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# SECURITIES AND EXCHANGE COMMISSION

Washington, D.C. 20549

## FORM 10-Q

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

For the quarterly period ended September 30, 2012

OR

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

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

(Commission File Number) 1-15339

### CHEMTURA CORPORATION

(Exact name of registrant as specified in its charter)

Delaware

(State or other jurisdiction of incorporation or organization)

52-2183153

(I.R.S. Employer Identification Number)

1818 Market Street, Suite 3700, Philadelphia, Pennsylvania

199 Benson Road, Middlebury, Connecticut

(Address of principal executive offices)

19103

06749

(Zip Code)

(203) 573-2000

(Registrant's telephone number, including area code)

(Former name, former address and former fiscal year, if changed from last report)

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

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

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer or a smaller reporting company. See definition of "large accelerated filer," "accelerated filer," "non-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

(Do not check if smaller reporting company)

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

The number of shares of common stock outstanding as of the latest practicable date is as follows

Class	Number of shares outstanding at September 30, 2012
Common Stock - \$.01 par value	97,731,778

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**CHEMTURA CORPORATION AND SUBSIDIARIES  
FORM 10-Q  
FOR THE QUARTER AND NINE MONTHS ENDED SEPTEMBER 30, 2012**

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

**CHEMTURA CORPORATION AND SUBSIDIARIES**  
**Consolidated Statements of Operations (Unaudited)**  
**Quarters and nine months ended September 30, 2012 and 2011**  
*(In millions, except per share data)*

	<u>Quarters ended September 30,</u>		<u>Nine months ended September 30,</u>	
	<u>2012</u>	<u>2011</u>	<u>2012</u>	<u>2011</u>
Net sales	\$ 743	\$ 773	\$ 2,296	\$ 2,348
Cost of goods sold	551	599	1,720	1,789
Selling, general and administrative	77	84	233	255
Depreciation and amortization	36	35	104	106
Research and development	12	11	37	33
Facility closures, severance and related costs	1	—	24	—
Impairment charges	35	—	36	3
Changes in estimates related to expected allowable claims	(1)	—	1	1
Equity income	(1)	(1)	(2)	(3)
Operating income	33	45	143	164
Interest expense	(17)	(16)	(47)	(48)
Other expense, net	(6)	(1)	(3)	(1)
Reorganization items, net	(1)	(6)	(4)	(19)
Earnings before income taxes	9	22	89	96
Income tax expense	(2)	(13)	(9)	(10)
Net earnings	7	9	80	86
Less: Net loss (earnings) attributed to non-controlling interests	2	—	1	(1)
Net earnings attributable to Chemtura	<u>\$ 9</u>	<u>\$ 9</u>	<u>\$ 81</u>	<u>\$ 85</u>
Basic and diluted per share information - attributable to Chemtura				
Net earnings attributable to Chemtura	<u>\$ 0.09</u>	<u>\$ 0.09</u>	<u>\$ 0.82</u>	<u>\$ 0.85</u>
Weighted average shares outstanding - Basic	<u>97.9</u>	<u>100.3</u>	<u>98.4</u>	<u>100.2</u>
Weighted average shares outstanding - Diluted	<u>98.2</u>	<u>100.5</u>	<u>98.8</u>	<u>100.4</u>

See accompanying notes to Consolidated Financial Statements.

**CHEMTURA CORPORATION AND SUBSIDIARIES**  
**Consolidated Statements of Comprehensive Income (Loss) (Unaudited)**  
**Quarters and nine months ended September 30, 2012 and 2011**  
*(In millions)*

	<u>Quarters ended September 30,</u>		<u>Nine months ended September 30,</u>	
	<u>2012</u>	<u>2011</u>	<u>2012</u>	<u>2011</u>
Net earnings	\$ 7	\$ 9	\$ 80	\$ 86
Other comprehensive income (loss), net of tax				
Foreign currency translation adjustments	37	(64)	15	(20)
Unrecognized pension and other post-retirement benefit costs	7	3	6	6
Comprehensive income (loss)	51	(52)	101	72
Comprehensive income attributable to non-controlling interests	2	—	1	(1)
Comprehensive income (loss) attributable to Chemtura	<u>\$ 53</u>	<u>\$ (52)</u>	<u>\$ 102</u>	<u>\$ 71</u>

See accompanying notes to Consolidated Financial Statements

**CHEMTURA CORPORATION AND SUBSIDIARIES**  
**Consolidated Balance Sheets**  
**September 30, 2012 (Unaudited) and December 31, 2011**  
*(In millions, except par value data)*

	September 30, 2012 (unaudited)	December 31, 2011
<b>ASSETS</b>		
<b>CURRENT ASSETS</b>		
Cash and cash equivalents	\$ 187	\$ 180
Restricted cash	—	5
Accounts receivable, net	490	458
Inventories, net	566	542
Other current assets	173	136
Total current assets	1,416	1,321
<b>NON-CURRENT ASSETS</b>		
Property, plant and equipment, net	742	752
Goodwill	177	174
Intangible assets, net	369	392
Other assets	216	216
Total assets	<u>\$ 2,920</u>	<u>\$ 2,855</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
<b>CURRENT LIABILITIES</b>		
Short-term borrowings	\$ 5	\$ 5
Accounts payable	210	173
Accrued expenses	195	194
Income taxes payable	10	18
Total current liabilities	420	390
<b>NON-CURRENT LIABILITIES</b>		
Long-term debt	749	748
Pension and post-retirement health care liabilities	413	460
Other liabilities	200	211
Total liabilities	1,782	1,809
<b>STOCKHOLDERS' EQUITY</b>		
Common stock - \$0.01 par value Authorized - 500.0 shares Issued - 100.3 shares at September 30, 2012 and 98.3 shares at December 31, 2011	1	1
Additional paid-in capital	4,356	4,353
Accumulated deficit	(2,868)	(2,949)
Accumulated other comprehensive loss	(325)	(346)
Treasury stock- at cost - 2.6 shares at September 30, 2012 and 2.0 shares at December 31, 2011	(33)	(22)
Total Chemtura stockholders' equity	1,131	1,037
Non-controlling interest	7	9
Total stockholders' equity	1,138	1,046
Total liabilities and stockholders' equity	<u>\$ 2,920</u>	<u>\$ 2,855</u>

See accompanying notes to Consolidated Financial Statements.

**CHEMTURA CORPORATION AND SUBSIDIARIES**  
**Condensed Consolidated Statements of Cash Flows (Unaudited)**  
**Nine months ended September 30, 2012 and 2011**  
*(In millions)*

	<u>Nine months ended September 30,</u>	
	<u>2012</u>	<u>2011</u>
<u>Increase (decrease) in cash</u>		
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>		
Net earnings	\$ 80	\$ 86
Adjustments to reconcile net earnings to net cash provided by operating activities:		
Impairment charges	36	3
Depreciation and amortization	104	106
Stock-based compensation expense	14	22
Reorganization items, net	1	2
Changes in estimates related to expected allowable claims	1	1
Equity income	(2)	(3)
Changes in assets and liabilities, net of assets acquired and liabilities assumed:		
Accounts receivable	(33)	(11)
Inventories	(23)	(37)
Accounts payable	36	(14)
Pension and post-retirement health care liabilities	(71)	(74)
Other	(32)	10
Net cash provided by operating activities	<u>111</u>	<u>91</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>		
Net proceeds from divestments	9	—
Payments for acquisitions	—	(33)
Capital expenditures	(94)	(92)
Net cash used in investing activities	<u>(85)</u>	<u>(125)</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>		
Proceeds from ABL Facility, net	—	20
Proceeds from A/R Financing Facility, net	2	—
(Payments on) proceeds from other short term borrowings, net	(3)	5
Common shares acquired	(20)	—
Payment for debt issuance costs	(1)	—
Proceeds from exercise of stock options	2	1
Net cash (used in) provided by financing activities	<u>(20)</u>	<u>26</u>
<b>CASH AND CASH EQUIVALENTS</b>		
Effect of exchange rates on cash and cash equivalents	1	(2)
Change in cash and cash equivalents	7	(10)
Cash and cash equivalents at beginning of period	180	201
Cash and cash equivalents at end of period	<u>\$ 187</u>	<u>\$ 191</u>

See accompanying notes to Consolidated Financial Statements.

**CHEMTURA CORPORATION AND SUBSIDIARIES  
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS (UNAUDITED)**

**1) NATURE OF OPERATIONS AND SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES**

**Nature of Operations**

Chemtura Corporation together with our consolidated subsidiaries, is dedicated to delivering innovative, application-focused specialty chemical and consumer product offerings. Our corporate headquarters is located at 1818 Market Street, Suite 3700, Philadelphia, PA 19103. Our principal executive offices are located at 1818 Market Street, Suite 3700, Philadelphia, PA 19103 and at 199 Benson Road, Middlebury, CT 06749. We operate in a wide variety of end-use industries including agriculture, automotive, construction, electronics, lubricants, packaging, plastics for durable and non-durable goods, pool and spa chemicals, and transportation.

When we use the terms “Corporation,” “Company,” “Chemtura,” “Registrant,” “We,” “Us” and “Our,” unless otherwise indicated or the context otherwise requires, we are referring to Chemtura Corporation and our consolidated subsidiaries.

We are the successor to Crompton & Knowles Corporation (“Crompton & Knowles”), which was incorporated in Massachusetts in 1900 and engaged in the manufacture and sale of specialty chemicals beginning in 1954. Crompton & Knowles traces its roots to Crompton Loom Works incorporated in the 1840s. We expanded the specialty chemical business through acquisitions in the United States and Europe, including the 1996 acquisition of Uniroyal Chemical Company, Inc. (“Uniroyal”), the 1999 merger with Witco Corporation (“Witco”) and the 2005 acquisition of Great Lakes Chemical Corporation (“Great Lakes”).

The information in the foregoing Consolidated Financial Statements for the quarters and nine months ended September 30, 2012 and 2011 is unaudited but reflects all adjustments which, in the opinion of management, are necessary for a fair presentation of the results of operations for the interim periods presented. All such adjustments are of a normal recurring nature, except as otherwise disclosed in the accompanying notes to our Consolidated Financial Statements.

**Basis of Presentation**

The accompanying Consolidated Financial Statements include the accounts of Chemtura and our wholly-owned and majority-owned subsidiaries that we control. Other affiliates in which we have a 20% to 50% ownership interest or a non-controlling majority interest are accounted for in accordance with the equity method. Other investments in which we have less than 20% ownership are recorded at cost. All significant intercompany balances and transactions have been eliminated in consolidation.

Our Consolidated Financial Statements have been prepared in conformity with U.S. generally accepted accounting principles (“U.S. GAAP”), which require us to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from these estimates.

Certain prior year amounts have been reclassified to conform to the current year’s presentation. These changes did not have a material impact on previously reported results of operations, cash flows or financial position.

We operated as a debtor-in-possession (“DIP”) under the protection of the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) from March 18, 2009 (the “Petition Date”) through November 10, 2010 (the “Effective Date”). From the Petition Date through the Effective Date, our Consolidated Financial Statements were prepared in accordance with Accounting Standards Codification (“ASC”) Section 852-10-45, *Reorganizations — Other Presentation Matters* (“ASC 852-10-45”) which requires that financial statements, for periods during the pendency of our voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (the “Chapter 11”) filings, distinguish transactions and events that are directly associated with the reorganization from the ongoing operations of the business. Accordingly, certain income, expenses, realized gains and losses and expenses for losses that are realized or incurred in the Chapter 11 cases are recorded in Reorganization items, net in our Consolidated Statements of Operations. As of September 30, 2012, the Bankruptcy Court has entered orders granting final decrees closing all of the Debtors’ Chapter 11 cases except the Chapter 11 case of Chemtura Corporation.

The interim Consolidated Financial Statements should be read in conjunction with the Consolidated Financial Statements and notes included in our Annual Report on Form 10-K for the period ended December 31, 2011 (the “2011 Annual Report on Form 10-K”). The consolidated results of operations for the quarter and nine months ended September 30, 2012 are not necessarily indicative of the results expected for the full year.

## Accounting Policies and Other Items

Cash and cash equivalents include bank term deposits with original maturities of three months or less. Included in cash and cash equivalents in our Consolidated Balance Sheets at September 30, 2012 and December 31, 2011 is less than a million and \$1 million, respectively, of restricted cash that is required to be on deposit to support certain letters of credit and performance guarantees, the majority of which will be settled within one year.

Included in our restricted cash balance at December 31, 2011 is \$5 million of cash on deposit for the settlement of disputed bankruptcy claims that existed at the Effective Date.

Included in accounts receivable are allowances for doubtful accounts of \$15 million and \$20 million as of September 30, 2012 and December 31, 2011, respectively.

During the nine months ended September 30, 2012 and 2011, we made interest payments of approximately \$52 million. During the nine months ended September 30, 2012 and 2011, we made payments for income taxes (net of refunds) of \$29 million and \$8 million, respectively.

## Accounting Developments

In May 2011, the Financial Accounting Standards Board (“FASB”) issued ASU No. 2011-04, *Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in U.S. GAAP and IFRSs* (“ASU 2011-04”). ASU 2011-04 amends U.S. GAAP to conform it with fair value measurement and disclosure requirements in International Financial Reporting Standards (“IFRS”). The amendments in ASU 2011-04 changed the wording used to describe the requirements in U.S. GAAP for measuring fair value and for disclosing information about fair value measurements. The provisions of ASU 2011-04 are effective for the first reporting period (including interim periods) beginning after December 15, 2011. The adoption of this standard did not have a material impact on our results of operations, financial condition or disclosures.

In June 2011, the FASB issued ASU No. 2011-05, *Presentation of Comprehensive Income* (“ASU 2011-05”). ASU 2011-05 requires the presentation 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. In December 2011, the FASB issued Accounting Standards Update No. 2011-12, *Deferral of the Effective Date for Amendments to the Presentation of Reclassifications of Items Out of Accumulated Other Comprehensive Income in Accounting Standards Update No. 2011-05* (“ASU 2011-12”). ASU 2011-12 defers the effective date of the requirement in ASU 2011-05 to disclose on the face of the financial statements the effects of reclassifications out of accumulated other comprehensive income on the components of net income and other comprehensive income. All other requirements of ASU 2011-05 are not affected by ASU 2011-12. The provisions of ASU 2011-05 are effective for the first reporting period (including interim periods) beginning after December 15, 2011. The adoption of this standard did not have a material financial statement impact as it only addressed the presentation of our financial statements.

In September 2011, the FASB issued ASU No. 2011-08, *Intangibles — Goodwill and Other (Topic 350): Testing Goodwill for Impairment* (“ASU 2011-08”). The guidance in ASU 2011-08 is intended to reduce complexity and costs by allowing an entity the option to make a qualitative evaluation about the likelihood of goodwill impairment to determine whether it should calculate the fair value of a reporting unit. The amendments also improve previous guidance by expanding upon the examples of events and circumstances that an entity should consider between annual impairment tests in determining whether it is more likely than not that the fair value of a reporting unit is less than its carrying amount. The provisions of ASU 2011-08 are effective for annual and interim goodwill impairment tests performed for fiscal years beginning after December 15, 2011, with early adoption permitted. The adoption of this guidance did not have a material impact on our results of operations or financial condition.

In September 2011, the FASB issued ASU No. 2011-09, *Compensation—Retirement Benefits Multiemployer Plans (Subtopic 715-80)* (“ASU 2011-09”). The guidance in ASU 2011-09 assists users of financial statements to assess the potential future cash flow implications relating to an employer’s participation in multiemployer pension plans. The disclosures will indicate the financial health of all of the significant plans in which the employer participates and assist a financial statement user to access additional information that is available outside the financial statements. The provisions of ASU 2011-09 are effective for annual periods for fiscal years ending after December 15, 2011, with early adoption permitted. The adoption of this guidance did not have a material impact on our results of operations or financial condition.



## 2) ACQUISITIONS AND DIVESTITURES

### Acquisitions

On September 26, 2012, we announced that we entered into a Business Transfer Agreement (“BTA”) with Solaris ChemTech Industries Limited (“Solaris ChemTech”), an Indian Company, and Avantha Holdings Limited, an Indian Company and the parent company of Solaris ChemTech (collectively, “Solaris”). As provided in the BTA, we have agreed to purchase from Solaris certain assets used in the manufacture and distribution of bromine and bromine chemicals for cash consideration of \$142 million and the assumption of certain liabilities. The purchase price is subject to a post-closing net working capital adjustment. The acquisition is subject to usual and customary closing conditions and is expected to close as soon as practicable.

On February 1, 2011, we announced the formation of DayStar Materials, LLC, a joint venture with UP Chemical Co. Ltd. that will manufacture and sell high purity metal organic precursors for the rapidly growing LED market in our Industrial Engineered Products segment. DayStar Materials, LLC is a 50/50 joint venture and is being accounted for as an equity method investment. We made cash contributions of \$6 million in 2011 in accordance with the joint venture agreement.

On January 26, 2011, we announced the formation of ISEM S.r.l. (“ISEM”), a strategic research and development alliance with Isagro S.p.A., which will provide us access to two commercialized products and accelerate the development and commercialization of new active ingredients and molecules related to our Chemtura AgroSolutions segment. ISEM is a 50/50 joint venture between us and Isagro S.p.A. and is being accounted for as an equity method investment. Our investment in the joint venture was €20 million (\$29 million), which was made in January 2011. In addition, we and Isagro S.p.A. have agreed to jointly fund discovery and development efforts for ISEM, for approximately \$2 million annually from each partner for five years. During 2011, we funded approximately \$2 million as planned. Funding our contributions will be done in part by reducing our planned direct research and development spending.

### Divestitures

On November 28, 2011, we sold our 50% interest in Tetrabrom Technologies Ltd. for net consideration of \$38 million. The consideration will be paid over a three year period beginning in April 2012. A payment of \$9 million was received in April 2012. A pre-tax gain of \$27 million was recorded on the sale in the fourth quarter of 2011. In February 2012, we purchased forward contracts with a notional amount of \$38 million to reduce the risk of currency exposure related to the three annual installments of this receivable which matured in April 2012. In April 2012, we purchased two additional forward contracts totaling \$25 million to reduce the risk of currency exposure related to the remaining two annual installments of the receivable (see Note 13 — Derivative Instruments and Hedging Activities for additional information).

## 3) RESTRUCTURING AND ASSET IMPAIRMENT ACTIVITIES

### Restructuring

On April 30, 2012, our Board of Directors (the “Board”) approved a restructuring plan providing for, among other things, the closure of our Industrial Performance Product segment’s antioxidants manufacturing facility in Pedrengo, Italy. The Board also approved actions to improve the operating effectiveness of certain global corporate functions. This plan is expected to achieve significant gains in efficiency and costs. The plant closure is expected to be completed by the first quarter of 2013. The total cost of the restructuring plan is estimated to be approximately \$40 million of which approximately \$6 million will consist of non-cash charges. We recorded a pre-tax charge of \$28 million in the nine months ended September 30, 2012, which included \$2 million for accelerated depreciation of property, plant and equipment included in depreciation and amortization, \$2 million for accelerated asset retirement obligations included in cost of goods sold (“COGS”), and \$24 million for severance and other obligations related to the Pedrengo closure and corporate initiatives included in facility closures, severance and related costs with the balance of the costs being expensed as incurred through 2013.

In November 2011, our Board approved a restructuring plan intended to make Chemtura AgroSolutions more cost efficient by centralizing certain functions regionally and consolidating laboratory activities in North America. Costs related to this plan were immaterial for the three and nine months ended September 30, 2012.

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A summary of the changes in the liabilities established for restructuring programs is as follows:

<b>(In millions)</b>	<b>Severance and Related Costs</b>	<b>Other Facility Closure Costs</b>	<b>Total</b>
Balance at December 31, 2011	\$ 1	\$ —	\$ 1
2012 charge	12	2	14
Cash payments	(3)	(2)	(5)
Adjustments	(1)		(1)
Balance at September 30, 2012	<u>\$ 9</u>	<u>\$ —</u>	<u>\$ 9</u>

In addition, we recorded a charge of approximately \$10 million included in facility closures, severance and related costs for the quarter ended June 30, 2012 to reflect the write-off of a receivable for which collection is no longer probable as a result of the restructuring actions. The amounts accrued for all of our corporate restructuring programs are \$9 million at September 30, 2012 and \$1 million at December 31, 2011 and were included in accrued expenses.

#### Asset Impairments

During the third quarter of 2012, we completed an assessment of an initiative to monetize portfolio assets relating to certain products in our Industrial Performance Product group. As of September 30, 2012, we considered it more-likely-than-not that the initiative would become effective before the end of 2012. In performing the impairment analysis, we probability weighted the possible outcomes of the initiative as of September 30, 2012. Based on this analysis, the expected undiscounted cash flows were insufficient to recover the carrying values of assets of the component of the segment to which the initiative relates. We estimated the fair value using various income and market approaches to calculate the impairment charge. We recorded an asset impairment charge on our Consolidated Statement of Operations, of which \$26 million related to property, plant and equipment, net and \$9 million related to intangible assets, net on our Consolidated Balance Sheets.

#### 4) INVENTORIES

Components of inventories are as follows:

<b>(In millions)</b>	<b>September 30, 2012</b>	<b>December 31, 2011</b>
Finished goods	\$ 377	\$ 348
Work in process	44	43
Raw materials and supplies	145	151
	<u>\$ 566</u>	<u>\$ 542</u>

Included in the above net inventory balances are inventory obsolescence reserves of approximately \$18 million at September 30, 2012 and December 31, 2011.

**5) PROPERTY, PLANT AND EQUIPMENT**

(In millions)	September 30, 2012	December 31, 2011
Land and improvements	\$ 81	\$ 85
Buildings and improvements	242	240
Machinery and equipment	1,278	1,238
Information systems equipment	189	175
Furniture, fixtures and other	33	31
Construction in progress	88	121
	<u>1,911</u>	<u>1,890</u>
Less: accumulated depreciation	1,169	1,138
	<u>\$ 742</u>	<u>\$ 752</u>

Depreciation expense was \$27 million and \$25 million for the quarters ended September 30, 2012 and 2011, respectively, and \$77 million for the nine months ended September 30, 2012 and 2011. Depreciation expense included accelerated depreciation of certain fixed assets associated with our restructuring programs of \$1 million for the quarter ended September 30, 2012 and \$2 million and \$1 million for the nine months ended September 30, 2012 and 2011, respectively.

We recorded a \$26 million charge to impair certain property, plant and equipment of the Industrial Performance Products segment as of September 30, 2012. In accordance with ASC 360-10-35-20, we have reduced the carrying value of the impaired assets to their estimated fair value (see Note 3 - Restructuring and Asset Impairment Activities).

**6) GOODWILL AND INTANGIBLE ASSETS**

Our goodwill balance was \$177 million at September 30, 2012 and \$174 million at December 31, 2011. The goodwill is allocated to the Industrial Performance Products segment. The goodwill balance at September 30, 2012 and December 31, 2011 reflected accumulated impairments of \$90 million.

We have elected to perform our annual goodwill impairment procedures for all of our reporting units in accordance with ASC Subtopic 350-20, *Intangibles — Goodwill and Other - Goodwill* (“ASC 350-20”) as of July 31, or sooner, if events occur or circumstances change that would more likely than not reduce the fair value of a reporting unit below its carrying value. We estimate the fair value of our reporting units utilizing income and market approaches through the application of discounted cash flow and market comparable methods (Level 3 inputs as described in Note 14— Financial Instruments and Fair Value Measurements). The assessment is required to be performed in two steps: step one to test for a potential impairment of goodwill and, if potential impairments are identified, step two to measure the impairment loss through a full fair valuing of the assets and liabilities of the reporting unit utilizing the acquisition method of accounting. We concluded that no goodwill impairment existed in any of our reporting units based on the annual review as of July 31, 2012.

We continually monitor and evaluate business and competitive conditions that affect our operations and reflects the impact of these factors in our financial projections. If permanent or sustained changes in business or competitive conditions occur, they can lead to revised projections that could potentially give rise to impairment charges.

Our intangible assets (excluding goodwill) are comprised of the following:

(In millions)	September 30, 2012			December 31, 2011		
	Gross Cost	Accumulated Amortization	Net Intangibles	Gross Cost	Accumulated Amortization	Net Intangibles
Patents	\$ 125	\$ (73)	\$ 52	\$ 128	\$ (70)	\$ 58
Trademarks	254	(74)	180	262	(71)	191
Customer relationships	140	(50)	90	146	(50)	96
Production rights	46	(31)	15	46	(28)	18
Other	77	(45)	32	70	(41)	29
Total	<u>\$ 642</u>	<u>\$ (273)</u>	<u>\$ 369</u>	<u>\$ 652</u>	<u>\$ (260)</u>	<u>\$ 392</u>

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The decrease in gross intangible assets since December 31, 2011 is primarily due to impairment and related adjustments of \$24 million offset by additions of \$11 million and foreign currency translation of \$3 million.

Amortization expense related to intangible assets amounted to \$9 million for the quarters ended September 30, 2012 and 2011, and \$27 million and \$29 million for the nine months ended September 30, 2012 and 2011, respectively.

We recorded a \$9 million charge to impair certain intangible assets of the Industrial Performance Products segment as of September 30, 2012. In accordance with ASC 360-10-35-20, we have reduced the carrying value of the impaired assets to their estimated fair value (see Note 3 - Restructuring and Asset Impairment Activities).

## 7) DEBT

Our debt is comprised of the following:

<b>(In millions)</b>	<b>September 30, 2012</b>	<b>December 31, 2011</b>
7.875% Senior Notes due 2018	\$ 452	\$ 452
Term Loan due 2016	293	293
A/R Financing Facility	2	—
Other borrowings	7	8
Total Debt	754	753
Less: A/R Financing Facility	(2)	—
Less: Other short-term borrowings	(3)	(5)
Long-term debt	<u>\$ 749</u>	<u>\$ 748</u>

### Financing Facilities

On August 27, 2010, we completed a private placement offering under Rule 144A of \$455 million aggregate principal amount of 7.875% senior notes due 2018 (the "Senior Notes") at an issue price of 99.269% in reliance on an exemption pursuant to Section 4 (2) of the Securities Act of 1933. We also entered into a senior secured term facility credit agreement due 2016 (the "Term Loan") with Bank of America, N.A., as administrative agent, and other lenders party thereto for an aggregate principal amount of \$295 million with an original issue discount of 1%. The Term Loan permits us to increase the size of the facility by up to \$125 million. On September 7, 2012, we announced that we would commence a process to raise up to an additional \$125 million aggregate principal amount on the Term Loan for the purpose of funding potential investment opportunities and for general corporate purposes. On November 10, 2010, we entered into a five-year senior secured revolving credit facility available through 2015 (the "ABL Facility") for an amount up to \$275 million, subject to availability under a borrowing base (with a \$125 million letter of credit sub-facility). The ABL Facility permits us to increase the size of the facility by up to \$125 million subject to obtaining lender commitments to provide such increase. At September 30, 2012, we had no borrowings under the ABL Facility and \$14 million of outstanding letters of credit (primarily related to insurance obligations, environmental obligations and banking credit facilities) which utilizes available capacity under the facility. At December 31, 2011, we had no borrowings under the ABL Facility, but we had \$15 million of outstanding letters of credit. At September 30, 2012 and December 31, 2011, we had approximately \$228 million and \$201 million, respectively of undrawn availability under the ABL Facility.

These facilities contain covenants that limit, among other things, our ability to enter into certain transactions, such as creating liens, incurring additional indebtedness or repaying certain indebtedness, making investments, paying dividends, and entering into acquisitions, dispositions and joint ventures. The Term Loan requires that we meet certain quarterly financial maintenance covenants including a maximum Secured Leverage Ratio (as defined in the agreement) of 2.5:1.0 and a minimum Consolidated Interest Coverage Ratio (as defined in the agreement) of 3.0:1.0. The ABL Facility contains a springing financial covenant requiring a minimum trailing 12-month fixed charge coverage ratio (as defined in the agreement) of 1.1 to 1.0 at all times during any period from the date when the amount available for borrowings under the ABL Facility falls below the greater of (i) \$34 million and (ii) 12.5% of the aggregate commitments until such date such available amount has been equal to or greater than the greater of (i) \$34 million and (ii) 12.5% of the aggregate commitments for 45 consecutive days. As of September 30, 2012, we were in compliance with the covenant requirements of these financing facilities.

**Accounts Receivable Financing Facility**

On October 26, 2011, certain of our European subsidiaries (the “Sellers”) entered into a trade receivables financing facility (the “A/R Financing Facility”) with GE FactoFrance SAS as purchaser (the “Purchaser”). Pursuant to the A/R Financing Facility, and subject to certain conditions stated therein, the Purchaser has agreed to purchase from the Sellers, on a revolving basis, certain trade receivables up to a maximum amount outstanding at any time of €68 million (approximately \$88 million). The A/R Financing Facility is uncommitted and has an indefinite term. Since availability under the A/R Financing Facility is expected to vary depending on the value of the Seller’s eligible trade receivables, the Sellers’ availability under the A/R Financing Facility may increase or decrease from time to time. The monthly financing fee on the drawn portion of the A/R Financing Facility is the applicable Base Rate plus 1.50%. In addition, the A/R Financing Facility is subject to a minimum commission on the annual volume of transferred receivables. At September 30, 2012, \$2 million of international accounts receivables were outstanding under this facility. Cost associated with this facility of \$1 million and \$3 million for the quarter and nine months ended September 30, 2012, respectively, is included in interest expense in our Consolidated Statement of Operations. We had no outstanding advances under the A/R Financing Facility for the period ending December 31, 2011.

**8) INCOME TAXES**

We reported an income tax expense of \$2 million and \$13 million for the quarters ended September 30, 2012 and 2011, respectively. For the nine months ended September 30, 2012 and 2011, we reported income tax expense of \$9 million and \$10 million, respectively. The tax expense reported for the quarter and nine months ended September 30, 2012 reflects fluctuations in jurisdictional profitability, the tax benefit of an impairment charge against certain long-lived assets in our Industrial Performance Products segment, as well as the tax benefit of the second quarter restructuring charge. The tax expense reported for the nine months ended September 30, 2011 included a decrease in deferred foreign income taxes of approximately \$17 million that had been recorded in an international jurisdiction in prior years and an increase in foreign income taxes of approximately \$5 million relating to a foreign tax matter dating back to the 1990s. The tax benefit was recorded after receiving approval from the international jurisdiction to change our filing position. We have offset our current and prior period quarter and year-to-date U.S. income with net operating loss carryforwards and reduced the associated valuation allowance. We will continue to adjust our tax provision through the establishment or reduction of non-cash valuation allowances until we determine that it is more-likely than not that the net deferred tax assets associated with our U.S. operations will be utilized.

We have net liabilities related to unrecognized tax benefits of \$47 million and \$46 million at September 30, 2012 and December 31, 2011, respectively. The increase is primarily due to currency fluctuation.

We recognize interest and penalties related to unrecognized tax benefits as income tax expense. Accrued interest and penalties are included within the related liability captions in our Consolidated Balance Sheet.

We believe it is reasonably possible that our unrecognized tax benefits may decrease by approximately \$8 million within the next year. This reduction may occur due to the expiration of the statute of limitations or conclusion of examinations by tax authorities. We further expect that the amount of unrecognized tax benefits will continue to change as a result of ongoing operations, the outcomes of audits and the expiration of the statute of limitations. This change is not expected to have a significant impact on our financial condition.

**9) ACCUMULATED OTHER COMPREHENSIVE LOSS**

The components of accumulated other comprehensive loss (“AOCL”), net of tax at September 30, 2012 and December 31, 2011, are as follows:

<u>(In millions)</u>	<u>September 30,</u> <u>2012</u>	<u>December 31,</u> <u>2011</u>
Foreign currency translation adjustments	\$ 68	\$ 53
Unrecognized pension and other post-retirement benefit costs	(393)	(399)
Accumulated other comprehensive loss	<u>\$ (325)</u>	<u>\$ (346)</u>

**10) EARNINGS PER COMMON SHARE**

The computation of basic earnings per common share is based on the weighted average number of common shares outstanding. The computation of diluted earnings per common share is based on the weighted average number of common and common share equivalents outstanding.

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The following is a reconciliation of the shares used in the computation of earnings per share:

(In millions)	Quarters ended September 30,		Nine months ended September 30,	
	2012	2011	2012	2011
Weighted average shares outstanding - Basic	97.9	100.3	98.4	100.2
Dilutive effect of common share equivalents	0.3	0.2	0.4	0.2
Weighted average shares outstanding - Diluted	98.2	100.5	98.8	100.4

At September 30, 2011, 1 million shares with performance criteria were excluded from the calculation of diluted earnings per share because the specified performance criteria for the vesting of these shares had not yet been met. The shares could be dilutive in the future if the specified performance criteria are met.

On October 18, 2011, we announced that our Board had authorized us to repurchase up to \$50 million of our common stock over the next twelve months. On July 31, 2012, our Board authorized an increase in our share repurchase program from \$50 million to up to \$100 million and extended the program through November 2013. The shares are expected to be repurchased from time to time through open market purchases. The program, which does not obligate us to repurchase any particular amount of common stock, may be modified or suspended at any time at the Board's discretion. The manner, price, number and timing of such repurchases, if any, will be subject to a variety of factors, including market conditions and the applicable rules and regulations of the Securities and Exchange Commission ("SEC"). During the quarter ended September 30, 2012, we purchased 0.7 million shares for \$10 million and during the nine months ended September 30, 2012, we purchased 1.4 million shares for \$20 million. As of September 30, 2012, we had total purchases of 3.4 million shares for \$41 million under this program.

## 11) STOCK INCENTIVE PLANS

In 2010, we adopted the Chemtura Corporation 2010 Long-Term Incentive Plan (the "2010 LTIP"), which was approved by the Bankruptcy Court and became effective upon our emergence from Chapter 11. The 2010 LTIP provides for grants of nonqualified stock options ("NQOs"), incentive stock options ("ISOs"), stock appreciation rights, dividend equivalent rights, stock units, bonus stock, performance awards, share awards, restricted stock, time-based restricted stock units "RSUs" and performance-based RSUs. The 2010 LTIP provides for the issuance of a maximum of 11 million shares. NQOs and ISOs may be granted under the 2010 LTIP at prices equal to the fair market value of the underlying common shares on the date of the grant. All outstanding stock options will expire not more than ten years from the date of the grant. As of September 30, 2012, grants authorized under the 2010 LTIP included the 2009 Emergence Incentive plan (the "2009 EIP"), the 2010 Emergence Incentive Plan (the "2010 EIP"), the 2011 long-term incentive awards (the "2011 Awards"), the 2012 long-term incentive awards (the "2012 Awards") and the 2010 Emergence Award Plan (the "2010 EAP"), as well as grants made to the Board under the Director Compensation Program. All grants of NQOs have an exercise price equal to the fair market value of the underlying common stock at the date of grant.

Stock-based compensation expense was \$4 million and \$6 million for the quarters ended September 30, 2012 and 2011, respectively, and \$14 million and \$22 million for the nine months ended September 30, 2012 and 2011, respectively. Stock-based compensation expense was primarily reported in SG&A.

### Stock Option Plans

In March 2012, the compensation committee of our Board (the "Compensation Committee") approved the grant of 0.8 million NQOs under the 2012 Awards. These options vest ratably over a three-year period.

In March 2011, under the 2010 EIP, we granted 0.8 million NQOs. One third vested immediately, one third vested on March 31, 2012 and one third vests on March 31, 2013.

In March 2011, the Compensation Committee approved the grant of 1.4 million NQOs under the 2011 Awards. These options vest ratably over a three-year period.

We use the Black-Scholes option-pricing model to determine the fair value of NQOs. We have elected to recognize compensation cost for awards of NQOs equally over the requisite service period for each separately vesting tranche, as if multiple awards were granted. Using this method, the weighted average fair value of stock options granted during the nine months ended September 30, 2012 and 2011 was \$8.14 and \$8.39, respectively.

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Total remaining unrecognized compensation expense associated with unvested NQOs at September 30, 2012 was \$9 million, which will be recognized over the weighted average period of approximately 2 years.

**Restricted Stock Units and Performance Shares**

In March 2012, the Compensation Committee approved the grant of 0.6 million time-based RSUs under the 2012 Awards. These RSUs vest ratably over a three-year period.

In March 2012, the Compensation Committee approved the grant of 0.3 million performance shares under the 2012 Awards. The share grant is subject to a performance multiplier of up to 2 times the targeted award. The performance measurement period is the three calendar year period ending December 31, 2014, the performance share metric used will be our relative total shareholder return against the companies comprising the Russell 3000 Index, and the performance shares will be settled on March 1, 2015. We used the Monte-Carlo simulation model to determine the fair value of the performance shares. Using this method, the average per share fair value of these awards was \$25.38.

In March 2011, under the 2010 EIP, we granted 0.4 million time-based RSUs with a fair market value of the quoted closing price of our stock on that date. One third vested immediately, one third vested on March 31, 2012 and one third vests on March 31, 2013.

In March 2011, the Compensation Committee approved the grant of 0.4 million time-based RSUs under the 2011 Awards. These RSUs vest ratably over a three-year period.

In March 2011, we established the initial allocations under the 2010 EAP, which was previously approved by the Bankruptcy Court and provided designated participants with the opportunity to share in a pool of up to 1 million fully vested shares of common stock. The portion of the 2010 EAP pool to be distributed was determined by Chemtura's consolidated earnings before interest, taxes, depreciation and amortization expense ("EBITDA") during the 2011 fiscal year. In March 2012, the compensation committee approved the allocation of specified percentage interests in the 2010 EAP pool among designated participants, including our named executive officers. Under the formula approved by the Bankruptcy Court, our 2011 consolidated EBITDA resulted in a payout of 57% of the total 2010 EAP pool of 1 million shares, or 0.6 million, which were distributed to the participants in March 2012.

In February 2011, we granted 0.1 million time-based RSUs to non-employee directors with a fair market value of the quoted closing price of our stock on that date. These RSUs vest ratably over a two-year period.

Total remaining unrecognized compensation expense associated with unvested time-based RSUs and performance shares at September 30, 2012 was \$14 million, which will be recognized over the weighted average period of approximately 2 years.

**Employee Stock Purchase Plan**

In May 2012, our shareholders approved the Chemtura Corporation 2012 Employee Stock Purchase Plan (the "ESPP"). This plan permits eligible employees to annually elect to have up to 10% of their compensation withheld and applied to the purchase of shares of Chemtura's common stock. Purchases are made at the end of quarterly offering periods and are based on the lower of the fair market value of the shares on the first and last trading days during the offering period. The first offering period was for the calendar quarter ending September 30, 2012. A total of one million shares are authorized to be issued under the ESPP, including up to 0.1 million shares per offering period and 0.3 million shares per plan year. As of September 30, 2012, approximately one million shares are available for future issuance under this plan.

**12) PENSION AND OTHER POST-RETIREMENT BENEFIT PLANS**

Components of our defined benefit plans net periodic benefit (credit) cost for the quarters and nine months ended September 30, 2012 and 2011 are as follows:

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(In millions)	Defined Benefit Plans					
	Qualified U.S. Plans		International and Non-Qualified Plans		Post-Retirement Health Care Plans	
	Quarters ended September 30,		Quarters ended September 30,		Quarters ended September 30,	
	2012	2011	2012	2011	2012	2011
Service cost	\$ 1	\$ 1	\$ —	\$ —	\$ —	\$ —
Interest cost	10	11	5	5	2	1
Expected return on plan assets	(14)	(14)	(5)	(4)	—	—
Amortization of prior service cost	—	3	—	1	(1)	—
Amortization of actuarial losses	4	—	1	—	—	(1)
Net periodic benefit cost	<u>\$ 1</u>	<u>\$ 1</u>	<u>\$ 1</u>	<u>\$ 2</u>	<u>\$ 1</u>	<u>\$ —</u>

(In millions)	Defined Benefit Plans					
	Qualified U.S. Plans		International and Non-Qualified Plans		Post-Retirement Health Care Plans	
	Nine months ended September 30,		Nine months ended September 30,		Nine months ended September 30,	
	2012	2011	2012	2011	2012	2011
Service cost	\$ 1	\$ 1	\$ 2	\$ 2	\$ —	\$ 1
Interest cost	32	34	15	16	4	3
Expected return on plan assets	(41)	(42)	(16)	(13)	—	—
Amortization of prior service cost	—	9	—	2	(4)	1
Amortization of actuarial losses	11	—	2	—	2	(4)
Net periodic benefit cost	<u>\$ 3</u>	<u>\$ 2</u>	<u>\$ 3</u>	<u>\$ 7</u>	<u>\$ 2</u>	<u>\$ 1</u>

For the nine months ended September 30, 2012, we contributed \$40 million to our U.S. qualified pension plans, \$2 million to our U.S. non-qualified pension plans and \$31 million to our international pension plans, which included \$24 million to our UK Pension Plan discussed below. Contributions to post-retirement health care plans for the nine months ended September 30, 2012 were \$9 million.

On November 18, 2009, the Bankruptcy Court entered an order (the “2009 OPEB Order”) approving, in part, our motion (the “2009 OPEB Motion”) requesting authorization to modify certain post-retirement welfare benefits (the “OPEB Benefits”) under our post-retirement welfare benefit plans (the “OPEB Plans”), including the OPEB Benefits of certain Uniroyal salaried retirees (the “Uniroyal Salaried Retirees”). On April 5, 2010, the Bankruptcy Court entered an order denying the Uniroyal Salaried Retirees’ motion to reconsider the 2009 OPEB Order based, among other things, on the Uniroyal Salaried Retirees’ failure to file a timely objection to the 2009 OPEB Motion. On April 8, 2010, the Uniroyal Salaried Retirees appealed the Bankruptcy Court’s April 5, 2010 order and on April 14, 2010, sought a stay pending their appeal (the “Stay”) of the 2009 OPEB Order as to our right to modify the OPEB Benefits. On April 21, 2010, the Bankruptcy Court ordered us not to modify the Uniroyal Salaried Retirees’ OPEB Benefits pending a hearing and decision as to the Stay. After consulting with the official committees of unsecured creditors and equity security holders, we requested that the Bankruptcy Court have a hearing to decide, as a matter of law, whether we have the right to modify the OPEB Benefits of the Uniroyal Salaried Retirees as requested in the 2009 OPEB Motion. In November 2011, we reached an agreement in principle with a steering committee of the Uniroyal Salaried Retirees resolving all disputes concerning the 2009 OPEB Motion. On February 21, 2012, we filed a motion with the Bankruptcy Court seeking approval of a settlement stipulation with the steering committee of the Uniroyal Salaried Retirees based upon the prior agreement in principle and authorizing us to implement changes to the OPEB Benefits of all Uniroyal Salaried Retirees based upon the settlement stipulation and as a partial grant of the relief requested in the 2009 OPEB Motion. The Bankruptcy Court approved the motion at a hearing held on March 29, 2012. The changes were communicated to the participants in May 2012. The impact of the change was an \$8 million increase to the projected benefit obligation, which we recorded in the second quarter of 2012 as an increase to the pension and post-retirement healthcare liabilities, with an offset to accumulated other comprehensive loss on our Consolidated Balance Sheet at September 30, 2012.

On May 9, 2011, one of our UK subsidiaries entered into definitive agreements with the trustees of the Great Lakes U.K. Limited Pension Plan (“the UK Pension Plan”) over the terms of a “recovery plan” which provided for a series of additional cash contributions to be made to reduce the underfunding over time. The agreements provided, among other things, for our UK subsidiary to make cash contributions of £60 million (approximately \$96 million) in just over a three year period, with the initial contribution of £30 million (\$49 million) made in the second quarter of 2011 and the second contribution of £15 million (\$24 million) made in the second quarter of 2012. The agreements also provided for the granting of both a security interest and a guarantee to support certain of the liabilities under the UK Pension Plan.



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There is also an evaluation being undertaken as to whether additional benefit obligations exist in connection with the equalization of certain benefits under the UK Pension Plan that occurred in the early 1990s. Based on the results of the evaluation to date, \$8 million of expense was recorded in the fourth quarter of 2011, which may be subject to adjustment as further information is gathered as part of the evaluation. Upon completion of the evaluation and the finalization of the liability with respect to additional benefit obligations, additional cash contributions to the UK Pension Plan may be required starting in 2013. There were no changes to the evaluation during the third quarter of 2012.

### 13) DERIVATIVE INSTRUMENTS AND HEDGING ACTIVITIES

Our activities expose our earnings, cash flows and financial condition to a variety of market risks, including the effects of changes in foreign currency exchange rates, interest rates and energy prices. We maintain a risk management strategy that may utilize derivative instruments to mitigate risk against foreign currency movements. We do not enter into derivative instruments for trading or speculative purposes.

We have exposure to changes in foreign currency exchange rates resulting from transactions entered into by us and our foreign subsidiaries in currencies other than their functional currency (primarily trade payables and receivables). We are also exposed to currency risk on intercompany transactions (including intercompany loans). We manage these currency risks on a consolidated basis, which allows us to net our exposure.

On November 28, 2011, we sold our 50% interest in Tetrabrom Technologies Ltd. for net consideration of \$38 million. The consideration will be paid in equal annual installments over a three year period. A pre-tax gain of \$27 million was recorded on the sale in the fourth quarter of 2011. In February 2012, we purchased two forward contracts with a notional amount totaling \$38 million to reduce the risk of currency exposure related to the three annual installments of this receivable. These contracts came due on the same day we received the first annual installment. We used fair value accounting methods for these contracts. We recorded a realized loss associated with the settlement of these contracts of less than \$1 million in the nine months ended September 30, 2012 in other expense, net in our Consolidated Statement of Operations.

In April 2012, we purchased two additional forward contracts with a notional amount totaling \$25 million to reduce the risk of currency exposure related to the remaining two annual installments of the receivable. We use fair value accounting methods for these contracts and have recorded a loss of less than \$1 million reflecting the changes in the fair market value of these contracts in other expense, net in our Consolidated Statement of Operations for the quarter and nine months ended September 30, 2012. The resulting net liability of the changes in fair market value of these contracts of less than \$1 million has been accounted for in other current assets and other assets in our Consolidated Balance Sheet.

In June 2012, we purchased and settled a forward contract with a notional amount totaling \$8 million to reduce the risk of currency exposure related to the payment of an intercompany payable denominated in Mexican Pesos. We used fair value accounting methods for these contracts and have recorded a gain of less than \$1 million reflecting the changes in the fair market value of these contracts in other expense, net in our Consolidated Statement of Operations for the nine months ended September 30, 2012.

### 14) FINANCIAL INSTRUMENTS AND FAIR VALUE MEASUREMENTS

#### Financial Instruments

The carrying amounts for cash and cash equivalents, accounts receivable, other current assets, accounts payable and other current liabilities, approximate their fair value because of the short-term maturities of these instruments. The fair value of debt is based primarily on quoted market values.

The following table presents the carrying amounts and estimated fair values of material financial instruments used by us in the normal course of business:

(In millions)	As of September 30, 2012		As of December 31, 2011	
	Carrying Amount	Fair Value	Carrying Amount	Fair Value
Total debt	\$ 754	\$ 805	\$ 753	\$ 777

#### Fair Value Measurements

We apply the provisions of ASC 820 with respect to our financial assets and liabilities that are measured at fair value within the financial statements on a recurring basis. ASC 820 specifies a hierarchy of valuation techniques based on whether the inputs to

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those valuation techniques are observable or unobservable. Observable inputs reflect market data obtained from independent sources, while unobservable inputs reflect our market assumptions. The fair value hierarchy specified by ASC 820 is as follows:

- Level 1 — Quoted prices in active markets for identical assets and liabilities.
- Level 2 — Quoted prices for similar assets and liabilities in active markets, quoted prices for identical or similar assets and liabilities in markets that are not active or other inputs that are observable or can be corroborated by observable market data.
- Level 3 — Unobservable inputs that are supported by little or no market activity and that are significant to the fair value of the assets and liabilities.

Level 1 fair value measurements in 2012 and 2011 included securities purchased in connection with the deferral of compensation, our match and investment earnings related to the supplemental savings plan. These securities are considered our general assets until distributed to the participant and are included in other assets in our Consolidated Balance Sheets. A corresponding liability is included in other liabilities at September 30, 2012 and December 31, 2011 in our Consolidated Balance Sheets. Quoted market prices were used to determine fair values of these Level 1 investments which are held in a trust with a third-party brokerage firm. The fair value of the asset and corresponding liability was \$1 million at September 30, 2012 and December 31, 2011. Level 2 fair value measurements are used to value our foreign currency forward contracts (see Note 13 — Derivative Instruments and Hedging Activities.) For the nine months ended September 30, 2012, there were no transfers into or out of Levels 1 and 2.

Level 3 fair value measurements are utilized in our impairment reviews of Goodwill (see Note 6 — Goodwill and Intangible Assets). Level 1, 2 and 3 fair value measurements are utilized for defined benefit plan assets in determining the funded status of our pension and post-retirement benefit plan liabilities on an annual basis (at December 31).

### **15) ASSET RETIREMENT OBLIGATIONS**

We apply the provisions of ASC Topic 410, *Asset Retirements and Environmental Obligations* (“ASC 410”), which requires us to make estimates regarding future events in order to record a liability for asset retirement obligations in the period in which a legal obligation is created. Such liabilities are recorded at fair value, with an offsetting increase to the carrying value of the related long-lived assets. The fair value is estimated by discounting projected cash flows over the estimated life of the assets using our credit adjusted risk-free rate applicable at the time the obligation is initially recorded. In future periods, the liability is accreted to its present value and the capitalized cost is depreciated over the useful life of the related asset. We also adjust the liability for changes resulting from revisions to the timing of future cash flows or the amount of the original estimate. Upon retirement of the long-lived asset, we either settle the obligation for its recorded amount or incur a gain or loss.

Our asset retirement obligations include estimates for all asset retirement obligations identified for our worldwide facilities. Our asset retirement obligations are primarily the result of legal obligations for the removal of leasehold improvements and restoration of premises to their original condition upon termination of leases at approximately 20 facilities; legal obligations to close approximately 90 brine supply, brine disposal, waste disposal, and hazardous waste injection wells and the related pipelines at the end of their useful lives; and decommissioning and decontamination obligations that are legally required to be fulfilled upon closure of approximately 30 of our manufacturing facilities.

The following is a summary of the change in the carrying amount of the asset retirement obligations for the quarters and nine months ended September 30, 2012 and 2011 and the net book value of assets related to the asset retirement obligations at September 30, 2012 and 2011:

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(In millions)	Quarters ended September 30,		Nine months ended September 30,	
	2012	2011	2012	2011
Asset retirement obligation balance at beginning of period	\$ 22	\$ 21	\$ 21	\$ 23
Accretion expense (income) — cost of goods sold (a)	1	1	3	(1)
Payments	—	(1)	(1)	(2)
Reclassifications	—	—	—	1
Asset retirement obligation balance at end of period	\$ 23	\$ 21	\$ 23	\$ 21
Net book value of asset retirement obligation assets at end of period	\$ 1	\$ 1	\$ 1	\$ 1

(a) The accretion expense for the nine months ended September 30, 2012 reflects the acceleration of obligations related to the Pedrengo, Italy facility due to the shutdown approved on April 30, 2012. The accretion reversal for the nine months ended September 30, 2011 was primarily due to the extension of the retirement dates for various pipelines and wells related to the El Dorado, Arkansas facility.

Depreciation expense for the quarters and nine months ended September 30, 2012 and 2011 was less than \$1 million.

At September 30, 2012 and December 31, 2011, \$7 million and \$6 million, respectively of asset retirement obligations were included in accrued expenses and \$16 million and \$15 million, respectively, were included in other liabilities on the Consolidated Balance Sheet.

## 16) EMERGENCE FROM CHAPTER 11

On March 18, 2009 (the “Petition Date”) Chemtura and 26 of our U.S. affiliates (collectively the “U.S. Debtors” or the “Debtors” when used in relation to matters before August 8, 2010) filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code (“Chapter 11”) in the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”).

On August 8, 2010, our Canadian subsidiary, Chemtura Canada Co/Cie (“Chemtura Canada”), filed a voluntary petition for relief under Chapter 11. On August 11, 2010, Chemtura Canada commenced ancillary recognition proceedings under Part IV of the Companies’ Creditors Arrangement Act (the “CCAA”) in the Ontario Superior Court of Justice, (the “Canadian Court” and such proceedings, the “Canadian Case”). The U.S. Debtors along with Chemtura Canada after it filed for Chapter 11 (collectively the “Debtors”) requested the Bankruptcy Court to enter an order jointly administering Chemtura Canada’s Chapter 11 case with the previously filed Chapter 11 cases and appoint Chemtura Canada as the “foreign representative” for the purposes of the Canadian Case. Such orders were granted on August 9, 2010. On August 11, 2010, the Canadian Court entered an order recognizing the Chapter 11 cases as a “foreign proceedings” under the CCAA.

On November 3, 2010, the Bankruptcy Court entered an order confirming the Debtors’ plan of reorganization (the “Plan”). On November 10, 2010 (the “Effective Date”), the Debtors substantially consummated their reorganization through a series of transactions contemplated by the Plan and the Plan became effective.

In March 2011, we made a supplemental distribution to holders of previously issued common stock (“Holders of Interests”) as authorized by the Bankruptcy Court. The supplemental distribution included payments of \$3 million in stock, valuing the stock at the Plan valuation.

On June 10, 2011, we filed a closing report in Chemtura Canada’s Chapter 11 case and a motion seeking a final decree closing that Chapter 11 case. On June 23, 2011, the Bankruptcy Court granted our motion and entered a final decree closing the Chapter 11 case of Chemtura Canada.

In August 2011, we made a second supplemental distribution to Holders of Interests as authorized by the Bankruptcy Court. The supplemental distribution included payments of \$2 million in cash and \$12 million in stock, valuing the stock at the Plan valuation.

On December 1, 2011, we filed a motion requesting entry of an order granting a final decree closing the Chapter 11 cases of 22 Debtors (the “Fully Administered Debtors”):

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- A&M Cleaning Products LLC
- Aqua Clear Industries, LLC
- ASEPSIS, Inc.
- ASCK, Inc.
- BioLab Company Store, LLC
- Biolab Franchise Company, LLC
- BioLab Textile Additives, LLC
- CNK Chemical Realty Corporation
- Crompton Colors Incorporated
- Crompton Holding Corporation
- Crompton Monochem, Inc.
- Great Lakes Chemical Global, Inc.
- GT Seed Treatment, Inc.
- HomeCare Labs, Inc.
- ISCI, Inc.
- Kem Manufacturing Corporation
- Laurel Industries Holdings, Inc.
- Monochem, Inc.
- Naugatuck Treatment Company
- Recreational Water Products, Inc.
- Weber City Road LLC
- WRL of Indiana, Inc.

On December 15, 2011, the Bankruptcy Court entered an order granting a final decree closing the Fully Administered Debtors' Chapter 11 cases.

On January 5, 2012, we filed a motion with the Bankruptcy Court seeking authority to make a third supplemental distribution to Holders of Interests, which was granted by the Bankruptcy Court on January 26, 2012. The Bankruptcy Court extended the time to make the third supplemental distribution by order dated March 2, 2012 and authorized an increase to the third supplemental distribution by order dated March 8, 2012. The third supplemental distribution was made in March 2012 and included payments of \$3 million in cash and \$20 million in stock, valuing the stock at the Plan valuation.

On February 7, 2012, we filed a motion requesting entry of an order granting a final decree closing the Chapter 11 cases for Bio-Lab, Inc. and GLCC Laurel, LLC, which was granted by the Bankruptcy Court on February 22, 2012.

On March 16, 2012, we filed a motion requesting entry of an order granting a final decree closing the Chapter 11 cases for Great Lakes Chemical Corporation and Uniroyal Chemical Company Limited (Delaware), which was granted by the Bankruptcy Court on March 29, 2012.

In July 2012, we made a final distribution to Holders of Interests under the Plan including all amounts remaining in the Disputed Claims Reserve. The final distribution included \$3 million in stock valued at the Plan valuation.

As of September 30, 2012, the Bankruptcy Court has entered orders granting final decrees closing all of the Debtors' Chapter 11 cases except the Chapter 11 case of Chemtura Corporation.

On October 2, 2012, the Bankruptcy Court granted the motion of Momentive Performance Materials, Inc. ("Momentive") for an order granting our prior motion under the Plan to assume our executory contract with Momentive and directing payment of a purportedly agreed cure claim. After a contested hearing, the Bankruptcy Court granted the motion by order dated October 17, 2012. The payment of the cure claim will resolve all claims of default under the agreement through October 2, 2012.

There remains one pending dispute before the Bankruptcy Court concerning enforcement of the discharge injunction under the Plan. The dispute is scheduled to be heard by the Bankruptcy Court on November 13, 2012.

At September 30, 2012 there were no remaining undisbursed amounts in the Disputed Claims Reserve.

The Reorganization Items, net recorded in our Consolidated Statements of Operations related to our Chapter 11 cases comprise the following:

(In millions)	Quarters ended September 30,		Nine months ended September 30,	
	2012	2011	2012	2011
Professional fees	\$ 1	\$ 2	\$ 3	\$ 14
Severance and closure costs (a)	—	1	—	1
Claim settlements, net (b)	—	3	1	4
Total reorganization items, net	\$ 1	\$ 6	\$ 4	\$ 19

(a) Represents charges for cost savings initiatives for which Bankruptcy Court approval has been obtained or requested.

(b) Represents the difference between the settlement amount of certain pre-petition obligations (obligations settled in common stock are based on the fair value of our stock at the issuance date) and the corresponding carrying value of the recorded liabilities.

## 17) LEGAL PROCEEDINGS AND CONTINGENCIES

We are involved in claims, litigation, administrative proceedings and investigations of various types in a number of jurisdictions. A number of such matters involve, or may involve, claims for a material amount of damages and relate to or allege, among other things, environmental liabilities, including clean-up costs associated with hazardous waste disposal sites, natural resource damages, property damage and personal injury.

As a result of the Chapter 11 cases, substantially all prepetition litigation and claims against us and our subsidiaries that were Debtors in the Chapter 11 cases have been discharged and permanently enjoined from further prosecution and are described below under the subheading “Prepetition Litigation and Claims Discharged Under the Plan.”

Claims and legal actions asserted against non-Debtors or relating to events occurring after the Effective Date, certain regulatory and administrative proceedings and certain contractual and other claims assumed with the authorization of the Bankruptcy Court, were not discharged in the Chapter 11 cases and are described below under the subheading “Litigation and Claims Not Discharged Under the Plan.”

### **Prepetition Litigation and Claims Discharged Under the Plan**

#### *Chapter 11 Plan and Establishment of Claims Reserves*

On March 18, 2009, the Debtors filed voluntary petitions in the Bankruptcy Court seeking relief under Chapter 11. The Debtors’ Chapter 11 cases were assigned to the Honorable Robert E. Gerber and are being jointly administered as Case No. 09-11233. The Debtors continued to operate their business as debtors in possession under the jurisdiction of the Bankruptcy Court until their emergence from Chapter 11 on November 10, 2010.

Pursuant to the Plan, and by orders of the Bankruptcy Court dated September 24, 2010, October 19, 2010 and October 29, 2010, the Debtors established the Diacetyl Reserve, the Environmental Reserve and the Disputed Claims Reserve, each as defined in the Plan, on account of claims that were not yet allowed in the Chapter 11 cases as of the Effective Date, including proofs of claim asserted against the Debtors that were subject to objection as of the Effective Date (the “Disputed Claims”). The Diacetyl Reserve was approved by the Bankruptcy Court in the amount of \$7 million, comprised of separate segregated reserves, and has since been reduced as settlement agreements have been approved by the Bankruptcy Court. The Environmental Reserve was approved by the Bankruptcy Court in the amount of \$38 million, a portion of which was further segregated into certain separate reserves established to account for settlements that were pending Bankruptcy Court approval, and has since been reduced as settlement agreements have been approved by the Bankruptcy Court. The Disputed Claims Reserve was approved by the Bankruptcy Court in the amount of \$42 million, plus additional segregated individual reserves for certain creditors’ claims in the aggregate amount of approximately \$30 million, all of which have been reduced as settlement agreements have been approved by the Bankruptcy Court.

On June 24, 2011, we resolved the final disputed Environmental Claim. As a result, under the Plan, the amounts remaining in the Environmental Reserve were transferred to the Disputed Claims Reserve. Any remaining Disputed Claims, to the extent they were ultimately allowed by the Bankruptcy Court, were satisfied (to the extent allowed and not covered by insurance) from the Disputed Claims Reserve. Holders of the Disputed Claims are permanently enjoined under the Plan from pursuing their claims against us. On May 4, 2012, the Bankruptcy Court entered an order disallowing the last Disputed Claim subject to the Disputed Claims Reserve. In July 2012, we made a final distribution to Holders of Interests in accordance with the Plan that included all amounts remaining in the Disputed Claims Reserve.

### **Litigation and Claims Not Discharged Under the Plan**

#### *Environmental Liabilities*

We are involved in environmental matters of various types in a number of jurisdictions. A number of such matters involve claims for material amounts of damages and relate to or allege environmental liabilities, including clean up costs associated with hazardous waste disposal sites and natural resource damages.

The Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (“CERCLA”), and comparable state statutes impose strict liability upon various classes of persons with respect to the costs associated with the investigation and remediation of waste disposal sites. Such persons are typically referred to as “Potentially Responsible Parties” or PRPs. Chemtura and several of our subsidiaries have been identified by federal, state or local governmental agencies or by other PRPs, as a PRP at various locations in the United States. Because in certain circumstances these laws have been construed to authorize the imposition of joint and several liability, the Environmental Protection Agency (“EPA”) and comparable state agencies could seek to recover all costs involving a waste disposal site from any one of the PRPs for such site, including Chemtura, despite the involvement of other PRPs. In many cases, we are one of a large number of PRPs with

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respect to a site. In a few instances, we are the sole or one of only a handful of PRPs performing investigation and remediation. Where other financially responsible PRPs are involved, we expect that any ultimate liability resulting from such matters will be apportioned between us and such other parties. In addition, we are involved with environmental remediation and compliance activities at some of our current and former sites in the United States and abroad.

Each quarter, we evaluate and review estimates for future remediation and other costs to determine appropriate environmental reserve amounts. For each site where the cost of remediation is probable and reasonably estimable, we determine the specific measures that are believed to be required to remediate the site, the estimated total cost to carry out the remediation plan, the portion of the total remediation costs to be borne by us and the anticipated time frame over which payments toward the remediation plan will occur. At sites where we expect to incur ongoing operation and maintenance expenditures, we accrue on an undiscounted basis for a period of generally 10 years those costs which we believe are probable and reasonably estimable.

On June 6, 2011, our subsidiary Great Lakes Chemical Corporation received a proposed Consent Administrative Order (“CAO”) from the Arkansas Department of Environmental Quality alleging violations of the Resource Conservation and Recovery Act in conjunction with its facility located in El Dorado, Arkansas. The violations alleged in the CAO were settled in May 2012 for a penalty of less than \$1 million which was paid in August 2012. This settlement fully resolves the matter.

The total amount accrued for environmental liabilities as of September 30, 2012 and December 31, 2011 was \$85 million and \$88 million, respectively. At September 30, 2012 and December 31, 2011, \$16 million and \$18 million, respectively, of these environmental liabilities were reflected as accrued expenses and \$69 million and \$70 million, respectively, were reflected as other liabilities. We estimate that the reasonably possible ongoing environmental liabilities could range up to \$100 million at September 30, 2012. Our accruals for environmental liabilities include estimates for determinable clean-up costs. We recorded a pre-tax charge of \$5 million in 2012, and made payments of \$8 million during the nine months ended September 30, 2012 for clean-up costs, which reduced our environmental liabilities. At certain sites, we have contractual agreements with certain other parties to share remediation costs. As of September 30, 2012, no receivables are outstanding related to these agreements. At a number of these sites, the extent of contamination has not yet been fully investigated or the final scope of remediation is not yet determinable. We intend to assert all meritorious legal defenses and will pursue other equitable factors that are available with respect to these matters. However, the final cost of clean-up at these sites could exceed our present estimates, and could have, individually or in the aggregate, a material adverse effect on our financial condition, results of operations, or cash flows. Our estimates for environmental remediation liabilities may change in the future should additional sites be identified, further remediation measures be required or undertaken, current laws and regulations be modified or additional environmental laws and regulations be enacted, and as negotiations with respect to certain sites.

### *Other*

We are routinely subject to other civil claims, litigation and arbitration, and regulatory investigations, arising in the ordinary course of our business, as well as in respect of our divested businesses. Some of these claims and litigations relate to product liability claims, including claims related to our current and historical products and asbestos-related claims concerning premises and historic products of our corporate affiliates and predecessors. We believe the claims relating to the period before the filing of the Chapter 11 cases are subject to discharge pursuant to the Plan and have been satisfied, to the extent they were timely filed in the Chapter 11 cases and allowed by the Bankruptcy Court, solely from the Disputed Claims Reserve. Further, we believe that we have strong defenses to these claims. These claims have not had a material impact on us to date and we believe the likelihood that a future material adverse outcome will result from these claims is remote.

However, we cannot be certain that an adverse outcome of one or more of these claims, to the extent not discharged in the Chapter 11 cases, would not have a material adverse effect on its financial condition, results of operations or cash flows.

### **Guarantees**

In addition to the letters of credit of \$14 million and \$15 million outstanding at September 30, 2012 and December 31, 2011, respectively, we have guarantees that have been provided to various financial institutions. At September 30, 2012 and December 31, 2011, we had \$12 million and \$11 million of outstanding guarantees, respectively. The letters of credit and guarantees were primarily related to liabilities for insurance obligations, environmental obligations, banking and credit facilities, vendor deposits and European value added tax (“VAT”) obligations.

We have applied the disclosure provisions of ASC Topic 460, *Guarantees* (“ASC 460”), to our agreements that contain guarantee or indemnification clauses. We are a party to several agreements pursuant to which we may be obligated to indemnify a third party with respect to certain loan obligations of joint venture companies in which we have an equity interest. These obligations arose to provide initial financing for a joint venture start-up, fund an acquisition and/or provide project capital. Such obligations mature through August 2016. In the event that any of the joint venture companies were to default on these loan obligations, we would indemnify the other party up to its proportionate share of the obligation based upon its ownership interest in the joint venture. At September 30, 2012, the maximum potential future principal and interest payments

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due under these guarantees were \$4 million. At December 31, 2011, the maximum potential future principal and interest payments due under these guarantees were \$8 million. In accordance with ASC 460, we have accrued \$1 million in reserves, which represents the probability weighted fair value of these guarantees at September 30, 2012 and December 31, 2011. The reserve has been included in other liabilities on our Consolidated Balance Sheet at September 30, 2012 and December 31, 2011 with an offset to the investment included in other assets.

In addition, we have financing agreements with banks in Brazil for certain customers under which we receive funds from the banks at invoice date, and in turn, the customer agrees to pay the banks on the due date. We provide a full recourse guarantee to the banks in the event of customer non-payment.

In the ordinary course of business, we enter into contractual arrangements under which we may agree to indemnify a third party to such arrangement from any losses incurred relating to the services they perform on our behalf or for losses arising from certain events as defined within the particular contract, which may include, for example, litigation, claims or environmental matters relating to our past performance. For any losses that we believe are probable and estimable, we have accrued for such amounts in our Consolidated Balance Sheets.

### **18) BUSINESS SEGMENT DATA**

We evaluate a segment's performance based on several factors, of which the primary factor is operating income (loss). In computing operating income (loss) by segment, the following items have not been deducted: (1) general corporate expense; (2) amortization; (3) facility closures, severance and related costs; (4) certain accelerated depreciation; (5) changes in estimates related to expected allowable claims; and (6) impairment charges. Pursuant to ASC Topic 280, *Segment Reporting* ("ASC 280"), these items have been excluded from our presentation of segment operating income (loss) because they are not reported to the chief operating decision maker for purposes of allocating resources among reporting segments or assessing segment performance.

#### **Industrial Performance Products**

Industrial Performance Products are engineered solutions for our customers' specialty chemical needs. Industrial Performance Products include petroleum additives that provide detergency, friction modification and corrosion protection in automotive lubricants, greases, refrigeration and turbine lubricants; castable urethane prepolymers engineered to provide superior abrasion resistance and durability in many industrial and recreational applications; polyurethane dispersions and urethane prepolymers used in various types of coatings such as clear floor finishes, high-gloss paints and textiles treatments; and antioxidants that improve the durability and longevity of plastics used in food packaging, consumer durables, automotive components and electrical components. These products are sold directly to manufacturers and through distribution channels.

#### **Industrial Engineered Products**

Industrial Engineered Products are chemical additives designed to improve the performance of polymers in their end-use applications. Industrial Engineered Products include brominated performance products, flame retardants, fumigants and organometallics. The products are sold across the entire value chain ranging from direct sales to monomer producers, polymer manufacturers, compounders and fabricators, fine chemical manufacturers and oilfield service companies to industry distributors.

#### **Consumer Products**

Consumer Products are performance chemicals that are sold to consumers for in-home and outdoor use. Consumer Products include a variety of branded recreational water purification products sold through local dealers and large retailers to assist consumers in the maintenance of their pools and spas and branded cleaners and degreasers sold primarily through mass merchants to consumers for home cleaning.

#### **Chemtura AgroSolutions**

Chemtura AgroSolutions develops, supplies, registers and sells agricultural chemicals formulated for specific crops in various geographic regions for the purpose of enhancing quality and improving yields. The business focuses on specific target markets in six major product lines: seed treatments, fungicides, miticides, insecticides, growth regulators and herbicides. These products are sold directly to growers and to major distributors in the agricultural sector.

#### **General Corporate Expense and Other Charges**

General corporate expense includes costs and expenses that are of a general corporate nature or managed on a corporate basis. These costs (net of allocations to the business segments) primarily represent corporate stewardship and administration activities

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together with costs associated with legacy activities and intangible asset amortization. Functional costs are allocated between the business segments and general corporate expense. Accelerated depreciation relates to certain assets affected by our restructuring programs. Facility closures, severance and related costs are primarily for severance costs related to our cost savings initiatives. Impairment charges related to the impairment of intangible assets and property, plant and equipment that were no longer supportable. Change in estimates related to expected allowable claims relates to adjustments to resolve disputed claims.

A summary of business data for our reportable segments for the quarters and nine months ended September 30, 2012 and 2011 are as follows:

<b>(In millions)</b>	<b>Quarters ended September 30,</b>		<b>Nine months ended September 30,</b>	
	<b>2012</b>	<b>2011</b>	<b>2012</b>	<b>2011</b>
<b>Net Sales</b>				
Industrial Performance Products	\$ 314	\$ 342	\$ 966	\$ 1,048
Industrial Engineered Products	213	222	675	675
Consumer Products	102	104	344	335
Chemtura AgroSolutions	114	105	311	290
Total net sales	<u>\$ 743</u>	<u>\$ 773</u>	<u>\$ 2,296</u>	<u>\$ 2,348</u>
<b>Operating Income</b>				
<b>(In millions)</b>				
	<b>Quarters ended September 30,</b>		<b>Nine months ended September 30,</b>	
	<b>2012</b>	<b>2011</b>	<b>2012</b>	<b>2011</b>
Industrial Performance Products	\$ 31	\$ 31	\$ 88	\$ 100
Industrial Engineered Products	30	25	112	100
Consumer Products	10	6	25	25
Chemtura AgroSolutions	21	11	54	25
	92	73	279	250
General corporate expense, including amortization	(24)	(28)	(75)	(82)
Facility closures, severance and related costs	(1)	—	(24)	—
Impairment charges	(35)	—	(36)	(3)
Changes in estimates related to expected allowable claims	1	—	(1)	(1)
Total operating income	<u>\$ 33</u>	<u>\$ 45</u>	<u>\$ 143</u>	<u>\$ 164</u>



**19) GUARANTOR CONDENSED CONSOLIDATING FINANCIAL DATA**

Our obligations under the Senior Notes are fully and unconditionally guaranteed on a senior unsecured basis, jointly and severally, by each current and future domestic restricted subsidiary, other than excluded subsidiaries that guarantee any indebtedness of Chemtura or our restricted subsidiaries. Our subsidiaries that do not guarantee the Senior Notes are referred to as the “Non-Guarantor Subsidiaries.” The Guarantor Condensed Consolidating Financial Data presented below presents the statements of operations, statements of comprehensive income, balance sheets and statements of cash flow for: (i) Chemtura Corporation (the “Parent Company”), the Guarantor Subsidiaries and the Non-Guarantor Subsidiaries on a consolidated basis (which is derived from Chemtura historical reported financial information); (ii) the Parent Company, alone (accounting for our Guarantor Subsidiaries and the Non-Guarantor Subsidiaries on an equity basis under which the investments are recorded by each entity owning a portion of another entity at cost, adjusted for the applicable share of the subsidiary’s cumulative results of operations, capital contributions and distributions, and other equity changes); (iii) the Guarantor Subsidiaries alone; and (iv) the Non-Guarantor Subsidiaries alone.

**Condensed Consolidating Statement of Operations**  
**Quarter ended September 30, 2012**  
*(In millions)*

	Consolidated	Eliminations	Parent Company	Guarantor Subsidiaries	Non- Guarantor Subsidiaries
Net sales	\$ 743	\$ (462)	\$ 412	\$ 199	\$ 594
Cost of goods sold	551	(462)	339	149	525
Selling, general and administrative	77	—	34	14	29
Depreciation and amortization	36	—	9	13	14
Research and development	12	—	5	2	5
Facility closures, severance and related costs	1	—	1	—	—
Impairment charges	35	—	10	—	25
Changes in estimates related to expected allowable claims	(1)	—	(1)	—	—
Equity Income	(1)	—	—	—	(1)
Operating income (loss)	33	—	15	21	(3)
Interest expense	(17)	—	(16)	—	(1)
Other (expense) income, net	(6)	—	(10)	1	3
Reorganization items, net	(1)	—	(1)	—	—
Equity in net earnings of subsidiaries	—	(21)	21	—	—
Earnings (loss) before income taxes	9	(21)	9	22	(1)
Income tax expense	(2)	—	—	—	(2)
Net earnings (loss)	7	(21)	9	22	(3)
Less: Net loss attributed to non-controlling interests	2	—	—	—	2
Net earnings (loss) attributable to Chemtura	<u>\$ 9</u>	<u>\$ (21)</u>	<u>\$ 9</u>	<u>\$ 22</u>	<u>\$ (1)</u>

**Condensed Consolidating Statement of Operations**  
**Nine months ended September 30, 2012**  
*(In millions)*

	<b>Consolidated</b>	<b>Eliminations</b>	<b>Parent Company</b>	<b>Guarantor Subsidiaries</b>	<b>Non- Guarantor Subsidiaries</b>
Net sales	\$ 2,296	\$ (1,422)	\$ 1,279	\$ 599	\$ 1,840
Cost of goods sold	1,720	(1,422)	1,031	493	1,618
Selling, general and administrative	233	—	94	39	100
Depreciation and amortization	104	—	27	38	39
Research and development	37	—	14	7	16
Facility closures, severance and related costs	24	—	5	1	18
Impairment charges	36	—	10	—	26
Changes in estimates related to expected allowable claims	1	—	1	—	—
Equity income	(2)	—	—	—	(2)
Operating income	143	—	97	21	25
Interest expense	(47)	—	(51)	2	2
Other (expense) income, net	(3)	—	(11)	1	7
Reorganization items, net	(4)	—	(4)	—	—
Equity in net earnings of subsidiaries	—	(50)	50	—	—
Earnings before income taxes	89	(50)	81	24	34
Income tax expense	(9)	—	—	—	(9)
Net earnings	80	(50)	81	24	25
Less: Net loss attributed to non-controlling interests	1	—	—	—	1
Net earnings attributable to Chemtura	<u>\$ 81</u>	<u>\$ (50)</u>	<u>\$ 81</u>	<u>\$ 24</u>	<u>\$ 26</u>

**Condensed Consolidating Statement of Comprehensive Income**  
**Quarter ended September 30, 2012**  
*(in millions)*

	<b>Consolidated</b>	<b>Eliminations</b>	<b>Parent Company</b>	<b>Guarantor Subsidiaries</b>	<b>Non- Guarantor Subsidiaries</b>
Net earnings	\$ 7	\$ (21)	\$ 9	\$ 22	\$ (3)
Other comprehensive income (loss), net of tax					
Foreign currency translation adjustments	37	—	(18)	2	53
Unrecognized pension and other post-retirement benefit costs	7	—	6	—	1
Comprehensive income (loss)	51	(21)	(3)	24	51
Comprehensive loss attributable to non-controlling interests	2	—	—	—	2
Comprehensive income (loss) attributable to Chemtura	<u>\$ 53</u>	<u>\$ (21)</u>	<u>\$ (3)</u>	<u>\$ 24</u>	<u>\$ 53</u>

**Condensed Consolidating Statement of Comprehensive Income**  
**Nine months ended September 30, 2012**  
*(in millions)*

	<u>Consolidated</u>	<u>Eliminations</u>	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non-Guarantor Subsidiaries</u>
Net earnings	\$ 80	\$ (50)	\$ 81	\$ 24	\$ 25
Other comprehensive (loss) income, net of tax					
Foreign currency translation adjustments	15	—	(3)	—	18
Unrecognized pension and other post-retirement benefit costs	6	—	3	—	3
Comprehensive income	101	(50)	81	24	46
Comprehensive loss attributable to non-controlling interests	1	—	—	—	1
Comprehensive income attributable to Chemtura	<u>\$ 102</u>	<u>\$ (50)</u>	<u>\$ 81</u>	<u>\$ 24</u>	<u>\$ 47</u>

**Condensed Consolidating Balance Sheet**  
**As of September 30, 2012**  
*(In millions)*

	<u>Consolidated</u>	<u>Eliminations</u>	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non-Guarantor Subsidiaries</u>
<b>ASSETS</b>					
Current assets	\$ 1,416	\$ —	\$ 385	\$ 194	\$ 837
Intercompany receivables	—	(8,903)	3,358	2,884	2,661
Investment in subsidiaries	—	(11,688)	1,731	1,633	8,324
Property, plant and equipment	742	—	140	271	331
Goodwill	177	—	93	3	81
Other assets	585	—	176	174	235
Total assets	<u>\$ 2,920</u>	<u>\$ (20,591)</u>	<u>\$ 5,883</u>	<u>\$ 5,159</u>	<u>\$ 12,469</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>					
Current liabilities	\$ 420	\$ —	\$ 131	\$ 73	\$ 216
Intercompany payables	—	(8,903)	3,529	3,106	2,268
Long-term debt	749	—	748	—	1
Other long-term liabilities	613	—	337	59	217
Total liabilities	1,782	(8,903)	4,745	3,238	2,702
Stockholders' equity	1,138	(11,688)	1,138	1,921	9,767
Total liabilities and stockholders' equity	<u>\$ 2,920</u>	<u>\$ (20,591)</u>	<u>\$ 5,883</u>	<u>\$ 5,159</u>	<u>\$ 12,469</u>

**Condensed Consolidating Statement of Cash Flows**  
**Nine months ended September 30, 2012**  
*(In millions)*

	<u>Consolidated</u>	<u>Eliminations</u>	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non- Guarantor Subsidiaries</u>
<b>Increase (decrease) to cash</b>					
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>					
Net earnings	\$ 80	\$ (50)	\$ 81	\$ 24	\$ 25
Adjustments to reconcile net earnings to net cash provided by operations:					
Impairment charges	36	—	10	—	26
Depreciation and amortization	104	—	27	38	39
Stock-based compensation expense	14	—	14	—	—
Reorganization items, net	1	—	1	—	—
Changes in estimates related to expected allowable claims	1	—	1	—	—
Equity income	(2)	—	—	—	(2)
Changes in assets and liabilities, net	(123)	50	(94)	(32)	(47)
Net cash provided by operations	<u>111</u>	<u>—</u>	<u>40</u>	<u>30</u>	<u>41</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>					
Net proceeds from divestments	9	—	—	—	9
Capital expenditures	(94)	—	(16)	(30)	(48)
Net cash used in investing activities	<u>(85)</u>	<u>—</u>	<u>(16)</u>	<u>(30)</u>	<u>(39)</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>					
Proceeds from A/R Financing Facility, net	2	—	—	—	2
Payments on other short term borrowings, net	(3)	—	—	—	(3)
Common shares acquired	(20)	—	(20)	—	—
Payment for debt issuance costs	(1)	—	—	—	(1)
Proceeds from the exercise of stock options	2	—	2	—	—
Net cash used in financing activities	<u>(20)</u>	<u>—</u>	<u>(18)</u>	<u>—</u>	<u>(2)</u>
<b>CASH AND CASH EQUIVALENTS</b>					
Effect of exchange rates on cash and cash equivalents	1	—	—	—	1
Change in cash and cash equivalents	7	—	6	—	1
Cash and cash equivalents at beginning of period	180	—	35	—	145
Cash and cash equivalents at end of period	<u>\$ 187</u>	<u>\$ —</u>	<u>\$ 41</u>	<u>\$ —</u>	<u>\$ 146</u>

**Condensed Consolidating Statement of Operations**  
**Quarter ended September 30, 2011**  
*(In millions)*

	<u>Consolidated</u>	<u>Eliminations</u>	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non- Guarantor Subsidiaries</u>
Net sales	\$ 773	\$ (463)	\$ 412	\$ 188	\$ 636
Cost of goods sold	599	(463)	350	157	555
Selling, general and administrative	84	—	36	12	36
Depreciation and amortization	35	—	9	13	13
Research and development	11	—	5	1	5
Equity income	(1)	—	—	—	(1)
Operating income	45	—	12	5	28
Interest expense	(16)	—	(18)	—	2
Other (expense) income, net	(1)	—	5	—	(6)
Reorganization items, net	(6)	—	(6)	—	—
Equity in net earnings (loss) of subsidiaries	—	(16)	17	(1)	—
Earnings before income taxes	22	(16)	10	4	24
Income tax expense	(13)	—	(1)	—	(12)
Net earnings attributable to Chemtura	<u>\$ 9</u>	<u>\$ (16)</u>	<u>\$ 9</u>	<u>\$ 4</u>	<u>\$ 12</u>

**Condensed Consolidating Statement of Operations**  
**Nine Months ended September 30, 2011**  
*(In millions)*

	<u>Consolidated</u>	<u>Eliminations</u>	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non-Guarantor Subsidiaries</u>
Net sales	\$ 2,348	\$ (1,439)	\$ 1,294	\$ 572	\$ 1,921
Cost of goods sold	1,789	(1,439)	1,070	469	1,689
Selling, general and administrative	255	—	107	39	109
Depreciation and amortization	106	—	27	38	41
Research and development	33	—	14	5	14
Impairment charges	3	—	—	1	2
Changes in estimates related to expected allowable claims	1	—	1	—	—
Equity income	(3)	—	—	—	(3)
Operating income	164	—	75	20	69
Interest expense	(48)	—	(54)	—	6
Other (expense) income, net	(1)	—	(8)	—	7
Reorganization items, net	(19)	—	(19)	—	—
Equity in net earnings (loss) of subsidiaries	—	(91)	92	(1)	—
Earnings before income taxes	96	(91)	86	19	82
Income tax expense	(10)	—	(1)	—	(9)
Net earnings	86	(91)	85	19	73
Less: Net earnings attributed to non-controlling interests	(1)	—	—	—	(1)
Net earnings attributable to Chemtura	<u>\$ 85</u>	<u>\$ (91)</u>	<u>\$ 85</u>	<u>\$ 19</u>	<u>\$ 72</u>

**Condensed Consolidating Statement of Comprehensive Income**  
**Quarter ended September 30, 2011**  
*(In millions)*

	<u>Consolidated</u>	<u>Eliminations</u>	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non-Guarantor Subsidiaries</u>
Net earnings	\$ 9	\$ (16)	\$ 9	\$ 4	\$ 12
Other comprehensive (loss) income, net of tax					
Foreign currency translation adjustments	(64)	—	21	(4)	(81)
Unrecognized pension and other post-retirement benefit costs	3	—	3	—	—
Comprehensive (loss) income	(52)	(16)	33	—	(69)
Comprehensive income attributable to non-controlling interests	—	—	—	—	—
Comprehensive (loss) income attributable to Chemtura	<u>\$ (52)</u>	<u>\$ (16)</u>	<u>\$ 33</u>	<u>\$ —</u>	<u>\$ (69)</u>

**Condensed Consolidating Statement of Comprehensive Income**  
**Nine Months ended September 30, 2011**  
*(In millions)*

	<u>Consolidated</u>	<u>Eliminations</u>	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non-Guarantor Subsidiaries</u>
Net earnings	\$ 86	\$ (91)	\$ 85	\$ 19	\$ 73
Other comprehensive income (loss), net of tax					
Foreign currency translation adjustments	(20)	—	(6)	1	(15)
Unrecognized pension and other post-retirement benefit costs	6	—	4	1	1
Comprehensive income	72	(91)	83	21	59
Comprehensive income attributable to non-controlling interests	(1)	—	—	—	(1)
Comprehensive income attributable to Chemtura	<u>\$ 71</u>	<u>\$ (91)</u>	<u>\$ 83</u>	<u>\$ 21</u>	<u>\$ 58</u>

**Condensed Consolidating Balance Sheet**  
**As of December 31, 2011**  
*(In millions)*

	<u>Consolidated</u>	<u>Eliminations</u>	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non-Guarantor Subsidiaries</u>
<b>ASSETS</b>					
Current assets	\$ 1,321	\$ —	\$ 372	\$ 204	\$ 745
Intercompany receivables	—	(7,846)	2,727	2,230	2,889
Investment in subsidiaries	—	(14,617)	2,011	1,734	10,872
Property, plant and equipment	752	—	160	271	321
Goodwill	174	—	92	3	79
Other assets	608	—	226	185	197
Total assets	<u>\$ 2,855</u>	<u>\$ (22,463)</u>	<u>\$ 5,588</u>	<u>\$ 4,627</u>	<u>\$ 15,103</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>					
Current liabilities	\$ 390	\$ —	\$ 134	\$ 79	\$ 177
Intercompany payables	—	(7,846)	3,201	2,491	2,154
Long-term debt	748	—	747	—	1
Other long-term liabilities	671	—	460	60	151
Total liabilities	1,809	(7,846)	4,542	2,630	2,483
Stockholders' equity	1,046	(14,617)	1,046	1,997	12,620
Total liabilities and stockholders' equity	<u>\$ 2,855</u>	<u>\$ (22,463)</u>	<u>\$ 5,588</u>	<u>\$ 4,627</u>	<u>\$ 15,103</u>

**Condensed Consolidating Statement of Cash Flows**  
**Nine Months ended September 30, 2011**  
*(In millions)*

	<u>Consolidated</u>	<u>Eliminations</u>	<u>Parent Company</u>	<u>Guarantor Subsidiaries</u>	<u>Non- Guarantor Subsidiaries</u>
<b>Increase (decrease) to cash</b>					
<b>CASH FLOWS FROM OPERATING ACTIVITIES</b>					
Net earnings	\$ 86	\$ (91)	\$ 85	\$ 19	\$ 73
Adjustments to reconcile net earnings to net cash provided by (used in) operations:					
Impairment charges	3	—	—	1	2
Depreciation and amortization	106	—	27	38	41
Stock-based compensation expense	22	—	22	—	—
Reorganization items, net	2	—	2	—	—
Changes in estimates related to expected allowable claims	1	—	1	—	—
Equity income	(3)	—	—	—	(3)
Changes in assets and liabilities, net	(126)	91	(154)	(7)	(56)
Net cash provided by (used in) operations	<u>91</u>	<u>—</u>	<u>(17)</u>	<u>51</u>	<u>57</u>
<b>CASH FLOWS FROM INVESTING ACTIVITIES</b>					
Payments for acquisitions	(33)	—	—	—	(33)
Capital expenditures	(92)	—	(11)	(51)	(30)
Net cash used in investing activities	<u>(125)</u>	<u>—</u>	<u>(11)</u>	<u>(51)</u>	<u>(63)</u>
<b>CASH FLOWS FROM FINANCING ACTIVITIES</b>					
Proceeds from ABL Facility, net	20	—	20	—	—
Proceeds from other short term borrowings, net	5	—	—	—	5
Proceeds from exercise of stock options	1	—	1	—	—
Net cash provided by financing activities	<u>26</u>	<u>—</u>	<u>21</u>	<u>—</u>	<u>5</u>
<b>CASH AND CASH EQUIVALENTS</b>					
Effect of exchange rates on cash and cash equivalents	(2)	—	—	—	(2)
Change in cash and cash equivalents	(10)	—	(7)	—	(3)
Cash and cash equivalents at beginning of period	201	—	41	—	160
Cash and cash equivalents at end of period	<u>\$ 191</u>	<u>\$ —</u>	<u>\$ 34</u>	<u>\$ —</u>	<u>\$ 157</u>



## **ITEM 2. Management’s Discussion and Analysis of Financial Condition and Results of Operations**

The following discussion and analysis should be read in conjunction with our unaudited condensed consolidated financial statements included in Item 1 of this Form 10-Q.

This management’s discussion and analysis of financial condition and results of operations contains forward-looking statements. See “forward-looking statements” for a discussion of certain risks, assumptions and uncertainties associated with these statements.

### **OUR BUSINESS**

We are among the larger publicly traded specialty chemical companies in the United States. We are dedicated to delivering innovative, application-focused specialty chemical solutions and consumer products. We operate in a wide variety of end-use industries, including agriculture, automotive, building and construction, electronics, lubricants, packaging, plastics for durable and non-durable goods, pool and spa chemicals and transportation. The majority of our chemical products are sold to industrial manufacturing customers for use as additives, ingredients or intermediates that add value to their end products. Our agrochemical and consumer products are sold to dealers, distributors and major retailers. We are a leader in many of our key product lines and transact business in more than 100 countries.

The primary economic factors that influence the operations and sales of our Industrial Performance Products (“Industrial Performance”) and Industrial Engineered Products (“Industrial Engineered”) segments (collectively referred to as “Industrials”) are industrial production, residential and commercial construction, electronic component production and polymer production, residential and commercial construction. In addition, our Chemtura AgroSolutions segment is influenced by worldwide weather, disease and pest infestation conditions. Our Consumer Products segment is influenced by general economic conditions impacting consumer spending and weather conditions.

Other factors affecting our financial performance include industry capacity, customer demand, raw material and energy costs, and selling prices. Selling prices are influenced by the global demand and supply for the products we produce. We pursue selling prices that reflect the value our products deliver to our customers, while seeking to pass on higher costs for raw material and energy to preserve our profit margins.

### **THIRD QUARTER RESULTS**

#### **Overview**

Consolidated net sales for the third quarter of 2012 were \$743 million or \$30 million lower than the third quarter of 2011 driven primarily by weakening unit sales volume in our Industrials segments. While we realized \$9 million from higher selling prices, we were unable to offset the effects of a \$26 million decline in sales volume and a \$13 million impact due to unfavorable foreign currency translation. Our Industrial segments continue to experience weaker demand, particularly in Asia and Europe. Demand for electronics was weak in our Industrial Engineered segment, but this decline was offset to a large extent by expansion in other end markets such as insulation foam and mercury control. We experienced stronger sales volume in our Chemtura AgroSolutions segment as a result of our direct sales approach in Brazil coupled with a strong Brazilian growing season as well as benefiting from the warm weather at the end of the season in North America. Sales volumes in our Consumer Products segment improved moderately over the prior year but this was more than offset by negative foreign exchange on our European revenues.

Gross profit for the third quarter of 2012 was \$192 million, an increase of \$18 million compared with the third quarter of 2011. Gross profit as a percentage of net sales increased to 26% for the third quarter of 2012 as compared with 23% for the third quarter of 2011. Gross profit benefited from \$9 million in higher selling prices, \$9 million in lower raw material costs and a \$4 million decrease in other costs, offset by a \$4 million reduction in volume and product mix.

Selling, general and administrative (“SG&A”) expenses of \$77 million were \$7 million lower than the third quarter of 2011. SG&A benefited from a reduction in non-cash stock based compensation expense, lower infrastructure costs in the Chemtura AgroSolutions segment from the restructuring program announced last year, as well as tight control on discretionary expenses in our segments given the more challenging demand environment.

Depreciation and amortization expense of \$36 million was \$1 million higher than the third quarter of 2011, primarily due to an increase in accelerated depreciation associated with our reorganization initiatives.

Research and development expense (“R&D”) of \$12 million was \$1 million higher than the third quarter of 2011.

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Facility closures, severance and related costs of \$1 million in the third quarter of 2012 related to the closure of our Industrial Performance Products segment's antioxidants manufacturing facility in Pedrengo, Italy and other initiatives to improve the operating effectiveness of certain global corporate functions.

During the third quarter of 2012, we recorded an impairment charge of \$35 million related to certain long-lived assets included in the Industrial Performance Products segment. The impairment charges relate to an initiative to monetize portfolio assets that we considered would more-likely-than-not become effective before the end of 2012. These factors resulted in reduced expectations for future cash flows and lower estimated fair values for the respective assets. As we have previously announced, we are working on opportunities to monetize portfolio assets as well as "bolt-on" investment opportunities in our areas of strategic focus, although there are many factors that may influence whether or not we are successful.

Other expense, net was \$6 million in the third quarter of 2012 compared to other expense, net of \$1 million for the third quarter of 2011. The change is primarily the result of net foreign currency losses due to the volatility of the foreign exchange rates during the quarter.

Reorganization items, net of \$1 million in the third quarter of 2012 was \$5 million lower than the third quarter of 2011. The expense in both periods is comprised of professional fees directly associated with the Chapter 11 reorganization and the impact of negotiated claims settlement for which Bankruptcy Court approval has been requested or obtained.

The income tax expense in the third quarter of 2012 was \$2 million compared with expense of \$13 million in the third quarter of 2011. The tax expense reported in the third quarter of 2012 reflects fluctuations in jurisdictional profitability, the tax benefit of an impairment charge against certain long-lived assets in our Industrial Performance Products segment. The tax provision reported in the third quarter of 2011 included approximately \$5 million relating to a foreign tax matter dating back to the 1990s. We have offset our current and prior quarter U.S. income with net operating loss carryforwards and reduced the associated valuation allowance.

Net earnings attributable to Chemtura for the third quarter of 2012 and 2011 were \$9 million, or \$0.09 per share.

The following is a discussion of the results of our segments for the third quarter ended September 30, 2012.

### **Industrial Performance Products**

Our Industrial Performance segment reported the same operating income for the third quarter of 2012, despite lower sales for the same period compared with the same quarter last year. Sales volume across the segment reflected a continued weakness in demand for many of our products in Asia and Europe with the largest year-over-year impact being experienced in our petroleum additive products this quarter. Our ability to maintain operating income improvements given weak market conditions is the result of slightly higher selling prices coupled with moderating raw material and other costs.

Net sales totaled \$314 million in the third quarter of 2012, a decrease of \$28 million compared with last year. The lower results reflect the negative impact of reduced sales volume totaling \$28 million, partially offset by higher selling prices of \$3 million. We also experienced the impact of \$3 million in unfavorable foreign currency translation.

Operating income totaled \$31 million in the third quarter of 2012 and 2011. Operating income was impacted by the increase in selling prices and \$5 million in lower raw material and other costs, offset by lower sales volumes and changes in product mix of \$7 million and \$1 million related to accelerated depreciation associated with the closure of our Pedrengo facility.

As previously disclosed, the U.S. regulatory approvals of our new liquid antioxidant product, Weston® 705, are progressing slower than we anticipated. While the U.S. food and drug administration (the "FDA") previously approved use of the product for aqueous and acidic uses, in the second quarter of 2012, the FDA advised us that we need to submit additional test data in order for it to determine if the product can be approved for fatty food uses. In the fourth quarter of 2012, we expect to request approval of market volume limits on fatty food uses of Weston® 705 and to commence additional testing for unlimited fatty food use. We anticipate submitting test results to FDA in the fourth quarter of 2013.

### **Industrial Engineered Products**

Our Industrial Engineered segment reported higher operating income for the third quarter of 2012, despite lower sales in the same period of 2011. Demand for electronic goods, tin-based organometallics and traditional polyolefin catalysts has weakened over the prior year due to the current economic environment. Continuing growth in other targeted end markets such as insulation foam, mercury control and healthcare coupled with overall price increases over prior year and control of raw material and other costs mitigated these sales volume declines and the resulting unfavorable manufacturing variances. We experienced unfavorable manufacturing absorption variances in certain product lines due to lower production volumes compared with the third quarter of 2011 coupled with the impacts of new production capacity placed in service in recent months.

Net sales decreased by \$9 million to \$213 million for the third quarter of 2012 reflecting \$9 million in lower sales volume and \$4 million from unfavorable foreign currency translation, partially offset by \$4 million from year-on-year increases in selling prices.

Operating income of \$30 million in the third quarter of 2012 was \$5 million higher than the third quarter of 2011. The increase in operating income reflected \$6 million in lower raw material costs, \$4 million of selling price increases and a \$1 million

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decrease in other costs, offset by \$5 million in unfavorable manufacturing costs and variances and \$1 million from lower sales volume and product mix changes.

### **Consumer Products**

Our Consumer Products segment showed an improvement in operating income for the third quarter of 2012 compared with the third quarter of 2011, despite slightly lower sales for the same periods. Sales volume improved moderately over the prior year primarily in the U.S., but were more than offset by negative foreign exchange on our European revenues. Operating income benefited from strong production volume, reflecting the season long improvement in sales volume, which generated favorable manufacturing variances. Our margins were impacted by moderate raw material inflation in an environment where pricing is constant within a season.

Net sales decreased by \$2 million to \$102 million for the third quarter of 2012 compared to the same quarter in 2011. This decrease reflected a \$3 million impact from unfavorable foreign currency translation, offset by \$1 million of higher sales volume.

Operating income increased \$4 million to \$10 million in the third quarter of 2012 compared with operating income of \$6 million in the third quarter of 2011, primarily due to favorable manufacturing variances resulting from increased production volumes in the prior quarter.

### **Chemtura AgroSolutions**

Our Chemtura AgroSolutions segment generated higher net sales and operating income for the third quarter of 2012 compared with the same quarter in 2011. Our change to a direct selling approach in Brazil had a positive effect in the quarter and we benefited from a strong growing season. North America finished strongly, led by an increase in sales of our seed treatment products aided by warmer than normal weather patterns. Europe continued to experience some year-on-year sales volume declines related to unseasonable weather this year. Our improvements continue to be underpinned by our focus on new product and product registration introductions. Operating income reflected the benefit of our strong sales volume and the improvements in our cost base following a restructuring that was implemented in the latter part of 2011.

Net sales increased by \$9 million to \$114 million for the third quarter of 2012 from \$105 million in the same quarter of 2011. The increase reflected \$10 million in higher sales volume and \$2 million in higher selling prices, offset by a \$3 million impact from unfavorable foreign currency translation.

Operating income increased \$10 million to \$21 million in the third quarter of 2012 compared with \$11 million in the third quarter of 2011, reflecting a \$4 million increase in sales volume and favorable product mix, \$2 million lower SG&A and R&D (collectively "SGA&R") costs, and a \$2 million decrease in other costs.

### **General Corporate**

Included in general corporate expenses are costs and expenses that are of a general nature or managed on a corporate basis. These costs, net of allocations to the business segments, primarily represent corporate stewardship and administration activities together with costs associated with legacy activities and intangible asset amortization. Functional costs are allocated between the business segments and general corporate expense.

Corporate expense was \$24 million in the third quarter of 2012, which included \$8 million of amortization expense related to intangible assets. In comparison, corporate expense was \$28 million in the third quarter of 2011, which included \$9 million of amortization expense related to intangible assets.

## **YEAR TO DATE RESULTS**

### **Overview**

Consolidated net sales were \$2.3 billion for the nine months ended September 30, 2012 or \$52 million lower than 2011. The increase of \$75 million in selling prices was fully offset by \$89 million in sales volume declines and \$38 million from the unfavorable effects of foreign currency translation. Our Industrial segments accounted for \$69 million of the selling price increase as we increased selling prices in the first nine months of 2012 in our brominated flame and petroleum additive products to offset the effects of rising raw material costs. Sales volume increases in our Consumer Products and Chemtura AgroSolutions products compared with the same period last year, were unable to fully offset the effect of sales volume declines in our Industrials segments. Sales volume gains in our Chemtura AgroSolutions segment reflect new products and product registrations coupled with strong selling seasons in North American and Brazil. Our Consumer Products segment benefited from regaining a mass market customer for the 2012 season, partly offset by a harsh weather season in Europe. The first half of

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2011 saw strong demand conditions for our Industrial segments prior to the weakening in global demand conditions in the second half of 2011. While there have been improvements in some industries and we have introduced new product offerings and applications since the second half of 2011, overall demand has not recovered and demand in Asia Pacific and Europe has weakened. The impact of unfavorable foreign currency translation was experienced by all of our segments due to the volatility of foreign exchange rates in the first nine months of 2012.

Gross profit for the nine months ended September 30, 2012 was \$576 million, an increase of \$17 million compared with the nine months ended September 30, 2011. Gross profit as a percentage of net sales increased slightly to 25% for the nine months ended September 30, 2012 compared to 24% in same period of 2011. Gross profit reflected the higher year-on-year selling prices and a \$4 million decrease in other costs, offset by a decrease in sales volume of \$24 million, unfavorable manufacturing variances and costs of \$22 million, the impact of unfavorable foreign currency translation of \$8 million, increases in raw materials of \$5 million and \$3 million in higher accelerated recognition of asset retirement obligation primarily related to the closure of our Pedrengo, Italy facility. Unfavorable manufacturing variances were driven by lower production volumes, interruptions in plant operations to install new capacity and other unplanned plant outages.

SG&A expense of \$233 million was \$22 million lower than the nine months ended September 30, 2011. In the first six months of 2011, we increased our allowance for doubtful accounts reserve related primarily to the Chemtura AgroSolutions segment. The market environment in this segment has improved and there is no need for a similar level of new reserves in 2012 resulting in a \$6 million year-over-year benefit in the first nine months of 2012. SG&A also benefited from a \$6 million reduction in non-cash stock based compensation expense and a \$10 million reduction in other costs. The first nine months of 2012 continued to benefit from lower infrastructure costs in the Chemtura AgroSolutions segment from the restructuring program announced last year as well as tight control on discretionary expenses across all of our segments given the more challenging demand environment when compared to the same period of 2011.

R&D expense of \$37 million was \$4 million higher than the nine months ended September 30, 2011.

Facility closures, severance and related costs of \$24 million in the nine months ended September 30, 2012 related to the closure of our Industrial Performance Products segment's antioxidants manufacturing facility in Pedrengo, Italy and other initiatives to improve the operating effectiveness of certain global corporate functions.

During the third quarter of 2012, we recorded an impairment charge of \$35 million related to certain long-lived assets included in the Industrial Performance Products segment. The impairment charges relate to an initiative to monetize portfolio assets that we considered would more-likely-than-not become effective before the end of 2012. These factors resulted in reduced expectations for future cash flows and lower estimated fair values for the respective assets. As we have previously announced, we are working on opportunities to monetize portfolio assets as well as "bolt-on" investment opportunities in our areas of strategic focus, although there are many factors that may influence whether or not we are successful.

Changes in estimates related to expected allowable claims were \$1 million for the nine months ended September 30, 2012 and 2011, as we reduced the number of claims remaining in our Disputed Claim Reserve.

Interest expense of \$47 million during the nine months ended September 30, 2012 was \$1 million lower than the nine months ended September 30, 2011.

Other expense, net of \$3 million in the nine months ended September 30, 2012 was \$2 million higher than the nine months ended September 30, 2011. The change is primarily the result of higher net foreign currency losses, offset by higher interest income.

Reorganization items, net of \$4 million in the nine months ended September 30, 2012 was \$15 million lower than the nine months ended September 30, 2011. The expense in both periods comprised professional fees directly associated with the Chapter 11 reorganization and the impact of negotiated claims settlement for which Bankruptcy Court approval has been requested or obtained.

The income tax expense in the nine months ended September 30, 2012 was \$9 million compared with expense of \$10 million in the nine months ended September 30, 2011. The tax expense reported for the nine month period ended September 30, 2012 reflects fluctuations in jurisdictional profitability, the tax benefit of an impairment charge against certain long-lived assets in our Industrial Performance Products segment, as well as the tax benefit of the second quarter restructuring charge. The tax expense reported in the nine month period ended September 30, 2011 included a decrease in deferred foreign income taxes of approximately \$17 million that had been recorded in an international jurisdiction in prior years and an increase in foreign income taxes of approximately \$5 million relating to a foreign tax matter dating back to the 1990s. The tax benefit was recorded after receiving approval from the international jurisdiction to change our filing position. We have offset our current and prior year-to-date U.S. income with net operating loss carryforwards and reduced the associated valuation allowance.

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Net earnings attributable to Chemtura for the nine months ended September 30, 2012 were \$81 million, or \$0.82 per share, as compared with \$85 million, or \$0.85 per share for the nine months ended September 30, 2011.

The following is a discussion of the results of our segments for the nine months ended September 30, 2012.

**Industrial Performance Products**

Our Industrial Performance segment reported lower net sales and operating income in the nine months ended September 30, 2012 compared with last year. All of our product lines experienced demand weakness in some of their end markets. Sales volume across the segment was lower than last year as demand has not yet generally recovered from the decline experienced in the second half of 2011 and there was continuing weakness in Asia as well as Europe. A significant contributor to reducing the impact on operating income from lower sales volumes was improved mix through selling higher margin products, coupled with the year-over-year increases in selling prices. All product lines within the segment continued to deliver year-on-year price increases to cover increases in raw material cost, which are stabilizing as we finish the third quarter of 2012.

Net sales totaled \$966 million in the nine months ended September 30, 2012, a decrease of \$82 million compared with last year. Lower sales reflect the negative impact of reduced sales volume totaling \$97 million coupled with the impact of unfavorable foreign currency translation of \$11 million, partially offset by higher selling prices of \$26 million.

Operating income totaled \$88 million in the nine months ended September 30, 2012, a decrease of \$12 million compared with last year. Price increases only partly offset the \$26 million decrease in volume adjusted for product mix and manufacturing variances, a \$9 million increase in raw materials costs and \$3 million related to the impact of unfavorable foreign currency translation.

As previously disclosed, the U.S. regulatory approvals of our new liquid antioxidant product, Weston® 705, are progressing slower than we anticipated. While the FDA previously approved use of the product for aqueous and acidic uses, in the second quarter of 2012, the FDA advised us that we need to submit additional test data in order for it to determine if the product can be approved for fatty food uses. In the fourth quarter of 2012, we expect to request approval of market volume limits on fatty food uses of Weston® 705 and to commence additional testing for unlimited fatty food use. We anticipate submitting test results to FDA in the fourth quarter of 2013.

**Industrial Engineered Products**

Our Industrial Engineered segment delivered improvements in operating income over the same nine month period in 2011 despite flat net sales. Improvement in selling prices completely offset the effect of sales volume declines and the unfavorable effects of foreign currency translation. Increases in selling prices were implemented to cover the higher cost of raw materials and other manufacturing and distribution costs as well as to support the required capacity reinvestments for sustainable and reliable supply of products to our customers. Demand for electronic goods, tin-based organometallics and traditional polyolefin catalysts has weakened over the prior year due to current economic conditions. Continued growth in targeted end markets such as insulation foam, mercury control and healthcare have mitigated the effects of other sales volume declines and reflect the benefit of our investment in new product and application development. With lower production volumes than in the first nine months of 2011 coupled with the cost impacts from bringing new production capacity on-line in 2012, the segment generated unfavorable manufacturing absorption variances in the nine months ended September 30, 2012. Raw material costs were stabilizing as we finished the third quarter of 2012.

Net sales of \$675 million for the nine months ended September 30, 2012 was unchanged as compared to 2011. Net sales reflected the benefit of \$43 million in increased selling prices, offset by \$33 million in lower sales volume and \$10 million from the impact of unfavorable foreign currency translation.

Operating income increased \$12 million to \$112 million in the nine months ended September 30, 2012 compared with \$100 million in the nine months ended September 30, 2011. The increase reflected the favorable selling price increases and \$8 million from lower raw material costs, which were offset by \$28 million in unfavorable manufacturing costs and absorption variances, \$4 million in lower sales volume and a \$7 million increase in other costs.

**Consumer Products**

Our Consumer Products segment reported operating income that was unchanged over the same nine months period ended September 30, 2011 on flat net sales. Net sales benefited from an increase in volume due to regaining a mass market customer for our 2012 season and increased volume in North America, which was offset by sales volume declines in Europe due to colder and wetter weather conditions than in recent years. Lower manufacturing variances and lower SGA&R were unable to offset unfavorable product mix, increasing raw material costs and the unfavorable effects of foreign exchange translation on our European revenues.

Net sales increased by \$9 million to \$344 million in the nine months ended September 30, 2012. This increase reflected \$16 million of higher sales volume and \$1 million in higher selling prices, partially offset by \$8 million from the impact of unfavorable foreign currency translation.

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Operating income of \$25 million in the nine months ended September 30, 2012 was unchanged from the nine months ended September 30, 2011. Lower manufacturing costs and variances of \$4 million and lower SGA&R costs of \$4 million were offset by a \$5 million increase in raw material cost and a \$3 million impact from unfavorable foreign currency translation.

### **Chemtura AgroSolutions**

Our Chemtura AgroSolutions segment reported higher net sales and operating income for the nine months ended September 30, 2012 compared with the same period in 2011. Net sales increased over the prior year period as a result of improved sales volume primarily from new product introductions, changes to a direct sales approach in Brazil and strong selling seasons in North America and Brazil. Operating income reflected the benefit of favorable sales volume and product mix, reductions in bad debt expense compared to 2011 and the improvements in our cost base following the restructuring that was implemented in the latter part of 2011. Net sales and operating income benefited from increases in selling prices, however, weakening of international currencies against the U.S. dollar offset some of the benefit of higher sales selling prices and sales volume.

Net sales increased by \$21 million to \$311 million for the nine months ended September 30, 2012 from \$290 million in the same period of 2011, primarily reflecting \$25 million in higher sales volume and \$5 million in higher selling prices, partially offset by a \$9 million impact from unfavorable foreign currency translation.

Operating income increased \$29 million to \$54 million in the nine months ended September 30, 2012 compared with \$25 million in the nine months ended September 30, 2011. The primary driver was a decrease in SGA&R of \$14 million which reflects the benefit of the restructuring actions taken in 2011 and a reduction of bad debt expense from that recognized in 2011. Operating income also reflected the increase in selling prices, a \$7 million benefit from increased sales volume and favorable product mix, \$5 million, collectively, in lower raw material, manufacturing, distribution and other costs, partly offset by a \$2 million impact from unfavorable foreign currency translation.

### **General Corporate**

Corporate expense was \$75 million in the nine months ended September 30, 2012, which included \$24 million of amortization expense related to intangible assets. In comparison, corporate expense was \$82 million in the nine months ended September 30, 2011, which included \$29 million of amortization expense related to intangible assets. Corporate expenses benefited from a company-wide focus on cost control.

## **LIQUIDITY AND CAPITAL RESOURCES**

### **Emergence from Chapter 11**

On March 18, 2009 (the "Petition Date") Chemtura and 26 of our U.S. affiliates (collectively the "U.S. Debtors" or the "Debtors" when used in relation to matters before August 8, 2010) filed voluntary petitions for relief under Chapter 11 of Title 11 of the United States Code ("Chapter 11") in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court").

On August 8, 2010, our Canadian subsidiary, Chemtura Canada Co/Cie ("Chemtura Canada"), filed a voluntary petition for relief under Chapter 11. The U.S. Debtors along with Chemtura Canada after it filed for Chapter 11 (collectively the "Debtors") requested the Bankruptcy Court to enter an order jointly administering Chemtura Canada's Chapter 11 case with the previously filed Chapter 11 cases and appoint Chemtura Canada as the "foreign representative" for the purposes of the Canadian Case. Such orders were granted on August 9, 2010. On August 11, 2010, the Canadian Court entered an order recognizing the Chapter 11 cases as "foreign proceedings" under the CCAA.

On November 3, 2010, the Bankruptcy Court entered an order confirming the Debtors' plan of reorganization (the "Plan"). On November 10, 2010 (the "Effective Date"), the Debtors substantially consummated their reorganization through a series of transactions contemplated by the Plan and the Plan became effective. As of September 30, 2012, the Bankruptcy Court has entered orders granting final decrees closing all of the Debtors' Chapter 11 cases except the Chapter 11 case of Chemtura Corporation.

For further discussion of the Chapter 11 cases, see Note 16 - Emergence from Chapter 11 in our Notes to Consolidated Financial Statements.

### **Financing Facilities**

On August 27, 2010, we completed a private placement offering under Rule 144A of \$455 million aggregate principal amount of 7.875% senior notes due 2018 (the "Senior Notes") at an issue price of 99.269% in reliance on an exemption pursuant to

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Section 4(2) of the Securities Act of 1933. We also entered into a senior secured term facility credit agreement due 2016 (the “Term Loan”) with Bank of America, N.A., as administrative agent, and other lenders party thereto for an aggregate principal amount of \$295 million with an original issue discount of 1%. The Term Loan permits us to increase the size of the facility by up to \$125 million. On October 31, 2012, we exercised the accordion feature of our Term Loan and borrowed the additional principle of \$125 million for the purpose of funding potential investment opportunities and for general corporate purposes. On November 10, 2010, we entered into a five-year senior secured revolving credit facility available through 2015 (the “ABL Facility”) for an amount up to \$275 million, subject to availability under a borrowing base (with a \$125 million letter of credit sub-facility). The ABL Facility permits us to increase the size of the facility by up to \$125 million subject to obtaining lender commitments to provide such increase. At September 30, 2012, we had no borrowings under the ABL Facility and \$14 million of outstanding letters of credit (primarily related to insurance obligations, environmental obligations and banking credit facilities) which utilizes available capacity under the facility. At September 30, 2012, we had approximately \$228 million of undrawn availability under the ABL Facility.

These facilities contain covenants that limit, among other things, our ability to enter into certain transactions, such as creating liens, incurring additional indebtedness or repaying certain indebtedness, making investments, paying dividends, and entering into acquisitions, dispositions and joint ventures. The Term Loan requires that we meet certain quarterly financial maintenance covenants including a maximum Secured Leverage Ratio (as defined in the agreement) of 2.5:1.0 and a minimum Consolidated Interest Coverage Ratio (as defined in the agreement) of 3.0:1.0. The ABL Facility contains a springing financial covenant requiring a minimum trailing 12-month fixed charge coverage ratio of 1.1 to 1.0 at all times during any period from the date when the amount available for borrowings under the ABL Facility falls below the greater of (i) \$34 million and (ii) 12.5% of the aggregate commitments until such date such available amount has been equal to or greater than the greater of (i) \$34 million and (ii) 12.5% of the aggregate commitments for 45 consecutive days. As of September 30, 2012, we were in compliance with the covenant requirements of these financing facilities.

For further discussion of the financing facilities, see Note 7 — Debt in our Notes to Consolidated Financial Statements.

### **Accounts Receivable Financing Facility**

On October 26, 2011, certain of our European subsidiaries (the “Sellers”) entered into a trade receivables financing facility (the “A/R Financing Facility”) with GE FactoFrance SAS as purchaser (the “Purchaser”). Pursuant to the A/R Financing Facility, and subject to certain conditions stated therein, the Purchaser has agreed to purchase from the Sellers, on a revolving basis, certain trade receivables up to a maximum amount outstanding at any time of €68 million (approximately \$88 million). The A/R Financing Facility is uncommitted and has an indefinite term. Since availability under the A/R Financing Facility is expected to vary depending on the value of the Sellers’ eligible trade receivables, the Sellers’ availability under the A/R Financing Facility may increase or decrease from time to time. The monthly financing fee on the drawn portion of the A/R Financing Facility is the applicable Base Rate plus 1.50%. In addition, the A/R Financing Facility is subject to a minimum commission on the annual volume of transferred accounts receivables. At September 30, 2012, \$2 million of international accounts receivables were outstanding under the A/R Financing Facility.

### **Share Repurchase Program**

On October 18, 2011, we announced that our Board of Directors (the “Board”) had authorized us to repurchase up to \$50 million of our common stock over the next twelve months. On July 31, 2012, our Board authorized an increase in our share repurchase program from \$50 million to up to \$100 million and extended the program through November 2013. The shares are expected to be repurchased from time to time through open market purchases. The program, which does not obligate us to repurchase any particular amount of common stock, may be modified or suspended at any time at the Board’s discretion. The manner, price, number and timing of such repurchases, if any, will be subject to a variety of factors, including market conditions and the applicable rules and regulations of the Securities and Exchange Commission (“SEC”). During the quarter ended September 30, 2012, we purchased 0.7 million shares for \$10 million and during the nine months ended September 30, 2012, we purchased 1.4 million shares for \$20 million. As of September 30, 2012, we had total purchases of 3.4 million shares for \$41 million under this program.

### **Solaris Acquisition**

On September 26, 2012, we announced that we entered into a Business Transfer Agreement (“BTA”) with Solaris ChemTech Industries Limited (“Solaris ChemTech”), an Indian Company, and Avantha Holdings Limited, an Indian Company and the parent company of Solaris ChemTech (collectively, “Solaris”). As provided in the BTA, we have agreed to purchase from Solaris certain assets used in the manufacture and distribution of bromine and bromine chemicals for cash consideration of \$142 million and the assumption of certain liabilities. The purchase price is subject to a post-closing net working capital adjustment. The acquisition is subject to usual and customary closing conditions and is expected to close as soon as practicable.

## Restructuring Initiatives

On April 30, 2012, our Board approved a restructuring plan providing for, among other things, the closure of our Industrial Performance Products segment's antioxidants manufacturing facility in Pedrengo, Italy. The Board also approved actions to improve the operating effectiveness of certain global corporate functions. This plan is expected to achieve significant gains in efficiency and costs. The plant closure is expected to be completed by the first quarter of 2013. The restructuring plan is anticipated to generate cash savings of approximately \$15 million in 2013. The total cost of the restructuring plan is estimated to be approximately \$40 million of which approximately \$6 million will consist of non-cash charges. We recorded a pre-tax charge of \$28 million in the nine months ended September 30, 2012, which included \$2 million for accelerated depreciation of property, plant and equipment included in depreciation and amortization, \$2 million for accelerated asset retirement obligations included in cost of goods sold, and \$24 million for severance and other obligations related to the Pedrengo closure and corporate initiatives included in facility closures, severance and related costs, with the balance of the costs being expensed as incurred through 2013.

## Cash Flows from Operating Activities

Net cash provided by operating activities was \$111 million for the nine months ended September 30, 2012 compared to net cash provided by operating activities of \$91 million in the same period last year. Changes in key working capital accounts are summarized below:

Favorable (unfavorable) (In millions)	Nine months ended September 30, 2012	Nine months ended September 30, 2011
Accounts receivable	\$ (33)	\$ (11)
Inventories	(23)	(37)
Accounts payable	36	(14)
Pension and post-retirement health care liabilities	(71)	(74)

During the nine months ended September 30, 2012, accounts receivable increased by \$33 million over December 31, 2011 primarily driven by increased sales for our Chemtura AgroSolutions and Industrial Engineered products. Inventory increased by \$23 million over December 31, 2011 primarily as a result of inventory build in our Industrial Performance segment due to new products in our Emerald Innovation™ line and lower demand for our tin-based organometallics and traditional polyolefin catalysts as well as seasonal inventory build for our Chemtura AgroSolutions segment. Accounts payable increased by \$36 million in the nine months ended September 30, 2012 primarily a result of higher raw material purchases supporting our Chemtura AgroSolutions inventory and our new Emerald Innovation™ products, as well as the timing of vendor payments. Pension and post-retirement health care liabilities decreased \$71 million primarily due to the funding of benefit obligations. Pension and post-retirement contributions amounted to \$82 million for the nine months ended September 30, 2012 which included \$51 million for domestic plans and \$31 million for international plans.

Cash flows from operating activities for the nine months ended September 30, 2012 were adjusted by the impact of certain non-cash and other charges, which primarily included depreciation and amortization expense of \$104 million, impairment charges of \$35 million and stock-based compensation expense of \$14 million.

During the nine months ended September 30, 2011, accounts receivable increased by \$11 million driven by increased sales volume principally within the Industrial Performance Products and Industrial Engineered Products segments. Inventory increased \$37 million during the nine months ended September 30, 2011 reflecting increased cost of raw materials and higher sales volumes. Accounts payable decreased by \$14 million in the nine months ended September 30, 2011 primarily a result of timing of vendor payments. Pension and post-retirement health care liabilities decreased due to the funding of benefit obligations. Pension and post-retirement contributions amounted to \$83 million in 2011, which included \$24 million for domestic plans and \$59 million for international plans.

Cash flows from operating activities for the nine months ended September 30, 2011 were adjusted by the impact of certain non-cash and other charges, which primarily included depreciation and amortization expense of \$106 million, stock-based compensation expense of \$22 million and impairment charges of \$3 million.



## **Cash Flows from Investing and Financing Activities**

### *Investing Activities*

Net cash used in investing activities was \$85 million for the nine months ended September 30, 2012. Investing activities were related to \$94 million in capital expenditures for U.S. and international facilities, environmental and other compliance requirements, partially offset by \$9 million in proceeds received from the sale of our 50% interest in Tetrabrom Technologies Ltd.

Net cash used in investing activities was \$125 million for the nine months ended September 30, 2011. Investing activities were primarily related to payments for joint ventures of \$33 million, which included \$28 million for ISEM and \$5 million for DayStar Materials, LLC, and \$92 million in capital expenditures for U.S. and international facilities, environmental and other compliance requirements.

### *Financing Activities*

Net cash used in financing activities was \$20 million for the nine months ended September 30, 2012, which included shares acquired under our share repurchase program of \$20 million.

Net cash provided by financing activities was \$26 million for the nine months ended September 30, 2011, which primarily included proceeds from the ABL Facility of \$20 million and proceeds from short term borrowings of \$5 million.

## **Settlements of Disputed Claims**

In the nine months ended September 30, 2012, we distributed approximately \$5 million of restricted cash associated with our Chapter 11 cases. These settlements were comprised of a \$3 million supplemental distribution to holders of the former Chemtura common stock ("Holders of Interests") and \$2 million for general unsecured claims. Additionally, we issued approximately \$26 million of common stock which included a \$23 million supplemental distribution to Holders of Interests and \$3 million for general unsecured claims.

In the nine months ended September 30, 2011, we settled approximately \$36 million of disputed claims asserted in our Chapter 11 cases with restricted cash. These settlements were comprised of \$27 million for environmental items, \$6 million for general unsecured claims, a \$2 million supplemental distribution to Holders of Interests and \$1 million for disputed cure claims. Additionally, we issued approximately \$30 million of common stock which included a \$15 million supplemental distribution to Holders of Interests and \$15 million for general secured claims.

## **Future Liquidity**

In 2012, we expect to finance our continuing operations and capital spending requirements with cash flows provided by operating activities, available cash and cash equivalents, borrowings under our Term Loan, ABL Facility, the A/R Financing Facility and other sources. Cash and cash equivalents as of September 30, 2012 were \$187 million.

## **Contractual Obligations and Other Cash Requirements**

During the nine months ended September 30, 2012, we made aggregate contributions of \$73 million to our U.S. and international pension plans and \$9 million to our post-retirement benefit plans. We expect to make approximately \$6 million of contributions to these plans during the remainder of 2012.

On May 9, 2011, one of our UK subsidiaries entered into definitive agreements with the trustees of the Great Lakes U.K. Limited Pension Plan ("UK Pension Plan") over the terms of a "recovery plan" which provided for a series of additional cash contributions to be made to reduce the underfunding over time. The agreements provided, among other things, for our UK subsidiary to make cash contributions of £60 million (approximately \$96 million) in just over a three year period, with the initial contribution of £30 million (\$49 million) made in the second quarter of 2011 and the second contribution of £15 million (\$24 million) made in the second quarter of 2012. The agreements also provided for the granting of both a security interest and a guarantee to support certain of the liabilities under the UK Pension Plan.

There is also an evaluation being undertaken as to whether additional benefit obligations exist in connection with the equalization of certain benefits under the UK Pension Plan that occurred in the early 1990s. Based on the results of the evaluation to date, \$8 million of expense was recorded in the fourth quarter of 2011, which may be subject to adjustment as further information is gathered as part of the evaluation. Upon completion of the evaluation and the finalization of the liability with respect to additional benefit obligations, additional cash contributions to the UK Pension Plan may be required starting in 2013. There were no changes to the evaluation during the third quarter of 2012.

We had net liabilities related to unrecognized tax benefits of \$47 million at September 30, 2012. We believe it is reasonably possible that our unrecognized tax benefits may decrease by approximately \$8 million within the next 12 months.

## **Guarantees**

In addition to \$14 million in outstanding letters of credit at September 30, 2012, we have guarantees that have been provided to various financial institutions. At September 30, 2012, we had \$12 million of outstanding guarantees primarily related to vendor deposits. The letters of credit and guarantees were primarily related to liabilities for insurance obligations, environmental obligations, banking credit facilities, vendor deposits and European value added tax (“VAT”) obligations.

## **CRITICAL ACCOUNTING ESTIMATES**

Our Consolidated Financial Statements have been prepared in conformity with U.S. generally accepted accounting principles (“GAAP”), which require management to make estimates and assumptions that affect the amounts and disclosures reported in our Consolidated Financial Statements and accompanying notes. Our estimates are based on historical experience and currently available information. Management’s Discussion and Analysis of Financial Condition and Results of Operations and the Accounting Policies footnote in our 2011 Annual Report on Form 10-K describe the critical accounting estimates and accounting policies used in the preparation of our Consolidated Financial Statements. Actual results could differ from management’s estimates and assumptions. There have been no significant changes in our critical accounting estimates during the nine month period ended September 30, 2012.

## **2012 TRENDS**

The third quarter of 2012 followed the trend we have been experiencing in 2012 of lower macroeconomic demand resulting in lower sales volumes for our Industrial segments. Electronics, an end market for a portion of our flame retardants, declined at a faster rate than the majority of our industrial markets and this was particularly evident in the third quarter. Despite a brief abatement in the first quarter, the reduction in end market electronics demand that initially started in the third quarter of 2011, and has driven inventory correction throughout the electronics supply chain, has continued and there is uncertainty as to when this cycle will reverse. Nevertheless, the Industrial Engineered segment has found growth in other end applications for bromine such as insulation foams and mercury control. Demand for some of our Industrial Performance products has declined, particularly in the Asia Pacific region and to a lesser extent in Europe.

With continuing economic uncertainty, we are unlikely to see recovery in industrial demand in the fourth quarter and there remains a risk of further weakening. We continue to look beyond the macroeconomic environment to focus on gaining revenues from sales of new products or into new applications and maintaining tight control on costs to offset some of this weakness. Against this backdrop, we continue to target year-over-year improvement in the fourth quarter of 2012 but recognize it will be harder to achieve than it was in the third quarter of 2012.

Our Chemtura AgroSolutions segment has delivered improved performance this year driven by new products and registrations, a change in marketing strategies and strong growing seasons in several of our key geographic locations combined with lower fixed costs and bad debt expense. The global agrochemical economy remains robust and we should continue to deliver year-over-year improvement throughout the remainder of the year although our fourth quarter is traditionally our lowest revenue quarter as we only have the benefit of the southern hemisphere growing season. Our Consumer Products segment will begin its customary early-buy program for the 2013 season in the fourth quarter and with new product offerings for the season. With increased sales volumes and strong control on costs, we anticipate this segment will deliver year-over-year improvement for the fourth quarter of 2012.

## **FORWARD-LOOKING STATEMENTS**

In addition to historical information, this Report contains “forward-looking statements” within the meaning of Section 27(a) of the Securities Act of 1933, as amended and Section 21(e) of the Exchange Act of 1934, as amended. We use words such as “anticipate,” “believe,” “intend,” “estimate,” “expect,” “continue,” “should,” “could,” “may,” “plan,” “project,” “predict,” “will” and similar expressions to identify forward-looking statements. Such statements include, among others, those concerning our expected financial performance and strategic and operational plans, as well as all assumptions, expectations, predictions, intentions or beliefs about future events. You are cautioned that any such forward-looking statements are not guarantees of future performance and that a number of risks and uncertainties could cause actual results to differ materially from those anticipated in the forward-looking statements.

Such risks and uncertainties include, but are not limited to:

- The cyclical nature of the global chemicals industry;

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- Increases in the price of raw materials or energy and our ability to recover cost increases through increased selling prices for our products;
- Disruptions in the availability of raw materials or energy;
- Our ability to implement our growth strategies in rapidly growing markets;
- Our ability to execute timely upon our portfolio management strategies and mid and long range business plans;
- Our ability to obtain the requisite regulatory and other approvals to implement the plan to build a new multi-purpose manufacturing facility in Nantong, China;
- Declines in general economic conditions;
- The European debt crisis;
- The ability to comply with product registration requirements of regulatory authorities, including the U.S. food and drug administration (the “FDA”) and European Union REACH legislation;
- The effect of adverse weather conditions;
- The ability to grow profitability in our Chemtura AgroSolutions segment;
- Demand for Chemtura AgroSolutions segment products being affected by governmental policies;
- Current and future litigation, governmental investigations, prosecutions and administrative claims;
- Environmental, health and safety regulation matters;
- Federal regulations aimed at increasing security at certain chemical production plants;
- Significant international operations and interests;
- Our ability to maintain adequate internal controls over financial reporting;
- Exchange rate and other currency risks;
- Our dependence upon a trained, dedicated sales force;
- Operating risks at our production facilities;
- Our ability to protect our patents or other intellectual property rights;
- Whether our patents may provide full protection against competing manufacturers;
- Our ability to remain technologically innovative and to offer improved products and services in a cost-effective manner;
- The risks to our joint venture investments resulting from lack of sole decision making authority;
- Our unfunded and underfunded defined benefit pension plans and post-retirement welfare benefit plans;
- Risks associated with possible climate change legislation, regulation and international accords;
- The ability to support the carrying value of the goodwill and long-lived assets related to our businesses;
- Whether we repurchase any of the additional shares of our common stock that our Board of Directors have authorized us to purchase and the terms on which any such repurchases are made; and
- Other risks and uncertainties described in our filings with the Securities and Exchange Commission including Item 1A, Risk Factors, in our Annual Report on Form 10-K.

These statements are based on our estimates and assumptions and on currently available information. The forward-looking statements include information concerning our possible or assumed future results of operations, and our actual results may differ significantly from the results discussed. Forward-looking information is intended to reflect opinions as of the date this Form 10-Q was filed. We undertake no duty to update any forward-looking statements to conform the statements to actual results or changes in our operations.

**ITEM 3. Quantitative and Qualitative Disclosures About Market Risk**

This Item should be read in conjunction with Item 7A - Quantitative and Qualitative Disclosures About Market Risk and Note 15 - Derivative Instruments and Hedging Activities to the Consolidated Financial Statements in our 2011 Annual Report on Form 10-K. Also see Note 12 - Derivative Instruments and Hedging Activities in our Notes to Consolidated Financial Statements (unaudited) included in this Form 10-Q.

The fair market value of long-term debt is subject to interest rate risk. Our total debt amounted to \$754 million at September 30, 2012. The fair market value of such debt as of September 30, 2012 was \$805 million, which has been determined primarily based on quoted market prices.

On November 28, 2011, we sold our 50% interest in Tetrabrom Technologies Ltd. for net consideration of \$38 million. The consideration will be paid in equal annual installments over a three year period. In February 2012, we purchased two forward contracts with a notional amount totaling \$38 million to reduce the risk of currency exposure related to the three annual installments of this receivable. These contracts came due on the same day we received the first annual installment. We use fair value accounting methods for these contracts. We recorded a realized loss associated with the settlement of these contracts of less than \$1 million in the second quarter of 2012 in other income (expense), net in our Consolidated Statement of Operations.

In April 2012, we purchased two additional forward contracts with a notional amount totaling \$25 million to reduce the risk of currency exposure related to the remaining two annual installments of the receivable. We use fair value accounting methods for these contracts and have recorded a loss of less than \$1 million reflecting the changes in the fair market value of these contracts in other income (expense), net in our Consolidated Statement of Operations for the third quarter of 2012. The resulting net liability of the changes in fair market value of these contracts of less than \$1 million has been accounted for in other current assets and other assets in our Consolidated Balance Sheet.

There have been no other significant changes in market risk during the quarter ended September 30, 2012.

**ITEM 4. Controls and Procedures**

(a) *Disclosure Controls and Procedures*

As of September 30, 2012, our management, including our Chief Executive Officer (“CEO”) and Chief Financial Officer (“CFO”), have conducted an evaluation of the effectiveness of the design and operation of our disclosure controls and procedures pursuant to Rule 13a-15(b) of the Exchange Act. Based on that evaluation, our CEO and CFO concluded that our disclosure controls and procedures are effective as of the end of the period covered by this Report.

(b) *Changes in Internal Control Over Financial Reporting*

There have been no changes in our internal control over financial reporting during the third quarter ended September 30, 2012, that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**PART II. OTHER INFORMATION****ITEM 1. Legal Proceedings**

See Note 17 — Legal Proceedings and Contingencies in our Notes to Consolidated Financial Statements for a description of our legal proceedings.

**ITEM 1A. Risk Factors**

Our risk factors are described in our 2011 Annual Report on Form 10-K as updated in our Quarterly Report on Form 10-Q for the three months ended June 30, 2012. Investors are encouraged to review those risk factors in detail before making any investment in our securities. There have been no significant changes in our risk factors during the quarter ended September 30, 2012.

**ITEM 2. Unregistered Sales of Equity Securities and Use of Proceeds****Issuer Purchases of Equity Securities During the Third Quarter of 2012**

On October 18, 2011, we announced that our Board had authorized us to repurchase up to \$50 million of our common stock over the next twelve months. On July 31, 2012, our Board authorized an increase in our share repurchase program from \$50 million to up to \$100 million and extended the program to November 2013. The shares are expected to be repurchased from time to time through open market purchases. The program, which does not obligate us to repurchase any particular amount of common stock, may be modified or suspended at any time at the Board's discretion. The manner, price, number and timing of such repurchases, if any, will be subject to a variety of factors, including market conditions and the applicable rules and regulations of the Securities and Exchange Commission ("SEC"). As of September 30, 2012, we had purchased 3.4 million shares for \$41 million. The remaining allowance under the program was approximately \$59 million.

The following table provides information about our repurchases of equity securities during the quarter ended September 30, 2012.

<u>Period</u>	<u>Total Number of Shares Purchased</u> <u>(in millions)</u>	<u>Average Price Paid per Share</u>	<u>Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs</u> <u>(in millions)</u>	<u>Approximate Dollar Value of Shares that May Yet Be Purchased Under the Plans or Programs</u> <u>(in millions)</u>
July 1, 2012 - July 31, 2012	0.6	\$ 13.41	0.6	\$ 60
August 1, 2012 - August 31, 2012	0.1	\$ 13.47	0.1	\$ 59
September 1, 2012 - September 30, 2012	—	\$ —	—	\$ 59
<b>Total</b>	<u>0.7</u>		<u>0.7</u>	

**ITEM 5. Other Information**

**Senior Secured Term Loan Facility Amendment**

On October 31, 2012, we entered into an amendment and supplement (the “Amendment”) to our Term Loan, pursuant to which we increased the amount of our Term Loan by \$125,000,000 (the “Incremental Term Loans”), to an aggregate principal amount of \$420,000,000. Proceeds of the Incremental Term Loans are expected to be used for the purpose of funding potential “bolt-on” investment opportunities and for general corporate purposes.

The Amendment also modified certain terms of the Term Loan to increase the baskets under the negative covenants related to certain foreign working capital facilities and foreign vendor financing facilities, certain secured cash management and/or hedge agreements and investments in joint ventures.

A copy of the Amendment is attached as Exhibit 10.1 to this Quarterly Report on Form 10-Q. The description of the material terms of the Amendment is qualified in its entirety by reference to such exhibit.

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**ITEM 6. Exhibits**

The following documents are filed as part of this report:

<b>Number</b>	<b>Description</b>
2.1	Business Transfer Agreement by and among Chemtura Corporation, Solaris ChemTech Industries Limited and Avantha Holdings Limited, dated September 26, 2012.**
10.1	Amendment and Supplement to the Senior Secured Term Facility Credit Agreement, dated October 31, 2012, among Chemtura Corporation, Bank of America, N.A., as Administrative Agent and the banks, financial institutions and other institutional lenders parties thereto. *
31.1	Certification of Periodic Report by Chemtura Corporation's Chief Executive Officer (Section 302).
31.2	Certification of Periodic Report by Chemtura Corporation's Chief Financial Officer (Section 302).
32.1	Certification of Periodic Report by Chemtura Corporation's Chief Executive Officer (Section 906).
32.2	Certification of Periodic Report by Chemtura Corporation's Chief Financial Officer (Section 906).
101.INS	XBRL Instance Document *
101.SCH	XBRL Taxonomy Extension Schema Document *
101.CAL	XBRL Taxonomy Extension Calculation Linkbase Document *
101.LAB	XBRL Taxonomy Extension Label Linkbase Document *
101.PRE	XBRL Taxonomy Extension Presentation Linkbase Document *
101.DEF	XBRL Taxonomy Extension Definition Linkbase Document *

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\* Pursuant to Regulation S-T, this interactive data file is deemed not filed or part of a registration statement or prospectus for purposes of Sections 11 or 12 of the Securities Act of 1933, is deemed not filed for purposes of Section 18 of the Securities Exchange Act of 1934, and otherwise is not subject to liability under these sections.

\*\* Schedules and exhibits have been omitted pursuant to Item 601(b)(2) of Regulation S-K. Copies of any omitted schedule or exhibit will be furnished supplementally to the SEC upon request.



**CHEMTURA CORPORATION**

**SIGNATURE**

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

CHEMTURA CORPORATION

(Registrant)

Date: November 5, 2012

/s/ Kevin V. Mahoney

Name: Kevin V. Mahoney

Title: Senior Vice President, Corporate Controller and Chief  
Accounting Officer

**BUSINESS TRANSFER AGREEMENT**

This Business Transfer Agreement (the “**Agreement**”) is entered into on this the 26th day of September, 2012 at New Delhi (the “**Effective Date**”).

**BY AND AMONG:**

1. Solaris Chemtech Industries Limited, a company incorporated under the (Indian) Companies Act, 1956 and having its registered office at Thapar House, 124 Janpath, New Delhi — 110 001 (hereinafter referred to as the “**Seller**” which expression, unless repugnant to the context or meaning thereof, shall include its successors and permitted assigns);
2. Avantha Holdings Limited, a company incorporated under the (Indian) Companies Act, 1956 and having its registered office at Thapar House, 124 Janpath, New Delhi — 110 001 (hereinafter referred to as the “**Seller Parent**” which expression, unless repugnant to the context or meaning thereof, shall include its successors and permitted assigns); and
3. Chemtura Corporation, a company incorporated under the laws of United States, and whose principal business office is at Suite 3700, 1818 Market Street Philadelphia, PA 19103, United States of America (hereinafter referred to as the “**Purchaser Parent**”, which expression, unless repugnant to the context or meaning thereof, shall include its successors and permitted assigns).

The Seller, the Seller Parent, the Purchaser Parent and, following its joinder to this Agreement pursuant to Clause 6.8.2, the Purchaser are sometimes hereinafter individually referred to as “**Party**” and collectively as “**Parties**”.

**WHEREAS:**

- (A) Purchaser Parent is a leading global developer, manufacturer and marketer of highly-engineered specialty chemicals;
- (B) The Purchaser Parent is in the process of establishing a wholly owned subsidiary of Purchaser Parent to engage in, amongst others, the business of design, development, manufacture, marketing and sale of bromine and bromine chemicals;
- (C) Seller Parent is a leading Indian conglomerate, with interests in paper, electrical energy, food products and chemicals;
- (D) The Seller owns and operates a bromine and bromine chemicals division and a chlor-alkali and phosphoric acid division;

- (E) Through its bromine and bromine chemicals division, the Seller develops, manufactures, markets and sells bromine and bromine chemicals and provides related services;
- (F) The Seller desires to sell to the Purchaser, and the Seller Parent desires to cause the Seller to sell to the Purchaser, and the Purchaser desires to purchase from the Seller, and the Purchaser Parent desires to cause the Purchaser to purchase from the Seller, pursuant to the terms of this Agreement, the Business (as hereafter defined);
- (G) To effect the sale of the Business to the Purchaser, the Seller shall transfer, convey and assign to the Purchaser the Business as a going concern on a slump sale basis (as defined under Section 2(42C) of the Income Tax Act, 1961) for a lump sum consideration and Purchaser shall accept and assume from the Seller the Business, all as further described, and pursuant to the terms and conditions set forth in this Agreement.

**IN CONSIDERATION OF THE MUTUAL PROMISES, COVENANTS AND CONDITIONS HEREINAFTER SET FORTH AND OTHER GOOD AND VALUABLE CONSIDERATION (THE RECEIPT AND ADEQUACY OF WHICH ARE HEREBY MUTUALLY ACKNOWLEDGED), THE PARTIES HERETO AGREE AS FOLLOWS:**

## **1. DEFINITIONS AND INTERPRETATION**

### **1.1 Definitions**

In addition to the capitalized terms defined in the introduction to this Agreement and other parts of this Agreement in parentheses, whenever used in this Agreement, unless repugnant to the meaning or context thereof, the following expressions shall have the meanings set forth below:

“**Accounts Receivable**” mean the accounts receivable of the Business whether or not invoiced before the Closing Date and whether or not then due and payable, including those accounts receivable reflected on the Closing Balance Sheet;

“**Acquired Assets**” mean the following (save and except any Shared Assets):

- (a) the manufacturing facility located in Khavda (Gujarat), India (the “**Khavda Facility**”), together with the Owned Real Property associated therewith (including staff housing), the buildings, fixtures, plant and machinery, equipment, and other tangible property and improvements located thereon (including the power generation facility and storage facilities) (“**Khavda Immovable Assets**”), and the Equipment (including bromine isotanks) used or held for use in connection with the operation of such manufacturing facility, a list of which is set forth in Part A of Schedule 1;
- (b) the manufacturing facility located in Ratadia (Gujarat), India (the “**Ratadia Facility**” together with the Owned Real Property associated therewith, the buildings, fixtures, plant and machinery, equipment, and other tangible property and improvements located thereon (including the power generation facility and

storage facilities) (“**Ratadia Immovable Assets**”), and the Equipment (including bromine isotanks) used or held for use in connection with the operation of such manufacturing facility, a list of which is set forth in Part B of Schedule 1;

- (c) the manufacturing facility located on the approx. 40 acres of land in Village Kharakhadi (Vadodara, Gujarat), India determined to be acquired by the Purchaser pursuant to Clause 5.2.1(u) (“**Vadodara Facility**” together with the Owned Real Property associated therewith; and the buildings, fixtures and improvements located thereon (“**Vadodara Immovable Assets**”) and together with the Khavda Facility and Ratadia Facility, the “**Acquired Facilities**”), a list of which (together with details of the aforementioned 40 acres of land) is set forth in Part C of Schedule 1;
- (d) (i) all Inventory, Accounts Receivable, security bonds (including the investment by the Seller in Indian government securities of INR6,500,000), deposits, prepaid expenses, short term loans and advances, claims for refunds, rights of offset, and other current assets relating to the Business, including CENVAT credits and VAT credits but not including any other current Tax assets, and not including cash and cash equivalents (other than cash that has been provided to third parties as a security bond or deposit in connection with the Business); and (ii) all long term loans and advances, including long term capital advances, long term security deposits, and long term prepaid expenses;
- (e) all Acquired Intellectual Property;
- (f) all Real Property Leases, including the Brine Leases;
- (g) all Owned Real Property;
- (h) all Contracts, other than those whose term expires before the Closing Date and other than Contracts that are between the Seller, on the one hand, and any Affiliate of the Seller, on the other hand;
- (i) all choses in action, rights, credits, claims, demands, defenses and rights of set-off of any nature against third Persons, whether by way of counterclaim or otherwise, with respect to the Business, or the ownership, use, function or value of any of the Acquired Assets, in each case, whether accruing before or after the Closing, and including all attorney work-product protections, attorney-client privileges and other legal protections and privileges to which the Seller may be entitled in connection with or relating to the Business or any of the Acquired Assets or Assumed Liabilities; provided, however, that the Purchaser shall not acquire claims to refunds or credits of governmental charges with respect to pre-Closing periods, or claims to refunds or credits of Taxes (other than CENVAT credits and VAT credits, which are included in the Acquired Assets) from any Taxing Authority with respect to pre-Closing periods);
- (j) the Seller’s books of account maintained for the Business and all books and records in whatever form (including computer disks or tapes) containing or

relating to Business Information or on which Business Information is recorded or stored (the “**Books**”); *provided, however,* that the Seller may retain copies of any such Books necessary for substantiation of prior Tax Returns and preparation of future Tax Returns;

- (k) all information existing at the Closing Date and relating to the Business including but not limited to details of customers, suppliers, distributors and agents, sales targets, sales statistics, market share statistics, market surveys and information relating to future business development or planning, information relating to discounts, commissions and rebates received and/or paid and litigation or legal advice, in whatever form (including computer disks or tapes) that information may be recorded or stored (the “**Business Information**”);
- (l) the goodwill of the Seller in relation to the Business including the exclusive right for the Purchaser to represent itself as carrying on the Business in succession to the Seller;
- (m) all sales publications, advertising and promotional materials, printed terms and conditions of sale or supply, business forms, instructional material and other technical and sales materials which are owned by the Seller on the Closing Date and relate to the Business;
- (n) all Transferable Required Operational Consents;
- (o) all insurance policies of the Seller maintained for the Business which under the terms thereof, and applicable Law, may be transferred/assigned to the Purchaser (“**Transferable Insurance Policies**”), a list of which is set forth in Part D of Schedule 1; provided that the Seller shall retain the benefit of claims under the Transferable Insurance Policies relating to losses suffered by the Seller prior to the Closing Date;
- (p) all employment records of Transferring Employees other than those which the Seller is required by Law to retain (in which case, the Seller shall provide the Purchaser, to the extent permitted by applicable Law, copies of such employment records);
- (q) the bromine, npropyl bromide, HBr and tetrabrom synthesis assets of the Seller at the Khavda Facility and the Ratadia Facility, and the multipurpose Specialty Chemicals synthesis assets at the Vadodara Facility (“**Bromine Assets**”), including those set forth in Part E of Schedule 1 annexed hereto; and
- (r) all Equipment primarily relating to or used or held for use in connection with the Business, (“**Miscellaneous Assets**”), including those set forth in Part F of Schedule 1 annexed hereto;

“**Acquired Facilities**” has the meaning set forth in paragraph (b) of the definition of Acquired Assets hereinabove;

“**Acquired Intellectual Property**” means all Intellectual Property owned, licensed or used by the Seller or any of its Affiliates at the Closing Date which is used in, or has been developed for use in, or is required or intended for use in the Business including that listed in Part G of Schedule 1 attached hereto;

“**Affiliates**” means, with reference to any Person, any other Person Controlling, Controlled by or under common Control with such Person, and where a Person is a natural person, “Affiliate” includes such person’s spouse and lineal ascendants and descendants;

“**Aggregate Tax Credits Adjustment**” has the meaning set forth in paragraph 10 of Schedule 7 hereto;

“**Agreed Price**” means the Rupee equivalent, calculated in accordance with Clause 3.2, of US\$141,650,000 (One Hundred Forty One Million, Six Hundred Fifty Thousand United States Dollars);

“**Agreed Remediation Steps**” has the meaning set forth in Clause 6.10.1;

“**Ancillary Agreements**” means the Transition Services Agreement and the Joinder Agreement;

“**Assumed Liabilities**” has the meaning set forth in Clause 9.1.1;

“**Balance Sheet**” means the unaudited balance sheet of the Business at the Balance Sheet Date;

“**Balance Sheet Date**” means 31<sup>st</sup> March, 2012;

“**Base-Line Net Working Capital**” has the meaning set forth in Clause 4.2;

“**Basket Threshold**” has the meaning given to it in Clause 12.2.1;

“**Books**” has the meaning set forth in paragraph (i) of the definition of Acquired Assets hereinabove;

“**Brine Leases**” means the following Real Property Leases, and any amendments, modifications and addenda thereto: (a) Lease Deed dated February 11, 1994, between the Governor of Gujarat and Ballarpur Industries Limited; (b) Lease Deed dated June 2, 2008, between the Governor of Gujarat and Solaris Chemtech Limited, predecessor of the Seller; and (c) Lease Deed dated December 5, 2005, between the Governor of Gujarat and Solaris Chemtech Limited, predecessor of the Seller;

“**Brine Flat Lease**” has the meaning set forth in Clause 5.2.1(e);

“**Brine Flat Lease Transfer Consent**” has the meaning set forth in Clause 5.2.1(d);

“**Brine Inventory**” means all Inventories of brine, seawater and bittern;

“**BPA Inventory**” means all Inventories of bisphenol-A;

“**Bromine Assets**” has the meaning set forth in paragraph (q) of the definition of Acquired Assets hereinabove;

“**Business**” means the design, development, manufacture, marketing and sale of bromine and bromine chemicals, as conducted at the Acquired Facilities, comprising (i) the Acquired Assets, and (ii) the Assumed Liabilities;

“**Business Day**” means any day of the week (excluding Saturdays, Sundays and public holidays) on which commercial banks are open for business in New Delhi, India;

“**Closing**” means the completion of all of the activities described in Clause 7.2.1 and Schedule 7 of this Agreement;

“**Closing Balance Sheet**” has the meaning set forth in Clause 4.6;

“**Closing Date**” has the meaning set forth in Clause 7.1.1;

“**Closing Net Working Capital**” has the meaning set forth in Clause 4.3;

“**Conditions Precedent**” means, as applicable, (a) the conditions precedent to the obligations of the Purchaser and the Seller to consummate the Closing as set forth in Clause 5.1, (b) the conditions precedent to the obligations of the Purchaser to consummate the Closing as set forth in Clause 5.2 and (c) the conditions precedent to the obligations of the Seller to consummate the Closing as set forth in Clause 5.3;

“**Confidential Information**” has the meaning given to it in Clause 14 hereof;

“**Confidentiality Agreement**” means the non-disclosure agreement dated 10<sup>th</sup> January 2011 between the Seller and the Parent pursuant to which the Seller made available to the Purchaser certain confidential information relating to the Seller and the Seller’s Group;

“**Contaminant**” means (i) any pollutant, hazardous substance, hazardous material, toxic substance, noxious substance, nonhazardous or hazardous waste, chemical waste, petroleum or petroleum-derived substance or waste, PCBs, or any hazardous or toxic constituent thereof, to the extent any such substance or material is defined by or regulated under any applicable Environmental Requirements of Law or (ii) any such substance the release, discharge or spill of which requires or gives rise to liability for Remedial Action under Environmental Requirements of Law;

“**Contracts**” means the contracts, agreements, and licenses (other than any of the Real Property Leases) to which the Seller is a party on the Effective Date, and which have been or are entered into for the Business, a list of which is set forth in Part H of Schedule 1 annexed hereto;

“**Control**” means, in relation to a Person, where another Person (or Persons acting in concert) has or obtains, whether by Law, contract or otherwise, direct or indirect control

of more than 50% of the total voting rights or the right to appoint the majority of the board of directors or, direct or indirect, control of the power to direct or cause the direction of the management of that Person. For these purposes, “**Persons acting in concert**”, in relation to a Person, are Persons who actively co-operate through holding or acquiring shares in that Person, pursuant to an agreement or understanding, with a view to obtaining or consolidating control of that Person;

“**CP Compliance Certificate**” has the meaning set forth in Clause 5.5.2;

“**Current Assets**” means the sum of (i) Accounts Receivable (net of allowances for doubtful accounts) but excluding accounts receivable by the Seller from any other member of the Seller’s Group, plus (ii) Inventory (net of allowances or other reserves), plus (iii) Loan and Advances - Short Term, but excluding Brine Inventory, BPA Inventory, capital spares and MRO Inventory, in each case calculated in accordance with Clause 4.8, but excluding any Cash and Tax-related assets;

“**Current Liabilities**” means the sum of the accounts payable and other current liabilities assumed pursuant to Clause 9.1.1. (a), in each case calculated in accordance with Clause 4.8, but excluding any Tax-related liabilities.

“**Disclosure Letter**” means the letter, dated on the same date as this Agreement, from the Seller to the Purchaser, disclosing:

- (i) information constituting exceptions to the Seller Warranties; and
- (ii) details of other matters referred to in this Agreement;

“**Disputes**” has the meaning given to it in Clause 17.2;

“**Employee Benefit Plan**” means any private or public pension, profit sharing, retirement, deferred compensation, stock purchase, stock option or other equity based compensation plans, incentive, bonus, vacation, employment, independent contractor, severance, disability, and medical or life insurance plans under which the Transferring Employees are covered;

“**Employees**” shall mean those persons who as on the Effective Date are in the permanent employment of the Seller (determined in accordance with applicable Law) in connection with the Business. A list of such Employees is set forth in Part I of Schedule 1 attached hereto;

“**Encumbrance**” means any claim, charge, mortgage, lien, Tax Lien, option, equity, power of sale in favour of third parties, hypothecation, usufruct, retention of title, right of pre-emption, right of first refusal or other third party rights or security interest of any kind or an agreement, arrangement or obligation to create any of the foregoing;

“**Environmental Permits**” has the meaning given to it in paragraph 1.1.2 of Part B of Schedule 8.1;



**“Environmental Requirements of Law”** means requirements to be complied with under all applicable Indian Laws or Environmental Permits (in each case, in existence as of the Closing Date) relating to or addressing the environment or the protection of public health and safety, including, but not limited to, any Indian Law or Environmental Permit relating to the operation, production, manufacturing, sale, use, handling, Release, or disposal of, or the completion of any Remedial Action with respect to, any Contaminant;

**“Environmental Warranties”** means the statements set out in Part B of Schedule 8.1;

**“Equipment”** means machinery and equipment, leasehold improvements, tooling, molds, tools, furniture, office equipment, vehicles, furnishings and fixtures and other tangible assets and properties;

**“Estimated Closing Balance Sheet”** has the meaning given to it in Clause 4.5;

**“Excluded Liabilities”** has the meaning set forth in Clause 9.1.2;

**“GAAP”** means generally accepted accounting principles of India;

**“Governmental Authority”** means any government, state or political subdivision thereof, national or supranational body, public international organization, department, agency or instrumentality of a foreign or other government, including any state-owned or state controlled instrumentality of a government, or any Person or body exercising executive, legislative, judicial, regulatory or administrative functions on behalf of any of them; and includes all relevant securities commissions, stock exchange authorities, foreign investment authorities, Taxing Authorities, courts, tribunals and similar entities or authorities;

**“Governmental Authorization”** means any license, permit, certificate, consent, registration or other authorization or approval issued, granted, given or otherwise made available by or under the authority of any Governmental Authority or pursuant to any Law;

**“Governmental Official”** means an employee, official, or representative acting on behalf of any Governmental Authority, and any political party or candidate for public office;

**“Indebtedness”** means, with respect to any Person, (a) all indebtedness of such Person, whether or not contingent, for borrowed money, (b) all obligations of such Person evidenced by notes, bonds, debentures or other similar instruments or debt securities and warrants or other rights to acquire any such instruments or securities and (c) all Indebtedness of others referred to in clauses (a) and (b) hereof guaranteed, directly or indirectly, in any manner by such Person, or in effect guaranteed directly or indirectly by such Person through an agreement (i) to pay or purchase such Indebtedness or to advance or supply funds for the payment or purchase of such Indebtedness, (ii) to purchase, sell or lease (as lessee or lessor) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Indebtedness or to assure the holder of such Indebtedness against loss, (iii) to supply funds to or in any other manner

invest in the debtor (including any agreement to pay for property or services irrespective of whether such property is received or such services are rendered), (iv) to grant an Encumbrance on property owned or acquired by such Person, whether or not the obligation secured thereby has been assumed, or (v) otherwise to assure a creditor against loss.

“**Indemnified Party**” has the meaning given to it in Clause 12.7;

“**Indemnifying Party**” has the meaning given to it in Clause 12.7;

“**Indian Law**” means the Constitution of India, and laws, by-law, treaties, statutes, ordinances, codes, rules, regulations, executive orders, administrative orders or other orders, judgments or determinations, in each case by an Indian Governmental Authority, excluding any conflict of law principles;

“**Intellectual Property**” means all: (i) patents and patent applications whether or not patents are issued on such applications and whether or not such patents or applications are modified, withdrawn or resubmitted; (ii) registered and unregistered trade names, trade dress, trademarks, service names and service marks (and applications for registration of the same) and all goodwill associated therewith; (iii) copyrights and copyright registrations (and applications for the same) and works of original authorship (whether or not the copyright has been registered); (iv) trade secrets, Know-how, formulae, compilations, devices, methods, techniques or processes, and confidential or proprietary information; (v) Inventions, processes and designs (whether or not patentable or reduced to practice), including, without limitation, all notes, journals or other compilations of data generated in the invention or development process; (vi) computer software program source code, object code, data and documentation; (vii) domain names or uniform resource locators used in connection with any global computer or electronic network (including, without limitation, the Internet and the World Wide Web) together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, all applications, registrations, and renewals in connection therewith, and all source code, object code, data and documentation relating thereto; and (viii) all other intellectual property rights associated with the foregoing;

“**Interim Period**” has the meaning set forth in Clause 6.1.1;

“**Inventory**” means all inventories, wherever located, including all unsold finished goods, work in process, raw materials, in transit inventories, spare parts and all other materials and supplies to be used in the production of finished goods by the Business, including those reflected on the Closing Balance Sheet;

“**Joinder Agreement**” has the meaning set forth in Clause 6.8.2;

“**Khavda Facility**” has the meaning set forth in paragraph (a) of the definition of Acquired Assets hereinabove;

“**Khavda Immovable Assets**” has the meaning set forth in paragraph (a) of the definition of Acquired Assets hereinabove;

“**Know-how**” means all know-how, expertise, technical or other information developed or acquired by the Seller in relation to the Business on or prior to the Closing Date, including, without limitation, all related ideas, concepts, methods, inventions, discoveries, data, formulae, processes, methods, techniques and specifications;

“**Law**” means any constitution, law, by-law, treaty, statute, ordinance, code, rule, regulation, executive order, administrative order or other order, judgment or determination of any Governmental Authority, or applicable principle of common or civil law;

“**Leased Real Property**” means the land, buildings, fixtures and other improvements covered by the Real Property Leases;

“**Liability**” means and includes liabilities, debts or other obligations of any nature, whether known or unknown, absolute, accrued, contingent, liquidated, unliquidated or otherwise, due or to become due or otherwise, and whether or not required to be reflected on a balance sheet prepared in accordance with GAAP;

“**Loans and Advances - Short Term**” means the amounts on deposit in the following accounts:

1800000600	Deposit - industrial gases & welding ac
1800000601	Deposit - mds air product
1800000619	Deposit - Security
1800000620	Deposit - Gujarat Energy Transmission Corp
1800000509	Prepaid Expenses
5200001061	Procurement for Capex
1520000013	Security Deposit for Vendor

being accounts containing and limited to the following:

- Advance to suppliers and third parties, net of provisions
- Capital advances
- Prepaid expenses
- Security deposit for utilities

“**Long Stop Date**” means March 31, 2013, or such later date as may be mutually agreed in writing by the Purchaser and the Seller;

“**Losses**” means all losses, Liabilities, costs (including reasonable legal costs and experts’ and consultants’ reasonable fees), charges, expenses, actions, Proceedings, claims and demands, but in each case excluding all indirect or remote losses and all Special Losses;

“**Material Adverse Effect**” means any event, occurrence, fact, condition, change, development or effect:

- (A) that is, or would reasonably be expected to be, either individually or in the aggregate with all other events, occurrences, facts, conditions, changes, developments or effects, materially adverse to the business, assets, properties, financial condition or results of operations of the Business, but shall not include any event, occurrence, fact, condition, change, development or effect, which is, or caused by:
- (i) changes in the US, Indian or global economy or capital, credit or financial markets generally, including any change in interest rates, exchange rates or securities or commodity prices or any changes in economic, financial, market or political conditions generally;
  - (ii) changes in conditions generally affecting the industry in which the Business operates;
  - (iii) changes or prospective changes in Law, GAAP or the interpretation thereof;
- (except, with respect to clauses (i), (ii) and (iii) above, to the extent that any such event, occurrence, fact, condition, change, development or effect, alone or in combination, disproportionately has a greater adverse impact on the Business, taken as a whole, as compared to other companies operating in India in the same industry, market and territory in which the Business operates)
- (iv) the announcement of any transaction contemplated by this Agreement;
  - (v) any act or omission of Seller or its Affiliates at the request or with the consent of the Purchaser; or
  - (vi) any change, event, occurrence or state of facts, the consequence(s) of which can be remedied or avoided by the Seller and which consequence(s) are so avoided or remedied within 30 days of such change, event, occurrence or state of facts coming into being; or
- (B) that materially impairs the Seller's ability to perform its obligations contemplated under this Agreement, or to execute or be bound by the terms and conditions contained in this Agreement;

“**Material Contracts**” means the Contracts set out in Part J of Schedule 1 attached hereto;

“**Miscellaneous Assets**” has the meaning set forth in paragraph (r) of the definition of Acquired Assets hereinabove;

“**MRO Inventory**” means Inventory of maintenance, repair and operations equipment, materials and supplies;

“**Net Working Capital Adjustment**” has the meaning set forth in Clause 4.4;

“**Notice**” has the meaning given to it in Clause 18.8.1;

“**Notice of Claim**” has the meaning given to it in Clause 13.1.1;

“**Owned Real Property**” means the owned immovable property used or held for use in the Business as of the Effective Date other than easements, rights-of-way and similar interests in immovable property, a list of which is set forth in Part K of Schedule 1 annexed hereto;

“**Permitted Encumbrances**” means (a) statutory liens of carriers, warehousemen, mechanics, materialmen and other similar Persons incurred in the ordinary course of the Business for Assumed Liabilities not yet due and payable and that do not impair the conduct of the Business or the present or proposed use of the affected property or asset or its free transferability, (b) statutory liens at the Effective Date, but not at the Closing Date, for current Taxes not yet due and payable, and (c) easements, rights of way, restrictions, covenants or similar items relating to real property that do not, individually or in the aggregate, impede the present use, occupancy or free transferability of the real property subject thereto;

“**Post-Closing Employee Liabilities**” shall mean all Liabilities, debts, duties or obligations relating to the Transferring Employees and relating to a period after the Closing, including (a) compensation or other amounts payable to Transferring Employees, bonuses, accrued vacation, fringe, pension or profit sharing benefits, expenses, reimbursements, employee provident fund, gratuity or severance pay for any period relating to a Transferring Employee’s employment, in each case, after the Closing; and/or (ii) claims for medical, dental, life insurance, health, accident or disability benefits brought by or in respect of the Purchaser, whose claims relate to events occurring after the Closing; and/or (iii) contributions required to be made in respect of Employee Benefit Plans after the Closing;

“**Proceeding**” means any action, arbitration, audit, examination, investigation, hearing, litigation or suit (whether civil, criminal, administrative, judicial or investigative, whether formal or informal, and whether public or private) commenced, brought, conducted or heard by or before, or otherwise involving, any Governmental Authority or arbitrator;

“**Prohibited Business**” has the meaning given to it in Clause 9.3.1;

“**Purchase Price**” has the meaning given to it in Clause 3.1;

“**Purchaser**” has the meaning set forth in Clause 6.8.1. References in this Agreement to the Purchaser, unless repugnant to the context or meaning thereof, shall include its successors and permitted assigns;

“**Purchaser’s Group**” means the Purchaser, the Purchaser Parent and any of their Affiliates from time to time;

“**Purchaser Indemnified Parties**” has the meaning given to it in Clause 11.1.1;

“**Purchaser Warranties**” has the meaning given to it in Clause 8.3.1;

“**Ratadia Facility**” has the meaning set forth in paragraph (b) of the definition of Acquired Assets hereinabove;

“**Ratadia Immovable Assets**” has the meaning set forth in the paragraph (b) of the definition of Acquired Assets hereinabove;

“**Real Property Leases**” means the leases, subleases, licenses and other Contracts under which the Seller uses or occupies any immovable property primarily for the Business, a list of which is set forth in Part L of Schedule 1 annexed hereto;

“**Related Party**” has the meaning ascribed to such term in Accounting Standard 18 of the Companies (Accounting Standard) Rules, 2006;

“**Release**” means the dumping, leaking, seeping, spilling, discharge, emitting, release or disposal of Contaminants;

“**Remedial Action**” means actions to (i) investigate, monitor, clean up, remove, treat, contain, abate, or respond to any Release or the presence of Contaminants at any Owned Real Property or Leased Real Property; or (ii) prevent the Release or threat of Release or minimize the further Release of Contaminants;

“**Reporting Accountant**” means a reputed firm of chartered accountants, to be agreed by the Seller and the Purchaser, provided that in no circumstances shall the accountancy firm currently retained by the Seller or the Purchaser be appointed as the Reporting Accountant, and provided further that, if the Seller and the Purchaser are unable to jointly select such accountancy firm within 10 days after the expiration of the 30-day good faith resolution period referred to in Clause 4.9 or in paragraph 10 of Schedule 7 (as the case may be), then after such 10-day period, the Seller, on the one hand, and the Purchaser, on the other hand, will each select a reputed firm of chartered accountants and such selected accountancy firms will jointly select a third accountancy firm, which firm is not the regular auditing firm of the Seller or the Purchaser; provided, however, that if either the Seller, on the one hand, or the Purchaser, on the other hand, fail to select such accountancy firm during this 10-day period, then the Parties agree that the accountancy firm selected by the other Party will be the Reporting Accountant for purposes of Clause 4 or paragraph 10 of Schedule 7 (as the case may be);

“**Required Operational Consents**” mean all Governmental Authorizations which are necessary for the conduct of the Business as of the Effective Date and the Closing Date. A list of the Required Operational Consents is set forth in Part M of Schedule 1 annexed hereto;

“**Restricted Period**” has the meaning given to it in Clause 9.3.1;

“**Restricted Persons**” has the meaning given to it in Clause 9.3.1;

“**Review Period**” has the meaning given to it in Clause 4.9;

“**Seller’s Group**” means the Seller and its Affiliates from time to time;

“**Seller’s Representatives**” has the meaning given to it in Clause 4.7;

“**Seller Indemnified Parties**” has the meaning given to it in Clause 11.1.2;

“**Seller Marks**” has the meaning given to it in Clause 9.8.1;

“**Seller Warranties**” has the meaning given to it in Clause 8.1.1;

“**Senior Employee**” means (i) each Employee in an administrative or managerial position and drawing an annual salary (on a cost-to-company basis) in excess of Rs. 2,500,000 and (ii) each of those Employees listed on Part N of Schedule 1 annexed hereto;

“**Shared Assets**” means the assets of the Seller listed on Part O of Schedule 1 annexed hereto;

“**Special Losses**” means any special, exemplary, or punitive losses or damages, in each case, whether due to a breach of contract, a breach of warranty, negligence or otherwise;

“**Supplemental Disclosure Letter**” has the meaning given to it in Clause 8.2.4;

“**Taxation**” includes any central, state, local, tax and tax levied/ imposed by any Governmental Authority (including its agent and persons acting under its authority) on the business, transactions or assets of Seller including: (a) any tax based upon or measured by income, receipts, services, purchases, sales, use, wealth, import, export, property (whether movable or immovable), licenses, leases, permissions, transfer, or value added; (b) any tax denominated as cess, custom duties, contributions, duty, surcharge, „minimum alternate tax“, ad valorem, transfer, franchise, capital stock, payroll, social security, employment, excise, occupation, property, windfall profits, environmental, customers, stamp duty; (c) withholding tax; and (d) any interest, penalties, charges, or costs relating to such taxes, or other amounts imposed or that may be imposed or payable with respect to any tax (arising on any account including but not limited to, non-payment, late payment or any non-compliance), imposed, levied or charged by any Taxing Authority responsible for the imposition of any such tax. “**Tax**” or “**Taxes**” shall be construed accordingly

“**Taxing Authority**” means any taxing or other authority competent to impose any liability in respect of Taxation or responsible for the administration and/or collection of Taxation or enforcement of any Law in relation to Taxation;

“**Tax Certificate**” has the meaning given to it in Clause 5.2.1(b);

“**Tax Lien**” means any claim raised by a Taxing Authority to take possession of any Acquired Assets to satisfy an outstanding liability for unpaid Taxes by the Seller and its Affiliates;

“**Third Party Claim**” has the meaning given to it in Clause 13.4;

“**Transferable Insurance Policies**” has the meaning set forth in paragraph (O) of the definition of Acquired Assets hereinabove;

“**Transferable Required Operational Consents**” mean all such Required Operational Consents, which are transferable by Law from the Seller to the Purchaser. A list of the Transferable Required Operational Consents is set forth in Part P of Schedule 1 annexed hereto;

“**Transferring Employees**” mean all Employees who consent in writing to the transfer of their employment with the Purchaser on and with effect from the Closing Date, in accordance with applicable Law;

“**Transition Services**” has the meaning set forth in Clause 6.9.1;

“**Transition Services Agreement**” means the transition services agreement in the agreed form to be entered into at Closing by the Seller and the Purchaser;

“**Vadodara Facility**” has the meaning set forth in paragraph (c) of the definition of Acquired Assets hereinabove;

“**Vadodara Immovable Assets**” has the meaning set forth in the paragraph (c) of the definition of Acquired Assets hereinabove; and

“**Written Report**” has the meaning given to it in Clause 4.9.

## 1.2 **Modification etc. of Statutes**

References to a statute or statutory provision include:

- (a) that statute or provision as from time to time modified, re-enacted or consolidated whether before or after the Effective Date; and
- (b) any subordinate legislation made from time to time under that statute or statutory provision which is in force at the Effective Date.

## 1.3 **Singular, Plural, Gender**

References to one gender include all genders and references to the singular include the plural and vice versa.

## 1.4 **References to Persons and Companies**

References to:

- (a) a “Person” includes any, natural person, company, partnership or unincorporated association (whether or not having separate legal personality);
- (b) a company shall include any company, corporation or any body corporate, wherever incorporated; and



(c) INR, Rupees or Rs. shall be to the lawful currency of India.

#### 1.5 **References to Subsidiaries and Holding Companies**

The words “**holding company**” and “**subsidiary**” shall have the same meaning in this Agreement as their respective definitions in the Companies Act 1956, as applicable.

#### 1.6 **Agreed Form**

Any reference to a document in the “**agreed form**” is to the form of the relevant document in the terms agreed between the Seller and the Purchaser either prior to the Effective Date or after the Effective Date and prior to the Closing Date, and signed or initialled for identification purposes only by or on behalf of the Seller and the Purchaser (in each case with such amendments as may be agreed by or on behalf of the Seller and the Purchaser).

#### 1.7 **Schedules etc.**

References to this Agreement shall include any Recitals and Schedules to it and references to Clauses and Schedules are to Clauses of, and Schedules to, this Agreement. References to paragraphs and Parts are to paragraphs and Parts of the Schedules.

#### 1.8 **Headings**

Headings shall be ignored in interpreting this Agreement.

#### 1.9 **Information**

References to books, records or other information mean books, records or other information in any form including paper, electronically stored data, magnetic media, film and microfilm.

#### 1.10 **Writing**

Any reference to “writing” shall include printing, typing, lithography, transmissions by facsimile or in electronic form (including email) and other means of reproducing words in visible form but shall exclude text messages via mobile phones.

#### 1.11 **Non-Limiting Effect Of Words**

The words “including”, “include”, “in particular” and words of similar effect shall not be deemed to limit the general effect of the words that precede them.

#### 1.12 **Conflict**

If there is any conflict or inconsistency between a term in the body of this Agreement and a term in any of the schedules or any other document referred to or otherwise incorporated in this Agreement, the term in the body of this Agreement shall take precedence.

**2. AGREEMENT TO SELL THE BUSINESS**

- 2.1 On and subject to the terms of this Agreement, the Seller agrees to sell, and the Seller Parent agrees to procure that Seller shall sell, and the Purchaser agrees to purchase, and the Purchaser Parent agrees to procure that Purchaser shall purchase, the Business as a going concern on a slump sale basis (as defined in Section 2(42C) of the Income Tax Act, 1961) free and clear of all Encumbrances (save and except for Permitted Encumbrances or those created in connection with the Assumed Liabilities) for a lump sum consideration. It is clarified that the Parties may, without prejudicing the transfer hereunder as a going concern on a slump sale basis, determine or attribute individual values to any of the assets, liabilities and/or rights transferred hereunder, for payment of stamp duty, registration fees or other similar taxes or fees under applicable Law, if any other deeds and/or instruments are required to be executed for effectuating and completing the transactions contemplated hereunder. Such attribution of specific values is not intended, nor shall it be construed, to be an assignment of specific values to individual assets, liabilities or rights.
- 2.2 The transfer of the Business from the Seller to the Purchaser shall take place on the Closing Date by the Seller selling, transferring, assigning, novating, conveying, and delivering, as the case may be, to the Purchaser, the Business and thereby vesting the Purchaser with legally valid and subsisting right, title and interest in the same, such that the Purchaser shall be entitled to the obligations and rewards of, and the rights, title and interest in, the Business in accordance with the terms of this Agreement. The transfer of the Business from the Seller to the Purchaser shall not include any of the Shared Assets.
- 2.3 In addition to any of the obligations of the Purchaser Parent hereunder, the Purchaser Parent shall procure that the Purchaser shall discharge its obligations hereunder.
- 2.4 In addition to any of the obligations of the Seller Parent hereunder, the Seller Parent shall procure that the Seller shall discharge its obligations hereunder.

**3. CONSIDERATION; PURCHASE PRICE ADJUSTMENT**

- 3.1 The total lump sum consideration for the purchase of the Business by the Purchaser under this Agreement shall be an amount in cash equal to:
  - (a) Agreed Price
  - plus or minus
  - (b) the Net Working Capital Adjustment, as determined in accordance with Clause 4,
  - minus
  - (c) the Accrued Benefits Adjustment, as determined in accordance with Clause 9.2
  - plus

- (d) the Aggregate Tax Credits Adjustment pursuant to paragraph 10 of Schedule 7 (the sum of Clause 3.1(a), Cause 3.1(b), Clause 3.1(c) and Clause 3.1(d) being the “**Purchase Price**”).
- 3.2 The Agreed Price shall be converted from United States Dollars into Rupees using the conversion rate therefor published by the Reserve Bank of India, via its website at [www.rbi.org.in](http://www.rbi.org.in), on the Business Day prior to the Closing Date. All Purchase Price payments and adjustments between Purchaser and Seller under this Agreement shall, for the avoidance of doubt, be Rupee denominated payments.
- 3.3 All amounts due to any party under this Agreement shall be paid free and clear of any deductions or withholdings unless the deduction or withholding is required by Law. Accordingly, if any deductions or withholdings are made, the paying party shall be obliged to pay to the receiving party such sum as shall, after such deduction or withholding has been made, leave the receiving party with the same amount as they would have been entitled to receive in the absence of any such requirement to make a deduction or withholding.
- 4. POST-CLOSING ADJUSTMENT**
- 4.1 “**Net Working Capital of the Business**” as of any date shall mean the amount calculated by subtracting the Current Liabilities as of that date from the Current Assets as of that date. The Net Working Capital of the Business may be a positive or negative number.
- 4.2 For purposes of this agreement, the “**Base-Line Net Working Capital**” means Rs. 275,000,000.
- 4.3 “**Closing Net Working Capital**” is the Net Working Capital of the Business as calculated from the Closing Balance Sheet, as finally determined in accordance with this Clause 4.
- 4.4 “**Net Working Capital Adjustment**” shall be determined as follows: (i) if the Closing Net Working Capital is equal to the Base-Line Net Working Capital, then the Net Working Capital Adjustment will equal zero; (ii) if the Closing Net Working Capital is more than the Base-Line Net Working Capital, then the Net Working Capital Adjustment will be a positive amount equal to the amount by which the Closing Net Working Capital exceeds the Base-Line Net Working Capital; and (iii) if the Closing Net Working Capital is less than the Base-Line Net Working Capital, then the Net Working Capital Adjustment will be a negative amount equal to the difference between the Closing Net Working Capital and the Base-Line Net Working Capital.
- 4.5 No later than three Business Days prior to the Closing Date, the Seller, at its sole cost and expense, will deliver to the Purchaser an unaudited balance sheet of the Business prepared on an estimated basis as of the close of business on the Closing Date (the “**Estimated Closing Balance Sheet**”) and a calculation of the Net Working Capital Adjustment derived from the Estimated Closing Balance Sheet. The Estimated Closing Balance Sheet and such estimated calculation of the Closing Net Working Capital will be prepared in accordance with clause 4.8.

- 4.6 Within thirty (30) days after the Closing Date, the Seller, at its sole cost and expense, will deliver to the Purchaser an unaudited balance sheet of the Business as at the Closing Date (the “**Closing Balance Sheet**”) and a calculation of the Net Working Capital Adjustment derived from the Closing Balance Sheet. A physical count of the Inventory shall be taken no earlier than two Business Days prior to the Closing Date and no later than the Closing Date by authorized representatives of the Seller and the Purchaser and the results thereof shall be used for purposes of determining the value of Inventory on the Closing Balance Sheet (subject to any appropriate adjustments thereto to reflect changes in Inventory until Closing if the physical count of Inventory occurs prior to the Closing Date in accordance with the foregoing).
- 4.7 During the thirty (30) days after the Closing Date, the Purchaser will provide the Seller and the Seller’s officers, employees, agents, consultants and other advisors and representatives (“**Seller’s Representatives**”) with access, during normal business hours, to the Books, documents and records of the Business within the Purchaser or its representatives’ possession or control, which the Seller or the Seller’s Representatives may reasonably require or request for the purpose of preparing the Closing Balance Sheet.
- 4.8 The Closing Balance Sheet and the calculation of the Net Working Capital Adjustment derived from the Closing Balance Sheet shall be prepared in accordance with the policies that are referred to, and in the order of priority shown, in this Clause 4.8:
- 4.8.1 the specific accounting policies set out in Schedule 4.8.1;
- 4.8.2 the accounting principles, practices, procedures, methods and bases adopted by the Seller in the preparation of the Balance Sheet to the extent not inconsistent with Clause 4.8.1 and to the extent consistent with GAAP;
- 4.8.3 in accordance with GAAP as at the Closing Date.
- 4.9 Following receipt of the Closing Balance Sheet and the Net Working Capital Adjustment, the Purchaser will be afforded a period of 60 days to review the Closing Balance Sheet and the Net Working Capital Adjustment (the “**Review Period**”). The Purchaser shall be deemed to have accepted the Net Working Capital Adjustment unless, prior to the expiration of the Review Period, the Purchaser shall deliver to the Seller written notice and a detailed written explanation of those items in the Net Working Capital Adjustment that the Purchaser disputes. Within a further period of 30 days from the end of the Review Period, the Parties will attempt to resolve in good faith any disputed items. Failing such resolution, the unresolved disputed items will be referred for final binding resolution to the Reporting Accountant. The unresolved disputed items (if any) will be deemed to be as determined by the Reporting Accountant in accordance with Clause 4.8 as soon as practicable. The Purchaser and the Seller will instruct the Reporting Accountant to render its determination with respect to the items in dispute in a written report that specifies the conclusions of the Reporting Accountant as to each item in dispute and the resulting adjustment calculation (the “**Written Report**”). The cost of the determination by the Reporting Accountant, including preparation of the Written Report,

shall be shared by the Purchaser and the Seller in inverse proportion to the relative amounts of the disputed amount determined to be for the account of the Purchaser and the Seller, respectively. The decision of the Reporting Accountant shall not be subject to appeal or challenge for any reason (other than gross negligence, fraud or willful misconduct).

- 4.9.1 For purposes of complying with this Clause 4, the Purchaser and the Seller will furnish to each other and to the Reporting Accountant such work papers and other documents and information relating to the disputed items as the Reporting Accountant may request and are available to that party (or its independent public accountants) and will be afforded the opportunity to present to the Reporting Accountant any material related to the disputed items and to discuss the items with the Reporting Accountant. The Purchaser and the Seller may, separately, require that the Reporting Accountant enter into a customary form of confidentiality agreement with respect to the Written Report and the work papers and other documents and information relating to the Business provided to the Reporting Accountant pursuant to this Clause 4.

## **5. CONDITIONS PRECEDENT**

### **5.1 Conditions Precedent to Obligations of the Seller and the Purchaser**

- 5.1.1 The obligation of the Purchaser to purchase and the Seller to sell the Business and undertake their respective obligations on the Closing Date is subject to the satisfaction of the following conditions:
- (a) No court or other Governmental Authority of competent jurisdiction, shall have enacted, issued, promulgated, enforced or entered any Law, statute, rule, regulation, non-appealable judgment, decree, injunction or other order that is in effect on the Closing Date and enjoins, restrains or prohibits this Agreement or the consummation of any of the material transactions contemplated hereby.
  - (b) There shall not be pending or threatened in writing any Proceeding seeking to enjoin or restrain consummation of the material transactions contemplated by this Agreement, or seeking damages in connection with such transactions.

### **5.2 Conditions Precedent to the Obligations of the Purchaser**

- 5.2.1 The obligation of the Purchaser to purchase the Business and undertake its obligations on the Closing Date is subject to the satisfaction of all the following conditions:
- (a) Each of the Seller Warranties must have been true and correct in all material respects on and as of the Effective Date and, without giving effect to any Supplemental Disclosure Letter, on and as of the Closing Date (with materiality being measured individually and on an aggregate basis with respect to all breaches of representations and warranties); except for (X) the Seller Fundamental Warranties and (Y) each of the Seller Warranties that is qualified as to materiality, each of which must have been true and correct in all respects on

and as of the date of this Agreement and must be true and correct in all respects, without giving effect to any Supplemental Disclosure Letter, on and as of the Closing Date; and except to the extent any Seller Warranty speaks as of the Effective Date or any other specific date, in which case such representation or warranty must have been true and correct in all material respects, without giving effect to any Supplemental Disclosure Letter, as of such date.

- (b) Each of the covenants, agreements and obligations of the Seller to be performed at or before the Closing Date pursuant to the terms of this Agreement shall have been duly performed in all material respects at or before the Closing Date.
- (c) Each of the Brine Leases must have been consolidated into a single lease agreement, which shall be for a valid term of not less than ten (10) years from the date of consolidation by the relevant Governmental Authority.
- (d) Each of the consents and no objection certificates required from the relevant Governmental Authorities for transfer of the Seller's interest in the leasehold lands governed by the Brine Leases (as amended/consolidated in accordance with subclause (c) above) to the Purchaser ("**Brine Leases Transfer Consents**") must have been obtained.
- (e) The Seller shall have executed a valid and binding lease agreement with the Governor of Gujarat with respect to the 20,000 acres of brine flats located at Khavda and Ratadia villages in Dist Bhuj and that are the subject of Seller's application dated 25 July 2011 to the Governor of Gujarat ("**Brine Flat Lease**") and the consent required from the relevant Governmental Authorities for transfer of the Seller's interest in the leasehold land governed by such Brine Flat Lease to the Purchaser shall have been obtained ("**Brine Flat Lease Transfer Consent**");
- (f) Each of the third party consents listed in Schedule 5.2.1(f) must have been obtained and must be in full force and effect;
- (g) Each of the Persons set forth on Schedule 5.2.1(g) must have delivered to the Purchaser a release letter in form and substance reasonably satisfactory to the Purchaser, confirming the release of any Encumbrance that such Person may have with respect to the Business or the Acquired Assets, and there must not be any Encumbrances, other than Permitted Encumbrances, on the Acquired Assets;
- (h) Since the Effective Date, there shall not have occurred any Material Adverse Effect;
- (i) The Seller must have carried out all corporate procedures that are required under Law in connection with this Agreement and the transactions contemplated hereby that are required to be carried out at or before the Closing, in each case, as is specifically listed in Schedule 5.2.1(i) including without limitation obtained approval by its board of directors for the execution, delivery and performance by it of this Agreement;

- (j) the Seller must have made all intimations, registrations, declarations, filings or recordings to/with the Governmental Authorities, and received all applicable consents and approvals from such Governmental Authorities, required in connection with (i) the execution of this Agreement, (ii) the consummation or completion of the transactions contemplated by this Agreement, (iii) the Closing and (iv) the transfer to the Buyer of any existing tax benefits related to the Business, in each case, as is specifically listed in Schedule 5.2.1(j);
- (k) the Seller must have obtained consent from its shareholders in a manner compliant with Section 293(1)(a) of the Companies Act, 1956 for the sale and transfer of the Business to the Purchaser in the manner contemplated by this Agreement;
- (l) the Seller must have obtained a “no objection certificate” under Section 281 of the Income Tax Act, 1961 (“**Tax Certificate**”) permitting the transfer of the Business to the Purchaser, and the Tax Certificate must not prohibit any transaction contemplated by this Agreement;
- (m) the Seller Parent must have intimated the stock exchanges where it is listed about the transactions contemplated by this Agreement on or before the Closing Date;
- (n) the Seller and the concerned lessor must have executed the assignment/novation agreements in the agreed form for the transfer of the lease to the Purchaser of the Real Property Leases on and with effect from the Closing Date;
- (o) the sale deeds relating to the transfer of the Owned Real Property must have been entered into, in the agreed form, for the transfer of the Owned Real Property to the Purchaser on and with effect from the Closing Date;
- (p) the Seller and all counterparties to the Material Contracts must have executed the necessary documentation in the agreed form for the novation and/or assignment of all the Material Contracts to the Purchaser on and with effect from the Closing Date;
- (q) the New Employment Contracts with each Senior Employee and at least 85% of all other Employees must have been executed;
- (r) the Seller must have taken the steps and executed the documents specifically listed in Schedule 5.2.1(r), in the agreed form, in connection with the Employee Benefit Plans;
- (s) the documentation for transferring/assigning all Acquired Intellectual Property by the Seller to the Purchaser must be in the agreed form;
- (t) the Transition Services shall have been agreed and included in the schedules to the Transition Services Agreement;

- (u) the Seller must have recorded, with the sub-registrar's office at Vadodara, itself as the owner of the Owned Real Property relating to the Vadodara Facility, and the Parties must have agreed in writing upon the precise delineation and boundaries of the Vadodara Facility and the Owned Real Property associated therewith to be acquired by the Purchaser by sub-division of the said land, and must have further agreed upon and entered into in writing such service arrangements as the Parties agree may be required to be provided by the Seller after Closing for the uninterrupted operation of the Vadodara Facility;
- (v) (i) the Seller must have made all rental and other payments in respect of the Brine Leases that are due on or prior to Closing pursuant to the terms of the Brine Leases, including without limitation any increases in rental payments mandated by the relevant Governmental Authority pursuant to its rights under the Brine Leases, and (ii) the Seller must further have paid that portion of the rental payments under the Brine Leases for the period August 1, 2012 through the Closing Date, notwithstanding that such rental payments may not be due under the terms of the Brine Leases until May 2013;
- (w) (i) the Seller must have made all royalty and other payments that are due on or prior to Closing pursuant to the terms of the agreement dated 19 August 1999 executed with the President of India and the National Research Development Council ("NRDC") (the "PATSER Agreement"), (ii) the Royalty Agreement dated 9 October 2001 with the NRDC, and the Supplementary Agreement thereto dated 17 April 2001, pursuant to which the PATSER Agreement was amended; and (ii) the Seller shall have provided to the Purchaser a written schedule identifying in reasonable detail all assets acquired from the grant-in-aid under the PATSER Agreement, and shall have obtained the consent of the Department of Scientific and Industrial Research for the transfer of such assets to the Purchaser; and
- (x) the Seller must have recorded, with the sub-registrar's office at Bhuj, itself as the owner of the Owned Real Property relating to the Khavda Facility and the Owned Real Property relating to the Ratadia Facility.

### 5.3 **Conditions Precedent to the Obligations of the Seller**

5.3.1 The obligation of the Seller to sell the Business and undertake its obligations on the Closing Date is subject to the satisfaction of all the following conditions:

- (a) Each of the Purchaser Warranties must have been true and correct in all respects as of the Effective Date and as of the Closing Date; except that if any representation or warranty of the Purchaser speaks as of the Effective Date or any other specific date, then such representation or warranty must have been true and correct in all respects only as of such date.
- (b) Each of the covenants, agreements and obligations of the Purchaser to be performed at or before the Closing Date pursuant to the terms of this Agreement



shall have been duly performed in all material respects at or before the Closing Date.

#### 5.4 Responsibility for Satisfaction

- 5.4.1 The Purchaser shall, and the Purchaser Parent shall procure that the Purchaser shall, use all reasonable endeavours (including taking any commercially reasonable action which may be required by any court or Governmental Authority as a condition to the giving of any consents) to ensure the satisfaction of the conditions set forth in Clause 5.3 as soon as possible after the Effective Date. The Seller Parent and the Seller shall cooperate with the Purchaser in good faith in this regard. The Purchaser shall at all times comply in all material respects with applicable Laws when ensuring the satisfaction of the conditions set forth in Clause 5.3.
- 5.4.2 The Seller shall, and the Seller Parent shall procure that the Seller shall, use all reasonable endeavours (including taking any commercially reasonable action which may be required by any court or Governmental Authority as a condition to the giving of any consents) to ensure the satisfaction of the conditions set forth in Clause 5.2 above as soon as possible after the Effective Date. The Purchaser Parent and the Purchaser shall cooperate with the Seller in good faith in this regard. The Seller shall at all times comply in all material respects with applicable Laws when ensuring the satisfaction of the conditions set forth in Clause 5.3.
- 5.4.3 Without prejudice to Clauses 5.4.1 and 5.4.2, the Seller and the Purchaser agree that all requests and enquiries from any court or other Governmental Authority which relate to the satisfaction of the conditions set out in Clauses 5.1 or 5.2 shall be dealt with by the Seller and the Purchaser in consultation with each other and the Seller and the Purchaser shall promptly cooperate with and provide all necessary information and assistance reasonably required by such Governmental Authority upon being requested to do so by the other. Each of the Purchaser and the Seller agrees in connection with each of the conditions set out in Clauses 5.1 and 5.2 that it will:
- (a) not make any application or submission to any Governmental Authority in relation to the subject matter of this Agreement without first providing the other party with a copy of the application, submission or any written information which the applicable party proposes to disclose to the applicable Governmental Authority and of all related written communications;
  - (b) to the extent practicable give the other party an opportunity to discuss the application, submission or information before it is released to the applicable Governmental Authority; and
  - (c) consider all reasonable comments on any such communications by the other party and give the other party a reasonable opportunity to discuss any such communications.

## 5.5 Waiver

- 5.5.1 If so permitted by Law, the Purchaser and/or the Seller may, by writing, waive all or any of the Conditions Precedent required to be fulfilled by the other Party, in part or in full, on such reasonable terms and conditions as the Party waiving any Condition Precedent may deem reasonable.
- 5.5.2 Upon becoming aware of the fulfilment or waiver of the Conditions Precedent required to be fulfilled by a Party under Clause 5.1, 5.2 or 5.3, the Party required to fulfill such Condition Precedent (“**Obligated Party**”) shall deliver to the other Party a certificate certifying that the relevant Conditions Precedent have been fulfilled or waived (“**CP Compliance Certificate**”). The Obligated Party shall, along with the CP Compliance Certificate, enclose all necessary documents (where applicable) evidencing fulfilment or waiver of the relevant Conditions Precedent. The Parties acknowledge that certain Conditions Precedent, being those set forth in Clause 5.2.1(a), (b) and (h) and Clause 5.3.1(a) and (b), by their nature can only be satisfied at the Closing, and that accordingly there will be no CP Compliance Certificates in respect of such Conditions Precedent, but rather certificates in respect thereof will be delivered at Closing pursuant to paragraphs 9.5 and 9.6 of Schedule 7.

## 6. PRE-CLOSING

### 6.1 The Seller’s Obligations in Relation to the Conduct of the Business

- 6.1.1 The Seller shall, and the Seller Parent undertakes to procure that, between the Effective Date and the Closing Date or until termination of this Agreement pursuant to Clause 16.1, whichever is earlier (“**Interim Period**”), the Seller shall, (i) carry on the Business in the ordinary course consistent with past practices as carried on prior to the Effective Date, save insofar as agreed in writing with the Purchaser, provided that this shall not limit the Seller’s ability to effect the transactions envisaged to give effect to this Agreement and (ii) take commercially reasonable endeavours (subject to Clauses 6.1.2 and 6.1.3) to preserve intact the relationships of the Business with the officers, employees, suppliers, distributors, customers and other third parties in respect thereof, in a manner consistent with past practice.
- 6.1.2 Without prejudice to the generality of Clause 6.1.1, the Seller shall not, and the Seller Parent undertakes to procure that the Seller shall not, during the Interim Period, with respect to the Business, except as may be required to give effect to and to comply with this Agreement, without the prior written consent of the Purchaser, which is not to be unreasonably withheld, conditioned or delayed:
- (a) enter into any agreement or incur any commitment on behalf of the Business which is not capable of being terminated without compensation at any time with twelve (12) months’ notice or less or which is not in the ordinary course of business or which involves or may involve total annual expenditure in excess of Rs. 5,000,000;

- (b) acquire, lease, transfer or dispose of, or agree to acquire, lease, transfer or dispose of, any material asset of the Business or any material interest therein involving consideration, expenditure or liabilities in excess of Rs. 1 crore in the aggregate, other than in the ordinary course of business;
- (c) commence production, or execute any definitive agreement, in relation to any new line of business that is not related to the Business as it is currently engaged in;
- (d) dissolve, wind up or liquidate the Seller whether voluntarily or involuntarily, or amalgamate, merge, demerge, restructure or reorganize the Business or carry out any other activity that has a similar effect;
- (e) change the Business or diversify the Business;
- (f) make any advance or grant any loan or provide any credit to any Person, other than in the ordinary course of business, but in any case not exceeding Rs. 1 crore;
- (g) make any arrangement with creditors or move for insolvency, receivership or bankruptcy in relation to the Business;
- (h) establish or increase any bonus, commission, insurance, severance, deferred compensation, pension, retirement, profit sharing, stock option (including the granting of stock options, stock appreciation rights, performance awards or restricted stock awards), stock purchase or other Employee Benefit Plan or arrangement, or otherwise increase the compensation payable to or to become payable to any Employee, other than as required by applicable Law;
- (i) hire or recruit any Senior Employee, or terminate the services of any of the Senior Employees;
- (j) hire or recruit any employee(s) where such hiring(s) or recruitment(s) would result in the aggregate annual wage bill of the Business increasing by 5% or more;
- (k) enter into any transaction, agreement or arrangement that has the effect of terminating, cancelling, releasing, assigning or novating any of the Material Contracts;
- (l) amend or alter any credit terms or payment terms to its customers, vendors or suppliers in respect of its Business;
- (m) enter into any Contract which would impose or is likely to impose any Material Adverse Effect;
- (n) amend or alter the standard operating procedure or make any material changes in the customary methods of operations of the Business, including without limitation, practices and policies relating to manufacturing, purchasing, marketing, selling and pricing, other than in the ordinary course of business;

- (o) create, incur or assume nor allow to be created, incurred or assumed any Encumbrance, other than any Permitted Encumbrance, over the Business or any part thereof;
- (p) write down or write up the value of any of the Acquired Assets or revalue any such Acquired Assets or create any Accounts Receivables, except in the ordinary course of business and in accordance with GAAP;
- (q) make nor allow to be made any capital commitment or expenditure relating to the Business, other than those contained in Schedule 6.1.2(q);
- (r) make nor allow to be made any material change to the accounting procedures or principles by reference to which the Business' accounts are drawn up;
- (s) save as required by Law, settle or compromise any claim, demand, dispute, litigation, petition, action, suit, investigation, inquiry, Proceeding, mediation, arbitration, conciliation, assessment, fine, penalty, judgment, order, injunction, decree or award (administrative or judicial (criminal or otherwise)), by or before any Governmental Authority and/or by or against any person, to which the Seller is a party, which may materially and adversely affect the transfer of the Business;
- (t) create or open any new bank accounts in relation to the Business;
- (u) take any action that results in lapse of any insurance policy relating to the Acquired Assets;
- (v) relocate any of the plants or undertakings relating to the Business or any portion thereof or enter into any arrangement in terms whereof the possession of any of its plants or undertakings relating to the Business or any portion thereof is handed over or use thereof is allowed to any third party;
- (w) make any Tax elections, settle any Tax audits, extend any Tax statute of limitations or take, or omit to take, any action or omission which would have the effect of increasing the Tax liability or reducing any Tax asset with respect to the Business;
- (x) commit or agree, whether in writing or otherwise, to do any of the foregoing or permit anything to be done which would have the effect of any of the foregoing.

6.1.3 Without prejudice to the generality of Clause 6.1.1, the Seller shall, and the Seller Parent undertakes to procure that the Seller shall, during the Interim Period, with respect to the Business:

- (a) maintain and keep the Acquired Assets in such repair, working order and condition as is necessary for operation of the Business in the ordinary course consistent with past practices;
- (b) keep in full force and effect insurance comparable in amount and scope of coverage to the insurance that is maintained with respect to the Business as of the Effective Date and not do anything to make any such policy void or voidable, and, immediately upon the occurrence of any insured event or matter covered by insurance, take all commercially reasonable steps to recover payment in full under the relevant insurance policy or from the relevant insurer which carries the risk and take all commercially reasonable steps to repair or reinstate the damaged assets relating to the Business;
- (c) perform in all material respects all of its obligations under all Contracts, including paying in full all rental and other payment obligations under the Brine Leases that are or become due for payment, pursuant to the terms of the Brine Leases, prior to the Closing, notwithstanding that it may have become customary practice for the Business to make such payments in arrears contrary to the terms of the Brine Leases;
- (d) maintain the Books in accordance with applicable Law;
- (e) comply in all material respects with all applicable Laws;
- (f) confer with the Purchaser concerning operational matters of a material nature and promptly advise the Purchaser in writing of any emergency or other material change in the normal course of business or operations and of any material governmental or any other third party complaints, investigations or hearings or communications;
- (g) as promptly as practicable intimate the Purchaser of any known Material Adverse Effect;
- (h) promptly disclose to the Purchaser in writing, upon becoming aware of the same, any matter, event or circumstance (including any omission to act) which may arise or become known to it after the Effective Date and before Closing which constitutes a breach of any of the Seller Warranties;
- (i) use all commercially reasonable endeavours to collect its accounts receivable in the ordinary course of business and consistent with past practice;
- (j) pay its accounts payable and employee accruals in the ordinary course of business;
- (k) file all Tax Returns and pay all Taxes associated with the operation of the Business as and when due and payable during the Interim Period, as required under applicable Law (or within any extensions granted by the relevant Taxing Authorities); and

- (l) comply in all material respects with all the Governmental Authorizations and not undertake any action (or fail to undertake any action) which could be construed as a material breach of any of the conditions of such Governmental Authorizations.

## 6.2 Exceptions

6.2.1 Clauses 6.1.1, 6.1.2 and 6.1.3 do not apply in respect of and shall not operate so as to restrict or prevent:

- (a) any matter reasonably undertaken by the Seller in respect of the Business in a local, provincial or national emergency or disaster situation (and of which the Purchaser shall be promptly notified);
- (b) the Seller from entering into any contract or arrangement in the ordinary course of the Business for procurement, sourcing, offtake or supply to the Seller in respect of the Business of any goods, materials or provision of any services, in each case involving a total expenditure of up to INR 5,000,000 or up to INR 25,000,000 in the aggregate;
- (c) the completion or performance of actions which are reasonably necessary to discharge any obligations undertaken pursuant to any legal or regulatory obligation (including capital expenditure obligations under a regulatory determination) or pursuant to any contract, arrangement, licence or consent entered into by or relating to the Business prior to the Effective Date;
- (a) any matter undertaken at the request of the Purchaser or to effect the transactions contemplated by this Agreement; or
- (b) any action taken by the Seller in relation to its businesses other than the Business, including chlor alkali and phosphoric acid businesses.

## 6.3 Access and Investigation

6.3.1 During the Interim Period and upon reasonable advance notice from the Purchaser, the Seller will allow the Purchaser and its directors, officers, employees, agents, prospective financing sources, consultants and other advisors and representatives (the "**Purchaser's Representatives**") reasonable access during normal business hours to, and furnish them with all documents, records, work papers and information with respect to, all of the properties, assets, personnel, books, Contracts, Governmental Authorizations, reports and records to the extent relating to the Business as the Purchaser may reasonably request. In addition, until the Closing, the Seller will cause its accountants to cooperate with the Purchaser and its representatives in making available the financial information of the Seller relating to the Business as reasonably requested, provided however, that, subject to Clause 6.3.2, in each case such access shall not result in a breach of any confidentiality obligations of the Seller owed to a third party.

6.3.2 If the access contemplated pursuant to Clause 6.3.1 would otherwise result in a breach of any confidentiality obligations of the Seller owed to a third party; then Seller shall use all reasonable endeavours to obtain such third party's applicable consent to disclosure and shall in the interim take such steps as are reasonably required by the Purchaser to disclose to the Purchaser the relevant information in a matter that does not breach the confidentiality obligations owed to such third party, including, for the sake of example, redacting relevant confidential provisions from documents. Notwithstanding the above, the Parties agree and acknowledge that the names of the customers of the Seller shall only be provided to the Purchaser on or as soon as reasonably practicable prior to the Closing Date.

#### 6.4 Financial Statements

6.4.1 During the Interim Period, on or before the 21<sup>st</sup> day of each calendar month, the Seller will deliver to the Purchaser unaudited financial statements of the Business as at and for the monthly period ending on the last day of the preceding month (the "Subsequent Monthly Financial Statements"), which will include a balance sheet, a statement of income and cash flow statement prepared in accordance with Clause 4.8.

#### 6.5 Required Operational Consents

6.5.1 As soon as practicable after the Closing, the Seller and the Purchaser shall:

- (a) Jointly apply to the relevant Governmental Authorities to arrange for the Purchaser to obtain all the Required Operational Consents not otherwise required to be obtained prior to Closing as a Condition Precedent; and
- (b) use reasonable endeavours, including duly executing all requisite forms and filings as required by any Governmental Authority and/or under any Law, to effect or procure the same as soon as possible within the statutory or other regulatory timeframe for obtaining the same, including conducting discussions and liaising with the relevant authorities and providing information necessary for the Seller or Purchaser (as the case may be) to transfer or procure the Required Operational Consent with effect from the Closing Date.

#### 6.6 Employees

6.6.1 The Seller shall use its best efforts to procure the consent of the Employees for the transfer of their employment to the Purchaser with effect from the Closing Date.

6.6.2 The consent of each Transferring Employee shall be evidenced in a written tripartite agreement signed by each Employee, the Seller and the Purchaser ("**New Employment Contracts**").

6.6.3 The Purchaser shall ensure that the New Employment Contracts will provide for employment of the relevant Transferring Employee with the Purchaser on and with

effect from the Closing Date on terms and conditions no less favourable than those provided to such Transferring Employee by the Sellers immediately prior to the Closing Date.

#### 6.7 **Updating of Assets Schedules**

- 6.7.1 No earlier than five Business Days and no later than three Business Days prior to the Closing Date, the Seller shall provide to the Purchaser an updated Schedule 1 hereto, setting forth an accurate and complete detailing of all material changes to Schedule 1 arising as a result of the operation of the Business between the Effective Date and the date of such update.

#### 6.8 **Incorporation and Joinder of the Purchaser**

- 6.8.1 The Purchaser Parent will use its commercially reasonable endeavours to incorporate, under the (Indian) Companies Act, 1956, a wholly owned direct or indirect subsidiary (the "**Purchaser**") of the Purchaser Parent as soon as practicable following the Effective Date and in any event not later than 30 days after the Effective Date.
- 6.8.2 The Purchaser Parent shall cause the Purchaser, promptly upon its incorporation, to become a party to this Agreement and adopt this Agreement with the same force and effect as if it were originally a party hereto by executing the joinder agreement in the agreed form (the "**Joinder Agreement**"). The Purchaser Parent, the Seller and the Seller Parent shall also execute the Joinder Agreement at the same time as its execution by the Purchaser. Upon execution of the Joinder Agreement by the Purchaser and by the other Parties hereto, the Purchaser shall become and be a Party to this Agreement and shall be fully bound by and subject to all of the covenants, terms and conditions, and shall have all the rights, of the Purchaser contained herein with the same force and effect as if it were an original Party hereto.

#### 6.9 **Transition Services**

- 6.9.1 The Parties shall in good faith promptly negotiate and agree on the scope and length of transition services to be provided by the Seller to the Purchaser following the Closing (the "**Transition Services**"). The Parties agree that the Transition Services shall be included in the schedules to the agreed form Transition Services Agreement and that, as set forth in section 3.1 of the Transition Services Agreement, the Transition Services will be charged to the Purchaser at no higher cost than the Seller's costs and expenses for providing such Transition Services, without any markup for profit margin.

#### 6.10 **Agreed Remediation Steps**

- 6.10.1 Prior to the Closing, the Seller shall use its reasonable best efforts to remedy those items set forth in Schedule 6.10 (the "**Agreed Remediation Steps**") in accordance with accepted industry practices in India and in compliance with applicable Environmental Requirements of Law.



- 6.10.2 To the extent that any Agreed Remediation Step has not been completed by Closing in accordance with the standard prescribed under Clause 6.10.1 above, the Seller and the Seller Parent shall following the Closing indemnify the Purchaser from and against any and all Losses incurred by the Purchaser, which arise out of, result from or are in connection with such Agreed Remediation Step; provided, however, that (i) the liability of the Seller and the Seller Parent to indemnify the Purchaser after Closing for such Agreed Remediation Step shall not exceed the monetary amount set forth against such Agreed Remediation Step in Schedule 6.10; and (ii) the Agreed Remedial Steps to the extent remedied or indemnified in terms of this Clause 6.10 shall not result or form the basis for an Environmental Claim under Clause 10 against the Seller and/or the Seller Parent Following the Closing, the Seller and the Seller Parent shall have no right to control or participate in the steps Purchaser takes in respect of any Agreed Remediation Step.

## **7. CLOSING**

### **7.1 Date and Place**

- 7.1.1 Unless otherwise agreed by the Parties, the Closing shall take place on the fifth (5<sup>th</sup>) Business Day from the date of the last CP Compliance Certificate or on such other date as may be mutually agreed by the Parties in writing. The Date on which the Closing actually takes place is referred to in this Agreement as the “**Closing Date**”. The Closing shall take place at 11:00 a.m. at the registered office of the Seller on the Closing Date unless otherwise agreed by the Parties in writing.

### **7.2 Closing Events**

- 7.2.1 On Closing, the Seller and the Purchaser shall comply with their respective obligations specified in Schedule 7 (as required to be satisfied on the Closing Date) and Clause 7.3.1 hereof. The actions listed in Schedule 7 and Clause 7.3 shall take place simultaneously. Closing shall be deemed not to have occurred until and unless each of the actions listed in Schedule 7 (as required to be satisfied on the Closing Date) and Clause 7.3 are completed.

### **7.3 Payment of the Purchase Price**

- 7.3.1 At the Closing, the Purchaser shall pay and remit, through the normal banking channels, the Agreed Price in immediately available funds to the bank account of the Seller (which shall have been provided by the Seller to the Purchaser beforehand). The Purchaser shall ensure that submission of the KYC report and completion of other formalities relating to the remittance of the Agreed Price as may be required by the bank take place on or before the Closing Date.
- 7.3.2 If the Net Working Capital Adjustment is a positive amount, the Purchaser will pay to the Seller, by wire transfer of immediately available funds from the Purchaser to an account designated by the Seller, the amount of the Net Working Capital Adjustment (without any interest thereon), such payment to be made within ten (10)

days after the final determination of the Net Working Capital Adjustment in accordance with Clause 4 hereof.

- 7.3.3 If the Net Working Capital Adjustment is a negative amount, the Seller will refund the amount of the Net Working Capital Adjustment (without any interest thereon), such payment to be made within ten (10) days after the final determination of the Net Working Capital Adjustment in accordance with Clause 4 hereof. Any such payment by the Seller will be effected by wire transfer of immediately available funds from the Seller to an account designated by the Purchaser.
- 7.3.4 The Seller will refund the amount of the Accrued Benefits Adjustment (without any interest thereon) within ten (10) days after the final determination of the Accrued Benefits Adjustment in accordance with Clause 9.2 hereof. Such payment by the Seller will be effected by wire transfer of immediately available funds from the Seller to an account designated by the Purchaser.
- 7.3.5 The Purchaser will pay to the Seller, by wire transfer of immediately available funds from the Purchaser to an account designated by the Seller, the amount of the Aggregate Tax Credits Adjustment (without any interest thereon), such payment to be made within ten (10) days after the final determination of the Aggregate Tax Credits Adjustment in accordance with paragraph 10 of Schedule 7 hereto.

#### 7.4 **Breach of Closing Obligations**

- 7.4.1 Closing shall be deemed to not have occurred until and unless all of the actions in Schedule 7 (as required to be satisfied on the Closing Date) are completed by the relevant Party. If the Seller or the Purchaser fails to comply with any material obligation in Clause 7.1.1 or 7.2.1 or Schedule 7 (as required to be satisfied on the Closing Date), the Purchaser, in the case of non-compliance by the Seller, or the Seller, in the case of non-compliance by the Purchaser, shall be entitled (in addition to and without prejudice to all other rights or remedies available, including the right to claim indemnity) by written notice to the other:
  - (a) to effect Closing so far as practicable having regard to the defaults which have occurred; or
  - (b) to fix a new date for Closing (being not more than ten (10) Business Days after the Closing Date or the Long Stop Date, whichever is applicable) in which case the provisions of this Clause 7 shall apply as so deferred, except that further deferral pursuant to this Clause 7.4 shall not be permitted.

### 8. **WARRANTIES**

#### 8.1 **Seller Warranties**

- 8.1.1 The Seller hereby represents and warrants to the Purchaser that each of the statements set out in Part A of Schedule 8.1 (“**Seller**

**Warranties**”) is now and will at Closing (by reference to the facts and circumstances existing at the relevant time) be true and accurate.

- 8.1.2 Each of the Seller Warranties shall be separate and independent and, save as expressly provided to the contrary in this Agreement, shall not be limited by reference to or inference from any other Seller Warranty or anything in this Agreement or the documents referred to herein.
- 8.1.3 The Seller acknowledges that the Purchaser has entered into this agreement on the basis of and in reliance upon (among other things) the Seller Warranties.
- 8.1.4 With effect from the Closing Date, the Seller shall not be entitled to raise as a defence to a claim by the Purchaser under this Agreement the fact that it had relied on information provided to it by any of the Employees or any of their agents (including advisers). The Seller hereby irrevocably waives any and all claims against each member of the Purchaser’s Group and any of its officers, employees (including without limitation the Employees), workers and, in connection only with the sale of the Business, its agents and undertakes (if any claim is made against it in connection with the sale of the Business to the Purchaser) not to make any claim against or seek any contribution from any such person (and undertakes that no other person claiming under or through it will make any such claim or seek any such contribution).
- 8.1.5 The only Seller Warranties given:
- (a) in respect of the Owned Real Property, Leased Real Property and Real Property Leases are those contained in paragraph 3.1 of Part A of Schedule 8.1 and each of the other Seller Warranties shall be deemed not to be given in respect of the Owned Real Property, Leased Real Property and Real Property Leases;
  - (b) in respect of employment matters are those contained in paragraph 6 of Part A of Schedule 8.1 and each of the other Seller Warranties shall be deemed not to be given in respect of such matters;
  - (c) in respect of Tax matters are those contained in paragraph 10 of Part A of Schedule 8.1 and each of the other Seller Warranties shall be deemed not to be given in respect of such matters; and
  - (d) in respect of Acquired Intellectual Property are those contained in paragraph 15 of Part A of Schedule 8.1 and each of the other Seller Warranties shall be deemed not to be given in respect of such matters

provided, however, that the Seller Warranties set out in paragraphs 1, 8, 16 and 18 of Part A of Schedule 8.1 shall be deemed to be given in respect also of the Owned Real Property, Leased Real Property and Real Property Leases, employment matters, Tax

matters and Acquired Intellectual Property, and shall accordingly not be subject to the limitations set forth in clauses 8.1.5 (a) through (d) above. Notwithstanding anything to the contrary contained in this Agreement, the Seller Warranties set out in paragraphs 1, 8, 16 and 18 of Part A of Schedule 8.1 shall not apply in respect of Environmental Warranties, and the Parties expressly agree and acknowledge that, after the Closing, the indemnification rights stipulated under Clause 10 shall be the sole and exclusive remedies for the Purchaser in respect of any claims for breach by the Seller of any of the Environmental Warranties (and the provisions of Clause 11 or any other remedies under Law shall not apply).

- 8.1.6 The Purchaser acknowledges and agrees that, except as expressly provided under the Seller Warranties, the Seller does not give or make any other express or implied warranty or representation including any warranty or representation as to the accuracy of the forecasts, estimates, projections, statements of intent or statements of opinion provided to the Purchaser or any of its directors, officers, employees agents or advisors on or prior to the Effective Date.

## 8.2 The Seller's Disclosures

- 8.2.1 Notwithstanding anything to the contrary, the Seller shall not be liable under any Seller Warranty if and to the extent that the fact, matter, event or circumstance giving rise to such liability was expressly and reasonably disclosed in this Agreement or the Disclosure Letter. No letter, document or other communication (whether or not in writing) shall be deemed to constitute a disclosure under the Disclosure Letter or any Supplemental Disclosure Letter unless it is expressly incorporated or reasonably disclosed in the Disclosure Letter or such Supplemental Disclosure Letter.
- 8.2.2 References in the Disclosure Letter and any Supplemental Disclosure Letter to paragraph numbers shall be to the paragraphs in Schedule 8.1 to which the disclosure relates. Such references are given for convenience only and shall not limit the effect of any of the disclosures, all of which are (subject, in the case of any Supplemental Disclosure Letter, to clause 8.2.4) made against the Seller Warranties as a whole.
- 8.2.3 The rights and remedies of the Purchaser under this Agreement (including the right to receive any compensation or indemnity) shall not be affected by any investigation into the business and affairs of the Business and/or the Seller (including any legal, financial, Tax and/or technical due diligence or evaluation), made or conducted by the Purchaser or the Purchaser Parent or any other person acting on its and/or their behalf, prior to the Effective Date or at any time thereafter. Save and except for the information expressly disclosed in the Disclosure Letter or, subject to clause 8.2.4, any Supplemental Disclosure Letter, none of the Seller Warranties shall be treated as qualified by any actual or constructive knowledge on the part of the Purchaser or Purchaser Parent or any of its and/or their agents, representatives, officers, employees or advisers.

8.2.4 The Seller Warranties given at Closing are made subject to any facts, matters, events or circumstances occurring after the Effective Date which are expressly and reasonably disclosed in any further letter delivered by the Seller to the Purchaser which letter is specifically expressed to be a letter delivered pursuant to this Clause 8.2.4 (a “**Supplemental Disclosure Letter**”); provided that the Seller shall only be entitled to make disclosures in a Supplemental Disclosure Letter in respect of any fact, matter, event or circumstance occurring after the Effective Date which, had it occurred before the Effective Date, would have enabled the Seller to make the relevant disclosure in the Disclosure Letter. For the avoidance of doubt, delivery of any Supplemental Disclosure Letter shall not affect any rights of the Purchaser under Clause 5.2.1 and nor shall any Supplemental Disclosure Letter be in any way effective to amend the Disclosure Letter, to qualify the Seller Warranties, or to cure any misrepresentation or breach of any Seller Warranty, in each case as of the Effective Date, and the rights of the Purchaser in respect of the Seller Warranties made as of the Effective Date shall remain unaffected by any Supplemental Disclosure Letter.

### 8.3 **Purchaser Warranties**

8.3.1 The Purchaser hereby represents and warrants to the Seller that the statements set out in Part C of Schedule 8.1 (“**Purchaser Warranties**”) are now and will at Closing (by reference to the facts and circumstances existing at the relevant time) be true and accurate.

## 9. **POST-CLOSING**

### 9.1 Treatment of Liabilities

9.1.1 In accordance with the provisions of this Agreement, at the Closing, the Purchaser will assume and pay, perform and discharge when due only the following Liabilities of the Seller (collectively, the “**Assumed Liabilities**”):

- (a) all trade accounts payable reflected in the Balance Sheet or incurred by the Seller in the ordinary course of business and in accordance with the provisions of this Agreement, including Clause 6.1, between the date of the Balance Sheet and the Closing (other than trade accounts payable to any member of the Seller’s Group) and which are reflected in the Closing Balance Sheet and that are not delinquent as of the Closing; and
- (b) all Liabilities of the Seller arising after the Closing under the Contracts, including all Real Property Leases and the Brine Leases (except, in each case, for any Liability arising out of or relating to (A) any breach of, or failure to comply with, prior to the Closing, any covenant or obligation in any such Contract or (B) any event that occurred prior to the Closing which, with or without notice, lapse of time or both, would constitute such a breach or failure).

9.1.2 Notwithstanding any other provision of this Agreement or any other writing to the contrary, and regardless of any information disclosed to the Purchaser or any of its

Affiliates or representatives, the Purchaser does not assume and has no responsibility for any Liabilities of the Seller other than the Assumed Liabilities specifically listed in Clause 9.1.1 (such unassumed Liabilities, the “**Excluded Liabilities**”). Without limiting the preceding sentence, the following is a non-exclusive list of Excluded Liabilities that the Purchaser does not assume, whether or not set forth in the Disclosure Letter, and that the Seller will remain bound by and liable for, and will pay, perform and discharge when due:

- (a) all Liabilities arising out of or relating to the Seller’s credit facilities or any security interest related thereto;
- (b) all Liabilities under any Contract, including any Brine Lease, that arise or exist after the Closing but that arise out of or relate to (i) any breach of, or failure to comply with, prior to the Closing, any covenant or obligation in any such Contract, including all rental payment obligations under the Brine Leases that fell due for payment prior to Closing, or (ii) any event that occurred prior to the Closing which, with or without notice, lapse of time or both, would constitute such a breach or failure;
- (c) all Liabilities arising out of or relating to product liability, indemnity, warranty, infringement, misappropriation or similar claims by any Person in connection with any tangible or intangible products or services used, sold or licensed by the Seller, in each case occurring prior to the Closing;
- (d) all Liabilities arising out of or relating to Indebtedness incurred by the Seller;
- (e) all Liabilities for Taxes arising as a result of the operation of the Business or ownership of the Acquired Assets prior to the Closing, including any Taxes that arise as a result of the sale of the Acquired Assets pursuant to this Agreement and any deferred Taxes of any nature;
- (f) all Liabilities arising under claims by employees or former employees of the Seller, including for compensation, benefits (including workers’ compensation and unemployment benefits), termination or continuation of their employment, or lack or delay of any notice relating to their employment;
- (g) all Liabilities for any wages, salaries, costs, dues, compensation benefits, entitlements, Tax deductions and other payments that relate to any of the Employees or to any of the Employee Benefit Plans prior to the Closing Date;
- (h) all Liabilities arising under or in connection with any Employee Benefit Plan relating to a period prior to the Closing, or relating to any termination, continuation, amendment or other acts or omissions in connection with any Employee Benefit Plan occurring prior to the Closing;
- (i) all Liabilities arising out of or resulting from the Seller’s compliance or non-compliance with any Law or judgment;

- (j) all Liabilities relating to any negotiations, agreements or other transactions, if any, by the Seller with any third party that relate to the acquisition by the Seller of any of the Acquired Assets or any termination of related negotiations or arrangements;
  - (k) all professional, financial advisory, broker, finder or other fees of any kind incurred by the Seller;
  - (l) all Liabilities of the Seller arising out of or incurred in connection with this Agreement, the transactions contemplated by this Agreement, or any other certificate, document or instrument executed in connection with the transactions contemplated by this Agreement, including the Seller's disclosures to or negotiations with creditors or stockholders;
  - (m) all Liabilities arising out of or relating to any employee grievance whether or not the affected employees are hired by the Purchaser;
  - (n) all Liabilities arising out of or relating to any Proceeding pending or threatened prior to the Closing, including all Liabilities arising out of or relating to any Proceeding pending or threatened prior to the Closing regarding the release of Contaminants that have or are alleged to have caused injury to human health, property, the environment, or any natural resources;
  - (o) all Liabilities arising out of or relating to any business or assets of the Seller that are not part of the Business or the Acquired Assets, including without limited the Seller's chlor-alkali business;
  - (p) all Liabilities arising out of any Proceeding commenced after the Closing and arising out of or relating to any occurrence or event happening before the Closing, except to the extent arising out of or relating to a breach of, or any failure by the Purchaser to comply with, any covenant or obligation binding on the Purchaser;
  - (q) all Liabilities arising under or in connection with any Employee Benefit Plan arising prior to the Closing, or any termination, continuation, amendment or other acts or omissions in connection with any Employee Benefit Plan occurring prior to the Closing;
  - (r) all Liabilities arising out of or related to any real properties other than the Owned Real Property and the Leased Real Property, including any Liabilities arising out of or related to the disposal of Contaminants at such real properties;
  - (s) all other Liabilities arising out of the operation of the Business or otherwise prior to the completion of the Closing.
- 9.1.3 The Seller agrees with the Purchaser that it will, in accordance with its normal practice, pay, satisfy or discharge all Excluded Liabilities.
- 9.1.4 Without prejudice to Clause 9.1.2, the Parties acknowledge that Liabilities arising out of events occurring after the Closing Date during the Purchaser's operation of

the Business shall be for the account of the Purchaser, and the Seller and its Affiliates shall have no responsibility in respect of such Liabilities.

## 9.2 Employee-Related Covenants

- 9.2.1 The Purchaser agrees and undertakes that (without prejudice to the adjustment to the Purchase Price in respect of the Accrued Benefits Adjustment pursuant to Clause 3.1), it shall:
- (a) credit each Transferring Employee with any accrued and unused vacation, leave provision entitlement, sick and personal days accrued by such Transferring Employee as of the Closing Date;
  - (b) assume and pay or perform when due all liabilities related to leave encashment, accrued bonus, and accrued gratuity as they relate to the Transferring Employees;
  - (c) with respect to the Transferring Employees, take on all other liabilities arising on account of the Employee Benefit Plans of the Purchaser that are brought into existence on or after the Closing Date;
  - (d) assume and pay or perform when due all Post-Closing Employee Liabilities.
- 9.2.2 On and from the Closing Date, if any Employee who is not a Transferring Employee is present at any of the Acquired Facilities, then the Seller shall forthwith remove, in so far as it is within its powers to do so, such Employees from the premises of the Acquired Facilities. The Seller will be solely liable for any severance payment required to be made to Employees as a result of the transactions contemplated by this Agreement.
- 9.2.3 As soon as practicable following the Closing Date, the Purchaser and the Seller will in good faith agree upon a reputable firm of actuaries in India and will cause such firm to determine, effective as of the Closing Date, the value of the gratuity, leave travel assistance and leave encashment benefits of the Transferring Employees as of the Closing Date (the "Accrued Benefits Adjustment") determined as if the Transferring Employees terminated employment with the Seller as of the Closing Date.
- 9.2.4 Effective as of the Closing Date, the Transferring Employees will no longer participate in the Seller's "Officers Superannuation Fund of Bilt Chemicals Limited" (the "Superannuation Scheme"), and the Seller will have taken all such action prior to the Closing Date as may be required to achieve this result. Effective as of the Closing Date, the Purchaser will establish a replacement defined benefit pension plan (the "New Superannuation Scheme"), and a related trust, for the benefit of the Transferring Employees who were members of the Superannuation Scheme immediately prior to Closing, the terms of which plan and trust will be substantially identical to the terms of the Superannuation Scheme. The Purchaser will recognize the service of the Transferring Employees with the Seller prior to the Closing Date for all purposes under the New Superannuation Scheme.



- 9.2.5 As soon as practicable following the date of this Agreement, the Seller will cause its actuaries to determine, effective as of the Closing Date, the credit balance of each Transferring Employee in the Superannuation Scheme (the aggregate amount thereof being the “Transferring Scheme Corpus”) equal to the present value of benefits accrued to the Closing Date for all Transferring Employees, determined as if the Transferring Employees terminated employment with the Seller as of the Closing Date and with regard to only those benefits to which the Transferring Employees would be eligible based on their age and service as of the Closing Date. The Seller will promptly following determination of the Transferring Scheme Corpus take such steps as are required to cause the Transferring Scheme Corpus to be transferred to the New Superannuation Scheme.
- 9.2.6 This Clause 9.2 shall operate exclusively for the benefit of the Parties to this Agreement and not for the benefit of any other Person, including the Employees or any other employee, consultant, former employee or independent contractor or other Person who performs or performed services to the Seller.

### 9.3 **Noncompetition**

- 9.3.1 During the period commencing on the Closing Date and ending on the fifth anniversary of the Closing Date (the “**Restricted Period**”), the Seller will not, and the Seller Parent undertakes to procure that the Seller and the other members of the Seller’s Group (“**Restricted Persons**”) will not, directly or indirectly, engage in any business anywhere in the world that competes with the Business as conducted on the Closing Date (“**Prohibited Business**”), or own an interest in, manage, operate, control, lend money or render financial assistance to or participate in or be connected with, as a partner, stockholder, consultant or otherwise, any Person that is engaged or planning to become engaged in a Prohibited Business; provided, however, that, for the purposes of this Clause 9.3, ownership of securities having no more than 5% of the outstanding voting power of any Person which are listed on any national securities exchange and directly engaged in a Prohibited Business will not, in itself, be deemed to be in violation of this Clause 9.3.
- 9.3.2 The Seller and the Seller Parent acknowledge that failure to comply with the obligations under this Clause 9.3 may cause irreparable damage or injury to the Purchaser and that money damages would not be a sufficient remedy for any breach of this Clause 9.3 and that, in addition to all other remedies, the Purchaser shall be entitled to seek specific performance and injunctive or other equitable relief as a remedy for any breach of this Clause 9.3.

### 9.4 **Nonsolicitation by Seller Group**

- 9.4.1 Unless otherwise agreed to in writing by the Purchaser, during the Restricted Period, the Seller will not, and the Seller Parent undertakes to procure that the Seller and the other Restricted Persons will not, directly or indirectly, for itself or on behalf of or in conjunction with any other Person, (i) call upon any Transferring Employee or any individual who is, at the time the individual is called upon, an

employee of the Purchaser for the purpose or with the intent of soliciting such employee away from or out of the employment of the Purchaser, or employ or offer employment to any individual who was or is employed by the Purchaser or (ii) cause, induce or attempt to cause or induce any customer, strategic partner, supplier, distributor, landlord or others in each case doing business with the Purchaser or the Business to cease or reduce the extent of its business relationship with the Purchaser or the Business or to deal with any competitor of the Purchaser or the Business.

9.4.2 The Seller and the Seller Parent acknowledge that failure to comply with the obligations under this Clause 9.4 may cause irreparable damage or injury to the Purchaser and that money damages would not be a sufficient remedy for any breach of this Clause 9.4 and that, in addition to all other remedies, the Purchaser shall be entitled to seek specific performance and injunctive or other equitable relief as a remedy for any breach of this Clause 9.4.

9.4.3 The Parties agree and acknowledge that whilst the provisions of Clause 9.3 and this Clause 9.4 are reasonable and are not in the nature of restrictions but instead are in the furtherance of trade or business, the Parties agree that if any of the provisions should be held by a court or tribunal of competent standing to be invalid as an unreasonable restraint of trade (but would have been valid if part of the wording had been deleted or the period reduced or the range of activities or geographical area reduced in scope) the provisions of Clause 9.3 and 9.4 shall apply with such modifications (which would be deemed to have been made) as are necessary to make them valid and effectively enforceable by a court or tribunal of competent jurisdiction or a competent arbitration body.

#### 9.5 Refunds and Remittances

9.5.1 If the Seller (or any of its Affiliates), on the one hand, or the Purchaser, on the other hand, after the Closing Date receives any funds properly belonging to the other party in accordance with the terms of this Agreement, the receiving party will promptly so advise such other party, will segregate and hold such funds in trust for the benefit of such other party and will promptly deliver such funds, together with any interest earned thereon and reasonable details regarding the reason for and source of the remittance, to an account or accounts designated in writing by such other party.

#### 9.6 Customer Inquiries

9.6.1 After the Closing, the Seller will use commercially reasonable endeavours to promptly notify the Purchaser of each inquiry that it or any of its Affiliates directly receives relating to the Business from an existing customer of the Business or any other Person that expressly states its desire to explore a commercial relationship with the Business.

9.7 **Non-Solicitation by Purchaser**

9.7.1 The Purchaser hereby agrees and undertakes that it shall not, and the Purchaser Parent undertakes to procure that the Purchaser and the other members of the Purchaser's Group will not, during the Restricted Period, directly or indirectly, for itself or on behalf of or in conjunction with any other Person, call upon any employee of the Seller and the other members of the Seller's Group for the purpose or with the intent of soliciting such employee away from or out of the employment of the Seller or other member of the Seller's Group.

9.8 **No Use of Seller Marks**

9.8.1 The Purchaser shall, and the Purchaser Parent shall procure that the Purchaser shall:

- (a) within 90 days from the Closing Date, cease to use, and remove from all assets and other materials owned or used by it, including any premises, buildings, equipment, letterheads, business cards, invoices, websites, stationery, advertising and marketing materials, manuals, forms, signage, websites, email, computer software and systems and clothing, any trade or service name or mark, business name, logo or domain name owned by the Seller or any member of the Seller's Group (other than those which form part of the Acquired Intellectual Property) or any mark, name or logo which is confusingly similar to any of them (the "**Seller Marks**");
- (b) in the 90 day period from the Closing Date, whenever any written materials are provided by it or any company in the Purchaser's Group to any Person, cause any references to any Seller Mark to be concealed and/or a separate note attached which makes it clear that the relevant company in the Purchaser's Group has no relationship and is not in any way connected to any member of the Seller or the Sellers' Group or its business. Any use by the Purchaser or any member of the Purchaser's Group of any of the Seller Marks during the 90 day period from the Closing Date in accordance with this Clause 9.8.1(a) above shall be limited to use in respect of assets and materials in existence, and to which the Seller Marks have been applied/affixed, prior to the Closing Date. Nothing in this Agreement shall give the Purchaser or any other member of the Purchaser's Group the right to apply any Seller Mark to any other assets and materials;
- (c) during the Restricted Period, not do anything which is detrimental or prejudicial to any Seller Mark or the reputation of the Seller or the Sellers' Group; and
- (d) take any other reasonable steps as may be reasonably requested by the Seller to demonstrate that the Purchaser has no rights over the Seller Marks.

9.8.2 The Purchaser hereby acknowledges and agrees that the Seller is the exclusive owner of all intellectual property rights in the Seller Marks and the Purchaser shall not, and shall procure that none of the other members of the Purchaser's Group shall, in any manner whatsoever, represent that it has any ownership interest in the Seller Marks or any of them including by way of applying for registration of the Seller Marks, or deny or contest the validity or enforceability of any of the Seller

Marks, or oppose or seek to cancel any registration thereof, or aid or abet others in doing any such acts.

- 9.8.3 The Purchaser acknowledges that failure by it to comply with the obligations under this Clause 9.8 may cause irreparable damage or injury to the Seller and that money damages would not be a sufficient remedy for any breach of this Clause 9.8 and that, in addition to all other remedies, the Seller shall be entitled to seek specific performance and injunctive or other equitable relief as a remedy for any breach of this Clause 9.8.

9.9 **Required Operational Consents**

- 9.9.1 If so required by Law, within 30 days after the Closing Date, the Seller shall de-register or surrender any Required Operational Consent in its name which have not been transferred to the Purchaser

10. **ENVIRONMENTAL MATTERS**

- 10.1 **Environmental Warranties.** The Seller hereby represents and warrants to the Purchaser that each of the Environmental Warranties is now and will at Closing (by reference to the facts and circumstances existing at the relevant time) be true and accurate. Each of the Environmental Warranties shall be separate and independent and, save as expressly provided to the contrary in this Agreement, shall not be limited by reference to or inference from any other Environmental Warranty or anything in this Agreement or the documents referred to herein. The Seller acknowledges that the Purchaser has entered into this agreement on the basis of and in reliance upon (among other things) the Environmental Warranties.
- 10.2 **Indemnification by the Seller.** Notwithstanding anything to the contrary contained in this Agreement, and subject to the limitations expressly set forth in Clauses 10.3 and 10.4, the Seller and the Seller Parent (the “**Environmental Indemnifying Parties**”) shall jointly and severally indemnify, defend and hold harmless the Purchaser Indemnified Parties from and against any and all Losses suffered by the Purchaser Indemnified Parties which arise out of, result from or are in connection with:
- 10.2.1 any “**Unknown Environmental Liability**” which shall be defined for purposes of this Agreement to mean and include any Liabilities or legal obligations that are not listed on Schedule 10 and that relate to or arise from (a) any Release of or any exposure of any Person to any Contaminants at, on, in, to, from or under the Owned Real Property or the Leased Real Property that occurred on or before the Closing Date, including the subsequent migration of such Contaminants from such properties, (b) any violation of Environmental Requirements of Law by the Business or the Seller that occurred on or before the Closing Date, until such violation is resolved pursuant to the terms of this Clause 10; or (c) any Proceeding asserted in response to (a) through (b) above;
- 10.2.2 any breach of any of the Environmental Warranties;

- 10.2.3 any “**Known Environmental Liability**” which shall be defined for purposes of this Agreement to mean and include any Liabilities or legal obligations that are both:
- (a) listed on Schedule 10; and
  - (b) relate to or arise from:
    - (i) any Release of or any exposure of any Person to any Contaminants at, on, in, to, from or under the Owned Real Property or the Leased Real Property that occurred on or before the Closing Date, including the subsequent migration of such Contaminants from such properties;
    - (ii) any violation of Environmental Requirements of Law by the Business or the Seller that occurred on or before the Closing Date, until such violation is resolved pursuant to the terms of this Clause 10; or
    - (iii) any Proceeding asserted in response to (a) through (b) above.

10.3 **Survival.**

- 10.3.1 The indemnification rights stipulated under this Clause 10 shall survive Closing. For the avoidance of doubt, it is clarified that the survival of the indemnification rights under this Clause 10 shall not be deemed to imply a repetition of any of the Environmental Warranties after the Closing Date.
- 10.3.2 The indemnities set forth in Clauses 10.2.1 and 10.2.2 shall expire on the eight (8) year anniversary of the Closing Date (the “**Unknown Environmental Liability Indemnity Period**”); provided only, however, that if any Purchaser Indemnified Party provides an Environmental Claim Notice in respect of a particular Unknown Environmental Liability or breach of an Environmental Warranty within the Unknown Environmental Liability Indemnity Period, the indemnity set forth in Clause 10.2.1 or 10.2.2 (as the case may be) shall survive until resolved with respect to Losses relating to or resulting from such Liability or breach. Any Losses relating to or resulting from an Unknown Environmental Liability or breach of an Environmental Warranty that is not the subject of an Environmental Claim Notice issued prior to the expiration of the Unknown Liability Indemnity Period shall be deemed to constitute Assumed Liabilities with effect from the expiration of the Unknown Environmental Liability Indemnity Period and the Seller shall have no liability under this Agreement for such Losses thereafter.
- 10.3.3 The indemnity set forth in Clause 10.2.3 shall expire on the eight (8) year anniversary of the Closing Date (the “**Known Environmental Liability Indemnity Period**”); provided only, however, that if any Purchaser Indemnified Party provides an Environmental Claim Notice in respect of a particular Known Environmental Liability within the Known Environmental Liability Indemnity Period, the indemnity set forth in Clause 10.2.3 shall survive until resolved with respect to Losses relating to or resulting from that Known Environmental Liability. Any Losses relating to or resulting from a Known Environmental Liability that is not the

subject of an Environmental Claim Notice issued prior to the expiration of the Known Liability Indemnity Period shall be deemed to constitute Assumed Liabilities with effect from the expiration of the Known Environmental Liability Indemnity Period and the Environmental Indemnifying Parties shall have no liability under this Agreement for such Losses thereafter.

#### 10.4 **Limitations on Liability.**

10.4.1 Shifting of Responsibility for Losses From Known Environmental Liability. Subject to Clause 10.3.2 and to Clause 10.4.3, the amount in respect of which the Environmental Indemnifying Parties shall be liable to indemnify, defend and hold harmless the Purchaser Indemnified Parties pursuant to Clause 10.2.3 shall be limited as follows:

- (a) The Environmental Indemnifying Parties shall indemnify, defend and hold harmless the Purchaser Indemnified Parties from and against one hundred percent (100%) of any and all Losses relating to or resulting from a Known Environmental Liability that is the subject of an Environmental Claim Notice issued prior to the two (2) year anniversary of the Closing Date;
- (b) The Environmental Indemnifying Parties shall indemnify, defend and hold harmless the Purchaser Indemnified Parties from and against seventy-five percent (75%) of any and all Losses relating to or resulting from a Known Environmental Liability that is the subject of an Environmental Claim Notice issued after the two (2) year anniversary of the Closing Date but prior to the four (4) year anniversary of the Closing Date, and the remaining twenty-five percent (25%) of such Known Environmental Liability Losses shall be deemed to constitute Assumed Liabilities;
- (c) The Environmental Indemnifying Parties shall indemnify, defend and hold harmless the Purchaser Indemnified Parties from and against fifty percent (50%) of any and all Losses relating to or resulting from a Known Environmental Liability that is the subject of an Environmental Claim Notice issued after the four (4) year anniversary of the Closing Date but prior to the six (6) year anniversary of the Closing Date, and the remaining fifty percent (50%) of such Known Environmental Liability Losses shall be deemed to constitute Assumed Liabilities;
- (d) The Environmental Indemnifying Parties shall indemnify, defend and hold harmless the Purchaser Indemnified Parties from and against twenty-five percent (25%) of any and all Losses relating to or resulting from a Known Environmental Liability that is the subject of an Environmental Claim Notice issued after the six (6) year anniversary of the Closing Date but prior to the eight (8) year anniversary of the Closing, and the remaining seventy-five percent (75%) of such Known Environmental Liability Losses shall be deemed to constitute Assumed Liabilities;

(e) Mitigation. Subject to the terms and conditions set forth herein, the Purchaser shall, and shall cause each of the Purchaser Indemnified Parties to, use reasonable endeavours to mitigate any Losses for Known Environmental Liabilities and Unknown Environmental Liabilities with respect to which it may be entitled to seek indemnification pursuant to this Clause 10. Such efforts by the Purchaser shall include, without limitation, prompt notice to the Seller of any facts constituting the basis of any Environmental Claim, as defined in Clause 10.5.1, and reasonable actions to limit the extent or duration of any Losses until such reasonable time as is necessary for the Environmental Indemnifying Parties to promptly accept responsibility for the resolution of any Environmental Claim pursuant to Clause 10.5.

10.4.2 The aggregate liability of the Environmental Indemnifying Parties to indemnify the Purchaser Indemnified Parties in respect of Unknown Environmental Liabilities and breaches of Environmental Warranties under Clauses 10.2.1 and 10.2.2 shall not exceed INR 435,000,000.

10.4.3 The aggregate liability of the Environmental Indemnifying Parties to indemnify the Purchaser Indemnified Parties in respect of Known Environmental Liabilities under Clause 10.2.3 shall not exceed INR 435,000,000.

10.4.4 The Environmental Indemnifying Parties shall not be liable under this Agreement in respect of any claim under Clause 10 to the extent that the same would not have occurred but for the passing of, or any change in, after the Closing Date, any Law or any change after the Closing Date of any generally accepted interpretation or application of any legislation.

10.4.5 The Environmental Indemnifying Parties shall not be liable to indemnify the Purchaser under this Clause 10 in respect of the cost of any Remedial Action in connection with any Release where such Remedial Action is conducted by the Purchaser after Closing without being required under Environmental Requirements of Law.

#### 10.5 **Recovery from Third Parties following Recovery from the Indemnifying Party**

If an Environmental Indemnifying Party has paid an amount to the Purchaser Indemnified Parties in discharge of any claim under this Clause 10 of this Agreement and the Purchaser Indemnified Party thereafter actually recovers from a third party (including pursuant to any applicable insurance policy) a sum which indemnifies or compensates the Purchaser Indemnified Party (in whole or in part) in respect of the loss or liability which is the subject matter of the claim, then the Purchaser Indemnified Party shall pay to the Seller as soon as practicable after receipt of an amount which is the lesser of: (i) any sum recovered from the third party less any costs and expenses incurred in obtaining such recovery; and (ii) the amount previously paid by an Environmental Indemnifying Party to the Purchaser Indemnified Party.

## 10.6 Insurance

The amount of any and all Losses in respect of any claim for breach of an Environmental Warranty will be net of any amounts of any insurance proceeds actually recovered by the Purchaser under a Transferable Insurance Policy. The Purchaser will use its commercially reasonable endeavours to collect the proceeds of any available insurance under a Transferable Insurance Policy which would have the effect of reducing any Losses.

## 10.7 Double Claims

The Purchaser Indemnified Parties shall not be entitled to recover from the Environmental Indemnifying Parties under Clause 10 of this Agreement more than once in respect of the same Losses suffered.

## 10.8 Procedure for Indemnification For Environmental Losses.

10.8.1 If the Purchaser seeks indemnity under this Clause 10 (an “**Environmental Claim**”), it will give written notice (an “**Environmental Claim Notice**”) to the Environmental Indemnifying Parties within 30 days from the Purchaser’s receipt of knowledge of the Environmental Claim provided, however, that the failure to provide the notice within 30 days shall not relieve Environmental Indemnifying Parties of their indemnity obligations hereunder, except to the extent of any losses resulting from the delay in notice. The Environmental Claim Notice must set forth with reasonable particularity (to the extent then known) the nature of the condition or event giving rise to the Environmental Claim and the estimated amount of any Losses incurred or reasonably expected to be incurred by the Purchaser Indemnified Parties. The Purchaser Indemnified Parties shall provide the Environmental Indemnifying Parties with (a) all information available with the Purchaser Indemnified Parties with respect to such Environmental Claim (including without limitation, access to all relevant documents, records, Books, employees and personnel of the Purchaser Indemnified Parties and its advisors, copies of sampling data, environmental reports, proposals and correspondence in the possession of the Purchaser relevant to the Environmental Claim), and (b) access to the site affected by an Environmental Claim, pursuant to reasonable and necessary terms of access.

10.8.2 If the matter or circumstance that gives rise to an Environmental Claim is a result of or in connection with a claim by a third party (a “**Third Party Environmental Claim**”) then, subject to the terms of this Clause 10.8, the Environmental Indemnifying Parties shall have the right to elect, within 60 days from receipt of the relevant Environmental Claim Notice, by written notice to the Purchaser (a “**Control Notice**”), at their own expense, to conduct, direct, manage, implement and control the resolution of such Third Party Environmental Claim, including the right to raise timely and reasonable objections and defenses to any obligations imposed on the Purchaser Indemnified Parties under any Environmental Requirements of Law. If a Control Notice is issued by the Environmental Indemnifying Parties, the Purchaser Indemnified Parties shall not make any admissions in relation to the relevant Third Party Environmental Claim or compromise, dispose of or settle such Third Party Environmental Claim without the written consent of an Environmental Indemnifying Party, such consent not to be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the Purchaser shall have the right, but not the obligation, to conduct, direct, manage, implement and control the resolution of



any Third Party Environmental Claim, including the right to raise timely and reasonable objections and defenses to any obligations imposed on the Purchaser Indemnified Parties under any applicable environmental Law, for any such Third Party Environmental Claim where 50% or more of the actual or anticipated Losses in respect thereof constitute or would constitute Losses for which the Purchaser will not be indemnified pursuant to this Clause 10 as a result of the limitations of liability set forth in Clause 10.4, provided however, that (i) the Environmental Indemnifying Parties may retain separate counsel and participate in the defense of such Third Party Environmental Claim, at their own cost and expense, and (ii) the Purchaser shall consult with the Environmental Indemnifying Parties in relation to the conduct of such Third Party Environmental Claim and take reasonable account of the views of the Environmental Indemnifying Parties before taking any action in relation to such Third Party Environmental Claim.

- 10.8.3 With respect to any Remedial Action performed by the Environmental Indemnifying Parties pursuant to a Control Notice, the Environmental Indemnifying Parties agree to provide the Purchaser within a reasonable time frame: (i) copies of all work plans, test results, sampling data, surveys and other data generated by the Environmental Indemnifying Parties and their representatives, promptly upon the availability thereof, but in any event, prior to submitting the same to any Governmental Authority; (ii) copies of all material draft reports and final reports, plans and other documents developed with respect to the Remedial Actions; (iii) an opportunity to meet with the Seller and/or its representatives and any Governmental Authority, and (iv) an opportunity to timely comment upon any proposed Remedial Actions. The Environmental Indemnifying Parties shall provide due consideration to any comments or suggestions provided by the Purchaser and shall ensure that the scope of any such Remedial Actions avoids any unnecessary interference with the operation of the Business. The Purchaser shall have the right to approve the scope of any Remedial Actions that the Purchaser determines, in good faith and its reasonable judgment, will materially limit the Purchaser's ability to operate its Business or materially reduce the value of any of the Acquired Assets, such approval of the Purchaser not to be unreasonably withheld, conditioned or delayed.
- 10.8.4 Subject to the Environmental Indemnifying Parties' compliance with Clause 10.8.5 in respect of a Remedial Action to be undertaken, where the Seller initiates a Remedial Action, then the Purchaser Indemnified Parties shall promptly discontinue or withdraw any Proceedings initiated by such Purchaser Indemnified Party against the Seller, its Affiliates and their respective directors, officers and employees ("**Seller Indemnifying Parties**") relating to such Remedial Actions.
- 10.8.5 The Seller agrees to diligently perform (or direct its representatives to perform) all Remedial Actions in a good and workmanlike manner in accordance with accepted industry practices in India and standards in compliance with applicable Environmental Requirements of Law, including obtaining all permits, registrations and licenses, and managing the disposal of all wastes generated during the Remedial Actions, and complying with customary health and safety requirements in India.
- 10.8.6 Notwithstanding anything to the contrary in this Agreement, irrespective of which party assumes responsibility for any Remedial Actions performed under this Agreement, the

parties shall cooperate with each other in the development and implementation of any Remedial Actions and shall share information and provide reasonable access to information, employees and agents, and property to allow the parties to protect and defend their respective interests under this Agreement. The parties shall also collaborate on the scope of any Remedial Actions to be performed to ensure the completion of any such Remedial Actions occurs in a manner that is cost effective, complies with applicable Environmental Requirements of Law and avoids any unnecessary adverse impact on Purchaser's operation of the Business.

10.8.7 Any indemnification of the Purchaser Indemnified Parties pursuant to this Clause 10 will be satisfied directly by wire transfer of immediately available funds to an account designated by the Purchaser.

## 11. INDEMNITIES

11.1 Subject to occurrence of the Closing, and Clauses 11.2, 11.3, 11.4, 12 and 13 hereof:

11.1.1 The Seller and the Seller Parent shall jointly and severally indemnify, defend and hold harmless, the Purchaser, its Affiliates and their respective directors (the "**Purchaser Indemnified Parties**") from and against any and all Losses suffered by the Purchaser Indemnified Parties, which arise out of, result from or are in connection with (i) any breach of any of the Seller Warranties; (ii) any non-fulfillment of or failure to perform any covenant or obligation or agreement or undertaking of the Seller or the Seller Parent contained in this Agreement, any Ancillary Agreement or in any certificate, instrument or other document delivered by or on behalf of the Seller pursuant to this Agreement by the Seller; or (iii) any Excluded Liability.

11.1.2 The Purchaser and the Purchaser Parent shall jointly and severally indemnify, defend and hold harmless, the Seller, its Affiliates and their respective directors (the "**Seller Indemnified Parties**") from and against any and all Losses suffered by the Seller Indemnified Parties, which arise out of, result from or are in connection with (i) any breach of any of the Purchaser Warranties, (ii) any non-fulfillment of or failure to perform any covenant or obligation or agreement or undertaking of the Purchaser or the Purchaser Parent contained in this Agreement, any Ancillary Agreement or in any certificate, instrument or other document delivered by or on behalf of the Purchaser pursuant to this Agreement by the Purchaser; or (iii) any Assumed Liability.

11.2 Subject to Clauses 6.10, 12 and 13, the Parties hereby expressly agree and acknowledge that, after the Closing, the indemnification rights stipulated under Clause 11.1 shall be the sole and exclusive monetary remedies for each Party in respect of any claims for breach by the other Party of any of the warranties given by such Party in this Agreement, and notwithstanding anything to the contrary contained in this Agreement, no Party shall be liable to any other Party for any Special Losses and each Party hereby unconditionally and irrevocably releases the other Party from any such liability. For the avoidance of doubt, all such indemnification rights are in addition and without prejudice to any non-

monetary remedies that a Party may have in Law, including specific performance and injunctive relief; but provided, however, that no Party shall have the right to seek rescission of this Agreement following Closing.

- 11.3 Subject to Clause 12.1, the indemnification rights stipulated under this Clause 11 shall survive Closing. For the avoidance of doubt, it is clarified that the survival of the indemnification rights under this Clause 11 shall not be deemed to imply a repetition of any of the Seller Warranties or the Purchaser Warranties after the Closing Date.
- 11.4 Notwithstanding anything to the contrary in this Agreement, the provisions of this Clause 11 and the limitations set out in Clauses 12 and 13 shall not apply to any Environmental Claim.

## 12. LIMITATION OF LIABILITY

### 12.1 Time Limitation for Claims against the Seller and the Seller Parent

- 12.1.1 Neither the Seller nor the Seller Parent shall be liable under this Agreement in respect of any claim for breach of a Seller Warranty unless a Notice of Claim (as defined below) is given by the Purchaser to the Seller or the Seller Parent under Clause 12.2 containing reasonable details of such claim including the Purchaser's estimate (on a without prejudice basis) of the amount of the claim prior to the second (2nd) anniversary of the Closing Date, except as regards claims in respect of:
- (a) breach of the Seller Warranties in Schedule 8.1, Part A, paragraphs 12 (General), 3.1.5, 3.2.1, 14 (No Conflict) and 16 (Fees and Expenses of Brokers) (collectively, the "**Seller Fundamental Warranties**"), in which case claims will survive indefinitely; and
  - (b) breach of the Seller Warranties in Schedule 8.1, Part A paragraph 10 (Tax Matters), in which case the Notice of Claim should have been given within seven (7) years from the Closing Date.

### 12.2 Aggregate Minimum Claims

- 12.2.1 Neither the Seller Parent nor the Seller shall not be liable under this Agreement in respect of any claim under Clause 11.1.1(i) of this Agreement for breach of a Seller Warranty unless the aggregate amount of all claims for breach of Seller Warranties for which the Seller Parent or the Seller would otherwise be liable for under this Agreement exceeds an amount equal to one and one-half percent (1.5%) of the Agreed Price ("**Basket Threshold**"); provided, however, that the foregoing limitation does not apply to claims in respect of breach of the Seller Fundamental Warranties.
- 12.2.2 Where the liability agreed or determined in respect of all claims against the Seller Parent or the Seller referred to in Clause 12.2.1 exceeds the Basket Threshold, the

liability of the Seller Parent and the Seller shall be for the entire amount of such liability, including the amount constituting the Basket Threshold and not merely for the amount in excess of the Basket Threshold.

### 12.3 **Maximum Liability**

The aggregate liability of the Seller Parent and the Seller in respect of all claims for breach of Seller Warranties that may be made against it under Clause 11.1.1(i) of this Agreement shall not exceed an amount equal to 25% of the Purchase Price; provided, however, that the foregoing limitation does not apply to claims in respect of breach of the Seller Fundamental Warranties.

### 12.4 **Contingent Liabilities**

No Party shall be liable under this Agreement in respect of any liability which is contingent unless and until such contingent liability becomes an actual liability and is due and payable, provided that this Clause 12.4 shall not operate to avoid a claim made in respect of a contingent liability within the applicable time limits specified in Clause 12.1 if the notice of such claim has been served before the expiry of the relevant period (even if such liability does not become an actual or quantifiable liability, as the case may be, until after the expiry of such period).

### 12.5 **Losses**

No Party shall be liable under this Agreement in respect of any Special Losses.

### 12.6 **Matters Arising Subsequent to Closing**

12.6.1 Neither Party shall be liable under this Agreement in respect of any claim for breach of a Seller Warranty or Purchaser Warranty (as applicable) to the extent that the same would not have occurred but for:

- (t) Agreed Matters: any matter or thing done or omitted to be done pursuant to and in compliance with this Agreement or otherwise at the request in writing or with the approval in writing of the other Party or any of its Affiliates (including, for the avoidance of doubt, any action not taken by the Seller as a result of the Purchaser not approving any action which the Seller proposes to take under Clause 6.1.2);
- (u) Changes in Legislation:
  - (i) the passing of, or any change in, after the Closing Date, any Law or administrative practice of any Governmental Authority including (without prejudice to the generality of the foregoing) any increase in the rates of Taxation or any imposition of Taxation or any withdrawal of relief from Taxation not actually (or prospectively) in effect at the Closing Date; or
  - (ii) any change after the Closing Date of any generally accepted interpretation or application of any legislation.

12.6.2 Neither the Seller Parent nor the Seller shall be liable under this Agreement in respect of any claim for breach of a Seller Warranty in respect of any matter to the extent that the same would not have occurred but for any change in accounting or Taxation policy, bases or practice of the Purchaser or the Business introduced or having effect after Closing, other than any change required to make the accounting or Taxation policies comply with applicable Law as in effect at the Closing.

**12.7 Recovery from Third Parties following Recovery from the Indemnifying Party**

If the Seller or Seller Parent or the Purchaser or the Purchaser Parent (the “**Indemnifying Party**”) has paid an amount to the Seller Indemnified Parties or the Purchaser Indemnified Parties, as applicable (the “**Indemnified Party**”) in discharge of any claim under this Agreement and the Indemnified Party thereafter actually recovers from a third party (including pursuant to any applicable insurance policy) a sum which indemnifies or compensates the Indemnified Party (in whole or in part) in respect of the loss or liability which is the subject matter of the claim, then the Indemnified Party shall pay to the Indemnifying Party as soon as practicable after receipt of an amount which is the lesser of: (i) any sum recovered from the third party less any costs and expenses incurred in obtaining such recovery; and (ii) the amount previously paid by the Indemnifying Party to the Indemnified Party.

**12.8 Insurance**

The amount of any and all Losses in respect of any claim for breach of a Seller Warranty will be net of any amounts of any insurance proceeds actually recovered by the Purchaser under a Transferable Insurance Policy. The Purchaser will use its commercially reasonable endeavours to collect the proceeds of any available insurance under a Transferable Insurance Policy which would have the effect of reducing any Losses.

**12.9 Double Claims**

The Purchaser Indemnified Parties shall not be entitled to recover from the Seller or the Seller Parent, and the Seller Indemnified Parties shall not be entitled to recover from the Purchaser or the Purchaser Parent, under this Agreement more than once in respect of the same Losses suffered.

**12.10 Mitigation of Losses**

Each Party shall ensure that all reasonable steps are taken and all reasonable assistance is given to avoid or mitigate any Losses which in the absence of mitigation might give rise to a liability to the other Party in respect of any claim under this Agreement.

**12.11 No Rescission**

Following the Closing, no Party shall be entitled to rescind this Agreement.

## 12.12 Fraud and Intentional Misrepresentation

None of the limitations contained in Clause 11 or this Clause 12 shall apply to any claim which arises or is increased, or to the extent to which it arises or is increased, as the consequence of, or which is delayed as a result of, fraud, intentional misrepresentation or deliberate non-disclosure by the Seller or the Purchaser or the Seller Parent or the Purchaser Parent.

## 13. CLAIMS

### 13.1 Claims Procedure

- 13.1.1 If either Party determines that it has a claim for breach by the other Party of this Agreement, such Party shall give notice of such claim to the other Party within the time limits specified in Clause 12.1 (a “**Notice of Claim**”), specifying full information in relation to the legal and factual basis of the claim and the evidence on which such Party relies and, if practicable, an estimate of the amount of Losses which are, or are to be, the subject of the claim (including any Losses which are contingent on the occurrence of any future event); *provided, however*, that such Party’s failure to provide such notice in not more than twenty (20) Business Days shall not preclude such Party from being indemnified for such claim or demand, except to the extent that the failure to give timely notice results in the actual forfeiture of substantive defences by the other Party or increases the amount of the indemnifiable claim.
- 13.1.2 Within 60 days after delivery of a Notice of Claim, the Indemnifying Party will deliver to the Indemnified Party a written response in which the Indemnifying Party will either:
- (a) agree that the Indemnified Party is entitled to receive all of the Losses at issue in the Notice of Claim; or
  - (b) dispute the Indemnified Party’s entitlement to indemnification by delivering to the Indemnified Party a written notice (an “**Objection Notice**”) setting forth in reasonable detail each disputed item, the basis for each such disputed item and certifying that all such disputed items are being disputed in good faith.
- 13.1.3 If the Indemnifying Party fails to take either of the foregoing actions within 60 days after delivery of the Notice of Claim, then the Indemnifying Party will be deemed to have irrevocably accepted the Notice of Claim and the Indemnifying Party will be deemed to have irrevocably agreed to pay the Losses at issue in the Notice of Claim.
- 13.1.4 If the Indemnifying Party delivers an Objection Notice to the Indemnified Party within 60 days after delivery of the Notice of Claim, then the dispute may be resolved by any legally available means consistent with the provisions of Clause 17.
- 13.1.5 Any indemnification of the Purchaser Indemnified Parties pursuant to Clause 11 will be effected by wire transfer of immediately available funds to an account designated by the Purchaser.

- 13.1.6 Any indemnification of the Seller pursuant to Clause 11 will be effected by wire transfer of immediately available funds to an account designated by the Seller.
- 13.1.7 The foregoing indemnification payments will be made within five Business Days after the date on which (i) the amount of such payments are determined by mutual agreement of the Parties, (ii) the amount of such payments are determined pursuant to Clause 13.1.3 if an Objection Notice has not been timely delivered in accordance with Clause 13.1.2 or (iii) both such amount and the Indemnifying Party's obligation to pay such amount have been finally determined by a final judgment of an arbitral body having jurisdiction over such Proceeding as permitted by Clause 17 if an Objection Notice has been timely delivered in accordance with Clause 13.1.3.

## 13.2 Commencement of Proceedings

Any claim notified against the Seller pursuant to Clause 13.1 shall (if it has not been previously satisfied, settled or withdrawn) be deemed to be irrevocably withdrawn twelve (12) months after the issuance of the Notice of Claim unless Proceedings in respect of it have been commenced and notice of such Proceedings is served on the Seller, and such Proceedings are diligently pursued; provided, however, that in the case of a claim for a contingent Liability, the 12-month period referred to above shall only start to run on the date that such contingent Liability becomes an actual Liability.

## 13.3 Investigation by Indemnifying Party

In connection with any matter or circumstance that may give rise to a claim (including any claim in respect of an Excluded Liability) against the Purchaser, the Purchaser Parent, the Seller or the Seller Parent, as an Indemnifying Party under this Agreement:

- (a) the Indemnified Party shall allow the Indemnifying Party and its financial, accounting or legal advisors to investigate the matter or circumstance alleged to give rise to a claim and whether and to what extent any amount is payable in respect of such claim;
- (b) the Indemnified Party shall disclose to the Indemnifying Party all materials of which the Indemnified Party is aware which relates to the claim and shall procure that all its Affiliates shall also give all such information and assistance, including access to premises and personnel during normal business hours, and the right to examine and copy or photograph any assets, accounts, documents and records, as the Indemnifying Party or its financial, accounting or legal advisors may reasonably request subject to the Indemnifying Party agreeing in such form as the Indemnified Party may reasonably require to keep all such information confidential and to use it only for the purpose of investigating and defending the claim in question; and
- (c) the Indemnified Party shall allow the Indemnifying Party to remedy or rectify the matter or circumstance alleged to give rise to such claim, to the extent possible, within thirty (30) business days of receipt of a Notice of Claim by the

Indemnifying Party and provide all reasonable assistance to the Indemnifying Party, at the cost and expenses of the Indemnifying Party, to rectify any such matter or circumstance.

#### 13.4 **Conduct of Third Party Claims**

Save and except for a Third Party Environmental Claim pursuant to Clause 10, if the matter or circumstance that may give rise to a claim against the Purchaser, the Purchaser Parent, the Seller or the Seller Parent, as the Indemnifying Party, under this Agreement is a result of or in connection with a claim by a third party (a “**Third Party Claim**”) then:

- 13.4.1 the Indemnified Party shall notify the Indemnifying Party in accordance with Clause 13.1 of such Third Party Claim (a “**Third Party Claim Notice**”)
- 13.4.2 the Indemnified Party shall consult with the Indemnifying Party in relation to the conduct of the Third Party Claim and take reasonable account of the views of Indemnifying Party before taking any action (whether taken or to be taken by the Indemnified Party or any Affiliate thereof) in relation to the Third Party Claim;
- 13.4.3 the Indemnifying Party shall be entitled at its own expense, by notice in writing to the Indemnified Party, to assume control of the defence of such Third Party Claim and thereafter to take such action (subject to the remaining provisions of this Clause 13.4) as they shall deem necessary to avoid, dispute, deny, defend, resist, appeal, compromise or contest the Third Party Claim (including making counterclaims) in the name of and on behalf of the Indemnified Party or Affiliates thereof and to have the exclusive conduct of any Proceedings, negotiations or appeals related to such Third Party Claims, but if and only if the Indemnifying Party further:
  - (a) acknowledges in writing to the Indemnified Party that any Losses that may be finally determined, by a court or arbitral body of competent jurisdiction, against the Indemnified Party in connection with the Third Party Claim will constitute Losses for which the Indemnified Party will be indemnified pursuant to Clause 11 (but subject to Clauses 12 and 13) without contest or objection and that the Indemnifying Party will advance all expenses and costs of defense; and
  - (b) retains reputable counsel for the defense of the Third Party Claim and furnishes to the Indemnified Party reasonable evidence that the Indemnifying Party has and will have sufficient financial resources to fund on a current basis the cost of such defense and pay all Losses that may arise under the Third Party Claim.
- 13.4.4 If the Indemnifying Party fails to give notice to the Indemnified Party to assume control of the defence of a third Party Claim in accordance with Clause 13.4.3 and the Indemnified Party is controlling the defense of a Third Party Claim, the Indemnified Party has the right to agree in good faith to any compromise or settlement of, or the entry of any judgment arising from, the Third Party Claim without prior notice to or consent of the Indemnifying Party. If the Indemnifying Party is controlling the defense of a Third Party Claim, the Indemnifying Party will not agree to any compromise or settlement of, or the entry of any judgment arising



from, the Third Party Claim without the prior written consent of the Indemnified Party (which consent the Indemnified Party will not unreasonably withhold or delay) unless (i) the terms of the judgment or proposed compromise or settlement include as an unconditional term thereof the giving to the Indemnified Parties by the third party of a full, complete and unconditional release of the Indemnified Parties (and their Affiliates) from all Liability in respect of such Third Party Claim, (ii) there is no finding or admission of (A) any violation of Law by the Indemnified Parties (or any of their Affiliates) or (B) any violation of the rights of any Person by the Indemnified Parties (or any of their Affiliates) and (iii) the sole form of relief is monetary damages which are paid in full by the Indemnifying Party. Subject to this Clause 13.4, the Indemnified Party will have no Liability with respect to any compromise or settlement of, or the entry of any judgment arising from, any Third Party Claim effected without its consent.

- 13.4.5 The party not controlling the defense (the “Noncontrolling Party”) may participate in a Third Party Claim at its own expense. However, if the Indemnifying Party assumes control of such defense as permitted above and the Indemnified Party reasonably concludes that the Indemnifying Party and the Indemnified Party have conflicting interests or different defenses available with respect to the Third Party Claim, then the reasonable fees and expenses of counsel to the Indemnified Party will be considered and included as “Losses” for purposes of this Agreement. The party controlling the defense (the “Controlling Party”) will reasonably advise the Noncontrolling Party of the status of the Third Party Claim and the defense thereof and the Controlling Party will consider in good faith recommendations made by the Noncontrolling Party. The Noncontrolling Party will furnish the Controlling Party with such information as it may have with respect to such Third Party Claim and related Proceedings (including copies of any summons, complaint or other pleading which may have been served on such party and any written claim, demand, invoice, billing or other document evidencing or asserting the same) and will otherwise cooperate with and assist in the defense of the Third Party Claim.

## **14. CONFIDENTIALITY**

### **14.1 Announcements**

- 14.1.1 Pending Closing, no announcement or circular in connection with the existence or the subject matter of this Agreement shall be made or issued by or on behalf of either Party or any Affiliate thereof without the prior written approval of the other Party. This restriction shall not affect any announcement or circular required by Law or any regulatory body or the rules of any recognised stock exchange but the Party with an obligation to make an announcement or issue a circular shall consult with the other Party insofar as is reasonably practicable before complying with such an obligation.

## 14.2 Confidentiality

- 14.2.1 The Confidentiality Agreement shall cease to have any force or effect from the Effective Date, without prejudice to any right or claim which has arisen thereunder on or prior to the Effective Date.
- 14.2.2 Subject to Clause 14.2.3:
- (a) The Seller and the Purchaser shall treat as strictly confidential and not disclose or use any information received or obtained in the context of entering into this Agreement (or any agreement entered into pursuant to this Agreement) which relates to:
    - (i) the existence and the provisions of this Agreement and of any agreement entered into pursuant to this Agreement;
    - (ii) the negotiations relating to this Agreement (and any such other agreements); or
    - (iii) the Seller and the Purchaser shall not in any manner use, copy, reproduce or disclose, and shall take reasonable action to secure against theft, loss or unauthorised disclosure, the information received or obtained as a result of entering into this Agreement;
  - (b) The Seller and its Affiliates shall treat as strictly confidential and not disclose or use any information relating to the Business following Closing and any other information relating to the business, financial or other affairs (including future plans and targets) of the Purchaser's Group;
  - (c) The Purchaser's Group shall treat as strictly confidential and not disclose or use any information relating to the business, financial or other affairs (including future plans and targets) of the Seller's Group including, prior to Closing, the Business.
- 14.2.3 Clause 14.2.2 shall not prohibit disclosure or use of any information if and to the extent that:
- (a) the disclosure or use is required by Law, any regulatory body or any recognised stock exchange;
  - (b) the disclosure or use is required for the purpose of any judicial Proceedings arising out of this Agreement or any other agreement entered into under or pursuant to this Agreement or the disclosure is made to a Tax Authority in connection with the Tax affairs of the disclosing party;
  - (c) the disclosure is made to professional advisors, independent auditors or actual or potential financiers of any member of the Seller's Group or the Purchaser's Group on terms that such professional advisors, independent auditors or financiers undertake to comply with the provisions of Clause 14.2.1 in respect of such information as if they were a party to this Agreement;

- (d) the information is or becomes publicly available (other than by breach of the Confidentiality Agreement or of this Agreement);
- (e) the disclosure or use is required to allow a Party to satisfy the public financial reporting requirements applicable to it or its Affiliates as required by the relevant regulatory body;
- (f) the disclosure is made on a confidential basis to potential purchasers of all or part of the Seller's Group or the Purchaser's Group or to their professional advisors or financiers;
- (g) the other party has given prior written approval to the disclosure or use, such approval not to be unreasonably withheld or delayed in the case of any proposed press release by a Party upon signing or Closing; or
- (h) the information is independently developed after Closing;

provided that prior to disclosure or use of any information pursuant to Clause 14.2.3, (a) or (b), but subject to Clause 14.2.4, the Party concerned shall, to the extent practical, promptly notify the other Party of such requirement with a view to providing that other Party with the opportunity to contest such disclosure or use or otherwise to agree the timing and content of such disclosure or use.

- 14.2.4 The Parties acknowledge and agree that the Purchaser Parent shall, following execution of this Agreement, issue a form 8-K report to the United States Securities and Exchange Commission pursuant to its obligations under the United States Securities Exchange Act of 1934, and that the issuance of such report shall not be contested by the Parties. The Parties further acknowledge and agree that the Purchaser Parent shall, as part of its Form 10-Q quarterly report following execution of this Agreement, file a copy of this Agreement pursuant to its obligations under the United States Securities Exchange Act of 1934, and that the filing thereof shall not be contested by the Parties. The Purchaser and the Seller will consult with each other concerning the means by which the employees, customers, suppliers and others having dealings with the Seller will be informed of the transactions contemplated by this Agreement, and the Purchaser has the right to be present for any such communication.

## **15. INSURANCE**

### **15.1 No cover under the Insurance Policies of the Seller or its Affiliates from Closing**

15.1.1 The Purchaser acknowledges and agrees that from the Closing Date:

- (a) Except to the extent specifically included in the Acquired Assets, the Business shall not have or be entitled to the benefit of any insurance policy of the Seller or any Affiliate thereof in respect of any event, act or omission, that takes place after the Closing and it shall be the sole responsibility of the Purchaser to ensure that adequate insurances are put in place for the Business with effect from the Closing;

- (b) the Seller shall not be required to maintain any insurance policy for the benefit of the Business; and
- (c) the Purchaser shall not make or be entitled to make or notify a claim with respect to the Business under any insurance policy in respect of any event, act or omission that occurred prior to the Closing Date.

## **16. TERMINATION**

16.1 This Agreement may be terminated:

- 16.1.1 by the mutual written consent of the Parties;
- 16.1.2 by any Party upon notice to the other Party, in the event that the Conditions Precedent have not been fulfilled by the Long Stop Date, provided that the Party terminating this Agreement is not responsible for the failure of the Condition Precedent to be satisfied;
- 16.1.3 by any Party if Closing has not occurred by the Closing Date, or by the date to which Closing was postponed to in accordance with Clause 7.4.1(a), provided that the Agreement cannot be terminated under this Clause 16.1.3 by the Party whose fault or breach has caused failure of the Closing to occur;
- 16.1.4 at any time prior to the Closing Date, by any non-breaching Party upon fifteen (15) days notice to the other Party if the other Party has materially breached any of its warranties or covenants in this Agreement and such breach has not been cured prior to the end of such fifteen (15) day period, or such other Party is the subject of bankruptcy or insolvency.

### **16.2 Effect of Termination**

If this Agreement is terminated pursuant to Clause 16.1, this Agreement and all rights and obligations of the Parties under this Agreement shall automatically end without any Liability against any Party or its Affiliates, except that (a) Clause 14 (*Confidentiality*), and this Clause 16.2 will remain in full force and survive any termination of this Agreement and (b) if this Agreement is terminated by a Party because of the intentional breach of this Agreement by another Party or because one or more of the conditions to the terminating Party's obligations under this Agreement is not satisfied as a result of the other Party's intentional failure to comply with its obligations under this Agreement, the terminating Party's right to pursue all legal remedies will survive such termination unimpaired.

## **17. GOVERNING LAW AND DISPUTE RESOLUTION**

17.1 This Agreement, regardless of the place of execution, shall be subject to, governed by and construed in accordance with the laws of India, without regard to the conflict of laws principles under the law of India.

- 17.2 Any and all disputes, controversies, claims, disagreements or differences (“**Disputes**”) between or among the Purchaser, on the one hand, and the Seller on the other hand, hereto arising out of or in connection with this Agreement or its performance, including the breach, termination or invalidity thereof, shall, as far as it is possible, be settled amicably through good faith consultation between the Purchaser and the Seller. If after thirty (30) days of consultation, the Purchaser and the Seller have failed to reach an amicable settlement on any Dispute, then the Purchaser may, upon the delivery of a written notice to the Seller, or the Seller may, upon the delivery of a written notice to the Purchaser, refer such Dispute to final and binding arbitration in accordance with the following terms:
- 17.2.1 Arbitration shall be conducted in accordance with the LCIA Rules, which Rules are deemed to be incorporated by reference into this Clause. This Agreement and the rights and obligations of the Purchaser and the Seller shall remain in full force and effect pending the award in such arbitration Proceeding.
- 17.2.2 The number of arbitrators shall be three (3), of whom the Seller shall appoint one (1) arbitrator and the Purchaser shall appoint one (1) arbitrator. The two (2) arbitrators so appointed shall appoint the third arbitrator.
- 17.2.3 The arbitration shall be conducted in Singapore and the arbitration Proceedings shall be conducted in English and all documents (including submissions, witness evidence, documentary evidence, legal authorities and correspondence) must be submitted in English or accompanied by English translations paid for by the Party submitting the documents.
- 17.2.4 The final arbitration award will be in writing and shall specify with reasonable detail the facts of the Dispute and the reasons justifying the tribunal’s decision. The arbitration award shall be final and binding on the Purchaser and the Seller. The Parties agree that any court proceedings required to be taken to enforce the final arbitration award shall be brought only in the courts in India, and that no Party shall seek to enforce the final arbitration award in any courts outside India.
- 17.2.5 Nothing shall preclude a Party from seeking interim relief, from any court having jurisdiction to grant the same. The pursuit of interim relief shall not be a waiver of the duty of the Purchaser and the Seller to pursue any remedy through the arbitration process described in this Clause..
- 17.2.6 Each Party shall bear its own costs and expenses incurred in connection with any Dispute and/or arbitration.

## **18. MISCELLANEOUS**

### **18.1 Further Assurances**

- 18.1.1 The Seller and the Purchaser shall, and shall use reasonable endeavours to procure that any necessary third party shall, from time to time execute such documents and perform such acts and things as either of the Seller or the Purchaser may reasonably

require to transfer the Business to the Purchaser and to give each of them the full benefit of this Agreement.

- 18.1.2 If at any time after the Closing Date it is found that any right, title or interest in any Acquired Asset is held by the Seller:
- (a) the Seller shall notify the Purchaser in writing as soon as practicable after such matters come to its knowledge and transfer as soon as practicable thereafter such right, title or interest to the Purchaser for no additional consideration with effect from the Closing Date;
  - (b) the Seller shall unconditionally do all such further acts and things as are commercially reasonable and shall execute such documents as may be necessary to effect validly the transfer and vest such component of the Business (or part thereof) in the Purchaser with effect from the Closing Date;
  - (c) the Seller shall hold such component of the Business (or part thereof), or relevant interest therein, in trust for the Purchaser until such time as the transfer is validly effected to vest the relevant interest in the asset in the Purchaser with effect from the Closing Date.
- 18.1.3 The Purchaser shall retain for six (6) years or for such shorter or longer period as is prescribed under applicable Indian laws, from the Closing Date, the Books to the extent they relate to the period prior to the Closing Date and shall allow the Seller reasonable access to such Books, including the right to take copies, at the Seller's expense.

## 18.2 Entire Agreement

- 18.2.1 This Agreement contains the entire agreement between the Parties relating to the subject matter of this Agreement at the Effective Date to the exclusion of any terms implied by Law which may be excluded by contract and supersedes any previous written or oral agreement between the Parties in relation to the matters dealt with in this Agreement.
- 18.2.2 The Purchaser acknowledges that it has not been induced to enter this Agreement by any representation, warranty or undertaking not expressly incorporated into it.
- 18.2.3 Except in the case of fraud, intentional misrepresentation or deliberate non-disclosure, the Purchaser agrees and acknowledges that its only right and remedy in relation to any warranty or undertaking made or given in connection with this Agreement shall be for breach of the terms of this Agreement to the exclusion of all other rights and remedies.
- 18.2.4 For the purposes of this Clause 18.2, "this Agreement" shall include all documents entered into pursuant to this Agreement.

**18.3 Reasonableness**

18.3.1 Each Party confirms it has received independent legal advice relating to all the matters provided for in this Agreement and agrees that the provisions of this Agreement (including all documents entered into pursuant to this Agreement) are fair and reasonable.

**18.4 Assignment**

18.4.1 Except as otherwise expressly provided in this Agreement, neither Party may without the prior written consent of the other, assign, grant any security interest over, hold on trust or otherwise transfer or delegate the benefit or the burden of the whole or any part of this Agreement. This Agreement will be binding upon, inure to the benefit of, and be enforceable by, the Parties and their respective successors and permitted assigns.

**18.5 Variation**

18.5.1 No variation of this Agreement shall be effective unless in writing and signed by or on behalf of each of the Parties.

**18.6 Costs**

18.6.1 The Seller shall bear all costs incurred by it in connection with the preparation and negotiation of and entry into this Agreement and the sale of the Business.

18.6.2 The Purchaser shall bear all such costs incurred by it in connection with the preparation and negotiation of and entry into this Agreement and the purchase of the Business, including all bank charges towards remittance of the Agreed Price.

**18.7 Taxes**

18.7.1 The Seller shall bear the cost of all Taxes in all jurisdictions associated with and/or incurred as a result of the operation of the Business prior to the Closing Date of this Agreement.

18.7.2 All direct Taxes payable relating to or arising out of this Agreement shall be to the account of and borne by the Seller. All transfer, stamp duty, documentary, registration and related charges and fees incurred in connection with the acquisition of the Business per Clause 2 of this Agreement shall be borne by the Purchaser, and both Parties shall cooperate in timely making all filings, returns, reports and forms as may be required to comply with the provisions of such Tax laws and in accordance with the terms of this Agreement.

18.7.3 Without limiting the scope of Clauses 9.1.2(e) and 18.7.1, the Seller will indemnify and hold harmless the Purchaser from and against any and all Losses suffered by the Purchaser, which arise out of, result from or are in connection with those indirect Tax items set forth in Schedule 18.7.3 and which arise out of or relate to the operation of the Business or ownership of the Acquired Assets prior to the Closing. With respect to those items set forth in paragraphs 1 and 2 of Schedule 18.7.3,

which are being disputed by the Seller with the relevant Tax authorities, (the “**Current Indirect Tax Disputed Items**”), the Seller shall, at its own expense, take such steps as are required (and will engage external consultants and legal advisors as required) for the resolution of any cases that are on-going at Closing in connection with the Current Indirect Tax Disputed Items and shall to the extent permitted appeal any determinations of applicable Governmental Authorities in connection therewith that would result in any increase in the VAT and excise duty payable in connection with the Business.

- 18.7.4 If, at any time prior to, on or after Closing, a final, non-appealable determination of a relevant Governmental Authority is made such that the VAT or excise duty, as applicable, payable in connection with the Business is thereafter increased, then, if such determination is in connection with paragraph 1 of Schedule 18.7.3, the Seller shall pay to the Purchaser the Rupee equivalent of US\$130,000, and if such determination is in connection with paragraph 2 of Schedule 18.7.3, the Seller shall pay to the Purchaser the Rupee equivalent of US\$332,000. Any such payment shall be made by wire transfer of immediately available funds within five Business Days after the later of (a) the date of the relevant determination of the Governmental Authority in terms of this Clause 18.7.4 and (b) the Closing Date, to an account designated by the Seller. The conversion from Dollars to Rupees for purposes of the foregoing shall be made using the conversion rate therefor published by the Reserve Bank of India, via its website at [www.rbi.org.in](http://www.rbi.org.in), on the Business Day that the relevant determination is made by such Governmental Authority. The Parties acknowledge and agree that any payment pursuant to this Clause 18.7.4 represents a liquidated sum calculation of the negative impact to the Business arising from increased VAT or excise duty burden, as applicable.
- 18.7.5 The Seller and the Purchaser shall provide each other with such cooperation and information as either of them reasonably may request of the other in filing any Tax return, amended Tax return or claim for refund, determining a liability for Taxes or a right to a refund of Taxes or participating in or conducting any audit, refund claim or other Proceeding in respect of Taxes or to permit the Purchaser or any of the Purchaser’s Affiliates to make representations to or furnish information to parties subsequently desiring to purchase any party of the Acquired Assets or the Business from the Purchaser. Such cooperation and information shall include providing copies of relevant Tax returns or portions thereof, together with related work papers and documents relating to rulings or other determinations by taxing authorities. The Seller and the Purchaser shall make themselves (and their respective employees) reasonably available on a mutually convenient basis to provide explanations of any documents or information provided under this Clause. The Seller and the Purchaser shall retain all Tax returns, work papers and all material records or other documents in its possession (or in the possession of its Affiliates) relating to Tax matters relevant to the Acquired Assets or the Business for any taxable period that includes the Closing Date and for all prior taxable periods until the later of (i) the expiration of the statute of limitations of the taxable periods to which such Tax returns and other documents relate, without regard to extensions and (ii) six years following the due date (without extension) for such Tax returns. Any information obtained under



this Clause shall be kept confidential, except as may be otherwise necessary in connection with the filing of Tax returns or claims for refund or in conducting an audit or other Proceeding.

## 18.8 Notices

18.8.1 Any notice or other communication in connection with this Agreement (each, a “**Notice**”) shall be:

- (a) in English;
- (b) in writing;
- (c) delivered by hand, facsimile transmission, or courier through an internationally recognised courier Seller. When any notice is sent via facsimile transmission, a copy of the notice should also be delivered by registered post.

18.8.2 A Notice to the Seller or the Seller Parent shall be sent to the following addresses, or such other Person or address as the Seller may notify to the Purchaser from time to time:

To the Seller:

Thapar House,  
124 Janpath,  
New Delhi - 110 001

For the attention of:

Mr. Rajeev Vederah,  
Chairman,  
Solaris Chemtech Industries Limited  
Fax: +91-11-23368729

18.8.3 A Notice to the Purchaser or the Purchaser Parent shall be sent to the following address, or such other Person or address as the Purchaser may notify to the Seller from time to time:

C/o Chemtura Corporation  
199 Benson Road  
Middlebury, Connecticut 06749  
United States of America

Fax: +1 203 573 3118

For the attention of: General Counsel

with a copy (which will not constitute notice) to:

Baker & McKenzie LLP  
300 East Randolph Street  
Chicago, Illinois, 60601  
United States of America  
Facsimile: +1 312 698 2702  
Attention: Edward J. West, Esq.

18.8.4 A Notice shall be effective upon receipt and shall be deemed to have been received:

- (a) if delivered by hand or courier, on delivery; or
- (b) if sent by courier or registered post, 6 (six) Business Days after delivering it to the courier Seller or the postal authorities, as the case may be.

**18.9 Invalidity and Severability**

18.9.1 If for any reason whatsoever any provision in this Agreement is or becomes, or is declared by a court of competent jurisdiction to be illegal, invalid or unenforceable, in whole or in part, the provision shall apply with whatever deletion or modification is necessary so that the provision is legal, valid and enforceable and gives effect to the commercial intention of the parties.

18.9.2 To the extent it is not possible to delete or modify the provision, in whole or in part, under Clause 18.9.1, such provision or part of it shall, to the extent that it is illegal, invalid or unenforceable, shall be deemed not to form part of this Agreement and the legality, validity and enforceability of the remainder of this Agreement shall, subject to any deletion or modification made under Clause 18.9.1, not be affected and the Parties shall take all steps to replace such section/ provision of this Agreement with appropriate provision reflecting the understanding of the Parties.

**18.10 Counterparts**

This Agreement may be entered into in any number of counterparts, all of which taken together shall constitute one and the same instrument. The Parties may enter into this Agreement by signing any one or more of such originals or counterparts. The delivery of signed counterparts by facsimile transmission or electronic mail in “portable document format” (“**.pdf**”) shall be as effective as signing and delivering the counterpart in person.

**18.11 No Agency**

The Parties agree that nothing in this Agreement shall be in any manner interpreted to constitute an agency for and on behalf of any other Party.

18.12 **Waiver**

Save and except as otherwise provided in this Agreement, the waiver of any default or breach under this Agreement by any Party shall not constitute a waiver of the right to terminate this Agreement or otherwise exercise rights or remedies for any subsequent default of a similar nature or under any other terms and conditions of this Agreement.

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**IN WITNESS WHEREOF**, each of the Seller, the Seller Parent and the Purchaser Parent has executed this Agreement as of the day, month and year above first written.

**For SOLARIS CHEMTECH INDUSTRIES LIMITED**

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

Name: Rajeev Vadera

Title: Chairman

In the presence of:

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

Name: \_\_\_\_\_

**For AVANTHA HOLDINGS LIMITED**

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

Name: Gautam Thapar

Title: Executive Chairman

In the presence of:

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

Name: \_\_\_\_\_

**For CHEMTURA CORPORATION**

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

Name: Craig A. Rogerson

Title: Chairman, President and Chief Executive  
Officer

In the presence of:

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

Name: \_\_\_\_\_

**AMENDMENT AND SUPPLEMENT TO THE  
CREDIT AGREEMENT**

Dated as of [ ], 2012

**AMENDMENT AND SUPPLEMENT TO THE CREDIT AGREEMENT** (the "Supplement") among CHEMTURA CORPORATION, a Delaware corporation (the "Borrower"), the banks, financial institutions and other institutional lenders parties hereto and BANK OF AMERICA, N.A., as administrative agent (the "Agent").

**PRELIMINARY STATEMENTS:**

(1) The Borrowers, the banks, financial institutions and other institutional lenders parties thereto and the Agent have entered into a Senior Secured Term Facility Credit Agreement dated as of August 27, 2010 (as amended, restated, supplemented or otherwise modified through the date hereof, the "Credit Agreement"). Capitalized terms not otherwise defined in this Supplement have the same meanings as specified in the Credit Agreement.

(2) The Borrower has requested that the Incremental Lenders (as defined below) provide to the Borrower Incremental Advances (as defined below) pursuant to Section 2.18 of the Credit Agreement on the Incremental Advance Effective Date (as defined below), in an aggregate principal amount of \$125,000,000 in the aggregate, having substantially identical terms with, and having the same rights and obligations under the Credit Agreement as, the outstanding Advances.

(3) The Borrower has further requested that the Required Lenders agree to amend certain provisions of the Credit Agreement, as hereinafter set forth.

SECTION 1. Incremental Facility Amendments. The Credit Agreement is, effective as of the date hereof and subject to the satisfaction of the conditions precedent set forth in Section 4, hereby amended as follows:

(a) Section 1.01 of the Credit Agreement is hereby amended by inserting the following defined terms in the appropriate alphabetical positions:

"Incremental Advance" means an Advance made pursuant to Section 2.01(a)(ii). For the avoidance of doubt, each Incremental Advance shall constitute an Advance hereunder.

"Incremental Advance Effective Date" means the date of satisfaction of the conditions precedent to effectiveness set forth in Section 4 of Supplement No. 1 to this Agreement.

"Incremental Commitment" means, as to each Incremental Lender, its obligation to make Incremental Advances pursuant to Section 2.01(a)(ii) in an aggregate principal

*Chemtura Incremental Supplement*

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amount not to exceed the amount set forth opposite such Lender's name on Schedule 2.01(a)(ii) under the caption "Incremental Commitment".

"Incremental Facility" means, at any time, the aggregate principal amount of the Incremental Advances of all Incremental Lenders outstanding at such time. For the avoidance of doubt, the Incremental Facility shall constitute a portion of the Term Facility hereunder.

"Incremental Lender" means, at any time, any Lender that has an Incremental Commitment or an Incremental Advance at such time.

"Supplement No. 1" means the Amendment and Supplement to this Agreement, dated as of [ ], 2012, among the Borrower, the Incremental Lenders party thereto, the Administrative Agent and the other Lenders party thereto.

(b) Section 1.01 of the Credit Agreement is hereby further amended as follows:

(i) The definition of "Term Facility" is amended by inserting at the end thereof immediately after the period the following sentence: "For the avoidance of doubt, the Incremental Facility shall constitute a portion of the Term Facility hereunder."

(ii) The definition of "Loan Documents" is amended by inserting immediately prior to the "and" and following clause (viii) thereof the phrase ", (ix) Supplement No. 1 and each Incremental Commitment supplement" and redesignating current clause (ix) as clause "(x)".

(iii) The definition of "Advance" is amended by inserting at the end thereof immediately before the period the phrase "and includes the Incremental Advances made pursuant to Section 2.01(a)(ii)."

(c) Section 2.01(a) of the Credit Agreement is hereby amended by inserting the number "(i)" immediately prior to the heading "The Advances" and inserting the following clause (ii) immediately after the end of such Section:

(ii) Incremental Advances. Subject to the terms and conditions set forth herein, each Incremental Lender that is an Incremental Lender on the Incremental Advance Effective Date severally agrees to make a single loan in Dollars to the Borrower on the Incremental Advance Effective Date in an amount equal to such Incremental Lender's Incremental Commitment (each such loan, an "Incremental Advance"). Amounts borrowed under this Section 2.01(a)(ii) and repaid or prepaid may not be reborrowed. Incremental Advances may be Base Rate Advances or Eurodollar Rate Advances, as further provided herein."

(d) Section 2.04 is hereby amended by inserting the figure "(a)" immediately prior to the first paragraph therein and adding at the end thereof the following new Section 2.04(b):

"(b) Each Incremental Commitment shall be automatically and permanently reduced to zero on the date of the funding of the Incremental Advances".

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(e) Schedule 2.01(a)(ii) is hereby added to the Credit Agreement in the form of the schedule set forth and attached as Exhibit A to Supplement No. 1.

(f) A new Section 5.01(m) is hereby added to the Credit Agreement immediately after Section 5.01(l), to read as follows:

“(m) Real Estate Deliverables. With respect to any Mortgage in effect as of the Incremental Advance Effective Date, obtain and deliver to the Administrative Agent, no later than 120 days following the Incremental Advance Effective Date (or such later date as the Administrative Agent may agree in its reasonable discretion), the following:

(i) if the Administrative Agent reasonably determines that such amendment is necessary to maintain or protect its Lien or the priority thereof on such Material Real Property, evidence that amendments, supplements or modifications in form reasonably satisfactory to the Administrative Agent (the “Mortgage Amendments”) with respect to each of such existing Mortgages have been duly executed, acknowledged and delivered on or before such date and are in form suitable for filing and recording in all filing or recording offices that the Administrative Agent may deem necessary or desirable in order to maintain or protect such Lien or the priority thereof;

(ii) with respect to the real properties subject to the Mortgage Amendments, fully paid title searches and mortgage modification endorsements in respect of the Mortgage Policies; provided that if, after the use of commercially reasonable efforts, the Loan Parties are unable to obtain any such mortgage modification endorsement at a cost not exceeding \$1,000, then the Loan Parties shall not be obligated to obtain such mortgage modification endorsement;

(iii) with respect to each Material Real Property, a standard flood hazard determination form and, if any Material Real Property is in an area designated by the Federal Emergency Management Agency as having special flood or mud slide hazards (a “Flood Hazard Property”), (i) the Borrower’s written acknowledgment of receipt of written notification from the Administrative Agent as to the fact that such Material Real Property is a Flood Hazard Property and as to whether the community in which each such Flood Hazard Property is located is participating in the National Flood Insurance Program and (ii) copies of the Borrower’s application for a flood insurance policy plus proof of premium payment, a declaration page confirming that flood insurance has been issued, or such other evidence of flood insurance satisfactory to the Administrative Agent and naming the Administrative Agent as loss payee; and

(iv) evidence that all filing, documentary, stamp, intangible and recording taxes, and fees in respect to such Mortgage Amendments have been paid in connection with the preparation, execution, filing and recordation of the Mortgage Amendments (it being agreed that the Administrative Agent shall cooperate as reasonably requested by the Borrower to minimize such amounts payable by the Borrower, so long as such cooperation is not inconsistent with the foregoing provisions of this clause (m));

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provided, that the foregoing shall not be required if (x) any third party consent is necessary in order to deliver such item and such third party consent cannot be obtained after commercially reasonable efforts and (y) a written agreement to sell such Material Real Property has been entered into prior to the expiration of the period provided above; provided further, that in the case of the foregoing clause (y), if such agreement is terminated, then the foregoing shall be obtained and delivered no later than 120 days following such termination (or such later date as the Administrative Agent may agree in its reasonable discretion)).”

SECTION 2. Incremental Lenders; Incremental Advances.

(a) Each Person that executes a signature page to this Supplement as an Incremental Lender hereby acknowledges that it is, from and after the Incremental Advance Effective Date, an “Incremental Lender” for all purposes under the Credit Agreement and has all of the rights and obligations of an Incremental Lender under the Credit Agreement as amended hereby. Each Incremental Lender acknowledges that its Incremental Commitment is as set forth on Schedule 2.01(a)(ii) attached as Exhibit A hereto.

(b) For purposes of calculating the interest rate applicable thereto on and after the funding thereof on the Incremental Advance Effective Date, (i) on such date the Incremental Advances of each Lender shall be added to (and form part of) the then outstanding Borrowings on a pro rata basis (based on the relative sizes of the various outstanding Borrowings), (ii) to the extent that the Incremental Advances are funded on a date that is not a date on which the then outstanding Borrowings are being Converted, the Incremental Advances comprised of Eurodollar Rate Advances shall be subject to an Interest Period (which may, with the consent of all relevant Lenders, be other than one, two or three months, ending on or about (but not later than) the next Conversion date) and corresponding interest rate determined on the Incremental Advance Effective Date, and (iii) upon the next Conversion date, the Interest Periods and interest rates applicable to the relevant Incremental Advances shall be determined in accordance with the other provisions of the Credit Agreement.

SECTION 3. Other Amendments. The Credit Agreement is, effective as of the date hereof and subject to the satisfaction of the conditions precedent set forth in Section 5, hereby amended as follows:

(a) The definition of “Secured Cash Management Agreement” is amended by substituting for the figure “\$10,000,000” where it appears therein the figure “\$25,000,000.”

(b) The definition of “Secured Hedge Agreement” is amended by substituting for the figure “\$10,000,000” where it appears therein the figure “\$25,000,000.”

(c) The definition of “Specified Credit Agreement” is amended by substituting for the figure “\$25,000,000” where it appears therein the figure “\$40,000,000.”

(d) Subclause (C) of Section 5.02(b)(viii) is amended by substituting for the figure “\$25,000,000” where it appears therein the figure “\$40,000,000.”

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(e) Subclause (A) of Section 5.02(g)(xiii) is amended by substituting for the figure “\$50,000,000” where it appears therein the figure “\$75,000,000.”

SECTION 4. Conditions to Effectiveness of Sections 1 and 2. Sections 1 and 2 of this Supplement shall become effective on the date when, and only when, the following conditions shall have been satisfied (such date, the “Incremental Advance Effective Date”):

(a) The Administrative Agent shall have received a counterpart signature page of (1) this Supplement duly executed by (i) the Borrower, (ii) the Administrative Agent and (iii) each Incremental Lender who is listed as having an Incremental Commitment on Exhibit A to this Supplement or, as to any of the foregoing parties, written evidence reasonably satisfactory to the Administrative Agent that such party has executed this Supplement and (2) the consent attached hereto (the “Consent”) duly executed by each Grantor under the Security Agreement and each Guarantor under the Guaranty.

(b) The Administrative Agent shall have received a certificate of the Borrower dated as of the Incremental Advance Effective Date signed on behalf of the Borrower by a Responsible Officer of the Borrower, certifying on behalf of the Borrower that: immediately before and immediately after giving effect to such increase, (A) no Default exists or would arise from such increase, and (B) after giving effect to such increase, the Borrower would be in pro forma compliance with the requirements of Section 5.04 of the Credit Agreement.

(c) The Administrative Agent shall have received a certified copy of the resolutions of the Board of Directors or other governing body, as applicable, of each Loan Party (or duly authorized committee thereof) authorizing this Supplement and the Incremental Advances.

(d) The Administrative Agent shall have received, for distribution to each Incremental Lender that shall have requested such note at least two Business Days in advance of the Incremental Advance Effective Date, a Note in connection with the Incremental Advances, payable to the order of such Incremental Lender duly executed by the Borrower in substantially the form of Exhibit A to the Credit Agreement, as modified by this Supplement.

(e) The Borrower shall have paid (or substantially concurrently with the satisfaction of the other conditions set forth herein, on the Incremental Advance Effective Date, shall be paying) all fees set forth in any fee or engagement letters executed by the Borrower and the Arrangers (as defined below) and all reasonable and documented out-of-pocket expenses (including the reasonable and documented fees and expenses of Shearman & Sterling LLP invoiced at least one day prior to the Incremental Advance Effective Date) incurred by Merrill Lynch, Pierce, Fenner & Smith Incorporated, as joint lead arranger and joint bookrunner (in such capacity, together with Citigroup Global Markets Inc. and Wells Fargo Securities LLC in their capacities as joint lead arrangers and joint bookrunners, the “Arrangers”), and the Administrative Agent in connection with the preparation, negotiation and execution of this Supplement.

SECTION 5. Conditions Precedent to Effectiveness of Section 3. Section 3 of this Supplement shall become effective on the date when, and only when, the Administrative Agent shall have received a counterpart signature page of (1) this Supplement duly executed by

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(i) the Borrower, (ii) the Administrative Agent and (iii) the Required Lenders and (2) the Consent duly executed by each Grantor under the Security Agreement and each Guarantor under the Guaranty.

SECTION 6. Representations and Warranties of the Borrower. The Borrower represents and warrants as follows:

(a) The execution, delivery and performance by the Borrower of this Supplement and by each Loan Party of the Consent, and the consummation of each aspect of the transactions contemplated hereby, are within such Loan Party's constitutive powers, have been duly authorized by all necessary constitutive action, and do not (i) contravene such Loan Party's constitutive documents, (ii) violate any law (including, without limitation, the Securities Exchange Act of 1934), rule, regulation (including, without limitation, Regulation X of the Board of Governors of the Federal Reserve System), order, writ, judgment, injunction, decree, determination or award applicable to such Loan Party, (iii) conflict with or result in the breach of, or constitute a default under, any contract, loan agreement, indenture, mortgage, deed of trust, lease or other instrument binding on or affecting any Loan Party, or (iv) except for the Liens created or to be created under the Loan Documents, result in or require the creation or imposition of any Lien upon or with respect to any of the properties of any Loan Party or any of its Subsidiaries except, in each case referred to in clauses (ii) and (iii), to the extent that such violation conflict, breach or default would not reasonably be expected to have, either individually or in the aggregate, a Material Adverse Effect.

(b) No authorization, approval or other action by, and no notice to or filing with, any governmental authority or regulatory body or any third party is required for (i) the due execution, delivery, recordation, filing or performance by the Borrower of this Supplement or by any Loan Party of the Consent, or for the consummation of each aspect of the transactions contemplated hereby, (ii) the grant by any Loan Party of the Liens granted by it pursuant to the Collateral Documents, (iii) the perfection or maintenance of the Liens created under the Collateral Documents (except to the extent such perfection or maintenance is not required under the Credit Agreement, this Supplement or the Collateral Documents) or (iv) the exercise by the Administrative Agent or any Lender of its rights under the Loan Documents or the remedies in respect of the Collateral pursuant to the Collateral Documents, except in each case, for (x) those authorizations, approvals, actions, notices and filings which have been duly obtained, taken, given, waived or made and are in full force and effect, (y) those not required to be obtained on or prior to the date hereof pursuant to the Credit Agreement, this Supplement or the Collateral Documents and (z) those the failure to obtain which would not reasonably be expected to have a Material Adverse Effect.

(c) This Supplement and the Consent have been duly executed and delivered by each Loan Party party thereto. This Supplement and the Consent each is the legal, valid and binding obligation of each Loan Party party thereto, enforceable against such Loan Party in accordance with its terms, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws affecting the enforcement of creditors rights generally or by equitable principles relating to enforceability and the effect of foreign laws, rules and regulations as they relate to Pledged Equity in Foreign Subsidiaries.

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SECTION 7. Reference to and Effect on the Loan Documents. (a) On and after the effectiveness of this Supplement, each reference in the Credit Agreement to “this Agreement”, “hereunder”, “hereof” or words of like import referring to the Credit Agreement, and each reference in the Notes and each of the other Loan Documents to “the Credit Agreement”, “thereunder”, “thereof” or words of like import referring to the Credit Agreement, shall mean and be a reference to the Credit Agreement, as amended by this Supplement.

(b) The Credit Agreement and each of the other Loan Documents, as specifically amended by this Supplement, are and shall continue to be in full force and effect and are hereby in all respects ratified and confirmed. Without limiting the generality of the foregoing, the Collateral Documents and all of the Collateral described therein do and shall continue to secure the payment of all Obligations of the Advance Parties under the Loan Documents, in each case as amended by this Supplement.

(c) The execution, delivery and effectiveness of this Supplement shall not, except as expressly provided herein, operate as a waiver of any right, power or remedy of any Lender or the Agent under any of the Loan Documents, nor constitute a waiver of any provision of any of the Loan Documents

SECTION 8. Execution in Counterparts. This Supplement may be executed in any number of counterparts and by different parties hereto in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute but one and the same agreement. Delivery of an executed counterpart of a signature page to this Supplement by telecopier or electronic mail shall be effective as delivery of a manually executed counterpart of this Supplement.

SECTION 9. Governing Law. This Supplement shall be governed by, and construed in accordance with, the laws of the State of New York.

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IN WITNESS WHEREOF, the parties hereto have caused this Supplement to be executed by their respective officers thereunto duly authorized, as of the date first above written.

CHEMTURA CORPORATION, as Borrower

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

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BANK OF AMERICA, N.A.,  
as Administrative Agent

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

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[NAME OF LENDER], as an Incremental Lender

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



[NAME OF LENDER], as a Lender

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

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**Exhibit A**  
Schedule 2.01(a)(ii) - Incremental Commitments

See attached.

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## CONSENT

Dated as of [                      ], 2012

Reference is made to (a) the Senior Secured Term Facility Credit Agreement dated as of August 27, 2010 (as amended, restated, supplemented or otherwise modified through the date hereof, the “Credit Agreement”; capitalized terms not otherwise defined herein are used herein as therein defined) among Chemtura Corporation, Bank of America, N.A., as administrative agent, the other lenders and agents party thereto and (b) the foregoing Amendment and Supplement to the Credit Agreement (the “Supplement”). Each of the undersigned, each a Guarantor under the Guaranty and a Grantor under the Security Agreement, hereby consents to the Supplement and affirms its respective guarantees, pledges and grants of security interests, as applicable, under and subject to the terms of the Security Agreement and each of the Collateral Documents to which it is party, and hereby (i) confirms and agrees that notwithstanding the effectiveness of the Supplement, each of the Guaranty and the Security Agreement and each other Collateral Document to which it is a party is, and shall continue to be, in full force and effect and is hereby ratified and confirmed in all respects, except that, on and after the effectiveness of the Supplement, each reference in the Guaranty and in the Security Agreement or any other Collateral Document to the “Credit Agreement”, “thereunder”, “thereof” or words of like import shall mean and be a reference to the Credit Agreement, as amended by the Supplement, (ii) confirms and agrees that the Guaranty and the Collateral Documents to which such Guarantor or Grantor is a party and all of the Collateral described therein do, and shall continue to, guaranty and secure the complete payment and performance when due of all of the Secured Obligations (in each case, as defined therein) and all Obligations under the Credit Agreement and the other Loan Documents, including but not limited to the Obligations in respect of the Incremental Advances (used hereinafter as defined in the Supplement) and any Notes issued representing such Incremental Advances, and (iii) affirms its grant to the Administrative Agent (in each case under and pursuant to the provisions of the Security Agreement and the other Collateral Documents to which it is a party), for the ratable benefit of the Secured Parties, of a security interest in all of the Collateral (as defined in the Security Agreement) and all other collateral in which a Lien is purported to be granted under the other Collateral Documents to which it is a party, now owned or at any time hereafter acquired by such Grantor or in which such Grantor now has or at any time in the future may acquire any right, title or interest, as collateral security for the payment of such Grantor’s Obligations under the Credit Agreement and the other Loan Documents, including such Obligations in respect of the Incremental Advances and any Notes issued representing such Incremental Advances. This Consent is intended to affirm and acknowledge that the guaranty and the grant contained in the Guaranty and the Security Agreement guaranty and secure (as applicable) the payment of the Obligations in respect of the Incremental Advances and any Notes issued representing such Incremental Advances together with all other Obligations under the Credit Agreement and the other Loan Documents, and nothing herein shall be deemed to supersede, impair or otherwise limit such guaranty and grant contained in the Guaranty and/or the Security Agreement. Notwithstanding anything to the contrary herein, for the avoidance of doubt, no security, guaranties or similar interest shall be granted in the assets of or by any Excluded Subsidiary. This Consent shall be governed by, and construed in accordance with, the laws of the State of New York.

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**CHEMTURA CORPORATION**

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

**[GUARANTORS]**

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

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I, Craig A. Rogerson, certify that:

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

Date: November 5, 2012

By: /s/ Craig A. Rogerson  
Craig A. Rogerson  
Chairman, President and Chief Executive Officer

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I, Stephen C. Forsyth, certify that:

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

Date: November 5, 2012

By: /s/ Stephen C. Forsyth  
Stephen C. Forsyth  
Executive Vice President and Chief Financial Officer

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

In connection with the Quarterly Report of Chemtura Corporation (the "Company") on Form 10-Q for the period ending September 30, 2012 (the "Report"), I, Craig A. Rogerson, Chairman, President and Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

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

/s/ Craig A. Rogerson

Craig A. Rogerson  
Chairman, President and  
Chief Executive Officer

Date: November 5, 2012

This written statement accompanies the Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934.

A signed original of this written 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 upon request.

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

In connection with the Quarterly Report of Chemtura Corporation (the "Company") on Form 10-Q for the period ending September 30, 2012 (the "Report"), I, Stephen C. Forsyth, Executive Vice President and Chief Financial Officer, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that, to my knowledge:

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

/s/ Stephen C. Forsyth

Stephen C. Forsyth  
Executive Vice President,  
Chief Financial Officer,

Date: November 5, 2012

This written statement accompanies the Report pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 and shall not, except to the extent required by the Sarbanes-Oxley Act of 2002, be deemed filed by the Company for purposes of Section 18 of the Securities Exchange Act of 1934.

A signed original of this written 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 upon request.

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