-in-Fact | March 20, 2012 |

**EXHIBIT INDEX**

| Exhibit Number | Description | Incorporated by Reference | | | |
|---|---|---|---|---|---|
| | | Form | File No. | Exhibit | Filing Date |
| 3.1 | Second Amended and Restated Certificate of Incorporation of U.S. Silica Holdings, Inc., effective January 31, 2012. | 8-K | 001-35416 | 3.1 | February 6, 2012 |
| 3.2 | Second Amended and Restated Bylaws of U.S. Silica Holdings, Inc., effective January 31, 2012. | 8-K | 001-35416 | 3.2 | February 6, 2012 |
| 4.1 | Specimen Common Stock Certificate. | S-1/A | 333-175636 | 4.1 | December 7, 2011 |
| 4.2 | Registration Rights Agreement, dated January 31, 2012, by and among GGC USS Holdings, LLC and the members listed on the schedules thereto. | 8-K | 001-35416 | 4.2 | February 6, 2012 |
| 10.1 | ABL Loan and Security Agreement, dated as of August 9, 2007, by and among Wachovia Bank, National Association in its capacity as agent for the Lenders, the parties to the agreement as lenders, U.S. Silica Company, Hourglass Holdings, LLC, the subsidiaries of U.S. Silica Company from time to time party to the agreement as borrowers and certain subsidiaries of USS Holdings, Inc. from time to time party to the agreements as Guarantors. | S-1 | 333-175636 | 10.1 | July 18, 2011 |
| 10.2 | Amendment No. 1 and Consent to Loan and Security Agreement, dated as of November 25, 2008. | S-1 | 333-175636 | 10.2 | July 18, 2011 |
| 10.3 | Amendment No. 2 to Loan and Security Agreement, dated as of May 7, 2010. | S-1 | 333-175636 | 10.3 | July 18, 2011 |
| 10.4 | Amendment No. 3 to Loan and Security Agreement, dated as of June 8, 2011. | S-1 | 333-175636 | 10.4 | July 18, 2011 |
| 10.5* | Amendment No. 4 to Loan and Security Agreement, dated as of January 31, 2012. | | | | |
| 10.6 | Second Amended and Restated Credit Agreement, dated as of June 8, 2011, by and among USS Holdings, Inc. as Parent, U.S. Silica Company as Company, the Subsidiary Guarantors listed therein as Subsidiary Guarantors, the Lenders listed therein as Lenders and BNP Paribas as Sole Lead Arranger, Sole Book Runner and Administrative Agent. | S-1 | 333-175636 | 10.5 | July 18, 2011 |
| 10.7* | Amendment No. 1 to Second Amendment and Restated Credit Agreement, dated as of January 27, 2012. | | | | |

| Exhibit Number | Description | Incorporated by Reference | | | |
|---|---|---|---|---|---|
| | | Form | File No. | Exhibit | Filing Date |
| 10.8 | ABL/Term Loan Intercreditor Agreement, dated as of November 25, 2008, by an among GGC USS Acquisition Sub, Inc., GGC USS Borrower Co., Inc., U.S. Silica Company, USS Holdings, Inc., BMAC Holdings, Inc., Better Minerals & Aggregates Company, BMAC Services Co., Inc., The Fulton Land and Timber Company, George F. Pettinos, LLC, Pennsylvania Glass Sand Corporation and Ottawa Silica Company as Grantors, Wachovia Bank, National Association as the ABL Agent and BNP Paribas as Term Loan Agent. | S-1 | 333-175636 | 10.6 | July 18, 2011 |
| 10.9 | Reaffirmation of ABL/Term Loan Intercreditor Agreement, dated as of June 8, 2011. | S-1 | 333-175636 | 10.7 | July 18, 2011 |
| 10.10 | Amended and Restated Note Purchase Agreement, dated as of May 7, 2010, by and among Holdings, Inc., U.S. Silica Company, the subsidiary guarantors listed therein and GGC Finance Partnership L.P. | S-1 | 333-175636 | 10.8 | July 18, 2011 |
| 10.11 | Subordination Agreement, dated as of November 28, 2008, by and among Wachovia Bank, National Association, BNP Paribas and GGC Finance Partnership, L.P. | S-1 | 333-175636 | 10.9 | July 18, 2011 |
| 10.12 | Amendment No. 1 to Subordination Agreement, dated as of May 7, 2010. | S-1 | 333-175636 | 10.10 | July 18, 2011 |
| 10.13+ | Employment Agreement, dated as of September 25, 2009, by and among U.S. Silica Company and Bryan A. Shinn. | S-1 | 333-175636 | 10.11 | July 18, 2011 |
| 10.14+ | Consulting Agreement, dated as of April 1, 2011, by and among U.S. Silica Company and John A. Ulizio. | S-1 | 333-175636 | 10.12 | July 18, 2011 |
| 10.15+ | Employment Agreement, dated as of June 1, 2011, by and among U.S. Silica Company and Brian Slobodow. | S-1 | 333-175636 | 10.13 | July 18, 2011 |
| 10.16+ | 2011 Incentive Compensation Plan. | S-1/A | 333-175636 | 10.14 | August 29, 2011 |
| 10.17+ | Form of Incentive Stock Option Agreement. | S-1/A | 333-175636 | 10.15 | August 29, 2011 |
| 10.18+ | Form of Restricted Stock Agreement. | S-1/A | 333-175636 | 10.16 | August 29, 2011 |
| 10.19+ | Form of Nonqualified Stock Option Agreement. | S-1/A | 333-175636 | 10.17 | August 29, 2011 |
| 10.20+ | Form of Stock Appreciation Rights Agreement. | S-1/A | 333-175636 | 10.18 | August 29, 2011 |
| 10.21+ | Form of Restricted Stock Unit Agreement. | S-1/A | 333-175636 | 10.19 | August 29, 2011 |
| 10.22 | Form of Indemnification Agreement | S-1/A | 333-175636 | 10.20 | December 29, 2011 |

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| Exhibit Number | Description | Incorporated by Reference | | | |
|---|---|---|---|---|---|
| | | Form | File No. | Exhibit | Filing Date |
| 10.23 | Form of Letter Agreement by and among Golden Gate Private Equity, Inc. and U.S. Silica Holdings, Inc. | S-1/A | 333-175636 | 10.21 | December 29, 2011 |
| 10.24 | Form of Director Designation Agreement by and among U.S. Silica Holdings, Inc. and GGC USS Holdings, LLC. | 8-K | 001-35416 | 4.1 | February 6, 2012 |
| 10.25+ | Employment Agreement, dated as of December 21, 2011, by and between U.S. Silica Company and William A. White | S-1/A | 333-175636 | 10.23 | December 29, 2011 |
| 10.26 | Letter Agreement, dated as of December 27, 2011, by and between William J. Kacal and U.S. Silica Holdings, Inc. | S-1/A | 333-175636 | 10.24 | December 29, 2011 |
| 21.1* | List of subsidiaries of U.S. Silica Holdings, Inc. | | | | |
| 23.1* | Consent of Independent Registered Public Accounting Firm. | | | | |
| 24.1* | Powers of Attorney authorizing Bryan A. Shinn to execute our Annual Report on Form 10-K for the fiscal year ended December 31, 2011, on behalf of the Board of Directors, and each of them. | | | | |
| 31.1* | Rule 13a-14(a)/15(d)-14(a) Certification by Bryan A. Shinn, Chief Executive Officer. | | | | |
| 31.2* | Rule 13a-14(a)/15(d)-14(a) Certification by William A. White, Chief Financial Officer. | | | | |
| 32.1* | Section 1350 Certification by Bryan A. Shinn, Chief Executive Officer. | | | | |
| 32.2* | Section 1350 Certification by William A. White, Chief Financial Officer. | | | | |
| 95.1* | Mine Safety Disclosure | | | | |
| 99.1* | Consent of The Freedonia Group, Inc. | | | | |

+ Management contract or compensatory plan/arrangement
* Filed herewith

We will furnish any of our shareowners a copy of any of the above Exhibits not included herein upon the written request of such shareowner and the payment to U.S. Silica Holdings, Inc. of the reasonable expenses incurred in furnishing such copy or copies.

**Exhibit 10.5**

[Execution]

AMENDMENT NO. 4 TO LOAN AND SECURITY AGREEMENT

AMENDMENT NO. 4 TO LOAN AND SECURITY AGREEMENT, dated as of January 31, 2012 (this “Amendment No. 4”), by and among Wells Fargo Bank, National Association, successor by merger to Wachovia Bank, National Association, a national banking association, in its capacity as agent for the Lenders (as hereinafter defined) pursuant to the Loan Agreement as defined below (in such capacity, “Agent”), the parties to the Loan Agreement as lenders (individually, each a “Lender” and collectively, “Lenders”), U.S. Silica Company, a Delaware corporation (the “Company”), the subsidiaries of the Company from time to time party to the Loan Agreement as borrowers (each individually, together with the Company, a “Borrower” and collectively, “Borrowers”), USS Holdings, Inc., a Delaware corporation (“Parent”) and certain subsidiaries of Parent from time to time party to the Loan Agreement as Guarantors (individually, each a “Guarantor” and collectively, “Guarantors”).

W I T N E S S E T H :

WHEREAS, Agent, Lenders, Borrowers and Guarantors have entered into financing arrangements pursuant to which Lenders (or Agent on behalf of Lenders) have made and may make loans and advances and provide other financial accommodations to Borrowers as set forth in the ABL Loan and Security Agreement, dated as of August 9, 2007, as amended by Amendment No. 1 and Consent to Loan and Security Agreement, dated as of November 25, 2008, by and among Agent, Lenders, Borrowers and Guarantors, Amendment No. 2 to Loan and Security Agreement and Consent, dated as of May 7, 2010, by and among Agent, Lenders, Borrowers and Guarantors and Amendment No. 3 to Loan and Security Agreement and Consent, dated as of June 8, 2011, by and among Agent, Lenders, Borrowers and Guarantors (as from time to time amended, modified, supplemented, extended, renewed, restated or replaced, the “Loan Agreement”, and together with all agreements, documents and instruments at any time executed and/or delivered in connection therewith or related thereto, as from time to time amended, modified, supplemented, extended, renewed, restated, or replaced, collectively, the “Financing Agreements”);

WHEREAS, Borrowers and Guarantors wish to amend certain provisions of the Loan Agreement as set forth herein, and Agent and Lenders are willing to agree to such amendments on the terms and subject to the conditions set forth herein; and

WHEREAS, by this Amendment No. 4, Agent, Lenders, Borrowers and Guarantors intend to evidence such amendments.

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

1. Definitions.

(a) Additional Definitions. As used herein, the following terms shall have the meanings given to them below and the Loan Agreement and the other Financing Agreements are hereby amended to include, in addition and not in limitation, the following definitions:

(i) "Amendment No. 4" shall mean Amendment No. 4 to Loan and Security Agreement, dated as of January 31, 2012 by and among Agent, Lenders, Borrowers and Guarantors, as the same now exists or may hereafter be amended, modified, supplemented, extended, renewed, restated or replaced.

(ii) "Amendment No. 4 Effective Date" shall mean the date on which each of the conditions precedent to the effectiveness of Amendment No. 4 are satisfied or are waived by Agent.

(iii) "Available Amount" shall mean, on any date (the "Available Amount Determination Date"), an amount equal to (a) the sum of, without duplication: (i) the Available Retained ECF Amount on the Available Amount Determination Date; (ii) the sum of equity contributions to Company or equity issuances by Company made during the period from and including the Business Day immediately following the Amendment No. 4 Effective Date through and including the Available Amount Determination Date; and (iii) the aggregate amount of Net Cash Proceeds that Company and its Subsidiaries are entitled, pursuant to Section 2.1(f)(i), to reinvest during the period following the Amendment No. 4 Effective Date through and including the Available Amount Determination Date and that have not been applied as a mandatory prepayment pursuant to such Section or reinvested; minus (b) the sum of: (i) the aggregate amount of consideration paid or invested, as applicable, in respect of Permitted Acquisitions, joint ventures, Investments in Foreign Subsidiaries and other Investments by Company and its Subsidiaries pursuant to Sections 9.10(g), (j), (k) or (n) on or after the Amendment No. 4 Effective Date and on or prior to the Available Amount Determination Date, the permissibility of which is contingent upon the utilization of the Available Amount, (ii) the aggregate amount of all dividends to purchase capital stock from present or former officers or employees of Loan Parties upon the death, disability, retirement or termination of employment of such officer or employee made by Parent and its Subsidiaries pursuant to Section 9.11(i) on or after the Amendment No. 4 Effective Date and on or prior to the Available Amount Determination Date and (iii) the aggregate amount of all voluntary or optional repayments, repurchases, redemptions or defeasances of Subordinated Debt pursuant to Section 9.11(h) on or after the Amendment No. 4 Effective Date and on or prior to the Available Amount Determination Date.

(iv) "Available Retained ECF Amount" shall mean, on any date (the "Determination Date"), (a) an amount which is initially equal to the Loan Parties' unrestricted cash on hand as of the Amendment No. 4 Effective Date in excess of $20,000,000 (which amount of unrestricted cash on hand for this purpose shall not include cash from the proceeds of Loans) and after giving effect to cash payments made on the Amendment No. 4 Effective Date (including the Termination Fee (as defined in the Management Agreement)) plus (b) for the fiscal year ending December 31, 2012 and for each fiscal year thereafter, the cumulative amount for such fiscal year or fiscal years of Consolidated Excess Cash Flow (as defined in the First Lien Term Loan Credit Agreement) permitted to be retained by Company and its Subsidiaries under the First Lien Term Loan Credit Agreement less (c) the aggregate amount of all dividend

payments made pursuant to and in accordance with Section 9.11 on or after the Amendment No. 4 Effective Date and on or prior to the Determination Date less (d) the amount in clause (b) above which is used to consummate transactions contemplated by clause (b) of the definition of Available Amount (as defined above).

(v) "CDE" shall mean an entity certified by the Community Development Financial Institutions Fund of the United States Department of the Treasury of the United States as a "Community Development Entity".

(vi) "Coated Sand" shall mean Coated Sand Solutions, LLC, a Delaware limited liability company, and its successors and assigns.

(vii) "New Market Tax Credit" shall mean a New Markets Tax Credit allocation under Section 45D of the Internal Revenue Code.

(viii) "NMTC Indebtedness" shall mean unsecured Indebtedness incurred by Parent or any of its Subsidiaries in connection with obtaining a New Markets Tax Credit and the resulting tax credit equity from a third party; provided, that, (a) such Indebtedness is subordinated to the Obligations pursuant to a subordination agreement in form and substance reasonably satisfactory to Agent, (b) the aggregate outstanding principal amount of such Indebtedness shall not exceed $80,000,000 (exclusive of PIK interest) at any one time, and (c) the aggregate outstanding principal amount of such Indebtedness (other than (i) PIK interest and (ii) obligations attributable to permitted NMTC Investments) shall not exceed $20,000,000 at any one time.

(ix) "NMTC Investment" shall mean any Investment, directly or indirectly, in (including any loan to) a CDE in connection with obtaining a New Markets Tax Credit and the resulting tax credit equity from a third party.

(x) "PubCo" shall mean U.S. Silica Holdings, Inc., a Delaware corporation, and its successors and assigns.

(b) Amendment to Definitions. As used herein or in the Loan Agreement or any of the other Financing Agreements, the following terms are hereby amended as set forth below:

(i) The definition of "Consolidated Adjusted EBITDA" set forth in the Loan Agreement is hereby amended by deleting clause (xxi) thereof in its entirety and replacing it with the following:

"(xxi) the reasonable costs and expenses incurred in connection with an unsuccessful initial public offering in an aggregate amount not to exceed $2,000,000 and the reasonable costs and expenses incurred in connection with a successful initial public offering (in each case, including one-time costs and other non-recurring expenses associated with becoming Sarbanes-Oxley Act compliant),"

(ii) The definition of "Permitted Acquisition" is hereby amended by deleting clause (vii) thereof in its entirety and replacing it with the following:

"(vii) the consideration (including without limitation earn out obligations, deferred compensation and the amount of Indebtedness and other liabilities assumed by the Loan Parties and their Subsidiaries, but excluding equity consideration, consideration paid from the proceeds of equity of the Parent issued to the Sponsor or capital contributions made by the Sponsor to the Parent and non-competition arrangements) paid by the Loan Parties and their Subsidiaries with respect to all acquisitions made during the term of this Agreement shall not exceed in the aggregate (A) up to $50,000,000 of cash on hand of the Loan Parties and their Subsidiaries, (B) all or any portion of the Subordinated Debt permitted under Section 9.9(i); provided, that, (i) no more than $20,000,000 of such aggregate consideration may be in the form of seller financing permitted under Section 9.9 and (ii) any cash on hand or Subordinated Debt used by any Loan Party in or to any joint venture permitted pursuant to the terms of Section 9.10(n) herein will automatically reduce, on a dollar-for-dollar basis, the basket in clause (A) or (B) above, as applicable, and (C) the then applicable Available Amount."

(c) Interpretation. For purposes of this Amendment No. 4, all terms used herein which are not otherwise defined herein, including but not limited to, those terms used in the recitals hereto, shall have the respective meanings assigned thereto in the Loan Agreement as amended by this Amendment No. 4.

2. Mandatory Prepayments.

(a) Section 2.1(f)(i) of the Loan Agreement is hereby deleted in its entirety and replaced with the following:

"(i) Subject in each case to clause (iv) below, to the extent that Net Cash Proceeds received in connection with any Recovery Event are not used to acquire fixed or capital assets in replacement of the assets subject to such Recovery Event within 545 days of the receipt of such Net Cash Proceeds, immediately following the 545th day occurring after the receipt of such Net Cash Proceeds, the Borrowers shall prepay the Loans in an aggregate amount equal to 100% of such Net Cash Proceeds (such prepayment to be applied as set forth in clause (iii) below); provided that, (A) any Net Cash Proceeds shall be delivered to the Control Agent immediately following the 365th day after the receipt of such Net Cash Proceeds if Borrowers have not entered into a committed written agreement for the reinvestment of such Net Cash Proceeds by such 365th day, (B) any Net Cash Proceeds shall be delivered to the Control Agent to be held in escrow until the earlier of (I) reinvestment in accordance with the terms of this Section 2.1(f)(i) and (II) the occurrence of an Event of Default at which time the Net Cash Proceeds shall be used to prepay the Loans as set forth herein and (C) after the occurrence and during the continuance of an Event of Default, any Net Cash Proceeds received in connection with any Recovery Event shall be promptly used to prepay the Loans (such prepayment to be applied as set forth in clause (iii)

below) and the Borrowers and their Subsidiaries shall not have the right to reinvest such Net Cash Proceeds. "

(b) Section 2.1(f) of the Loan Agreement is hereby amended by adding the following new clause (iv) at the end thereof:

"(iv) Notwithstanding anything in this Section 2.1(f) to the contrary, in no event shall Borrowers be required to prepay the Loans from Net Cash Proceeds as required under Sections 2.1(f)(i) and (ii) above in any fiscal year of the Company unless the aggregate amount of such Net Cash Proceeds received in such fiscal year exceeds $5,000,000."

3. Account Control Agreement. Notwithstanding anything to the contrary contained in Section 5.2(d) of the Loan Agreement, the Company shall promptly, and in any event within 30 days following the Amendment No. 4 Effective Date (or such later time period as may be agreed to by the Agent) deliver to Agent Account Control Agreements required by the terms of Section 5.2(d) of the Loan Agreement with respect to the deposit accounts of Coated Sand.

4. Insurance. Notwithstanding anything to the contrary contained in Section 9.5(a) of the Loan Agreement, the Company shall promptly, and in any event within 30 days following the Amendment No. 4 Effective Date (or such later time period as may be agreed to by the Agent) deliver such certificates, policies and endorsements required by the terms of Section 9.5(a) of the Loan Agreement relating to Coated Sand.

5. Indebtedness.

(a) Section 9.9 of the Loan Agreement is hereby amended by deleting clause (b) thereof in its entirety and replacing it with the following:

"(b) the First Lien Term Loan Obligations of the Company, in each case in a principal amount not to exceed one hundred and ten (110%) percent of (i) the principal amount thereof as of the Amendment No. 3 Effective Date plus (ii) $100,000,000 of Incremental Term Loans (as defined in the First Lien Term Loan Credit Agreement as in effect on the Amendment No. 4 Effective Date), and renewals, refinancing, replacements, restructurings, supplements, substitutions or extensions thereof in whole or in part (provided, that the outstanding principal amount of the First Lien Term Loan Obligations and Incremental Term Loans is not increased beyond the maximum amount provided for in this section less any mandatory prepayments and amortization applied thereto (other than on account of accrued interest, premium and fees and expenses) at the time of such renewal, refinancing or extension), so long as the ABL Intercreditor Agreement or a replacement intercreditor agreement satisfactory to the Agent and the Required Lenders is in effect;"

(b) Section 9.9 of the Loan Agreement is hereby amended by deleting clause (m) thereof in its entirety and replacing it with the following:

“(m) other secured Indebtedness of the Loan Parties and their Subsidiaries in an aggregate amount at any time outstanding not to exceed $5,000,000;”

(c) Section 9.9(n) of the Loan Agreement is hereby amended by deleting the reference to “Subordinated Indebtedness” in the first sentence therein and replacing it with the following: “Subordinated Debt or unsecured Indebtedness permitted pursuant to Section 9.9(p) herein”.

(d) Section 9.9 of the Loan Agreement is hereby amended by (i) deleting the period at the end of clause (n) thereof and replacing it with a semicolon and (ii) adding the following new clauses (o) and (p) at the end thereof:

“(o) the NMTC Indebtedness; provided, that, as of the date of the incurrence of any such Indebtedness, and after giving effect thereto, no Event of Default shall have occurred and be continuing; and

(p) unsecured Indebtedness; provided, that, (i) after giving effect to such Indebtedness, the ratio of (A) Consolidated Funded Debt less any NMTC Indebtedness included therein as of the day of the incurrence of such Indebtedness to (B) Consolidated Adjusted EBITDA for the consecutive four fiscal quarters most recently ended for which financial statements have been delivered calculated on a Pro Forma Basis is less than 3.0:1.0 and (ii) as of the date of the incurrence of any such Indebtedness, and after giving effect thereto, no Event of Default shall have occurred and be continuing.”

6. Loans, Investments.

(a) Section 9.10(j) of the Loan Agreement is hereby deleted in its entirety and replaced with the following:

“(j) additional loan advances and/or Investments of a nature not contemplated by the foregoing clauses hereof, provided, that, such loans, advances and/or Investments made pursuant to this subsection shall not exceed an aggregate amount of $5,000,000 plus the then applicable Available Amount;”

(b) Section 9.10(k) of the Loan Agreement is hereby deleted in its entirety and replaced with the following:

“(k) Investment in Foreign Subsidiaries in an aggregate amount not to exceed, at any time outstanding, $10,000,000 plus the then applicable Available Amount;”

(c) Section 9.10(n)(i) of the Loan Agreement is hereby deleted in its entirety and replaced with the following:

“(i) the aggregate consideration (including without limitation earn out obligations, deferred compensation and the amount of Indebtedness and other liabilities assumed by Loan Parties, but excluding equity consideration, consideration paid from the proceeds of equity of Parent or capital contributions

made to Parent and non-competition arrangements) paid by Loan Parties to acquire Capital Stock of joint ventures shall not exceed $25,000,000 plus the then applicable Available Amount;"

(d) Section 9.10 of the Loan Agreement is hereby amended by adding the following new clauses (o), (p) and (q) at the end thereof:

"(o) additional Investments in an unlimited amount under clauses (g), (j), (k) and (n) of this Section 9.10; provided, that, (i) after giving effect to any such Investment, the ratio of (A) Consolidated Funded Debt (excluding any Subordinated Debt and net of cash and Cash Equivalents of the Loan Parties and their Subsidiaries on a consolidated basis) less any NMTC Indebtedness included therein as of the day of the incurrence of such Investment to (B) Consolidated Adjusted EBITDA for the consecutive four fiscal quarters most recently ended for which financial statements have been delivered calculated on a Pro Forma Basis is less than 3.0:1.0 and (ii) as of the date of any such Investment, and after giving effect thereto, no Event of Default shall have occurred and be continuing;"

(p) Company may acquire (with no cash consideration) all of the Capital Stock of Coated Sand from PubCo on the Amendment No. 4 Effective Date on terms and conditions reasonably satisfactory to Administrative Agent; and

(q) NMTC Investments; provided, that, (i) as of the date of any such Investment, and after giving effect thereto, no Event of Default shall have occurred and be continuing and (ii) the aggregate amount of NMTC Investments outstanding at any time shall not exceed $60,000,000."

7. Restricted Payments.

(a) Section 9.11(f) of the Loan Agreement is hereby deleted in its entirety and replaced with the following:

"(f) to make distributions to the extent necessary to permit (i) Parent (or the relevant taxpaying Affiliate of Company or Parent), to discharge Tax liabilities (or estimates thereof) of Parent and its Subsidiaries, so long as Company or Parent (or the relevant taxpaying Affiliate) promptly applies the amount of any such distributions for such purpose; and (ii) the payment of (A) overhead of Parent and such other parent companies of Company, (B) salary and out of pocket costs and expenses of directors of PubCo and (C) other fees, costs and expenses associated with PubCo being a public company; provided, that, the aggregate amount of distributions made pursuant to this clause (f)(ii) during any Fiscal Year of the Company shall not exceed $3,000,000;"

(b) Section 9.11(i) of the Loan Agreement is hereby amended by inserting the following immediately prior to the semicolon at the end thereof: "plus the then applicable Available Amount;".

(c) Section 9.11(k) of the Loan Agreement is hereby amended by deleting clause (iii) therein in its entirety and replacing it with the following:

"(iii) payment of the Termination Fee may not exceed $8,000,000;"

(d) Section 9.11 is hereby amended by adding the following new clauses (p) and (q) at the end thereof:

"(p) to make dividend payments to Parent (and Parent may make dividend payments to its parent companies) not otherwise permitted in this Section 9.11 in an aggregate amount, during the term of this Agreement, not to exceed the then applicable Available Retained ECF Amount; provided, that, (i) after giving effect to any such payment, the ratio of (A) Consolidated Funded Debt less any NMTC Indebtedness included therein as of the day of any such payment to (B) Consolidated Adjusted EBITDA for the consecutive four fiscal quarters most recently ended for which financial statements have been delivered calculated on a Pro Forma Basis is less than 1.5:1.0 and (ii) as of the date of any such payment, and after giving effect thereto, no Event of Default shall have occurred and be continuing; and

(q) to make payments in respect of Subordinated Debt not otherwise permitted in this Section 9.11 in an aggregate amount, during the term of this Agreement, not to exceed the then applicable Available Amount; provided, that, (i) after giving effect to any such payment, the ratio of (A) Consolidated Funded Debt less any NMTC Indebtedness included therein as of the day of any such payment to (B) Consolidated Adjusted EBITDA for the consecutive four fiscal quarters most recently ended for which financial statements have been delivered calculated on a Pro Forma Basis is less than 1.5:1.0 and (ii) as of the date of any such payment, and after giving effect thereto, no Event of Default shall have occurred and be continuing."

8. No Further Negative Pledges. Section 9.24(f) of the Loan Agreement is hereby amended by deleting the reference to "Sections 9.9(i) and 9.9(k)" therein and replacing it with the following: "Sections 9.9(i), 9.9(k), 9.9(o) and 9.9(p)".

9. Amendment Fee. Borrowers shall on the date hereof pay to Agent, for the benefit of Lenders, an amendment fee in the amount of $12,000, or Agent, at its option, may charge the account(s) of Borrowers maintained by Agent the amount of such fee, which fee is earned as of the date hereof and shall constitute part of the Obligations.

10. Representations and Warranties. Each of the Loan Parties, jointly and severally, hereby represents and warrants with and to Agent and Lenders as follows, which representations and warranties shall survive the execution and delivery hereof, the truth and accuracy of, or compliance with each, together with the representations, warranties and covenants in the other Financing Agreements, being a continuing condition of the making of any Loans by Lenders (or Agent on behalf of Lenders) to Borrowers:

(a) after giving effect to this Amendment No. 4, no Default or Event of Default exists or has occurred and is continuing as of the date of this Amendment No. 4; and

(b) this Amendment No. 4 has been duly executed and delivered by the Loan Parties and the agreements and obligations of the Loan Parties contained herein constitute legal, valid and binding obligations of the Loan Parties enforceable against the Loan Parties in accordance with their respective terms.

11. Conditions Precedent. The amendments contained herein shall only be effective upon the satisfaction of each of the following conditions precedent in a manner satisfactory to Agent:

(a) Agent shall have received counterparts of this Amendment No. 4, duly authorized, executed and delivered by the Loan Parties and Required Lenders;

(b) the Initial Public Offering shall have been or, substantially concurrently therewith shall be, consummated on or before February 15, 2012 and all fees, costs and expenses associated with the underwriting of the Initial Public Offering shall have been paid from sources other than balance sheet cash of the Loan Parties. For purposes hereof, the term "Initial Public Offering" means a bona fide underwritten sale to the public of common stock of PubCo with a minimum offering size of at least $150,000,000 pursuant to a registration statement (other than on Form S-8 or any other form relating to securities issuable under any benefit plan of PubCo or any of its Subsidiaries, as the case may be) that is declared effective by the Securities and Exchange Commission;

(c) Agent shall have received a true, correct and complete copy of the fully executed amendment to the First Lien Term Loan Credit Agreement, dated on or about the date hereof;

(d) Agent shall have received, in form and substance satisfactory to Agent, a Guarantor Joinder Agreement, duly authorized, executed and delivered by Coated Sand;

(e) Agent shall have received, in form and substance satisfactory to Agent, copies of original good standing certificates (or its equivalent) from the Secretary of State (or comparable official) from the jurisdiction of formation of Coated Sand and from the State of Illinois with respect to Coated Sand;

(f) Agent shall have received (i) UCC, Federal and State tax lien and judgment searches against Coated Sand in all relevant jurisdictions, as determined by Agent, and (ii) duly completed UCC termination statements, and authorization of the filing thereof from the applicable secured party, as may be necessary to terminate any effective UCC financing statements or fixture filings disclosed in such searches (other than any such financing statements or fixture filings in respect of Permitted Liens);

(g) Agent shall have received, in form and substance satisfactory to Agent, such Uniform Commercial Code financing statements (and, where appropriate, fixture filings) and other documents and instruments which Agent has determined are necessary to perfect or continue perfecting the security interests of Agent in all Collateral now or hereafter owned by Coated Sand;

(h) Agent shall have received (i) a copy of its certificate of formation, and all amendments thereto, certified by the Secretary of State of its jurisdiction of formation as of the most recent practicable date certifying that each of the foregoing documents remains in full force and effect and has not been modified or amended, except as described therein, (ii) a copy of its operating agreement (or comparable agreement), (iii) in form and substance satisfactory to Agent, an incumbency certificate from the Secretary of Coated Sand and resolutions approving the execution, delivery and performance by Coated Sand of this Amendment No. 4, the Guarantor Joinder Agreement and the agreements, documents and instruments to be delivered pursuant to this Amendment No. 4 and the Guarantor Joinder Agreement and (iv) a certificate from the Secretary of Coated Sand dated on or about the Amendment No. 4 Effective Date certifying that each of the foregoing documents remains in full force and effect and has not been modified or amended, except as described therein;

(i) Agent shall have received, in form and substance satisfactory to Agent, an opinion of counsel to Coated Sand covering such matters as reasonably required by Agent;

(j) Agent shall have received, in form and substance satisfactory to Agent, evidence of delivery to First Lien Term Loan Agent of (i) certificates (which certificates shall be accompanied by irrevocable undated stock powers, duly endorsed in blank and otherwise in form and substance reasonably satisfactory to Agent) representing all Capital Stock pledged by Coated Sand pursuant to the Pledge Agreement (if any) and (ii) all promissory notes or other instruments in favor of Coated Sand (duly endorsed, where appropriate, in a manner reasonably satisfactory to Agent) evidencing any Collateral of Coated Sand (if any);

(k) Agent shall have received, in form and substance satisfactory to Agent, a Pledge and Security Agreement with respect to the Capital Stock of Coated Sand, duly authorized, executed and delivered by the Company;

(l) Agent shall have received, in form and substance satisfactory to Agent, such intellectual property security agreements, duly executed, authorized and delivered by Coated Sand, and all cover sheets or other documents or instruments required to be filed with the United States Patent and Trademark Office and the United States Copyright Office in order to create or perfect security interests and liens in respect of the Intellectual Property of Coated Sand, together with releases duly executed (if necessary) of security interests by all applicable Persons for filing in all applicable jurisdictions as may be necessary to terminate any effective filings in the United States Patent and Trademark Office and the United States Copyright Office in respect of any Intellectual Property of Coated Sand (other than any such filings in respect of Permitted Liens);

(m) Agent shall have received, in form and substance satisfactory to Agent, updated schedules to the Loan Agreement and the other Financing Agreements reflecting information applicable to Coated Sand;

(n) Agent shall have received, in form and substance satisfactory to Agent, an Officer's Certificate from Parent to the effect that the representations and warranties in Section 8 of the Credit Agreement are true, correct and complete in all material respects on and as of the Amendment No. 4 Effective Date to the same extent as though made on and as of that date (or, to the extent such representations and warranties specifically relate to an earlier date, that such representations and warranties were true, correct and complete in all material respects on and as of such earlier date), that each Loan Party shall have performed in all material respects all agreements and satisfied all conditions which this Amendment No. 4 provides shall be performed or satisfied by it on or before the Amendment No. 4 Effective Date except as otherwise disclosed to and agreed to in writing by Agent and that no Default or Event of Default has occurred and is continuing; provided, that, if a representation and warranty, covenant or condition is qualified as to materiality, the applicable materiality qualifier set forth above shall be disregarded with respect to such representation and warranty, covenant or condition for purposes of this condition;

(o) the corporate organizational structure, capital structure and ownership of Parent and its Subsidiaries shall be as set forth on a schedule annexed to an Officer's Certificate from Parent;

(p) the contribution by PubCo to the Company of the Capital Stock of Coated Sand shall have been consummated on terms reasonably acceptable to Agent, including no cash consideration being paid by Company for Coated Sand's Capital Stock;

(q) (i) the Management Agreement shall have been, or substantially concurrently with the Initial Public Offering shall be, terminated and (ii) the Termination Fee (as defined in the Management Agreement) shall have been paid in accordance the terms thereof in an amount not to exceed $8,000,000;

(r) Agent shall have received a true and correct copy of each consent, waiver or approval (if any) to or of this Amendment No. 4, which the Loan Parties are required to obtain from any other Person, and such consent, approval or waiver (if any) shall be in form and substance reasonably satisfactory to Agent; and

(s) after giving effect to this Amendment No. 4, no Default or Event of Default shall exist or have occurred and be continuing as of the date of this Amendment No. 4 or the Amendment No. 4 Effective Date.

12. Effect of Amendment No. 4. Except as expressly set forth herein, no other consents, amendments, changes or modifications to the Financing Agreements are intended or implied, and in all other respects the Financing Agreements are hereby specifically ratified, restated and confirmed by all parties hereto as of the effective date hereof and the Loan Parties shall not be entitled to any other or further amendment by virtue of the provisions of this Amendment No. 4 or with respect to the subject matter of this Amendment No. 4. To the extent of conflict between the terms of this Amendment No. 4 and the other Financing Agreements, the terms of this Amendment No. 4 shall control. The Loan Agreement and this Amendment No. 4 shall be read and construed as one agreement.

13. Governing Law. The validity, interpretation and enforcement of this Amendment No. 4 and any dispute arising out of the relationship between the parties hereto whether in contract, tort, equity or otherwise, shall be governed by the internal laws of the State of New York but excluding any principles of conflicts of law or other rule of law that would cause the application of the law of any jurisdiction other than the laws of the State of New York.

14. Jury Trial Waiver. BORROWERS, GUARANTORS, AGENT AND LENDERS EACH HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION ARISING UNDER THIS AMENDMENT NO. 4 OR ANY OF THE OTHER FINANCING AGREEMENTS OR IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THE DEALINGS OF THE PARTIES HERETO IN RESPECT OF THIS AMENDMENT NO. 4 OR ANY OF THE OTHER FINANCING AGREEMENTS OR THE TRANSACTIONS RELATED HERETO OR THERETO IN EACH CASE WHETHER NOW EXISTING OR HEREAFTER ARISING, AND WHETHER IN CONTRACT, TORT, EQUITY OR OTHERWISE. BORROWERS, GUARANTORS, AGENT AND LENDERS EACH HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY COURT TRIAL WITHOUT A JURY AND THAT BORROWERS, GUARANTORS, AGENT OR ANY LENDER MAY FILE AN ORIGINAL COUNTERPART OF A COPY OF THIS AMENDMENT NO. 4 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF THE PARTIES HERETO TO THE WAIVER OF THEIR RIGHT TO TRIAL BY JURY.

15. Binding Effect. This Amendment No. 4 shall be binding upon and inure to the benefit of each of the parties hereto and their respective successors and assigns.

16. Waiver, Modification, Etc. No provision or term of this Amendment No. 4 may be modified, altered, waived, discharged or terminated orally, but only by an instrument in writing executed by the party against whom such modification, alteration, waiver, discharge or termination is sought to be enforced.

17. Further Assurances. the Loan Parties shall execute and deliver such additional documents and take such additional action as may be reasonably requested by Agent to effectuate the provisions and purposes of this Amendment No. 4.

18. Entire Agreement. This Amendment No. 4 represents the entire agreement and understanding concerning the subject matter hereof among the parties hereto, and supersedes all other prior agreements, understandings, negotiations and discussions, representations, warranties, commitments, proposals, offers and contracts concerning the subject matter hereof, whether oral or written.

19. Headings. The headings listed herein are for convenience only and do not constitute matters to be construed in interpreting this Amendment No. 4.

20. Counterparts. This Amendment No. 4 may be executed in any number of counterparts, each of which shall be an original, but all of which taken together shall constitute one and the same agreement. Delivery of an executed counterpart of this Amendment No. 4 by telefacsimile or other electronic method of transmission shall have the same force and effect as

delivery of an original executed counterpart of this Amendment No. 4. Any party delivering an executed counterpart of this Amendment No. 4 by telefacsimile or other electronic method of transmission shall also deliver an original executed counterpart of this Amendment No. 4, but the failure to do so shall not affect the validity, enforceability, and binding effect of this Amendment No. 4.

IN WITNESS WHEREOF, the parties hereto have caused this Amendment No. 4 to be duly executed and delivered by their authorized officers as of the day and year first above written.

WELLS FARGO BANK, NATIONAL ASSOCIATION, successor by merger to Wachovia Bank, National Association, as Agent and a Lender

By: /s/ James Kelly
Title: Vice President

[SIGNATURES CONTINUED ON NEXT PAGE]

[SIGNATURES CONTINUED FROM PREVIOUS PAGE]

U.S. SILICA COMPANY

By: /s/ William A.White
Title: CFO

THE FULTON LANE AND TIMBER COMPANY

By: /s/ William A.White
Title: CFO

PENNSYLVANIA GLASS SAND CORPORATION

By: /s/ William A.White
Title: CFO

COATED SAND SOLUTIONS, LLC

By: /s/ William A.White
Title: CFO

OTTAWA SILICA COMPANY

By: /s/ William A.White
Title: CFO

USS HOLDINGS, INC.

By: /s/ William A.White
Title: CFO

BMAC SERVICES CO., INC.

By: /s/ William A.White
Title: CFO

**Exhibit 10.7**

EXECUTION VERSION

# AMENDMENT NO. 1 TO CREDIT AGREEMENT

This **AMENDMENT NO. 1 TO CREDIT AGREEMENT** (this **"Agreement")** is made as of January 27, 2012, among **USS HOLDINGS LLC,** a Delaware limited liability company, as Parent ("**Parent**"), **U.S. SILICA COMPANY,** a Delaware corporation, as Company **("Company"), THE FULTON LAND AND TIMBER COMPANY,** a Pennsylvania corporation, **PENNSYLVANIA GLASS SAND CORPORATION,** a Delaware corporation, **OTTAWA SILICA COMPANY,** a Delaware corporation, and **BMAC SERVICES CO., INC.,** a Delaware corporation, as Subsidiary Guarantors (collectively, **"Subsidiary Guarantors"),** the Lenders listed on the signature pages hereto, and **BNP PARIBAS,** as Administrative Agent (in such capacity, **"Administrative Agent").** Capitalized terms used in this Agreement but not defined herein shall have the meanings given to such terms in the Credit Agreement (as defined below).

**WHEREAS:**

(A) Parent, Company, Subsidiary Guarantors, the financial institutions listed therein as Lenders, and Administrative Agent are party to a Second Amended and Restated Credit Agreement dated as of June 8, 2011 (as amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time, the **"Credit Agreement").**

(B) Company has informed Administrative Agent that it wishes to (i) add Coated Sand Solutions, LLC, a Delaware limited liability company **("Coated Sand")** as a Subsidiary Guarantor and (ii) amend certain provisions of the Credit Agreement as set forth in Section 1 herein.

**NOW, THEREFORE,** in consideration of the premises and the agreements, provisions and covenants herein contained, the parties hereto, as applicable, agree as follows:

**1** Administrative Agent, the Loan Parties and the Lenders listed on the signature pages hereto hereby agree that the Credit Agreement is hereby amended (i) to incorporate the blacklined changes (including all deletions and additions of text) shown on the marked copy thereof attached hereto as Annex A and (ii) to update the schedules to the Credit Agreement in accordance with Section 9.9 hereof.

**2** The parties hereto hereby consent to this Agreement, carried out in accordance with the provisions of Section 9.6 of the Credit Agreement.

**3** Each Loan Party hereby certifies that (a) the representations and warranties contained in the Credit Agreement and in the other Loan Documents are true, correct and complete in all material respects on and as of the date hereof to the same extent as though made on and as of the date hereof, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties were true, correct and complete in all material respects on and as of such earlier date; *provided* that, if a representation and warranty is qualified as to materiality, the materiality qualifier set forth above shall be disregarded with respect to such representation and warranty for purposes of this certification, and (b) as of the date hereof, no Event of Default or Potential Event of Default has occurred and is continuing or would result after giving effect to this Agreement.

**4** This Agreement shall be a Loan Document.

**5** Each Loan Party hereby acknowledges that it has read this Agreement and consents to the terms hereof, and hereby confirms and agrees that, notwithstanding the effectiveness of this Agreement, the obligations of such Loan Party, as the case may be, under the Loan Documents shall not be impaired or affected and the Loan Documents are, and shall continue to be, in full force and effect and are hereby confirmed and ratified in all respects.

**6** The provisions of the Credit Agreement and each other Loan Document shall, save as modified by this Agreement, continue in full force and effect, and references in the Loan Documents to the "Credit Agreement" shall mean the Credit Agreement as modified by this Agreement. Each Loan Party acknowledges and confirms that the Liens granted pursuant to the Collateral Documents to secure the Obligations remain in full force and effect and shall continue to secure the Obligations to the full extent as set forth in such Collateral Documents.

**7** **THIS AGREEMENT, AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE LAWS OF THE STATE OF NEW YORK (INCLUDING SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THAT WOULD REQUIRE APPLICATION OF ANOTHER LAW.**

**8** This Agreement may be executed in any number of counterparts and by different parties hereto in separate 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.

**9** This Agreement shall become effective on the date on which each of the following conditions have been satisfied or waived by Administrative Agent (such date, the **"Amendment No. 1 Effective Date"):**

**9.1** the execution and delivery of a counterpart (including a facsimile or other electronic counterpart) hereof by each of (A) the Loan Parties, (B) Administrative Agent, and (C) Lenders having or holding an aggregate amount of Loan Exposure sufficient to constitute Requisite Lenders required pursuant to Section 9.6 of the Credit Agreement;

**9.2** the Initial Public Offering shall have been or, substantially concurrently therewith shall be, consummated on or before February 15, 2012, and all fees, costs and expenses associated with the underwriting of the Initial Public Offering shall have been paid from sources other than balance sheet cash of the Loan Parties. **"Initial Public Offering"** means a bona fide underwritten sale to the public of common stock of U.S. Silica Holdings, Inc., a Delaware corporation ("**PubCo**") with a minimum offering size of at least $150 million pursuant to a registration statement (other than on Form S-8 or any other form relating to securities issuable under any benefit plan of PubCo or any of its Subsidiaries, as the case may be) that is declared effective by the Securities and Exchange Commission.

**9.3** the execution and delivery to Administrative Agent of a counterpart of this Agreement, a counterpart of the Subsidiary Guaranty and a joinder to the Pledge and Security Agreement by Coated Sand;

**9.4** receipt by Administrative Agent of (A) certificates (which certificates shall be accompanied by irrevocable undated stock powers, duly endorsed in blank and otherwise in form and substance reasonably satisfactory to Administrative Agent) representing all Capital Stock pledged by Coated Sand pursuant to the Pledge and Security Agreement and (B) all promissory notes or other instruments in favor of Coated Sand (duly endorsed, where appropriate, in a manner reasonably satisfactory to Administrative Agent) evidencing any Collateral;

**9.5** receipt by Administrative Agent of (A) the results of a recent search, by a Person reasonably satisfactory to Administrative Agent, of all effective UCC financing statements and fixture filings and all judgment and tax lien filings which may have been made with respect to any personal or mixed property of Coated Sand, together with copies of all such filings disclosed by such search and (B) duly completed UCC termination statements, and authorization of the filing thereof from the applicable secured party, as may be necessary to terminate any effective UCC financing statements or fixture filings disclosed in such search (other than any such financing statements or fixture filings in respect of Liens permitted to remain outstanding pursuant to the terms of this Agreement);

**9.6** receipt by Administrative Agent of duly completed UCC financing statements and, where appropriate, fixture filings with respect to all personal and mixed property Collateral of Coated Sand, for filing in all jurisdictions as may be necessary or, in the reasonable opinion of Administrative Agent, desirable to perfect the security interests created in such Collateral pursuant to the Collateral Documents;

**9.7** receipt by Administrative Agent of all cover sheets or other documents or instruments required to be filed with any IP Filing Office in order to create or perfect Liens in respect of any IP Collateral of Coated Sand, together with releases duly executed (if necessary) of security interests by all applicable Persons for filing in all applicable jurisdictions as may be necessary to terminate any effective filings in any IP Filing Office in respect of any IP Collateral of Coated Sand (other than any such filings in respect of Liens permitted to remain outstanding pursuant to the terms of the Credit Agreement);

**9.8** Company shall have executed and delivered to Administrative Agent a supplement to the Pledge and Security Agreement in form and substance reasonably satisfactory to Administrative Agent and delivered to Administrative Agent all certificates, if any, representing the Capital Stock of Coated Sand (accompanied by irrevocable undated stock powers, duly endorsed in blank);

**9.9** Parent shall have delivered to Administrative Agent an Officer’s Certificate, in form an substance reasonably satisfactory to Administrative Agent, pursuant to which the schedules to the Credit Agreement and other Loan Documents are updated with respect to Coated Sand;

**9.10** receipt by Administrative Agent of copies of the Organizational Documents of Coated Sand certified by the Delaware Secretary of State or, if such document is of a type that may not be so certified, certified by the secretary or similar Officer of Coated Sand, together with a good

standing certificate from the Delaware Secretary of State, and a certificate executed by the secretary or similar Officer of Coated Sand as to (A) the fact that the attached resolutions of the Governing Body of Coated Sand approving and authorizing the execution, delivery and performance of such Loan Documents are in full force and effect and have not been modified or amended and (B) the incumbency and signatures of the Officers of Coated Sand executing the Loan Documents;

**9.11** receipt by Administrative Agent of a favorable opinion of counsel to Coated Sand, in form and substance reasonably satisfactory to Administrative Agent and its counsel, as to (A) the due organization and good standing of Coated Sand, (B) the due authorization, execution and delivery by Coated Sand of the Loan Documents to which it is a party, (C) the enforceability of such Loan Documents against Coated Sand and (D) such other matters (including matters relating to the creation and perfection of Liens in any Collateral pursuant to such Loan Documents) as Administrative Agent may reasonably request, all of the foregoing to be reasonably satisfactory in form and substance to Administrative Agent and its counsel;

**9.12** Parent shall have delivered to Administrative Agent an Officer’s Certificate to the effect that the representations and warranties in Article IV of the Credit Agreement are true, correct and complete in all material respects on and as of the Amendment No. 1 Effective Date to the same extent as though made on and as of that date (or, to the extent such representations and warranties specifically relate to an earlier date, that such representations and warranties were true, correct and complete in all material respects on and as of such earlier date), that each Loan Party shall have performed in all material respects all agreements and satisfied all conditions which this Agreement provides shall be performed or satisfied by it on or before the Amendment No. 1 Effective Date except as otherwise disclosed to and agreed to in writing by Administrative Agent and that no Potential Event of Default or Event of Default has occurred and is continuing; provided that, if a representation and warranty, covenant or condition is qualified as to materiality, the applicable materiality qualifier set forth above shall be disregarded with respect to such representation and warranty, covenant or condition for purposes of this condition;

**9.13** Parent shall have delivered to Administrative Agent an Officer’s Certificate attaching a chart of the corporate organizational structure, capital structure and ownership of the Parent and its Subsidiaries;

**9.14** on the Amendment No. 1 Effective Date, an amendment to the ABL Loan Agreement on terms and conditions reasonably satisfactory to Administrative Agent, shall be fully executed and delivered to Administrative Agent;

**9.15** Company shall have acquired all of the Capital Stock of Coated Sand from PubCo on the Amendment No. 1 Effective Date on terms reasonably satisfactory to Administrative Agent, including no cash consideration being paid by Company for Coated Sand’s Capital Stock;

**9.16** (A) the Management Agreement shall have been, or substantially concurrently with the Initial Public Offering shall be, terminated and (B) the Termination Fee (as defined in the Management Agreement) shall have been paid in accordance the terms thereof in an amount not to exceed $8.0 million; and

**9.17** receipt by Administrative Agent of all of the fees payable to Administrative Agent and Lenders on or before the Amendment No. 1 Effective Date, including, for the account of each Lender signatory hereto, an amount equal to 0.25% of such Lender's Loans, in immediately available funds as of the Amendment No. 1 Effective Date.

[Signature page follows]

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

**US HOLDINGS LLC,**
as Parent

By: /s/ William A. White
Name: William A. White
Title: Chief Financial Officer

**U.S. SILICA COMPANY,**
as Company

By: /s/ William A. White
Name: William A. White
Title: Chief Financial Officer

**THE FULTON LAND AND TIMBER COMPANY,**
as subsidiary Guarantor

By: /s/ William A. White
Name: William A. White
Title: Chief Financial Officer

**PENNSYLVANIA GLASS SAND CORPORATION,**
as Subsidiary Guarantor

By: /s/ William A. White
Name: William A. White
Title: Chief Financial Officer

**OTTAWA SILICA COMPANY,**
as Subsidiary Guarantor

By: /s/ William A. White
Name: William A. White
Title: Chief Financial Officer

**BMAC SERVICES CO., INC.,**
as Subsidiary Guarantor

By: /s/ William A. White
Name: William A. White
Title: Chief Financial Officer

**Accepted and Agreed as of the Amendment No. 1 Effective Date:**

**COATED SAND SOLUTIONS, LLC,**
as Subsidiary Guarantor

By: /s/ William A. White
Name: William A. White
Title: Chief Financial Officer

**BNP PARIBAS,**
as Administrative Agent

By: /s/ Richard Cushing
Name: Richard Cushing
Title: MD

By: /s/ Guillaume Saba
Name: Guillaume Saba
Title: Vice President

Signature Page to Amendment No. 1 to Credit Agreement

## ANNEX A

## Amendments to Credit Agreement

See attached.

~~Execution Version~~Conformed Copy Giving Effect to
Amendment No. 1

$260,000,000

**SECOND AMENDED AND RESTATED**
**CREDIT AGREEMENT**

**dated as of June 8, 2011**

**among**

**USS HOLDINGS, INC.,**
**as Parent**

**U.S. SILICA COMPANY,**
**as Company**

**THE SUBSIDIARY GUARANTORS LISTED HEREIN,**
**as Subsidiary Guarantors**

**THE LENDERS LISTED HEREIN,**
**as Lenders**

**BNP PARIBAS,**
**as Sole Lead Arranger, Sole Book Runner and**
**Administrative Agent**

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This **Credit Agreement** is dated as of June 8, 2011 and entered into by and among:

(1) **USS HOLDINGS, INC.**, a Delaware corporation ("**Parent**");

(2) **U.S. SILICA COMPANY**, a Delaware corporation ("**Company**");

(3) **THE SUBSIDIARY GUARANTORS LISTED ON THE SIGNATURE PAGES HEREOF** (each individually referred to herein as a "**Subsidiary Guarantor**" and collectively as "**Subsidiary Guarantors**");

(4) **THE FINANCIAL INSTITUTIONS LISTED ON THE SIGNATURE PAGES HEREOF** (each individually referred to herein as a "**Lender**" and collectively as "**Lenders**"); and

(5) **BNP PARIBAS**, as administrative agent for Lenders (in such capacity, "**Administrative Agent**").

**RECITALS**

(A) **WHEREAS,** Parent and Company are party to an Amended and Restated Credit Agreement, dated as of May 7, 2010, among, *inter alios*, Parent, Company, the Subsidiary Guarantors, the lenders party thereto, and BNP Paribas as sole lead arranger, sole book runner and administrative agent comprised of a term loan facility in the aggregate amount of $165,000,000 (the "**First Restatement Loans**"), (as amended, modified or supplemented prior to the date hereof, the "**First Amended and Restated Credit Agreemen**t");

(B) **WHEREAS**, Company requested that the Lenders amend and restate the First Amended and Restated Credit Agreement to make available for the purposes specified in this Agreement an increase in the term loan facility to an aggregate principal amount of $260,000,000, an increase in the incremental term loan facility to a maximum aggregate principal amount of $50,000,000 and to make certain other changes to the First Amended and Restated Credit Agreement, all on the terms and conditions specified herein;

(C) **WHEREAS**, Company desires to borrow on the Second Restatement Date the Loans under this Agreement from the Lenders in accordance with their Pro Rata Shares of the Commitments and to use the proceeds of such Loans on the terms provided for in this Agreement;

(D) **WHEREAS**, the Lenders are willing to amend and restate the First Amended and Restated Credit Agreement in its entirety on the Second Restatement Date to facilitate such transactions and to make available to Company such facilities and other financial accommodations, upon the terms and subject to the conditions set forth herein; and

**(E)** **WHEREAS,** it is the intent of the parties hereto that this Agreement does not constitute a novation of rights, obligations and liabilities of the respective parties existing under the First Amended and Restated Credit Agreement or evidence payment of all or any of such obligations and liabilities and such rights, obligations and liabilities shall continue and remain outstanding, and that this Agreement amends and restates in its entirety the First Amended and Restated Credit Agreement.

**NOW, THEREFORE,** in consideration of the premises and the covenants and agreements contained herein, the parties hereto hereby agree as follows:

## ARTICLE I
## DEFINITIONS

### Section 1.1 Certain Defined Terms

The following terms used in this Agreement shall have the following meanings:

**"ABL Agent"** means Wachovia Bank, National Association in its capacity as administrative agent under the ABL Loan Agreement, together with its successors and assigns in such capacity.

**"ABL Hedge Agreement Counterparties"** has the meaning assigned to the term "Hedging Agreement Providers" in the ABL Loan Agreement.

**"ABL Lenders"** has the meaning assigned to the term "Lenders" in the ABL Loan Agreement.

**"ABL Loan Agreement"** means that certain ABL Loan and Security Agreement, dated as of August 9, 2007, among Company, the ABL Agent and the ABL Lenders, as amended on the Closing Date, the First Restatement Date, and on the Second Restatement Date and as thereafter amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time.

**"ABL Loan Documents"** has the meaning assigned to the term "Financing Agreements" in the ABL Loan Agreement.

**"ABL Loans"** has the meaning assigned to the term "Loans" in the ABL Loan Agreement.

**"ABL Obligations"** has the meaning assigned to the term "Obligations" in the ABL Loan Agreement.

**"ABL Priority Collateral"** means "ABL Priority Collateral" as defined in the Intercreditor Agreement.

**"Additional Mortgaged Property"** has the meaning assigned to that term in Section 5.10.

**"Additional Mortgage"** has the meaning assigned to that term in Section 5.10.

**"Adjusted LIBOR"** means, for each Interest Period in respect of any LIBOR Loan, an interest rate per annum (rounded upward, if necessary, to the nearest 1/16 of 1%) determined pursuant to the following formula:

Adjusted LIBOR = LIBOR/(1.00 – LIBOR Reserve Percentage)

Adjusted LIBOR shall be adjusted automatically as of the effective date of any change in the LIBOR Reserve Percentage.

**"Administrative Agent"** has the meaning assigned to that term in the introduction to this Agreement and also means and includes any successor Administrative Agent appointed pursuant to Section 8.5.

**"Affected Lender"** has the meaning assigned to that term in Section 2.6(c).

**"Affected Loans"** has the meaning assigned to that term in Section 2.6(c).

**"Affiliate",** as applied to any Person, means any other Person directly or indirectly controlling, controlled by, or under common control with, that Person. For the purposes of this definition, "control" (including, with correlative meanings, the terms "controlling", "controlled by" and "under common control with"), as applied to any Person, means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of that Person, whether through the ownership of Voting Securities or by contract or otherwise; *provided,* (a) that neither Golden Gate nor its Affiliates shall be deemed to be an "Affiliate" of Preferred Rocks USS or any of its Subsidiaries when acting in its capacity as a holder of Subordinated Indebtedness and (b) that no Agent or Lender shall be deemed to be an "Affiliate" of any Loan Party.

**“Affiliated Funds”** means Funds that are administered or managed by (a) a single entity or (b) an Affiliate of such entity.

**“Agents”** means Administrative Agent, Arranger, Collateral Agent and any other agents appointed under the Loan Documents.

**“Aggregate Amounts Due”** has the meaning assigned to that term in Section 9.5.

**“Agreement”** means this Second Amended and Restated Credit Agreement dated as of June 8, 2011.

**“Amendment No. 1”** means that certain Amendment No. 1 to Agreement dated as of January 27, 2012. among Parent, Company, the Subsidiary Guarantors, Administrative Agent and the Lenders party thereto.

**“Amendment No. 1 Effective Date”** means the date on which the amendments to this Agreement set out in Amendment No. 1 become effective in accordance with the terms of Amendment No. 1**.**

**“Anti-Money Laundering Laws”** has the meaning assigned to that term in Section 4.8(c).

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

**“Arranger”** means BNP Paribas Securities Corp.

**“Asset Sale”** means the sale or disposition by Company or any of its Subsidiaries to any Person other than Company or any of its wholly-owned Subsidiaries of (a) any of the stock of any of Company’s Subsidiaries, (b) substantially all of the assets of any division or line of business of Company or any of its Subsidiaries, or (c) any other assets (whether tangible or intangible) of Company or any of its Subsidiaries (other than (i) inventory sold in the ordinary course of business, (ii) Cash Equivalents for fair value, (iii) sales, assignments, transfers or dispositions of accounts in the ordinary course of business for purposes of collection, (iv) sales or dispositions of assets permitted by Sections 6.7 (c), (e) through (o), and (v) any such other assets to the extent that the aggregate value of such assets sold in any single transaction or related series of transactions is equal to $2,000,000 or less).

**“Assignment Agreement”** means an Assignment and Assumption Agreement in substantially the form of Exhibit VI annexed hereto.

**“Available Amount”** means, on any date (the **“Available Amount Determination Date”), an** amount equal to (a) the sum of, without duplication: (i) the Available Retained ECF Amount on the Available Amount Determination Date; (ii) the sum of equity contributions to Company or equity issuances by Company made during the period from and including the Business Day immediately following the Amendment No. 1 Effective Date through and including the Available Amount Determination Date; and (iii) the aggregate amount of Net Asset Sale Proceeds and Net Insurance/Condemnation Proceeds that Company and its Subsidiaries are entitled, pursuant to Sections 2.04(b)(ii)(A) and (B), respectively, to reinvest during the period following the Amendment No. 1 Effective Date through and including the Available Amount Determination Date and that have not been applied as a mandatory prepayment pursuant to such Sections or reinvested pursuant thereto; minus (b) the sum of (i) the aggregate amount of Investments by Company and its Subsidiaries pursuant to 6.3(o), (p) or (q) on or after the Amendment No. 1 Effective Date and on or prior to the Available Amount Determination Date, the permissibility of which is contingent upon the utilization of the Available Amount, (ii) the aggregate amount of Restricted Junior Payments made by Parent and its Subsidiaries pursuant to Section 6.5(j) on or after the Amendment No. 1 Effective Date and on or prior to the Available Amount Determination Date, and (iii) the aggregate amount of

all voluntary or optional repayments, repurchases, redemptions or defeasances of Subordinated Indebtedness pursuant to Section 6.5 on or after the Amendment No. 1 Effective Date and on or prior to the Available Amount Determination Date.

**"Available Retained ECF Amount"** means, on any date (the **"Determination Date")** (i) an amount which is initially equal to the Loan Parties' unrestricted cash on hand as of the Amendment No. 1 Effective Date in excess of $20,000,000 and after giving effect to any cash payments made on the Amendment No. 1 Effective Date (including payment of the Termination Fee), plus (ii) for the Fiscal Year ending December 31, 2012 and for each Fiscal Year thereafter, the cumulative amount for such Fiscal Year or Fiscal Years of Consolidated Excess Cash Flow permitted to be retained by Company and its Subsidiaries under Section 2.4(b)(ii)(E) less (iii) the aggregate amount of all dividend payments made pursuant to Section 6.5 on or after the Amendment No. 1 Effective Date and on or prior to the Determination Date less (iv) the amount in clauses (i) and (ii) above which are used to consummate transactions contemplated by clause (b) of the definition of Available Amount.

**"Bankruptcy Code"** means Title 11 of the United States Code entitled "Bankruptcy", as now and hereafter in effect, or any successor statute.

**"Base Rate"** means, for any day, a rate per annum (rounded upwards to the nearest 1/100 of 1%) equal to the greatest of (a) the Prime Rate in effect on such day, (b) the sum of (i) the higher of (1) the London interbank offered rate (rounded upward, if necessary, to the nearest 1/100 of 1%) equal to the offered rate for deposits in Dollars for a period equal to one month commencing on such day, which rate appears on Telerate Page 3750 (or such other page as may replace Telerate Page 3750 on that service or any successor service for the purpose of displaying London interbank offered rates of major banks) as of 11:00 A.M. (London time) on the date two Business Days prior to such day and (2) 1% per annum, plus (ii) 1%, and (c) the Federal Funds Effective Rate in effect on such day plus 1/2 of 1%. If, for any reason, Administrative Agent shall have determined (which determination shall be conclusive absent manifest error) that it is unable to ascertain the Federal Funds Effective Rate, including the inability or failure of Administrative Agent to obtain sufficient quotations in accordance with the terms hereof, the Base Rate shall be determined without regards to clause (c) of the first sentence of this definition until the circumstances giving rise to such inability no longer exist. Any change in the Base Rate due to a change in the Prime Rate or the Federal Funds Effective Rate shall be effective on the effective date of such change in the Prime Rate or the Federal Funds Effective Rate, respectively.

**"Base Rate Loans"** means Loans bearing interest at rates determined by reference to the Base Rate as provided in Section 2.2(a).

**"Borrower Materials"** has the meaning assigned to that term in Section 5.1(q).

**"Business Day"** means (a) for all purposes other than as covered by clause (b) below, any day excluding Saturday, Sunday and any day which is a legal holiday under the laws of the State of New York or is a day on which banking institutions located in such state are authorized or required by law or other governmental action to close, and (b) with respect to all notices, determinations, fundings and payments in connection with LIBOR or any LIBOR Loans, any day that is a Business Day described in clause (a) above and that is also a day for trading by and between banks in Dollar deposits in the London interbank market.

**"Capital Lease",** as applied to any Person, means any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, is accounted for as a capital lease on the balance sheet of that Person.

**"Capital Stock"** means the capital stock of or other equity interests in a Person.

**"Cash"** means money, currency or a credit balance in a Deposit Account.

**"Cash Equivalents"** means, as at any date of determination, (a) marketable Securities (i) issued or directly and unconditionally guaranteed as to interest and principal by the United States Government or (ii) issued by any agency of the United States the obligations of which are backed by the full faith and credit of the United States, in each case maturing within one year after such date; (b) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof, in each case maturing within one year after such date and having, at the time of the acquisition thereof, the highest rating obtainable from either Standard & Poor's ("**S&P**") or Moody's Investors Service, Inc. ("**Moody's**"); (c) commercial paper maturing no more than one year from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody's; (d) certificates of deposit or bankers' acceptances maturing within one year after such date and issued or accepted by any Lender or by any commercial bank organized under the laws of the United States of America or any state thereof or the District of Columbia that (i) is at least "adequately capitalized" (as defined in the regulations of its primary Federal banking regulator) and (ii) has Tier 1 capital (as defined in such regulations) of not less than $100,000,000; and (e) shares of any money market mutual fund that (i) has at least 95% of its assets invested continuously in the types of investments referred to in clauses (a) and (b) above, (ii) has net assets of not less than $500,000,000, and (iii) has the highest rating obtainable from either S&P or Moody's.

**"CDE"** means an entity certified by the Community Development Financial Institutions Fund of the United States Department of the Treasury of the United States as a "Community Development Entity".

**"Change in Control"** means any of the following: (i) prior to the completion of an initial public offering, Golden Gate shall cease to beneficially own and control (directly or indirectly) more than 50.1% of the issued and outstanding Voting Securities of Parent entitled (without regard to the occurrence of any contingency) to vote for the election of members of the Governing Body of Parent, (ii) prior to the completion of an initial public offering, Golden Gate shall cease to beneficially own (directly or indirectly) more than 50.1% of the economic value of the Capital Stock of Parent, (iii) following the completion of an initial public offering, a group other than Permitted Holders acquires beneficial ownership (directly or indirectly) of 35% or more of the Voting Securities or economic value of the Capital Stock of Parent, (iv) the occurrence of a change in the composition of the Governing Body of Parent or Company such that a majority of the members of any such Governing Body are not Continuing Members, (v) the failure at any time of Parent to legally and beneficially own and control 100% of the issued and outstanding Capital Stock of Company or the failure at any time of Parent to have the ability to elect all of the Governing Body of Company and (vi) the occurrence of any "Change of Control" (or similar term) under the ABL Loan Agreement. As used herein, the term "beneficially own" or "beneficial ownership" shall have the meaning assigned to that term in the Exchange Act and the rules and regulations promulgated thereunder.

**"Change in Law"** means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation, treaty or order, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation or application thereof by any Government Authority, (c) any determination of a court or other Government Authority or (d) the making or issuance of any request, guideline or directive (whether or not having the force of law) by any Government Authority. For the purposes of this Agreement, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith, and (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III, shall be deemed to be a Change in Law regardless of the date enacted, adopted or issued.

**“Closing Date”** means November 25, 2008.

**“Coated Sand”** means Coated Sand Solutions, LLC, a Delaware limited liability company.

**“Collateral”** means, collectively, all of the assets and property in which Liens are purported to be granted pursuant to the Collateral Documents as security for the Obligations.

**“Collateral Account”** has the meaning assigned to that term in the Pledge and Security Agreement.

**“Collateral Agent”** means BNP Paribas.

**“Collateral Documents”** means the Pledge and Security Agreement, the Foreign Pledge Agreements, the Mortgages, the Control Agreements and all other instruments or documents delivered by any Loan Party pursuant to this Agreement or any of the other Loan Documents in order to grant to Administrative Agent, on behalf of Secured Parties, a Lien on any real, personal or mixed property of that Loan Party as security for the Obligations.

**“Commitment”** means the commitment of a Lender to make a Loan to Company pursuant to Section 2.1(a), and **“Commitments”** means such commitments of all Lenders in the aggregate.

**“Company”** has the meaning assigned to that term in the introduction to this Agreement.

**“Compliance Certificate”** means a certificate substantially in the form of Exhibit IV annexed hereto.

**“Consolidated Adjusted EBITDA”** means, for any period, the sum, without duplication, of the amounts for such period of (i) Consolidated EBITDA, (ii) amortization and impairment of intangibles (including goodwill), (iii) any extraordinary, unusual and non-recurring expenses or losses (including, whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period, losses on sales of assets outside of the ordinary course of business), (iv) stock-option compensation expenses including expenses paid to Governing Bodies of the Loan Parties, including those from granting, remeasuring or accelerating stock options, warrants and any other equity-related incentives, (v) transaction costs, fees and expenses (including those relating to the Transactions and those payable in connection with the sale of Capital Stock, the incurrence of Indebtedness permitted under Section 6.1, any disposition of assets or property permitted under Section 6.7 or any recapitalization, Permitted Acquisitions or other Investment permitted under Section 6.3 or 6.7, or amendment to any Indebtedness (including costs and expenses of Administrative Agent and Lender that are reimbursed) (in each case, whether or not successful) in an aggregate amount (other than with respect to the Transactions) not to exceed (A) $2,000,000 for each Fiscal Year for any unconsummated transactions and (B) 10% of the purchase price or indebtedness obligations for any consummated transactions (vi) all amounts accrued as expenses with respect to payments of the type described in Section 6.5(d), (vii) dividends on stock as permitted pursuant to the terms hereof, (viii) all losses realized upon the disposition of properties or assets which are not sold or otherwise disposed of in the ordinary course of business, (ix) any loss from discontinued operations and any loss on disposal of discontinued operations in accordance with GAAP or if otherwise reasonably acceptable to Administrative Agent and in an aggregate amount not to exceed $1,000,000 during the term of this Agreement, (x) to the extent covered by insurance and actually reimbursed, expenses with respect to liability or casualty events or business interruption, (xi) expenses to the extent covered by contractual indemnification or refunding provisions in favor of any Loan Party and actually paid or refunded, (xii) non cash silica litigation adjustments, (xiii) any costs associated with exit or disposal activities, layoffs and other restructuring

activities, including employee severance and termination benefits, costs to consolidate facilities, costs to relocate employees, costs to terminate contracts, and other costs associated with the disposal of long-lived assets, in each case to the extent such costs are permitted by GAAP to be recorded as restructuring, and any related accretion expenses deducted in such period in computing Consolidated Net Income; *provided that* with respect to such restructuring charges and accretion expenses, Company shall have delivered to Administrative Agent a certificate of the chief financial officer of Company specifying and quantifying such charge or expense and stating that such charge or expense is such a restructuring charge or related accretion expense, (xiv) any income or charge attributable to a post-employment benefits scheme other than current service costs, (xv) any unrealized gains or losses on any Hedge Agreement and any gains or losses on any Hedge Agreement, and fees and expenses in connection with Hedge Agreements, (xvi) expenses related to the withdrawal from the third party pension plan at the Pacific, MO plant in an aggregate amount not to exceed $500,000, (xvii) costs and expenses from moving the corporate headquarters incurred during 2010, (xviii) costs and expenses associated with opening new offices in an aggregate amount not to exceed $500,000 in any fiscal year, (xix) charges and expenses in connection with business expansion and business optimization projects and severance costs and lease termination costs, in each case, made within 12 months of any Permitted Acquisition and related to such Permitted Acquisition in an aggregate amount not to exceed $1,000,000 for each Fiscal Year, (xx) recruiting fees and expenses in an aggregate amount not to exceed $250,000 in 2010 and in an aggregate amount not to exceed $500,000 during the years 2011 and 2012, (xxi) the reasonable costs and expenses incurred in connection with an ~~initial public offering (whether, or not, such~~ unsuccessful initial public offering ~~is consummated, and~~ in an aggregate amount not to exceed $2,000,000 and the reasonable costs and expenses incurred in connection with a successful initial public offering (in each case, including one-time costs and other non-recurring expenses associated with becoming Sarbanes-Oxley Act compliant) ~~in an aggregate amount not to exceed $2,000,000 during such period~~, (xxii) costs, fees and expenses (including, but not limited to, any legal fees of Agent and Lenders) incurred during such period in connection with this Agreement and the Loan Documents, (xxiii) reasonable costs and expenses directly incurred during such period in connection with (a) the opening of any new sand processing or mining facilities or (b) any substantial expansions of existing sand processing or mining facilities with a capital cost in excess of $5,000,000, in each case of (a) and (b) not to exceed 10% of the capital cost of each such expansion, (xxiv) any expenses or income related solely to purchase accounting recorded in connection with the Transactions or any of the transactions described in clause (v) and any other non-cash items decreasing Consolidated Net Income for such period (excluding any items which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges made in any prior period or which will result in the receipt of cash in a future period or which are the result of timing differences due to GAAP revenue recognition rules), all as determined on a consolidated basis, but only, in the case of clauses (ii)-(xxiv), to the extent deducted in the calculation of Consolidated Net Income, and (xxv) proceeds from any business interruption insurance (in the case of this clause (xxv) to the extent not reflected as revenue or income in such statement or such Consolidated Net Income), minus, without duplication, to the extent included in the calculation of such Consolidated Net Income, the sum of (a) any extraordinary, unusual and non-recurring income and gains (including, whether or not otherwise includable as a separate item in the statement of such Consolidated Net Income for such period, gains on the sales of assets outside of the ordinary course of business), (b) any non-cash items increasing Consolidated Net Income for such period (excluding any items which represent the reversal of any accrual of, or cash reserve for, anticipated cash charges made in any prior period or which will result in the receipt of cash in a future period or which are the result of timing differences due to GAAP revenue recognition rules), all as determined on a consolidated basis, (c) the aggregate gain realized upon the disposition of properties or assets which are not sold or otherwise

disposed of in the ordinary course of business, (d) any gain from discontinued operations and any gain on disposal of discontinued operations, and (e) any credit from income tax; *provided that* for purposes of calculating Consolidated Adjusted EBITDA of Parent, Company and its Subsidiaries for any period, (A) the Consolidated Adjusted EBITDA of any Person acquired (or all or substantially all of whose assets are acquired) by Company or its Subsidiaries in a Permitted Acquisition during such period shall be included on a Pro Forma Basis for such period (but assuming the consummation of such acquisition and the incurrence or assumption of any Indebtedness in connection therewith occurred on the first day of such period, and assuming (for such period and applicable subsequent periods) any synergies and cost savings to the extent certified by Company as having been determined in good faith to be reasonably anticipated to be realizable and which do not account for more than 25% of Consolidated Adjusted EBITDA of such acquired Person or another amount to be agreed in writing by Administrative Agent) and (B) the Consolidated Adjusted EBITDA of any Person disposed of by Company or its Subsidiaries during such period shall be excluded on a Pro Forma Basis for such period (assuming the consummation of such disposition and the repayment of any Indebtedness in connection therewith occurred on the first day of such period), all of the foregoing as determined on a consolidated basis for Company and its Subsidiaries in conformity with GAAP.

**"Consolidated Capital Expenditures"** means, for any period, the sum of the aggregate of all expenditures (whether paid in Cash or other consideration or accrued as a liability and including that portion of Capital Leases which is capitalized on the consolidated balance sheet of Company and its Subsidiaries) by Company and its Subsidiaries during that period that, in conformity with GAAP, are included in "additions to property, plant or equipment" or comparable items reflected in the consolidated statement of cash flows of Company and its Subsidiaries, but excluding (a) expenditures made to restore, replace, rebuild, develop, maintain, improve, or upgrade property, to the extent such expenditures are made with or are subsequently reimbursed out of, insurance proceeds, indemnity payments, condemnations or similar awards (or payments in lieu of) or damage recovery proceeds, or other settlements relating to any damage, loss, destruction or condemnation of such property, (b) expenditures constituting reinvestment of Net Asset Sale Proceeds or Net Insurance/Condemnation Proceeds allowed pursuant to Section 2.4(b)(ii) (A) or (B), (c) expenditures reimbursed by (or covered by an irrevocable reimbursement obligation from) a third party, (d) expenditures funded by the issuance of Capital Stock (other than Disqualified Stock) and (e) expenditures to the extent made pursuant to Section 6.3(o). For purposes of this definition, the purchase price of equipment that is purchased simultaneously with the trade-in of existing equipment or with insurance proceeds shall be included in Consolidated Capital Expenditures only to the extent of the gross amount of such purchase price less the credit granted by the seller of such equipment for the equipment being traded in at such time or the amount of such proceeds, as the case may be.

**"Consolidated Cash Interest Expense"** means, for any period, Consolidated Interest Expense for such period excluding, however, any interest expense not payable in Cash, including amortization of discount and amortization of debt issuance costs (it being understood that interest expense that is not paid in Cash as a result of an election by the payor or the payee thereof to receive payment in kind shall not be considered Consolidated Cash Interest Expense). For purposes of the foregoing, Consolidated Cash Interest Expense shall be determined after giving effect to any net payments (on account of interest payments made by Company and its Subsidiaries) made or received by Company and its Subsidiaries under Interest Rate Agreements.

**"Consolidated Current Assets"** means, as at any date of determination, the total assets of Company and its Subsidiaries on a consolidated basis which may properly be classified as current assets in conformity with GAAP, excluding Cash, Cash Equivalents, deferred or estimated tax assets and the impact of purchase accounting resulting from the consummation of the Transactions or any Permitted Acquisition.

**"Consolidated Current Liabilities"** means, as at any date of determination, the total liabilities of Company and its Subsidiaries on a consolidated basis which may properly be classified as current liabilities in conformity with GAAP, excluding the current portions of Funded Debt (including revolving credit loans), Capital Leases, deferred or estimated tax liabilities and the impact of purchase accounting resulting from the consummation of the Transactions or any Permitted Acquisition.

**"Consolidated EBITDA"** means, for any period, the sum, without duplication, of the amounts for such period of (i) Consolidated Net Income, (ii) Consolidated Interest Expense, amortization or write-off of debt discount and debt issuance costs and commissions, discounts and other fees and charges associated with Indebtedness or Hedge Agreements, (iii) provisions for Taxes based on income (or franchise tax in the nature of income tax), (iv) total depreciation expense, (v) total amortization expense and (vi) depletion expenses, but only, in the case of clauses (ii)-(vi), to the extent deducted in the calculation of Consolidated Net Income, all of the foregoing as determined on a consolidated basis for Company and its Subsidiaries in conformity with GAAP. For the avoidance of doubt, "Consolidated EBITDA" shall not be increased as a result of any discount realized as a result of any Repurchase Offer Loans having been purchased by Company or Golden Gate or any of their respective Affiliates; *provided that* this shall not apply to any tax expense in connection with any cancellation of indebtedness income that would otherwise be added back in the calculation of Consolidated EBITDA.

**"Consolidated Excess Cash Flow"** means, for any period, without duplication, an amount (if positive) equal to (i) the sum, without duplication, of the amounts for such period of (a) Consolidated EBITDA and (b) the Consolidated Working Capital Adjustment minus (ii) the sum, without duplication, of the amounts for such period of (a) voluntary, mandatory and scheduled repayments of Consolidated Total Debt including the aggregate principal amount of Repurchase Offer Loans repurchased by Parent, Company or Subsidiary thereof (other than voluntary prepayments of the Loans and payments under the ABL Loan Agreement which do not result in a corresponding permanent reduction of commitments thereunder) and (b) Consolidated Capital Expenditures (net of any proceeds of any related financings with respect to such expenditures), minus (iii) the sum, without duplication, to the extent added back to Consolidated Net Income in the calculation of Consolidated Adjusted EBITDA, of the amounts for such period of (a) Consolidated Cash Interest Expense and debt issuance costs and commissions and other fees and charges associated with Indebtedness or Hedge Agreements, (b) current taxes actually paid in cash with respect to such period, (c) the amount of all non cash gains or credits (including, without limitation, credits included in the calculation of deferred tax assets and liabilities) for such period, (d) the aggregate amount actually paid by Loan Parties in cash during such Fiscal Year on account of Permitted Acquisitions and other Investments permitted under Section 6.3 (other than (A) any such acquisition or Investment to the extent made with the proceeds of new long-term indebtedness for borrowed money or from the issuance of Capital Stock, and (B) any such Investment that consists of an Investment in Cash or Cash Equivalents pursuant to Section 6.3(a)), (e) the aggregate net amount of non-cash gain on the disposition of property or assets during such Fiscal Year (other than sales of inventory in the ordinary course of business), (f) transaction costs, fees and expenses incurred in connection with the Transactions, (g) purchase price adjustments received in connection with any Permitted Acquisition or other Investment permitted under Section 6.3, (h) an amount equal to reasonable cash expenditures made in connection with any termination or make-whole payment in connection with any termination of, and upfront fees and expenses in connection with obtaining, any Hedge Agreements, (i) distributions paid and other payments made in Cash which are permitted under Section 6.5, (j) the amount of such Consolidated EBITDA which is mandatorily prepaid or

reinvested pursuant to Section 2.4(b)(ii) (or to which a waiver of the requirements of such section applicable thereto has been granted under Section 9.6) prior to the date of determination of Consolidated Excess Cash Flow for such fiscal year as a result of any Net Asset Sale Proceeds or Net Insurance/Condemnation Proceeds, (k) cash payments for pension and other post-employment benefits minus any amounts therefor recognized in Consolidated EBITDA (it being understood that a negative amount under this clause (k) shall increase Consolidated Excess Cash Flow), (I) cash payments for litigation claims minus any amounts therefor recognized in Consolidated EBITDA (it being understood that a negative amount under this clause (I) shall increase Consolidated Excess Cash Flow), (m) any gains or losses on any Hedge Agreement, (n) costs and expenses associated with opening new offices in an aggregate amount not to exceed $500,000 in any fiscal year, (o) charges and expenses in connection with business expansion and business optimization projects and severance costs and lease termination costs, in each case, made within 12 months of any Permitted Acquisition and related to such Permitted Acquisition in an aggregate amount not to exceed $1,000,000 for each Fiscal Year and (p) transaction costs, fees and expenses (including those relating to the Transactions and those payable in connection with the sale of Capital Stock, the incurrence of Indebtedness permitted under Section 6.1, any disposition of assets or property permitted under Section 6.7 or any recapitalization, Permitted Acquisitions or other Investment permitted under Section 6.3 or 6.7, or amendment to any Indebtedness (including costs and expenses of Administrative Agent and Lender that are reimbursed) (in each case, whether or not successful), (q) recruiting fees and expenses in 2012 in an aggregate amount not to exceed $500,000, (r) the reasonable costs and expenses incurred in connection with an initial public offering (whether, or not, such initial public offering is consummated, and including one-time costs and other non-recurring expenses associated with becoming Sarbanes-Oxley Act compliant) in an aggregate amount not to exceed $2,000,000 during such period, (s) costs, fees and expenses (including, but not limited to, any legal fees of Agent and Lenders) incurred during such period in connection with this Agreement and the Loan Documents, (t) reasonable costs and expenses directly incurred during such period in connection with (1) the opening of any new sand processing or mining facilities or (2) any substantial expansions of existing sand processing or mining facilities with a capital cost in excess of $5,000,000, in each case of (1) and (2) not to exceed 10% of the capital cost of each such expansion, and (u) expenses related to the withdrawal from the third party pension plan at the Pacific, MO plant in an aggregate amount not to exceed $500,000. For the avoidance of doubt, "Consolidated Excess Cash Flow" shall not be reduced by the amount of any Repurchase Offer Loans purchased by Company or Golden Gate or any of their respective Affiliates and shall not be increased as a result of any discount realized as a result of any Repurchase Offer Loans having been purchased by Company or Golden Gate; *provided that* this shall not apply to any tax expense in connection with any cancellation of indebtedness income that would otherwise be subtracted from the calculation of Consolidated Excess Cash Flow.

**"Consolidated Interest Expense"** means, for any period, total interest expense (including that portion attributable to Capital Leases in accordance with GAAP and capitalized interest) of Company and its Subsidiaries on a consolidated basis in accordance with GAAP with respect to all outstanding Indebtedness of Company and its Subsidiaries, including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptance financing, net costs under Interest Rate Agreements and amounts referred to in Section 2.3 payable to Administrative Agent and Lenders that are considered interest expense in accordance with GAAP, but excluding, however, any such amounts referred to in Section 2.3 payable on or before the Second Restatement Date, net of any interest income on a consolidated basis in accordance with GAAP.

**"Consolidated Leverage Ratio"** means, as of the last day of any Fiscal Quarter, the ratio of (i) Consolidated Total Debt less any ~~permitted Subordinated~~ NMTC Indebtedness included therein as of such day to (ii) Consolidated Adjusted EBITDA for the consecutive four Fiscal Quarters ending on such day.

**"Consolidated Net Income"** means, for any period, the net income (or loss) of Company and its Subsidiaries on a consolidated basis for such period taken as a single accounting period determined in conformity with GAAP; *provided that there* shall be excluded (i) the income (or loss) of any Person (other than a Subsidiary of Company) in which any other Person (other than Company or any of its Subsidiaries) has a joint interest, except to the extent of the amount of dividends or other distributions actually paid to Company or any of its Subsidiaries by such Person during such period, (ii) the income (or loss) of any Person accrued prior to the date it becomes a Subsidiary of Company or is merged into or consolidated with Company or any of its Subsidiaries or that Person's assets are acquired by Company or any of its Subsidiaries, (iii) except to the extent of the amount of dividends or other distributions actually paid by such Person during such period to Company or any of its Subsidiaries that are not subject to the relevant restriction, the income of any Subsidiary of Company to the extent that the declaration or payment of dividends or similar distributions by that Subsidiary of that income is not at the time permitted by operation of the terms of its charter or any agreement, instrument, judgment, decree, order, statute, rule or governmental regulation applicable to that Subsidiary, (iv) any after-tax gains or losses attributable to asset sales or returned surplus assets of any pension plan, and (v) (to the extent not included in clauses (i) through (iv) above) any net extraordinary gains or net non-cash extraordinary losses.

**"Consolidated Total Debt"** means, as at any date of determination, the aggregate stated balance sheet amount of all Indebtedness of Company and its Subsidiaries for borrowed money, purchase money indebtedness (including Capital Leases), Indebtedness listed on Schedule 6.1, Subordinated Indebtedness and all Indebtedness secured by any Lien on any property or asset owned or held by a Loan Party, determined on a consolidated basis in accordance with GAAP.

**"Consolidated Working Capital"** means, as at any date of determination, the excess (or deficit) of Consolidated Current Assets over Consolidated Current Liabilities.

**"Consolidated Working Capital Adjustment"** means, for any period on a consolidated basis, the amount (which may be a negative number) by which Consolidated Working Capital as of the beginning of such period exceeds (or is less than) Consolidated Working Capital as of the end of such period.

**"Contingent Obligation",** as applied to any Person, means any direct or indirect liability, contingent or otherwise, of that Person (a) with respect to any Indebtedness, lease, dividend or other obligation of another if the primary purpose or intent thereof by the Person incurring the Contingent Obligation is to provide assurance to the obligee of such obligation of another that such obligation of another will be paid or discharged, or that any agreements relating thereto will be complied with, or that the holders of such obligation will be protected (in whole or in part) against loss in respect thereof, (b) with respect to any letter of credit issued for the account of that Person or as to which that Person is otherwise liable for reimbursement of drawings, or (c) under Hedge Agreements. Contingent Obligations shall include (i) the direct or indirect guaranty, endorsement (other than for collection or deposit in the ordinary course of business), co-making, discounting with recourse or sale with recourse by such Person of the obligation of another, (ii) the obligation to make take-or-pay or similar payments if required regardless of non-performance by any other party or parties to an agreement and (iii) any liability of such Person for the obligation of another through any agreement (contingent or otherwise) (x) to purchase, repurchase or otherwise acquire such obligation or any security therefor, or to provide funds for the payment or discharge of such obligation (whether in the form of loans, advances, stock purchases, capital contributions or otherwise) or (y) to maintain the solvency or any balance sheet item, level of income or financial condition of another if, in the case of any

agreement described under subclauses (x) or (y) of this sentence, the primary purpose or intent thereof is as described in the preceding sentence. The amount of any Contingent Obligation shall be equal to the amount of the obligation so guaranteed or otherwise supported or, if less, the amount to which such Contingent Obligation is specifically limited, except that the amount of any Hedge Agreement obligation shall be determined in accordance with GAAP. For the avoidance of doubt, the Silica Related Claims shall not be deemed to be Contingent Obligations hereunder.

**"Continuing Member"** means, as of any date of determination any member of the Governing Body of Parent or Company who (i) was a member of such Governing Body on the Second Restatement Date or (ii) was nominated for election or elected to such Governing Body with the affirmative vote of a majority of the members who were either members of such Governing Body on the Second Restatement Date or whose nomination or election was previously so approved.

**"Contractual Obligation",** as applied to any Person, means any provision of any Security issued by that Person or of any material indenture, mortgage, deed of trust, contract, undertaking, agreement or other instrument to which that Person is a party or by which it or any of its properties is bound or to which it or any of its properties is subject.

**"Control Agreement"** means an agreement, reasonably satisfactory in form and substance to Administrative Agent and executed by Administrative Agent, the financial institution or securities intermediary at which a Deposit Account or a Securities Account, as the case may be, is maintained, and the applicable Loan Party, pursuant to which such financial institution or securities intermediary confirms and acknowledges Administrative Agent's security interest in such account, and agrees that, after notice from Administrative Agent, the financial institution or securities intermediary, as the case may be, will comply with instructions originated by Administrative Agent as to disposition of funds in such account, without further consent by Company or any Subsidiary.

**"Controlled Group"** means an entity, whether or not incorporated, which is under common control with a Loan Party within the meaning of Section 4001 of ERISA or is part of a group that includes a Loan Party and that is treated as a single employer under Section 414 of the Internal Revenue Code. When any provision of this Agreement relates to a past event, the term "member of the Controlled Group" includes any person that was a member of the Controlled Group at the time of that past event.

**"Conveyance of Undivided Mineral Interest"** means that certain Conveyance of Undivided Mineral Interest dated as of November 24, 2008 between Company and Preferred Rocks USS.

**"Currency Agreement"** means any foreign exchange contract, currency swap agreement, futures contract, option contract, synthetic cap or other similar agreement or arrangement to which Company or any of its Subsidiaries is a party.

**"Deposit Account"** means a demand, time, savings, passbook or similar account maintained with a Person engaged in the business of banking, including a savings bank, savings and loan association, credit union or trust company.

**"Designated Person"** means a Person named as a "Specially Designated National and Blocked Person" on the most current list published by OFAC at its official website or any replacement website or other replacement official publication of such list.

**"Disqualified Stock"** means any Capital Stock which, by its terms (or by the terms of any Securities into which it is convertible, or for which it is exercisable or exchangeable), or upon the happening of any event, (a) matures (excluding any maturity as the result of an optional redemption by the issuer thereof) or is mandatorily redeemable pursuant to a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, on or prior to the first anniversary

of the Maturity Date, (b) is convertible into or exercisable or exchangeable (unless at the sole option of the issuer thereof) for (i) debt securities or (ii) any Capital Stock referred to in (a) above, in each case at any time prior to the first anniversary of the Maturity Date, (c) contains any repurchase obligation which may come into effect prior to the first anniversary of the Maturity Date, (d) requires the payment of any dividends (other than the payment of dividends solely in the form of Qualified Capital Stock) prior to the first anniversary of the Maturity Date, or (e) provides the holders of such Capital Stock thereof with any rights to receive any Cash upon the occurrence of a change in control prior to the first anniversary of the Maturity Date, unless the rights to receive such Cash are contingent upon the prior payment in full in cash of the Obligations. Disqualified Stock shall not include any Capital Stock which would be Qualified Capital Stock but for a requirement that such Capital Stock be redeemed in connection with (x) a change of control or (y) any asset disposition made pursuant to Section 6.7 or otherwise permitted by Administrative Agent so long as such Capital Stock requires the prior payment in full in Cash (as defined in the Intercreditor Agreement) of the Obligations prior to any payments being made pursuant to such Capital Stock. Notwithstanding the preceding sentence, any Capital Stock that would constitute Disqualified Stock solely because the holders of the Capital Stock have the right to require Company to repurchase such Capital Stock (or such Capital Stock is mandatorily redeemable) upon the occurrence of a change of control or a public offering will not constitute Disqualified Stock if the terms of such Capital Stock provide that Company may not repurchase or redeem any such Capital Stock pursuant to such provisions unless such repurchase or redemption complies with Section 6.5.

**"Dollars"** and the sign **"$"** mean the lawful money of the United States of America.

**"Domestic Subsidiary"** means any Subsidiary of Company that is incorporated or organized under the laws of the United States of America, any state thereof or in the District of Columbia.

**"Eligible Assignee"** means (a) any Lender, any Affiliate of any Lender and any Approved Fund of any Lender; (b) (i) a commercial bank organized under the laws of the United States or any state thereof; (ii) a savings and loan association or savings bank organized under the laws of the United States or any state thereof; (iii) a commercial bank organized under the laws of any other country or a political subdivision thereof; provided that (x) such bank is acting through a branch or agency located in the United States or (y) such bank is organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development or a political subdivision of such country; and (iv) any other entity that is an "accredited investor" (as defined in Regulation D under the Securities Act) that extends credit or buys loans as one of its businesses including insurance companies, mutual funds and lease financing companies; and (c) with respect only to funded Loans acquired in accordance with Section 2.4(b)(iv), Golden Gate, Parent, Company or any Affiliate thereof; *provided that* "Eligible Assignee" shall not include any natural person.

**"Employee Plan"** means an "employee pension benefit plan" as defined in Section 3(2) of ERISA subject to the provisions of Title IV of ERISA or Section 412 of the Internal Revenue Code or Section 302 of ERISA (other than a Multiemployer Plan), which is maintained for, or contributed to (or to which there is an obligation to contribute) on behalf of, employees of any Loan Party or ERISA Affiliate or to which any Loan Party or ERISA Affiliate has or could have any liability or obligation.

**"Environmental Claim"** means any investigation, written notice, notice of violation, claim, action, suit, proceeding, demand, abatement order or other order or directive (conditional or otherwise), by any Government Authority or any other Person, arising (a) pursuant to or in connection with any actual or alleged violation of any Environmental Law, (b) in connection with any Hazardous Materials or any actual or alleged Hazardous Materials Activity or (c) in connection with any actual or alleged damage, injury, threat or harm to health, safety, natural resources or the environment.

**"Environmental Laws"** means any and all current or future statutes, ordinances, orders, rules, regulations, legally binding guidance documents, judgments, Governmental Authorizations, or any other requirements of any Government Authority relating to (a) environmental matters, including those relating to any Hazardous Materials Activity, (b) the generation, use, storage, transportation or disposal of Hazardous Materials or (c) occupational safety and health, industrial hygiene, land use or the protection of human, plant or animal health or welfare; in any manner applicable to Company or any of its Subsidiaries or any Facility.

**"ERISA"** means the US Employee Retirement Income Security Act of 1974 (or any successor legislation thereto) and the regulations promulgated and rulings issued thereunder.

**"ERISA Affiliate"** means each person (as defined in Section 3(9) of ERISA) that is a member of a Controlled Group of any Loan Party.

**"ERISA Event"** means any of the following events:

(a) any reportable event, as defined in Section 4043(c) of ERISA and the regulations promulgated under it, with respect to an Employee Plan as to which the PBGC has not by regulation waived the requirement of Section 4043(a) of ERISA that it be notified within thirty days of the occurrence of that event. However, the existence with respect to any Employee Plan of an "accumulated funding deficiency" (as defined in Section 302 of ERISA), or, on and after the effectiveness of the Pension Act, a failure to meet the minimum funding standard of Section 412 of the Internal Revenue Code or Section 302 of ERISA, shall be a reportable event for the purposes of this paragraph (a) regardless of the issuance of any waiver;

(b) the requirements of subsection (1) of Section 4043(b) of ERISA (without regard to subsection (2) of that Section) are met with respect to a contributing sponsor, as defined in Section 4001(a)(13) of ERISA, of an Employee Plan and an event described in paragraph (9), (10), (11), (12) or (13) of Section 4043(c) of ERISA is reasonably expected to occur with respect to that Employee Plan within the following 30 days;

(c) the filing under Section 4041(c) of ERISA of a notice of intent to terminate any Employee Plan;

(d) the termination of any Employee Plan under Section 4041(c) of ERISA;

(e) the institution of proceedings under Section 4042 of ERISA by the PBGC for the termination of, or the appointment of a trustee to administer, any Employee Plan;

(f) the failure to make a required contribution to any Employee Plan that would result in the imposition of an encumbrance under the Internal Revenue Code or ERISA;

(g) engagement in a non-exempt prohibited transaction within the meaning of Section 4975 of the Internal Revenue Code or Section 406 of ERISA;

(h) a determination that any Employee Plan is, or is expected to be, in at-risk status (within the meaning of Title IV of ERISA); or

(i) the receipt by any Loan Party or ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from any Loan Party or ERISA Affiliate of any notice that a Multiemployer Plan is, or is expected to be, insolvent or in reorganization, within the meaning of Title IV of ERISA, or, on and after the effectiveness of the Pension Act, that a Multiemployer Plan is in endangered or critical status (within the meaning of Section 305 of ERISA).

**"Event of Default"** means each of the events set forth in Sections 7.1 through 7.12.

**“Exchange Act”** means the Securities Exchange Act of 1934, as amended from time to time, and any successor statute.

**“Excluded Taxes”** means, with respect to Administrative Agent, any Lender, or any other recipient of any payment to be made by or on account of any obligation of Company hereunder (a) Taxes that are imposed on (or measured by) the overall net income (however denominated) and franchise Taxes imposed in lieu thereof (i) by the United States, (ii) by any other Government Authority 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 it is organized or has its principal office or maintains its applicable lending office or (iii) by any Government Authority solely as a result of a present or former connection between such recipient and the jurisdiction of such Government Authority (other than any such connection arising solely from such recipient having executed, delivered or performed its obligations or received a payment under, or enforced, any of the Loan Documents), (b) any branch profits Taxes imposed by the United States or any similar Tax imposed by any other jurisdiction referred to in clause (a) and (c) in the case of a Foreign Lender, any withholding Tax that (i) is imposed on amounts payable to such Foreign Lender at the time it becomes a party hereto (or designates a new lending office), (ii) is attributable to such Foreign Lender’s failure or inability (other than as a result of a Change in Law) to comply with its obligations under Section 2.7(b)(iv), 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 Company with respect to such withholding Tax pursuant to Section 2.7(b)(i) or (iii) is required to be deducted under applicable law from any payment hereunder on the basis of the information provided by such Foreign Lender pursuant to clause (D) of Section 2.7(b)(iv).

**“Existing Lender”** has the meaning assigned to the term “Lender” in the First Amended and Restated Credit Agreement.

**“Extending Lender”** has the meaning assigned to that term in Section 2.11(a).

**“Extension”** has the meaning assigned to that term in Section 2.11(a).

**“Extension Agreement”** has the meaning assigned to that term in Section 2.11(a).

**“Extension Effective Date”** has the meaning assigned to that term in Section 2.11(a).

**“Extension Loans”** has the meaning assigned to that term in Section 2.11(a).

**“Facilities”** means any and all real property (including all buildings, fixtures or other improvements located thereon) now, hereafter or heretofore owned, leased, operated or used by Company or any of its Subsidiaries or any of their respective predecessors or Affiliates.

**“Federal Funds Effective Rate”** means, for any period, a fluctuating interest rate equal for each day during such period to the weighted average of the rates on overnight Federal funds transactions with members of the Federal Reserve System arranged by Federal funds brokers, as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York, or, if such rate is not so published for any day which is a Business Day, the average of the quotations for such day on such transactions received by Administrative Agent from three Federal funds brokers of recognized standing selected by Administrative Agent.

**“Financial Covenant”** means the covenant set forth in Section 6.6.

**“Financial Plan”** has the meaning assigned to that term in Section 5.1(j).

**“First Amended and Restated Credit Agreement”** has the meaning assigned to that term in the Recitals to this Agreement.

**"First Priority"** means, with respect to any Lien purported to be created in any Collateral pursuant to any Collateral Document, that (a) such Lien is perfected and has priority over any other Lien on such Collateral (other than Liens permitted pursuant to Section 6.2(a)) and (b) such Lien is the only Lien (other than Liens permitted pursuant to Section 6.2(a)) to which such Collateral is subject.

**"First Restatement Date"** means May 7, 2010.

**"First Restatement Loans"** has the meaning assigned to that term in the Recitals to this Agreement.

**"Fiscal Quarter"** means a fiscal quarter of any Fiscal Year.

**"Fiscal Year"** means the fiscal year of Company and its Subsidiaries ending on December 31 of each calendar year. For purposes of this Agreement, any particular Fiscal Year shall be designated by reference to the calendar year in which such Fiscal Year commences.

**"Flood Hazard Property"** means a Second Restatement Date Mortgaged Property or an Additional Mortgaged Property located in an area designated by the Federal Emergency Management Agency as having special flood or mud slide hazards and for which flood insurance is required under regulations promulgated by the Board of Governors of the Federal Reserve System.

**"Foreign Lender"** means any Lender that is organized under the laws of a jurisdiction other than the United States, any state thereof or the District of Columbia.

**"Foreign Pledge Agreement"** means each pledge agreement or similar instrument governed by the laws of a country other than the United States, executed from time to time in accordance with Section 3.1 or Section 5.9 by Company or any Subsidiary Guarantor that owns Capital Stock of one or more Foreign Subsidiaries organized in such country, in form and substance reasonably satisfactory to Administrative Agent.

**"Foreign Subsidiary"** means any Subsidiary of Company that is not a Domestic Subsidiary.

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

**"Funded Debt",** as applied to any Person, means all Indebtedness of that Person (including any current portions thereof) which by its terms or by the terms of any instrument or agreement relating thereto matures more than one year from, or is directly renewable or extendable at the option of that Person to a date more than one year from (including an option of that person under a revolving credit or similar agreement obligating the lender or lenders to extend credit over a period of one year or more from), the date of the creation thereof.

**"Funding and Payment Office"** means (a) the office of Administrative Agent located at 520 Madison Avenue, New York, New York 10022 or (b) such other office of Administrative Agent as may from time to time hereafter be designated as such in a written notice delivered by Administrative Agent to Company and each Lender.

**"Funding Requirements"** means the aggregate of all amounts necessary to (a) fund the Loans as set forth herein on the Second Restatement Date, (b) repay in full all amounts outstanding or becoming due under the Mezzanine Note Agreement, (c) pay a cash dividend of no more than $25,000,000 from Company to Parent and from Parent to Hourglass Holdings, LLC, and (d) pay Transaction Costs, each in accordance with the Funds Flow Memorandum.

**"Funds Flow Memorandum"** means the funds flow memorandum dated as of the Second Restatement Date in form and substance reasonably satisfactory to Administrative Agent and Company.

**"GAAP"** means, subject to the limitations on the application thereof set forth in Section 1.2, generally accepted accounting principles set forth in opinions and pronouncements of the Accounting Principles Board of the American Institute of Certified Public Accountants and statements and pronouncements of the Financial Accounting Standards Board or in such other statements by such other entity as may be approved by a significant segment of the accounting profession, in each case as the same are applicable to the circumstances as of the date of determination.

**"Golden Gate"** means Golden Gate Private Equity, Inc. and its Affiliates.

**"Governing Body"** means the board of directors or other body having the power to direct or cause the direction of the management and policies of a Person that is a corporation, partnership, trust or limited liability company.

**"Government Authority"** means the government of the United States or any other nation, or any state, regional or local political subdivision or department thereof, and any other governmental or regulatory agency, authority, body, commission, central bank, board, bureau, organ, court, instrumentality or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government, in each case whether federal, state, local or foreign (including supra-national bodies such as the European Union or the European Central Bank).

**"Governmental Authorization"** means any permit, license, registration, authorization, plan, directive, accreditation, consent, order or consent decree of or from, any Government Authority.

**"Guaranties"** means the Parent Guaranty and the Subsidiary Guaranty.

**"Hazardous Materials"** means (a) any chemical, material or substance at any time defined as or included in the definition of "hazardous substances", "hazardous wastes", "hazardous materials", "extremely hazardous waste", "acutely hazardous waste", "radioactive waste", "biohazardous waste", "pollutant", "toxic pollutant", "contaminant", "restricted hazardous waste", "infectious waste", "toxic substances", or any other term or expression intended to define, list or classify substances by reason of properties harmful to health, safety or the indoor or outdoor environment (including harmful properties such as ignitability, corrosivity, reactivity, carcinogenicity, toxicity, reproductive toxicity, "TCLP toxicity" or "EP toxicity" or words of similar import under any applicable Environmental Laws); (b) any oil, petroleum, petroleum fraction or petroleum derived substance; (c) any drilling fluids, produced waters and other wastes associated with the exploration, development or production of crude oil, natural gas or geothermal resources; (d) any flammable substances or explosives; (e) any radioactive materials; (f) any asbestos-containing materials; (g) urea formaldehyde foam insulation; (h) electrical equipment which contains any oil or dielectric fluid containing polychlorinated biphenyls; (i) pesticides; and (j) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any Government Authority or which may or could pose a hazard to the health and safety of the owners, occupants or any Persons in the vicinity of any Facility or to the indoor or outdoor environment.

**"Hazardous Materials Activity"** means any activity, event or occurrence involving any Hazardous Materials, including the use, manufacture, possession, storage, holding, presence, existence, location, Release, threatened Release, discharge, placement, generation, transportation, processing, construction, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Materials, and any corrective action or response action with respect to any of the foregoing.

**“Hedge Agreement”** means an Interest Rate Agreement, a Currency Agreement or a Natural Gas Hedging Agreement designed to hedge against fluctuations in interest rates or currency values or natural gas prices or availability, respectively.

**“Hedge Agreement Counterparty”** means an entity that has entered into a Hedge Agreement with Company or one of its Subsidiaries and at the time of entering into such Hedge Agreement was a Lender or an Affiliate of a Lender, the obligations under which are secured pursuant to the Collateral Documents and guarantied pursuant to the Guaranties.

**“Highest Lawful Rate”** means the maximum lawful interest rate, if any, that at any time or from time to time may be contracted for, charged, or received under the laws applicable to any Lender which are presently in effect or, to the extent allowed by law, under such applicable laws which may hereafter be in effect and which allow a higher maximum nonusurious interest rate than applicable laws now allow.

**“Increased Amount Date”** has the meaning assigned to that term in Section 2.10(a).

**“Incremental Lender”** has the meaning assigned to that term in Section 2.10(a).

**“Incremental Term Loan Commitments”** has the meaning assigned to that term in Section 2.10(a).

**“Incremental Term Loans”** has the meaning assigned to that term in Section 2.10(a).

**“Incurrence Ratio”** means, as at any date of determination, the ratio of (a) Consolidated Total Debt less any NMTC Indebtedness included therein as such date (and after giving effect to the incurrence of any Indebtedness on such date) to (b) Consolidated Adjusted EBITDA for the most recently ended period of four consecutive Fiscal Quarters of Company for which quarterly unaudited or annual audited financial statements have been delivered pursuant to Section 5.1(b) or (c), as applicable.

**“Indebtedness”,** as applied to any Person, means (i) all indebtedness for borrowed money, (ii) that portion of obligations with respect to Capital Leases that is properly classified as a liability on a balance sheet in conformity with GAAP, (iii) notes payable and drafts accepted representing extensions of credit whether or not representing obligations for borrowed money, (iv) any obligation owed for all or any part of the deferred purchase price of property or services (excluding any such obligations incurred under ERISA), which purchase price is (a) due more than six months from the date of incurrence of the obligation in respect thereof or (b) evidenced by a note or similar written instrument, (v) all indebtedness secured by any Lien on any property or asset owned or held by that Person regardless of whether the indebtedness secured thereby shall have been assumed by that Person or is nonrecourse to the credit of that Person, (vi) indebtedness of any partnership or joint venture in which such Person is a general partner or a joint venturer to the extent such Person is liable therefor as a result of such Person’s ownership interest in such entity, except to the extent that the terms of such indebtedness expressly provide that such Person is not liable therefor or such Person has no liability therefor as a matter of law, and (vii) all Disqualified Stock and all obligations, liabilities and indebtedness of such Person arising from Disqualified Stock issued by such Person. Obligations under Interest Rate Agreements, Currency Agreements and Natural Gas Hedging Agreements constitute (1) in the case of Hedge Agreements, Contingent Obligations, and (2) in all other cases, Investments, and in neither case constitute Indebtedness. Trade accounts payable and accrued obligations incurred in the ordinary course of business on normal trade terms and not overdue by more than 90 days, and obligations incurred under pension and other post-employment benefits arrangements, shall not constitute Indebtedness. Obligations under Operating Leases (other than the principal and interest portions of all rental obligations of such Person under any

synthetic lease or similar off-balance sheet financing where such transaction is considered to be borrowed money for tax purposes but is classified as an operating lease in accordance with GAAP), employment agreements, deferred compensation and contingent post-closing adjustments or earn outs shall not constitute Indebtedness. Obligations arising from transactions consummated pursuant to the Sand Purchase Documents and from undrawn letters of credit shall not constitute Indebtedness.

**"Indemnified Liabilities"** has the meaning assigned to that term in Section 9.3.

**"Indemnified Taxes"** means Taxes other than Excluded Taxes and Other Taxes.

**"Indemnitee"** has the meaning assigned to that term in Section 9.3.

**"Intellectual Property"** means, as to each Loan Party, such Loan Party's now owned and hereafter arising or acquired: patents, patent rights, patent applications, copyrights, works which are the subject matter of copyrights, copyright applications, copyright registrations, trademarks, servicemarks, trade names, trade styles, trademark and service mark applications, and licenses and rights to use any of the foregoing and all applications, registrations and recordings relating to any of the foregoing as may be filed in the United States Copyright Office, the United States Patent and Trademark Office or in any similar office or agency of the United States, any State thereof, any political subdivision thereof or in any other country or jurisdiction, together with all rights and privileges arising under applicable law with respect to any Loan Party's use of any of the foregoing; all extensions, renewals, reissues, divisions, continuations, and continuations-in-part of any of the foregoing; all rights to sue for past, present and future infringement of any of the foregoing; inventions, trade secrets, formulae, processes, compounds, drawings, designs, blueprints, surveys, reports, manuals, and operating standards; goodwill (including any goodwill associated with any trademark or servicemark, or the license of any trademark or servicemark); customer and other lists in whatever form maintained; trade secret rights, copyright rights, rights in works of authorship, domain names and domain name registration; software and contract rights relating to computer software programs, in whatever form created or maintained.

**"Intercreditor Agreement"** means that certain Intercreditor Agreement, dated as of November 25, 2008, by and among, Parent, Company, Subsidiary Guarantors, Administrative Agent and ABL Agent.

**"Interest Payment Date"** means (a) with respect to any Base Rate Loan, each March 31, June 30, September 30 and December 31 of each year, commencing on the first such date to occur after the Second Restatement Date and (b) with respect to any LIBOR Loan, the last day of each Interest Period applicable to such Loan; *provided that* in the case of each Interest Period of longer than three months "Interest Payment Date" shall also include each date that is three months, or a multiple thereof, after the commencement of such Interest Period.

**"Interest Period"** has the meaning assigned to that term in Section 2.2(b).

**"Interest Rate Agreement"** means any interest rate swap agreement, interest rate cap agreement, interest rate collar agreement or other similar agreement or arrangement to which Company or any of its Subsidiaries is a party.

**"Interest Rate Determination Date",** with respect to any Interest Period, means the second Business Day prior to the first day of such Interest Period.

**"Intermediate Holding Companies"** means BMAC Services Co., Inc., BMAC Holdings, Inc. and Better Minerals & Aggregates Company.

**“Internal Revenue Code”** means the Internal Revenue Code of 1986, as amended to the date hereof and from time to time hereafter, and any successor statute.

**“Investment”** means (a) any direct or indirect purchase or other acquisition by Company or any of its Subsidiaries of, or of a beneficial interest in, any Securities of any other Person (including any Subsidiary of Company unless it is a wholly-owned Subsidiary), (b) any direct or indirect redemption, retirement, purchase or other acquisition for value, by any Subsidiary of Company from any Person other than Company or any of its Subsidiaries, of any equity Securities of such Subsidiary, (c) any direct or indirect loan, advance (other than trade credit, advances to employees for moving, entertainment and travel expenses, drawing accounts and similar expenditures in the ordinary course of business) or capital contribution by Company or any of its Subsidiaries to any other Person, including all Indebtedness and accounts receivable from that other Person that are not current assets or did not arise from sales to that other Person in the ordinary course of business or (d) Interest Rate Agreements or Currency Agreements not constituting Hedge Agreements. The amount of any Investment shall be the original cost of such Investment **plus** the cost of all additions thereto, without any adjustments for increases or decreases in value, or write-ups, write-downs or write-offs with respect to such Investment (other than adjustments for the repayment of, or the refund of capital with respect to, the original cost or principal amount of any such Investment).

**“IP Collateral”** means, collectively, the Intellectual Property that constitutes Collateral under the Pledge and Security Agreement.

**“IP Filing Office”** means the United States Patent and Trademark Office, the United States Copyright Office, Canadian Intellectual Property Office or any successor or substitute office in which filings are necessary or, in the reasonable opinion of Administrative Agent, desirable in order to create or perfect Liens on, or otherwise evidence the security interest of Administrative Agent and Lenders in, any IP Collateral.

“**ITT**” shall mean ITT Corporation, a Delaware corporation, and its successors and assigns.

**“ITT Agreement”** means the Agreement of Purchase and Sale of the Capital Stock of Pennsylvania Glass Sand Corporation, dated as of September 12, 1985, made between ITT and Pacific Coast Resources Co., its successors and assigns.

**“Joinder Agreement”** has the meaning assigned to that term in Section 2.10(a).

**“Joint Venture”** means a joint venture, partnership or other similar arrangement, whether in corporate, partnership or other legal form.

**“Landlord Consent and Estoppel”,** with respect to any Leasehold Property, means a letter, certificate or other acknowledgement, agreement or instrument in writing from the lessor under the related lease, reasonably satisfactory in form and substance to Administrative Agent, pursuant to which such lessor agrees, for the benefit of Administrative Agent, to such matters relating to such Leasehold Property as Administrative Agent may reasonably request.

**“Latest Maturity Date”** means, at any date of determination, the latest maturity date applicable to any Loan hereunder at such time, including the latest maturity date of any Incremental Term Loan, any Replacement Loan or any Extension Loan, in each case as extended in accordance with this Agreement from time to time.

**“Leasehold Property”** means any leasehold interest of any Loan Party as lessee under any lease of real property.

**“Lender”** and **“Lenders”** means the Persons identified as “Lenders” and listed on the signature pages of this Agreement and any Joinder Agreement, together with their successors and permitted assigns pursuant to Section 9.1; *provided* that the term “Lenders”, when used in the context of a particular Commitment, shall mean Lenders having that Commitment.

**“LIBOR”** means, for any Interest Rate Determination Date with respect to an Interest Period for a LIBOR Loan, as determined by Administrative Agent, the higher of (i) the London interbank offered rate (rounded upward, if necessary, to the nearest 1/100 of 1%) equal to the offered rate for deposits in Dollars for a period equal to such Interest Period, commencing on the first day of such Interest Period, which appears on Telerate Page 3750 (or such other page as may replace Telerate Page 3750 on that service or any successor service for the purpose of displaying London interbank offered rates of major banks) as of 11:00 A.M. (London time), on the day that is two Business Days prior to the first day of such Interest Period or, if such rate is unavailable for any reason or the Requisite Lenders have notified Company that such rate does not adequately reflect the cost to Requisite Lenders of making, funding or maintaining LIBOR Loans, the average (rounded upward, if necessary, to the nearest 1/100 of 1%) of the rates per annum, confirmed by each Requisite Lender to Administrative Agent, as reflecting their cost of funds at such time in respect of deposits in Dollars offered by the principal office of each Requisite Lender at 11:00 A.M. (London time), on the day that is two Business Days prior to the first day of such Interest Period and on an amount that is approximately equal to the principal amount of the LIBOR Loans to which such Interest Period is applicable, and (ii) 1% per annum.

**“LIBOR Loans”** means Loans bearing interest at rates determined by reference to Adjusted LIBOR as provided in Section 2.2(a).

**“LIBOR Reserve Percentage”** means the reserve percentage (expressed as a decimal, rounded upward, if necessary, to the nearest 1/100 of 1%) in effect on the date LIBOR for such Interest Period is determined (whether or not applicable to any Lender) under regulations issued from time to time by the Federal Reserve Board for determining the maximum reserve requirement (including any emergency, supplemental or other marginal reserve requirement) with respect to Eurocurrency funding (currently referred to as “Eurocurrency liabilities”) having a term comparable to such Interest Period.

**“License Agreement”** means all of the agreements or other arrangements of each Loan Party and Subsidiary thereof pursuant to which such Loan Party or Subsidiary has a license or other right to use any trademarks, logos, designs, representation or other Intellectual Property, material to the business of the Loan Parties and their Subsidiaries taken as a whole, owned by another person as in effect on the date hereof and the dates of the expiration of such agreements or other arrangements of such Loan Party or Subsidiary as in effect on the date hereof as set forth on Schedule 1.1(c).

**“Lien”** means any mortgage, pledge, hypothecation, collateral assignment, security deposit arrangement, security interest, encumbrance, lien (statutory or otherwise), hypothec, preference, priority, or charge of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, any financing or similar statement filed under the UCC as adopted and in effect in the relevant jurisdiction or other similar recording or notice statute, and any lease in the nature thereof).

**“Loan” or “Loans”** means one or more of the term loans made and/or continued by Lenders to Company on the Second Restatement Date pursuant to Section 2.1(a).

**“Loan Documents”** means this Agreement, Amendment No. 1, the Notes, the Guaranties, the Collateral Documents and the Intercreditor Agreement.

**“Loan Exposure”,** with respect to any Lender, means, as of any date of determination (a) prior to the funding of the Loans, the amount of that Lender’s Commitment and (b) after the funding of the Loans, the outstanding principal amount of the Loans of that Lender.

**“Loan Party”** means each of Company and Parent and any of Parent’s Domestic Subsidiaries from time to time executing a Loan Document, and **“Loan Parties”** means all such Persons, collectively.

**“Loan Repurchase Offer”** has the meaning assigned to that term in Section 2.4(b)(iv).

**“Management Agreement”** means that certain Amended and Restated Advisory Agreement, dated as of the Second Restatement Date, by and among GGC Administration, LLC, GGC USS Holdings, LLC, Holdings, Preferred Rocks USS, Inc. and Company.

**“Margin Stock”** has the meaning assigned to that term in Regulation U of the Board of Governors of the Federal Reserve System as in effect from time to time.

**“Material Adverse Effect”** means (i) a material adverse effect upon the business, operations, properties, assets or condition (financial or otherwise) of Parent, Company and Company’s Subsidiaries taken as a whole, (ii) the material impairment of the ability of any Loan Party to perform, or of any Agent or Lenders to enforce, the Obligations or (iii) a material adverse effect on the legality, validity, binding effect or enforceability against any Loan Party of a Loan Document to which it is a party.

**“Material Contract”** means (i) each contract set forth on Schedule 1.1(d) and any replacement thereof, and (ii) any contract which, if terminated prior to its current expiration date, could reasonably be expected to have a Material Adverse Effect with respect to Company or any of its Subsidiaries.

**“Material Leasehold Property”** means a Leasehold Property or any mixed property asset reasonably determined by Administrative Agent to be of material value as Collateral or of material importance to the operations of Company or any of its Subsidiaries.

**“Material Real Property”** means a Real Property Asset or any mixed property asset with a market value of at least $2,000,000.

**“Maturity Date”** means the six year anniversary of the Second Restatement Date.

**“Maximum Consolidated Leverage Ratio”** has the meaning assigned to that term in Section 6.6.

**“Mezzanine Lender”** means GGC Finance Partnership, L.P., in its capacity as a purchaser under the Mezzanine Note Agreement and its successors and assigns in such capacity.

**“Mezzanine Note Agreement”** means that certain Note Purchase Agreement, dated as of November 25, 2008, among Company, Parent, the Subsidiary Guarantors listed therein and GGC Finance Partnership, L.P. (as amended on May 7, 2010 and as thereafter amended, restated, extended, supplemented or otherwise modified from time to time).

**“Mortgage”** means (a) a security instrument (whether designated as a deed of trust or a mortgage or by any similar title) granting a security interest in real property or mixed property executed and delivered by any Loan Party including any amendment, extension, supplement or modification made thereto from time to time, in the form approved by Administrative Agent in its reasonable discretion and in accordance with this Agreement, in each case with such changes thereto as may be reasonably recommended by Administrative Agent’s local counsel based on local laws or customary local mortgage or deed of trust practices or (b) at Administrative Agent’s option, in the case of an Additional Mortgaged Property, an amendment to an existing Mortgage, in form reasonably satisfactory to Administrative Agent, adding such Additional Mortgaged Property to the Real Property Assets or any mixed property asset encumbered by such existing Mortgage.

**"Mortgages"** means all such instruments, including the Second Restatement Date Mortgages and any Additional Mortgages, collectively.

**"Multiemployer Plan"** means a multiemployer plan (as defined in Section 4001(a)(3) of ERISA) which is maintained for, or contributed to (or to which there is an obligation to contribute) on behalf of, employees of any Loan Party or ERISA Affiliate or to which any Loan Party or ERISA Affiliate has or could have any liability or obligation.

**"Natural Gas Hedging Agreement"** means any agreement with respect to, or involving the purchase or hedge of, natural gas or price indices for natural gas or any other similar derivative agreements or arrangements, in each case to which Company or any of its Subsidiaries is a party and entered into to manage fluctuations in the price or availability of natural gas.

**"Net Asset Sale Proceeds",** with respect to any Asset Sale, means Cash payments (including any Cash received by way of deferred payment pursuant to, or by monetization of, a note receivable or otherwise, but only as and when so received) received from such Asset Sale, net of any bona fide direct costs incurred in connection with such Asset Sale, including (i) income or gains taxes reasonably estimated to be actually payable within two years of the date of such Asset Sale as a result of any gain recognized in connection with such Asset Sale, (ii) payment of the outstanding principal amount of, premium or penalty, if any, and interest on any Indebtedness (other than the Loans) that is (a) secured by a Lien on the stock or assets in question or that is not subordinated to the Loans and, in each case, required to be repaid under the terms thereof as a result of such Asset Sale and (b) actually paid on or about the time of receipt of such cash payment to a Person that is not an Affiliate of any Loan Party or of any Affiliate of a Loan Party, and (iii) any actual reasonable reserve for (x) any indemnification payments in respect of such Asset Sale or (y) in the case of a sale of a mine, any cleanup and remediation costs necessary or advisable (by contract or in the reasonable judgment of Company) to prepare such mine for sale; *provided*, *however*, that Net Asset Sale Proceeds shall not include any cash payments received from any Asset Sale by a Foreign Subsidiary unless such proceeds may be repatriated (by reason of a repayment of an intercompany note or otherwise) to the United States without (in the reasonable judgment of Company) resulting in a material Tax liability to Company.

**"Net Insurance/Condemnation Proceeds"** means any Cash payments or proceeds received or released from reserve, as the case may be, by Company or any of its Subsidiaries (i) under any business interruption or casualty insurance policy in respect of a covered loss thereunder (other than proceeds or refunds received in respect of the cancellation or termination of insurance covering Silica Related Claims permitted hereunder) or (ii) as a result of the taking of any assets of Company or any of its Subsidiaries by any Person pursuant to the power of eminent domain, condemnation or otherwise, or pursuant to a sale of any such assets to a purchaser with such power under threat of such a taking, in each case net of any actual and reasonable documented costs incurred by Company or any of its Subsidiaries in connection with the adjustment or settlement of any claims of Company or such Subsidiary in respect thereof and any bona fide direct costs incurred in connection with any such sale, including the costs of the type described in clauses (i), (ii) and (iii) of the definition of Net Asset Sale Proceeds.

**"Net Securities Proceeds"** means the cash proceeds (net of underwriting discounts and commissions and other reasonable costs and expenses associated therewith, including reasonable legal fees and expenses) from the (i) issuance of Capital Stock of or incurrence of Indebtedness by any Loan Party and (ii) capital contributions made by a holder of Capital Stock of Parent.

**"NMTC Indebtedness"** means unsecured Indebtedness incurred by Parent or any of its Subsidiaries in connection with obtaining a New Markets Tax Credit allocation under § 45D of the

Internal Revenue Code and the resulting tax credit equity from a third party; *provided* that (i) such Indebtedness is subordinated to the Loans on terms reasonably acceptable to Administrative Agent, (ii) the aggregate outstanding principal amount of such Indebtedness shall not exceed $80,000,000 (other than interest paid in kind) at any one time, and (iii) the aggregate outstanding principal amount of such Indebtedness (other than (1) interest paid in kind and (2) obligations attributable to NMTC Investments permitted under Section 6.3(u)) shall not exceed $20,000,000 at any one time.

**"NMTC Investment"** means any Investment, directly or indirectly, in (including any loan to) a CDE in connection with obtaining a New Markets Tax Credit allocation under § 45D of the Internal Revenue Code and the resulting tax credit equity from a third party.

**"Non-Consenting Lender"** has the meaning assigned to that term in Section 2.9.

**"Notes"** means any promissory notes of Company issued pursuant to Section 2.1(e) to evidence the Loans of any Lenders, substantially in the form of Exhibit III annexed hereto.

**"Notice of Borrowing"** means a notice substantially in the form of Exhibit I annexed hereto.

**"Notice of Conversion/Continuation"** means a notice substantially in the form of Exhibit II annexed hereto.

**"Obligations"** means all obligations of every nature of each Loan Party from time to time owed to Administrative Agent, the other Agents, Lenders or any of them under the Loan Documents, whether for principal, interest, fees, expenses, indemnification or otherwise.

**"Officer"** means the president, chief executive officer, a vice president, chief financial officer, treasurer, general partner (if an individual), managing member (if an individual) or other individual appointed by the Governing Body or the Organizational Documents of a corporation, partnership, trust or limited liability company to serve in a similar capacity as the foregoing.

**"Officer's Certificate",** as applied to any Person that is a corporation, partnership, trust or limited liability company, means a certificate executed on behalf of such Person by one or more Officers of such Person or one or more Officers of a general partner or a managing member if such general partner or managing member is a corporation, partnership, trust or limited liability company.

**"Operating Lease",** as applied to any Person, means any lease (including leases that may be terminated by the lessee at any time) of any property (whether real, personal or mixed) that is not a Capital Lease other than any such lease under which that Person is the lessor.

**"Organizational Documents"** means the documents (including bylaws, operating agreements, or partnership agreement, if applicable) pursuant to which a Person that is a corporation, partnership, trust or limited liability company is organized.

**"Original Credit Agreement"** means the Credit Agreement dated as of November 25, 2008, among, *inter alios*, Parent, Company, the Subsidiary Guarantors, the lenders party thereto, Bank of Montreal as co-arranger, Siemens Financial Services, Inc. as documentation agent and BNP Paribas as sole lead arranger, sole book runner and administrative agent for the lenders.

**"Other Taxes"** means 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 under any other Loan Document or from the execution, delivery or enforcement of, or otherwise with respect to, this Agreement or any other Loan Document.

**"Parent"** has the meaning assigned to that term in the introduction to this Agreement.

**"Parent Guaranty"** means the Guaranty executed and delivered by Parent on November 25, 2008.

**“Participant”** means a purchaser of a participation in the rights and obligations under this Agreement pursuant to Section 9.1(c).

**“PBGC”** means the Pension Benefit Guaranty Corporation of the USA established pursuant to Section 4002 of ERISA (or any entity succeeding to all or any of its functions under ERISA).

**“Pension Act”** means the United States Pension Protection Act of 2006, as amended.

**“Permits”** has the meaning assigned to that term in Section 4.18(b).

**“Permitted Acquisition”** means the acquisition of all or substantially all of the business and assets or Capital Stock of any Person, which acquisition is permitted pursuant to Section 6.3 or which is otherwise consented to by Requisite Lenders.

**“Permitted Encumbrances”** means the following types of Liens (excluding any such Lien imposed pursuant to Section 401(a)(29) or 412(n) of the Internal Revenue Code or by ERISA, any such Lien relating to or imposed in connection with any Environmental Claim, and any such Lien expressly prohibited by any applicable terms of any of the Collateral Documents):

(a) Liens for taxes, assessments or governmental charges or claims the payment of which is not, at the time, required by Section 5.3;

(b) statutory Liens of landlords, Liens of collecting banks under the UCC on items in the course of collection, statutory Liens and customary rights of set-off of banks, statutory Liens of carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by law, in each case incurred in the ordinary course of business (a) for amounts not yet overdue or (b) for amounts that are overdue and that (in the case of any such amounts overdue for a period in excess of 10 days) are being contested in good faith by appropriate proceedings, so long as (1) such reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made for any such contested amounts, and (2) in the case of a Lien with respect to any portion of the Collateral, such contest proceedings conclusively operate to stay the sale of any portion of the Collateral on account of such Lien;

(c) deposits made in the ordinary course of business in connection with workers’ compensation, unemployment insurance and other types of social security, or to secure the performance of statutory obligations, bids, leases, government contracts, trade contracts, and other similar obligations (exclusive of obligations for the payment of borrowed money), so long as no foreclosure, sale or similar proceedings have been commenced with respect to any portion of the Collateral on account thereof;

(d) any attachment or judgment Lien not constituting an Event of Default under Section 7.8;

(e) licenses (with respect to Intellectual Property and other property), leases or subleases granted to third parties in accordance with any applicable terms of the Collateral Documents and not interfering in any material respect with the ordinary conduct of the business of Company or any of its Subsidiaries or resulting in a material diminution in the value of any Collateral as security for the Obligations;

(f) easements, rights-of-way, restrictions, encroachments, covenants and other minor defects or irregularities in title, in each case which do not and will not interfere in any material respect with the ordinary conduct of the business of Company or any of its Subsidiaries or result in a material diminution in the value of any material portion of the Collateral as security for the Obligations;

(g) any (a) interest or title of a lessor or sublessor under any lease not prohibited by this Agreement, (b) Lien or restriction that the interest or title of such lessor or sublessor may be subject to, or (c) subordination of the interest of the lessee or sublessee under such lease to any Lien or restriction referred to in the preceding clause (b), so long as the holder of such Lien or restriction agrees to recognize the rights of such lessee or sublessee under such lease;

(h) Liens arising from filing UCC financing statements relating solely to leases not prohibited by this Agreement;

(i) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(j) any zoning or similar law or right reserved to or vested in any Government Authority to control or regulate the use of any real property;

(k) Liens granted pursuant to the Collateral Documents;

(l) receipt of progress payments and advances from customers in the ordinary course of business to the extent the same creates a Lien by operation of law on the related inventory and proceeds thereof;

(m) Liens on insurance policies and the proceeds thereof securing the financing of the insurance premiums with the providers of such insurance and their Affiliates in respect thereof;

(n) Liens on any assets that are the subject of an agreement for disposition thereof expressly permitted under Section 6.7 that arise due to the existence of such agreement; and

(o) Liens securing obligations (other than obligations representing Indebtedness for borrowed money) under operating, reciprocal easement or similar agreements entered into in the ordinary course of business of Company and its Subsidiaries.

**"Permitted Holder"** means Golden Gate, its Affiliates or any Permitted Transferee thereof.

**"Permitted Indebtedness"** means any Indebtedness permitted under Section 6.1.

**"Permitted Refinancings"** means, with respect to any Subordinated Indebtedness, any refinancing, refunding, renewal, replacement, waiver, amendment, restatement, extension, supplement or other modification of such Indebtedness *provided that* such refinancing, refunding, renewal, replacement, waiver, amendment, restatement, supplement, extension or other modification does not (i) result in the applicable cash rate of interest and payment in kind rate of interest payable in respect of such Subordinated Indebtedness exceeding, in aggregate, more than an applicable LIBOR rate plus 12% *per annum* (subject to an increase in the interest rate during the continuance of an event of default under the documents evidencing such Subordinated Indebtedness in an amount not to exceed 2%), (ii) change (to earlier dates) any dates upon which payments of principal or interest are due thereon, (iii) change any event of default or condition to an event of default with respect thereto (other than to eliminate any such event of default or increase any grace period related thereto), (iv) change the redemption, prepayment or defeasance provisions thereof to make more onerous, change the subordination provisions thereof (or of any guaranty thereof), or (v) increase the outstanding principal amount of such Subordinated Indebtedness (other than on account of accrued interest, premium, fees and expenses) unless otherwise permitted as new Subordinated Indebtedness under Section 6.1(m), *provided further that the* effect of such refinancing, refunding, renewal, replacement, waiver, amendment, restatement, supplement, extension or other modification, together with all other refinancing, refunding, renewal, replacement, waiver, amendment, restatement, supplement, extension or other modification made, does not increase materially the obligations of the obligor thereunder or to confer any additional rights on the holders of such Subordinated Indebtedness (or a trustee or other representative on their behalf) which would be materially adverse to Company or Lenders.

**“Permitted Transferees”** means, with respect to any Person, (i) any Affiliate of such Person, (ii) the heirs, executors, administrators, testamentary trustees, legatees or beneficiaries of any such Person or (iii) a trust, the beneficiaries of which, or a corporation or partnership, the stockholders, or general and limited partners, of which, or a limited liability company, the members of which, include only such Person or his or her spouse or lineal descendants, in each case to whom such Person has transferred the beneficial ownership of any Capital Stock of Parent.

**“Person”** means and includes natural persons, corporations, limited partnerships, general partnerships, limited liability companies, limited liability partnerships, joint stock companies, Joint Ventures, associations, companies, trusts, banks, trust companies, land trusts, business trusts or other organizations, whether or not legal entities, and Government Authorities.

**“Pledge and Security Agreement”** means the Pledge and Security Agreement executed and delivered on November 25, 2008.

**“Pledged Collateral”** means, collectively, the “Pledged Collateral” as defined in the Pledge and Security Agreement, any Foreign Pledge Agreement or any other Collateral Document.

**“Potential Event of Default”** means a condition or event that, after notice or lapse of time or both, would constitute an Event of Default.

**“Prime Rate”** means the rate that Administrative Agent announces from time to time as its prime rate, effective as of the date announced as the effective date of any change in such prime rate. Without notice to Company or any other Person (other than such announcement), the Prime Rate shall change automatically from time to time as and in the amount by which such prime rate shall fluctuate. The Prime Rate is a reference rate and does not necessarily represent the lowest or best rate actually charged to any customer. BNP Paribas or any other Lender may make commercial loans or other loans at rates of interest at, above or below the Prime Rate.

**“Pro Forma Basis”** means, with respect to compliance with any test or covenant hereunder, compliance with such test or covenant after giving effect to (a) the Transactions, (b) any proposed Permitted Acquisition, (c) any Asset Sale of a Subsidiary or operating entity for which historical financial statements for the relevant period are available or (d) any incurrence of Indebtedness (including (i) pro forma adjustments arising out of events which are directly attributable to the Transactions, the proposed Permitted Acquisition, Asset Sale or incurrence of Indebtedness, are factually supportable and are expected to have a continuing impact, in each case as determined on a basis consistent with Article 11 of Regulation S-X, as interpreted by the staff of the Securities and Exchange Commission, (ii) such other adjustments as are reasonably satisfactory to Administrative Agent (acting upon the instructions of Requisite Lenders), and (iii) such other adjustments as calculated by an accounting or consulting firm of national standing, in each case as certified by the chief financial officer of Company) using, for purposes of determining such compliance, the historical financial statements of all entities or assets so acquired or sold and the consolidated financial statements of Company and its Subsidiaries, which shall be reformulated as if such Permitted Acquisitions or Asset Sale, and all other Permitted Acquisitions or Asset Sales that have been consummated during the period, and any Indebtedness or other liabilities to be incurred or repaid in connection therewith had been consummated and incurred or repaid at the beginning of such period (and assuming that such Indebtedness to be incurred bears interest during any portion of the applicable measurement period prior to the relevant acquisition at the weighted average of the interest rates applicable to outstanding Loans incurred during such period).

**"Pro Rata Share"** means with respect to all payments, computations and other matters relating to the Commitment or the Loan of any Lender, the percentage obtained by dividing (i) the Loan Exposure of that Lender by (ii) the aggregate Loan Exposure of all Lenders. The initial Pro Rata Share of each Lender for the purposes of each of clauses (i) and (ii) of the preceding sentence will be set forth opposite the name of that Lender on a schedule to be held by Administrative Agent.

**"Proceedings"** means any litigation, action, suit, proceeding (whether administrative, judicial or otherwise), governmental investigation or arbitration.

"**PubCo**" means U.S. Silica Holdings, Inc. a Delaware corporation.

**"Purchaser"** has the meaning assigned to that term in Section 2.4(b)(iv).

**"Qualified Capital Stock"** means any Capital Stock of any Person that is not Disqualified Stock.

**"Real Property Asset"** means, at any time of determination, any interest then owned by any Loan Party in any real property.

**"Refinanced Loans"** has the meaning assigned to that term in Section 9.6(d).

**"Refinancing Lender"** means, at any time, Lenders and any bank, financial institution or other institutional lender or investor (other than any such bank, financial institution or other institutional lender or investor that is a Lender at such time) that agrees to provide any portion of Replacement Loans; *provided that* each Refinancing Lender shall be subject to the consent of (i) Administrative Agent, if such consent would be required under Section 9.1(b) for an assignment of Loans to such Refinancing Lender, and (ii) Company.

**"Register"** has the meaning assigned to that term in Section 2.1(d).

**"Regulation D"** means Regulation D of the Board of Governors of the Federal Reserve System, as in effect from time to time.

**"Regulation S-X"** means Regulation S-X promulgated under the Exchange Act or any similar regulation then in effect, as amended or modified from time to time and a reference to a particular provision thereof shall include a reference to the comparable provision if any of any such similar regulation.

**"Related Agreements"** means, collectively, the Management Agreement, the ABL Loan Documents and the Sand Purchase Documents.

**"Release"** means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of Hazardous Materials into the indoor or outdoor environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Materials), including the movement of any Hazardous Materials through the air, soil, surface water or groundwater.

**"Replacement Loans"** has the meaning assigned to that term in Section 9.6(d).

**"Repurchase Offer Loans"** has the meaning assigned to that term in Section 2.4(b)(iv).

**"Requisite Lenders"** means Lenders having or holding more than 50% of the sum of the aggregate Loan Exposure of all Lenders.

**"Restricted Junior Payment"** means (i) any dividend or other distribution, direct or indirect, on account of any shares of any class of stock of Parent, Company or any of their Subsidiaries now or hereafter outstanding, except a dividend payable solely in shares of that class of stock to the holders of that class, (ii) any redemption, retirement, sinking fund or similar payment, purchase or other

acquisition for value, direct or indirect, of any shares of any class of stock of Parent, Company or any of their Subsidiaries now or hereafter outstanding, (iii) any payment made to retire, or to obtain the surrender of, any outstanding warrants, options or other rights to acquire shares of any class of stock of Parent, Company or any of their Subsidiaries now or hereafter outstanding, and (iv) any payment or prepayment of principal of, premium, if any, or interest on, or redemption, purchase, retirement, defeasance (including in-substance or legal defeasance), sinking fund or similar payment with respect to, any Subordinated Indebtedness.

**“Sand Processing and Delivery Agreements”** means, collectively, Sand Processing and Delivery Agreements between Preferred Rocks USS and Company dated November 24, 2008 relating to the Sand Purchase Agreements.

**“Sand Purchase Agreements”** means, collectively, the Sand Purchase Agreements dated November 24, 2008 (as amended and restated on November 25, 2008, as amended on January 1, 2010 and as thereafter amended, restated, supplemented, extended or otherwise modified from time to time in accordance with their terms) between Preferred Rocks USS and each of Superior Well Services, Inc. and Schlumberger Technology Corporation.

**“Sand Purchase Documents”** means the Sand Purchase Agreements, Sand Processing and Delivery Agreement, the Conveyance of Undivided Mineral Interest and any promissory notes, subordination, attornment and non-disturbance agreements, mortgage, security agreement, financing statements and other documents executed in connection therewith.

**“Second Restatement Date”** means June 8, 2011.

**“Second Restatement Date Mortgage Policies”** has the meaning assigned to that term in Section 3.10(d).

**“Second Restatement Date Mortgaged Property”** has the meaning assigned to that term in Section 3.10(a).

**“Second Restatement Date Mortgages”** has the meaning assigned to that term in Section 3.10(a).

**“Secured Parties”** means Lenders, Administrative Agent, Arranger, Collateral Agent, Hedge Agreement Counterparties and the successors and assigns of each of the foregoing.

**“Securities”** means any stock, shares, partnership interests, voting trust certificates, certificates of interest or participation in any profit-sharing agreement or arrangement, options, warrants, bonds, debentures, notes, or other evidences of Indebtedness, secured or unsecured, convertible, subordinated, certificated or uncertificated, or otherwise, or in general any instruments commonly known as “securities” or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

**“Securities Account”** means an account to which a financial asset is or may be credited in accordance with an agreement under which the Person maintaining the account undertakes to treat the Person for whom the account is maintained as entitled to exercise the rights that comprise the financial asset.

**“Securities Act”** means the Securities Act of 1933, as amended from time to time, and any successor statute.

**“Silica Related Claims”** shall mean claims (other than workers compensation claims) against Parent or any of its Subsidiaries alleging silica exposure, including those that allege that silica products sold by Parent or any of its Subsidiaries (or their predecessor-in-interest) were defective or that said Person acted negligently in selling products without a warning or with an inadequate warning.

**“Silica Related Claims Policies”** shall have the meaning given to such term in Section 5.4(b)(ii).

**“Solvent”**, with respect to any Person, means that as of the date of determination both (i)(a) the then fair saleable value of the property of such Person is (1) greater than the total amount of liabilities (including contingent liabilities) of such Person and (2) not less than the amount that will be required to pay the probable liabilities on such Person’s then existing debts as they become absolute and due considering all financing alternatives and potential asset sales reasonably available to such Person; (b) such Person’s capital is not unreasonably small in relation to its business or any contemplated or undertaken transaction; and (c) such Person does not intend to incur, or believe (nor should it reasonably believe) that it will incur, debts beyond its ability to pay such debts as they become due; and (ii) such Person is “solvent” within the meaning given that term and similar terms under applicable laws relating to fraudulent transfers and conveyances. For purposes of this definition, the amount of any contingent liability at any time shall be computed as the amount that, in light of all of the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

**“Specified Equity Contribution”** has the meaning assigned to that term in clause (c) of ARTICLE VII.

**“Subject Lender”** has the meaning assigned to that term in Section 2.9.

**“Subordinated Indebtedness”** means any Indebtedness of any Loan Party permitted hereunder incurred from time to time and subordinated in right of payment to the Obligations on terms reasonably satisfactory to Administrative Agent.

**“Subordination Agreement”** means that certain Subordination Agreement, dated as of November 25, 2008, by and among, Administrative Agent, ABL Agent and Mezzanine Lender, as amended by that certain Amendment No. 1 to Subordination Agreement, dated as of May 7, 2010.

**“Subsidiary”,** with respect to any Person, means any corporation, partnership, trust, limited liability company, association, Joint Venture or other business entity of which more than 50% of the total voting power of shares of stock or other ownership interests entitled (without regard to the occurrence of any contingency) to vote in the election of the members of the Governing Body is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof.

**“Subsidiary Guarantor”** has the meaning assigned to that term in the introduction to this Agreement.

**“Subsidiary Guaranty”** means the Subsidiary Guaranty executed and delivered by existing Domestic Subsidiaries of Parent (other than Company) on November 25, 2008 and executed and delivered by additional Domestic Subsidiaries of Parent from time to time thereafter in accordance with Section 5.9.

**“Supplemental Collateral Agent”** has the meaning assigned to that term in Section 8.1(b).

**“Tax”** or **“Taxes”** means any present or future tax, levy, impost, duty, fee, assessment, deduction, withholding or other charge of any nature and whatever called, imposed by a Government Authority, on whomsoever and wherever imposed, levied, collected, withheld or assessed, including interest, penalties, additions to tax and any similar liabilities with respect thereto.

**“Transaction Costs”** means all fees, costs, expenses, premiums, termination payments, prepayment penalties incurred or paid by any Loan Party on or before the Second Restatement Date in connection with the Transactions, including any fees referred to in Section 2.3 payable to Administrative Agent or Lenders on or before the Second Restatement Date and fees or original issue discount in connection with the Funding Requirements; *provided* that Transaction Costs on or before the Second Restatement Date shall not exceed $5,000,000 in the aggregate.

**“Transaction Documents”** means, collectively, the Loan Documents and the Related Agreements.

**“Transactions”** means, collectively, (i) the execution and delivery of any amended or amended and restated Loan Documents and the borrowing of the Loans on the Second Restatement Date, (ii) the repayment in full of all amounts outstanding or becoming due under the Mezzanine Note Agreement and the termination of such agreement and the Subordination Agreement, (iii) the execution and delivery of any amended or amended and restated ABL Loan Documents, and (iv) the payment of a cash dividend of no more than $25,000,000 from Company to Parent and Parent to Hourglass Holdings, LLC.

**“UCC”** means the Uniform Commercial Code as in effect in any applicable jurisdiction.

**“USA Patriot Act”** means The Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (Title III of Pub. L. No. 107-56 (signed into law October 26, 2001)).

**“Unasserted Obligations”** means, at any time, Obligations for Taxes, costs, indemnifications, reimbursements, damages and other liabilities (except for the principal of and interest on, and fees relating to, any Indebtedness) in respect of which no claim or demand for payment has been made (or, in the case of Obligations for indemnification, no notice for indemnification has been issued by the Indemnitee) at such time.

**“Weighted Average Life to Maturity”** means, when applied to any Indebtedness at any date, the number of years obtained by dividing: (i) the sum of the products obtained by multiplying (a) the amount of each then remaining installment, sinking fund, serial maturity or other required payments of principal, including payment at final maturity, in respect thereof, by (b) the number of years (calculated to the nearest one-twelfth) that will elapse between such date and the making of such payment by (ii) the then outstanding principal amount of such Indebtedness.

**“Voting Securities”** means, with respect to any Person, the Capital Stock of such Person of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of members of the Governing Body (or Persons performing similar functions) of such Person.

**Section 1.2 Accounting Terms; Utilization of GAAP for Purposes of Calculations Under Agreement**

Except as otherwise expressly provided in this Agreement, all accounting terms not otherwise defined herein shall have the meanings assigned to them in conformity with GAAP. Financial statements and other information required to be delivered by Company to Lenders pursuant to clauses (b), (c) and (j) of Section 5.1 shall be prepared in accordance with GAAP as in effect at the time of such preparation (and delivered together with the reconciliation statements provided for in Section 5.1(e)). Calculations in connection with the definitions, covenants and other provisions of this Agreement shall utilize GAAP as in effect on the date of determination, applied in a manner consistent with that used in preparing the financial statements referred to in Section 4.3. If at any time any change in GAAP would affect the computation of any financial ratio or requirement set forth in any Loan Document, and Company, Administrative Agent or Requisite Lenders shall so request,

Administrative Agent and Company shall negotiate in good faith to amend such ratio or requirement to preserve the original intent thereof in light of such change in GAAP (subject to the approval of Requisite Lenders), *provided that*, until so amended, such ratio or requirement shall continue to be computed in accordance with GAAP prior to such change therein and Company shall provide to Administrative Agent and Lenders reconciliation statements provided for in Section 5.1(e).

**Section 1.3 Other Definitional Provisions and Rules of Construction**

(a) Any of the terms defined herein may, unless the context otherwise requires, be used in the singular or the plural, depending on the reference.

(b) References to "Sections" and "Sections" shall be to Sections and Sections, respectively, of this Agreement unless otherwise specifically provided. Section and Section headings in this Agreement are included herein for convenience of reference only and shall not constitute a part of this Agreement for any other purpose or be given any substantive effect.

(c) The use in any of the Loan Documents of the word "include" or "including", when following any general statement, term or matter, shall not be construed to limit such statement, term or matter to the specific items or matters set forth immediately following such word or to similar items or matters, whether or not nonlimiting language (such as "without limitation" or "but not limited to" or words of similar import) is used with reference thereto, but rather shall be deemed to refer to all other items or matters that fall within the broadest possible scope of such general statement, term or matter.

(d) Unless otherwise expressly provided herein, references to Organizational Documents, agreements (including the Loan Documents) and other contractual instruments shall be deemed to include all subsequent amendments, restatements, amendment and restatements, extensions, supplements and other modifications thereto.

(e) Whenever any provision in any Loan Document refers to the knowledge (or an analogous phrase) of any Loan Party, such words are intended to signify that such Loan Party has actual knowledge or awareness of a particular fact or circumstance or that such Loan Party, if it had exercised reasonable diligence, would have known or been aware of such fact or circumstance.

**Section 1.4 No Novation**

It is the intent of the parties hereto that this Agreement does not constitute a novation of rights, obligations and liabilities of the respective parties existing under the First Amended and Restated Credit Agreement or evidence payment of all or any of such obligations and liabilities and such rights, obligations and liabilities shall continue and remain outstanding, and that this Agreement amends and restates in its entirety the First Amended and Restated Credit Agreement.

## ARTICLE II
## AMOUNTS AND TERMS OF COMMITMENTS AND LOANS

**Section 2.1 Commitments; Making of Loans; the Register; Optional Notes**

**(a)** **Commitments** Subject to the terms and conditions of this Agreement and in reliance upon the representations and warranties of Company herein set forth, each Lender severally agrees to lend to Company (including, as applicable, to continue its outstanding First Restatement Loans) on the Second Restatement Date an amount not exceeding its Pro Rata Share of the aggregate amount of the Commitments to be used for the purposes identified in Section 2.5(a) and funded and continued in accordance with the Funds Flow Memorandum. The amount of each Lender's

Commitment shall be set forth opposite its name on a schedule held by Administrative Agent and the aggregate amount of the Commitments is $260,000,000; *provided that* the amount of the Commitment of each Lender shall be adjusted to give effect to any assignment of such Commitment pursuant to Section 9.1(b). Company may make only one borrowing under the Commitments. For the avoidance of doubt, such borrowing made by Company pursuant to this Section 2.1(a) shall be deemed to include the Loans made by the Lenders on the Second Restatement Date as requested pursuant to the Notice of Borrowing dated on or about the Second Restatement Date and the outstanding First Restatement Loans under the First Amended and Restated Credit Agreement and continued hereunder and such borrowing shall be deemed to be made on the Second Restatement Date on the same terms and conditions as the Loans requested pursuant to the Notice of Borrowing delivered on or about the Second Restatement Date. Amounts borrowed under this Section 2.1(a) and subsequently repaid or prepaid may not be reborrowed.

(b) **Borrowing Mechanics**

(i) **Borrowing Notices and Amounts** The Loans shall be made on the Second Restatement Date in an aggregate minimum amount of $500,000 and multiples of $100,000 in excess of that amount. Company shall deliver to Administrative Agent a duly executed Notice of Borrowing no later than 12:00 Noon (New York City time) at least three Business Days in advance of the Second Restatement Date (in the case of a LIBOR Loan) or at least one Business Day in advance of the Second Restatement Date (in the case of a Base Rate Loan). Loans may be continued as or converted into Base Rate Loans and LIBOR Loans in the manner provided in Section 2.2(d). In lieu of delivering a Notice of Borrowing, Company may give Administrative Agent telephonic notice by the required time for the proposed borrowing under this Section 2.1(b); *provided that* such notice shall be promptly confirmed in writing by delivery of a duly executed Notice of Borrowing to Administrative Agent before the Second Restatement Date.

(ii) **Telephonic Notice** Neither Administrative Agent nor any Lender shall incur any liability to Company in acting upon any telephonic notice referred to above that Administrative Agent believes in good faith to have been given by an Officer or other Person authorized to borrow on behalf of Company or for otherwise acting in good faith under this Section 2.1(b) or under Section 2.2(d), and upon funding of Loans by Lenders, and upon conversion or continuation of the applicable basis for determining the interest rate with respect to any Loans pursuant to Section 2.2(d), in each case in accordance with this Agreement, pursuant to any such telephonic notice Company shall have effected Loans or a conversion or continuation thereof, as the case may be, hereunder.

(iii) **Certification by Company** Company shall notify Administrative Agent prior to the Second Restatement Date in the event that any of the matters to which Company is required to certify in the Notice of Borrowing is no longer true and correct as of the Second Restatement Date, and the acceptance by Company of the proceeds of any Loans shall constitute a re-certification by Company as of the Second Restatement Date, as to the matters to which Company is required to certify in the Notice of Borrowing.

(iv) **Notice Irrevocable** Except as otherwise provided in Section 2.6(b), 2.6(c) and 2.6(g), a Notice of Borrowing for, or a Notice of Conversion/Continuation for conversion to, or continuation of, a LIBOR Loan (or telephonic notice in lieu thereof) shall be irrevocable on and after the related Interest Rate Determination Date, and Company shall be bound to make a borrowing or to effect a conversion or continuation in accordance therewith.

(c) **Disbursement of Funds** All Loans shall be made by Lenders simultaneously and proportionately to their respective Pro Rata Shares, it being understood that neither Administrative Agent nor any Lender shall be responsible for any default by any other Lender in that other Lender's obligation to make a Loan requested hereunder nor shall the amount of the Commitment of any Lender to make the particular type of Loan requested be increased or decreased as a result of a default by any other Lender in that other Lender's obligation to make a Loan requested hereunder. Promptly after receipt by Administrative Agent of a Notice of Borrowing pursuant to Section 2.1(b) (or telephonic notice in lieu thereof), Administrative Agent shall notify each Lender of the proposed borrowing. Each Lender shall make the amount of its Loan available to Administrative Agent not later than 12:00 Noon (New York City time) on the Second Restatement Date, in each case in same day funds in Dollars, at the Funding and Payment Office in accordance with the Funds Flow Memorandum.

Unless Administrative Agent shall have been notified by any Lender prior to the Second Restatement Date that such Lender does not intend to make available to Administrative Agent the amount of such Lender's Loan requested on the Second Restatement Date, Administrative Agent may assume that such Lender has made such amount available to Administrative Agent on the Second Restatement Date and Administrative Agent may, in its sole discretion, but shall not be obligated to, make available to Company a corresponding amount on the Second Restatement Date. If such corresponding amount is not in fact made available to Administrative Agent by such Lender, Administrative Agent shall promptly notify Company and shall be entitled to recover such corresponding amount on demand from such Lender together with interest thereon, for each day from the Second Restatement Date until the date such amount is paid to Administrative Agent, at the customary rate set by Administrative Agent for the correction of errors among banks for three Business Days and thereafter at the Base Rate. If such Lender does not pay such corresponding amount forthwith upon Administrative Agent's demand therefor, Administrative Agent shall promptly notify Company and Company shall immediately pay such corresponding amount to Administrative Agent together with interest thereon, for each day from the Second Restatement Date until the date such amount is paid to Administrative Agent, at the rate payable under this Agreement for Base Rate Loans. Nothing in this Section 2.1(c) shall be deemed to relieve any Lender from its obligation to fulfill its Commitments hereunder or to prejudice any rights that Company may have against any Lender as a result of any default by such Lender hereunder.

(d) **The Register** Administrative Agent, acting for these purposes solely as an agent of Company (it being acknowledged that Administrative Agent, in such capacity, and its officers, directors, employees, agent and Affiliates shall constitute Indemnitees under Section 9.3), shall maintain (and make available for inspection by Company and Lenders (solely as it relates to such Lender's Commitments) upon reasonable prior notice at reasonable times) at its address referred to in Section 9.8 a register for the recordation of, and shall record, the names and addresses of Lenders and the

respective amounts of the Commitment and Loan of each Lender from time to time (the **“Register”).** Company, Administrative Agent and Lenders shall deem and treat the Persons listed as Lenders in the Register as the holders and owners of the corresponding Commitments and Loans listed therein for all purposes hereof; all amounts owed with respect to any Commitment or Loan shall be owed to the Lender listed in the Register as the owner thereof; and any request, authority or consent of any Person who, at the time of making such request or giving such authority or consent, is listed in the Register as a Lender shall be conclusive and binding on any subsequent holder, assignee or transferee of the corresponding Commitments or Loans. Each Lender shall record on its internal records the amount of its Loans and Commitments and each payment in respect hereof, and any such recordation shall be conclusive and binding on Company, absent manifest error, subject to the entries in the Register, which shall, absent manifest error, govern in the event of any inconsistency with any Lender’s records. Failure to make any recordation in the Register or in any Lender’s records, or any error in such recordation, shall not affect any Loans or Commitments or any Obligations in respect of any Loans.

(e) **Optional Notes** If so requested by any Lender by written notice to Company (with a copy to Administrative Agent) at least two Business Days prior to the Second Restatement Date or at any time thereafter, Company shall execute and deliver to such Lender (and/or, if applicable and if so specified in such notice, to any Person who is an assignee of such Lender pursuant to Section 9.1) on the Second Restatement Date (or, if such notice is delivered after the date that is two Business Days prior to the Second Restatement Date, promptly after Company’s receipt of such notice) a promissory note to evidence such Lender’s Loan, substantially in the form of Exhibit III annexed hereto, with appropriate insertions.

**Section 2.2 Interest on the Loans**

(a) **Rate of Interest** Subject to the provisions of Sections 2.6 and 2.7, the Loans shall bear interest on the unpaid principal amount thereof from the date made through maturity (whether by acceleration or otherwise) at a rate determined by reference to the Base Rate or LIBOR. Subject to Sections 2.10 and 2.11, the applicable basis for determining the rate of interest with respect to the Loans shall be selected by Company initially at the time a Notice of Borrowing is given pursuant to Section 2.1(b) (subject to the basis for determining the interest rate with respect to the Loans being changed from time to time pursuant to Section 2.2(d)). If on any day notice has not been delivered to Administrative Agent in accordance with the terms of this Agreement specifying the applicable basis for determining the rate of interest, then for that day the Loans shall bear interest determined by reference to the Base Rate.

(i) **Loans** Subject to the provisions of Sections 2.2(d), 2.2(e), 2.2(g), 2.7, 2.10 and 2.11, the Loans shall bear interest through maturity as follows:

(A) if a Base Rate Loan, then at the sum of the Base Rate **plus** 2.75% per annum; or

(B) if a LIBOR Loan, then at the sum of Adjusted LIBOR **plus** 3.75% per annum.

(b) **Interest Periods** In connection with each LIBOR Loan, Company may, pursuant to the Notice of Borrowing or a Notice of Conversion/Continuation, as the case may be, select an interest period (each an **"Interest Period")** to be applicable to such Loan, which Interest Period shall be, at Company's option, a one, two, three or six month, or, if available to all the Lenders, nine or twelve month, period; provided that:

(i) the initial Interest Period for any LIBOR Loan shall commence on the Second Restatement Date, in the case of a Loan initially made as a LIBOR Loan, or on the date specified in the applicable Notice of Conversion/Continuation, in the case of a Loan converted to a LIBOR Loan;

(ii) in the case of immediately successive Interest Periods applicable to a LIBOR Loan continued as such pursuant to a Notice of Conversion/Continuation, each successive Interest Period shall commence on the day on which the next preceding Interest Period expires;

(iii) if an Interest Period would otherwise expire on a day that is not a Business Day, such Interest Period shall expire on the next succeeding Business Day; *provided that*, if any Interest Period would otherwise expire on a day that is not a Business Day but is a day of the month after which no further Business Day occurs in such month, such Interest Period shall expire on the next preceding Business Day;

(iv) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall, subject to clause (v) of this Section 2.2(b), end on the last Business Day of a calendar month;

(v) no Interest Period with respect to any portion of the Loans shall extend beyond the Maturity Date;

(vi) no Interest Period with respect to any Loans shall extend beyond a date on which Company is required to make a scheduled payment of principal of the Loans, unless the sum of (a) the aggregate principal amount of the Loans that are Base Rate Loans **plus** (b) the aggregate principal amount of the Loans that are LIBOR Loans with Interest Periods expiring on or before such date equals or exceeds the principal amount required to be paid on the Loans on such date;

(vii) there shall be no more than ten Interest Periods outstanding at any time;

(viii) in the event Company fails to specify an Interest Period for any LIBOR Loan in the Notice of Borrowing or a Notice of Conversion/Continuation, Company shall be deemed to have selected an Interest Period of one month; and

(ix) no new Interest Period may be selected whilst any Event of Default has occurred and is continuing.

(c) **Interest Payments** Subject to the provisions of Section 2.2(e), interest on each Loan shall be payable in arrears on and to each Interest Payment Date applicable to that Loan, upon any prepayment of that Loan (to the extent accrued on the amount being prepaid) and at maturity (including final maturity).

(d) **Conversion or Continuation**

(i) **Minimum Amount** Subject to the provisions of Section 2.6, Company shall have the option (i) to convert at any time all or any part of the outstanding Loans equal to $500,000 and multiples of $100,000 in excess of that amount

from Loans bearing interest at a rate determined by reference to one basis to Loans bearing interest at a rate determined by reference to an alternative basis or (ii) upon the expiration of any Interest Period applicable to a LIBOR Loan, to continue all or any portion of such Loan equal to $500,000 and multiples of $100,000 in excess of that amount as a LIBOR Loan; *provided, however, that a* LIBOR Loan may only be converted into a Base Rate Loan on the expiration date of an Interest Period applicable thereto.

(ii) **Conversion/Continuation Notice** Company shall deliver a duly executed Notice of Conversion/Continuation to Administrative Agent no later than 10:00 AM (New York City time) at least one Business Day in advance of the proposed conversion date (in the case of a conversion to a Base Rate Loan) and no later than 12:00 Noon (New York City time) at least three Business Days in advance of the proposed conversion/continuation date (in the case of a conversion to, or a continuation of, a LIBOR Loan). In lieu of delivering a Notice of Conversion/Continuation, Company may give Administrative Agent telephonic notice by the required time of any proposed conversion/continuation under this Section *2.2(d); provided that* such notice shall be promptly confirmed in writing by delivery of a duly executed Notice of Conversion/Continuation to Administrative Agent before the proposed conversion/continuation date. Administrative Agent shall notify each Lender of any Notice of Conversion/Continuation.

(e) **Default Rate** Upon the occurrence and continuance of an Event of Default of the type set forth in Section 7.1, 7.6 or 7.7, the aggregate outstanding principal amount of all Loans, any interest payments thereon then due and payable and any fees and other amounts then due and payable shall thereafter bear interest (including post-petition interest in any Proceeding under the Bankruptcy Code or other applicable bankruptcy laws) at a rate which is 2% per annum in excess of the interest rate otherwise payable under this Agreement with respect to the applicable Loans (or, in the case of any such fees and other amounts, at a rate which is 2% per annum in excess of the interest rate otherwise payable under this Agreement for Base Rate Loans) and shall be payable on demand by Administrative Agent; *provided that*, in the case of LIBOR Loans upon the expiration of the Interest Period in effect at the time any such increase in interest rate is effective such LIBOR Loans shall become Base Rate Loans and such Loans shall thereafter bear interest payable upon demand at a rate which is 2% per annum in excess of the interest rate otherwise payable under this Agreement for Base Rate Loans. Payment or acceptance of the increased rates of interest provided for in this Section 2.2(e) is not a permitted alternative to timely payment and shall not constitute a waiver of any Event of Default or otherwise prejudice or limit any rights or remedies of Administrative Agent or any Lender.

(f) **Computation of Interest** Interest on the Loans shall be computed (i) in the case of Base Rate Loans calculated using the Prime Rate, on the basis of a 365-day or 366-day year, as the case may be, and (ii) in the case of LIBOR Loans and Base Rate Loans calculated using the Federal Funds Effective Rate, on the basis of a 360-day year, in each case for the actual number of days elapsed in the period during which it accrues. In computing interest on any Loan, the date of the making of such Loan or the first day of an Interest Period applicable to such Loan or, with respect to a Base Rate Loan being converted from a LIBOR Loan, the date of conversion of such LIBOR Loan to such Base Rate Loan, as the case may be, shall be included, and the date of

payment of such Loan or the expiration date of an Interest Period applicable to such Loan or, with respect to a Base Rate Loan being converted to a LIBOR Loan, the date of conversion of such Base Rate Loan to such LIBOR Loan, as the case may be, shall be excluded; *provided that* if a Loan is repaid on the same day on which it is made, one day's interest shall be paid on that Loan.

(g) **Maximum Rate** Notwithstanding the foregoing provisions of this Section 2.2, in no event shall the rate of interest payable by Company with respect to any Loan exceed the maximum rate of interest permitted to be charged under applicable law.

**Section 2.3 Fees**

Company agrees to pay to Administrative Agent such fees in the amounts and at the times separately agreed upon between Company and Administrative Agent.

**Section 2.4 Repayments, Prepayments; General Provisions Regarding Payments; Application of Proceeds of Collateral and Payments Under Guaranties**

(a) **Scheduled Payments of Loans** Company shall make principal payments on the Loans in installments on the dates and in the amounts set forth below (such amounts being expressed as a percentage of the original principal amount of the Loans):

| Date | Amount |
|---|---|
| September 30, 2011 | 0.25% |
| December 31, 2011 | 0.25% |
| March 31, 2012 | 0.25% |
| June 30, 2012 | 0.25% |
| September 30, 2012 | 0.25% |
| December 31, 2012 | 0.25% |
| March 31, 2013 | 0.25% |
| June 30, 2013 | 0.25% |
| September 30, 2013 | 0.25% |
| December 31, 2013 | 0.25% |
| March 31, 2014 | 0.25% |
| June 30, 2014 | 0.25% |
| September 30, 2014 | 0.25% |
| December 31, 2014 | 0.25% |
| March 31, 2015 | 0.25% |
| June 30, 2015 | 0.25% |
| September 30, 2015 | 0.25% |
| December 31, 2015 | 0.25% |
| March 31, 2016 | 0.25% |
| June 30, 2016 | 0.25% |
| September 30, 2016 | 23.75% |

| Date | Amount |
| --- | --- |
| December 31, 2016 | 23.75% |
| March 31, 2017 | 23.75% |
| Maturity Date | 23.75% |

*provided that the* scheduled installments of principal of the Loans set forth above shall be reduced in connection with any voluntary or mandatory prepayments of the Loans in accordance with Section 2.4(b)(iii); and *provided, further that*, the Loans and all other amounts owed hereunder with respect to the Loans shall be paid in full no later than the Maturity Date, and the final installment payable by Company in respect of the Loans on such date shall be in an amount, if such amount is different from that specified above, sufficient to repay all amounts owing by Company under this Agreement with respect to the Loans.

(b) **Prepayments**

(i) **Voluntary Prepayments** Company may, upon not less than one Business Day's prior written or telephonic notice, in the case of Base Rate Loans, and three Business Days' (except that in connection with the repayment in full of the Loans, only one Business Day's notice shall be required) prior written or telephonic notice, in the case of LIBOR Loans, in each case given to Administrative Agent by 3:00 P.M. (New York City time) on the date required and, if given by telephone, promptly confirmed in writing to Administrative Agent, who will promptly notify each Lender of such prepayment, at any time and from time to time prepay the Loans on any Business Day in whole or in part without premium or penalty in an aggregate minimum amount of $500,000 and multiples of $100,000 in excess of that amount; *provided that*, in any event, any prepayment of a LIBOR Loan on any date other than the expiration date of the Interest Period applicable thereto shall be subject to the requirements of Section 2.6(d). Notice of prepayment having been given as aforesaid, the principal amount of the Loans specified in such notice shall become due and payable on the prepayment date specified therein. Any such voluntary prepayment shall be applied as specified in Section 2.4(b)(iii)(A).

(ii) **Mandatory Prepayments** The Loans shall be prepaid in the amounts and under the circumstances set forth below (except in each case to the extent a different application of the relevant amounts is set forth in the Intercreditor Agreement), all such prepayments and/or reductions to be applied as set forth below or as more specifically provided in Section 2.4(b)(iii)(B) and Section 2.4(d):

(A) **Prepayments from Net Asset Sale Proceeds** Subject to Section 6.7(d) and the Intercreditor Agreement, no later than the third Business Day following the date of receipt by Parent, Company or any Subsidiary Guarantor of any Net Asset Sale Proceeds in respect of any Asset Sale, Company shall either (1) subject to subsection (2) below, prepay the Loans in an aggregate amount equal to such Net Asset Sale Proceeds or (2), so long as no Event of Default shall have occurred and be continuing, deliver to Administrative Agent an

Officer's Certificate setting forth (x) that portion of such Net Asset Sale Proceeds that Company or such Subsidiary intends to reinvest in assets of the general type used in the business of Company and its Subsidiaries within ~~270~~365 days of such date of receipt and (y) the proposed use of such portion of the Net Asset Sale Proceeds; and such other information with respect to such reinvestment as Administrative Agent may reasonably request, and Company shall, or shall cause one or more of its Subsidiaries to apply such portion to such reinvestment purposes within such ~~270~~365 day period. In addition, Company shall, no later than ~~270~~365 days after receipt of such Net Asset Sale Proceeds that have not theretofore been applied to the Obligations or that have not been so reinvested as provided above, make an additional prepayment of the Loans in the full amount of all such unapplied and un-reinvested Net Asset Sale Proceeds unless on or prior to such date Company has entered into a committed written agreement for the application or reinvestment of such Net Asset Sale Proceeds. Company shall, within ~~90~~180 days after the end of such ~~270~~365 day period, make an additional prepayment of the Loans in the full amount of any such Net Asset Sale Proceeds that have not been applied or reinvested within such ~~90-day-period.~~ 180 day period. Notwithstanding the foregoing, in no event shall Company be required to prepay the Loans under this clause (A) in any Fiscal Year unless the aggregate amount of Net Asset Sale Proceeds and Net Insurance/Condemnation Proceeds received in such Fiscal Year exceeds $5,000,000.

(B) **Prepayments from Net Insurance/Condemnation Proceeds.** Subject to the provisions of Section 5.4(c) and the Intercreditor Agreement, no later than the third Business Day following the date of receipt by Administrative Agent or any Loan Party of any Net Insurance/Condemnation Proceeds, Company shall either (1) subject to subsection (2) below, prepay the Loans in an aggregate amount equal to such Net Insurance/Condemnation Proceeds or (2), so long as no Event of Default shall have occurred and be continuing, deliver to Administrative Agent an Officer's Certificate setting forth (x) that portion of such Net Insurance/Condemnation Proceeds that Company or such Subsidiary intends to reinvest in assets of the general type used in the business of Company and its Subsidiaries within ~~270~~365 days of such date of receipt and (y) the proposed use of such portion of the Net Insurance/Condemnation Proceeds; and such other information with respect to such reinvestment as Administrative Agent may reasonably request, and Company shall, or shall cause one or more of its Subsidiaries to, apply such portion to such reinvestment purposes within such ~~270~~365 day period. In addition, Company shall, no later than ~~270~~365 days after receipt of such Net Insurance/Condemnation Proceeds that have not theretofore been applied to the Obligations or that have not been so reinvested as provided above, make an additional prepayment of the Loans in the full amount of all such unapplied and un-reinvested Net Insurance/Condemnation Proceeds unless on or prior to such date

Company has entered into a committed written agreement for the application or reinvestment of such Net Insurance/Condemnation Proceeds. Company shall, within 90180 days after the end of such 270365 day period, make an additional prepayment of the Loans in the full amount of any such Net Insurance/Condemnation Proceeds that have not been applied or reinvested within such 90 day period. 180 day period. Notwithstanding the foregoing, in no event shall Company be required to prepay the Loans under this clause (B) in any Fiscal Year unless the aggregate amount of Net Asset Sale Proceeds and, Net Insurance/Condemnation Proceeds received in such Fiscal Year exceeds $5,000,000.

(C) **Prepayments due to Equity Cure** On the date of receipt of any Specified Equity Contribution, Company shall prepay the Loans in an aggregate amount equal to such Specified Equity Contribution.

(D) **Prepayments due to Issuance of Indebtedness** On the date of receipt of the Net Securities Proceeds from the issuance of any Indebtedness of Parent, Company or of any Subsidiary of Company after the Second Restatement Date, other than Indebtedness permitted pursuant to Section 6.1, Company shall prepay the Loans in an aggregate amount equal to such Net Securities Proceeds.

(E) **Prepayments from Consolidated Excess Cash Flow** In the event that there shall be Consolidated Excess Cash Flow for any Fiscal Year (commencing with Fiscal Year 2012), Company shall, within 3 Business Days following the delivery of the financial statements described in Section 5.1(c) with respect to such Fiscal Year, prepay the Loans in an aggregate amount equal to 50% (the **"Consolidated Excess Cash Flow Percentage")** of such Consolidated Excess Cash Flow for such Fiscal Year; *provided that* if the Consolidated Leverage Ratio as of the last day of such Fiscal Year (commencing with Fiscal Year 2012) was less than 2.75:1.00 (as certified and demonstrated in reasonable detail in a Compliance Certificate delivered to Administrative Agent with the annual financial statements for such Fiscal Year in accordance with Section 5.1(d)), then the Consolidated Excess Cash Flow Percentage for such Fiscal Year shall be reduced to 25%; *provided further*, that if the Consolidated Leverage Ratio as of the last day of such Fiscal Year was less than 2.00; 1.00 (as certified and demonstrated in reasonable detail in a Compliance Certificate delivered to Administrative Agent with the annual financial statements for such Fiscal Year in accordance with Section 5.1(d)), then the Consolidated Excess Cash Flow Percentage for such Fiscal Year shall be reduced to 0%.

(F) **Calculations of Net Proceeds Amounts; Additional Prepayments Based on Subsequent Calculations** Concurrently with any prepayment of the Loans pursuant to Sections 2.4(b)(ii)(A)-(E), Company shall deliver to Administrative Agent an Officer's Certificate demonstrating the calculation of the amount of the applicable Net Asset Sale Proceeds, Net Insurance/Condemnation Proceeds,

Specified Equity Contribution, Net Securities Proceeds, or Consolidated Excess Cash Flow, as the case may be, that gave rise to such prepayment and/or reduction. In the event that Company shall subsequently determine that the actual amount was greater than the amount set forth in such Officer's Certificate, Company shall promptly make an additional prepayment of the Loans in an amount equal to the amount of such excess, and Company shall concurrently therewith deliver to Administrative Agent an Officer's Certificate demonstrating the derivation of the additional amount resulting in such excess; *provided that*, any failure to make a prepayment resulting from a mistake in calculation that is corrected pursuant to this Section 2.4(b)(ii)(F) shall not constitute an Event of Default or Potential Event of Default under Section 7.1(a).

(iii) **Application of Prepayments.**

(A) **Application of Voluntary Prepayments by Type of Loans and Order of Maturity** Any voluntary prepayment of the Loans pursuant to Section 2.4(b)(i) shall be applied pro rata among the Loans and shall be applied to reduce the remaining scheduled installments thereof on a pro rata basis.

(B) **Application of Mandatory Prepayments of Loans and the Scheduled Installments of Principal Thereof** Except as provided in Section 2.4(d), any mandatory prepayment of the Loans pursuant to Section 2.4(b)(ii) shall be applied to prepay the Loans on a pro rata basis and shall be applied to reduce the remaining scheduled installments thereof on a pro rata basis.

(C) **Application of Prepayments to Base Rate Loans and LIBOR Loans** Any prepayment of Loans shall be applied to Base Rate Loans to the full extent thereof before application to LIBOR Loans, in each case in a manner that minimizes the amount of any payments required to be made by Company pursuant to Section 2.6(d); *provided that*, in any event, any prepayment of a LIBOR Loan on any date other than the expiration date at the Interest Period applicable thereto shall be subject to the requirements of Section 2.6(d).

(D) **Application of Prepayments to LIBOR Loans** If the application of any payment made in accordance with the provisions of Section 2.4(b)(i) or Section 2.4(b)(ii) would result in termination of a LIBOR Loan prior to the last day of the Interest Period for such LIBOR Loan, Company may elect to have the amount of such prepayment not applied to such LIBOR Loan, but held by Administrative Agent in the Collateral Account, in each case to be applied as such amount would otherwise have been applied under this Section 2.4(b)(iii) as of the last day of the relevant Interest Period; *provided that* any interest earned on such amount shall be paid to Company (or as otherwise directed by Company) on the last day of the relevant Interest Period if no Event of Default has occurred and is then continuing. Notwithstanding the foregoing payment to the Collateral Account, the related LIBOR Loan shall remain outstanding for all purposes of this Agreement, including,

without limitation, the accrual of interest and fees and the calculation of the Consolidated Leverage Ratio and the Incurrence Ratio, until such time as such LIBOR Loan has been paid in full or converted or continued in accordance with the terms hereof.

(iv) **Acquisition of Loans by a Loan Party** Notwithstanding anything to the contrary contained in this Section 2.4 or any other provision of this Agreement, so long as no Potential Event of Default or Event of Default has occurred and is continuing, and Requisite Lenders have given prior written consent, Golden Gate, Parent, Company or any Affiliate thereof may repurchase outstanding Loans pursuant to this Section 2.4(b)(iv) on the following basis:

(A) Golden Gate, Parent, Company or any Affiliate thereof (the **"Purchaser")** may make one or more offers (each, a **"Loan Repurchase Offer")** to repurchase all or any portion of the Loans (such Loans, the **"Repurchase Offer Loans")** of Lenders pursuant to an open *pro rata* tender process; *provided that:*

(i) the Purchaser delivers a notice of such Loan Repurchase Offer to Administrative Agent and all Lenders no later than 12:00 Noon (New York City time) at least five Business Days in advance of a proposed consummation date of such Loan Repurchase Offer indicating (1) the last date on which such Loan Repurchase Offer may be accepted, (2) the maximum dollar amount of such Loan Repurchase Offer, (3) the repurchase price per dollar of principal amount of such Repurchase Offer Loans at which such Purchaser is willing to repurchase such Repurchase Offer Loans and (4) the instructions with respect to the Loan Repurchase Offer that a Lender must follow in order to have its Repurchase Offer Loans repurchased;

(ii) a Lender who elects to participate in the Loan Repurchase Offer may choose to sell all or part of such Lender's Repurchase Offer Loans; and

(iii) such Loan Repurchase Offer shall be made to Lenders holding the Repurchase Offer Loans on a *pro rata* basis in accordance with the respective principal amount then held by such Lenders; *provided, further, that,* if any Lender elects not to participate in the Loan Repurchase Offer, either in whole or in part, the amount of such Lender's Repurchase Offer Loans not being tendered shall be excluded in calculating the *pro rata* amount applicable to the balance of such Repurchase Offer Loans;

(B) Such repurchases shall not constitute a voluntary prepayment pursuant to Section 2.4 and such repurchases shall not be subject to the provisions of Section 9.5.

(C) With respect to all repurchases made by Parent, Company or Subsidiary thereof such Repurchase Offer Loans shall be retired and

cancelled immediately upon the repurchase thereof and all principal and accrued and unpaid interest on the Loans so repurchased shall be deemed to have been paid for all purposes and no longer outstanding (and may not be resold by Parent, Company or such Subsidiary), for all purposes of this Agreement and all other Loan Documents;

(D) With respect to all repurchases made by Golden Gate and its Affiliates, (1) such Purchaser shall not have voting or other information rights under this Agreement, other than solely with respect to those matters requiring the consent of all Lenders (and any Loans held by Golden Gate or its Affiliates shall not be included in the calculation of the required voting percentages) and (2) the aggregate principal amount of Loans held by Golden Gate and its Affiliates shall not at any time exceed 10% of the aggregate Loans and Commitments; and

(E) Following repurchase by a Purchaser, Company will promptly advise Administrative Agent of the total amount of Repurchase Offer Loans that were repurchased from each Lender who elected to participate in the Loan Repurchase Offer.

(c) **General Provisions Regarding Payments**

(i) **Manner and Time of Payment** All payments by Company of principal, interest, fees and other Obligations shall be made in Dollars in same day funds, without defense, setoff or counterclaim, free of any restriction or condition, and delivered to Administrative Agent not later than 12:00 Noon (New York City time) on the date due at the Funding and Payment Office for the account of Lenders; funds received by Administrative Agent after that time on such due date shall be deemed to have been paid by Company on the next succeeding Business Day. Company hereby authorizes Administrative Agent to charge its accounts with Administrative Agent in order to cause timely payment to be made to Administrative Agent of all principal, interest, fees and expenses due hereunder (subject to sufficient funds being available in its accounts for that purpose).

(ii) **Application of Payments to Principal and Interest** Except as provided in Section 2.2(c), all payments in respect of the principal amount of any Loan shall include payment of accrued interest on the principal amount being repaid or prepaid, and all such payments shall be applied to the payment of interest before application to principal.

(iii) **Apportionment of Payments** Aggregate payments of principal and interest shall be apportioned among all outstanding Loans proportionately to Lenders' respective Pro Rata Shares. Administrative Agent shall promptly distribute to each Lender, at the account specified in the payment instructions delivered to Administrative Agent by such Lender, its Pro Rata Share of all such payments received by Administrative Agent when received by Administrative Agent pursuant to Section 2.3. Notwithstanding the foregoing provisions of this Section 2.4(c)(iii), if, pursuant to the provisions of Section 2.6(c), any Notice of Conversion/Continuation is withdrawn as to any Affected Lender or if any Affected Lender makes Base Rate Loans in lieu of its Pro Rata Share of any LIBOR Loans, Administrative Agent shall give effect thereto in apportioning interest payments received thereafter.

(iv) **Payments on Business Days** Whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of the payment of interest hereunder or of the commitment fees hereunder, as the case may be.

(d) **Application of Proceeds of Collateral and Payments after Event of Default** Upon the occurrence and during the continuation of an Event of Default, if requested by Requisite Lenders, or upon acceleration of the Obligations pursuant to ARTICLE VII, (a) all payments received by Administrative Agent, whether from Company, Parent or any Subsidiary Guarantor or otherwise and (b) all proceeds received by Administrative Agent in respect of any sale of, collection from, or other realization upon all or any part of the Collateral under any Collateral Document shall, subject to the terms of the Intercreditor Agreement, be applied in full or in part by Administrative Agent, in each case in the following order of priority:

(i) to the payment of all costs and expenses of such sale, collection or other realization, all other expenses, liabilities and advances made or incurred by Agents in connection therewith, and all amounts for which Agents are entitled to compensation (including the fees described in Section 2.3), reimbursement and indemnification under any Loan Document and all advances made by Agents thereunder for the account of the applicable Loan Party, and to the payment of all costs and expenses paid or incurred by Agents in connection with the Loan Documents, all in accordance with Sections 8.4, 9.2 and 9.3 and the other terms of this Agreement and the Loan Documents;

(ii) thereafter, to the payment of all other Obligations and obligations of Loan Parties under any Hedge Agreement between a Loan Party and a Hedge Agreement Counterparty, to the extent then due and owing for the ratable benefit of the holders thereof (subject to the provisions of Section 2.4(c)(ii) hereof); and

(iii) thereafter, to the payment to or upon the order of such Loan Party or to whosoever may be lawfully entitled to receive the same or as a court of competent jurisdiction may direct.

**Section 2.5 Use of Proceeds**

(a) **Loans** The proceeds of the Loans shall be applied by Company to fund the Funding Requirements. The proceeds of any Incremental Term Loans shall be applied by Company to fund Permitted Acquisitions and the opening, development or expansion of sand processing and mining facilities and to pay fees and expenses incurred in connection therewith.

(b) **Margin Regulations** No portion of the proceeds of any borrowing under this Agreement shall be used by Parent or any of its Subsidiaries in any manner that might cause the borrowing or the application of such proceeds to violate Regulation U, Regulation T or Regulation X of the Board of Governors of the Federal Reserve System or any other regulation of such Board or to violate the Exchange Act, in each case as in effect on the date or dates of such borrowing and such use of proceeds.

**Section 2.6 Special Provisions Governing LIBOR Loans**

Notwithstanding any other provision of this Agreement to the contrary, the following provisions shall govern with respect to LIBOR Loans as to the matters covered:

(a) **Determination of Applicable Interest Rate** On each Interest Rate Determination Date, Administrative Agent shall determine in accordance with the terms of this Agreement (which determination shall, absent manifest error, be conclusive and binding upon all parties) the interest rate that shall apply to the LIBOR Loans for which an interest rate is then being determined for the applicable Interest Period and shall promptly give notice thereof (in writing or by telephone confirmed in writing) to Company and each Lender.

(b) **Inability to Determine Applicable Interest Rate** In the event that Administrative Agent shall have determined (which determination shall be conclusive and binding upon all parties hereto), on any Interest Rate Determination Date that by reason of circumstances affecting the London interbank market adequate and fair means do not exist for ascertaining the interest rate applicable to such Loans on the basis provided for in the definition of LIBOR, Administrative Agent shall on such date give notice (by telefacsimile or by telephone confirmed in writing) to Company and each Lender of such determination, whereupon (i) no Loans may be converted to LIBOR Loans until such time as Administrative Agent notifies Company and Lenders that the circumstances giving rise to such notice no longer exist and (ii) any Notice of Conversion/Continuation given by Company with respect to the Loans in respect of which such determination was made shall be deemed to be for a Base Rate Loan.

(c) **Illegality or Impracticability of LIBOR Loans** In the event that on any date any Lender shall have determined (which determination shall be conclusive and binding upon all parties hereto but shall be made only after consultation with Company and Administrative Agent) that the maintaining or continuation of its LIBOR Loans (i) has become unlawful as a result of compliance by such Lender in good faith with any law, treaty, governmental rule, regulation, guideline or order (or would conflict with any such treaty, governmental rule, regulation, guideline or order not having the force of law even though the failure to comply therewith would not be unlawful) or (ii) has become impracticable, or would cause such Lender material hardship, as a result of contingencies occurring after the date of this Agreement which materially and adversely affect the London interbank market or the position of such Lender in that market, then, and in any such event, such Lender shall be an "Affected Lender" and it shall on that day give notice (by telefacsimile or by telephone confirmed in writing) to Company and Administrative Agent of such determination. Administrative Agent shall promptly notify each other Lender of the receipt of such notice. Thereafter (a) the obligation of the Affected Lender to convert Loans to LIBOR Loans shall be suspended until such notice shall be withdrawn by the Affected Lender, (b) to the extent such determination by the Affected Lender relates to a LIBOR Loan then being requested by Company pursuant to a Notice of Conversion/Continuation, the Affected Lender shall convert such Loan to a Base Rate Loan, (c) the Affected Lender's obligation to maintain its outstanding LIBOR Loans (the "Affected Loans") shall be terminated at the earlier to occur of the expiration of the Interest Period then in effect with respect to the Affected Loans or when required by law and (d) the Affected Loans

shall automatically convert into Base Rate Loans on the date of such termination. Notwithstanding the foregoing, to the extent a determination by an Affected Lender as described above relates to a LIBOR Loan then being requested by Company pursuant to a Notice of Conversion/Continuation, Company shall have the option, subject to the provisions of Section 2.6(d), to rescind such Notice of Borrowing or Notice of Conversion/Continuation as to all Lenders by giving notice (by telefacsimile or by telephone confirmed in writing) to Administrative Agent of such rescission on the date on which the Affected Lender gives notice of its determination as described above. Administrative Agent shall promptly notify each other Lender of the receipt of such notice. Except as provided in the immediately preceding sentence, nothing in this Section 2.6(c) shall affect the obligation of any Lender other than an Affected Lender to maintain Loans as, or to convert Loans to, LIBOR Loans in accordance with the terms of this Agreement.

(d) **Compensation For Breakage or Non-Commencement of Interest Periods** Company shall compensate each Lender, upon written request by that Lender pursuant to Section 2.8, for all reasonable documented losses, expenses and liabilities (including any interest paid by that Lender to lenders of funds borrowed by it to make or carry its LIBOR Loans and any loss, expense or liability sustained by that Lender in connection with the liquidation or re-employment of such funds) which that Lender may sustain: (i) if for any reason (other than a default by that Lender) a borrowing of any LIBOR Loan does not occur on a date specified therefor in a Notice of Borrowing or a telephonic request therefor, or a conversion to or continuation of any LIBOR Loan does not occur on a date specified therefor in a Notice of Conversion/Continuation or a telephonic request therefor, (ii) if any prepayment or other principal payment or any conversion of any of its LIBOR Loans (including any prepayment or conversion occasioned by the circumstances described in Section 2.6(c)) occurs on a date prior to the last day of an Interest Period applicable to that Loan, (iii) if any prepayment of any of its LIBOR Loans is not made on any date specified in a notice of prepayment given by Company or (iv) as a consequence of any other default by Company in the repayment of its LIBOR Loans when required by the terms of this Agreement.

(e) **Booking of LIBOR Loans** Any Lender may make, carry or transfer LIBOR Loans at, to, or for the account of any of its branch offices or the office of an Affiliate of that Lender.

(f) **Assumptions Concerning Funding of LIBOR Loans** Calculation of all amounts payable to a Lender under this Section 2.6 and under Section 2.7(a) shall be made as though that Lender had funded each of its LIBOR Loans through the purchase of a Eurodollar deposit bearing interest at the rate obtained pursuant to clause (i) of the definition of LIBOR in an amount equal to the amount of such LIBOR Loan and having a maturity comparable to the relevant Interest Period, whether or not its LIBOR Loans had been funded in such manner.

(g) **LIBOR Loans After Default** After the occurrence and during the continuation of a Potential Event of Default or an Event of Default, (i) Company may not elect to have a Loan be maintained as, or converted to, a LIBOR Loan after the expiration of any Interest Period then in effect for that Loan and (ii) subject to the provisions of Section 2.6(d), any Notice of Conversion/Continuation given by Company with respect to a requested conversion/continuation that has not yet occurred shall be deemed to be for a Base Rate Loan.

**Section 2.7 Increased Costs; Taxes; Capital Adequacy**

(a) **Compensation for Increased Costs** Subject to the provisions of Section 2.7(b) (which shall be controlling with respect to the matters covered thereby), in the event that any Lender shall determine (which determination shall, absent manifest error, be final and conclusive and binding upon all parties hereto) that any Change in Law:

(i) imposes, modifies or holds applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets held by, or deposits or other liabilities in or for the account of, or advances or loans by, or other credit extended by, or any other acquisition of funds by, any office of such Lender (other than any such reserve or other requirements with respect to LIBOR Loans that are reflected in the definition of LIBOR); or

(ii) imposes any other condition (other than with respect to Taxes) on or affecting such Lender or its obligations hereunder or the London interbank market;

and the result of any of the foregoing is to increase the cost to such Lender of agreeing to make, making or maintaining its Loans or Commitments or agreeing to purchase, purchasing or maintaining any participation therein or to reduce any amount received or receivable by such Lender with respect thereto; then, in any such case, Company shall promptly pay to such Lender, upon receipt of the statement referred to in Section 2.8(a), such additional amount or amounts (in the form of an increased rate of, or a different method of calculating, interest or otherwise as such Lender in its sole discretion shall determine) as may be necessary to compensate such Lender on an after tax basis for any such increased cost or reduction in amounts received or receivable hereunder. Company shall not be required to compensate a Lender pursuant to this Section 2.7(a) for any increased cost or reduction in respect of a period occurring more than six months prior to the date on which such Lender notifies Company of such Change in Law and such Lender’s intention to claim compensation therefor, except, if the Change in Law giving rise to such increased cost or reduction is retroactive, no such time limitation shall apply so long as such Lender requests compensation within six months from the date on which the applicable Government Authority informed such Lender of such Change in Law.

(b) **Taxes**

(i) **Payments to Be Free and Clear** Any and all payments by or on account of any obligation of Company under this Agreement and the other Loan Documents shall be made free and clear of, and without any deduction or withholding on account of, any Indemnified Taxes or Other Taxes.

(ii) **Grossing-up of Payments** If Company or any other Person is required by law to make any deduction or withholding on account of any Indemnified Taxes or Other Taxes from any sum paid or payable by Company to Administrative Agent or any Lender under any of the Loan Documents:

(A) Company shall notify Administrative Agent of any such requirement or any change in any such requirement as soon as Company becomes aware of it;

(B) Company shall timely pay any such Indemnified Tax and Other Tax to the relevant Government Authority when such amount is due, in accordance with applicable law;

(C) The sum payable by Company shall be increased to the extent necessary to ensure that, after making the required deductions (including deductions applicable to additional sums payable under this Section 2.7(b)(ii)), Administrative Agent or such Lender, as the case may be, receives a sum equal to the sum it would have received had no such deduction been required or made; and

(D) As soon as practicable after any payment of Indemnified Tax or Other Tax which it is required by clause (B) above to pay, Company shall deliver to Administrative Agent the original or a certified copy of an official receipt or other document reasonably satisfactory to the other affected parties to evidence the payment and its remittance to the relevant Government Authority.

(iii) **Indemnification by Company** Company shall indemnify Administrative Agent and each Lender, within 10 days after written demand therefor, for the full amount of any Indemnified Taxes on or with respect to any sum paid or payable by Company to Administrative Agent or any Lender under any of the Loan Documents or Other Taxes (including for the full amount of any Indemnified Taxes or Other Taxes imposed or asserted on or attributable to amounts payable under this Section 2.7(b)(iii)) paid by Administrative Agent or such Lender, as the case may be, 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 Government Authority. A certificate as to the amount of such payment or liability delivered to Company by a Lender (with a copy to Administrative Agent), or by Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(iv) **Tax Status of Lenders** Unless not legally entitled to do so:

(A) any Lender, if requested by Company or Administrative Agent, shall deliver such forms or other documentation prescribed by applicable law or reasonably requested by Company or Administrative Agent as will enable Company or Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements;

(B) any Foreign Lender that is entitled to an exemption from or reduction of any Tax with respect to payments hereunder or under any other Loan Document shall deliver to Company and Administrative Agent, on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter, as may be necessary in the determination of Company or Administrative Agent, each in the reasonable exercise of its discretion), such properly completed and duly executed forms or other documentation prescribed by applicable law as will permit such payments to be made without withholding or at a reduced rate of withholding;

(C) without limiting the generality of the foregoing, in the event that Company is resident for Tax purposes in the United States, any Foreign Lender shall deliver to Company and Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter, as may be necessary in the determination of Company or Administrative Agent, each in the reasonable exercise of its discretion), whichever of the following is applicable:

(1) properly completed and duly executed copies of Internal Revenue Service Form W-8BEN claiming eligibility for benefits of an income Tax treaty to which the United States is a party,

(2) properly completed and duly executed copies of Internal Revenue Service Form W-8ECI,

(3) in the case of a Foreign Lender claiming the benefits of the exemption "portfolio interest" under Section 881(c) of the Internal Revenue Code, (A) a duly executed certificate to the effect that such Foreign Lender is not (i) a "bank" within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, (ii) a ten-percent shareholder (within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code) of Company or Parent or (iii) a controlled foreign corporation described in Section 881(c)(3)(C) of the Internal Revenue Code and (B) properly completed and duly executed copies of Internal Revenue Service Form W-8BEN, or

(4) properly completed and duly executed copies of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in any Tax,

in each case together with such supplementary documentation as may be prescribed by applicable law to permit Company and Administrative Agent to determine the withholding or deduction required to be made, if any;

(D) without limiting the generality of the foregoing, in the event that Company is resident for Tax purposes in the United States, any Foreign Lender that does not act or ceases to act for its own account with respect to any portion of any sums paid or payable to such Lender under any of the Loan Documents (for example, in the case of a typical participation by such Lender) shall deliver to Administrative Agent and Company (in such number of copies as shall be requested by the recipient), on or prior to the date such Foreign Lender becomes a Lender, or on such later date when such Foreign Lender ceases to act for its own account with respect to any portion of any such sums paid or payable, and from time to time thereafter, as may be necessary in the determination of Company or Administrative Agent (each in the reasonable exercise of its discretion):

(1) duly executed and properly completed copies of the forms and statements required to be provided by such Foreign Lender under clause (C) of Section 2.7(b)(iv), to establish the portion of any such sums paid or payable with respect to which such Lender acts for its own account and may be entitled to an exemption from or a reduction of the applicable Tax, and

(2) duly executed and properly completed copies of Internal Revenue Service Form W-8IMY (or any successor forms) properly completed and duly executed by such Foreign Lender, together with any information, if any, such Foreign Lender chooses to transmit with such form, and any other certificate or statement of exemption required under the Internal Revenue Code or the regulations thereunder, to establish that such Foreign Lender is not acting for its own account with respect to a portion of any such sums payable to such Foreign Lender;

(E) without limiting the generality of the foregoing, in the event that Company is resident for tax purposes in the United States, any Lender that is not a Foreign Lender and has not otherwise established to the reasonable satisfaction of Company and Administrative Agent that it is an exempt recipient (as defined in section 6049(b)(4) of the Internal Revenue Code and the United States Treasury Regulations thereunder) shall deliver to Company and Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter as prescribed by applicable law or upon the request of Company or Administrative Agent), duly executed and properly completed copies of Internal Revenue Service Form W-9; and

(F) without limiting the generality of the foregoing, each Lender hereby agrees, from time to time after the initial delivery by such Lender of such forms, whenever a lapse in time or change in circumstances renders such forms, certificates or other evidence so delivered obsolete or inaccurate in any material respect, that such Lender shall promptly (1) deliver to Administrative Agent and Company two original copies of renewals, amendments or additional or successor forms, properly completed and duly executed by such Lender, together with any other certificate or statement of exemption required in order to confirm or establish that such Lender is entitled to an exemption from or reduction of any Tax with respect to payments to such Lender under the Loan Documents and, if applicable, that such Lender does not act for its own account with respect to any portion of such payment or (2) notify Administrative Agent and Company of its inability to deliver any such forms, certificates or other evidence.

(v) **Treatment of Certain Refunds.** If Administrative Agent or the Lender determines in its sole discretion that it has received a refund of any Taxes or Other Taxes as to with it has been indemnified by Company or which respect to which Company has paid additional amounts pursuant to this Section

2.7(b), it shall pay to Company an amount equal to such refund (but only to the extent of indemnity payments made, or additional amounts paid by Company under this Section 2.7(b) with respect to the Taxes or Other Taxes giving rise to such refund), net of all out-of-pocket expenses of Administrative Agent or the Lender, as the case may be, and without interest (other than any interest paid by the relevant Government Authority with respect to such refund), provided that Company, reasonably promptly after request by Administrative Agent or the Lender, agrees to repay the amount paid over to Company (plus any penalties, interest or other charges imposed by the relevant Government Authority) to Administrative Agent or the Lender in the event Administrative Agent or the Lender is required to repay such refund to such Government Authority.

(c) **Capital Adequacy Adjustment** If any Lender shall have determined that any Change in Law regarding capital adequacy has or would have the effect of reducing the rate of return on the capital of such Lender or any corporation controlling such Lender as a consequence of, or with reference to, such Lender's Loans or other obligations hereunder with respect to the Loans to a level below that which such Lender or such controlling corporation could have achieved but for such Change in Law (taking into consideration the policies of such Lender or such controlling corporation with regard to capital adequacy), then from time to time, within five Business Days after receipt by Company from such Lender of the statement referred to in Section 2.8(a), Company shall pay to such Lender such additional amount or amounts as will compensate such Lender or such controlling corporation on an after tax basis for such reduction. Company shall not be required to compensate a Lender pursuant to this Section 2.7(c) for any reduction in respect of a period occurring more than six months prior to the date on which such Lender notifies Company of such Change in Law and such Lender's intention to claim compensation therefor, except, if the Change in Law giving rise to such reduction is retroactive, no such time limitation shall apply so long as such Lender requests compensation within six months from the date on which the applicable Government Authority informed such Lender of such Change in Law.

**Section 2.8 Statement of Lenders; Obligation of Lenders to Mitigate**

(a) **Statements** Each Lender claiming compensation or reimbursement pursuant to Section 2.6(d), 2.7 or 2.8(b) shall deliver to Company (with a copy to Administrative Agent) a written statement, setting forth in reasonable detail the basis of the calculation of such compensation or reimbursement, which statement shall be conclusive and binding upon all parties hereto absent manifest error.

(b) **Mitigation** Each Lender agrees that, as promptly as practicable after the officer of such Lender responsible for administering the Loans of such Lender, as the case may be, becomes aware of the occurrence of an event or the existence of a condition that would cause such Lender to become an Affected Lender or that would entitle such Lender to receive payments under Section 2.7, it will use reasonable efforts to maintain the Loans of such Lender through another lending office of such Lender, if (i) as a result thereof the circumstances which would cause such Lender to be an Affected Lender would cease to exist or the additional amounts which would otherwise be required to be paid to such Lender pursuant to Section 2.7 would be materially reduced and (ii) as determined by such Lender in its sole discretion, such action would not otherwise be disadvantageous to such Lender; *provided that* such Lender will not

be obligated to utilize such other lending office pursuant to this Section 2.8(b) unless Company agrees to pay all reasonable incremental expenses incurred by such Lender as a result of utilizing such other lending office as described above.

**Section 2.9 Replacement of a Lender**

**IF:**

(a) Company receives a statement of amounts due pursuant to Section 2.8(a) from a Lender;

(b) a Lender (a **“Non-Consenting Lender”)** refuses to give timely consent to an amendment, modification or waiver of this Agreement that, pursuant to Section 9.6, requires consent of 100% of the Lenders or 100% of the Lenders with Obligations directly affected (and the consent of Requisite Lenders has been given with respect thereto); or

(c) a Lender becomes an Affected Lender (any such Lender described in clauses (a) through (c), a **“Subject Lender”**);

**THEN** so long as (i) Company has obtained a commitment from another Lender or an Eligible Assignee to purchase at par the Subject Lender’s Loans and assume all other obligations of the Subject Lender hereunder, and (ii), if applicable, the Subject Lender is unwilling to withdraw the notice delivered to Company pursuant to Section 2.8 and/or is unwilling to remedy its default upon 10 days prior written notice to the Subject Lender and Administrative Agent, Company may require the Subject Lender to assign all of its Loans to such other Lender, Lenders, Eligible Assignee or Eligible Assignees pursuant to the provisions of Section 9.1(b); *provided that*, prior to or concurrently with such replacement:

(A) the Subject Lender shall have received payment in full of all principal, interest, fees and other amounts (including all amounts under Section 2.6(d), 2.7 and/or 2.8(b) (if applicable)) accrued through such date of replacement, as purchase price, and a release from its obligations under the Loan Documents;

(B) the processing fee required to be paid by Section 9.1(b)(i) shall have been paid to Administrative Agent;

(C) all of the requirements for such assignment contained in Section 9.1(b), including, without limitation, the consent of Administrative Agent (if required) and the receipt by Administrative Agent of an executed Assignment Agreement executed by the assignee (Administrative Agent being hereby authorized to execute any Assignment Agreement on behalf of a Subject Lender relating to the assignment of Loans of such Subject Lender) and other supporting documents, have been fulfilled; and

(D) in the event such Subject Lender is a Non-Consenting Lender, each assignee shall consent, at the time of such assignment, to each matter in respect of which such Subject Lender was a Non-Consenting Lender and Company also requires each other Subject Lender that is a Non-Consenting Lender to assign its Loans.

**Section 2.10 Incremental Facility**

(a) **Increased Term Loan Facility** Company may by prior written notice to Administrative Agent elect to request the establishment of new term loan commitments (the **“Incremental Term Loan Commitments”)** for the purpose of funding Permitted Acquisitions, the opening of new sand processing and mining facilities and fees and expenses incurred in connection therewith; *provided* that the aggregate principal

amount of the Incremental Term Loan Commitments shall not exceed ~~$50,000,000 or~~ (i) $50,000,000 if the Incurrence Ratio as of such date, calculated on a Pro Forma Basis as if such commitments were fully funded on such date, would be equal to or greater than 3.00:1.00 or (ii) $100,000,000 if the Incurrence Ratio as of such date, calculated on a Pro Forma Basis as if such commitments were fully funded on such date, would be less than 3.00:1.00 and *provided further* that the aggregate principal amount of the Incremental Term Loan Commitments shall not be less than $500,000. Such notice shall specify (i) the date (the **"Increased Amount Date")** on which Company proposes that the Incremental Term Loan Commitments shall be effective, which shall be a date not less than 5 Business Days after the date on which such notice is delivered to Administrative Agent, (ii) the proposed use of the proceeds of the Incremental Term Loans and (iii) the identity of each Lender or other Person that is an Eligible Assignee and acceptable to Administrative Agent (where such assignment shall be to any party other than a Lender, an Affiliate of a Lender or an Approved Fund of a Lender) (each, an **"Incremental Lender",** and collectively **"Incremental Lenders")** to whom Company proposes any portion of such Incremental Term Loan Commitments be allocated and the amounts of such allocations; *provided* that any Lender approached to provide all or a portion of the Incremental Term Loan Commitments may elect to agree or to decline, in its sole discretion, to provide an Incremental Term Loan Commitment. The Incremental Term Loan Commitments shall become effective, as of the Increased Amount Date; *provided* that (A) no Potential Event of Default or Event of Default shall have occurred and be continuing on the Increased Amount Date or would result from the consummation of the term loans contemplated to be made pursuant to and in accordance with the Incremental Term Loan Commitments (the **"Incremental Term Loans");** (B) both before and after giving effect to the making of the Incremental Term Loans, each of the representations and warranties contained in this Agreement and in the other Loan Documents shall be true and correct in all material respects on and as of the Increased Amount Date to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date; *provided that* if a representation and warranty is qualified as to materiality, the materiality qualifier set forth above shall be disregarded with respect to such representation and warranty for purposes of this condition; (C) the Incremental Term Loan Commitments shall be effected pursuant to one or more joinder agreements in form and substance reasonably satisfactory to Administrative Agent (a **"Joinder Agreement")** executed and delivered by Company, each other Loan Party, each Incremental Lender and Administrative Agent, and each of which shall be recorded in the Register and shall be subject to the requirements set forth in Section 2.7(b)(iv); (D) Company shall make any payments required pursuant to Section 2.7(b)(iv) in connection with the Incremental Term Loan Commitments; and (E) Company shall deliver or cause to be delivered any lien searches, tax affidavits, legal opinions or other documents reasonably requested by Administrative Agent in connection with any such transaction; and (F) no more than $50,000,000 of Incremental Term Loans will be permitted unless Company has taken or caused to be taken, or has agreed to take, such actions that are reasonably requested by Administrative Agent to ensure that any Incremental Term Loans are secured by the Real Property Assets on the same basis as the existing Loans and to ensure that the security interest of the Collateral Agent, on behalf of Secured Parties, in the Real Property Assets are not adversely affected by the making of such Incremental Term Loans.

(b) **Funding of Incremental Term Loans** On the Increased Amount Date, subject to the satisfaction of the foregoing terms and conditions, (i) each Incremental Lender shall make a Incremental Term Loan to Company in an amount equal to its Incremental Term Loan Commitment no later than 12:00 Noon (New York City time) and (ii) each Incremental Lender shall become a Lender hereunder with respect to the Incremental Term Loan Commitment and the Incremental Term Loans made pursuant thereto.

(c) **Notice to Lenders** Administrative Agent shall notify the Lenders promptly upon receipt of Company's notice of an Increased Amount Date and in respect thereof the Incremental Term Loan Commitments and the Incremental Lenders.

(d) **Other Terms** The terms and provisions of the Incremental Term Loans and Incremental Term Loan Commitments shall be, except as otherwise set forth herein or in the Joinder Agreement, identical to the Loans and shall be treated as Loans for all purposes hereunder and the other Loan Documents. In any event (i) the Weighted Average Life to Maturity of all Incremental Term Loans shall be no shorter than the Weighted Average Life to Maturity of the Loans (without giving effect to any prepayment of the Incremental Term Loans and *provided that* such prepayments shall be on terms no more favorable to Lenders on a pro rata basis than the Loans), (ii) the maturity date for the Incremental Term Loans shall be no shorter than the Maturity Date and (iii) the rate of interest applicable to the Incremental Term Loans shall be determined by Company and the applicable Incremental Lenders and shall be set forth in each applicable Joinder Agreement; *provided*, *however*, that in the event that ~~interest rate margins for the Incremental Term Loans are higher than the corresponding interest rate margins for the existing Loans (on a yield basis excluding reasonable arrangement fees) then the interest rate~~the yield on any Incremental Term Loans (taking into account interest margins, upfront fees, interest rate "floors", original issue discount and other fees generally paid to lenders on such Incremental Term Loans with such upfront fees and original issue discount equated to interest margins based on an assumed four year life to maturity but excluding arranger fees) (the "Incremental Yield") exceeds the yield on the existing Loans (determined as provided above and after giving effect to any prior increases as a result of this provision) by more than 0.50%, then the interest margins for the existing Loans shall automatically be increased to ~~match~~a level such that the yield on the existing Loans shall be 0.50% below the Incremental ~~Term Loans~~ Yield. Each Joinder Agreement may, without the consent of any other Lenders, effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of Administrative Agent, to effect the provision of this Section 2.10.

(e) **Supersession** This Section 2.10 shall supersede any provisions in Section 9.5 or Section 9.6 to the contrary.

**Section 2.11 Extension**

(a) **Extension** Company may by prior written notice to Administrative Agent elect to request the extension of the final maturity of the Loans or the Incremental Term Loans. Company and any Lender or Incremental Term Lender, as the case may be (each, an **"Extending Lender")** may agree to extend the maturity date and otherwise modify the terms of such Lender's or Incremental Lender's Loans or Incremental Term Loans, as the case may be (each such transaction, an **"Extension");** *provided that* the

aggregate principal amount of the Extension made at any one time under this Section 2.11 shall be not less than $20,000,000. Such notice shall specify (i) the date (the **"Extension Effective Date")** on which Company proposes that the Extension shall be effective, which shall be a date not less than 5 Business Days after the date on which such notice is delivered to Administrative Agent and (ii) the proposed final maturity date of the extended Loans and/or Incremental Term Loans (the **"Extension Loans").** The Extension shall become effective, as of the Extension Effective Date; *provided that* (A) Company shall have offered to all Lenders the opportunity to participate in such Extension on a pro rata basis with respect to the Loans and all Incremental Lenders the opportunity to participate in such Extension on a pro rata basis with respect to Incremental Term Loans and on the same terms and conditions to each such Lender or Incremental Lender, as the case may be, and any Lender or Incremental Lender, as the case may be, may elect to agree or to decline, in its sole discretion (B) no Potential Event of Default or Event of Default shall have occurred and be continuing on the Extension Effective Date; (C) both before and after giving effect to the Extension, each of the representations and warranties contained in this Agreement and in the other Loan Documents shall be true and correct in all material respects on and as of the Extension Effective Date to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects on and as of such earlier date; *provided that* if a representation and warranty is qualified as to materiality, the materiality qualifier set forth above shall be disregarded with respect to such representation and warranty for purposes of this condition; (D) the Extensions shall be effected pursuant to one or more extension agreements in form and substance reasonably satisfactory to Administrative Agent (an **"Extension Agreement")** executed and delivered by Company, each other Loan Party, each Extending Lender and Administrative Agent, and each of which shall be recorded in the Register; and (E) Company shall deliver or cause to be delivered documents reasonably requested by Administrative Agent in connection with any such transaction.

(b) **Notice to Lenders** Administrative Agent shall notify the Lenders and Incremental Lenders promptly upon receipt of Company's notice of any Extension.

(c) **Other Terms** The terms and provisions of the Extension Loans shall be, except as otherwise set forth herein, identical to the Loans or Incremental Term Loans, as the case may be, being extended and the Extension Loans shall be treated as Loans or Incremental Term Loans, as the case may be, for all purposes hereunder and the other Loan Documents. In any event (i) the Weighted Average Life to Maturity of all Extension Loans shall be no shorter than the Weighted Average Life to Maturity of the existing Loans or Incremental Term Loans, as the case may be, being extended (without giving effect to any prepayment of the Extension Loans and *provided that* (A) such prepayments shall be on terms no more favorable to Lenders or Incremental Lenders, as the case may be, on a pro rata basis than the Loans or Incremental Term Loans being extended, (B) the Extensions Loans may have mandatory prepayment terms which provide for the application of proceeds from mandatory prepayment events to be made first to prepay the Loans or the Incremental Term Loans, as the case may be, before applying any such proceeds to prepay such Extension Loans) and (C) all or any of the scheduled amortization payments of principal of the Extension Loans may be delayed to later dates than the scheduled amortization payments of

principal of the Loans or Incremental Term Loans, as the case may be, to the extent provided in the applicable Extension Agreement, (ii) the rate of interest applicable to the Extension Loans shall be determined by Company and the applicable Extension Lenders and shall be set forth in each applicable Extension Agreement; *provided, however, that* in the event that interest rate margins for the Extension Loans are higher than the corresponding interest rate margins for the existing Loans being extended (on a yield basis excluding reasonable arrangement fees) then the interest rate margins for the existing Loans shall be increased to match the yield on the Extension Loans, (iii) the Extension Agreement may provide for other covenants and terms that apply solely to any period after the Latest Maturity Date that is in effect on the effective date of the Extension Agreement (immediately prior to the establishment of such Extension Loans) and (iv) Extension Loans may have optional prepayment terms (including call protection and terms which allow Loans or Incremental Term Loans, as the case may be, to be optionally prepaid prior to the prepayment of such Extension Loans) as may be agreed by the Borrowers and the Lenders or Incremental Lenders thereof; *provided that* no Extension Loans may be optionally prepaid prior to the date on which all Loans or Incremental Term Loans, as the case may be, with an earlier final stated maturity are repaid in full, unless such optional prepayment is accompanied by a *pro rata* optional prepayment of such other Loans or Incremental Term Loans, as the case may be. Each Extension Agreement may, without the consent of any other Lenders (including Incremental Lenders), effect such amendments to this Agreement and the other Loan Documents as may be necessary or appropriate, in the opinion of Administrative Agent, to effect the provision of this Section 2.11. For the avoidance of doubt, references herein to Loans and Incremental Loans shall include any Replacement Loans with respect thereto.

(d) **Supersession, etc.** This Section 2.11 shall supersede any requirements of any provision of this Agreement (including, without limitation, Sections 9.5 and 9.6) or any other Loan Document that may otherwise prohibit any Extension or any other transaction contemplated by this Section 2.11. The Administrative Agent and the Lenders (including Incremental Lenders) hereby consent to each Extension and the other transactions contemplated by this Section 2.11 (including, without limitation, Sections 9.5 and 9.6) payment of any interest or fees in respect of any Extension Loans, *provided that* such consent shall not be deemed to be an acceptance of the extension request. With respect to any Extension consummated by Company pursuant to this Section 2.11 such Extension shall not constitute voluntary or mandatory payments or prepayments for purposes of this Agreement.

## ARTICLE III
## CONDITIONS TO AMENDMENT AND RESTATEMENT

The obligations of Lenders to enter into this Agreement and make and/or continue the Loans hereunder are subject to prior or concurrent satisfaction of the following conditions:

### Section 3.1 Loan Party Documents

On or before the Second Restatement Date, Parent shall, and shall cause each other Loan Party to, deliver to Administrative Agent (with sufficient originally executed copies, where appropriate, for each Lender) the following with respect to Parent or such Loan Party, as the case may be, each, unless otherwise noted, dated the Second Restatement Date:

(a) Copies of the Organizational Documents of such Person, certified by the Secretary of State of its jurisdiction of organization or, if such document is of a type that may not be so certified, certified by the secretary or similar Officer of the applicable Loan Party, together with a good standing certificate from the Secretary of State of its jurisdiction of organization and each other state in which such Person is qualified to do business and, to the extent generally available, a certificate or other evidence of good standing as to payment of any applicable franchise or similar Taxes from the appropriate taxing authority of each of such jurisdictions, each dated a recent date prior to the Second Restatement Date;

(b) Resolutions of the Governing Body of such Person approving and authorizing the execution, delivery and performance of the Loan Documents to which it is a party, certified as of the Second Restatement Date by the secretary or similar Officer of such Person as being in full force and effect without modification or amendment;

(c) Signature and incumbency certificates of the Officers of such Person executing the Loan Documents to which it is a party;

(d) Executed originals of the Loan Documents to which such Person is a party (including the Subsidiary Guaranty executed and delivered by each Subsidiary of Parent and Company); and

(e) Such other documents as Administrative Agent may reasonably request.

**Section 3.2 Fees**

Company shall have paid to Administrative Agent, for distribution (as appropriate) to Administrative Agent and Lenders, the fees payable on the Second Restatement Date referred to in Section 2.3.

**Section 3.3 Corporate and Capital Structure; Ownership**

The corporate organizational structure, capital structure and ownership of Parent and its Subsidiaries shall be as set forth on Schedule 3.3 annexed hereto.

**Section 3.4 Representations and Warranties**

Parent shall have delivered to Administrative Agent an Officer's Certificate, in form and substance reasonably satisfactory to Administrative Agent, to the effect that the representations and warranties in ARTICLE IV are true, correct and complete in all material respects on and as of the Second Restatement Date to the same extent as though made on and as of that date (or, to the extent such representations and warranties specifically relate to an earlier date, that such representations and warranties were true, correct and complete in all material respects on and as of such earlier date), that each Loan Party shall have performed in all material respects all agreements and satisfied all conditions which this Agreement provides shall be performed or satisfied by it on or before the Second Restatement Date except as otherwise disclosed to and agreed to in writing by Administrative Agent and that no Potential Event of Default or Event of Default has occurred and is continuing; *provided* that, if a representation and warranty, covenant or condition is qualified as to materiality, the applicable materiality qualifier set forth above shall be disregarded with respect to such representation and warranty, covenant or condition for purposes of this condition.

**Section 3.5 Financial Statements; Pro Forma Balance Sheet**

On or before the Second Restatement Date, Company shall have delivered to Administrative Agent on behalf of the Lenders (i) audited consolidated financial statements of Parent and its Subsidiaries for Fiscal Year 2010, consisting of consolidated balance sheets and the related consolidated

statements of income, stockholders' equity and cash flows for such Fiscal Years, (ii) unaudited consolidated financial statements of Parent and its Subsidiaries as at March 31, 2011, consisting of a consolidated balance sheet and the related consolidated statements of income, stockholders' equity and cash flows for the 3-month period ending on such date, all in reasonable detail and certified by the chief financial officer of Parent that they fairly present the financial condition of Parent and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments, (iii) pro forma consolidated balance sheets of Parent and its Subsidiaries as at the Second Restatement Date, reflecting the consummation of the Transactions, and (iv) projected financial statements (including balance sheets and income and cash flow statements) of Parent and its Subsidiaries for the five-year period after the Second Restatement Date, including forecasted consolidated statements of income of Parent and its Subsidiaries on an annual basis for each Fiscal Year beginning with Fiscal Year 2012 and each Fiscal Year thereafter during such period, together with an explanation of the assumptions on which such forecasts are based.

**Section 3.6 Opinions of Counsel to Loan Parties**

Administrative Agent shall have received on behalf of the Secured Parties an originally executed copies of a favorable written opinion of Kirkland & Ellis LLP, counsel for Loan Parties, in form and substance reasonably satisfactory to Administrative Agent and its counsel, dated as of the Second Restatement Date and substantially in the form of Exhibit V annexed hereto (this Agreement constituting a written request by Parent to such counsel to deliver such opinions to Lenders).

**Section 3.7 Solvency Assurances**

On the Second Restatement Date, Administrative Agent shall have received an Officer's Certificate of Parent substantially in the form of Exhibit VII annexed hereto dated the Second Restatement Date and certifying that, after giving effect to the consummation of the Transactions, the Loan Parties on a consolidated basis will be Solvent.

**Section 3.8 Necessary Governmental Authorizations and Consents; Expiration of Waiting Periods, Etc.**

Each such Governmental Authorization and consent shall be in full force and effect, except in a case where the failure to obtain or maintain a Governmental Authorization or consent, either individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. All applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose adverse conditions on the transactions contemplated by the Loan Documents or the financing thereof.

**Section 3.9 Security Interests in Personal Property**

Administrative Agent shall have received evidence reasonably satisfactory to it that each Loan Party shall have taken or caused to be taken all such actions, executed and delivered or caused to be executed and delivered all such agreements, documents and instruments, and delivered all of the following filings and recordings that may be necessary or, in the reasonable opinion of Administrative Agent, desirable in order to create in favor of Administrative Agent, for the benefit of Lenders, a valid and (upon such filing and recording) perfected security interest in the entire personal property Collateral in accordance with the terms of the Collateral Documents and the Intercreditor Agreement. Such actions shall include the following:

(a) **Stock Certificates and Instruments** Delivery to Administrative Agent of (A) certificates (which certificates shall be accompanied by irrevocable undated stock powers, duly endorsed in blank and otherwise in form and substance reasonably

satisfactory to Administrative Agent) representing all Capital Stock pledged pursuant to the Pledge and Security Agreement and any Foreign Pledge Agreements (B) all promissory notes or other instruments (duly endorsed, where appropriate, in a manner reasonably satisfactory to Administrative Agent) evidencing any Collateral;

(b) **Lien Searches and UCC Termination Statements** Delivery to Administrative Agent of (A) the results of a recent search, by a Person reasonably satisfactory to Administrative Agent, of all effective UCC financing statements and fixture filings and all judgment and tax lien filings which may have been made with respect to any personal or mixed property of any Loan Party, together with copies of all such filings disclosed by such search and (B) duly completed UCC termination statements, and authorization of the filing thereof from the applicable secured party, as may be necessary to terminate any effective UCC financing statements or fixture filings disclosed in such search (other than any such financing statements or fixture filings in respect of Liens permitted to remain outstanding pursuant to the terms of this Agreement);

(c) **UCC Financing Statements and Fixture Filings** Delivery to Administrative Agent of duly completed UCC financing statements and, where appropriate, fixture filings with respect to all personal and mixed property Collateral of such Loan Party, for filing in all jurisdictions as may be necessary or, in the reasonable opinion of Administrative Agent, desirable to perfect the security interests created in such Collateral pursuant to the Collateral Documents;

(d) **Cover Sheets, Etc.** Delivery to Administrative Agent of all cover sheets or other documents or instruments required to be filed with any IP Filing Office in order to create or perfect Liens in respect of any IP Collateral, together with releases duly executed (if necessary) of security interests by all applicable Persons for filing in all applicable jurisdictions as may be necessary to terminate any effective filings in any IP Filing Office in respect of any IP Collateral (other than any such filings in respect of Liens permitted to remain outstanding pursuant to the terms of this Agreement); and

(e) **Control Agreements** Subject to the requirements of the ABL Loan Documents, delivery to Administrative Agent of such Control Agreements with financial institutions and other Persons in order to perfect Liens in respect of Deposit Accounts, Securities Accounts and other Collateral pursuant to the Collateral Documents.

**Section 3.10 Second Restatement Date Mortgages; Second Restatement Date Mortgage Policies; Etc.**

Administrative Agent shall have received from each Loan Party:

**(a)** **Second Restatement Date Mortgages** Fully executed and notarized Mortgages or any amendments, amendment and restatements, supplements or modifications related thereto dated as of the Closing Date, First Restatement Date or Second Restatement Date, as applicable, as reasonably requested by Administrative Agent (each a **"Second Restatement Date Mortgage"** and, collectively, the **"Second Restatement Date Mortgages"),** in proper form for recording in all appropriate places in all applicable jurisdictions, encumbering each Real Property Asset listed on Schedule 3.10 annexed hereto (each a **"Second Restatement Date Mortgaged Property"** and, collectively, the **"Second Restatement Date Mortgaged Properties");**

(b) **Opinions of Local Counsel** An opinion of counsel (which counsel shall be reasonably satisfactory to Administrative Agent) in each state in which a Second Restatement Date Mortgaged Property is located with respect to the enforceability of the Second Restatement Date Mortgages to be recorded in such state and such other matters as Administrative Agent may reasonably request, in each case in form and substance reasonably satisfactory to Administrative Agent;

(c) **[Reserved]**

(d) **Title Insurance** (A) ALTA mortgagee title insurance policies or unconditional commitments therefor (the **"Second Restatement Date Mortgage Policies")** issued by the Title Company with respect to each of the Second Restatement Date Mortgaged Properties, in such amount as Administrative Agent reasonably determine to be the value of any particular Second Restatement Date Mortgaged Property, insuring fee simple title to, or a valid leasehold interest in, each such Second Restatement Date Mortgaged Property vested in such Loan Party and assuring Administrative Agent that the applicable Second Restatement Date Mortgages create valid and enforceable First Priority mortgage Liens on the respective Second Restatement Date Mortgaged Properties encumbered thereby which Second Restatement Date Mortgage Policies (1) shall include an endorsement for mechanics' liens, for future advances under this Agreement and for any other matters reasonably requested by Administrative Agent and (2) shall provide for affirmative insurance and such reinsurance as Administrative Agent may reasonably request, all of the foregoing in form and substance reasonably satisfactory to Administrative Agent; and (B) evidence reasonably satisfactory to Administrative Agent that such Loan Party has (x) delivered to the Title Company all certificates and affidavits required by the Title Company in connection with the issuance of the Second Restatement Date Mortgage Policies and (y) paid to the Title Company or to the appropriate Government Authorities all expenses and premiums of the Title Company in connection with the issuance of the Second Restatement Date Mortgage Policies and all recording and stamp taxes (including mortgage recording and intangible taxes) payable in connection with recording the Second Restatement Date Mortgages in the appropriate real estate records;

(e) **Title Reports** With respect to each Second Restatement Date Mortgaged Property, a title report issued by the Title Company with respect thereto, dated no more than 30 days prior to Second Restatement Date and in form and substance reasonably satisfactory to Administrative Agent;

(f) **Copies of Documents Relating to Title Exceptions** Copies of all recorded documents listed as exceptions to title or otherwise referred to in the Second Restatement Date Mortgage Policies or in the title reports delivered pursuant to Section 3.10(e); and

(g) **Matters Relating to Flood Hazard Properties** (a) Evidence, which may be in the form of a letter from an insurance broker or a municipal engineer, as to whether (1) any Second Restatement Date Mortgaged Property is a Flood Hazard Property and (2) the community in which any such Flood Hazard Property is located is participating in the National Flood Insurance Program, (b) if there are any such Flood Hazard Properties, such Loan Party's written acknowledgement of receipt of written notification from Administrative Agent (1) as to the existence of each such Flood Hazard Property and (2) as to whether the community in which each such Flood

Hazard Property is located is participating in the National Flood Insurance Program, and (c) in the event any such Flood Hazard Property is located in a community that participates in the National Flood Insurance Program, evidence that Company has obtained flood insurance in respect of such Flood Hazard Property to the extent required under the applicable regulations of the Board of Governors of the Federal Reserve System.

*provided,* that to the extent any document referred to in paragraphs (d) through (g) above is not provided on the Second Restatement Date after the Loan Parties' use of commercially reasonable efforts to do so, the delivery of such document shall not constitute a condition precedent to the availability of the Commitments, but shall be required to be delivered within 90 days following the Second Restatement Date (or such other time period as reasonably agreed by Collateral Agent).

**Section 3.11 Second Restatement Date Indebtedness**

Administrative Agent shall have received an Officer's Certificate from each Loan Party stating that following the Transactions, the Loan Parties shall not be obligors with respect to any Indebtedness or Contingent Obligations outstanding except for Permitted Indebtedness and Contingent Obligations permitted under Sections 6.1 and 6.4 respectively.

**Section 3.12 Related Agreements in Full Force and Effect**

On the Second Restatement Date, Parent shall have delivered to Administrative Agent an Officer's Certificate regarding the Related Agreements in form and substance satisfactory to Administrative Agent.

**Section 3.13 Certificate Regarding Consolidated Adjusted EBITDA and Consolidated Leverage Ratio**

Administrative Agent shall have received a certificate of the chief financial officer of Parent dated as of the Second Restatement Date (i) attaching the financial statements of Parent and Company for the twelve-month period ending March 31, 2011 certifying that Consolidated Adjusted EBITDA as of the Second Restatement Date for the trailing twelve month period ending on March 31, 2011, on a Pro Forma Basis was not less than $70,000,000.

**Section 3.14 [Reserved]**

**Section 3.15 ABL Loan Agreement and Intercreditor Agreement**

Concurrently with the making of the Loans hereunder, the ABL Loan Agreement and the Intercreditor Agreement, each on terms and conditions reasonably satisfactory to Administrative Agent, shall be fully executed and delivered. No ABL Loans or other extensions of credit under the ABL Loan Agreement shall be outstanding as of the Second Restatement Date except for current hedging obligations and the letters of credit issued under the ABL Loan Agreement prior to the Second Restatement Date set forth on Schedule 1.1(b).

**Section 3.16 Material Adverse Change**

Since December 31, 2010, there shall have been no event, circumstance, occurrence or change which has had, or is reasonably likely to have, individually or in the aggregate, a Material Adverse Effect.

**Section 3.17 Required Documentation**

Lenders shall have received, to the extent requested, all documentation and other information required by regulatory authorities under applicable “know your customer” and anti-money laundering rules and regulations, including the USA Patriot Act.

**Section 3.18 Foreign Subsidiaries**

Notwithstanding the other provisions of this ARTICLE III, (i) no Foreign Subsidiary shall be required to execute and deliver the Subsidiary Guaranty or the Pledge and Security Agreement, and (ii) no more than 65% of the total combined voting power of all classes of Capital Stock entitled to vote of a Foreign Subsidiary of a Loan Party shall be required to be pledged pursuant to the provisions of the Pledge and Security Agreement. For the avoidance of doubt, 100% of the Capital Stock not entitled to vote of a Foreign Subsidiary of a Loan Party may be required to be pledged pursuant to the provisions of the Pledge and Security Agreement and no Capital Stock of a Foreign Subsidiary that is not owned directly by a Loan Party shall be pledged pursuant to the provisions of the Pledge and Security Agreement.

**Section 3.19 Completion of Proceedings**

All corporate and other proceedings taken or to be taken in connection with the transactions contemplated hereby and all documents incidental thereto, in each case to the extent described in this ARTICLE III, not previously found reasonably acceptable by Administrative Agent, acting on behalf of Lenders, and its counsel shall be reasonably satisfactory in form and substance to Administrative Agent and such counsel, and Administrative Agent and such counsel shall have received all such counterpart originals or certified copies of such documents as Administrative Agent may reasonably request.

**Section 3.20 Evidence of Transactions**

Administrative Agent shall have received evidence, in form and substance reasonably satisfactory to Administrative Agent, that (i) all amounts outstanding or becoming due under the Mezzanine Note Agreement have been repaid in accordance with the Funds Flow Memorandum, (ii) the Mezzanine Note Agreement and the Subordination Agreement have been terminated, and (iii) a dividend of $25,000,000 from Company to Parent to Hourglass Holdings, LLC has been paid in accordance with the Funds Flow Memorandum.

## ARTICLE IV
## REPRESENTATIONS AND WARRANTIES

In order to induce Lenders to enter into this Agreement and to make the Loans, each Loan Party, jointly and severally, represents and warrants to each Lender on the Second Restatement Date:

**Section 4.1 Organization, Powers, Qualification, Good Standing, Business and Subsidiaries**

(a) **Organization and Powers** Each Loan Party is a corporation or limited liability company duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation, organization or formation as specified in Schedule 4.1 annexed hereto (to the extent such concept is applicable in the relevant jurisdiction). Each Loan Party has all requisite power and authority own and operate its properties and to carry on its business as now conducted and as proposed to be conducted, to enter into the Transaction Documents to which it is a party and to carry out the Transactions.

(b) **Qualification and Good Standing** Each Loan Party is qualified to do business and is in good standing in each jurisdiction where the ownership, leasing or operation of property or conduct of its business requires such qualification, except in jurisdictions where the failure to be so qualified or in good standing could not reasonably be expected to result in a Material Adverse Effect.

(c) **Conduct of Business** Parent has no other assets other than (i) the Capital Stock of Company and/or the Intermediate Holding Companies, (ii) as permitted as a result of permitted holding company activity contemplated pursuant to Section 6.11 and (iii) any Sand Purchase Documents to which it is a party. Parent and its Subsidiaries are engaged only in the businesses permitted to be engaged in pursuant to Section 6.11.

(d) **Subsidiaries** As of the Second Restatement Date, (i) all of the Subsidiaries of Parent and their jurisdictions of incorporation, organization or formation are identified in Schedule 4.1; (ii) the Capital Stock of each of Parent and its Subsidiaries identified in Schedule 4.1 is duly authorized, validly issued, fully paid and non-assessable and none of such Capital Stock constitutes Margin Stock and (iii) Schedule 4.1 correctly sets forth the ownership interest of Parent and each of its Subsidiaries in each of the Subsidiaries of Parent identified therein. As of the Second Restatement Date, each of the Subsidiaries of Parent identified in Schedule 4.1 is a corporation or limited liability company duly organized, validly existing and in good standing under the laws of its respective jurisdiction of incorporation, organization or formation set forth therein, has all requisite power and authority to own and operate its properties and to carry on its business as now conducted and as proposed to be conducted, and is qualified to do business and in good standing in every jurisdiction where the ownership, leasing or operation of property or the conduct of its business requires such qualification (to the extent such concept is applicable in the relevant jurisdiction) necessary to carry out its business and operations, in each case except where failure to be so qualified or in good standing or a lack of such power and authority has not had and could not reasonably be expected to result in a Material Adverse Effect.

**Section 4.2 Authorization of Transactions, etc.**

(a) **Authorization of Transactions** The execution, delivery and performance of the Transaction Documents have been duly authorized by all necessary action on the part of each Loan Party that is a party thereto.

(b) **No Conflict** The execution, delivery and performance by each Loan Party of the Transaction Documents to which it is a party and the consummation of the Transactions do not and will not (i) violate any provision of any law or any governmental rule or regulation applicable to such Loan Party or any of its Subsidiaries, the Organizational Documents of such Loan Party or any of its Subsidiaries or any order, judgment, decree or order of any court or other Government Authority binding on such Loan Party or any of its Subsidiaries, (ii) conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any Contractual Obligation of such Loan Party or any of its Subsidiaries, (iii) result in or require the creation or imposition of any Lien upon any of the properties or assets of such Loan Party or any of its Subsidiaries (other than any Liens created or permitted under any of the Loan Documents), or (iv) require any approval of stockholders or any approval or consent of any Person under any Contractual Obligation of such Loan Party or any of its Subsidiaries, except for such approvals or consents which will be obtained on or before the Second Restatement Date and, in each case, to the extent such violation, conflict, breach, default, Lien or failure to obtain such approval or consent could not reasonably be expected to result in a Material Adverse Effect.

(c) **Governmental Consents** The execution, delivery and performance by each applicable Loan Party of the Transaction Documents to which it is a party and the consummation of the Transactions do not and will not require any Governmental Authorization except for (i) such approvals which have been obtained and are in full force and effect, (ii) filings in connection with the Liens created by or pursuant to the Loan Documents, and (iii) filings which customarily are required in connection with the exercise of remedies in respect of the Collateral.

(d) **Binding Obligation** Each of the Transaction Documents has been duly executed and delivered by each Loan Party that is a party thereto and is the legally valid and binding obligation of such Loan Party, enforceable against such Loan Party in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles relating to enforceability.

**Section 4.3 Financial Condition**

Company has heretofore delivered to Lenders, at Lenders' request, the financial statements and information described in Section 3.5. All such statements other than pro forma financial statements were prepared in conformity with GAAP, except as otherwise expressly noted therein, and fairly present, in all material respects, the financial position (on a consolidated basis) of the entities described in such financial statements as at the respective dates thereof and the results of operations and cash flows (on a consolidated basis) of the entities described therein for each of the periods then ended, subject, in the case of any such unaudited financial statements, to changes resulting from audit and normal year-end adjustments and the absence of footnotes. Neither Parent nor any of its Subsidiaries has (and will not have following the funding of the Loans) any Contingent Obligation, contingent liability or liability for taxes, long-term lease or unusual forward or long-term commitment that is not reflected in the foregoing financial statements or the notes thereto and that is material in relation to the consolidated business, operations, properties, assets or condition (financial or otherwise) of Company or any of its Subsidiaries other than (a) liabilities arising in the ordinary course of business since the date of such financial statements, (b) liabilities that individually or in the aggregate, could not reasonably be expected to have a Material Adverse Effect, or (c) liabilities disclosed on Schedule 4.3.

**Section 4.4 No Material Adverse Change; No Restricted Junior Payments**

Since December 31, 2010, no event, change, development, condition or circumstance has occurred which, individually or in the aggregate (with any other events, changes, developments, conditions or circumstances), has had or could reasonably be expected to have a Material Adverse Effect. On the Second Restatement Date, neither Parent, Company nor any of their respective Subsidiaries has directly or indirectly declared, ordered, paid or made, or set apart any sum or property for, any Restricted Junior Payment or agreed to do so except as permitted by Section 6.5.

**Section 4.5 Title to Properties; Liens; Real Property; Intellectual Property**

(a) **Title to Properties; Liens** Loan Parties have (i) good, sufficient and legal title to (in the case of fee interests in real property), (ii) valid leasehold interests in or rights to use (in the case of leasehold interests in or rights to use real or personal property) or (iii) good title to (in the case of all other personal property), all of their respective properties and assets reflected in the financial statements referred to in Section 4.3 or in the most recent financial statements delivered pursuant to Section 5.1, in each case except for (i) such defects in title as could not reasonably be expected to result in a Material Adverse Effect, (ii) Permitted Encumbrances and the other Liens permitted pursuant to Section 6.2(a), and (iii) assets disposed of since the date of such financial statements in the ordinary course of business or as otherwise permitted under Section 6.7. Except as permitted by this Agreement, all such properties and assets are free and clear of Liens.

(b) **Real Property** As of the Second Restatement Date, Schedule 4.5(b) annexed hereto contains a true, accurate and complete list of (i) all fee interests in any Real Property Assets and (ii) all leases, subleases or assignments of leases (together with all amendments, modifications, supplements, renewals or extensions of any thereof), affecting each Material Leasehold Property, to which a Loan Party is the tenant (whether directly or as an assignee or successor in interest) under such lease, sublease or assignment. Except as specified in Schedule 4.5(b) annexed hereto, each agreement listed in clause (ii) of the immediately preceding sentence is in full force and effect as of the Second Restatement Date and Company does not have knowledge as of the Second Restatement Date of any default by any Loan Party, party to such agreement that has occurred and is continuing thereunder, and each such agreement constitutes the legally valid and binding obligation of each applicable Loan Party, enforceable against such Loan Party in accordance with its terms, except as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium or similar laws relating to or limiting creditors' rights generally or by equitable principles.

(c) **Intellectual Property** As of the Second Restatement Date, Parent and its Subsidiaries own or have the right to use, all Intellectual Property used in the present conduct of their business, except where the failure to own or have such right to use in the aggregate could not reasonably be expected to result in a Material Adverse Effect. No claim has been asserted in writing and has been received by any Loan Party in the past two years and no such written claim received by such Loan Party is pending by any Person against any Loan Party of any of their Subsidiaries challenging or questioning the use of any such Intellectual Property by any Loan Party or the validity or effectiveness of any such Intellectual Property, except for such claims that in the aggregate could not reasonably be expected to result in a Material Adverse Effect. To the knowledge of the Loan Parties, the use of such Intellectual Property by Parent and its Subsidiaries does not infringe on the rights of any Person, except for such claims and infringements that, in the aggregate, could not reasonably be expected to result in a Material Adverse Effect. All federal, state and foreign registrations of and applications for Intellectual Property that are owned by Parent or any of its Subsidiaries as of the Second Restatement Date are identified on Schedule 4.5(c) annexed hereto.

**Section 4.6 Litigation; Adverse Facts**

Except as disclosed on Schedule 4.6 annexed hereto, there are no Proceedings (whether or not purportedly on behalf of any Loan Party or any of its Subsidiaries) at law or in equity, or before or by any court or other Government Authority (including any Environmental Claims) that are pending or, to the knowledge of any Loan Party, threatened against any Loan Party or any of its Subsidiaries and that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect. No Loan Party nor any of its Subsidiaries (a) is in violation of any applicable laws (including Environmental Laws) that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect or (b) is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any court or other Government Authority that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect.

**Section 4.7 Payment of Taxes**

Except to the extent permitted by Section 5.3, all federal or other material Tax returns and reports of each Loan Party and its Subsidiaries required to be filed by any of them have been timely filed, and all federal or other material Taxes shown on such Tax returns to be due and payable and all material assessments, fees and other governmental charges upon such Loan Party and its Subsidiaries and upon their respective properties, assets, income, businesses and franchises that are due and payable have been paid when due and payable and all material assessments, fees and other governmental charges upon each Loan Party and its Subsidiaries and upon their respective properties, assets, income, businesses and franchises that are due and payable have been paid when due and payable, in each case, other than taxes, assessments and other governmental charges which are being contested in good faith and by appropriate proceedings. Company knows of no proposed tax assessment against any Loan Party or its Subsidiaries that is not being actively contested by such Loan Party or such Subsidiary in good faith and by appropriate proceedings; *provided that* such reserves or other appropriate provisions, if any, as shall be required in conformity with GAAP shall have been made or provided therefor.

**Section 4.8 Federal Regulations**

(a) **Federal Power Act; etc.** No Loan Party nor any of its Subsidiaries is subject to regulation under the Federal Power Act, the Interstate Commerce Act or the Investment Company Act of 1940 or, to the knowledge of Company, under any other federal or state statute or regulation which could limit its ability to incur Indebtedness or which could otherwise render all or any of the Obligations unenforceable.

(b) **Terrorism Laws** Neither the making of the Loans under this Agreement nor the Loan Parties' use of the proceeds thereof will violate the Trading with the Enemy Act, as amended, or any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto. Without limiting the foregoing, neither Parent nor any of its Subsidiaries or Affiliates (a) is or will become a Person whose property or interests in property are blocked pursuant to Section 1 of Executive Order 13224 of September 23, 2001 Blocking Property and Prohibiting Transactions With Persons Who Commit, Threaten to Commit, or Support Terrorism (66 Fed. Reg. 49079 (2001)) or (b) engages or will engage in any dealings or transactions, or be otherwise associated, with any such Person. Parent and its Subsidiaries and Affiliates are in compliance, in all material respects, with the USA Patriot Act.

(c) **Anti-Money Laundering Laws** Neither the Loan Parties nor any of their respective Subsidiaries nor, to Company's knowledge, any holder of a direct or indirect interest in Parent or any of its Subsidiaries (i) is under investigation by any Government Authority for, or has been charged with, or convicted of, money laundering under 18 U.S.C. §§ 1956 and 1957, drug trafficking, terrorist-related activities or other money laundering predicate crimes, or any violation of the Bank Secrecy Act, 31 U.S.C. §§5311 et. seq. (all of the foregoing, collectively, the **"Anti-Money Laundering Laws"),** (ii) has been assessed civil penalties under any Anti-Money Laundering Laws or (iii) has had any of its funds seized or forfeited in an action under any Anti-Money Laundering Laws.

(d) **Federal Reserve Regulations** No part of the proceeds of any Loans will be used for "buying" or "carrying" any Margin Stock or for any purpose which violates the provisions of the Regulations of the Federal Reserve Board. Following the application of the proceeds of Loans, not more than 25% of the value of the assets of the Loan Parties (on a consolidated basis) will be invested in Margin Stock.

**Section 4.9 ERISA**

(a) No Loan Party or ERISA Affiliate has incurred or could be reasonably expected to incur any liability to, or on account of, a Multiemployer Plan as a result of a violation of Section 515 of ERISA or pursuant to Section 4201, 4204 or 4212(c) of ERISA which could reasonably be expected to result in a Material Adverse Effect;

(b) Each Employee Plan complies in all material respects in form and operation with ERISA, the Internal Revenue Code (except where such failure could not reasonably be expected to result in a Material Adverse Effect);

(c) The present value of the "benefit liabilities" (within the meaning of Section 4001(a)(16) of ERISA) of each Employee Plan subject to Title IV of ERISA (using the actuarial assumptions and methods used by the actuary to that Employee Plan in its most recent valuation of that Employee Plan) do not exceed the fair market value of the assets of each such Employee Plan by an amount which could reasonably be expected to result in a Material Adverse Effect;

(d) There is no litigation, arbitration, administrative proceeding or claim pending or (to the best of each Loan Party and ERISA Affiliates' knowledge and belief) threatened against or with respect to any Employee Plan (other than routine claims for benefits) which has or, if adversely determined, could reasonably be expected to have a Material Adverse Effect;

(e) Each Loan Party and each ERISA Affiliate has made all material contributions to each Employee Plan and Multiemployer Plan required by law within the applicable time limits prescribed by law, the terms of that plan and any contract or agreement requiring contributions to that plan (except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect);

(f) No Loan Party or ERISA Affiliate has ceased operations at a facility so as to become subject to the provisions of Section 4062(e) of ERISA, withdrawn as a substantial employer so as to become subject to the provisions of Section 4063 of ERISA, or ceased making contributions to any Employee Plan subject to Section 4064(a) of ERISA to which it made contributions which could reasonably be expected to result in a Material Adverse Effect;

(g) No Loan Party or ERISA Affiliate has incurred or could reasonably be expected to incur any liability to the PBGC (other than liability to the PBGC for the payment of periodic premiums); and

(h) Except as set forth in Schedule 4.9, no ERISA Event has occurred or is reasonably likely to occur.

**Section 4.10 Certain Fees**

No broker's or finder's fee or commission will be payable with respect to this Agreement or any of the transactions contemplated hereby, and Company hereby indemnifies Lenders against, and agrees that it will hold Lenders harmless from, any claim, demand or liability for any such broker's or finder's fees alleged to have been incurred in connection herewith or therewith and any expenses (including reasonable fees, expenses and disbursements of counsel) arising in connection with any such claim, demand or liability.

**Section 4.11 Environmental Protection**

Except as set forth in Schedule 4.11 annexed hereto:

(a) no Loan Party or any of their respective Facilities or operations are subject to any outstanding written order, consent decree or settlement agreement with any Person relating to (i) any Environmental Law, (ii) any Environmental Claim or (iii) any Hazardous Materials Activity; that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect;

(b) no Loan Party has received any letter or request for information under Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9604) or any comparable state law which is pending or unresolved, that, individually or in the aggregate could reasonably be expected to result in a Material Adverse Effect;

(c) to Parent's knowledge, there are and have been no conditions, occurrences, or Hazardous Materials Activities that violate any applicable Environmental Law or could reasonably be expected to form the basis of an Environmental Claim against any Loan Party or any of its Subsidiaries that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect; and

(d) to Parent's knowledge, each Loan Party has complied and is in compliance with all Environmental Laws, except for such noncompliance which could not, individually or in the aggregate, be reasonably expected to result in a Material Adverse Effect.

**Section 4.12 Employee Matters**

There is no strike or work stoppage in existence or, to the knowledge of Parent, threatened involving Parent or any of its Subsidiaries that could reasonably be expected to result in a Material Adverse Effect.

**Section 4.13 Solvency**

Immediately after giving effect to the Transactions, the Loan Parties, taken as a whole and on a consolidated basis, are Solvent.

**Section 4.14 Matters Relating to Collateral**

(a) **Governmental Authorizations** No authorization, approval or other action by, and no notice to or filing with, any Government Authority is required for either (i) the pledge or grant by any Loan Party of the Liens purported to be created in favor of Administrative Agent pursuant to any of the Collateral Documents or (ii) the exercise by Administrative Agent of any rights or remedies in respect of any Collateral (whether specifically granted or created pursuant to any of the Collateral Documents or created or provided for by applicable law), except for filings or recordings contemplated by the Collateral Documents and except as may be required, in connection with the disposition of any Pledged Collateral, by laws generally affecting the offering and sale of Securities.

(b) **Absence of Third-Party Filings** Except such as may have been filed in favor of Administrative Agent as contemplated by the Collateral Documents, or to evidence permitted lease obligations and other Liens permitted pursuant to Section 6.2, (i) no effective UCC financing statement, fixture filing or other instrument similar in effect covering all or any part of the Collateral is on file in any filing or recording office and (ii) no effective filing covering all or any part of the IP Collateral is on file in any IP Filing Office.

(c) **Information Regarding Collateral** All information supplied to Administrative Agent by or on behalf of any Loan Party in writing with respect to any of the Collateral (in each case taken as a whole with respect to any particular Collateral) is accurate and complete in all material respects on the Second Restatement Date.

**Section 4.15 Subordinated Indebtedness**

The Obligations are entitled to the benefits of the subordination provisions set forth in any agreement governing any Subordinated Indebtedness and all other subordination provisions relating to Indebtedness of the Loan Parties.

**Section 4.16 Disclosure**

No representation or warranty of any Loan Party contained in any Loan Document or in any other document, certificate or written statement (as modified or supplemented by other information so furnished) furnished to Lenders by or on behalf of such Loan Party (other than projections and other forward looking information and information of a general economic or industry specific nature) for use in connection with the Transactions, contains any untrue statement of a material fact or omits to state a material fact (known to such Loan Party, in the case of any document not furnished by it) necessary in order to make the statements contained herein or therein, taken as a whole, not misleading in light of the circumstances in which the same were made. Any projections and pro forma financial information and other forward looking information contained in such materials are based upon good faith estimates and assumptions believed by the Loan Parties to be reasonable at the time made, it being recognized by Lenders that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results and such difference may be material. There are no facts known to the Loan Parties (other than matters of a general economic nature) that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect and that have not been disclosed herein or in such other documents, certificates and written statements furnished to Lenders for use in connection with the Transactions.

**Section 4.17 Permitted Indebtedness**

None of the Loan Parties nor any of their Subsidiaries has incurred, created, issued, assumed or otherwise become liable for, contingently or otherwise, or become responsible for the payment of, contingently or otherwise, any Indebtedness other than Permitted Indebtedness.

**Section 4.18 Compliance with Laws.**

(a) Except as set forth on Schedule 4.18, each of the Loan Parties and their respective Subsidiaries are in compliance with all laws (including New Jersey’s Industrial Site Recovery Act), regulations and orders of any Government Authority applicable to it or its property including, but not limited to, all Environmental Laws, except where failure to do so, individually or in aggregate, could not reasonably be expected to result in a Material Adverse Effect; and

(b) All governmental approvals (federal, state and foreign), permits, authorizations, certificates, rights, exemptions and orders from any Government Authority and licenses (the “Permits”) required to be held or obtained by Parent or any of its Subsidiaries in connection with the conduct of their business as presently conducted have been obtained and are in full force and effect and are being complied with and there has not been any default under any such Permits; except where failure to do so or where such default, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect.

**Section 4.19 No Default**

No Event of Default or Potential Event of Default has occurred and is continuing.

**Section 4.20 Material Contracts**

No Loan Party is in breach or violation of any of the terms, conditions or provisions of any Material Contracts or any lease with respect to any Material Leasehold Property, except for such breaches and violations thereof as in the aggregate do not and could not reasonably be expected to have a Material Adverse Effect.

**Section 4.21 Brokers' Fees**

None of the Loan Parties has any obligation to any Person in respect of any finder's, broker's, investment banking or other similar fee in connection with the Loan Documents other than the closing and other fees payable pursuant to this Agreement or any fee letter in respect of this Agreement.

## ARTICLE V
## AFFIRMATIVE COVENANTS

Each Loan Party covenants and agrees, jointly and severally (to the extent possible), that, until payment in full of all of the Loans and other Obligations (other than Unasserted Obligations), unless Requisite Lenders shall otherwise give prior written consent, it shall perform, and shall cause each of its Subsidiaries to perform, all covenants in this ARTICLE V.

**Section 5.1 Financial Statements and Other Reports**

Parent will maintain, and cause each of its Subsidiaries to maintain, a system of accounting established and administered in accordance with sound business practices to permit preparation of financial statements in conformity with GAAP. Company will deliver to Administrative Agent for distribution to Lenders:

(a) Events of Default, etc. promptly upon any Officer of a Loan Party obtaining knowledge (i) of any condition or event that constitutes an Event of Default or Potential Event of Default, (ii) that any Person has given any notice to Parent or any of its Subsidiaries or taken any other material action against Parent, its Subsidiaries or their respective assets with respect to a claimed default or event or condition of the type referred to in Section 7.2 or (iii) of the occurrence of any event or change that caused or evidences either in any case or in the aggregate, a Material Adverse Effect, an Officer's Certificate specifying the nature and period of existence of such condition, event or change, or specifying the notice given or action taken by any such Person and the nature of such claimed Event of Default, Potential Event of Default, default, event or condition, and what action any Loan Party has taken, is taking and proposes to take with respect thereto;

(b) **~~Monthly and~~ Quarterly Financials** as soon as available and in any event ~~within 30 days after the end of each month (provided that the monthly financials for the month of December shall be due on the same day as the Year-End Financials in accordance with Section 5.1(c) below) and~~ within 45 days after the end of each of the first three Fiscal Quarters of each Fiscal Year, the consolidated balance sheet of Parent and its Subsidiaries as at the end of such fiscal period and the related consolidated statements of income, stockholders' equity and cash flows of Parent and its Subsidiaries for such fiscal period and for the period from the beginning of the then current Fiscal Year to the end of such fiscal period, setting forth in each case in comparative form the corresponding figures for the corresponding periods of the

previous Fiscal Year and the corresponding figures from the Financial Plan for the current Fiscal Year, to the extent prepared for such fiscal period, all in reasonable detail and certified by the chief financial officer, chief executive officer, principal accounting officer, treasurer, assistant treasurer or controller of Company that they fairly present, in all material respects, the financial condition of Parent and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments, and a narrative report describing the operations of Company and its Subsidiaries in the form prepared for presentation to senior management for each Fiscal Quarter;

(c) **Year-End Financials** as soon as available and in any event within 90 days after the end of each Fiscal Year, beginning with Fiscal Year ending December 31, 2011, (i) the consolidated balance sheet of Parent and its Subsidiaries as at the end of such Fiscal Year and the related consolidated statements of income, stockholders' equity and cash flows of Parent and its Subsidiaries for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the previous Fiscal Year, and the corresponding figures from the Financial Plan for the Fiscal Year covered by such financial statements, all in reasonable detail and certified by the chief financial officer, chief executive officer, principal accounting officer, treasurer, assistant treasurer or controller of Company that they fairly present, in all material respects, the financial condition of Parent and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated, and (ii) in the case of such consolidated financial statements, a report thereon of either Grant Thornton or other independent certified public accountants of recognized national standing selected by Company and reasonably satisfactory to Administrative Agent, which report shall be unqualified as to scope of audit, shall express no doubts, assumptions or qualifications concerning the ability of Parent and its Subsidiaries to continue as a going concern and shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of Parent and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated in conformity with GAAP applied on a basis consistent with prior years (except as otherwise disclosed in such financial statements) and that the examination by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards;

(d) **Compliance Certificate** together with each delivery of quarterly and annual financial statements pursuant to subdivisions (b) and (c) above, (i) an Officer's Certificate of Company stating that such Officer has reviewed the terms of this Agreement and has made, or caused to be made under his or her supervision, a review in reasonable detail of the transactions and condition of Parent and its Subsidiaries during the accounting period covered by such financial statements and that such review has not disclosed the existence during or at the end of such accounting period, and that such Officer does not have knowledge of the existence as at the date of such Officer's Certificate, of any condition or event that constitutes an Event of Default or Potential Event of Default, or, if any such condition or event existed or exists, specifying the nature and period of existence thereof and what action Company has taken, is taking and proposes to take with respect thereto; and (ii) a Compliance Certificate demonstrating in reasonable detail compliance during and at the end of the applicable accounting periods with the restrictions contained in ARTICLE VI, in each case to the extent compliance with such restrictions is required to be tested at the end of the applicable accounting period;

(e) **Reconciliation Statements** if, as a result of any change in accounting principles and policies from those used in the preparation of the audited financial statements referred to in Section 4.3, the consolidated financial statements of Parent and its Subsidiaries delivered pursuant to subsections (b), (c) or (j) of this Section 5.1 will differ in any material respect from the consolidated financial statements that would have been delivered pursuant to such subsections had no such change in accounting principles and policies been made, then (i) within 30 days of the first delivery of financial statements pursuant to subsection (b), (c) or (j) of this Section 5.1 following such change, consolidated financial statements of Parent and its Subsidiaries for (A) the current Fiscal Year to the effective date of such change and (B) the two full Fiscal Years immediately preceding the Fiscal Year in which such change is made, in each case prepared on a pro forma basis as if such change had been in effect during such periods and (ii) within 30 days of each delivery of financial statements pursuant to subsection (b), (c) or (j) of this Section 5.1 following such change, if required pursuant to Section 1.2, a written statement of the chief accounting officer or chief financial officer of Company setting forth the differences (including any differences that would affect any calculations relating to the Financial Covenant) which would have resulted if such financial statements had been prepared without giving effect to such change;

(f) **Accountants' Reports** promptly upon receipt thereof (unless restricted by applicable professional standards), copies of all final reports submitted to Company by independent certified public accountants in connection with each annual, interim or special audit of the financial statements of Parent and its Subsidiaries made by such accountants, including any final comment letter submitted by such accountants to management in connection with their annual audit;

(g) **SEC Filings and Press Releases** promptly upon their becoming available, copies of (i) all financial statements, reports, notices and proxy statements sent or made available generally by Parent or Company to their security holders or by any Subsidiary of Parent to its security holders other than Parent or another Subsidiary of Parent, and (ii) all regular and periodic reports and all registration statements (other than on Form S-8 or a similar form) and prospectuses, if any, filed by Parent or any of its Subsidiaries with any securities exchange or with the Securities and Exchange Commission or any Government Authority or private regulatory authority;

(h) **Litigation or Other Proceedings** promptly upon any Officer of Company obtaining knowledge of (i) the institution or threat of any Proceeding against or affecting any Loan Party or any of its Subsidiaries or any property of any Loan Party or any of its Subsidiaries not previously disclosed in writing by Company to Lenders or (ii) any material development in any Proceeding that, in any case:

(A) could reasonably be expected to have a Material Adverse Effect; or

(B) seeks to enjoin or otherwise prevent the consummation of, or to recover any damages or obtain relief as a result of, any of the Transactions;

written notice thereof together with such other information as may be reasonably available to Company to enable Lenders and their counsel to evaluate such matters;

(i) **ERISA**

Each Loan Party shall:

(A) promptly upon a request by Administrative Agent or a Lender, deliver to Administrative Agent copies of (i) Schedule B (Actuarial Information) to the Annual Report (IRS Form 5500 Series) with respect to each Employee Plan, and (ii) such other documents or governmental reports or filings relating to any Employee Plan as Administrative Agent shall reasonably request;

(B) within seven days after it or any ERISA Affiliate becomes aware that any ERISA Event has occurred or is forthcoming, in the case of any ERISA Event which requires advance notice under Section 4043(b)(3) of ERISA, will occur, deliver to Administrative Agent a statement signed by a director or other authorized signatory of a Loan Party or ERISA Affiliate describing that ERISA Event and the action, if any, taken or proposed to be taken with respect to that ERISA Event;

(C) within seven days after receipt by it or any ERISA Affiliate or any administrator of an Employee Plan, deliver to Administrative Agent copies of each notice from the PBGC stating its intention to terminate any Employee Plan or to have a trustee appointed to administer any Employee Plan; and

(D) within seven days after becoming aware of any event or circumstance which might constitute grounds for the termination of (or the appointment of a trustee to administer) any Employee Plan or Multiemployer Plan, provide an explanation of that event or circumstance by a director of the Loan Party or ERISA Affiliate affected by that event or circumstance.

(j) **Financial Plans** as soon as practicable, and in any event no later than the beginning of each Fiscal Year, starting with the Fiscal Year beginning on January 1, 2012, a consolidated plan and financial forecast for such Fiscal Year (the **"Financial Plan"** for such Fiscal Year), including (i) a forecasted consolidated balance sheet and forecasted consolidated statements of income and cash flows of Parent and its Subsidiaries for such Fiscal Year, together with a pro forma Compliance Certificate for such Fiscal Year and an explanation of the assumptions on which such forecasts are based and (ii) forecasted consolidated balance sheets and forecasted consolidated statements of income and cash flows of Parent and its Subsidiaries for each month of such Fiscal Year, together with an explanation of the assumptions on which such forecasts are based;

(k) **Insurance** as soon as practicable after any material change in insurance coverage maintained by Parent and its Subsidiaries notice thereof to Administrative Agent specifying the changes and reasons therefor;

(l) **[Reserved];**

(m) **ABL Loan Documents** promptly upon execution and delivery or receipt thereof, copies of (i) any amendment, restatement, supplement or other modification to or waiver of any ABL Loan Document entered into after the date hereof, and (ii) copies of all notices to Company from holders of any ABL Obligations or a trustee, agent or other representative of such a holder;

(n) **Sand Purchase Documents** promptly upon execution and delivery or receipt thereof, copies of (i) any amendment, restatement, supplement or other modification to or waiver of any Sand Purchase Document entered into after the date hereof, and (ii) copies of all material notices from any party to any Sand Purchase Document;

(o) **Other Information** with reasonable promptness, such other information and data with respect to Parent or any of its Subsidiaries as from time to time may be reasonably requested by Administrative Agent (for its own account or upon the reasonable request from any Lender); and

(p) **Electronic Posting** information required to be delivered pursuant to subsections (b), (c) and (g) of this Section 5.1 shall be deemed to have been delivered on the date on which any Loan Party provides notice to Administrative Agent that such information has been posted on such Loan Party's Internet website at the website address listed on the signature page hereof or at another website identified in such notice and accessible to Lenders without charge including but not limited to Intralinks; *provided that* such Loan Party shall deliver paper copies of such information to any Lender that requests such delivery-; and

(q) **Public Lenders** Borrower hereby acknowledges that (a) Administrative Agent and/or Arranger will make available to the Lenders materials and/or information provided by or on behalf of Borrower hereunder (collectively, **"Borrower Materials")** by posting Borrower Materials on IntraLinks or another similar electronic system (the **"Platform")** and (b) certain of the Lenders (each, a **"Public Lender")** may have personnel who do not wish to receive material non-public information with respect to Borrower or its Subsidiaries, or the respective securities of any of the foregoing, and who may be engaged in investment and other market-related activities with respect to such Persons' securities. Borrower hereby agrees that (w) all Borrower Materials that are to be made available to Public Lenders shall be clearly and conspicuously marked "PUBLIC" which, at a minimum, shall mean that the word "PUBLIC" shall appear prominently on the first page thereof; (x) by marking Borrower Materials "PUBLIC," Borrower shall be deemed to have authorized Administrative Agent, Arranger and the Lenders to treat such Borrower Materials as not containing any material non-public information with respect to Borrower or its securities for purposes of United States Federal and state securities laws *(provided*, however, that to the extent such Borrower Materials constitute Information, they shall be treated as set forth in Section 9.19); (y) all Borrower Materials marked "PUBLIC" are permitted to be made available through a portion of the Platform designated "Public Side Information"; and (z) Administrative Agent and Arranger shall be entitled to treat any Borrower Materials that are not marked "PUBLIC" as being suitable only for posting on a portion of the Platform not designated "Public Side Information".

**Section 5.2 Existence, etc.**

Except as permitted under Section 6.7, each Loan Party will, and will cause each of its Subsidiaries to, at all times preserve and keep in full force and effect its existence in the jurisdiction of incorporation, organization or formation specified on Schedule 4.1 and all rights, qualifications, licenses, permits, Governmental Authorizations, Intellectual Property rights and franchises material to its business; *provided, however, that* no Loan Party nor any of its Subsidiaries shall be required to preserve any such rights, qualifications, licenses, permits, governmental authorizations, Intellectual Property rights and franchises or franchises if the Governing Body of such Loan Party or Subsidiary shall determine that the preservation thereof is no longer desirable in the conduct of the business of such Loan Party or such Subsidiary, as the case may be, and that the loss thereof could not reasonably be expected to have a Material Adverse Effect.

**Section 5.3 Payment of Taxes and Claims; Tax**

(a) Parent will, and will cause each of its Subsidiaries to, pay all material federal and other material Taxes, assessments and other governmental charges imposed upon it or any of its properties or assets or in respect of any of its income, businesses or franchises before any penalty accrues thereon, and all claims (including claims for labor, services, materials and supplies) for sums that have become due and payable and that by law have or may become a Lien upon any of its properties or assets, prior to the time when any penalty or fine shall be incurred with respect thereto; *provided that* no such material Tax, assessment, charge or claim need be paid: if it is being contested in good faith by appropriate Proceedings promptly instituted and diligently conducted, so long as (i) such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made therefor and (ii) in the case of a material Tax, assessment, charge or claim which has or may become a Lien against any of the Collateral, such Proceedings conclusively operate to stay the sale of any portion of the Collateral to satisfy such charge or claim.

(b) Parent will not, nor will it permit any of its Subsidiaries to, file or consent to the filing of any consolidated income tax return with any Person (other than GGC USS Holdings, LLC and Parent or any of their respective Subsidiaries).

**Section 5.4 Maintenance of Properties; Insurance; Business Interruption Insurance**

(a) **Maintenance of Properties** Except for dispositions permitted under Section 6.7, Parent will, and will cause each of its Subsidiaries to, maintain or cause to be maintained in reasonably good repair, working order and condition, ordinary wear and tear excepted, all of its material properties used or useful in the business of Parent and its Subsidiaries and from time to time will make or cause to be made all reasonably necessary repairs, renewals and replacements thereof.

(b) **Insurance**

(i) Subject, in the case of Silica Related Claims, to the terms of Section 5.4(b)(ii) below, Company will, and will cause each of its Subsidiaries to, maintain or cause to be maintained, with financially sound and reputable insurers, such public liability insurance, third party property damage insurance, business interruption insurance and casualty insurance with respect to liabilities, losses or damage in respect of the assets, properties and businesses of Parent and its Subsidiaries as may customarily be carried or maintained under similar circumstances by corporations of established reputation engaged in similar businesses in the same general area, in each case in such amounts (giving effect to self-insurance), with such deductibles, covering such risks and otherwise on such terms and conditions as shall be customary for corporations similarly situated in the industry and in the same general area. Without limiting the generality of the foregoing, Company will, and will cause each of its Subsidiaries to, maintain or cause to be maintained (i) flood insurance with respect to each Flood Hazard Property that is located in a community that participates in the National Flood Insurance Program, in each case in compliance with any applicable regulations of the Board of Governors of the Federal Reserve System and (ii) replacement value casualty insurance on the Collateral under such policies of insurance, with such insurance companies, in such amounts, with such deductibles, and covering such risks as are at all times reasonably satisfactory to

Administrative Agent in its commercially reasonable judgment. Each such policy of insurance shall (A) name Administrative Agent for the benefit of Lenders as an additional insured thereunder as its interests may appear and (B) in the case of each business interruption and casualty insurance policy, contain a loss payable clause or endorsement, reasonably satisfactory in form and substance to Administrative Agent, that names Administrative Agent for the benefit of Lenders as the lender's loss payee thereunder for any covered loss in excess of $500,000 and provides for at least 30 days prior written notice to Administrative Agent of any modification or cancellation of such policy. In connection with the renewal of each such policy of insurance, Company promptly shall deliver to Administrative Agent a certificate from Company's insurance broker or other evidence reasonably satisfactory to Administrative Agent that Collateral Agent on behalf of Secured Parties has been named as additional insured and/or lender's loss payee thereunder. Notwithstanding the foregoing provisions of this clause (i), in connection with Amendment No. 1, Company shall promptly, and in any event within 30 days following the Amendment No. 1 Effective Date (or such other time period as reasonably agreed by the Collateral Agent), deliver to Administrative Agent a certificate from Company's insurance broker or other evidence reasonably satisfactory to Administrative Agent that Collateral Agent on behalf of Secured Parties has been named as additional insured and/or lender's loss payee under any insurance policies relating to Coated Sand.

(ii) Notwithstanding the terms of Section 5.4(b)(i) to the contrary, with respect to Silica Related Claims, the only insurance which Parent and its Subsidiaries shall be required to maintain will be the insurance evidenced by those insurance policies in existence on the Second Restatement Date and listed by general description on Schedule 5.4 hereto in which Company and its Subsidiaries are named as insured (or additional insured) either directly or indirectly or as successor-in-interest to, or assignee of ITT, U.S. Borax Company, Pennsylvania Glass Sand Corporation or Ottawa Silica Company, in respect to Silica Related Claims (the **"Silica Related Claims Policies").** In regard thereto, Company and its Subsidiaries will (i) continue to keep all such policies in full force and effect at all times hereafter and (ii) notify Administrative Agent promptly, but in any event within five Business Days after receiving any notice or knowledge of any actual, pending or threatened termination or cancellation or denial of coverage thereunder.

(c) **Business Interruption Insurance** Upon receipt by Parent or any of its Subsidiaries of any business interruption insurance proceeds constituting Net Insurance/Condemnation Proceeds, (a) so long as no Event of Default shall have occurred and be continuing, Parent or such Subsidiary may retain and apply such Net Insurance/Condemnation Proceeds for working capital purposes, and (b) if an Event of Default shall have occurred and be continuing, Company shall apply an amount equal to such Net Insurance/Condemnation Proceeds to prepay the Loans as provided in Section 2.4(b)(iii)(B).

**Section 5.5 Inspection Rights; Lender Meeting; Maintenance of Books and Records**

(a) **Inspection Rights** Each Loan Party shall, and shall cause each of its Subsidiaries to, permit any authorized representatives designated by Administrative Agent to visit and

inspect any of the properties of Company or of any of its Subsidiaries, to inspect, copy and take extracts from its and their financial and accounting records, and to discuss its and their affairs, finances and accounts with its and their Officers and independent public accountants *(provided that* Company may, if it so chooses, be present at or participate in any such discussion), all upon reasonable written notice of at least three Business Days and at such reasonable times during normal business hours and not more than two times each calendar year or at any time or from time to time following the occurrence and during the continuation of an Event of Default.

(b) **Lender Meeting** Appropriate Officers of Company shall, upon the request of Administrative Agent or Requisite Lenders, participate in a meeting or conference call (determined by Company in consultation with Administrative Agent) with Administrative Agent and Lenders once during each Fiscal Year to be held at Company's principal offices (or at such other location as may be agreed to by Company and Administrative Agent) at such time as may be agreed to by Company and Administrative Agent.

(c) **Maintenance of Books and Records** Each Loan Party shall, and shall cause each of its Subsidiaries to, keep books and records which accurately reflect in all material respects its business affairs and all material transactions related thereto.

**Section 5.6 Compliance with Laws, etc.**

Each Loan Party shall comply, and shall cause each of its Subsidiaries and all other Persons on or occupying any Facilities to comply, with the requirements of all applicable laws, rules, regulations and orders of any Government Authority (including all Environmental Laws), noncompliance with which could reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect.

**Section 5.7 ERISA**

Each Loan Party shall:

(a) ensure that neither it nor any ERISA Affiliate engages in a complete or partial withdrawal, within the meaning of Sections 4203 and 4205 of ERISA, from any Multiemployer Plan which could reasonably be expected to result in a Material Adverse Effect;

(b) ensure that neither it nor any ERISA Affiliate adopts an amendment to an Employee Plan requiring the provision of security under ERISA or the Internal Revenue Code without the prior consent of the Requisite Lenders; and

(c) ensure that no Employee Plan is terminated under Section 4041 of ERISA.

**Section 5.8 Environmental Matters**

(a) **Environmental Disclosure** Company will deliver to Administrative Agent for distribution to Lenders as soon as practicable following the occurrence or receipt thereof, written notice describing in reasonable detail:

(i) any Hazardous Materials Activities the existence of which could reasonably be expected to result in one or more Environmental Claims having, individually or in the aggregate, a Material Adverse Effect;

(ii) any Environmental Claims that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect;

(iii) any written request for information from any Government Authority is investigating whether a Loan Party or any of its Subsidiaries may be potentially responsible for any Release or threat of Release of Hazardous Materials; and

(iv) (A) any proposed acquisition of stock, assets, or property by any Loan Party or any of its Subsidiaries that could reasonably be expected to expose such Loan Party or any of its Subsidiaries to, or result in, Environmental Claims that have had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and (B) any proposed action to be taken by any Loan Party or any of its Subsidiaries to modify current operations in a manner that could reasonably be expected to subject any Loan Party or any of its Subsidiaries to any material additional obligations or requirements under any Environmental Laws that could reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect.

(b) **Company's Actions Regarding Hazardous Materials Activities, Environmental Claims and Violations of Environmental Laws** Parent shall, and shall cause each of its Subsidiaries to comply with applicable Environmental Laws except for any such noncompliance which could not reasonably be expected to have a Material Adverse Effect, and, without limiting the foregoing, Parent shall take, and shall cause each of its Subsidiaries to take, any and all actions appropriate and consistent with good business practice to (i) cure any violation of applicable Environmental Laws by Parent or its Subsidiaries that have had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect and (ii) respond to any Environmental Claim against Parent or any of its Subsidiaries and discharge any obligations it may have to any Person thereunder where failure to do so could reasonably be expected to result in, individually or in the aggregate, a Material Adverse Effect.

**Section 5.9 Additional Subsidiary Guarantors**

(a) **Execution of Subsidiary Guaranty and Collateral Documents** Subject to the provisions of Section 5.9(c) below, in the event that any Person becomes a Subsidiary of Parent after the date hereof, Parent will promptly notify Administrative Agent of that fact and cause such Subsidiary to execute and deliver to Administrative Agent a counterpart of the Subsidiary Guaranty and Pledge and Security Agreement and to take all such further actions and execute such further documents and instruments (including actions, documents and instruments comparable to those described in Section 3.9) as may be necessary or, in the reasonable opinion of Administrative Agent, desirable to create in favor of Administrative Agent, for the benefit of Lenders, a valid and perfected Lien on all of the personal property assets of such Subsidiary described in the applicable forms of Collateral Documents. In addition, as provided in the Pledge and Security Agreement, Parent shall, or shall cause the Subsidiary that owns the Capital Stock of such Person to, execute and deliver to Administrative Agent a supplement to the Pledge and Security Agreement and to deliver to Administrative Agent all certificates representing such Capital Stock of such Person (accompanied by irrevocable undated stock powers, duly endorsed in blank). Notwithstanding the first sentence of this Section 5.9(a), no Target shall be required to grant a Lien on any of its assets or guarantee the Obligations if it is a Joint Venture and the acquisition of its Capital Stock by the applicable Loan Party is permitted under Section 6.3(o).

(b) **Subsidiary Organizational Documents, Legal Opinions, Etc.** Parent shall deliver to Administrative Agent, together with such Loan Documents, (i) certified copies of such Subsidiary's Organizational Documents, together with a good standing certificate (to the extent such concept is applicable in the relevant jurisdiction) from the Secretary of State or similar Government Authority of the jurisdiction of its incorporation, organization or formation and, to the extent generally available, a certificate or other evidence of good standing as to payment of any applicable franchise or similar Taxes from the appropriate taxing authority of such jurisdiction, each to be dated a recent date prior to their delivery to Administrative Agent, (ii) a certificate executed by the secretary or similar Officer of such Subsidiary as to (A) the fact that the attached resolutions of the Governing Body of such Subsidiary approving and authorizing the execution, delivery and performance of such Loan Documents are in full force and effect and have not been modified or amended and (B) the incumbency and signatures of the Officers of such Subsidiary executing such Loan Documents and (iii) a favorable opinion of counsel to such Subsidiary, in form and substance reasonably satisfactory to Administrative Agent and its counsel, as to (A) the due organization and good standing of such Subsidiary, (B) the due authorization, execution and delivery by such Subsidiary of such Loan Documents, (C) the enforceability of such Loan Documents against such Subsidiary and (D) such other matters (including matters relating to the creation and perfection of Liens in any Collateral pursuant to such Loan Documents) as Administrative Agent may reasonably request, all of the foregoing to be reasonably satisfactory in form and substance to Administrative Agent and its counsel.

(c) **Foreign Subsidiaries** Notwithstanding the provisions of Section 5.9(a), (i) no Foreign Subsidiary or any Subsidiary of a Foreign Subsidiary shall be required to execute and deliver the Subsidiary Guaranty or the Pledge and Security Agreement or any other Loan Documents, and (ii) no Capital Stock of a Foreign Subsidiary or any Subsidiary of a Foreign Subsidiary shall be required to be pledged pursuant to the provisions of the Pledge and Security Agreement or any Foreign Pledge Agreement, except, in the case of this Section 5.9(c)(ii), 100% of the non-voting Capital Stock and 65% of the voting Capital Stock of a Foreign Subsidiary that is not a Subsidiary Guarantor will be pledged hereunder, provided that no Capital Stock of a Foreign Subsidiary that is not owned directly by a Loan Party shall be pledged pursuant to the provisions of the Pledge and Security Agreement.

**Section 5.10 Matters Relating to Additional Mixed and Real Property Collateral**

(a) **Additional Mortgages, Etc.** From and after the Second Restatement Date, in the event that (i) Parent or any Subsidiary Guarantor acquires any Material Real Property or any Material Leasehold Property or (ii) at the time any Person becomes a Subsidiary Guarantor, such Person owns or holds any Material Real Property or any Material Leasehold Property, excluding in the case of clause (ii) above any such mixed property asset or Real Property Asset the encumbrancing of which requires the consent of any applicable lessor or then-existing senior lienholder, where Parent and its Subsidiaries have attempted in good faith, but are unable, to obtain such lessor's or senior lienholder's consent (any such non-excluded mixed property asset or Real Property Asset described in the foregoing clause (i) or (ii) being an **"Additional Mortgaged Property"),** Parent or such Subsidiary Guarantor shall deliver to Administrative Agent, as soon as practicable after such Person acquires such Additional Mortgaged Property or becomes a Subsidiary Guarantor, as the case may

be, (A) a fully executed and notarized Mortgage (an **"Additional Mortgage")**, in proper form for recording in all appropriate places in all applicable jurisdictions, encumbering the interest of such Loan Party in such Additional Mortgaged Property; and such opinions, appraisal, documents, title insurance, environmental reports that would have been delivered on the Second Restatement Date if such Additional Mortgaged Property were a Second Restatement Date Mortgaged Property or that may otherwise be reasonably required by Administrative Agent and (B) in the case of any such Material Leasehold Property, if a Parent or any Subsidiary is able to obtain using commercially reasonable efforts, a Landlord Consent and Estoppel with respect thereto.

(b) **Real Estate Appraisals** Parent shall, and shall cause each of its Subsidiaries to, permit an independent real estate appraiser reasonably satisfactory to Administrative Agent, upon reasonable written notice in advance, to visit and inspect any Additional Mortgaged Property for the purpose of preparing an appraisal of such Additional Mortgaged Property satisfying the requirements of any applicable laws and regulations (in each case to the extent required under such laws and regulations as reasonably determined by Administrative Agent in its discretion).

**Section 5.11 Interest Rate Protection**

At all times after the date which is 90 days after the Second Restatement Date, Company shall maintain in effect one or more Interest Rate Agreements, in an aggregate notional principal amount of not less than 50% of the principal amount of Company's Funded Debt which accrues interest at a floating rate, each such Interest Rate Agreement to be in form and substance reasonably satisfactory to Administrative Agent.

**Section 5.12 Deposit Accounts, Securities Accounts and Cash Management Systems**

Other than in respect of such accounts that constitute ABL Priority Collateral and subject to the requirements of the Intercreditor Agreement and such accounts that are used solely for the purpose of payroll, employee benefit, withholding taxes, established in trust for a third party or petty cash accounts, Parent shall not permit any Deposit Accounts or Securities Accounts at any time following the date that is 60 days after the Second Restatement Date (~~or~~or, in the case of Deposit Accounts and Securities Accounts of Coated Sand, 30 days after the Amendment No. 1 Effective Date (or, in each case, such other time period as reasonably agreed by Collateral Agent), to have a principal balance in excess of $50,000 ~~and~~(or permit the aggregate balance in all such accounts ~~does~~ not subject to Control Agreements to exceed $~~250.000,~~250,000), unless Parent or its Subsidiary, as the case may be, has (a) executed and delivered to Administrative Agent a Control Agreement or (b) taken all steps necessary or, in the reasonable opinion of Administrative Agent, desirable to ensure that Administrative Agent has a perfected security interest in such account; *provided that*, if Parent or such Subsidiary is unable to obtain a Control Agreement from the financial institution at which a Deposit Account or Securities Account subject to the requirements of this Section 5.12 is maintained, Parent shall, or shall cause such Subsidiary to, transfer all amounts in the applicable account to an account maintained at a financial institution from which Parent or such Subsidiary has obtained a Control Agreement.

**Section 5.13 Payment of Obligations**

Each Loan Party will, and will cause each Subsidiary to, pay or discharge all material liabilities and obligations (other than material Taxes, which shall be paid and discharged in accordance with Section 5.3), 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) such Loan Party or such Subsidiary has set aside on its books adequate reserves with respect thereto in accordance with GAAP or (c) failure to make such payment could not reasonably be expected to have a Material Adverse Effect.

**Section 5.14 Anti-Terrorism Laws**

(a) No Loan Party shall engage in any transaction that violates any of the applicable prohibitions set forth in any terrorism law described in Section 4.8(b).

(b) None of the funds or assets of any Loan Party that are used to repay the Loans shall constitute property of, or shall be beneficially owned directly or indirectly by, any Designated Person.

(c) No Designated Person shall have any direct or indirect interest in such Loan Party that would constitute a violation of any terrorism laws described in Section 4.8(b).

(d) No Loan Party shall, and each Loan Party shall procure that none of its Subsidiaries will, fund all or part of any payment under this Agreement out of proceeds derived from transactions that violate the prohibitions set forth in any terrorism law described in Section 4.8(b).

**Section 5.15 Federal Regulation**

Each Loan Party shall ensure that it will not, by act or omission, become subject to regulation under any of the laws or regulations described in Sections 4.8(a), (c) and (d).

**Section 5.16 Further Assurances**

Upon the reasonable request of Administrative Agent, duly execute and deliver, or cause to be duly executed and delivered, at the cost and expense of the Loan Parties, such further instruments as may be necessary or desirable in the reasonable judgment of Administrative Agent to carry out the provisions and purposes of this Agreement and the other Loan Documents.

**ARTICLE VI**
**NEGATIVE COVENANTS**

Each Loan Party covenants and agrees, jointly and severally (to the extent possible), that, until payment in full of all of the Loans and other Obligations (other than Unasserted Obligations), unless Requisite Lenders shall otherwise give prior written consent, it shall perform, and shall cause each of its Subsidiaries to perform, all covenants in this ARTICLE VI.

**Section 6.1 Indebtedness**

No Loan Party will, nor will it permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or guaranty, or otherwise become or remain directly or indirectly liable with respect to, any Indebtedness~~, except~~; ~~*provided* that Company and its Subsidiaries may incur unsecured Indebtedness if (x) immediately before and after such incurrence, no Potential Event of Default or Event of Default shall have occurred and be continuing and (y) the Incurrence Ratio as of such date calculated on a Pro Forma Basis would be less than 3.00 to 1.00. The limitations set forth in the immediately preceding sentence shall not apply to any of the following items~~:

(a) Loan Parties may become and remain liable with respect to the Obligations (including any Indebtedness incurred pursuant to Sections 2.10 and 2.11)~~.~~;

(b) Company and its Subsidiaries may become and remain liable with respect to Disqualified Stock;

(c) Company and its Subsidiaries, and Parent with respect to Sections 6.4 (d), (e) and (h) may, may become and remain liable with respect to Contingent Obligations permitted by Section 6.4 and, upon any matured obligations actually arising pursuant thereto, the Indebtedness corresponding to the Contingent Obligations so extinguished;

(d) Company and its Subsidiaries may become and remain liable with respect to purchase money Indebtedness (including Capital Leases) to the extent secured by purchase money security interests or purchase money mortgages not in excess of $5,000,000 in the aggregate outstanding at one time;

(e) (i) Loan Parties may become and remain liable with respect to Indebtedness to any Subsidiary, and any Subsidiary Guarantor may become and remain liable with respect to Indebtedness to Parent, Company or any Subsidiary Guarantor; *provided that* (a) a security interest in all such intercompany Indebtedness shall have been granted to Administrative Agent for the benefit of Lenders; (b) if such intercompany Indebtedness is evidenced by a promissory note or other instrument, such promissory note or instrument shall have been pledged to Administrative Agent pursuant to the Pledge and Security Agreement and (ii) non-Loan Parties may become and remain liable with respect to Indebtedness to any other non-Loan Party;

(f) Loan Parties, as applicable, may become and remain liable with respect to Indebtedness outstanding on the date hereof and listed on Schedule 6.1 and any refinancing, renewal, replacement or extension thereof; *provided* that (i) the outstanding principal amount of such Indebtedness is not increased (other than on account of accrued interest, premium, fees and expenses) at the time of such refinancing, renewal, replacement or extension and (ii) the terms relating to principal amount, amortization, maturity, collateral (if any) and subordination (if any), and other material terms taken as a whole, of any refinancing, renewing, replacing or extending Indebtedness, and of any agreement entered into and of any instrument issued in connection therewith, are no less favorable in any material respect to Loan Parties or the Lenders than the terms of any agreement or instrument governing the Indebtedness being refinanced, refunded, renewed or extended and the interest rate applicable to any such refinancing, renewing, replacing or extending Indebtedness does not exceed the then applicable market interest rate;

(g) ~~[Reserved];~~Parent and its Subsidiaries may become and remain liable with respect to NMTC Indebtedness;

(h) Loan Parties may become and remain liable with respect to Indebtedness in respect of the ABL Loan Documents in an aggregate principal amount not to exceed $38,500,000 outstanding at any time;

(i) Company and its Subsidiaries may become and remain liable with respect to Indebtedness of any Person assumed in connection with a Permitted Acquisition and a Person that becomes a direct or indirect wholly-owned Subsidiary of Company as a result of a Permitted Acquisition may remain liable with respect to Indebtedness existing on the date of such acquisition; *provided that* such Indebtedness is not created in anticipation of such acquisition;

(j) Loan Parties may become and remain liable with respect to Indebtedness arising from the endorsement of instruments, the honoring by a bank or other financial institution of a check, draft or similar instrument inadvertently drawn in the ordinary course of business against insufficient funds, or in respect of netting services, overdraft protections or otherwise in connection with the operation of customary deposit accounts in the ordinary course of business;

(k) Company and its Subsidiaries may become and remain liable with respect to Indebtedness with respect to (A) property casualty or liability insurance, (B) financing of insurance premiums with the providers of such insurance or their Affiliates, (C) take-or-pay obligations in supply arrangements consistent with past practice, (D) subject to the extent permitted under Section 5.4, self-insurance obligations, (E) performance, bid, surety, custom, utility and advance payment bonds, (F) performance and completion guaranties or (G) worker's compensation obligations, in each case, in the ordinary course of business;

(l) Loan Parties may become and remain liable with respect to Indebtedness resulting from judgments not resulting in an Event of Default under Section 7.8;

(m) Loan Parties may become and remain liable with respect to Subordinated Indebtedness in an amount equal to the lesser of (i) $50,000,000 and (ii) an amount such that the ~~Consolidated Leveraae~~Incurrence Ratio ~~(calculated to include Subordinated Indebtedness as of such day but excluding unrestricted cash as of such day)~~as of such date calculated on a Pro Forma Basis is not greater than 4.50:1.00, so long as, (A) such Subordinated Indebtedness (1) does not have a maturity date earlier than one year after the Latest Maturity Date, (2) is on terms reasonably satisfactory to Administrative Agent and (3) the applicable cash rate of interest and payment in kind rate of interest payable thereunder shall not, in aggregate, be any more than an applicable LIBOR rate plus 12% per annum (subject to an increase in the interest rate during the continuance of an event of default under the documents evidencing such Subordinated Indebtedness in an amount not to exceed 2%), (B) the proceeds of such Subordinated Indebtedness are used to fund Permitted Acquisitions and (C) ~~immediately after giving effect to the incurrence~~the Incurrence Ratio as of such ~~Subordinated Indebtedness~~date. calculated on a Pro Forma Basis, ~~the Loan Parties are in compliance with the Financial Covenant~~does not exceed the Maximum Consolidated Leverage Ratio and no Event of Default shall have occurred and be continuing;

(n) In addition to Indebtedness otherwise expressly permitted by this Section, Company and its Subsidiaries may become and remain liable with respect to Indebtedness in an aggregate principal amount not to exceed $5,000,000 at any time outstanding; and

(o) Permitted Refinancings of any Subordinated Indebtedness permitted hereunder.

**Section 6.2 Liens and Related Matters**

(a) **Prohibition on Liens** No Loan Party will, nor will it permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of any kind (including any document or instrument in respect of goods or accounts receivable) of such Loan Party or any of its Subsidiaries, whether now owned or hereafter acquired, or any income or profits therefrom, or file or permit the filing of, or permit to remain in effect, any financing statement or other similar notice of any Lien with respect to any such property, asset, income or profits under the UCC or under any similar recording or notice statute, except:

(i) Permitted Encumbrances;

(ii) Liens assumed in connection with a Permitted Acquisition and Liens on assets of a Person that becomes a direct or indirect Subsidiary of Company after the date of this Agreement in a Permitted Acquisition; *provided, however, that* such Liens exist at the time such Person becomes a Subsidiary and are not created in anticipation of such acquisition and, in any event, do not in the aggregate secure Indebtedness in excess of $5,000,000;

(iii) Liens existing on the date hereof and described in Schedule 6.2 annexed hereto;

(iv) Liens on the ABL Priority Collateral granted in favor of the ABL Lenders and ABL Hedge Agreement Counterparties pursuant to and in accordance with the ABL Loan Documents;

(v) Liens on fixed or capital assets acquired, constructed or improved by Company or any of its Subsidiaries; *provided* that (i) such security interests secure Indebtedness expressly permitted by Section 6.1, (ii) such security interests and the Indebtedness secured thereby are incurred prior to or within six months 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, (iv) such security interests shall not apply to any other property or assets of any Loan Party and (v) the amount of Indebtedness (other than with respect to Capital Leases) secured thereby is not increased;

(vi) Liens arising from the precautionary UCC financing statement filings or any applicable filings in a foreign jurisdiction in respect thereof;

(vii) Liens and other interests of lessor in respect of rental obligations under mining leases entered into by Company and its Subsidiaries in the ordinary course of business;

(viii) Liens in favor of any escrow agent or a seller solely on and in respect of any cash earnest money deposits made in connection with any letter of intent or purchase agreement permitted hereunder; and

(ix) additional Liens not otherwise expressly permitted by this Section on any property or asset of any Loan Party securing obligations in an aggregate amount not exceeding $5,000,000 at any time outstanding.

Notwithstanding the foregoing, no Loan Party or any of its Subsidiaries shall enter into any control agreements (as such term is defined in the UCC), other than Control Agreements entered into pursuant to Section 5.12 or the Pledge and Security Agreement or in respect of the ABL Priority Collateral granted in favor of the ABL Lenders pursuant to and in accordance with the ABL Loan Documents.

(b) **No Further Negative Pledges** Neither Parent nor any of its Subsidiaries shall enter into any agreement prohibiting the creation or assumption of any Lien upon any of its properties or assets, whether now owned or hereafter acquired, to secure Indebtedness under any senior credit facility, including this Agreement, other than (i) an agreement prohibiting only the creation of Liens securing Subordinated Indebtedness, (ii) any agreement evidencing Indebtedness secured by Liens permitted by Sections 6.2(a)(ii) to (vi), as to the assets securing such Indebtedness, and any agreement evidencing Indebtedness permitted by Section 6.1(h), (iii) any agreement evidencing an asset sale, as to the assets being sold; (iv) restrictions imposed by law; (v) restrictions and conditions existing on the date hereof identified on Schedule 6.2 (but shall not apply to any extension or renewal of, or any amendment or modification, expanding the scope of any such restriction or condition);

(vi) customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary pending such sale, provided that such restrictions and conditions apply only to the Subsidiary that is to be sold and such sale is permitted hereunder; (vii) restrictions or conditions imposed by any agreement relating to Indebtedness permitted by Section 6.1(f) and (i) if such restrictions or conditions apply only to the property or assets securing such Indebtedness ~~and~~; (viii) customary provisions in joint venture agreements and other similar agreements applicable to joint ventures permitted under Section 6.3 and applicable solely to such joint venture; and (ix) restrictions or conditions imposed by any agreement relating to Indebtedness permitted under the first sentence of Section 6.1 or Section 6.1(g), *provided that* such restrictions or conditions do not prohibit any of the Liens created under the Loan Documents or any refinancings thereof.

(c) **No Restrictions on Subsidiary Distributions to Company or Other Subsidiaries** No Loan Party will, and will not permit any of its Subsidiaries to, create or otherwise cause to become effective any consensual encumbrance or restriction of any kind on the ability of any such Subsidiary to (i) pay dividends or make any other distributions on any of such Subsidiary's Capital Stock owned by Company or any other Subsidiary of Company, (ii) repay or prepay any Indebtedness owed by such Subsidiary to Company or any other Subsidiary of Company, (iii) make loans or advances to Company or any other Subsidiary of Company, or (iv) transfer any of its property or assets to Company or any other Subsidiary of Company, except (A) as provided in this Agreement, (B) as to transfers of assets as may be provided in an agreement with respect to a sale of such assets, (C) in respect of Indebtedness permitted pursuant to Sections 6.1(f), (h) and (i); (D) customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary pending such sale, provided that such restrictions and conditions apply only to the Subsidiary that is to be sold and such sale is permitted hereunder; (E) restrictions and conditions existing on the date hereof identified on Schedule 6.2 (but shall not apply to any extension or renewal of, or any amendment or modification, expanding the scope of any such restriction or condition); (F) customary provisions in leases restricting the assignment thereof; ~~and~~ (G) customary restrictions contained in joint venture agreements and other similar agreements applicable to joint ventures permitted under Section 6.3 and applicable solely to such joint venture; and (H) customary restrictions contained in agreements relating to Indebtedness permitted under the first sentence of Section 6.1 or Section 6.1(g) *provided* that such restrictions do not impair the Loan Parties' ability to perform the Obligations or the ability of the Agents and Lenders to enforce the Obligations.

**Section 6.3 Investments; Acquisitions**

No Loan Party will, nor will it permit any of its Subsidiaries to, directly or indirectly, make or own any Investment in any other Person, including any Joint Venture, or acquire, by purchase or otherwise, all or substantially all the business, property or fixed assets of, or Capital Stock of any other Person, or any division or line of business of any other Person except:

(a) Company and its Subsidiaries may make and own Investments in Cash and Cash Equivalents;

(b) Loan Parties may continue to own the Investments owned by them as of the Second Restatement Date in any Loan Parties and Loan Parties may make and own additional equity Investments in other Loan Parties;

(c) Loan Parties may make intercompany loans to the extent permitted under Section 6.1(e);

(d) Company and its Subsidiaries may make Consolidated Capital Expenditures ~~permitted by Section 6.8;~~

(e) Company and its Subsidiaries may continue to own the Investments owned by them and described in Schedule 6.3 annexed hereto;

(f) Parent and Company may acquire and hold obligations of one or more Officers or other employees of Company, Parent or its Subsidiaries in connection with such Officers' or employees' acquisition of shares of Company's Capital Stock, so long as no Cash is actually advanced by Company, Parent or any of its Subsidiaries to such Officers or employees in connection with the acquisition of any such obligations;

(g) Company and its Subsidiaries may make and own Investments constituting non-Cash proceeds of sales, transfers and other dispositions of property to the extent permitted by Section 6.7;

(h) Company and its Subsidiaries may acquire Securities in connection with the satisfaction or enforcement of Indebtedness or claims due or owing to Company or any of its Subsidiaries or as security for any such Indebtedness or claim;

(i) Company and its Subsidiaries may make any Restricted Junior Payment expressly permitted by Section 6.5 (it being understood that any such Restricted Junior Payment may be made in the form of an intercompany loan or advance);

(j) Company and its Subsidiaries may acquire Investments (including debt obligations) received in the ordinary course of business by Company or any of its Subsidiaries in connection with the bankruptcy or reorganization of suppliers and customers and in settlement of delinquent obligations of, and other disputes with, customers and suppliers arising out of the ordinary course of business;

(k) Company and its Subsidiaries may acquire Investments of any Person in existence at the time such Person becomes a Subsidiary pursuant to a transaction expressly permitted by any other paragraph of this Section; *provided that* such Investment was not made in connection with or anticipation of such Person becoming a Subsidiary;

(l) Company and its Subsidiaries may make or continue to hold Investments resulting from deposits referred to in paragraph (c) of the definition of "Permitted Encumbrances" and clause (viii) of Section 6.2(a);

(m) Company may perform its obligations under and in accordance with the Conveyance of Undivided Mineral Interest, the Sand Purchase Documents and Natural Gas Hedging Agreements; *provided that*, all such Natural Gas Hedging Agreements shall be entered into to manage (in the good faith business judgment of Company) risks of fluctuations in the price or availability of natural gas to which Company and its Subsidiaries are exposed in the conduct of their business and the management of their liabilities;

(n) Loan Parties may make and hold loans and advances to their employees in an aggregate amount not to exceed $1,000,000 at any time outstanding, *provided that*, such loan or advance is not made in material violation of any law;

(o) Company and its Subsidiaries may acquire (in one transaction or a series of related transactions) (i) the assets or the outstanding voting stock or economic interests of any Person, (ii) any division, line of business or other business unit of any Person, or (iii) Capital Stock of a Joint Venture constituting a majority of the Capital Stock of such Joint Venture (such Person or such division, line of business or other business unit of such Person or such Joint Venture shall be referred to herein as the **"Target"),** in each case that is a type of business (or assets used in a type of business) permitted to be engaged in by the Loan Parties pursuant to the terms hereof, so long as (A) no Event of Default shall then exist or would exist immediately after giving effect thereto, (B) to the extent required by Sections 5.9 and 5.10, Collateral Agent, on behalf of Secured Parties, shall have received (or shall receive in connection with the closing of such acquisition) a perfected security interest in all property (including Capital Stock) acquired with respect to the Target described in the applicable forms of Collateral Documents, subject to Liens permitted under Section 6.2, and the Target, if a Person, shall have executed a counterpart of the Subsidiary Guaranty and Pledge and Security Agreement, (C) the consideration (including without limitation earn out obligations, deferred compensation and the amount of Indebtedness and other liabilities assumed by Loan Parties, but excluding equity consideration, consideration paid from the proceeds of equity of Parent or capital contributions made to Parent and non-competition arrangements) paid by Loan Parties in connection with all such acquisitions shall not exceed in the aggregate (i) up to $50,000,000 of cash on hand and (ii) all or any portion of the Subordinated Indebtedness permitted pursuant to Section 6.1(m) *(provided that* (i) no more than $20,000,000 of such aggregate consideration may be in the form of seller financing permitted under Section 6.1 ~~and~~; (ii) the aggregate consideration (including without limitation earn out obligations, deferred compensation and the amount of Indebtedness and other liabilities assumed by Loan Parties, but excluding equity consideration, consideration paid from the proceeds of equity of Parent or capital contributions made to Parent and non-competition arrangements) paid by Loan Parties to acquire Capital Stock of Joint Ventures in respect of which Collateral Agent, on behalf of Secured Parties, shall not have received a perfected security interest and guarantees reasonably satisfactory to Administrative Agent shall not exceed $25,000,000) and (iii) the then-applicable Available Amount, (D) the Target is located in the United States of America, Canada or Mexico, and (E) for any such acquisitions Company shall have provided (1) financial statements for any Target acquired in any such acquisition for the last Fiscal Year of such Target (to the extent available to Company), and (2) a pro-forma Compliance Certificate certified by the chief financial officer of Company and demonstrating that, immediately after giving effect to such acquisition (including any incurrence of Indebtedness in connection therewith), ~~Loan Parties shall be in compliance with the Consolidated Leverage~~ the Incurrence Ratio~~,~~ as of such date calculated on a Pro Forma Basis (~~assuming that~~ is at least 0.20:1.00 lower than the Maximum Consolidated Leverage Ratio ~~was 0.20:1.00 less than the maximum ratio provided in Section 6.6 at such time) for the applicable Fiscal Quarter most recently ended~~, and (E) in the case of the acquisition of a Person, such Person shall become a wholly-owned Subsidiary of a Loan Party;

(p) Company and its Domestic Subsidiaries may make and own Investments in Foreign Subsidiaries in an aggregate amount not to exceed ~~$10.000.000,~~ 10,000,000 plus the then-applicable Available Amount, at any time outstanding; and

(q) in addition to Investments otherwise expressly permitted by this Section, Company and its Subsidiaries may make Investments not exceeding in the aggregate $5,000,000 plus the then-applicable Available Amount; ~~and~~

(r) Foreign Subsidiaries may make and own Investments in other Foreign Subsidiaries;

(s) in addition to Investments otherwise expressly permitted by this Section, Company and its Subsidiaries may make additional Investments under clauses (o), (p) and (q) of this Section 6.3 so long as (i) no Potential Event of Default or Event of Default shall have occurred and be continuing and (ii) the Incurrence Ratio as of such date calculated on a Pro Forma Basis after giving effect to such Investment, would be less than 3.00:1.00;

(t) Company may acquire all of the Capital Stock of Coated Sand from PubCo on the Amendment No. 1 Effective Date on terms reasonably satisfactory to Administrative Agent; and

(u) Parent and its Subsidiaries may make NMTC Investments; *provided* that the aggregate amount of NMTC Investments shall not exceed $60,000,000 at any one time.

**Section 6.4 Contingent Obligations**

No Loan Party will, nor will it permit any of its Subsidiaries to, directly or indirectly, create or become or remain liable with respect to any Contingent Obligation, except:

(a) Company and its Subsidiaries may become and remain liable with respect to Contingent Obligations under Hedge Agreements required under Section 5.11 and under other Hedge Agreements with respect to Indebtedness required under Section 6.1(h) hereof;

(b) Company and its Subsidiaries may become and remain liable with respect to Contingent Obligations in respect of customary indemnification and purchase price adjustment obligations incurred in connection with Asset Sales or other sales of assets, or any acquisition or other Investment expressly permitted by Section 6.3;

(c) Company and its Subsidiaries may become and remain liable with respect to Contingent Obligations under guarantees in the ordinary course of business of the obligations of suppliers, customers, franchisees and licensees of Company and its Subsidiaries in an aggregate amount not to exceed at any time $500,000;

(d) Parent and its Subsidiaries may become and remain liable with respect to Contingent Obligations in respect of any Indebtedness of Company or any of its Subsidiaries permitted by Section 6.1;

(e) Parent and its Subsidiaries, as applicable, may remain liable with respect to Contingent Obligations described in Schedule 6.4 annexed hereto;

(f) Company and its Subsidiaries may become and remain liable with respect to Contingent Obligations consisting of guaranties of loans made to officers, directors or employees of any Loan Party in an aggregate amount which shall not exceed $500,000 at any time outstanding;

(g) Company and its Subsidiaries may become and remain liable with respect to Contingent Obligations consisting of guaranties by a Subsidiary of obligations of Parent or Company under leases for real or personal property, *provided that* such Subsidiary will utilize all or a portion of such property;

(h) Parent and its Subsidiaries may become and remain liable with respect to Indebtedness permitted by Sections 6.1(a), (e), (f), (h), (j), (l) and (m); and

(i) Company and its Subsidiaries may become and remain liable with respect to other Contingent Obligations; *provided that* the maximum aggregate liability, contingent or otherwise, of Loan Parties in respect of all such Contingent Obligations shall at no time exceed $2,000,000.

**Section 6.5 Restricted Junior Payments**

No Loan Party will, nor will it permit any of its Subsidiaries to, directly or indirectly, declare, order, pay, make or set apart any sum for any Restricted Junior Payment, except:

(a) on the Second Restatement Date, Restricted Junior Payments to fund the Funding Requirements in accordance with the Funds Flow Memorandum;

(b) [Reserved]

(c) Restricted Junior Payments to the extent necessary to permit Parent (or the relevant taxpaying Affiliate of Company or Parent), to discharge Tax liabilities (or estimates thereof) of Parent and its Subsidiaries, so long as Company or Parent (or the relevant taxpaying Affiliate) applies the amount of any such Restricted Junior Payment for such purpose;

(d) to pay management fees and other fees (including the Termination Fee (as defined in the Management Agreement)) expressly permitted under and in accordance with the Management Agreement and to reimburse expenses in accordance with the Management Agreement; *provided that* (i) no such management fees and other fees (including the Termination Fee) may be paid during the continuance of any Event of Default, and (ii) any such fees that are not paid because of the occurrence of any Event of Default shall be permitted to be paid at such time (or after) such Event of Default ceases to be continuing for any reason~~, and (iii) payment of the Termination Fee may be made solely with net cash proceeds received by Parent pursuant to an equity contribution in Parent or from an equity issuance by Parent made immediately prior to the payment of such fee;~~

(e) ~~[Reserved];~~ Company may make Restricted Junior Payments to Parent to finance NMTC Investments permitted under Section 6.3(u);

(f) Company may make regularly scheduled payments of interest in respect of the ABL Obligations and mandatory, optional or voluntary payments or prepayments in respect of principal thereof that are permitted under the Intercreditor Agreement in accordance with the terms of the ABL Loan Documents and the Intercreditor Agreement;

(g) ~~Restricted Junior Payments~~dividend payments to ~~permit Parent or any direct or indirect holding company of Parent or Company to pay overhead expenses in an amount not to exceed $250,000 in any Fiscal Year, so long as Company or Parent (or such relevant holding company) applies the amount of any such Restricted Junior Payment for such purpose~~Parent and other parent companies of Company to pay (i) overhead of Parent and such other parent companies of Company, (ii) salary and out of pocket costs and expenses of directors of PubCo and (iii) other fees, costs and expenses associated with PubCo being a public company; *provided* that the aggregate amount of dividend payments made pursuant to this clause *(g)* during any Fiscal Year shall not exceed $3,000,000;

(h) Company and its Subsidiaries may make payment of regularly scheduled interest and principal payments as and when due, and mandatory, optional or voluntary payments or prepayments in respect of principal thereof (including any payment to avoid the application of Internal Revenue Code Section 163(e)(5) thereto) and any other payments thereon that are permitted under the applicable subordination agreement, in respect of any Subordinated Indebtedness to the extent permitted hereunder including in connection with any Permitted Refinancings of such Subordinated Indebtedness and Company and its Subsidiaries may convert Subordinated Indebtedness to, or exchange Subordinated Indebtedness for Capital Stock in accordance with terms of such Subordinated Indebtedness;

(i) Restricted Junior Payments expressly permitted by Section 6.9(a) and (b); and

(j) so long as no Potential Event of Default or Event of Default has occurred and is continuing at such time or would be directly or indirectly caused as a result thereof, Company and its Subsidiaries may pay dividends to purchase capital stock from present or former officers or employees of Loan Parties upon the death, disability, retirement or termination of employment of such officer or employee; provided that any such repurchases do not involve any cash payments by Loan Parties or, to the extent cash payments are made by Loan Parties, the aggregate amount of dividend payments during any Fiscal Year to fund purchases described above shall not exceed (i) $1,000,000 plus (ii) the unused amount available for such dividend payments under this Section 6.5(j) for the immediately two preceding Fiscal Years (excluding any carry-forward available from any previous Fiscal Year); *provided* that with respect to any Fiscal Year, any such dividend payments made during such Fiscal Year shall be deemed to be made first with respect to the applicable limitation for such year and then with respect to any carry-forward amount to the extent applicable plus (iii) the then-applicable Available Amount; ~~and~~

(k) Company may make Restricted Junior Payments as specifically required by the Sand Purchase Documents; and

(l) in addition to Restricted Junior Payments otherwise expressly permitted by this Section, (i) Company may make dividend payments to Parent and Parent may make dividend payments to its parent companies in an aggregate amount not to exceed the then applicable Available Retained ECF Amount and (ii) the Loan Parties may make payments in respect of Subordinated Debt in an aggregate amount not to exceed the then applicable Available Amount, *provided* that in any such case the Incurrence Ratio as of such Date, calculated on a Pro Forma Basis after giving effect to such Restricted Junior Payment, would be less than 1.50:1.00;

*provided that* nothing herein shall be deemed to prohibit the payment of dividends by any Subsidiary of Company to Company or any Subsidiary Guarantor.

**Section 6.6 Maximum Consolidated Leverage Ratio**

Company shall not permit the Consolidated Leverage Ratio as of the last day of the most recently ended Fiscal Quarter ending during any of the periods set forth below to exceed the correlative ratio indicated (the **"Maximum Consolidated Leverage Ratio"):**

| Period | Maximum Consolidated Leverage Ratio |
|---|---|
| Fiscal Quarter ended June 2011 through Fiscal Quarter ended December 2011 | 4.75:1.00 |
| Fiscal Quarter ended March 2012 through Fiscal Quarter ended December 2012 | 4.50:1.00 |
| Fiscal Quarter ended March 2013 through Fiscal Quarter ended December 2013 | 4.25:1.00 |
| Fiscal Quarter ended March 2014 through Fiscal Quarter ended December 2015 | 4.00:1.00 |
| Thereafter | 3.75:1.00 |

**Section 6.7 Restriction on Fundamental Changes; Asset Sales**

No Loan Party will, nor will it permit any of its Subsidiaries to, enter into any transaction of merger or consolidation, or liquidate, wind-up or dissolve itself (or suffer any liquidation or dissolution), or convey, sell, lease or sub-lease (as lessor or sublessor), transfer or otherwise dispose of, in one transaction or a series of transactions, all or any part of its business, property or assets (including its notes or receivables and Capital Stock of a Subsidiary, whether newly issued or outstanding), whether now owned or hereafter acquired, except:

(a) any Subsidiary of Company may be merged with or into Company or any wholly-owned Subsidiary Guarantor, or be liquidated, wound up or dissolved, or all or any part of its business, property or assets may be conveyed, sold, leased, transferred or otherwise disposed of, in one transaction or a series of transactions, to Company or any wholly-owned Subsidiary Guarantor; *provided that* in the case of such a merger, Company or such wholly-owned Subsidiary Guarantor shall be the continuing or surviving Person;

(b) Company and its Subsidiaries may sell or otherwise dispose of assets in transactions that do not constitute Asset Sales; *provided that* the consideration received for such assets shall be in an amount at least equal to the fair market value thereof;

(c) Company and its Subsidiaries may dispose of obsolete, worn out, uneconomic or surplus property no longer used or useful in the ordinary course of business of Company;

(d) Company and its Subsidiaries may make Asset Sales of assets having an aggregate fair market value not in excess of $30,000,000 from and after the Second Restatement Date to the Maturity Date; *provided that* (A) the consideration received for such assets shall be in an amount at least equal to the fair market value thereof; (B) at least 85% of the consideration received shall be Cash; (C) no Potential Event of Default or Event of Default shall have occurred or be continuing immediately after giving effect thereto; and (D) the Net Asset Sale Proceeds of such Asset Sales shall be applied to repay the Loans in accordance with Section 2.4(b)(iii)(B) or Section 2.4(d), *provided that* all such Net Asset Sale Proceeds in a Fiscal Year not exceeding $10,000,000 in the aggregate may be applied or reinvested in accordance with Section 2.4(b)(ii)(A);

(e) in order to resolve disputes that occur in the ordinary course of business, Company and its Subsidiaries may discount or otherwise compromise for less than the face value thereof, notes or accounts receivable;

(f) Company or a Subsidiary may sell or dispose of shares of Capital Stock of any of its Subsidiaries in order to qualify members of the Governing Body of the Subsidiary if required by applicable law;

(g) Company may perform its obligations under the Conveyance of Undivided Mineral Interest;

(h) any Person may be merged with or into Company or any Subsidiary if the acquisition of the Capital Stock of such Person by Company or such Subsidiary would have been permitted pursuant to Section 6.3; *provided that* (i) in the case of Company, Company shall be the continuing or surviving Person, (ii) if a Subsidiary is not the surviving or continuing Person, the surviving Person becomes a Subsidiary and complies with the provisions of Section 5.9 and (iii) no Potential Event of Default or Event of Default shall have occurred or be continuing immediately after giving effect thereto;

(i) any Capital Stock of any Subsidiary of Company may be sold, transferred or otherwise disposed of to Company or any other wholly-owned Subsidiary of Company *(provided that,* in the case of any such transfer by a Loan Party, the transferee must also be a Loan Party or constitute an Investment otherwise permitted hereunder);

(j) the cross licensing or licensing of intellectual property, in the ordinary course of business;

(k) the leasing, occupancy or sub-leasing of Real Property Assets in the ordinary course of business that would not materially interfere with the required use of such Real Property Asset by any Loan Party;

(l) transfers of condemned property as a result of the exercise of “eminent domain” or other similar policies to the respective Government Authority or agency that has condemned the same (whether by deed in lieu of condemnation or otherwise), and transfers of properties that have been subject to a casualty to the respective insurer of such property as part of an insurance settlement;

(m) Liens expressly permitted by Section 6.2;

(n) Restricted Junior Payments expressly permitted by Section 6.5; and

(o) Investments permitted by Section 6.3.

**Section 6.8 ~~Consolidated Capital Expenditures~~[Reserved]**

~~No Loan Party will, nor will it permit its Subsidiaries to, make or incur Consolidated Capital Expenditures in an aggregate amount in excess of (i) $35,000,000 in Fiscal Year 2012 and (ii) $25,000,000 in any Fiscal Year thereafter; *provided that* the foregoing limitation shall not apply in respect of Consolidated Capital Expenditures made in any given Fiscal Year if as of the last day of such Fiscal Year Loan Parties have at least $40,000,000 of unrestricted cash, including any amounts available to be drawn under the ABL Loan Agreement (in each case, as certified in a Compliance Certificate delivered to Administrative Agent with the annual financial statements for such Fiscal Year in accordance with Section 5.1(d)).~~

### Section 6.9 Transactions with Shareholders and Affiliates

No Loan Party will, nor will it permit any of its Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any holder of 10% or more of any class of equity Securities of Company or with any Affiliate of Company or of any such holder, on terms that when taken as a whole are less favorable in any material respect to Company or that Subsidiary, as the case may be, than those that might be obtained at the time from Persons who are not such a holder or Affiliate; *provided that* the foregoing restrictions shall not apply to:

(a) any transaction between Company and any of its wholly-owned Subsidiaries or between any of its wholly-owned Subsidiaries;

(b) reasonable and customary fees paid to members of the Governing Bodies of Parent and its Subsidiaries and compensation and benefit arrangements for officers, directors and employees entered into in the ordinary course;

(c) the performance by Company of its obligations under the Sand Purchase Agreements and under the Conveyance of Undivided Mineral Interest;

(d) transactions in accordance with the terms of the Management Agreement;

(e) any acquisitions or other Investments expressly permitted by Section 6.3;

(f) transactions in respect of Subordinated Indebtedness with the holders or lenders, as the case may be, of such Subordinated Indebtedness to the extent such transactions are otherwise permitted hereunder;

(g) any intercompany loan from Company to Parent or any direct or indirect holding company of Company comprising a Restricted Junior Payment permitted under Section 6.5; or

(h) any Restricted Junior Payments expressly permitted by Section 6.5.

### Section 6.10 Sales and Lease-Backs

No Loan Party will, nor will it permit any of its Subsidiaries to, directly or indirectly, become or remain liable as lessee or as a guarantor or other surety with respect to any Capital Lease, of any property (whether real, personal or mixed), whether now owned or hereafter acquired, (a) that Company or any of its Subsidiaries has sold or transferred or is to sell or transfer to any other Person (other than Company or any of its Subsidiaries) or (b) that Company or any of its Subsidiaries intends to use for substantially the same purpose as any other property that has been or is to be sold or transferred by Company or any of its Subsidiaries to any Person (other than Company or any of its Subsidiaries) in connection with such lease; *provided that* (i) such lease is a Capital Lease and (ii) Company and its Subsidiaries may become and remain liable as lessee, guarantor or other surety with respect to any such Capital Lease if and to the extent that Company or any of its Subsidiaries would be permitted to enter into, and remain liable under, such lease under Section 6.1 assuming the sale and lease-back transaction constituted Indebtedness in a principal amount equal to the gross proceeds of the sale.

### Section 6.11 Conduct of Business

(a) From and after the Second Restatement Date, the Intermediate Holding Companies will not, nor will it permit any of their Subsidiaries to, engage in any business other than (i) the businesses engaged in by the Intermediate Holding Companies and their Subsidiaries on the Second Restatement Date and similar or related businesses and (ii) such other lines of business as may be consented to by Requisite Lenders.

(b) From and after the Second Restatement Date, Parent shall not (i) engage in any business or own, lease, manage or otherwise operate any properties or assets other than (A) entering into and performing its obligations under and in accordance with the Transaction Documents to which it is a party, (B) owning the Capital Stock of the Intermediate Holding Companies and/or the Company and engaging in activities directly related thereto, (C) issuing Capital Stock and options, warrants or similar equivalents in respect thereof and (D) taking actions required by law to maintain its corporate existence, incurring Indebtedness pursuant to Sections 6.1(a), (c), (e), (f), (g), (h), (j), (l) and (m), Contingent Obligations permitted under Sections 6.4(d), (e) and (h) and Restricted Junior Payments permitted pursuant to Sections 6.5(a), (c), (d), (e), (g), (i) and (j); (ii) incur any Indebtedness (other than nonconsensual obligations imposed by operation of law and obligations pursuant to the Loan Documents to which it is a party) other than Indebtedness permitted under Sections 6.1(a), (c), (e), (f), (g), (h), (j), (l) or (m), or (iii) issue any Capital Stock that constitutes Disqualified Stock or create or acquire any Subsidiary or own any Investment (other than Investments permitted under Sections 6.3(b), (c), (f), (n) or (~~n~~u)) in any Person other than the Intermediate Holding Companies and/or the Company.

**Section 6.12 Amendments or Waivers of Certain Agreements; Amendments of Documents Relating to Subordinated Indebtedness**

(a) **Amendments or Waivers of Certain Agreements** No Loan Party will agree to any amendment to, or waive any of its rights under, any Related Agreement (other than any agreement evidencing or governing any Subordinated Indebtedness) in a manner that could reasonably be expected to materially adversely affect the Lenders after the Second Restatement Date without in each case obtaining the prior written consent of Administrative Agent (acting at the instruction of Requisite Lenders) to such amendment or waiver.

(b) **Amendments of Documents Relating to Subordinated Indebtedness** No Loan Party will, nor will it permit any of its Subsidiaries to, amend or otherwise change the terms of any Subordinated Indebtedness or make any payment consistent with an amendment thereof or change thereto unless such amendment or change thereto is permitted pursuant to the definition of Permitted Refinancings.

**Section 6.13 Fiscal Year; Accounting Policies**

No Loan Party shall (a) change its Fiscal Year-end from December 31 without the prior written consent of Administrative Agent or (b) change its accounting policies and methods except from the policies and methods in effect on the Second Restatement Date, except in accordance with GAAP.

**Section 6.14 Material Contracts; License Agreements; ITT Agreement**

(a) **Material Contracts** No Loan Party shall breach or violate any term, condition or provision of any Material Contracts or any lease with respect to any Material Leasehold Property, except for such breaches and violations thereof as in the aggregate could not reasonably be expected to have a Material Adverse Effect.

(b) **License Agreements** Except with respect to any License Agreement, the loss or termination of which could not reasonably be expected to have a Material Adverse Effect:

(i) Each Loan Party and each of their Subsidiaries shall (A) promptly and faithfully observe and perform in all material respects all of the terms, covenants, conditions and provisions of the License Agreements to which it

is a party to be observed and performed by it, at the times set forth therein, if any, (B) not do, permit, suffer or refrain from doing anything that could reasonably be expected to result in a default under or breach of any of the material terms of any License Agreement, (C) not cancel, surrender, modify, amend, waive or release any License Agreement in any respect, or consent to or permit to occur any of the foregoing; except that subject to Section 6.14(b)(ii) below, such Person may cancel, surrender, modify, amend, waive or release any License Agreement in the ordinary course of business of such Person; *provided that* such Person (as the case may be) shall give Administrative Agent not less than 30 days prior written notice of its intention to so cancel, surrender and release any such License Agreement, (D) give Administrative Agent prompt written notice of any License Agreement entered into by such Person after the date hereof, together with a true, correct and complete copy thereof and such other information with respect thereto as Administrative Agent may request, (E) give Administrative Agent prompt written notice of any breach of any material obligation, or any default, by any party under any License Agreement, and deliver to Administrative Agent (promptly upon the receipt thereof by such Person in the case of a notice to such Person and concurrently with the sending thereof in the case of a notice from such Person) a copy of each notice of default and every other notice and other communication received or delivered by such Person in connection with any License Agreement which relates to the right of such Person to continue to use the property subject to such License Agreement; and (F) furnish to Administrative Agent, promptly upon the request of Administrative Agent, such information and evidence as Administrative Agent may reasonably require from time to time concerning the observance, performance and compliance by such Person or the other party or parties thereto with the terms, covenants and provisions of any License Agreement.

(ii) Each Loan Party and each of their Subsidiaries will either exercise any option to renew or extend the term of each License Agreement to which it is a party in such manner as will cause the term of such License Agreement to be effectively renewed or extended for the period provided by such option and give prompt written notice thereof to Administrative Agent or give Administrative Agent prior written notice that such Person does not intend to renew or extend the term of any such License Agreement or that the term thereof shall otherwise be expiring, not less than 60 days prior to the date of any such renewal or expiration. In the event of the failure of such Person to extend or renew any License Agreement to which it is a party, Administrative Agent shall have, and is hereby granted, the irrevocable right and authority, at its option, to renew or extend the term of such License Agreement, whether in its own name and behalf, or in the name and behalf of *a* designee or nominee of Administrative Agent or in the name and behalf of such Person, as Administrative Agent shall determine solely during such time that an Event of Default shall exist or have occurred and be continuing. Administrative Agent may, but shall not be required to, perform any or all of such obligations of such Person under any of the License Agreements, including, but not limited to, the payment of any or all sums due from such Person thereunder. Any sums so paid by Administrative Agent shall constitute part of the Obligations.

(iii) The Loan Parties shall (A) not amend or modify the ITT Agreement in any manner that is materially adverse to the interests of the Lenders without the prior consent of Administrative Agent, (B) not cancel or terminate the ITT Agreement and (C) notify Administrative Agent promptly, but in any event within five Business Days of any actual, pending or threatened termination or cancellation of the ITT Agreement or any denial of coverage in respect of the indemnity set forth therein.

**Section 6.15 Designation of Senior Debt**

The Loan Parties will not, nor will they permit any Subsidiary to, permit any Subordinated Indebtedness of such Loan Party or such Subsidiary to fail to be subject to any subordination provisions governing such Subordinated Indebtedness.

## ARTICLE VII
## EVENTS OF DEFAULT

If any of the following conditions or events **("Events of Default")** shall occur:

**Section 7.1 Failure to Make Payments When Due**

(a) Failure by Company to pay any installment of principal of any Loan when due, whether at stated maturity, by acceleration, by notice of voluntary prepayment, by mandatory prepayment (except as provided in Section 2.4(b)(ii)(F) with respect to an incorrect calculation of mandatory prepayment amounts) or otherwise; or

(b) failure by Company to pay any interest on any Loan, any fee or any other amount due under this Agreement within three days after the date due; or

**Section 7.2 Default in Other Agreements**

(a) Failure of Parent, Company or any of their respective Subsidiaries to pay when due any principal of or interest on or any other amount payable in respect of one or more items of Indebtedness (other than Indebtedness referred to in Section 7.1) or Contingent Obligations in an individual principal amount of $5,000,000 or more, in each case beyond the end of any grace period provided therefor; or

(b) breach or default by Parent, Company or any of their respective Subsidiaries with respect to any other material term of (i) one or more items of Indebtedness or Contingent Obligations in the individual or aggregate principal amounts referred to in clause (a) above or (ii) any loan agreement, mortgage, indenture or other agreement relating to such item(s) of Indebtedness or Contingent Obligation(s), if the effect of such breach or default is to cause, or to permit the holder or holders of that Indebtedness or Contingent Obligation(s) (or a trustee on behalf of such holder or holders) to cause, that Indebtedness or Contingent Obligation(s) to become or be declared due and payable prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be (with the giving or receiving of notice of such declaration, if required, but after the expiration of all grace periods applicable thereto); *provided* that an Event of Default under this Section 7.2 shall not be deemed to occur as a result of a breach of or default under Section 9.16 of the ABL Loan Agreement (Fixed Charge Coverage Ratio) unless and until the effect of such breach or default is to cause the ABL Obligations to become or be declared due and payable prior to their stated maturity; or

**Section 7.3 Breach of Certain Covenants**

(a) Failure of a Loan Party to perform or comply with any term or condition contained in Section 2.5, Section 5.1(b), (c) and (d), Section 5.2 (in respect of the existence of Parent or Company) or ARTICLE VI of this Agreement; or

(b) Failure of a Loan Party to perform or comply with any term or condition contained in Section 5.4(b) and (c), and, in either case, such default shall not have been remedied or waived within 15 days after the earlier of (i) an Officer of Company or such Loan Party becoming aware of such default or (ii) receipt by Company and such Loan Party of notice from Administrative Agent or any Lender of such default; or

**Section 7.4 Breach of Warranty**

Any representation, warranty, certification or other statement made by Parent or any of its Subsidiaries in any Loan Document or in any statement or certificate at any time given by Company or any of its Subsidiaries in writing pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect on the date as of which made; or

**Section 7.5 Other Defaults Under Loan Documents**

Any Loan Party shall default in the performance of or compliance with any term contained in this Agreement or any of the other Loan Documents, other than any such term referred to in any other Section of this ARTICLE VII, and such default shall not have been remedied or waived within 30 days after the earlier of (a) an Officer of Company or such Loan Party becoming aware of such default or (b) receipt by Company and such Loan Party of notice from Administrative Agent or any Lender of such default; or

**Section 7.6 Involuntary Bankruptcy; Appointment of Receiver, etc.**

(a) A court having jurisdiction in the premises shall enter a decree or order for relief in respect of Parent, Company or any of their respective Subsidiaries in an involuntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, which decree or order is not stayed; or any other similar relief shall be granted under any applicable federal or state law; or

(b) an involuntary case shall be commenced against Parent, Company or any of their respective Subsidiaries under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequestrator, trustee, custodian or other Officer having similar powers over Parent, Company or any of their respective Subsidiaries, or over all or a substantial part of its property, shall have been entered; or there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of Parent, Company or any of their respective Subsidiaries for all or a substantial part of its property; or a warrant of attachment, execution or similar process shall have been issued against any substantial part of the property of Parent, Company or any of their respective Subsidiaries, and any such event described in this clause (b) shall continue for 60 days unless dismissed, bonded or discharged; or

**Section 7.7 Voluntary Bankruptcy; Appointment of Receiver, etc.**

(a) Parent, Company or any of their respective Subsidiaries shall have an order for relief entered with respect to it or commence a voluntary case under the Bankruptcy Code or under any other applicable bankruptcy, insolvency or similar law now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of an involuntary case to a voluntary case, under any such law, or shall

consent to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; or Parent, Company or any of their respective Subsidiaries shall make any assignment for the benefit of creditors; or

(b) Parent, Company or any of their respective Subsidiaries shall be unable, or shall fail generally, or shall admit in writing its inability, generally, to pay its debts as such debts become due; or the Governing Body of Parent, Company or any of their respective Subsidiaries (or any committee thereof) shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to in clause (a) above or this clause (b); or

**Section 7.8 Judgments and Attachments**

Any money judgment, writ or warrant of attachment or similar process involving an amount in excess of $10,000,000 in the aggregate at any time, to the extent not adequately covered by insurance as to which a Solvent and unaffiliated insurance company has not disclaimed coverage or by the indemnity relating to Silica Related Claims under the ITT Agreement, shall be entered or filed against Parent, Company or any of their respective Subsidiaries or any of their respective assets and shall remain undischarged, unvacated, unbonded or unstayed for a period of 90 days (or in any event later than five days prior to the date of any proposed sale thereunder); or

**Section 7.9 Dissolution**

Any order, judgment or decree shall be entered against Parent, Company or any of its Subsidiaries decreeing the dissolution or split up of Parent, Company or that Subsidiary and such order shall remain undischarged or unstayed for a period in excess of 30 days; or

**Section 7.10 ERISA**

Any of the following events results in the imposition of or granting of security, or the incurring of a liability or a material risk of incurring a liability that individually and/or in the aggregate, results or could reasonably be expected to result in a Material Adverse Effect:

(a) any ERISA Event occurs or is reasonably expected to occur;

(b) any Loan Party or ERISA Affiliate incurs or could reasonably be expected to incur a liability to or on account of a Multiemployer Plan as a result of a violation of Section 515 of ERISA or under Section 4201, 4204 or 4212(c) of ERISA;

(c) the fair market value of the assets of any Employee Plan subject to Title IV of ERISA is not at least equal to the present value of the "benefit liabilities" (within the meaning of Section 4001(a)(16) of ERISA) under that Employee Plan using the actuarial assumptions and methods used by the actuary to that Employee Plan in its most recent valuation of that Employee Plan; or

(d) any Loan Party or ERISA Affiliate incurs or could reasonably be expected to incur a liability to or on account of an Employee Plan under Section 409, 502(i) or 502(I) of ERISA or Section 4971 or 4975 of the Internal Revenue Code; or

**Section 7.11 Change in Control**

A Change in Control shall have occurred; or

**Section 7.12 Invalidity of Loan Documents; Failure of Security; Repudiation of Obligations**

At any time after the execution and delivery thereof, (a) any Loan Document or any provision thereof, for any reason other than the satisfaction in full of all Obligations, shall cease to be in full force and effect (other than in accordance with its terms) or shall be declared to be null and void, (b) Administrative Agent shall not have or shall cease to have a valid and perfected First Priority Lien in

any Collateral purported to be covered by a First Priority Lien by the Collateral Documents to having a fair market value, individually or in the aggregate, exceeding $1,000,000, in each case for any reason other than release of the Collateral in accordance with the Loan Documents or the failure of Administrative Agent or any Lender to take any action within its control or (c) any Loan Party shall contest the validity or enforceability of any Loan Document or any provision thereof in writing or deny in writing that it has any further liability, including with respect to future advances by Lenders, under any Loan Document or any provision thereof to which it is a party;

**THEN:**

(a) **Acceleration** (i) upon the occurrence of any Event of Default described in Section 7.6 or 7.7, each of (A) the unpaid principal amount of and accrued interest on the Loans and (B) all other Obligations shall automatically become immediately due and payable, without presentment, demand, protest or other requirements of any kind, all of which are hereby expressly waived by the Loan Parties and (ii) upon the occurrence and during the continuation of any other Event of Default, Administrative Agent shall, upon the written request or with the written consent of Requisite Lenders, by written notice to Company, declare all or any portion of the amounts described in clause (A) above to be, and the same shall forthwith become, immediately due and payable, and thereafter, Administrative Agent may, upon the written request or with the written consent of Requisite Lenders, by written notice to Company, declare all or any portion of the amounts described in clause (B) above to be, and the same shall forthwith become, immediately due and payable.

(b) **Rescission of Acceleration** Notwithstanding anything contained in paragraph (a) above, if at any time within 60 days after an acceleration of the Loans pursuant to clause (ii) of such paragraph Company shall pay all arrears of interest and all payments on account of principal which shall have become due otherwise than as a result of such acceleration (with interest on principal and, to the extent permitted by law, on overdue interest, at the rates specified in this Agreement) and all Events of Default and Potential Events of Default (other than non-payment of the principal of and accrued interest on the Loans, in each case which is due and payable solely by virtue of acceleration) shall be remedied or waived pursuant to Section 9.6, then Requisite Lenders, by written notice to Company, may at their option rescind and annul such acceleration and its consequences; but such action shall not affect any subsequent Event of Default or Potential Event of Default or impair any right consequent thereon. The provisions of this paragraph are intended merely to bind Lenders to a decision which may be made at the election of Requisite Lenders and are not intended, directly or indirectly, to benefit Company, and such provisions shall not at any time be construed so as to grant Company the right to require Lenders to rescind or annul any acceleration hereunder or to preclude Administrative Agent or Lenders from exercising any of the rights or remedies available to them under any of the Loan Documents, even if the conditions set forth in this paragraph are met.

(c) **Right to Cure** Notwithstanding anything to the contrary contained in ARTICLE VII, in the event that Company fails to comply with the Financial Covenant, then until ten days after the date on which the Compliance Certificate in respect of the applicable Fiscal Quarter is required to be delivered pursuant to Section 5.1(d), Permitted Holders shall have the right to commit to purchase for cash Qualified Capital Stock of Parent and make payment for such Qualified Capital Stock; *provided* that Parent shall immediately upon receipt of any such payment contribute 100% of such payment in

cash to the capital of Company as a contribution in respect of Company's common Capital Stock (collectively, the **"Cure Right")**, and upon the receipt by Company of such Cash contribution (the **"Specified Equity Contribution")** pursuant to the exercise by Permitted Holders of such Cure Right, (A) Company shall apply such Specified Equity Contribution to a mandatory prepayment of the Loans pursuant to Section 2.4(b)(iii)(C) and (B) the Consolidated Adjusted EBITDA shall be increased, solely for the purpose of determining compliance with the Financial Covenant with respect to any period of four consecutive Fiscal Quarters that includes the Fiscal Quarter for which the Cure Right was exercised and not for any other purpose under this Agreement, by an amount equal to the amount of the Specified Equity Contribution. If, after giving effect to the foregoing recalculations, Company shall then be in compliance with the Financial Covenant (and shall deliver to Administrative Agent a pro forma Compliance Certificate demonstrating such compliance), Company shall be deemed to have complied with the Financial Covenant as of the relevant date of determination with the same effect as though there had been no failure to comply therewith at such date, and the applicable breach or default of the Financial Covenant that had occurred shall be deemed cured for the purposes of this Agreement (including any breach of a representation or warranty that the Loan Parties were in compliance with the Financial Covenant as of such date). Until the 10th day following the date on which the Compliance Certificate in respect of the applicable Fiscal Quarter is required to be delivered pursuant to Section 5.1(d), (x) none of Administrative Agent nor any Lender shall exercise the right to accelerate the Loans or terminate the Commitments and (y) none of Administrative Agent, any other Lender or other Secured Party shall exercise any right to foreclose on or take possession of the Collateral solely on the basis of an Event of Default having occurred and being continuing as a result of a breach of the Financial Covenant in or as of the end of such Fiscal Quarter (including as a result of any breach of a representation or warranty that the Loan Parties were in compliance with the Financial Covenant during or as of the end of such Fiscal Quarter).

Notwithstanding anything herein to the contrary, (i) in each four-Fiscal Quarter period there shall be at least two Fiscal Quarters in which no Cure Right is exercised, (ii) no more than four Specified Equity Contributions may be made after the Second Restatement Date, (iii) with respect to this Agreement, the amount of any Specified Equity Contribution shall be no greater than the minimum amount required to cause Company to be in compliance with the Financial Covenant (it being understood, however, that cash equity contributions to cure financial covenant defaults under the ABL Loan Agreement may exceed such amount) and (iv) no Indebtedness repaid with the proceeds of a Specified Equity Contribution shall be deemed repaid for purposes of determining compliance with the Financial Covenant on the last day of the Fiscal Quarter for which the Cure Right was exercised.

## ARTICLE VIII
## ADMINISTRATIVE AGENT

### Section 8.1 Appointment

(a) **Appointment of Administrative Agent** BNP Paribas is hereby appointed Administrative Agent hereunder and under the other Loan Documents.

(i) **Authorization** Each Lender hereby authorizes Administrative Agent to act as its agent in accordance with the terms of this Agreement and the other

Loan Documents. Administrative Agent agrees to act upon the express conditions contained in this Agreement and the other Loan Documents, as applicable. The provisions of this ARTICLE VIII are solely for the benefit of Agents and Lenders and no Loan Party shall have rights as a third party beneficiary of any of the provisions thereof. In performing its functions and duties under this Agreement, Administrative Agent (other than as provided in Section 2.1(d)) shall act solely as an agent of Lenders and does not assume and shall not be deemed to have assumed any obligation towards or relationship of agency or trust with or for Company or any other Loan Party.

(ii) **Exercise of Duties** Administrative Agent may execute any of its duties under this Agreement or any other Loan Document by or through agents, employees or attorneys-in-fact appointed by Administrative Agent in its sole discretion. Administrative Agent and any such sub-agent may perform any and all of the duties of Administrative Agent and exercise the rights and powers of Administrative Agent by or through their respective Affiliates and the partners, directors, officers, employees, agents and advisors of such Person and of such Person's Affiliates **("Related Parties").** The exculpatory provisions of this ARTICLE VIII shall apply to any such sub-agent and to the Related Parties of Administrative Agent and any such sub-agent.

(b) **Appointment of Supplemental Collateral Agents** It is the purpose of this Agreement and the other Loan Documents that there shall be no violation of any law of any jurisdiction denying or restricting the right of banking corporations or associations to transact business as agent or trustee in such jurisdiction. It is recognized that in case of litigation under this Agreement or any of the other Loan Documents, and in particular in case of the enforcement of any of the Loan Documents, or in case Administrative Agent deems that by reason of any present or future law of any jurisdiction it may not exercise any of the rights, powers or remedies granted herein or in any of the other Loan Documents or take any other action which may be desirable or necessary in connection therewith, it may be necessary that Administrative Agent appoint an additional individual or institution as a separate trustee, co-trustee, collateral agent or collateral co-agent (any such additional individual or institution being referred to herein individually as a **"Supplemental Collateral Agent"** and collectively as **"Supplemental Collateral Agents")**.

(i) **Duties** In the event that Administrative Agent appoints a Supplemental Collateral Agent with respect to any Collateral, (A) each and every right, power, privilege or duty expressed or intended by this Agreement or any of the other Loan Documents to be exercised by or vested in or conveyed to Administrative Agent with respect to such Collateral shall be exercisable by and vest in such Supplemental Collateral Agent to the extent, and only to the extent, necessary to enable such Supplemental Collateral Agent to exercise such rights, powers and privileges with respect to such Collateral and to perform such duties with respect to such Collateral, and every covenant and obligation contained in the Loan Documents and necessary to the exercise or performance thereof by such Supplemental Collateral Agent shall run to and be enforceable by either Administrative Agent or such Supplemental Collateral Agent and (B) the provisions of this ARTICLE VIII and of Sections 9.2 and 9.3 that refer to Administrative Agent shall inure to the benefit of such Supplemental Collateral Agent and all references therein to Administrative Agent shall be deemed to be references to Administrative Agent and/or such Supplemental Collateral Agent, as the context may require.

(ii) **Acknowledgement by Company** Should any instrument in writing from Company or any other Loan Party be required by any Supplemental Collateral Agent so appointed by Administrative Agent for more fully and certainly vesting in and confirming to him or it such rights, powers, privileges and duties, Company shall, or shall cause such Loan Party to, execute, acknowledge and deliver any and all such instruments promptly upon request by Administrative Agent. In case any Supplemental Collateral Agent, or a successor thereto, shall die, become incapable of acting, resign or be removed, all the rights, powers, privileges and duties of such Supplemental Collateral Agent, to the extent permitted by law, shall vest in and be exercised by Administrative Agent until the appointment of a new Supplemental Collateral Agent.

(c) **Control Under UCC** Each Lender and Administrative Agent hereby appoints each other Lender as agent for the purpose of perfecting Administrative Agent's security interest in assets that, in accordance with the UCC, can be perfected by possession or control.

**Section 8.2 Powers and Duties; General Immunity**

(a) **Powers; Duties Specified** Each Lender irrevocably authorizes Administrative Agent to take such action on such Lender's behalf and to exercise such powers, rights and remedies hereunder and under the other Loan Documents as are specifically delegated or granted to Administrative Agent by the terms hereof and thereof, together with such powers, rights and remedies as are reasonably incidental thereto. Administrative Agent shall have only those duties and responsibilities that are expressly specified in this Agreement and the other Loan Documents. Administrative Agent may exercise such powers, rights and remedies and perform such duties by or through its agents or employees. Administrative Agent shall not have, by reason of this Agreement or any of the other Loan Documents, a fiduciary relationship in respect of any Lender or Company; and nothing in this Agreement or any of the other Loan Documents, expressed or implied, is intended to or shall be so construed as to impose upon Administrative Agent any obligations in respect of this Agreement or any of the other Loan Documents except as expressly set forth herein or therein.

(b) **No Responsibility for Certain Matters** No Agent shall be responsible to any Lender for the execution, effectiveness, genuineness, validity, enforceability, collectibility or sufficiency of this Agreement or any other Loan Document or for any representations, warranties, recitals or statements made herein or therein or made in any written or oral statements or in any financial or other statements, instruments, reports or certificates or any other documents furnished or made by such Agent to Lenders or by or on behalf of Company to such Agent or any Lender in connection with the Loan Documents and the Transactions or for the financial condition or business affairs of Company or any other Person liable for the payment of any Obligations, nor shall such Agent be required to ascertain or inquire as to the performance or observance of any of the terms, conditions, provisions, covenants or agreements contained in any of the Loan Documents or as to the use of the proceeds of the Loans or as to the existence or possible existence of any Event of Default or Potential Event of Default.

(c) **Exculpatory Provisions** No Agent or any of its Officers, directors, employees or agents shall be liable to Lenders for any action taken or omitted by such Agent under or in connection with any of the Loan Documents except to the extent caused by such Agent's gross negligence or willful misconduct. An Agent shall be entitled to refrain from any act or the taking of any action (including the failure to take an action) in connection with this Agreement or any of the other Loan Documents or from the exercise of any power, discretion or authority vested in it hereunder or thereunder unless and until such Agent shall have received instructions in respect thereof from Requisite Lenders (or such other Lenders as may be required to give such instructions under Section 9.6) and, upon receipt of such instructions from Requisite Lenders (or such other Lenders, as the case may be), such Agent shall be entitled to act or (where so instructed) refrain from acting, or to exercise such power, discretion or authority, in accordance with such instructions; *provided that* no Agent shall be required to take any action that, in its opinion or the opinion of its counsel, may expose such Agent to liability or that is contrary to any Loan Document or applicable law. Without prejudice to the generality of the foregoing, (i) each Agent shall be entitled to rely, and shall be fully protected in relying, upon any communication (including any electronic message, Internet or intranet website posting or other distribution), instrument or document believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons, and shall be entitled to rely and shall be protected in relying on opinions and judgments of attorneys (who may be attorneys for Company and its Subsidiaries), accountants, experts and other professional advisors selected by it; and (ii) no Lender shall have any right of action whatsoever against an Agent as a result of such Agent acting or (where so instructed) refraining from acting under this Agreement or any of the other Loan Documents in accordance with the instructions of Requisite Lenders (or such other Lenders as may be required to give such instructions under Section 9.6).

(d) **Agents Entitled to Act as Lender** The agency hereby created shall in no way impair or affect any of the rights and powers of, or impose any duties or obligations upon, an Agent in its individual capacity as a Lender hereunder. With respect to its participation in the Loans, an Agent shall have the same rights and powers hereunder as any other Lender and may exercise the same as though it were not performing the duties and functions delegated to it hereunder, and the term "Lender" or "Lenders" or any similar term shall, unless the context clearly otherwise indicates, include each Agent in its individual capacity. An Agent and its Affiliates may accept deposits from, lend money to, acquire equity interests in and generally engage in any kind of commercial banking, investment banking, trust, financial advisory or other business with Company or any of its Affiliates as if it were not performing the duties specified herein, and may accept fees and other consideration from Company for services in connection with this Agreement and otherwise without having to account for the same to Lenders.

**Section 8.3 Independent Investigation by Lenders; No Responsibility For Appraisal of Creditworthiness**

Each Lender agrees that it has made its own independent investigation of the financial condition and affairs of Company and its Subsidiaries in connection with the making of the Loans hereunder and that it has made and shall continue to make its own appraisal of the creditworthiness of Company and its Subsidiaries. No Agent shall have any duty or responsibility, either initially or on a continuing basis, to make any such investigation or any such appraisal on behalf of Secured Parties or to provide any Lender with any credit or other information with respect thereto, whether coming into its possession before the making of the Loans or at any time or times thereafter, and no Agent shall have any responsibility with respect to the accuracy of or the completeness of any information provided to Lenders.

**Section 8.4 Right to Indemnity**

Each Lender, in proportion to its Pro Rata Share, severally agrees to indemnify each Agent and its Officers, directors, employees, agents, attorneys, professional advisors and Affiliates to the extent that any such Person shall not have been reimbursed by Company, for and against any and all liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses (including counsel fees and disbursements and fees and disbursements of any financial advisor engaged by Agents) or disbursements of any kind or nature whatsoever which may be imposed on, incurred by or asserted against an Agent or such other Person in exercising the powers, rights and remedies of an Agent or performing duties of an Agent hereunder or under the other Loan Documents or otherwise in its capacity as Agent in any way relating to or arising out of this Agreement or the other Loan Documents; *provided that* no Lender shall be liable for any portion of such liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of an Agent resulting solely from such Agent's gross negligence or willful misconduct as determined by a final judgment of a court of competent jurisdiction. If any indemnity furnished to an Agent or any other such Person for any purpose shall, in the opinion of such Agent, be insufficient or become impaired, such Agent may call for additional indemnity and cease, or not commence, to do the acts indemnified against until such additional indemnity is furnished.

**Section 8.5 Resignation of Agents; Successor Administrative Agent**

Any Agent may resign at any time by giving 30 days' prior written notice thereof to Lenders and Company. Upon any such notice of resignation by Administrative Agent, Requisite Lenders shall have the right, upon five Business Days' notice to Company, to appoint a successor Administrative Agent. If no such successor shall have been so appointed by Requisite Lenders and shall have accepted such appointment within 30 days after the retiring Administrative Agent gives notice of its resignation, the retiring Administrative Agent may, on behalf of Lenders, appoint a successor Administrative Agent. If Administrative Agent shall notify Lenders and Company that no Person has accepted such appointment as successor Administrative Agent, such resignation shall nonetheless become effective in accordance with Administrative Agent's notice and (i) the retiring Administrative Agent shall be discharged from its duties and obligations under the Loan Documents, except that any Collateral held by Administrative Agent will continue to be held by it until a Person shall have accepted the appointment of successor Administrative Agent and (ii) all payments, communications and determinations provided to be made by, to or through Administrative Agent shall instead be made by, to or through each Lender directly, until such time as Requisite Lenders appoint a successor Administrative Agent in accordance with this Section 8.5. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, that successor Administrative Agent shall thereupon 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 under this Agreement (if not already discharged as set forth above). After any retiring Agent's resignation hereunder, the provisions of this ARTICLE VIII shall inure to its benefit as to any actions taken or omitted to be taken by it while it was an Agent under this Agreement.

**Section 8.6 Collateral Documents and Guaranties**

Each Lender (which term shall include, for purposes of this Section 8.6, any Hedge Agreement Counterparty) hereby further authorizes Administrative Agent, on behalf of and for the benefit of Lenders, to enter into each Collateral Document as secured party and to be the agent for and representative of Lenders under each Guaranty, and each Lender agrees to be bound by the terms

of each Collateral Document and the Guaranties; *provided that* Administrative Agent shall not (a) enter into or consent to any material amendment, modification, termination or waiver of any provision contained in any Collateral Document or the Guaranties or (b) release any Collateral (except as otherwise expressly permitted or required pursuant to the terms of this Agreement or the applicable Collateral Document), in each case without the prior consent of Requisite Lenders (or, if required pursuant to Section 9.6, all Lenders); *provided further, however, that,* without further written consent or authorization from Lenders, Administrative Agent may execute any documents or instruments necessary to (i) release any Lien encumbering any item of Collateral that is the subject of a sale or other disposition of assets permitted by this Agreement or to which Requisite Lenders have otherwise consented, (ii) release any Subsidiary Guarantor from the Subsidiary Guaranty if all of the Capital Stock of such Subsidiary Guarantor is sold to any Person (other than an Affiliate of Company) pursuant to a sale or other disposition permitted hereunder or to which Requisite Lenders have otherwise consented or (iii) subordinate the Liens of Administrative Agent, on behalf of Secured Parties, to any Liens permitted by clause (v) of Section 6.2(a); *provided that,* in the case of a sale or other disposition of such item of Collateral or stock referred to in subdivision (i) or (ii), the requirements of Section 9.14 are satisfied. Anything contained in any of the Loan Documents to the contrary notwithstanding, (A) no Lender shall have any right individually to realize upon any of the Collateral under any Collateral Document or to enforce any Guaranty, it being understood and agreed that all powers, rights and remedies under the Collateral Documents and the Guaranties may be exercised solely by Administrative Agent for the benefit of Lenders in accordance with the terms thereof and (B) in the event of a foreclosure by Administrative Agent on any of the Collateral pursuant to a public or private sale, Administrative Agent or any Lender may be the purchaser of any or all of such Collateral at any such sale and Administrative Agent, as agent for and representative of Lenders (but not any Lender or Lenders in its or their respective individual capacities unless Requisite Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any Collateral payable by Administrative Agent at such sale.

**Section 8.7 Duties of Other Agents**

To the extent that any Lender is identified in this Agreement as a co-agent, documentation agent or syndication agent, such Lender shall not have any right, power, obligation, liability, responsibility or duty under this Agreement other than those applicable to all Lenders as such. Without limiting the foregoing, none of such Lenders shall have or be deemed to have a fiduciary relationship with any Lender.

**Section 8.8 Administrative Agent May File Proofs of Claim**

In case of the pendency of any receivership, insolvency, liquidation, bankruptcy, reorganization, arrangement, adjustment, composition or other judicial Proceeding relative to Parent, Company or any of their respective Subsidiaries, Administrative Agent (irrespective of whether the principal of any Loan shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether Administrative Agent shall have made any demand on Company) shall be entitled and empowered, by intervention in such Proceeding or otherwise

(a) to file and prove a claim for the whole amount of principal and interest owing and unpaid in respect of the Loans and any other Obligations that are owing and unpaid and to file such other papers or documents as may be necessary or advisable in order to have the claims of Lenders and Agents (including any claim for the reasonable compensation, expenses, disbursements and advances of Lenders and Agents and their agents and counsel and all other amounts due Lenders and Agents under Section 2.3 and Section 9.2) allowed in such judicial Proceeding, and

(b) to collect and receive any moneys or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial Proceeding is hereby authorized by each Lender to make such payments to Administrative Agent and, in the event that Administrative Agent shall consent to the making of such payments directly to Lenders, to pay to Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of Agents and their agents and counsel, and any other amounts due Agents under Section 2.3 and Section 9.2.

Nothing herein contained shall be deemed to authorize Administrative Agent to authorize or consent to or accept or adopt on behalf of any Lender any plan of reorganization, arrangement, adjustment or composition affecting the Obligations or the rights of any Lenders or to authorize Administrative Agent to vote in respect of the claim of any Lender in any such Proceeding.

## ARTICLE IX
## MISCELLANEOUS

### Section 9.1 Successors and Assigns; Assignments and Participations in Loans

(a) **General** This Agreement shall be binding upon the parties hereto and their respective successors and assigns and shall inure to the benefit of the parties hereto and the successors and assigns of Lenders (it being understood that Lenders' rights of assignment are subject to the further provisions of this Section 9.1). Neither Company's rights or obligations hereunder nor any interest therein may be assigned or delegated by Company without the prior written consent of all Lenders (and any attempted assignment or transfer by Company without such consent shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby and, to the extent expressly contemplated hereby, the Affiliates of each of Administrative Agent and Lenders and Indemnitees) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) **Assignments**

(i) **Amounts and Terms of Assignments** Any Lender may assign to one or more Eligible Assignees all or any portion of its rights and obligations under this Agreement; *provided that* (A), except (1) in the case of an assignment of the entire remaining amount of the assigning Lender's rights and obligations under this Agreement or (2) in the case of an assignment to a Lender or an Affiliate of a Lender or an Approved Fund of a Lender, the aggregate amount of the Loan Exposure, as the case may be, of the assigning Lender and the assignee subject to each such assignment shall not be less than $1,000,000 (in each case aggregating concurrent assignments by or to two or more Affiliated Funds for purposes of determining such minimum amount), unless each of Administrative Agent and, so long as no Event of Default has occurred and is continuing, Company otherwise consent (each such consent not to be unreasonably withheld or delayed), (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 with respect to the Loan, (C) the parties to each assignment shall execute and deliver to Administrative Agent an Assignment Agreement, together with a processing and recordation fee of $3,500 (unless the assignee is an Affiliate or an

Approved Fund of the assignor, in which case no fee shall be required and no more than one such fee shall be payable in connection with simultaneous assignments to or by two or more Affiliated Funds), and the Eligible Assignee, if it shall not be a Lender, shall deliver to Administrative Agent information reasonably requested by Administrative Agent, including such forms, certificates or other evidence, if any, with respect to United States federal income tax withholding matters as the assignee under such Assignment Agreement may be required to deliver to Administrative Agent pursuant to Section 2.7(b)(iv) and (D), except in the case of an assignment to another Lender, an Affiliate of a Lender or an Approved Fund of a Lender, each of (1) Administrative Agent and (2) if no Event of Default has occurred and is continuing, Company shall have consented thereto (with all such consents not to be unreasonably withheld or delayed) *provided that* no consent of Company shall be required for any assignments made during the initial syndication of the Loans to any lenders set forth on the initial allocation list provided by Administrative Agent to Company on or prior to the Second Restatement Date.

(ii) **Effect of Assignments** Upon such execution, delivery and consent, from and after the effective date specified in such Assignment Agreement, (A) the assignee thereunder shall be a party hereto and, to the extent that rights and obligations hereunder have been assigned to it pursuant to such Assignment Agreement, shall have the rights and obligations of a Lender hereunder and (B) the assigning Lender thereunder shall, to the extent that rights and obligations hereunder have been assigned by it pursuant to such Assignment Agreement, relinquish its rights (other than any rights which survive the termination of this Agreement under Section 9.9(b)) and be released from its obligations under this Agreement (and, in the case of an Assignment Agreement covering all or the remaining portion of an assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto). The assigning Lender shall, upon the effectiveness of such assignment or as promptly thereafter as practicable, surrender its Notes, if any, to Administrative Agent for cancellation, and thereupon new Notes shall, if so requested by the assignee and/or the assigning Lender in accordance with Section 2.1(e), be issued to the assignee and/or to the assigning Lender, substantially in the form of Exhibit III, annexed hereto, with appropriate insertions, to reflect the amount of the outstanding Loan of the assignee and/or the assigning Lender. Other than as provided in Section 9.5, any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 9.1(b) 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 Section 9.1(c).

(iii) **Acceptance by Administrative Agent; Recordation in Register** Upon its receipt of an Assignment Agreement executed by an assigning Lender and an assignee representing that it is an Eligible Assignee, together with the processing and recordation fee referred to in Section 9.1(b)(i) and any forms, certificates or other evidence with respect to United States federal income tax withholding matters that such assignee may be required to deliver to

Administrative Agent pursuant to Section 2.7(b), Administrative Agent shall, if Administrative Agent and Company have consented to the assignment evidenced thereby (in each case to the extent such consent is required pursuant to Section 9.1(b)(i)), (A) accept such Assignment Agreement by executing a counterpart thereof as provided therein (which acceptance shall evidence any required consent of Administrative Agent to such assignment), (B) record the information contained therein in the Register and (C) give prompt notice thereof to Company. Administrative Agent shall maintain a copy of each Assignment Agreement delivered to and accepted by it as provided in this Section 9.1(b)(iii).

(iv) **Deemed Consent by Company** If the consent of Company to an assignment or to an Eligible Assignee is required hereunder (including a consent to an assignment which does not meet the minimum assignment thresholds specified in Section 9.1(b)(i)), Company shall be deemed to have given its consent ten Business Days after the date notice thereof has been delivered by the assigning Lender (through Administrative Agent) unless such consent is expressly refused by Company prior to such tenth Business Day.

(v) **Electronic Execution of Assignments** The words "execution," "signed," "signature," and words of like import in any Assignment Agreement shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based record keeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, the New York State Electronic Signatures and Records Act, or any other similar state laws based on the Uniform Electronic Transactions Act.

(c) **Participations** Any Lender may, without the consent of, or notice to, Company or Administrative Agent, sell participations to one or more Persons (other than a natural Person) in all or a portion of such Lender's rights and/or obligations under this Agreement; *provided that* (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations and (iii) Company, Administrative Agent and 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 directly affecting (A) an extension of the regularly scheduled maturity of any portion of the principal amount of or interest on any Loan allocated to such participation, (B) a reduction of the principal amount of or the rate of interest payable on any Loan allocated to such participation or (C) an increase in the Commitment allocated to such participation. Subject to the further provisions of this Section 9.1(c), Company agrees that each Participant shall be entitled to the benefits of Section 2.6(d) and 2.7 to the same extent as if it were a Lender and had acquired its interest by

assignment pursuant to Section 9.1(b). To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 9.4 as though it were a Lender, provided such Participant agrees to be subject to Section 9.5 as though it were a Lender. A Participant shall not be entitled to receive any greater payment under Section 2.6(d) and 2.7 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 Company's prior written consent. No Participant shall be entitled to the benefits of Section 2.7 unless Company is notified of the participation sold to such Participant and such Participant agrees, for the benefit of Company, to comply with Section 2.7(b)(iv) as though it were a Lender.

(d) **Pledges and Assignments** Any Lender may at any time pledge or assign a security interest in all or any portion of its Loans, and the other Obligations owed to such Lender, to secure obligations of such Lender, including without limitation any pledge or assignment to secure obligations to any Federal Reserve Bank or any central bank having jurisdiction; *provided that* (i) no Lender shall be relieved of any of its obligations hereunder as a result of any such assignment or pledge and (ii) in no event shall any assignee or pledgee be considered to be a "Lender" or be entitled to require the assigning Lender to take or omit to take any action hereunder.

(e) **SPC Grants** Notwithstanding anything to the contrary contained herein, any Lender (a "**Granting Lender**") may grant to a special purpose funding vehicle identified as such in writing from time to time by the Granting Lender to Administrative Agent and Company (an "**SPC**") the option to provide all or any part of any Loan that such Granting Lender would otherwise be obligated to make pursuant to this Agreement; *provided that* (i) nothing herein shall constitute a commitment by any SPC to fund any Loan, and (ii) if an SPC elects not to exercise such option or otherwise fails to make all or any part of such Loan, the Granting Lender shall be obligated to make such Loan pursuant to the terms hereof. Each party hereto hereby agrees that (A) neither the grant to any SPC nor the exercise by any SPC of such option shall increase the costs or expenses or otherwise increase or change the obligations of Company under this Agreement (including its obligations under Section 2.7), (B) no SPC shall be liable for any indemnity or similar payment obligation under this Agreement for which a Lender would be liable and (C) the Granting Lender shall for all purposes, including the approval of any amendment, waiver or other modification of any provision of any Loan Document, remain the lender of record hereunder. The making of a Loan by an SPC hereunder shall utilize the applicable Commitment of the Granting Lender to the same extent, and as if, such Loan were made by such Granting Lender. In furtherance of the foregoing, each party hereto hereby agrees (which agreement shall survive the termination of this Agreement) that, prior to the date that is one year and one day after the payment in full of all outstanding commercial paper or other senior debt of any SPC, it will not institute against, or join any other Person in instituting against, such SPC any bankruptcy, reorganization, arrangement, insolvency, or liquidation Proceeding under the laws of the United States or any State thereof. Notwithstanding anything to the contrary contained herein, any SPC may (1) with notice to, but without prior consent of Company and Administrative Agent and with the payment of a processing fee of $3,500 paying any processing fee therefor, assign all or any portion of its right to receive payment with respect to any Loan to the Granting Lender and (2) disclose on a confidential basis any non-public information relating to its funding of Loans to any rating agency, commercial paper dealer or provider of any surety or guarantee or credit or liquidity enhancement to such SPC.

(f) **Information** Each Lender may furnish any information concerning Parent and its Subsidiaries in the possession of that Lender from time to time to assignees and Participants (including prospective assignees and Participants), subject to Section 9.19.

(g) **Agreements of Lenders** Each Lender listed on the signature pages hereof hereby agrees, and each Lender that becomes a party hereto pursuant to an Assignment Agreement shall be deemed to agree, (i) that it is an Eligible Assignee described in clause (b) of the definition thereof; (ii) that it has experience and expertise in the making of or purchasing loans such as the Loans; and (iii) that it will make or purchase Loans for its own account in the ordinary course of its business and without a view to distribution of such Loans within the meaning of the Securities Act or the Exchange Act or other federal securities laws (it being understood that, subject to the provisions of this Section 9.1, the disposition of such Loans or any interests therein shall at all times remain within its exclusive control).

**Section 9.2 Expenses**

Whether or not the Transactions shall be consummated, Company agrees to pay promptly (a) all reasonable and documented out-of-pocket costs and expenses of Administrative Agent of negotiation, preparation and execution of the Loan Documents and any consents, amendments, waivers or other modifications thereto; (b) all costs and expenses of furnishing all opinions by counsel for Company (including any opinions requested by Agents or Lenders as to any legal matters arising hereunder) and of Company’s performance of and compliance with all agreements and conditions on its part to be performed or complied with under this Agreement and the other Loan Documents including with respect to confirming compliance with environmental, insurance and solvency requirements; (c) all reasonable and documented out-of-pocket fees, expenses and disbursements of one primary counsel to Administrative Agent and one reasonably necessary local counsel in any material jurisdiction in connection with the negotiation, preparation, execution and administration of the Loan Documents and any consents, amendments, waivers or other modifications thereto and any other documents or matters requested by Company; (d) all reasonable and documented out-of-pocket costs and expenses of creating and perfecting Liens in favor of Administrative Agent on behalf of Secured Parties pursuant to any Collateral Document, including filing and recording fees, expenses and Taxes, stamp or documentary taxes, search fees, title insurance premiums, and reasonable fees, expenses and disbursements of counsel to Administrative Agent and of counsel providing any opinions that Administrative Agent or Requisite Lenders may reasonably request in accordance with the obligations of the Loan Parties hereunder in respect of the Collateral Documents or the Liens created pursuant thereto; (e) all reasonable and documented out-of-pocket costs and expenses (including the reasonable and documented out-of-pocket fees, expenses and disbursements of any auditors, accountants or appraisers and any environmental or other consultants, advisors and agents employed or retained (with the consent of Company, not to be unreasonably withheld) by Administrative Agent or its counsel) of obtaining and reviewing any appraisals provided for under Section 5.8(b) and any environmental audits or reports provided for under Section 5.8(a); (f) all reasonable and documented out-of-pocket costs and expenses incurred by Administrative Agent in connection with the custody or preservation of any of the Collateral; (g) all other reasonable and documented out-of-pocket costs and expenses incurred by Administrative Agent in connection with the syndication of the Loans and Commitments; (h) all reasonable and documented out-of-pocket costs and expenses, including attorneys’ fees and reasonable and documented out-of-pocket fees, costs and expenses of accountants, advisors and

consultants, incurred by Administrative Agent and its counsel relating to efforts to (i) evaluate or assess any Loan Party, its business or financial condition and (ii) protect, evaluate, assess or dispose of any of the Collateral; and (i) all out-of-pocket costs and expenses, including reasonable and documented out-of-pocket attorneys' fees (including allocated costs of internal counsel), fees, costs and expenses of accountants, advisors and consultants and costs of settlement, incurred by Administrative Agent and Lenders in enforcing any Obligations of or in collecting any payments due from any Loan Party hereunder or under the other Loan Documents (including in connection with the sale of, collection from, or other realization upon any of the Collateral or the enforcement of the Loan Documents) or in connection with any refinancing or restructuring of the credit arrangements provided under this Agreement in the nature of a "work-out" or pursuant to any insolvency or bankruptcy Proceedings. For the avoidance of doubt, Parent and Company shall not be required to reimburse the legal fees and expenses of more than one firm of outside counsel (in addition, one firm of necessary local counsel in each applicable local jurisdiction) for Administrative Agent and one separate firm of outside counsel for all Lenders, taken as a whole.

**Section 9.3 Indemnity**

(a) In addition to the payment of expenses pursuant to Section 9.2, whether or not the Transactions shall be consummated, Company agrees to defend (subject to Indemnitees' selection of counsel), indemnify, pay and hold harmless Agents and Lenders, and the Officers, directors, trustees, employees, agents, advisors and Affiliates of Agents and Lenders (collectively called the "**Indemnitees**"), from and against any and all Indemnified Liabilities (as hereinafter defined); *provided that* Company shall not have any obligation to any Indemnitee hereunder with respect to any Indemnified Liabilities to the extent such Indemnified Liabilities arise solely from the gross negligence or willful misconduct of that Indemnitee or its related parties as determined by a final judgment of a court of competent jurisdiction.

(b) As used herein, "**Indemnified Liabilities**" means, collectively, any and all liabilities, obligations, losses, damages (including natural resource damages), penalties, actions, judgments, suits, claims (including Environmental Claims), costs (including the costs of any investigation, study, sampling, testing, abatement, cleanup, removal, remediation or other response action necessary to remove, remediate, clean up or abate any Hazardous Materials Activity), expenses and disbursements of any kind or nature whatsoever (including the reasonable and documented out-of-pocket fees and disbursements of counsel for Indemnitees in connection with any investigative, administrative or judicial Proceeding commenced or threatened by any Person, whether or not any such Indemnitee shall be designated as a party or a potential party thereto, and any fees or expenses incurred by Indemnitees in enforcing this indemnity), whether direct, indirect or consequential and whether based on any federal, state or foreign laws, statutes, rules or regulations (including securities and commercial laws, statutes, rules or regulations and Environmental Laws), on common law or equitable cause or on contract or otherwise, that may be imposed on, incurred by, or asserted against any such Indemnitee, in any manner relating to or arising out of (i) this Agreement or the other Loan Documents or the Transactions (including Lenders' agreement to make the Loans hereunder or the use or intended use of the proceeds thereof as a result of any act or omission, whether rightful or wrongful, of any present or future de jure or de facto Government Authority, or any enforcement of any of the Loan Documents (including any sale of, collection from, or other realization upon any of the Collateral or the enforcement of the Guaranties), (ii) the statements contained in the commitment letter delivered by any Lender to Company with respect

thereto or (iii) any Environmental Claim or any Hazardous Materials Activity relating to or arising from, directly or indirectly, any past or present activity, operation, land ownership, or practice of Company or any of its Subsidiaries; except to the extent such Environmental Claim or Hazardous Materials Activity arises solely from the gross negligence or willful misconduct of Indemnitee as determined by a final judgment of a court of competent jurisdiction.

(c) To the extent that the undertakings to defend, indemnify, pay and hold harmless set forth in this Section 9.3 may be unenforceable in whole or in part because they are violative of any law or public policy, Company shall contribute the maximum portion that it is permitted to pay and satisfy under applicable law to the payment and satisfaction of all Indemnified Liabilities incurred by Indemnitees or any of them.

**Section 9.4 Set-Off**

In addition to any rights now or hereafter granted under applicable law and not by way of limitation of any such rights, upon the occurrence and during the continuation of any Event of Default each of Lenders and their Affiliates is hereby authorized by Company at any time or from time to time, with prompt notice to Company or to any other Person, to set off and to appropriate and to apply any and all deposits (general or special, time or demand, provisional or final, including Indebtedness evidenced by certificates of deposit, whether matured or unmatured, but not including trust accounts) and any other Indebtedness at any time held or owing by that Lender or any Affiliate of that Lender to or for the credit or the account of Company and each other Loan Party against and on account of the Obligations of Company or any other Loan Party to that Lender (or any Affiliate of that Lender) or to any other Lender (or any Affiliate of any other Lender) under this Agreement and the other Loan Documents to the extent then due and payable, including all claims of any nature or description arising out of or connected with this Agreement and participations therein or any other Loan Document, irrespective of whether or not that Lender shall have made any demand hereunder.

**Section 9.5 Ratable Sharing**

Lenders hereby agree among themselves that if any of them shall, whether by voluntary or mandatory payment (other than a payment or prepayment of Loans made and applied in accordance with the terms of this Agreement), by realization upon security, through the exercise of any right of set-off or banker’s lien, by counterclaim or cross action or by the enforcement of any right under the Loan Documents or otherwise, or as adequate protection of a deposit treated as Cash collateral under the Bankruptcy Code, receive payment or reduction of a proportion of the aggregate amount of principal, interest, fees and other amounts then due and owing to that Lender hereunder or under the other Loan Documents (collectively, the “**Aggregate Amounts Due**” to such Lender) that is greater than the proportion received by any other Lender in respect of the Aggregate Amounts Due to such other Lender, then the Lender receiving such proportionately greater payment shall, unless such proportionately greater payment is required or permitted by the terms of this Agreement, (a) notify Administrative Agent and each other Lender of the receipt of such payment and (b) apply a portion of such payment to purchase assignments (which it shall be deemed to have purchased from each seller of an assignment simultaneously upon the receipt by such seller of its portion of such payment) of the Aggregate Amounts Due to the other Lenders so that all such recoveries of Aggregate Amounts Due shall be shared by all Lenders in proportion to the Aggregate Amounts Due to them; *provided that* (i) if all or part of such proportionately greater payment received by such purchasing Lender is thereafter recovered from such Lender upon the bankruptcy or reorganization of Company or otherwise, those purchases shall be rescinded and the purchase prices paid for such assignments shall be returned to such purchasing Lender ratably to the extent of such recovery, but without interest and (ii) the foregoing provisions shall not apply to (A) any payment made by Company pursuant to and in accordance with the express terms of this Agreement or (B) any

payment obtained by a Lender as consideration for the assignment (other than an assignment pursuant to this Section 9.5) of or the sale of a participation in any of its Obligations to any Eligible Assignee or Participant pursuant to Section 9.1(b). Company expressly consents to the foregoing arrangement and agrees that any purchaser of an assignment so purchased may exercise any and all rights of a Lender as to such assignment as fully as if that Lender had complied with the provisions of Section 9.1(b) with respect to such assignment. In order to further evidence such assignment (and without prejudice to the effectiveness of the assignment provisions set forth above), each purchasing Lender and each selling Lender agree to enter into an Assignment Agreement at the request of a selling Lender or a purchasing Lender, as the case may be, in form and substance reasonably satisfactory to each such Lender.

**Section 9.6 Amendments and Waivers**

(a) Consent Required No amendment, modification, termination or waiver of any provision of this Agreement or the other Loan Documents, and no consent to any departure by Company therefrom, shall in any event be effective without the written concurrence of Company and the Requisite Lenders; *provided that* no such amendment, modification, termination, waiver or consent shall, without the consent of:

(i) each Lender with Obligations directly amended, modified, terminated or waived whose consent shall be sufficient for any such amendment, modification, termination or waiver in addition to that of Requisite Lenders:

(A) reduce the principal amount of the Loans;

(B) increase the amount or extend the expiry date of any Commitment (it being understood that waivers or modifications of conditions precedent, covenants, Potential Events of Default or Events of Default, mandatory repayments or mandatory reductions of Loans or Commitments, shall not constitute an increase of the Commitment of any Lender);

(C) postpone the Maturity Date or Latest Maturity Date, or postpone the date or reduce the amount of any scheduled payment (but not prepayment) of principal of the Loans;

(D) change in any manner or waive the provisions contained in Section 7.1 ("Failure to Make Payments When Due") in respect of any Loan or other Obligation;

(E) postpone the date on which any interest or any fees are payable;

(F) decrease the interest rate borne by the Loans (other than any waiver of any increase in the interest rate applicable to any of the Loans pursuant to Section 2.2(e) ("Default Rate")) or the amount of any fees payable hereunder (excluding any change in the manner in which any financial ratio used in determining any interest rate or fee is calculated that would result in a reduction of any such rate or fee);

(G) increase the maximum duration of Interest Periods permitted hereunder; or

(H) change in any manner the definition of "Pro Rata Share" or the provisions of Section 9.5 ("Ratable Sharing") that would adversely alter the scheme for pro rata sharing of payments thereunder, or the

definition of “Requisite Lenders” (except for any changes resulting solely from increases or other changes in the aggregate amount of the Commitments permitted hereunder or otherwise approved pursuant to this Section 9.6 and technical amendments which do not adversely affect the rights of any Lender).

(ii) each Lender:

(A) change in any manner any provision of this Agreement that, by its terms, expressly requires the approval or concurrence of all Lenders;

(B) release any Lien granted in favor of Administrative Agent with respect to all or substantially all of the Collateral or release Parent from its obligations under the Parent Guaranty or release any Subsidiary Guarantor with material assets in excess of $2,000,000 fair market value, from its or their obligations under the Subsidiary Guaranty, in each case other than in accordance with the terms of the Loan Documents;

(C) change in any manner or waive the provisions contained in Section 2.4(d) or this Section 9.6 (in each case, other than technical amendments which do not adversely affect the rights of any Lender); or

(D) consent to the assignment or transfer by Company of any of its rights and obligations under this Agreement.

(iii) **Administrative Agent:** amend, modify, terminate or waive any provision of ARTICLE VIII or of any other provision of this Agreement which, by its terms, expressly requires the approval or concurrence of Administrative Agent; *provided further* that nothing contained in this Section 9.6 will require Administrative Agent to seek the consent of any Lender prior to making any technical amendments or modifications to any provision of a Loan Document or to providing waivers or making amendments to any provision of a Loan Document that do not adversely affect the rights of any Lender, so long as such technical amendments and modifications occur prior to the delivery of audited financial statements for the Fiscal Year ending December 31, 2011 pursuant to Section 5.1(c).

(b) **General** Administrative Agent may, but shall have no obligation to, with the concurrence of any Lender, execute amendments, modifications, waivers or consents on behalf of that Lender. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on Company in any case shall entitle Company to any other or further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver or consent effected in accordance with this Section 9.6 shall be binding upon each Lender at the time outstanding, each future Lender and, if signed by Company, on Company.

(c) **Incremental and Extension Loans** Notwithstanding anything contained herein to the contrary, it is hereby understood and agreed that the consent of Requisite Lenders shall not be required to implement the terms and provisions of Section 2.10 and/or Section 2.11.

(d) **Replacement Loans** In addition, notwithstanding the foregoing, this Agreement and any other Loan Document may be amended or amended and restated with the written consent of Administrative Agent, Company and the Lenders or Incremental Lenders providing the Replacement Loans (as defined below) to the extent necessary or appropriate to permit the refinancing of all or a portion of outstanding Loans or Incremental Loans, as the case may be and including, in each case, Extension Loans **("Refinanced Loans")** on a pro rata basis with replacement term loans **("Replacement Loans")** to be provided by Refinancing Lenders; *provided that* unless all of the Loans and Incremental Term Loans (including, in each case, Extension Loans) are refinanced with Replacement Loans (i) the Replacement Loans will rank pari passu in right of payment and of security with the other Loans and Incremental Term Loans (including, in each case, Extension Loans) hereunder (ii) the aggregate principal amount of such Replacement Loans shall not exceed the aggregate principal amount of such Refinanced Loans, (ii) the interest rate spread applicable to such Replacement Loans shall not be higher than the interest rate spread for such Refinanced Loans immediately prior to such refinancing, (iii) the final maturity of such Replacement Loans shall not be prior to the final maturity of such Refinanced Loans and the Weighted Average Life to Maturity of such Replacement Loans shall not be shorter than the Weighted Average Life to Maturity of such Refinanced Loans at the time of such refinancing (except by virtue of amortization or prepayment of the Refinanced Loans) and (iv) all covenants, events of default, guarantees, collateral and other terms applicable to such Replacement Loans shall be substantially identical to, or less favorable to the Lenders providing such Replacement Loans than, those applicable to such Refinanced Loans, except to the extent necessary to provide for covenants and other terms applicable to any period after the latest final maturity of the Loans and Incremental Term Loans (including, in each case, Extension Loans) in effect immediately prior to such refinancing.

**Section 9.7 Independence of Covenants**

All covenants hereunder 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 would otherwise be within the limitations of, another covenant shall not avoid the occurrence of an Event of Default or Potential Event of Default if such action is taken or condition exists.

**Section 9.8 Notices; Effectiveness of Signatures**

(a) Unless otherwise specifically provided herein, any notice or other communication herein required or permitted to be given shall be in writing and may be personally served, or sent by telefacsimile or United States mail or courier service and shall be deemed to have been given when delivered in person or by courier service, upon receipt of telefacsimile in complete and legible form, or three Business Days after depositing it in the United States mail with postage prepaid and properly addressed; *provided that* notices to Administrative Agent shall not be effective until received. For the purposes hereof, the address of each party hereto shall be as set forth under such party's name on the signature pages hereof or (i) as to Company and Administrative Agent, such other address as shall be designated by such Person in a written notice delivered to the other parties hereto and (ii) as to each other party, such other address as shall be designated by such party in a written notice delivered to Administrative Agent. Electronic mail and Internet and intranet websites may be used to distribute routine communications, such as financial statements and other information as provided in Section 5.1. Administrative Agent or Company 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.

(b) Loan Documents and notices under the Loan Documents may be transmitted and/or signed by telefacsimile and by signatures delivered in ‘PDF’ format by electronic mail. The effectiveness of any such documents and signatures shall, subject to applicable law, have the same force and effect as an original copy with manual signatures and shall be binding on all Loan Parties, Agents and Lenders. Administrative Agent may also’ require that any such documents and signature be confirmed by a manually-signed copy thereof; *provided*, *however, that the* failure to request or deliver any such manually-signed copy shall not affect the effectiveness of any facsimile document or signature.

**Section 9.9 Survival of Representations, Warranties and Agreements**

(a) All representations, warranties and agreements made herein shall survive the execution and delivery of this Agreement and the making of the Loans hereunder.

(b) Notwithstanding anything in this Agreement or implied by law to the contrary, the agreements of Company set forth in Section 2.6(d) (“Compensation For Breakage or Non-Commencement of Interest Periods”), 2.7 (“Increased Costs; Taxes; Capital Adequacy”), 9.2 (“Expenses”), 9.3 (“Indemnity”) and the agreements of Lenders set forth in 8.4 (“Right to Indemnity”) and 9.5 (“Ratable Sharing”) shall survive the payment of the Loans and the termination of this Agreement.

**Section 9.10 Failure or Indulgence Not Waiver; Remedies Cumulative**

No failure or delay on the part of any Agent or any Lender in the exercise of any power, right or privilege hereunder or under any other Loan Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. All rights and remedies existing under this Agreement and the other Loan Documents are cumulative to, and not exclusive of, any rights or remedies otherwise available.

**Section 9.11 Marshalling; Payments Set Aside**

Neither any Agent nor any Lender shall be under any obligation to marshal any assets in favor of Company or any other party or against or in payment of any or all of the Obligations. To the extent that Company makes a payment or payments to Administrative Agent or Lenders (or to Administrative Agent for the benefit of Lenders), or Agents or Lenders enforce any security interests or exercise their rights of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, any other state or federal law, common law or any equitable cause, then, to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred.

**Section 9.12 Severability**

In case any provision in or obligation under this Agreement or the Notes shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

### Section 9.13 Obligations Several; Independent Nature of Lenders' Rights; Damage Waiver

(a) The obligations of Lenders hereunder are several and no Lender shall be responsible for the obligations or Commitments of any other Lender hereunder. Nothing contained herein or in any other Loan Document, and no action taken by Lenders pursuant hereto or thereto, shall be deemed to constitute Lenders, or Lenders and Company, as a partnership, an association, a Joint Venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and, subject to Section 9.6, each Lender shall be entitled to protect and enforce its rights arising out of this Agreement and it shall not be necessary for any other Lender to be joined as an additional party in any Proceeding for such purpose.

(b) To the extent permitted by law, Company shall not assert, and hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with or as a result of this Agreement (including Section 2.1(c) hereof), any other Loan Document, any transaction contemplated by the Loan Documents, any Loan or the use of proceeds thereof. No Indemnitee shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by it through telecommunications, electronic or other information transmission systems in connection with the Loan Documents or the Transactions.

### Section 9.14 Release of Security Interest or Guaranty

(a) Upon the proposed sale or other disposition of any Collateral to any Person (other than an Affiliate of Company) that is permitted by this Agreement or to which Requisite Lenders have otherwise consented, or the sale or other disposition of all of the Capital Stock of a Subsidiary Guarantor to any Person (other than an Affiliate of Company) that is permitted by this Agreement or to which Requisite Lenders have otherwise consented, for which a Loan Party desires to obtain a security interest release or a release of the Subsidiary Guaranty from Administrative Agent, such Loan Party shall deliver an Officer's Certificate (i) stating that the Collateral or the Capital Stock subject to such disposition is being sold or otherwise disposed of in compliance with the terms hereof and (ii) specifying the Collateral or Capital Stock being sold or otherwise disposed of in the proposed transaction. Upon the receipt of such Officer's Certificate, Administrative Agent shall, at such Loan Party's expense, so long as Administrative Agent is not aware that the facts stated in such Officer's Certificate are not true and correct, execute and deliver such releases of its security interest in such Collateral or such Subsidiary Guaranty, as may be reasonably requested by such Loan Party.

### Section 9.15 Applicable Law

**THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN ANY SUCH LOAN DOCUMENT), AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER AND THEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (INCLUDING SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES THAT WOULD REQUIRE APPLICATION OF ANOTHER LAW.**

### Section 9.16 Construction of Agreement; Nature of Relationship

Each of the parties hereto acknowledges that (a) it has been represented by counsel in the negotiation and documentation of the terms of this Agreement, (b) it has had full and fair opportunity

to review and revise the terms of this Agreement, (c) this Agreement has been drafted jointly by all of the parties hereto and (d) neither Administrative Agent nor any Lender or other Agent has any fiduciary relationship with or duty to any Loan Party arising out of or in connection with this Agreement or any of the other Loan Documents, and the relationship between Administrative Agent, the other Agents and Lenders, on one hand, and the Loan Parties, on the other hand, in connection herewith or therewith is solely that of debtor and creditor. Accordingly, each of the parties hereto acknowledges and agrees that the terms of this Agreement shall not be construed against or in favor of another party.

**Section 9.17 Consent to Jurisdiction and Service of Process**

**ALL JUDICIAL PROCEEDINGS BROUGHT AGAINST ANY LOAN PARTY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR ANY OBLIGATIONS HEREUNDER AND THEREUNDER, MAY BE BROUGHT IN ANY STATE OR FEDERAL COURT OF COMPETENT JURISDICTION IN THE STATE, COUNTY AND CITY OF NEW YORK. BY EXECUTING AND DELIVERING THIS AGREEMENT, EACH LOAN PARTY, FOR ITSELF AND IN CONNECTION WITH ITS PROPERTIES, IRREVOCABLY**

(a) **ACCEPTS GENERALLY AND UNCONDITIONALLY THE NONEXCLUSIVE JURISDICTION AND VENUE OF SUCH COURTS;**

(b) **WAIVES ANY DEFENSE OF *FORUM NON CONVENIENS;***

(c) **AGREES THAT SERVICE OF ALL PROCESS IN ANY SUCH PROCEEDING IN ANY SUCH COURT MAY BE MADE BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO IT AT ITS ADDRESS PROVIDED IN ACCORDANCE WITH SECTION 9.8;**

(d) **AGREES THAT SERVICE AS PROVIDED IN CLAUSE (c) ABOVE IS SUFFICIENT TO CONFER PERSONAL JURISDICTION OVER IT IN ANY SUCH PROCEEDING IN ANY SUCH COURT, AND OTHERWISE CONSTITUTES EFFECTIVE AND BINDING SERVICE IN EVERY RESPECT;**

(e) **AGREES THAT LENDERS RETAIN THE RIGHT TO SERVE PROCESS IN ANY OTHER MANNER PERMITTED BY LAW OR TO BRING PROCEEDINGS AGAINST IT IN THE COURTS OF ANY OTHER JURISDICTION; AND**

(f) **AGREES THAT THE PROVISIONS OF THIS SECTION 9.17 RELATING TO JURISDICTION AND VENUE SHALL BE BINDING AND ENFORCEABLE TO THE FULLEST EXTENT PERMISSIBLE UNDER NEW YORK GENERAL OBLIGATIONS LAW SECTION 5-1402 OR OTHERWISE.**

**Section 9.18 Waiver of Jury Trial**

**EACH OF THE PARTIES TO THIS AGREEMENT HEREBY AGREES TO WAIVE ITS RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR ANY DEALINGS BETWEEN THEM RELATING TO THE SUBJECT MATTER OF THIS LOAN TRANSACTION OR THE LENDER/BORROWER RELATIONSHIP THAT IS BEING ESTABLISHED.** The scope of this waiver is intended to be all-encompassing of any and all disputes that may be filed in any court and that relate to the subject matter of this transaction, including contract claims, tort claims, breach of duty claims and all other common law and statutory claims. Each party hereto acknowledges that this waiver is a material inducement to enter into a business relationship, that each has already relied on this waiver in entering into this Agreement, and that each will continue to rely on this waiver in their related future dealings. Each party hereto further

warrants and represents that it has reviewed this waiver with its legal counsel and that it knowingly and voluntarily waives its jury trial rights following consultation with legal counsel. **THIS WAIVER IS IRREVOCABLE, MEANING THAT IT MAY NOT BE MODIFIED EITHER ORALLY OR IN WRITING (OTHER THAN BY A MUTUAL WRITTEN WAIVER SPECIFICALLY REFERRING TO THIS SECTION 9.18 AND EXECUTED BY EACH OF THE PARTIES HERETO), AND THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS AGREEMENT OR ANY OF THE OTHER LOAN DOCUMENTS OR TO ANY OTHER DOCUMENTS OR AGREEMENTS RELATING TO THE LOANS MADE HEREUNDER**. In the event of litigation, this Agreement may be filed as a written consent to a trial by the court.

**Section 9.19 Confidentiality**

(a) Each Lender and Administrative Agent shall hold all information obtained pursuant to the requirements of this Agreement in accordance with such Lender's customary procedures for handling confidential information of this nature, it being understood and agreed by Company that in any event a Lender may make disclosures (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 Government 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 9.19, to (i) any Eligible Assignee of or Participant in, or any bona fide prospective Eligible Assignee of or Participant in, any of its rights or obligations under this Agreement or (ii) any direct or indirect contractual counterparty or prospective counterparty (or such contractual counterparty's or prospective counterparty's professional advisor) to any credit derivative transaction relating to obligations of Company, (g) with the written consent of Company, (h) to the extent such information (i) becomes publicly available other than as a result of a breach of this Section 9.19 or (ii) becomes available to Administrative Agent or any such Lender, as applicable, on a nonconfidential basis from a source other than Company or (i) to the National Association of Insurance Commissioners or any other similar organization or any nationally recognized rating agency that requires access to information about a Lender's or its Affiliates' investment portfolio in connection with ratings issued with respect to such Lender or its Affiliates and that no written or oral communications from counsel to an Agent and no information that is or is designated as privileged or as attorney work product may be disclosed to any Person unless such Person is a Lender or a Participant hereunder; *provided that*, unless specifically prohibited by applicable law or court order, each Lender shall notify Company of any request by any Government Authority or representative thereof (other than any such request in connection with any examination of the financial condition of such Lender by such Government Authority) for disclosure of any such information prior to disclosure of such information; and *provided further that* in no event shall any Lender be obligated or required to return any materials furnished by Company or any of its Subsidiaries. In addition, Administrative Agent and Lenders may disclose the existence of this Agreement and customarily disclosed information about this Agreement to market data collectors, similar service providers to the lending industry, and service providers

to Administrative Agent and Lenders, and Administrative Agent or any of its Affiliates may place customary ““tombstone”“ advertisements (which may include any of Company’s or its Subsidiaries’ trade names or corporate logos) subject to approval by Company in publications of its choice (including without limitation “e-tombstones” published or otherwise circulated in electronic form and related hyperlinks to any of Company’s or its Subsidiaries’ corporate websites) at its own expense.

(b) Each of Administrative Agent and the Lenders acknowledges that (a) Borrower Materials may include material non-public information concerning Borrower or a Subsidiary, as the case may be, (b) it has developed compliance procedures regarding the use of material non-public information and (c) it will handle such material non-public information in accordance with applicable law, including United States Federal and state securities laws.

**Section 9.20 USA Patriot Act**

Each Lender hereby notifies the Loan Parties that, pursuant to the requirements of the USA Patriot Act, it is required to obtain, verify and record information that identifies Loan Parties, which information includes the name and address of each Loan Party and other information that will allow such Lender to identify such Loan Party in accordance with the USA Patriot Act.

**Section 9.21 Usury Savings Clause.**

Notwithstanding any other provision herein, the aggregate interest rate charged with respect to any of the Obligations, including all charges or fees in connection therewith deemed in the nature of interest under applicable law shall not exceed the Highest Lawful Rate. If the rate of interest (determined without regard to the preceding sentence) under this Agreement at any time exceeds the Highest Lawful Rate, the outstanding amount of the Loans made hereunder shall bear interest at the Highest Lawful Rate until the total amount of interest due hereunder equals the amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect. In addition, if when the Loans made hereunder are repaid in full the total interest due hereunder (taking into account the increase provided for above) is less than the total amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect, then to the extent permitted by law, Company shall pay to Administrative Agent an amount equal to the difference between the amount of interest paid and the amount of interest which would have been paid if the Highest Lawful Rate had at all times been in effect. Notwithstanding the foregoing, it is the intention of Lenders and Company to conform strictly to any applicable usury laws. Accordingly, if any Lender contracts for, charges, or receives any consideration which constitutes interest in excess of the Highest Lawful Rate, then any such excess shall be cancelled automatically and, if previously paid, shall at such Lender’s option be applied to the outstanding amount of the Loans made hereunder or be refunded to Company.

**Section 9.22 Counterparts; Effectiveness**

This Agreement and any amendments, waivers, consents or supplements hereto or in connection herewith may be executed in any number of counterparts and by different parties hereto in separate 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 Agreement shall become effective upon the execution of a counterpart hereof by each of the parties hereto.

**Section 9.23 Lien Confirmation**

Parent, Company, and each Subsidiary Guarantor acknowledge and confirm that the Liens granted pursuant to the Collateral Documents to secure the Obligations of Company to the Secured Parties under the Original Credit Agreement, as amended and restated pursuant to the First Amended and Restated Credit Agreement and as further amended and restated pursuant to this Agreement, and under the other Loan Documents, remain in full force and effect and shall continue to secure all Obligations under this Agreement and the other Loan Documents (including any Loans made or continued on the Second Restatement Date and any additional Loans or other extensions of credit made thereafter in accordance with the terms of this Agreement) all to the full extent as set forth in such Collateral Documents and any reference to the "Credit Agreement" or any other Loan Document in such Collateral Document shall be deemed to be a reference to this Agreement or such Loan Document as the same is hereby effectuated, amended or amended and restated on the Second Restatement Date and as the same may be further amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with its terms, and Parent Company and each Subsidiary Guarantor hereby grant such Liens pursuant to the Collateral Documents to secure the Obligations under the Restated Credit Agreement and the other Loan Documents.

**Section 9.24 Guaranty Confirmation**

Parent and each Subsidiary Guarantor consents in all respects to the execution by Company of this Agreement and acknowledges and confirms that the Guaranties to guarantee the full payment and performance of the Obligations of Company under the Original Credit Agreement, as amended and restated by the First Amended and Restated Credit Agreement and as further amended and restated by this Agreement, remain in full force and effect in accordance with their respective terms and the other Loan Documents (including any Loans made or continued on the Second Restatement Date and any additional Loans or other extensions of credit made thereafter in accordance with the terms of this Agreement) and any reference to the "Credit Agreement" or any other Loan Document in such Guaranties shall be deemed to be a reference to this Agreement or such Loan Document as the same is hereby amended or amended and restated on the Second Restatement Date and as the same may be further amended, restated, amended and restated, supplemented or otherwise modified from time to time in accordance with its terms.

**Section 9.25 Initial Loans**

(a) On the Second Restatement Date:

(i) The Lenders shall be deemed to have assumed and purchased, and the Existing Lenders shall be deemed to have sold, assigned and transferred, in each case without recourse, the First Restatement Loans of the Existing Lenders to such extent as shall be necessary in order that, after giving effect to all such assumptions, purchases, sales, assignments and transfers and the making of the Loans contemplated by clause (a)(ii) below, each Lender shall have a Commitment that is equal to the amount set forth with respect to such Lender on a schedule held by Administrative Agent. Each Lender shall be deemed to have assumed and purchased the First Restatement Loans of the Existing Lenders ratably from the Existing Lenders, based, with respect to each Existing Lender, on the percentage of the total First Restatement Loans as of the Second Restatement Date represented by such Existing Lender's First Restatement Loans as of such date.

(ii) Company shall be deemed to have requested that each Lender make, and each Lender shall make, Loans in an amount equal to the excess of (A) the amount of the Commitment set forth with respect to such Lender on a schedule held by Administrative Agent over (B) the principal amount of Loans of such Lender outstanding on the Second Restatement Date after giving effect to the transactions referred to in clause (a)(i) above.

(b) Administrative Agent shall pay the principal amount of all First Restatement Loans outstanding as of the Second Restatement Date, all interest accrued under the First Amended and Restated Credit Agreement on the First Restatement Loans to but excluding the Second Restatement Date, and all fees payable to the Existing Lenders under the First Amended and Restated Credit Agreement with respect to all periods ending prior to the Second Restatement Date from the proceeds of the Loans made or continued on the Second Restatement Date, and Administrative Agent shall distribute such amounts received by it to the Existing Lenders in accordance with their interests therein (in each case as set forth in the Funds Flow Memorandum and without a concomitant reduction in any of the Commitments under this Agreement).

(c) All of the foregoing assumptions, purchases, sales, assignments, transfers and payments referred to in clauses (a) and (b) above shall be deemed to occur concurrent with the initial funding of the Loans and the effectiveness of the Commitments under this Agreement, in each case in accordance with the terms of this Agreement and the Funds Flow Memorandum. The parties hereby acknowledge that (i) Existing Lenders constituting "Requisite Lenders" (as defined in the First Amended and Restated Credit Agreement) have, in their capacities as Existing Lenders, consented to this Agreement for the purpose of amending and restating the First Amended and Restated Credit Agreement and have committed to be Lenders hereunder and (ii) all of the foregoing assignments of First Restatement Loans by Existing Lenders not participating as initial Lenders under this Agreement are being effectuated pursuant to and in accordance with Section 2.9. On and after the Second Restatement Date, the terms and conditions of each Lender's Commitments and Loans, including any Commitments and Loans assumed and purchased pursuant to this Section 9.25, shall be as set forth in this Agreement, and such Commitments and Loans shall continue to be in effect and outstanding on the terms and conditions set forth in this Agreement.

[Remainder of page intentionally left blank]

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

**PARENT**

**USS HOLDINGS, INC.,**
as Parent

By ___________________________
Name:
Title:

Notice Address:
8490 Progress Drive, Suite 300
Frederick, MD 21701
Attn.: Legal Dept.
Fax: 301-682-0690

**COMPANY**

**U.S. SILICA COMPANY,**
as Company

By___________________________
Name:
Title:

Notice Address:
8490 Progress Drive, Suite 300
Frederick, MD 21701
Attn.: Legal Dept.
Fax: 301-682-0690

**SUBSIDIARY GUARANTORS:**

**THE FULTON LAND AND TIMBER COMPANY**

By ______________________________
Name:
Title:

Notice Address:
8490 Progress Drive, Suite 300
Frederick, MD 21701
Attn.: Legal Dept.
Fax: 301-682-0690

**PENNSYLVANIA GLASS SAND CORPORATION**

By ______________________________
Name:
Title:

Notice Address:
8490 Progress Drive, Suite 300
Frederick, MD 21701
Attn.: Legal Dept.
Fax: 301-682-0690

**OTTAWA SILICA COMPANY**

By _____________________________
Name:
Title:

Notice Address:
8490 Progress Drive, Suite 300
Frederick, MD 21701
Attn.: Legal Dept.
Fax: 301-682-0690

**BMAC SERVICES CO., INC.**

By ____________________________
Name:
Title:

Notice Address:
8490 Progress Drive, Suite 300
Frederick, MD 21701
Attn.: Legal Dept.
Fax: 301-682-0690

**BNP PARIBAS,**
as Lender and as Administrative Agent

By ________________________________________
Name:
Title:

By ________________________________________
Name:
Title:

Notice Address:
520 Madison Avenue
New York, NY 10022
Fax: 212-340-5660
Attn: Bryan Bains

**[OTHER LENDERS],**
as Lender

By ________________________________________
Name:
Title:

Notice Address:

Fax:
Attn:

Signature Page to Second Amended and Restated Credit Agreement

**EXHIBITS**


| | |
|---|---|
| Exhibit I Form of Notice of Borrowing | 2 |
| Exhibit II Form of Notice of Conversion/Continuation | 4 |
| Exhibit III Form of Note | 6 |
| Exhibit IV Form of Compliance Certificate | 9 |
| Exhibit V Form of Opinion of Kirkland & Ellis LLP | 12 |
| Exhibit VI Form of Assignment and Assumption Agreement | 13 |
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**EXHIBIT I**
**FORM OF NOTICE OF BORROWING**

Pursuant to that certain Second Amended and Restated Credit Agreement dated as of June [**•**], 2011, as amended, restated, amended and restated, supplemented or otherwise modified to the date hereof (said Second Amended and Restated Credit Agreement, as so amended, restated, amended and restated, supplemented or otherwise modified, being the "**Credit Agreement**", the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among others, U.S. Silica Company, a Delaware corporation as Company, the financial institutions listed therein as Lenders ("**Lenders**"), and BNP Paribas, as administrative agent ("**Administrative Agent**") and the other parties listed thereto, this represents Company's request to borrow as follows:

1. Date of borrowing:
2. Amount of borrowing: $
3. All Loans shall be made by Lenders in proportion to their applicable Pro Rata Shares.
4. Interest rate option:

[** **] a. Base Rate Loan(s)

[** **] b. LIBOR Loans with an initial Interest Period of [one], [two], [three], [six], [nine] or [twelve] month(s)

The proceeds of such Loans are to be deposited in Company's account at Administrative Agent.

The undersigned officer (to his or her knowledge and in his or her capacity as an officer, and not individually) on behalf of Company certifies that:

(i) The representations and warranties contained in the Credit Agreement and the other Loan Documents are true, correct and complete in all material respects on and as of the date hereof to the same extent as though made on and as of the date hereof, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties were true, correct and complete in all material respects on and as of such earlier date; provided, that, if a representation and warranty is qualified as to materiality, with respect to such representation and warranty the materiality qualifier set forth above shall be disregarded for purposes of this condition;

(ii) No event has occurred and is continuing or would result from the consummation of the borrowing contemplated hereby that would constitute an Event of Default or a Potential Event of Default; and

(iii) Each Loan Party has performed in all material respects all agreements and satisfied all conditions which the Credit Agreement provides shall be performed or satisfied by it on or before the date hereof.

[Remainder of page intentionally left blank]

**U.S. SILICA COMPANY**

DATED:

By: ________________________

Name: ________________________

Title: ________________________

**EXHIBIT II**
**FORM OF NOTICE OF CONVERSION/CONTINUATION**

Pursuant to that certain Second Amended and Restated Credit Agreement dated as of June [**•**], 2011, as amended, restated, amended and restated, supplemented or otherwise modified to the date hereof (said Second Amended and Restated Credit Agreement, as so amended, restated, amended and restated, supplemented or otherwise modified, being the "**Credit Agreement**", the terms defined therein and not otherwise defined herein being used herein as therein defined), by and among others, U.S. Silica Company, a Delaware corporation as Company, the financial institutions listed therein as Lenders ("**Lenders**"), and BNP Paribas, as administrative agent and the other parties thereto, this represents Company's request to [convert] [continue] Loans as follows:

1. Date of [conversion] [continuation]:
2. Amount of Loans being [converted] [continued]: $
3. Nature of [conversion] [continuation]:

   [**    **] a. Conversion of Base Rate Loans to LIBOR Loans

   [**    **] b. Conversion of LIBOR Loans to Base Rate Loans

   [**    **] c. Continuation of LIBOR Loans as such
4. If Loans are being continued as or converted to LIBOR Loans, the duration of the new Interest Period that commences on the [conversion] [continuation] date is [one], [two], [three], [six], [nine] or [twelve] month(s).
5. [**No**][**An**] Event of Default or Potential Event of Default has occurred and is continuing under the Credit Agreement. [**Due to such an Event of Default or Potential Event of Default, the Requisite Lenders may, at their election, prohibit the conversion to or continuation of LIBOR Loans contemplated hereby.**]

[Remainder of page intentionally left blank]

**U.S. SILICA COMPANY**

DATED:

By: ________________________

Name: ________________________

Title: ________________________

**EXHIBIT III**
**FORM OF NOTE**

**U.S. SILICA COMPANY**

$ *[**Amount of Lender's Commitment**]* New York, NY
June [**•**], 2011

FOR VALUE RECEIVED, U.S. SILICA COMPANY, a Delaware corporation as Company, promises to pay to [***LENDER'S NAME**]* ("**Payee**") or its registered assigns the principal amount of [***Amount of Lender's Commitment***] ($ [***Amount***]). All capitalized terms used but not otherwise defined herein have the meanings given to them in the Credit Agreement (as defined below). The principal amount of this Note shall be payable on the dates and in the amounts specified in that certain Second Amended and Restated Credit Agreement dated as of June [**•**], 2011 by and among others, U.S. Silica Company as Company, the financial institutions listed therein as Lenders, BNP Paribas, as administrative agent ("**Administrative Agent**") and the other parties listed therein (said Second Amended and Restated Credit Agreement, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, being the "**Credit Agreement**"); provided that the last such installment shall be in an amount sufficient to repay the entire unpaid principal balance of this Note, together with all accrued and unpaid interest thereon.

Company also promises to pay interest on the unpaid principal amount of the Loan evidenced hereby, until paid in full, at the rates and at the times which shall be determined in accordance with the provisions of the Credit Agreement.

This Note is one of Company's "Notes" and is issued pursuant to and entitled to the benefits of the Credit Agreement, to which reference is hereby made for a more complete statement of the terms and conditions under which the Loan evidenced hereby was made and is to be repaid.

All payments of principal and interest in respect of this Note shall be made in lawful money of the United States of America in same day funds at the Funding and Payment Office or at such other place as shall be designated in writing for such purpose in accordance with the terms of the Credit Agreement. Unless and until an Assignment Agreement effecting the assignment or transfer of this Note shall have been accepted by Administrative Agent and recorded in the Register as provided in the Credit Agreement, Company and Administrative Agent shall be entitled to deem and treat Payee as the owner and holder of this Note and the Loan evidenced hereby. Payee hereby agrees, by its acceptance hereof, that before disposing of this Note or any part hereof it will make a notation hereon of all principal payments previously made hereunder and of the date to which interest hereon has been paid; *provided, however,* that the failure to make a notation of any payment made on this Note shall not limit or otherwise affect the obligations of Company hereunder with respect to payments of principal or interest on this Note.

Whenever any payment on this Note shall be stated to be due on a day which is not a Business Day, such payment will be deemed due on the next succeeding Business Day and such extension of time shall be included in the computation of the payment of interest on this Note.

This Note is subject to mandatory prepayment as provided in the Credit Agreement and Company may, from time to time, make voluntary prepayments of the outstanding principal amount of, and interest on, this Note, in whole or in part, without premium or penalty (except as otherwise provided in the Credit Agreement) pursuant to Section 2.4(b)(i) of the Credit Agreement.

**THIS NOTE AND THE RIGHTS AND OBLIGATIONS OF COMPANY AND PAYEE HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (INCLUDING SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.**

Upon the occurrence of any Event of Default, the unpaid balance of the principal amount of this Note, together with all accrued and unpaid interest thereon, may become, or may be declared to be, due and payable in the manner, upon the conditions and with the effect provided in the Credit Agreement.

The terms of this Note are subject to amendment only in the manner provided in the Credit Agreement.

This Note is subject to restrictions on transfer or assignment as provided in the Credit Agreement.

Company promises to pay all reasonable, documented, out-of-pocket costs and expenses, including reasonable attorneys' fees, all as provided in the Credit Agreement, incurred in the collection and enforcement of this Note. Company and any endorsers of this Note hereby consent to renewals and extensions of time at or after the maturity hereof, without notice, and in accordance with the Credit Agreement hereby waive diligence, presentment, protest, demand and notice of every kind and, to the full extent permitted by law, the right to plead any statute of limitations as a defense to any demand hereunder.

[Remainder of page intentionally left blank]

**IN WITNESS WHEREOF**, Company has caused this Note to be duly executed and delivered by its officer thereunto duly authorized as of the date and at the place first written above.

**U.S. SILICA COMPANY**

as Company

By: ________________________

Name: ________________________

Title: ________________________

**EXHIBIT IV**
**FORM OF COMPLIANCE CERTIFICATE**

THE UNDERSIGNED OFFICER (TO HIS OR HER KNOWLEDGE AND IN HIS OR HER CAPACITY AS AN OFFICER, AND NOT INDIVIDUALLY) AND COMPANY HEREBY CERTIFIES THAT:

(1) I am the duly elected [**Treasurer/Chief Financial Officer**] of U.S. Silica Company, a Delaware corporation ("**Company**");

(2) I have reviewed the terms of that certain Second Amended and Restated Credit Agreement dated as of June [**•**], 2011, as amended, restated, amended and restated, supplemented or otherwise modified to the date hereof (said Second Amended and Restated Credit Agreement, as so amended, restated, amended and restated, supplemented or otherwise modified, being the "**Credit Agreement**", the terms defined therein and not otherwise defined in this Certificate (including Attachment No. 1 annexed hereto and made a part hereof) being used in this Certificate as therein defined), by and among others, Company, the financial institutions listed therein as Lenders ("**Lenders**"), BNP Paribas, as administrative agent ("**Administrative Agent**"), and the other parties listed therein, and the terms of the other Loan Documents, and we have made, or have caused to be made under my supervision, a review in reasonable detail of the transactions and condition of Parent and its Subsidiaries during the accounting period covered by the attached financial statements; and

(3) The examination described in paragraph (2) above did not disclose, and we have no knowledge of, as of the date of this Certificate, the existence of any condition or event which constitutes an Event of Default or Potential Event of Default during or at the end of the accounting period covered by the attached financial statements [**, except as set forth below**].

[**Set forth [**below**] [**in a separate attachment to this Certificate**]**] are all exceptions to paragraph (3) above, listing, in detail, (i) the nature of the condition or event, (ii) the period during which it has existed and (iii) the action which Company has taken, is taking, or proposes to take with respect to each such condition or event:

**].

The foregoing certifications, together with the computations set forth in Attachment No. 1 annexed hereto and made *a* part hereof and the financial statements delivered with this Certificate in support hereof, are made and delivered this ____ day of ____, ____ pursuant to Section 5.1(d) of the Credit Agreement.

[Remainder of page intentionally left blank]

**U.S. SILICA COMPANY**

By: ________________________

Name: ________________________

Title: [**Treasurer/Chief Financial Officer**]

**ATTACHMENT NO. 1**
**TO COMPLIANCE CERTIFICATE**

This Attachment No. 1 is attached to and made a part of a Compliance Certificate dated as of , and pertains to the period from , to , . Section references herein relate to Sections of the Credit Agreement.

[**Attach spreadsheet**]

**EXHIBIT V**
**FORM OF OPINION OF KIRKLAND & ELLIS LLP**

KIRKLAND & ELLIS LLP
AND AFFILIATED PARTNERSHIPS

Citigroup Center
153 East 53rd Street
New York, New York 10022-4611

(212) 446-4800

Facsimile:
(212) 446-4900

www.kirkland.com

February 6, 2012

The Administrative Agent
and to each of the Lenders party to the
Credit Agreement defined below

Re: U.S. Silica Company

Ladies and Gentlemen:

We have acted as special legal counsel to Coated Sand Solutions, LLC, a Delaware limited liability company ("CSS"). This opinion is being issued in response to the requirement in Section 9.11 of that certain Amendment No. 1 to the Credit Agreement, dated as of January 27, 2012 (the "Amendment"), by and among CSS, USS Holdings, Inc., a Delaware corporation ("Holdings"). U.S. Silica Company, a Delaware corporation ("Borrower"). BMAC Services Co., Inc., a Delaware corporation ("BMAC Services"). The Fulton Land and Timber Company, a Pennsylvania, corporation ("Fulton"), Pennsylvania Glass Sand Corporation, a Delaware corporation ("PGSC"), Ottawa Silica Company, a Delaware corporation ("OSC", together with CSS, Holdings, Borrower, BMAC Services, Fulton and PGSC, the "Credit Parties"), the lenders party thereto and BNP Paribas, as administrative agent (the "Administrative Agent"), amending that Second Amended and Restated Credit Agreement dated as of June 8, 2011 (as amended by the Amendment and as may be further amended, restated, amended and restated, extended, supplemented or otherwise modified from time to time, the "Credit Agreement"), by and among the Credit Parties, the lenders from time to time party thereto and the Administrative Agent.

Capitalized terms used and not otherwise defined herein have the meanings ascribed to such terms in the Credit Agreement. The Administrative Agent and the Lenders are sometimes referred to herein as "you." The term "Transaction Agreements" whenever it is used in this opinion letter means the Amendment and each of the additional agreements listed on the Schedule of Transaction Agreements attached hereto, in each case in the form executed and delivered by CSS on the date hereof.

References herein to the "Financing Statement" mean the Form UCC-1 financing statement naming CSS as debtor and the Collateral Agent as secured party, in each case, as attached hereto as Annex I and to be filed with the Secretary of State of the State of Delaware. The term "Organization Documents" whenever it is used in this opinion letter means (i) the

certificate of formation and (ii) the bylaws of CSS in the form certified to you by the Secretary of State of the State of Delaware (in the case of clause (i)) as of a recent date and the Secretary, Assistant Secretary or other officer of CSS (in the case of clause (ii)) on the date hereof. "New York UCC" whenever it is used herein means the Uniform Commercial Code as presently in effect in the State of New York and "Delaware UCC" whenever it is used herein means the Uniform Commercial Code as presently in effect in the State of Delaware.

Subject to the assumptions, qualifications, exclusions and other limitations which are identified in this opinion letter and in the schedules attached to this opinion letter, we advise you, and with respect to each legal issue addressed in this opinion letter, it is our opinion, that:

1. CSS is a limited liability company existing and in good standing under the Delaware Limited Liability Company Act, as in effect as of the date hereof (the "DLLCA").

2. CSS has the limited liability company power to execute and deliver the Transaction Agreements, issue guaranties, pledge and grant or convey security interests in and liens upon its assets as collateral, as required under the Transaction Agreements, and perform its obligations under the Credit Agreement and the Transaction Agreements.

3. CSS' board of managers has adopted by unanimous written consent the resolutions and has taken all limited liability company action necessary to authorize CSS' execution, delivery and performance of the Credit Agreement and each Transaction Agreement.

4. Each of the Transaction Agreements has been duly executed and delivered by CSS.

5. The Credit Agreement and each of the Transaction Agreements constitutes a valid and binding obligation of CSS and is enforceable against CSS in accordance with its terms.

6. Neither the execution and delivery by CSS of the Transaction Agreements, nor the performance by CSS of its obligations under the Credit Agreement and the Transaction Agreements contemplated therein to occur on the date hereof in accordance with their respective terms, will (a) violate the DLLCA, any applicable existing law of the State of New York or applicable existing United States of America Federal statutory law or governmental regulation applicable to CSS, in each case to the extent covered by this letter, (b) violate any existing provision of CSS' Organization Documents or (c) result in the creation or imposition of any lien, charge or encumbrance upon any of the property of CSS (other than liens, charges and encumbrances in favor of the Collateral Agent or the ABL Agent) or (d) violate the terms or provisions of any contract or agreement set forth on the Schedule of Specified Agreements attached hereto as Schedule of Specified

Agreements (provided that in each case we express no opinion as to compliance with any financial covenant or test or the effect of any cross default provision in any such Specified Agreement). The term "laws" means laws not excluded from the coverage of this opinion letter.

7. CSS is not presently required to obtain any material consent, approval, authorization or order of, or make any filings with any United States federal court or State of New York court or governmental body, authority or agency or pursuant to the DLLCA in order to obtain the right (a) to execute and deliver the Transaction Agreements, or (b) to perform its obligations under the Credit Agreement and the Transaction Agreements to which it is a party except for: (i) those obtained or made on or prior to the date hereof, (ii) any actions or filings to perfect the liens and security interests granted under the Security Agreement, or to release existing liens, (iii) actions or filings required in connection with the ordinary course conduct by each such person of its business and ownership or operation by each such person of its assets (as to each of which we express no opinion) and (iv) actions and filings which might be required under any of the laws, regulations or governmental requirements set forth on Schedule C hereto (as to which we express no opinion).

8. With respect to CSS, the Security Agreement creates a valid security interest in favor of the Collateral Agent for the benefit of the Secured Parties in CSS' collateral therein described with respect to which CSS has rights or has the power to transfer rights (the "Collateral") and which constitutes property in which a security interest can be granted under Article 9 of the New York UCC to secure the Secured Obligations (as defined in the Security Agreement). Such Collateral is referred to herein as the "Code Collateral."

9. (a) Under the New York UCC, the perfection of the Collateral Agent's security interests in the Code Collateral (i) will, as a general matter and except as otherwise provided in Sections 9-301 through 9-307 of the New York UCC, be governed by the local law of the jurisdiction in which the applicable grantor is located (which in the case of a registered organization (as defined in the New York UCC) such as a corporation or a limited liability company that is organized under the laws of a State (as defined in the New York UCC) is the State under whose laws such registered organization is organized, or in the case of an organization that is not a registered organization, at its chief executive office), (ii) will, in the case of a possessory security interest, generally be governed by the local law of the jurisdiction in which the collateral is located, (iii) which constitutes certificated securities will be governed by the local law of the jurisdiction in which the security certificates are located (other than perfection by filing, which is governed by the local law of the jurisdiction in which the applicable grantor is located) as specified in

Section 9-305(a)(l) of the New York UCC, (iv) which constitutes uncertificated securities will be governed by the local law of the issuer's jurisdiction as specified in Section 8-110(d) of the New York UCC pursuant to Section 9-305(a)(2) of the New York UCC (other than perfection by filing, which is governed by the local law of the jurisdiction in which the applicable grantor is located), (v) which constitutes a security entitlement or a securities account will be governed by the local law of the securities intermediary's jurisdiction as specified in Section 8-110(e) of the New York UCC pursuant to Section 9-305(a)(3) of the New York UCC (other than perfection by filing, which is governed by the local law of the jurisdiction in which the applicable grantor is located), (vi) which constitutes goods covered by a certificate of title will be governed by the local law of the jurisdiction under whose certificate of title the goods are covered as specified in Section 9-303 of the New York UCC, (vii) which constitutes deposit accounts will be governed by the local law of the depositary bank's jurisdiction as specified in Section 9-304 of the New York UCC, (viii) which constitutes letter-of-credit rights will generally be governed by the local law of the issuer's or nominated person's jurisdiction as specified in Section 9-306 of the New York UCC and (ix) which constitutes other categories will be governed by the laws of the jurisdiction or jurisdictions specified in Sections 9-301 through 9-307 of the New York UCC.

(b) Under the principles described in the preceding subparagraph (a)(i) and, with respect to perfection by filing, in the preceding subparagraphs (a)(iii), (a)(iv) and (a)(v) of this paragraph 9, the perfection of the Collateral Agent's security interests in CSS' Code Collateral that can be perfected by the filing of a financing statement (the "Filing Code Collateral") is governed by the laws of the State of Delaware. When the Financing Statement naming CSS as debtor and the Collateral Agent as secured party are duly filed with the Secretary of State of the State of Delaware, the security interests granted to the Collateral Agent for the benefit of the Secured Party under the Security Agreement in the Filing Code Collateral will be perfected to the extent such security interests can be perfected by the filing of Uniform Commercial Code financing statements in the State of Delaware.

(c) Upon the due filing and recordation of the Intellectual Property Security Agreement (as defined in the Schedule of Transaction Agreements) in the United States Patent and Trademark Office and the payment of all filing and recordation fees associated therewith, the security interest created by the Intellectual Property Security Agreement in the United States registered trademarks (but excluding any "intent to use" applications) and applications therefor (if any) specifically identified in the Intellectual Property Security Agreement will be perfected to the extent that a security interest in such Collateral may be perfected by such filing and recordation.

10. To our actual knowledge, no legal or governmental proceedings are pending against CSS which seek to restrain, enjoin or prevent the consummation on this date of any of the lending transactions contemplated in the Credit Agreement and the Transaction Agreements.

Our opinions are subject to all qualifications set forth in the schedules to this opinion letter. In preparing this opinion letter, we have relied without any independent verification upon the assumptions recited in Schedule B to this opinion letter and upon: (a) factual information contained in certificates obtained from governmental authorities; (b) factual information represented in the Credit Agreement and the other Transaction Agreements to be true; (c) factual information provided to us in certain certificates signed by the Credit Parties; and (d) factual information we have obtained from such other sources as we have deemed reasonable. We have assumed without investigation that there has been no relevant change or development between the dates as of which the information cited in the preceding sentence was given and the date of this opinion letter and that the information upon which we have relied is accurate and does not omit disclosures necessary to prevent such information from being misleading.

While we have not conducted any independent investigation to determine facts upon which our opinions are based or to obtain information about which this opinion letter advises you, we confirm that we do not have any actual knowledge which has caused us to conclude that our reliance and assumptions cited in the preceding paragraph are unwarranted or that any information supplied in this opinion letter is wrong. The term "actual knowledge" whenever it is used in this opinion letter with respect to our firm means conscious awareness at the tune this opinion letter is delivered on the date it bears by the following Kirkland & Ellis LLP lawyers who have had significant involvement with the negotiation or preparation of the Transaction Agreements (herein called our "Designated Transaction Lawyers"): Samantha B. Good, Brian R. Ford and Summer Kim.

Except as set forth in the following sentences of this paragraph, our opinion on every legal issue addressed in this opinion letter is based exclusively on such internal law of the State of New York or such Federal law of the United States, which, in each case, is in our experience normally applicable to general business organizations not engaged in regulated business activities and to transactions of the type contemplated between the Credit Parties, on the one hand, and you, on the other hand, in the Transaction Agreements but without our having made any special investigation as to any other laws. Furthermore, we express no opinion or advice as to any law (a.) to which the Credit Parties may be subject as a result of your legal or regulatory status, your sale or transfer of any Loans or other obligations or interests therein or your (as opposed to any other Lender's) involvement in the transactions contemplated by the Transaction Agreements, (b) identified on Schedule C or (c) which might be violated by any

misrepresentation or omission or a fraudulent act. For purposes of the opinions in paragraphs 2, 3 and 4, we advise you that we do not practice the law of the State of Delaware and we are not Delaware lawyers. With your permission, we have rendered the opinions in paragraphs 2, 3, 4, 6(b) and 7(b) (solely to the extent that such opinion relates to the DLLCA) based exclusively upon the review by one of our Designated Transaction Attorneys of DLLCA as indicated with respect to CSS as published by Aspen Law & Business, as supplemented through December 15, 2011, without regard to any regulations promulgated thereunder or any judicial or administrative interpretations thereof. Our opinions in paragraph 9(b) are based solely upon the review by one of our Designated Transaction Lawyers of the provisions of the Uniform Commercial Code in effect in the State of Delaware (the "Delaware UCC") as set forth in the Commerce Clearing House, Inc. Secured Transactions Guide, as supplemented through December 6, 2011, without regard to any regulations promulgated thereunder or any judicial or administrative interpretations thereof, and the applicable opinions in paragraph 9(b) are based solely on such review, on the assumption that such statutory provisions are given the same interpretation and application in Delaware as the corresponding provisions of the New York UCC, are given in New York. For purposes of our opinion in paragraph 1 as to existence and good standing, we have relied exclusively upon certificates issued by a governmental authority in the relevant jurisdiction and such opinion is not intended to provide any conclusion or assurance beyond that conveyed by such certificates. We advise you that issues addressed by this opinion letter may be governed in whole or in part by other laws, but we express no opinion as to whether any relevant difference exists between the laws upon which our opinions are based and any other laws which may actually govern. Our opinions are subject to all qualifications in Schedule A and do not cover or otherwise address any law or legal issue that is identified in the attached Schedule C or any provision in the Credit Agreement or any of the other Transaction Agreements of any type identified in Schedule D. Provisions in the Transaction Agreements that are not excluded by Schedule D or any other part of this opinion letter or its attachments are called the "Relevant Agreement Terms."

Our advice on each legal issue addressed in this opinion letter represents our opinion as to how that issue would be resolved were it to be considered by the highest court of the jurisdiction upon whose law our opinion on that issue is based. The manner in which any particular issue would be treated in any actual court case would depend in part on facts and circumstances particular to the case, and this opinion letter is not intended to guarantee the outcome of any legal dispute which may arise in the future. It is possible that some Relevant Agreement Terms may not prove enforceable for reasons other than those cited in this opinion letter should an actual enforcement action be brought, but (subject to the exceptions, qualifications, exclusions and other limitations contained in this opinion letter) such unenforceability would not in our opinion prevent you from realizing the principal benefits purported to be provided by the Relevant Agreement Terms.

This opinion letter speaks as of the time of its delivery on the date it bears. We do not assume any obligation to provide you with any subsequent opinion or advice by reason of any fact about which our Designated Transaction Lawyers did not have actual knowledge at that time, by reason of any change subsequent to that time in any law covered by any of our opinions, or for any other reason. The attached schedules are an integral part of this opinion letter, and any term defined in this opinion letter or any schedule has that defined meaning wherever it is used in this opinion letter or in any schedule to this opinion letter.

You may rely upon this opinion letter only for the purpose served by the provision in the Amendment cited in the initial paragraph of this opinion letter in response to which it has been delivered. Without our written consent: (a) no person other than you may rely on this opinion letter for any purpose; (b) this opinion letter may not be cited or quoted in any financial statement, prospectus, private placement memorandum or other similar document; (c) this opinion letter may not be cited or quoted in any other document or communication which might encourage reliance upon this opinion letter by any person, or for any purpose, excluded by the restrictions in this paragraph; and (d) copies of this opinion letter may not be furnished to anyone excluded by the restrictions of this paragraph for purposes of encouraging such reliance.

Notwithstanding the foregoing, persons who subsequently become Lenders under the Credit Agreement may rely on this opinion as of the date hereof as if this opinion letter were addressed to them.

Sincerely,

Kirkland & Ellis LLP

**Schedule A**

**General Qualifications**

All of our opinions ("our opinions") in the opinion letter to which this Schedule A is attached ("our opinion letter") are subject to each of the qualifications set forth in this Schedule A.

1. Bankruptcy and Insolvency Exception. Each of our opinions as to the validity, binding effect or enforceability of any of the Transaction Agreements or to the availability of injunctive relief and other equitable remedies ("Specified Opinions") is subject to the effect of bankruptcy, insolvency, reorganization, receivership, moratorium and other similar laws. This exception includes:

   a. the Federal Bankruptcy Code and thus comprehends, among others, matters of turn-over, automatic stay, avoiding powers, fraudulent transfer, preference, discharge, conversion of a non-recourse obligation into a recourse claim, limitations on ipso facto and anti-assignment clauses and the coverage of pre-petition security agreements applicable to property acquired after a petition is filed;

   b. all other Federal and state bankruptcy, insolvency, reorganization, receivership, moratorium, arrangement and assignment for the benefit of creditors laws that affect the rights of creditors generally or that have reference to or affect only creditors of specific types of debtors;

   c. state fraudulent transfer and conveyance laws; and

   d. judicially developed doctrines in this area, such as substantive consolidation of entities and equitable subordination.

2. Equitable Principles Limitation. Each of our Specified Opinions is subject to the effect of general principles of equity, whether applied by a court of law or equity. This limitation includes principles:

   a. governing the availability of specific performance, injunctive relief or other equitable remedies, which generally place the award of such remedies, subject to certain guidelines, in the discretion of the court to which application for such relief is made;

   b. affording equitable defenses (e.g., waiver, laches and estoppel) against a party seeking enforcement;

   c. requiring good faith and fair dealing in the performance and enforcement of a contract by the party seeking its enforcement;

d. requiring reasonableness in the performance and enforcement of an agreement by the party seeking enforcement of the contract;

e. requiring consideration of the materiality of (i) a breach and (ii) the consequences of the breach to the party seeking enforcement;

f. requiring consideration of the impracticability or impossibility of performance at the time of attempted enforcement;

g. affording defenses based upon the unconscionability of the enforcing party's conduct after the parties have entered into the contract; and

3. Other Common Qualifications. Each of our Specified Opinions is subject to the effect of rules of law that:

a. limit or affect the enforcement of provisions of a contract that purport to waive, or to require waiver of, the obligations of good faith, fair dealing, diligence and reasonableness;

b. provide that forum selection clauses in contracts are not necessarily binding on the court(s) in the forum selected;

c. limit the availability of a remedy under certain circumstances where another remedy has been elected;

d. provide a time limitation after which a remedy may not be enforced;

e. limit the right of a creditor to use force or cause a breach of the peace in enforcing rights;

f. relate to the sale or disposition of collateral or the requirements of a commercially reasonable sale;

g. limit the enforceability of provisions releasing, exculpating or exempting a party from, or requiring indemnification of a party for, liability for its own action or inaction, to the extent the action or inaction involves negligence, recklessness, willful misconduct, unlawful conduct, violation of public policy, or for strict product liability or for liabilities arising under the securities laws or litigation against another party determined adversely to such party;

h. may, where less than all of a contract may be unenforceable, limit the enforceability of the balance of the contract to circumstances in which the unenforceable portion is not an essential part of the agreed exchange;

i. govern and afford judicial discretion regarding the determination of damages and entitlement to attorneys' fees and other costs;

j. may render guarantees or similar instruments or agreements unenforceable under circumstances where your actions, failures to act or waivers, amendments or replacement of the Transaction Agreements (i) so radically change the essential nature of the terms and conditions of the guaranteed obligations and the related transactions that, in effect, a new relationship has arisen between you and the Credit Parties which is substantially and materially different from that presently contemplated by the Transaction Agreements, (ii) release the primary obligor or (iii) impair the guarantor's recourse against the primary obligor; and/or

k. limit the enforceability of requirements in the Transaction Agreements that provisions therein may only be waived or amended in writing, to the extent that an oral agreement or an implied agreement by trade practice or course of conduct has been created modifying any such provision.

4. Referenced Provision Qualification. In addition, our opinions, insofar as they relate to the validity, binding effect or enforceability of a provision in any of the Transaction Agreements requiring any Credit Party to perform its obligations under, or to cause any other person to perform its obligations under, any provision (a "Referenced Provision") of such Transaction Agreement or of any of the other Transaction Agreements or stating that any action will be taken as provided in or in accordance with any provision (also a "Referenced Provision") of any other Transaction Agreement, are subject to the same qualifications as the corresponding opinion in our opinion letter relating to the validity, binding effect and enforceability of such Referenced Provision.

5. Collateral Qualifications. The opinions and advice contained in our opinion letter are subject to the following advice (terms used herein which are defined in the New York UCC or any other applicable Uniform Commercial Code having the meanings for purposes hereof given to them therein):

a. rights of debtors and obligors and duties of secured parties referred to in Sections 1-102(3) and 9-602 of the New York UCC (and the corresponding sections of any other applicable Uniform Commercial Code) may not be waived, released, varied or disclaimed by agreement, and our opinions regarding any such waivers, releases, variations and disclaimers are limited accordingly;

b. our opinions regarding the creation and perfection of security interests are subject to the effect of (i) the limitations on the existence and perfection of security interests in proceeds resulting from the operation of Section 9-315 of any applicable Uniform Commercial Code; (ii) the limitations in favor of buyers, licensees and lessees imposed by Sections 9-320, 9-321 and 9-323 of any applicable Uniform Commercial Code; (iii) the limitations with respect to documents, instruments and securities imposed by Section 9-331 and 8-303 of any applicable Uniform Commercial Code; (iv) other

rights of persons in possession of money, instruments and proceeds constituting certificated or uncertificated securities; and (v) section 547 of the Bankruptcy Code with respect to preferential transfers and section 552 of the Bankruptcy Code with respect to any Collateral acquired by any Credit Party subsequent to the commencement of a case against or by any Credit Party under the Bankruptcy Code;

c. Article 9 of each applicable Uniform Commercial Code requires the filing of continuation statements within specified periods in order to maintain the effectiveness of the filings referred to in our opinion letter;

d. additional filings or actions may be necessary if any Credit Party changes its name, identity or corporate structure or the jurisdiction in which it is organized;

e. your security interest in the Collateral may not be perfected under the applicable Uniform Commercial Code by the filing of financing statements to the extent specified under applicable Federal law;

f. we express no opinion regarding the perfection of any lien or security interest in any property (whether real, personal or mixed, and whether such perfection be accomplished or purport to be accomplished by filing, by possession, by control or otherwise) except as specifically set forth in our opinion letter or regarding the continued perfection of any possessory security interest in any Collateral (or other security interest the perfection of which depends upon the location of such Collateral) upon or following the removal of such Collateral to another jurisdiction; we express no opinion regarding the perfection of any security interest in deposit accounts, money or letter-of-credit rights or regarding the perfection of any possessory security interest in Collateral in possession of a person other than the secured party; and we express no opinion as to matters of title or regarding the priority of any lien or security interest;

g. the assignment of or creation of a security interest in any contract, lease, license, permit or other general intangible or account, chattel paper or promissory note may require the approval of the issuer thereof or the other parties thereto, except to the extent that restrictions on the creation, attachment, perfection or enforcement of a security interest therein are unenforceable under Sections 9-406 or 9-408 of the New York UCC;

h. we express no opinion with respect to any self-help remedies with respect to Collateral to the extent they vary from those available under the New York UCC or other applicable Uniform Commercial Code or with respect to any remedies otherwise inconsistent with the New York UCC (to the extent that the New York UCC is applicable thereto) or other applicable law (including, without limitation, any other applicable Uniform Commercial Code);

i. a substantial body of case law treats guarantors as “debtors” under the New York UCC, thereby according guarantors rights and remedies of debtors established by the New York UCC;

j. we express no opinion with respect to (i) the creation, perfection or enforceability of agricultural liens or (ii) the creation, perfection or enforceability of security interests in: property in which it is illegal or violative of governmental rules or regulations to grant a security interest (such as, for example, governmental permits and licenses) (except to the extent that such restrictions are rendered unenforceable under Sections 9-406 and 9-408 of any applicable Uniform Commercial Code and such provisions are the controlling law); general intangibles which terminate or become terminable if a security interest is granted therein (except to the extent that such restrictions are rendered unenforceable under Sections 9-406 and 9-408 of any applicable Uniform Commercial Code and such provisions are the controlling law); property subject to negative pledge clauses of which you have knowledge; vehicles, ships, vessels, barges, boats, railroad cars, locomotives and other rolling stock, aircraft, aircraft engines, propellers and related parts, and other property for which a state or Federal statute or treaty (including without limitation any applicable Uniform Commercial Code) provides for registration or certification of title or specifies a place of filing different from that specified in Section 9-501 of any applicable Uniform Commercial Code; commercial tort claims; crops, farm products, equipment used in farming operations and accounts or general intangibles arising from or relating to the sale of farm products by a farmer; timber to be cut; fixtures; “as-extracted collateral” (including without limitation oil, gas or other minerals and accounts arising out of the sale at the wellhead or minehead of oil, gas or other minerals); consumer goods; property subject to a contract with, or in the possession of, the United States of America or any state, county, city, municipality or other governmental body or agency; goods for which a negotiable document of title has been issued; and copyrights, patents and trademarks, other literary property rights, service marks, know-how, processes, trade secrets, undocumented computer software, unrecorded and unwritten data and information, and rights and licenses thereunder;

k. we note that the remedies under the Security Agreement with regard to the sale of any securities subject to any security interest are subject to compliance with applicable state and federal securities law;

1. we express no opinion with respect to the enforceability of any security interest in any accounts, chattel paper, documents, instruments or general intangibles with respect to which the account debtor or obligor is the United States of America, any state, county, city, municipality or other governmental body, or any department, agency or instrumentality thereof;

m. we express no opinion with respect to the enforceability of any provision of any Transaction Agreement which purports to authorize you to file financing statements under circumstances not authorized under the applicable Uniform Commercial Code;

n. we express no opinion with respect to the enforceability of any provision of any Transaction Agreement which purports to authorize you to purchase at a private sale Collateral which is not subject to widely distributed standard price quotations or sold on a recognized market;

o. we express no opinion regarding any Credit Party's rights in or title to, or power to transfer any of its rights in or title to, its properties, including without limitation, any of the Collateral;

p. we express no opinion regarding the characterization of a transaction as one involving the creation of a lien on real property, the characterization of a contract as one in a form sufficient to create a lien or a security interest in real property, the creation, perfection, priority or enforcement of a lien on real property or matters involving ownership or title to any real property;

q. we note that the perfection of any security interest may be terminated as to Collateral otherwise disposed of by any Credit Party if such disposition is authorized in the Transaction Agreements or otherwise by the Collateral Agent;

r. we express no opinion regarding the enforceability of any pre-default waiver of notification of disposition of Collateral, mandatory disposition of Collateral or redemption rights;

s. we express no opinion regarding the enforceability of any provisions asserting that Collateral is owned by or is property of a secured party prior to such secured party's foreclosure of such Collateral in accordance with the applicable Uniform Commercial Code or, in the case of cash Collateral, the application of such cash Collateral in payment of the secured obligations;

t. we express no opinion as to the enforceability of cumulative remedies to the extent such cumulative remedies purport to or would have the effect of compensating the party entitled to the benefits thereof in amounts in excess of the actual loss suffered by such party or would violate applicable laws concerning real estate or mixed collateral foreclosures or elections of remedies;

u. our opinions as to the validity, binding effect and enforceability of the Transaction Agreements do not constitute opinions as to the creation, existence, effect of perfection, or perfection or priority of any security interest;

v. we express no opinion regarding the creation, attachment, perfection, effect of perfection or enforceability of any security interest created in Collateral described in the Security Agreement as “any property or assets whatsoever,” “all other tangible and intangible personal property,” “all assets,” “all personal property” or words of similar super generic language, to the extent any purported grant of a security interest may be invalid, unenforceable or unperfected because of any failure to reasonably describe the Collateral as required by the UCC; and

w. we express no opinion as to the ability of the Collateral Agent to obtain possession of rents or exercise rights under leases prior to obtaining actual possession of the property from which the assigned rents are produced or which are the subject of the assigned leases or subleases.

6. Lender’s Regulatory Qualification. We express no opinion with respect to, and all our opinions are subject to, the effect of the compliance or noncompliance of each of you with any state or Federal laws or regulations applicable to you because of your legal or regulatory status or the nature of your business or requiring you to qualify to conduct business in any jurisdiction.

7. Usury Qualification. We express no opinion with regard to usury or other laws limiting or regulating the maximum amount of interest that may be charged, collected, received or contracted for, other than the internal laws of the State of New York and, without limiting the foregoing, we expressly disclaim any opinions as to the usury or other such laws of any other jurisdiction (including laws of other states made applicable through principles of federal preemption or otherwise) which may be applicable to the transactions contemplated by the Transaction Agreements.

8. Guaranty Qualification. We express no opinion regarding the enforceability of any so-called “fraudulent conveyance or fraudulent transfer savings clause” and any similar provision to the extent such provisions purport to limit the amount of the obligations of any party or the right to contribution of any other party with respect to such obligations.

9. We expressly disclaim any opinions regarding the contract law or general law of any state (other than the State of New York) that may be incorporated by reference into the applicable limited liability company act or other relevant statutory scheme applicable to limited liability companies or into any limited liability company agreement or similar governing document (howsoever denominated) entered into pursuant thereto.

**Schedule B**

**Assumptions**

For purposes of our opinion letter, we have relied, without investigation, upon each of the following assumptions:

11. Each natural person who is executing any Transaction Agreements on behalf of any Credit Party has sufficient legal capacity to enter into such Transaction Agreements, and we have no actual knowledge of any such incapacity.
12. Each party to the Transaction Agreements (other than CSS) has been duly formed and is validly existing and in good standing in its jurisdiction of organization. Each party to the Transaction Agreements (other than CSS) has full power and authority (including without limitation under the laws of its jurisdiction of organization) to execute, deliver and perform its obligations under each of the Transaction Agreements to which it is a party, and each of the Transaction Agreements to which a party thereto is a party (other than CSS) has been duly authorized by all necessary action on the part of such party and has been duly executed and duly delivered by such party.
13. The Transaction Agreements constitute valid and binding obligations of yours and each other party thereto (other than CSS) and are enforceable against you and each other party thereto (other than CSS) in accordance with their terms.
14. Each party to the Transaction Agreements (other than CSS) has satisfied those legal requirements that are applicable to such party to the extent necessary to make the Transaction Agreements to which such party is a party enforceable against such party.
15. Each party to the Transaction Agreements (other than CSS) has complied with all legal requirements pertaining to such party's status as such status relates to such party's rights to enforce the Transaction Agreements against CSS.
16. Each document submitted to us for review is accurate and complete, each such document that is an original is authentic, each such document that is a copy conforms to an authentic original, and all signatures (other than those of or on behalf of CSS) on each such document are genuine.
17. Each Public Authority Document is accurate, complete and authentic and all official public records (including their proper indexing and filing) are accurate and complete. The term "Public Authority Documents" means a certificate issued by any secretary of state of any other government official, office or agency concerning a person's property or status, such as a certificate of corporate or partnership existence or good standing, a certificate concerning tax status, a certificate concerning Uniform Commercial Code filings or a certificate concerning title registration or ownership.
18. There has not been any mutual mistake of fact or misunderstanding, fraud, duress or undue influence.

19. The conduct of the parties to the Transaction Agreements has complied with any requirement of good faith, fair dealing and conscionability.

20. Each party to the Transaction Agreements (other than CSS) has acted in good faith and without notice of any defense against the enforcement of any rights created by, or adverse claim to any property or security interest transferred or created as part of, the transactions effected under the Transaction Agreements (herein called the "Transactions").

21. There are no agreements or understandings among the parties, written or oral, and there is no usage of trade or course of prior dealing among the parties that would, in either case, define, supplement or qualify the terms of the Credit Agreement or any of the other Transaction Agreements.

22. The constitutionality or validity of a relevant statute, rule, regulation or agency action is not in issue.

23. All parties to the Transactions will act in accordance with, and will refrain from taking any action that is forbidden by, the terms of the Transaction Agreements.

24. All agreements (if any) other than the Transaction Agreements with respect to which we have provided advice in our opinion letter or reviewed in connection with our opinion letter would be enforced as written.

25. With respect to the opinions set forth in opinion paragraphs 6 and 7, all parties to the Transaction Agreements will not in the future take any discretionary action (including a decision not to act) permitted under the Transaction Agreements that would result in a violation of law or constitute a breach or default under any other agreements or court orders to which the Credit Parties may be subject.

26. With respect to the opinion set for the in opinion paragraphs 6 and 7, the Credit Parties will in the future obtain all permits and governmental approvals required, and will in the future take all actions required, relevant to the consummation of the Transactions or performance of the Transaction Agreements.

27. The representations made by each Credit Party in the Transaction Agreements to which it is a party with respect to its jurisdiction of organization, chief executive office and location of equipment and inventory are and will remain true and correct.

28. Each person who has taken any action relevant to any of our opinions in the capacity of director, manager, member or officer, as applicable, was duly elected to that director, manager, member or officer position, as applicable, and held that position when such action was taken (except that this assumption is limited to those of the preceding items with respect to the adoption of which we did not have involvement).

29. You are not subject to Regulation T of the Board of Governors of the Federal Reserve System; and no proceeds of the Loans will be used for any purpose which would violate or be inconsistent with the Credit Agreement.

30. All information required to be disclosed in connection with any consent or approval by the Credit Parties' respective boards of directors or stockholders (or equivalent governing group) and all other information required to be disclosed in connection with any issue relevant to our opinions has in fact been fully and fairly disclosed to all persons to whom it is required to be disclosed.

31. The Credit Parties' respective certificate or articles of incorporation, as applicable (or equivalent governing instrument), all amendments to that certificate/articles, all resolutions adopted establishing classes or series of stock under that certificate, the Credit Parties' respective bylaws and all amendments to its bylaws have been adopted in accordance with all applicable legal requirements.

32. Collateral Assumptions. The opinions and advice contained in our opinion letter are subject to the following assumptions:

    a. Each of the Credit Parties which grants or purports to grant any lien or security interest in any property or Collateral (i) has the requisite title and rights to any property involved in the Transactions including without limiting the generality of the foregoing, each item of Collateral existing on the date hereof and (ii) will have the requisite title and rights to each item of Collateral arising after the date hereof.

    b. Value (as defined in Section 1-201(44) of the New York UCC) has been given by you to the Credit Parties for the security interests and other rights in and assignments of Collateral described in or contemplated by the Transaction Agreements.

    c. The descriptions of Collateral in the Transaction Agreements and the financing statements executed or delivered in connection therewith accurately describe the property intended to be described as Collateral.

    d. All information regarding the secured party on the financing statements is accurate and complete in all respects.

**Schedule C**

**Excluded Law and Legal Issues**

None of our opinions contained in our opinion letter covers or otherwise addresses any of the following laws, regulations or other governmental requirements or legal issues:

1. Federal securities laws and regulations, state “Blue Sky” laws and regulations, and laws and regulations relating to commodity (and other) futures and indices and other similar instruments;
2. pension and employee benefit laws and regulations (e.g., ERISA);
3. Federal and state antitrust and unfair competition laws and regulations;
4. other than to the extent of our opinions in opinion paragraph 7, Federal and state laws and regulations concerning filing and notice requirements (such as the Hart-Scott-Rodino Antitrust Improvements Act of 1986, as amended, and the Exon-Florio Act, as amended);
5. compliance with fiduciary duty requirements;
6. the statutes and ordinances, the administrative decisions and the rules and regulations of counties, towns, municipalities and special political subdivisions (whether created or enabled through legislative action at the Federal, state or regional level — e.g., water agencies, joint power districts, turnpike and tollroad authorities, rapid transit districts or authorities, and port authorities) and judicial decisions to the extent that they deal with any of the foregoing;
7. fraudulent transfer and fraudulent conveyance laws;
8. Federal and state environmental laws and regulations;
9. Federal and state land use and subdivision laws and regulations;
10. to the extent not otherwise specified in this Schedule C, applicable zoning and building laws, ordinances, code, rules or regulations.
11. Federal and state tax laws and regulations;
12. Federal and state patent, trademark and copyright, state trademark, and other Federal and state intellectual property laws and regulations;
13. Federad and state racketeering laws and regulations (e.g., RICO);
14. Federal and state health and safety laws and regulations (e.g., OSHA);
15. Federal and state labor laws and regulations;

16. Federal and state laws, regulations and policies concerning (i) national and local emergency, (ii) possible judicial deference to acts of sovereign states and (iii) criminal and civil forfeiture laws;

17. except for usury statutes to the extent specifically provided for in paragraph 6 on Schedule A, Federal and state statutes of general application to the extent they provide for criminal prosecution (e.g., mail fraud and wire fraud statutes);

18. any anti-terrorism law and any anti-terrorism order, including Executive Order No. 13224 on Terrorism Financing, effective September 24, 2001 and the United and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (together, the "Anti-Terrorism Order") as amended, all rules and regulations promulgated thereunder and all Federal, state and local laws, statutes, ordinances, orders, governmental rules, regulations, licensing requirements and policies relating to the Anti-Terrorism Order, the foreign assets control regulations of the United States Treasury Department, and to the extent the following relate to any Anti-Terrorism Law or the Anti-Terrorism Order, the ownership and operation of, or otherwise regulation of, companies which conduct, operate or otherwise pursue the business or businesses now and in the future conducted, operated or otherwise pursued by any of the Credit Parties including, without limitation, the importation, transportation, manufacturing, dealing, purchase, use or storage of explosive materials;

19. any laws, regulations, directives and executive orders that prohibit or limit the enforceability of obligations based on attributes of the party seeking enforcement (e.g., the Trading with the Enemy Act and the International Emergency Economic Powers Act);

20. title to any property;

21. the Federal Power Act, as amended, and the regulations implementing the Federal Power Act, all rules and regulations promulgated under any of the foregoing statutes, the rules, regulations and policies of the Federal Energy Regulatory Commission and any other Federal or any state or local regulatory authority, and all other Federal state and local laws, orders, regulations, licensing requirements and policies regulating, public utilities, electric utilities or energy facilities or services (and including without limitation any requirement under any such Federal, state or local law or regulation that any Credit Party obtain any consent, approval, authorization or order in order to enter into the Transaction Agreements and perform the transactions contemplated thereby or effect any failure to obtain any such consent, approval, authorization or order);

22. state laws or regulations, whether statutory or judicially made that relate to or establish the requirements for the due execution and delivery of mortgages or other recorded instruments relating to real property; and

23. the effect of any law, regulation or order which hereafter becomes effective.

We have not undertaken any research for purposes of determining whether the Credit Parties or any of the Transactions which may occur in connection with the Credit Agreement or any of the other Transaction Agreements is subject to any law or other governmental requirement other than to those laws and requirements which in our experience would generally be recognized as applicable in the absence of research by lawyers in the State of New York, and none of our opinions covers any such law or other requirement unless (i) one of our Designated Transaction Lawyers had actual knowledge of its applicability at the tune our opinion letter was delivered on the date it bears and (ii) it is not excluded from coverage by other provisions in our opinion letter or in any schedule to our opinion letter.

## Schedule D

## Excluded Provisions

None of our opinions in our opinion letter to which this Schedule D is attached covers or otherwise addresses any of the following types of provisions which may be contained in the Transaction Agreements:

1. Choice-of-law provisions (other than under New York statutory choice of law rules, those provisions which provide that the laws of the State of New York shall govern).
2. Indemnification for gross negligence, willful misconduct or other wrongdoing or strict product liability or any indemnification for liabilities arising under securities laws.
3. Provisions mandating contribution towards judgments or settlements among various parties.
4. Waivers of (i) legal or equitable defenses, (ii) rights to damages, (iii) rights to counterclaim or set off, (iv) statutes of limitations, (v) rights to notice, (vi) the benefits of statutory, regulatory, or constitutional rights, unless and to the extent the statute, regulation, or constitution explicitly allows waiver, (vii) broadly or vaguely stated rights and (viii) other benefits in each case to the extent they cannot be waived under applicable law.
5. Provisions providing for forfeitures or the recovery of amounts deemed to constitute penalties, or for liquidated damages, acceleration of future amounts due (other than principal) without appropriate discount to present value, late charges, prepayment charges, and increased interest rates upon default.
6. Time-is-of-the-essence clauses.
7. Provisions which provide a time limitation after which a remedy may not be enforced.
8. Confession of judgment clauses.
9. Agreements to submit to the jurisdiction of any particular court or other governmental authority (either as to personal jurisdiction and subject matter jurisdiction); provisions restricting access to courts; waiver of the right to jury trial; waiver of service of process requirements which would otherwise be applicable; and provisions otherwise purporting to affect the jurisdiction and venue of courts.
10. Provisions that attempt to change or waive rules of evidence or fix the method or quantum of proof to be applied in litigation or similar proceedings.
11. Provisions appointing one party as an attorney-in-fact for an adverse party or providing that the decision of any particular person will be conclusive or binding on others.

12. Provisions purporting to limit rights of third parties who have not consented thereto or purporting to grant rights to third parties.
13. Provisions purporting to create a trust or constructive trust without compliance with applicable trust law.
14. Provisions relating to the application of condemnation awards.
15. Provisions that provide for the appointment of a receiver or the taking of possession by the Collateral Agent (as defined in the Credit Agreement).
16. Provisions or agreements regarding proxies, shareholders agreements, shareholder voting rights., voting trusts, and the like.
17. Confidentiality agreements.
18. Provisions in any of the Transaction Agreements requiring any of the Credit Parties to perform its obligations under, or to cause any other person to perform its obligations under or stating that any action will be taken as provided in or in accordance with, any agreement or other document that is not a Transaction Agreement.
19. Provisions, if any, which are contrary to the public policy of any jurisdiction.
20. Provisions that provide for set-off.

**Schedule of Transaction Agreements**

Joinder to the Pledge and Security Agreement (the "Security Agreement Joinder": the Pledge and Security Agreement, as supplemented by the Security Agreement Joinder being referred to herein as the "Security Agreement") dated as of the date hereof by CSS.

Joinder to the Subsidiary Guaranty dated as of the date hereof by CSS.

Amendment No. 1 to Credit Agreement.

Intellectual Property Security Agreement dated as of the date hereof by CSS.

**Schedule of Specified Agreements**

1. ABL Loan and Security Agreement, dated as of August 9,2007, by and among the Credit Parties, the other lenders listed therein and Wells Fargo Bank, National Association, as administrative agent (the "ABL Agent") as amended by (i) Amendment No. 1 and Consent to Loan and Security Agreement, dated as of November 25, 2008, by and among the Credit Parties party thereto, the other lenders listed therein and the ABL Agent, (ii) Amendment No. 2 to Loan and Security Agreement and Consent, dated as of May 7, 2010, by and among the Credit Parties party thereto, the other lenders listed therein, and the ABL Agent, (iii) Amendment No. 3 to Loan and Security Agreement and Consent, dated as of June 8,2011, by and among the Credit Parties party thereto, the other lenders listed therein, and the ABL Agent and (iv) Amendment No. 4 to Loan and Security Agreement and Consent, dated as of the date hereof, by and among the Credit Parties, the other lenders listed therein, and the ABL Agent.

**Annex I**

See attached Financing Statement

## UCC FINANCING STATEMENT

FOLLOW INSTRUCTIONS (front and back) CAREFULLY

A. NAME & PHONE OF CONTACT AT FILER [optional]

B. SEND ACKNOWLEDGMENT TO: (Name and Address)

THE ABOVE SPACE IS FOR FILING OFFICE USE ONLY

1. DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (1a or 1b) - do not abbreviate or combine names

| | | | | |
|---|---|---|---|---|
| 1a. ORGANIZATION'S NAME<br>**COATED SAND SOLUTIONS, LLC** | | | | |
| OR 1b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | | SUFFIX |
| 1c. MAILING ADDRESS<br>**8490 Progress Drive, Suite 300** | CITY<br>**Frederick** | STATE<br>**MD** | POSTAL CODE<br>**21701** | COUNTRY<br>**USA** |
| 1d. SEE INSTRUCTIONS \| ADD'L INFO RE ORGANIZATION DEBTOR \| 1e. TYPE OF ORGANIZATION<br>**Limited Liability Company** | 1f. JURISDICTION OF ORGANIZATION<br>**Delaware** | 1g. ORGANIZATIONAL ID #, if any | | ☐ NONE |

2. ADDITIONAL DEBTOR'S EXACT FULL LEGAL NAME - insert only one debtor name (2a or 2b) - do not abbreviate or combine names

| | | | | |
|---|---|---|---|---|
| 2a. ORGANIZATION'S NAME | | | | |
| OR 2b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | | SUFFIX |
| 2c. MAILING ADDRESS | CITY | STATE | POSTAL CODE | COUNTRY |
| 2d. SEE INSTRUCTIONS \| ADD'L INFO RE ORGANIZATION DEBTOR \| 2e. TYPE OF ORGANIZATION | 2f. JURISDICTION OF ORGANIZATION | 2g. ORGANIZATIONAL ID #, if any | | ☐ NONE |

3. SECURED PARTY'S NAME (or NAME of TOTAL ASSIGNEE of ASSIGNOR S/P) - insert only one secured party name (3a or 3b)

| | | | | |
|---|---|---|---|---|
| 3a. ORGANIZATION'S NAME<br>**BNP PARIBAS** | | | | |
| OR 3b. INDIVIDUAL'S LAST NAME | FIRST NAME | MIDDLE NAME | | SUFFIX |
| 3c. MAILING ADDRESS<br>**787 Seventh Avenue** | CITY<br>**New York** | STATE<br>**NY** | POSTAL CODE<br>**10019** | COUNTRY<br>**USA** |

4. This FINANCING STATEMENT covers the following collateral:

**All assets and personal property of the Debtor whether now owned or hereafter acquired or existing and wherever located.**

**Secured Party is acting as Collateral Agent pursuant to that certain Pledge and Security Agreement dated as of November 25, 2008 (as the same may be amended, restated, amended and restated, supplemented or modified from time to time).**

5. ALTERNATIVE DESIGNATION [if applicable]: ☐ LESSEE/LESSOR ☐ CONSIGNEE/CONSIGNOR ☐ BAILEE/BAILOR ☐ SELLER/BUYER ☐ AG. LIEN ☐ NON-UCC FILING

6. ☐ This FINANCING STATEMENT is to be filed [for record] (or recorded) in the REAL ESTATE RECORDS. Attach Addendum [if applicable]

7. Check to REQUEST SEARCH REPORT(S) on Debtor(s) [ADDITIONAL FEE] [optional] ☐ All Debtors ☐ Debtor 1 ☐ Debtor 2

8. OPTIONAL FILER REFERENCE DATA

**To be filed with Delaware Secretary of State**

**EXHIBIT VI**
**FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT**

This Assignment and Assumption Agreement (the "**Assignment**") 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**") [and agreed and consented to by U.S. Silica Company].[1] Capitalized terms used but not defined herein shall have the meanings given to them in the Second Amended and Restated Credit Agreement identified below (as amended, restated, amended and restated, supplemented or otherwise modified from time to time, 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 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 Administrative Agent as contemplated below, the interest in and to all of the Assignor's rights and obligations under the Credit Agreement and any other documents or instruments delivered pursuant thereto that represents the amount and percentage interest identified below of all of the Assignor's outstanding rights and obligations under the Commitments identified below (the "**Assigned Interest**"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment, without representation or warranty by the Assignor.

| | |
|---|---|
| 1. Assignor: | ______________________________ |
| 2. Assignee: | ______________________________<br>[**and is an [**Affiliate**] [**Approved Fund**]**] |
| 3. Borrower: | U.S. Silica Company |
| 4. Administrative Agent: | BNP Paribas, as administrative agent under the Credit Agreement |
| 5. Credit Agreement: | The $260,000,000 Second Amended and Restated Credit Agreement dated as of June [**•**], 2011 by and among others, U.S. Silica Company, the Lenders parties thereto, BNP Paribas, as administrative agent ("**Administrative Agent**"), and the other listed parties thereto, as amended, restated, amended and restated, supplemented or otherwise modified from time to time. |

[1] Include if Company's consent is required under Section 9.1(b) of the Credit Agreement.

6. Assigned Interest:

| **Aggregate Amount of Commitment/ Loans for all Lenders** | **Amount of Commitment/ Loans Assigned** | **Percentage Assigned of Commitment/ Loans**[1] |
|---|---|---|
| $ | $ | % |
| $ | $ | % |

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 are hereby agreed to:

**ASSIGNOR**

[**NAME OF ASSIGNOR**]

By: ______________________________

Name: ______________________________

Title: ______________________________

**ASSIGNEE**

[**NAME OF ASSIGNEE**]

By: ______________________________

Name: ______________________________

Title: ______________________________

[1] Set forth, to at least 9 decimals, as a percentage of the Commitment/Loans of all Lenders thereunder.

[**Consented to **][2] :

**U.S. SILICA COMPANY**

By: ________________________________

Name: ________________________________

Title: ________________________________

[2] To be added only if the consent of Company is required by the terms of the Credit Agreement.

[**Consented to and**][3] Accepted:

**BNP PARIBAS,**
as Administrative Agent

By: ______________________________

Name: ______________________________

Title: ______________________________

[3] To be added only if the consent of Administrative Agent and/or other parties is required by the terms of the Credit Agreement.

ANNEX 1

$260,000,000 SECOND AMENDED AND RESTATED CREDIT AGREEMENT DATED AS OF JUNE [**•**], 2011
AMONG U.S. SILICA COMPANY, THE LENDERS AND OTHER PARTIES LISTED THEREIN AND BNP PARIBAS, AS ADMINISTRATIVE AGENT

STANDARD TERMS AND CONDITIONS FOR ASSIGNMENT
AND ASSUMPTION AGREEMENT

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 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 any Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency or value of the Credit Agreement or any other instrument or document delivered pursuant thereto, other than this Assignment (herein collectively the **"Loan Documents"**), or any collateral thereunder, (iii) the financial condition of Company, any of its Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document or (iv) the performance or observance by Company, any of its Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Document.

1.2 **Assignee**

The 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 to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) it meets all requirements of an Eligible Assignee under the Credit Agreement, (iii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement 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 5.1 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 to purchase the Assigned Interest on the basis of which it has made such analysis and decision, and (v) if it is a non-US Lender, attached to the Assignment 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 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, 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 shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment 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 by telecopy shall be effective as delivery of a manually executed counterpart of this Assignment. THIS AGREEMENT AND THE RIGHTS AND OBLIGATIONS OF THE PARTIES HEREUNDER SHALL BE GOVERNED BY, AND SHALL BE CONSTRUED AND ENFORCED IN ACCORDANCE WITH, THE INTERNAL LAWS OF THE STATE OF NEW YORK (INCLUDING SECTION 5-1401 OF THE GENERAL OBLIGATIONS LAW OF THE STATE OF NEW YORK), WITHOUT REGARD TO CONFLICTS OF LAWS PRINCIPLES.

**EXHIBIT VII**
**FORM OF SOLVENCY CERTIFICATE**

This **SOLVENCY CERTIFICATE** (this "**Certificate**") is delivered in connection with that certain Second Amended and Restated Credit Agreement dated as of June [**•**], 2011 by and among others, U.S. Silica Company, a Delaware corporation, USS Holdings, Inc., a Delaware corporation ("**Parent**"), the financial institutions listed therein as Lenders ("**Lenders**"), and BNP Paribas, as administrative agent ("**Administrative Agent**") and the other parties listed therein (said Second Amended and Restated Credit Agreement, as it may be amended, restated, amended and restated, supplemented or otherwise modified from time to time, being the "**Credit Agreement**"). Capitalized terms used herein without definition have the same meanings as in the Credit Agreement.

This Solvency Certificate is being delivered pursuant to Section 3.7 of the Credit Agreement. The undersigned is the [**Treasurer/Chief Financial Officer**] of Parent and hereby further certifies as of the date hereof, to his or her knowledge and in his or her capacity as an officer of Parent, and not individually, as follows:

1. I have responsibility for or am otherwise familiar with (a) the management of the financial affairs of Parent and the preparation of financial statements of Parent, and (b) the financial and other aspects of the transactions contemplated by the Credit Agreement.
2. I hereby certify, in my capacity as [**Treasurer/Chief Financial Officer**] of Parent and not individually, that I have made such investigation and inquiries as to the financial condition of the Loan Parties and their Subsidiaries as I deem necessary and prudent for the purpose of providing this Certificate. I acknowledge that the Administrative Agent and the Lenders are relying on the truth and accuracy of this Certificate in connection with making the Loans under the Credit Agreement.
3. I further certify that the financial information, projections and assumptions which underlie and form the basis for the representations made in this Certificate were reasonable when made and were made in good faith and continue to be reasonable as of the date hereof.
4. BASED ON THE FOREGOING, I hereby certify, in my capacity as [**Treasurer/Chief Financial Officer**] of Parent and not individually, that, both before and after giving effect to the Transactions, the Loan Parties on a consolidated basis are Solvent.

The undersigned has executed this Solvency Certificate, to his or her knowledge and in his or her capacity as an officer of Parent and not individually, as of June [**•**], 2011.

[Remainder of page intentionally left blank]

**USS HOLDINGS, INC.**

By: ______________________________

Name: ______________________________

Title: ______________________________

**Exhibit 21.1**

| Name | Jurisdiction of Formation |
| --- | --- |
| Hourglass Acquisition I, LLC | Delaware |
| Preferred Rocks USS Inc. | Delaware |
| Hourglass Holdings, LLC | Delaware |
| USS Holdings, Inc. | Delaware |
| U.S. Silica Company | Delaware |
| The Fulton Land and Timber Company | Pennsylvania |
| Pennsylvania Glass Sand Corporation | Delaware |
| BMAC Services Co. Inc. | Delaware |
| Coated Sand Solutions, LLC | Delaware |
| Ottawa Silica Company | Delaware |
| Ottawa Silica Company, Ltd. | Quebec |

**Grant Thornton LLP**
1 South Street, Suite 2400
Baltimore, MD 21202-7304

T 410.685.4000
F 410.837.0587
www.GrantThornton.com

**CONSENT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

We have issued our report dated March 20, 2012, with respect to the combined financial statements in the Annual Report of U.S Silica Holdings, Inc. on Form 10-K for the year ended December 31, 2011. We hereby consent to the incorporation by reference of said report in the Registration Statement on Form S-8 (No. 333-179480, effective February 10, 2012).

Grant Thornton LLP

Baltimore, Maryland
March 20, 2012

**Exhibit 24.1**

**POWER OF ATTORNEY**

KNOW ALL BY THESE PRESENTS, that I, the undersigned Director of U.S. Silica Holdings, Inc. (the “Company”), a Delaware corporation, hereby appoint Bryan A. Shinn, Chief Executive Officer of the Company, as my lawful attorney-in-fact and agent, to act on my behalf, with full power of substitution, in executing and filing the Company’s Annual Report on Form 10-K for fiscal year ended December 31, 2011, and any exhibits, amendments and other documents related thereto, with the Securities and Exchange Commission.

Whereupon, I grant unto said Bryan A. Shinn full power and authority to perform all necessary and appropriate acts in connection therewith, and hereby ratify and confirm all that said attorney-in-fact and agent, or his substitute, may lawfully do, or cause to be done, by virtue hereof.

Dated: March 20, 2012

/s/ Rajeev Amara

Name: Rajeev Amara
Title: Director

**POWER OF ATTORNEY**

KNOW ALL BY THESE PRESENTS, that I, the undersigned Director of U.S. Silica Holdings, Inc. (the "Company"), a Delaware corporation, hereby appoint Bryan A. Shinn, Chief Executive Officer of the Company, as my lawful attorney-in-fact and agent, to act on my behalf, with full power of substitution, in executing and filing the Company's Annual Report on Form 10-K for fiscal year ended December 31, 2011, and any exhibits, amendments and other documents related thereto, with the Securities and Exchange Commission.

Whereupon, I grant unto said Bryan A. Shinn full power and authority to perform all necessary and appropriate acts in connection therewith, and hereby ratify and confirm all that said attorney-in-fact and agent, or his substitute, may lawfully do, or cause to be done, by virtue hereof.

Dated: March 20, 2012

/s/ Prescott Ashe

Name: Prescott Ashe

Title: Director

**POWER OF ATTORNEY**

KNOW ALL BY THESE PRESENTS, that I, the undersigned Director of U.S. Silica Holdings, Inc. (the "Company"), a Delaware corporation, hereby appoint Bryan A. Shinn, Chief Executive Officer of the Company, as my lawful attorney-in-fact and agent, to act on my behalf, with full power of substitution, in executing and filing the Company's Annual Report on Form 10-K for fiscal year ended December 31, 2011, and any exhibits, amendments and other documents related thereto, with the Securities and Exchange Commission.

Whereupon, I grant unto said Bryan A. Shinn full power and authority to perform all necessary and appropriate acts in connection therewith, and hereby ratify and confirm all that said attorney-in-fact and agent, or his substitute, may lawfully do, or cause to be done, by virtue hereof.

Dated: March 20, 2012

/s/ William J. Kacal

Name: William J. Kacal
Title: Director

**POWER OF ATTORNEY**

KNOW ALL BY THESE PRESENTS, that I, the undersigned Director of U.S. Silica Holdings, Inc. (the "Company"), a Delaware corporation, hereby appoint Bryan A. Shinn, Chief Executive Officer of the Company, as my lawful attorney-in-fact and agent, to act on my behalf, with full power of substitution, in executing and filing the Company's Annual Report on Form 10-K for fiscal year ended December 31, 2011, and any exhibits, amendments and other documents related thereto, with the Securities and Exchange Commission.

Whereupon, I grant unto said Bryan A. Shinn full power and authority to perform all necessary and appropriate acts in connection therewith, and hereby ratify and confirm all that said attorney-in-fact and agent, or his substitute, may lawfully do, or cause to be done, by virtue hereof.

Dated: March 20, 2012

/s/ Charles M. Shaver

Name: Charles M. Shaver
Title: Director

**Exhibit 31.1**

**CERTIFICATION**

I, Bryan A. Shinn, certify that:

1. I have reviewed this annual report on Form 10-K of U.S. Silica Holdings, Inc. (the "Company") for the year ended December 31, 2011;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) 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 combined and consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   b) Reserved;
   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: March 20, 2012

/s/ BRYAN A. SHINN

Name: Bryan A. Shinn

Title: Chief Executive Officer

**Exhibit 31.2**

**CERTIFICATION**

I, William A. White, certify that:

1. I have reviewed this annual report on Form 10-K of U.S. Silica Holdings, Inc. (the "Company") for the year ended December 31, 2011;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) 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 combined and consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
   b) Reserved;
   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: March 20, 2012

/s/ WILLIAM A. WHITE

Name: William A. White

Title: Chief Financial Officer

**Exhibit 32.1**

**SECTION 1350 CERTIFICATION**

I, Bryan A. Shinn, Chief Executive Officer, U.S. Silica Holdings, Inc. (the "Company"), hereby certify, on the date hereof, 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 Annual Report on Form 10-K of the Company for the period ended December 31, 2011 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; 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: March 20, 2012

/s/ BRYAN A. SHINN

Name: Bryan A. Shinn
Title: Chief Executive Officer

A signed copy of this original statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff on request.

**Exhibit 32.2**

**SECTION 1350 CERTIFICATION**

I, William A. White, Chief Financial Officer, U.S. Silica Holdings, Inc. (the "Company"), hereby certify, on the date hereof, 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 Annual Report on Form 10-K of the Company for the period ended December 31, 2011 (the "Report") fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended; 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: March 20, 2012

/s/ WILLIAM A. WHITE

Name: William A. White
Title: Chief Financial Officer

A signed copy of this original statement required by Section 906 has been provided to the Company and will be retained by the Company and furnished to the Securities and Exchange Commission or its staff on request.

**Exhibit 95.1**

**Mine Safety Disclosure**

The following disclosures are provided pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act (the "Act") and Item 104 of Regulation S-K, which requires certain disclosures by companies required to file periodic reports under the Securities Exchange Act of 1934, as amended, that operate mines regulated under the Federal Mine Safety and Health Act of 1977 (the "Mine Act").

*Mine Safety Information.* Whenever the Federal Mine Safety and Health Administration ("MSHA") believes a violation of the Mine Act, any health or safety standard or any regulation has occurred, it may issue a citation which describes the alleged violation and fixes a time within which the U.S. mining operator must abate the alleged violation. In some situations, such as when MSHA believes that conditions pose a hazard to miners, MSHA may issue an order removing miners from the area of the mine affected by the condition until the alleged hazards are corrected. When MSHA issues a citation or order, it generally proposes a civil penalty, or fine, as a result of the alleged violation, that the operator is ordered to pay. Citations and orders can be contested and appealed, and as part of that process, are often reduced in severity and amount, and are sometimes dismissed. The number of citations, orders and proposed assessments vary depending on the size and type (underground or surface) of the mine as well as by the MSHA inspector(s) assigned.

*Mine Safety Data.* Following provides additional information about references used in the table below to describe the categories of violations, orders or citations issued by MSHA under the Mine Act:

Additional information about the Act and MSHA references used in the table follows.

- *Section 104 S&S Citations:* Citations received from MSHA under section 104 of the Mine Act for violations of mandatory health or safety standards that could significantly and substantially contribute to the cause and effect of a mine safety or health hazard.
- *Section 104(b) Orders:* Orders issued by MSHA under section 104(b) of the Mine Act, which represents a failure to abate a citation under section 104(a) within the period of time prescribed by MSHA. This results in an order of immediate withdrawal from the area of the mine affected by the condition until MSHA determines that the violation has been abated.
- *Section 104(d) Citations and Orders:* Citations and orders issued by MSHA under section 104(d) of the Mine Act for unwarrantable failure to comply with mandatory health or safety standards.
- *Section 110(b)(2) Violations:* Flagrant violations issued by MSHA under section 110(b)(2) of the Mine Act.
- *Section 107(a) Orders:* Orders issued by MSHA under section 107(a) of the Mine Act for situations in which MSHA determined an "imminent danger" (as defined by MSHA) existed.

The following table details the violations, citations and orders issued to us by MSHA during the year ended December 31, 2011:

| Mine[1] | Section 104 S&S Citations[2] (#) | Section 104(b) Orders (#) | Section 104(d) Citations and Orders (#) | Section 110(b)(2) Violations (#) | Section 107(a) Orders (#) | Proposed Assessments[3] ($) | Mining Related Fatalities (#) |
|---|---|---|---|---|---|---|---|
| Ottawa, IL | — | — | — | — | — | — | — |
| Mill Creek, OK | — | — | — | — | — | — | — |
| Pacific, MO | — | — | — | — | — | — | — |
| Berkeley Springs, WV | — | — | — | — | — | — | — |
| Mapleton Depot, PA | — | — | — | — | — | — | — |
| Kosse, TX | 3 | — | — | — | — | — | — |
| Mauricetown, NJ | — | — | — | — | — | — | — |
| Columbia, SC | — | — | — | — | — | — | — |
| Montpelier, VA | 1 | — | — | — | — | $ 308 | — |
| Rockwood, MI | — | — | — | — | — | — | — |
| Jackson, TN | — | — | — | — | — | — | — |
| Dubberly, LA | — | — | — | — | — | $ 100 | — |
| Batesville, AR | — | — | — | — | — | — | — |
| Hurtsboro, A | — | — | — | — | — | — | — |
| Sparta, WI | — | — | — | — | — | — | — |

(1) The definition of mine under section 3 of the Mine Act includes the mine, as well as other items used in, or to be used in, or resulting from, the work of extracting minerals, such as land, structures, facilities, equipment, machines, tools and minerals preparation facilities. Unless otherwise indicated, any of these other items associated with a single mine have been aggregated in the totals for that mine. MSHA assigns an identification number to each mine and may or may not assign separate identification numbers to related facilities such as preparation facilities. We are providing the information in the table by mine rather than MSHA identification number because that is how we manage and operate our mining business and we believe this presentation will be more useful to investors than providing information based on MSHA identification numbers.

(2) Four Section 104 Citations were subject to contest as of December 31, 2011.

(3) Represents the total dollar value of the proposed assessment from MSHA under the Mine Act pursuant to the citations and/or orders preceding such dollar value in the corresponding row.

*Pattern or Potential Pattern of Violations.* During the year ended December 31, 2011, none of the mines operated by us received written notice from MSHA of (a) a pattern of violations of mandatory health or safety standards that are of such nature as could have significantly and substantially contributed to the cause and effect of mine health or safety hazards under section 104(e) of the Mine Act or (b) the potential to have such a pattern.

*Pending Legal Actions.* The table below provides a summary of legal actions pending before the Federal Mine Safety and Health Review Commission (the Commission) as of December 31, 2011, as well as the aggregate number of legal actions instituted and resolved during the year 2011. The Commission is an independent adjudicative agency established by the Mine Act that provides administrative trial and appellate review of legal disputes arising under the Mine Act. These cases may involve, among other questions, challenges by operators to citations, orders and penalties they have received from MSHA, or complaints of discrimination by miners under Section 105 of the Mine Act. The following provides additional information of the types of proceedings that may be brought before the Commission:

- *Contest Proceedings:* A contest proceeding may be filed by an operator to challenge the issuance of a citation or order issued by MSHA.
- *Civil Penalty Proceedings:* A civil penalty proceeding may be filed by an operator to challenge a civil penalty MSHA has proposed for a violation contained in a citation or order. U.S. Silica does not institute civil penalty proceedings based solely on the assessment amount of proposed penalties. Any initiated adjudications described in the table below address substantive matters of law and policy instituted on conditions that are alleged to be in violation of mandatory standards of the Mine Act.
- *Discrimination Proceedings:* Involves a miner's allegation that he or she has suffered adverse employment action because he or she engaged in activity protected under the Mine Act, such as making a safety complaint. Also includes temporary reinstatement proceedings involving cases in which a miner has filed a complaint with MSHA stating that he or she has suffered discrimination and the miner has lost his or her position.

- *Compensation Proceedings:* A compensation proceeding may be filed by miners entitled to compensation when a mine is closed by certain closure orders issued by MSHA. The purpose of the proceeding is to determine the amount of compensation, if any, due to miners idled by the orders.
- *Temporary Relief:* Applications for temporary relief are applications filed under section 105(b)(2) of the Mine Act for temporary relief from any modification or termination of any order.
- *Appeals:* An appeal may be filed by an operator to challenge judges' decisions or orders to the Commission, including petitions for discretionary review and review by the Commission on its own motion.

During 2011, we had no legal actions instituted or resolved; as of December 31, 2011, we had no pending legal actions.

**Exhibit 99.1**

[Freedonia Letterhead]

**CONSENT OF THE FREEDONIA GROUP, INC.**

We hereby consent to the references to our company's name in the 2011 Annual Report on Form 10-K of U.S. Silica Holdings, Inc. (the "Company") and the quotation by the Company in the 2011 Annual Report on Form 10-K from Table IV-4 from our report World Well Stimulation Materials, April 2011. We also hereby consent to the filing of this letter as an exhibit to the 2011 Annual Report on Form 10-K.

THE FREEDONIA GROUP, INC.

By: /s/ CORINNE GANGLOFF
Name:
Title:

March 20, 2012