

The court incorporates by reference in this paragraph and adopts as the findings and orders of this court the document set forth below.



**/S/ RUSS KENDIG**

**Russ Kendig  
United States Bankruptcy Judge**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

IN RE:

**SCHWAB INDUSTRIES, INC., et al.,**

Debtors.

CHAPTER 11

CASE NO. 10-60702

(Jointly Administered)

JUDGE RUSS KENDIG

**AGREED ORDER**

Before the Court is movant FLSmidth, Inc.'s Motion for An Accounting, Clarification of Sale of Assets and, Pursuant to FRCP 60, to Vacate the May 28, 2010 Order Authorizing the Sale of Substantially all of the Debtors' Assets Free and Clear of Liens, Claims, Interests and Encumbrances, Subject to Higher or Better Offers Pursuant to Bankruptcy Code Sections 363 and 365; Approving the Assumption and Assignment of the Executory Contracts and Unexpired Leases in Connection with Such Sale and Determining and Adjudicating Cure Amounts with Respect to Such Contracts and Leases; Waiving the Fourteen Day Period Provided by Bankruptcy Rule 6004(h); and Granting Related Relief (the "Motion"), and the

objections of the Debtor, KeyBank National Association, the Official Committee of Unsecured Creditors and Oldcastle Materials, Inc. Based upon the representations made at the hearing on the matter on October 5, 2010, the record in this case, and the agreement attached hereto as evidenced by the signatures below, it is hereby **ORDERED, ADJUDGED, AND DECREED THAT:**

1. The Court approves the terms of the Settlement Agreement and Release, a copy of which is attached hereto and incorporated herein by reference.
2. The Debtors and the Official Committee of Unsecured Creditors are hereby authorized to enter into the Settlement Agreement and Release and take all actions necessary to implement the Settlement Agreement and Release.
3. Upon completion of the terms of the Settlement Agreement and Release, the Motion shall be dismissed with prejudice.
4. This Court shall retain exclusive jurisdiction to enforce the terms of the Settlement Agreement and Release and this order.

###

AGREED TO BY:

/s/Mark A. Brancato

Mark A. Brancato  
2040 Avenue C  
Bethlehem, PA 18017-2188  
Telephone: 610-264-6514  
FAX: 610-264-6671  
*Counsel for FLSmidth, Inc.*

/s/ Gregory D. Swope

Gregory D. Swope (0065123)  
Krugliak, Wilkins, Griffiths,  
& Dougherty Co., L.P.A.  
4775 Munson Street, N.W.  
P.O. Box 36963  
Canton, Ohio 44735-6963  
Phone: (330) 497-0700  
Fax: (330) 497-4020  
gswope@kwgd.com  
*Counsel for FLSmidth, Inc.*

/s/Daniel A. DeMarco

Lawrence E. Oscar (0022696)  
Daniel A. DeMarco (0038920)  
David J. Michalski (0063802)  
Christopher W. Peer (0076257)  
Hahn Loeser & Parks LLP  
200 Public Square, Suite 2800  
Cleveland OH 44114  
Phone: (216) 621-0150  
Fax: (316) 241-2824  
[leoscar@hahnlaw.com](mailto:leoscar@hahnlaw.com)  
[dademarco@hahnlaw.com](mailto:dademarco@hahnlaw.com)  
[djmichaelski@hahnlaw.com](mailto:djmichaelski@hahnlaw.com)  
[cpeer#@hahnlaw.com](mailto:cpeer#@hahnlaw.com)  
*Counsel for Debtor*

/s/Curtis L. Tuggle

Alan R. Lepene (OH 0023276)  
Curtis L. Tuggle (OH 0078263)  
Thompson Hine LLP  
3900 Key Center  
127 Public Square  
Cleveland OH 44114-1291  
Phone: (216) 566-5500  
Fax: (216) 566-5800  
[Alan.Lepene@thompsonhine.com](mailto:Alan.Lepene@thompsonhine.com)  
[Curtis.Tuggle@thompsonhine.com](mailto:Curtis.Tuggle@thompsonhine.com)  
*Counsel for KeyBank National Association, as  
Administrative Agent for the Lenders*

/s/ Aaron L. Hammer

Aaron L. Hammer, Esq.  
Richard S. Lauter, Esq.  
Thomas R. Fawkes, Esq.  
Freeborn & Peters LLP  
311 South Wacker Drive, Suite 3000  
Chicago IL 60606-6677  
Phone: (312) 360-6000  
Fax: (312) 360-6572  
*Official Committee of Unsecured Creditors  
of Schwab Industries, Inc., et al.*

/s/Paul M. Rosenblatt

Paul M. Rosenblatt (Ga. Bar #614522)  
(admitted pro hac vice)  
Kilpatrick Stockton LLP  
1100 Peachtree Street, Suite 2800  
Atlanta GA 30309-4530  
Phone: (404) 815-6500  
Fax: (404) 815-6555  
[prosenblatt@kilpatrickstockton.com](mailto:prosenblatt@kilpatrickstockton.com)  
*Counsel for Oldcastle Materials, Inc.*

CC:

- Jeffrey Baddeley jbaddeley@ulmer.com
- David D Black dblack@cdf.com, reeccee@yahoo.com
- Wanda Borges borgeslawfirm@aol.com
- Amelia A Bower abower@plunkettcooney.com, bmoreland@plunkettcooney.com
- Kate M Bradley kbradley@brouse.com, tpalcic@brouse.com;mmiller@brouse.com
- Carrie M Brosius cmbrosius@vorys.com, mborr@vorys.com
- Beth A Buchanan bbuchanan@fbtlaw.com, ahammerle@fbtlaw.com
- Jon Chatalian chatalian.jon@pbgc.gov, efile@pbgc.gov
- D. Elaine Conway econway@jw.com, tdenton@jw.com
- Brian G Dattilo Brian@TSOhiolaw.com
- Anthony J DeGirolamo ajdlaw@sbcglobal.net
- Daniel A DeMarco dademarco@hahnlaw.com, hlpcr@hahnlaw.com
- Matthew R. Duncan mduncan@bdblaw.com
- James W. Ehrman jwe@kjk.com, rlh@kjk.com;newpleadings@gmail.com
- David G. Finley david@dfinleylaw.com,  
denise@dfinleylaw.com,matthew@dfinleylaw.com,pat@dfinleylaw.com
- Patricia B Fugee pfugee@ralaw.com, mskotynsky@ralaw.com,cbaker@ralaw.com
- Emily S Gottlieb emily.gottlieb@gardencitygroup.com,  
jeffrey.miller@gardencitygroup.com,elizabeth.vrato@gardencitygroup.com,heather.mont  
gomery@gardencitygroup.com,PACERTeam@gardencitygroup.com
- Aaron L. Hammer ahammer@freebornpeters.com, bkdocketing@freebornpeters.com
- Vaughn A Hoblet hoblet@marshall-melhorn.com, bartoe@marshall-melhorn.com
- Reginald W Jackson rwjackson@vorys.com, cdfricke@vorys.com
- Michael J Kaczka mkaczka@mcdonaldhopkins.com,  
bkfilings@mcdonaldhopkins.com;jpolinko@mcdonaldhopkins.com
- Scott J. Kelly skelly@tuckerellis.com
- Alan R Lepene alan.lepene@thompsonhine.com
- Douglas L Lutz dlutz@fbtlaw.com, ahammerle@fbtlaw.com
- Marc Merklin mmerklin@brouse.com, tpalcic@brouse.com
- Robert E. Messick rmessick@icardmerrill.com
- Joshua David Nolan jnolan@bdblaw.com
- Lawrence E Oscar leoscar@hahnlaw.com, hlpcr@hahnlaw.com
- Mark E Owens marko@sonkinkoberna.com
- Christopher W Peer cpeer@hahnlaw.com, hlpcr@hahnlaw.com
- Craig W Relman crelman@aol.com
- Paul M. Rosenblatt prosenblatt@kilpatrickstockton.com,  
mhindman@kilpatrickstockton.com
- Michael P Shuster mshuster@porterwright.com
- Sam O Simmerman sosimmerman@kwgd.com, mhelmick@kwgd.com
- Gregory D Swope gswope@kwgd.com, mhelmick@kwgd.com
- Diana M Thimmig dthimmig@ralaw.com,  
cwoodruff@ralaw.com;casedocket@ralaw.com
- Matthew R. Thomas matthew@dfinleylaw.com
- Lawrence E Tofel letofel@tofellow.com,  
jworden@tofellow.com;mallison@tofellow.com
- United States Trustee (Registered address)@usdoj.gov

- Curtis L. Tuggle [curtis.tuggle@thompsonhine.com](mailto:curtis.tuggle@thompsonhine.com)
- Bradley R Waugh [waugh@maf-law.com](mailto:waugh@maf-law.com), [farell@maf-law.com](mailto:farell@maf-law.com)
- Cheryl Wear [cheryl.wear@ohioattorneygeneral.gov](mailto:cheryl.wear@ohioattorneygeneral.gov)
- Gregory R. Wilson [wilson1010@aol.com](mailto:wilson1010@aol.com), [amflawoffice@fuse.net](mailto:amflawoffice@fuse.net)
- Maria D. Giannirakis ust06 [maria.d.giannirakis@usdoj.gov](mailto:maria.d.giannirakis@usdoj.gov)

Atwell, LLC

Brouse McDowell  
388 S. Main Street Suite 500  
Akron, OH 44311

Ken Burton  
Manatee County Tax Collector  
PO Box 25300  
Bradenton, FL 34206-5300

Conery Valuation Group  
1437 Bayberry Dr  
Jamison, PA 18929

Conway Mackenzie, Inc.

David R. Exley

Gillott Appraisal Services Inc.  
3136 Windmoor Dr N  
Palm Harbor, FL 34685

Morris-Depew Associates Inc.  
2914 Cleveland Ave  
Fort Myers, FL 33901

The Chartwell Group

The Parkland Group  
1375 E. Ninth St  
Cleveland, OH 44114

## SETTLEMENT AGREEMENT AND RELEASE

The Parties below enter into this Settlement Agreement and Release on this 26 day of October 2010.

### Definitions

**“Agreement”**: this Settlement Agreement and Release.

**“Authorizing Order”**: an agreed order entered by the Court, in a form reasonably satisfactory to all parties, fully resolving all matters relating to the Motion and authorizing and approving this Agreement.

**“Bankruptcy Proceedings”**: the Chapter 11 proceedings in bankruptcy in Schwab Industries, Inc. et al before the United States Bankruptcy Court for the Northern District of Ohio, Eastern Division, Case No. 10-60702-rk (jointly administered).

**“Court”**: the United States Bankruptcy Court for the Northern District of Ohio, Eastern Division, in the Bankruptcy Proceedings.

**“Debtors”**: The following companies that filed petitions for relief in the Bankruptcy Proceedings:

- Schwab Industries, Inc.
- Medina Cartage Co.
- Medina Supply Company
- Quality Block & Supply, Inc.
- O.I.S. Tire, Inc.
- Twin Cities Concrete Company
- Schwab Ready-Mix, Inc.
- Schwab Materials, Inc.
- Eastern Cement Corp.

**“Eastern Portland”:** Eastern Portland Cement Corporation, incorporated as a Florida corporation on October 10, 1983.

**“Florida Litigation”:** the breach of contract action of FLSmidth Inc. v. Eastern Portland Cement Corporation filed in the Circuit Court for the 12<sup>th</sup> Judicial Circuit, Manatee County, FL, Case No. 2010CA006175 and the action styled Eastern Portland Cement Corporation v. FLSmidth Inc., filed in the United States District Court for the Middle District of Florida, Case No. 08-CV-637.

**“Motion”:** The motion filed by FLS in the Bankruptcy Proceedings on July 27, 2010, seeking, inter alia, an accounting, clarification of the sale of assets, and an Order vacating the Sale Order.

**“Parties”:** all the Parties to this Agreement, as follows:

- FLSmidth Inc. (“FLS”)
- The Debtors
- Oldcastle Materials, Inc., acting on its own behalf and on behalf of its subsidiaries and affiliated companies and joint ventures of which any of the foregoing may be a part, including without limitation, American Cement Company, LLC (collectively, “Oldcastle”)
- KeyBank National Association as lender and in its capacity as administrative agent for itself, Huntington and BOA (“KeyBank”)
- The Huntington National Bank (“Huntington”)
- Bank of America, N.A. (“BOA”)
- The Official Committee of Unsecured Creditors in the Bankruptcy Proceedings (the “Committee”)
- Eastern Portland.

**“Party”** means any one of the foregoing.

**“Sale Order”**: the Court’s order of May 28, 2010 in the Bankruptcy Proceedings authorizing the sale of substantially all of the Debtors’ assets free and clear of liens, claims, and interest.

**“Settlement Sum”**: a sum of Forty-Five Thousand Dollars (\$45,000) to be paid to FLS as stated below, payment of which shall be made by the Debtors.

**WHEREAS**, on or about June 9, 2010, FLS filed a proof of claim for \$125,000 in the Bankruptcy Proceedings (the “Proof of Claim”); and,

**WHEREAS**, on July 27, 2010, FLS filed its Motion in the Bankruptcy Proceedings; and,

**WHEREAS**, the Debtors, Oldcastle, KeyBank, (on its own behalf and as administrative agent for Huntington and BOA) and the Committee filed objections to the Motion; and,

**WHEREAS**, the Parties have agreed to settle all disputes and claims concerning, arising from or relating to the Motion, the Florida Litigation, and the Proof of Claim in the Bankruptcy Proceedings- all subject to and in accordance with the provisions, terms and conditions of this Agreement,

**NOW, THEREFORE**, in consideration of the mutual promises and agreements stated below and intending to be bound thereby, the Parties hereby agree as follows:

1. This Agreement shall not come into effect and none of its provisions, terms or conditions shall in any way be binding upon any of the Parties until an Authorizing Order is entered by the Court in the Bankruptcy Proceedings. If the Court rejects this Agreement:
  - a. this Agreement shall be void,
  - b. the Parties shall have whatever rights, claims, defenses, obligations, liabilities and entitlement to remedies that they possessed prior to entering into this Agreement, and



- c. the time that elapsed between signing the Agreement and notice of the Court's rejection of the Agreement shall be excluded from the calculation or consideration of time for the purposes of the statute of limitations, laches and other time bars.
2. Within fifteen (15) days following the date of entry of an Authorizing Order, the Settlement Sum shall be paid to FLS by the Debtors via wire transfer(s) as follows:

Nordea Bank Finland PLC- New York Branch  
437 Madison Avenue  
New York, NY 10022  
ABA No./Routing Transit No. 026010786  
Swift Address: NDEAUS3N  
Beneficiary: FLSmidth Inc.  
Beneficiary Address: 2040 Avenue C, Bethlehem, PA 18017  
Beneficiary Account No. 7174543001
3. The Debtors shall be entitled to the following contribution payments: (i) \$9,000.00 from Oldcastle, (ii) \$9,000.00 from funds held by Freeborn & Peters LLP for the benefit of general unsecured creditors and (iii) \$9,000.00 from KeyBank, which payment shall be satisfied through future proceeds of KeyBank's collateral upon KeyBank's receipt of same.
4. FLS shall accept payment of the Settlement Sum in full and complete settlement of all disputes and claims concerning, arising from or relating to the Bankruptcy Proceedings (including but not limited to, the Motion, the Proof of Claim and all other claims as defined in section 101(5) of the Bankruptcy Code), the Florida Litigation, and/or any of the facts alleged therein. .

5. Within five (5) business days after receipt of the Settlement Sum, FLS shall move the Circuit Court for the 12<sup>th</sup> Judicial Circuit, Manatee County, FL to dismiss Case No. 2010CA006175 with prejudice. The Parties acknowledge that Case No. 08-CV-637 before the United States District Court for the Middle District of Florida has already been dismissed with prejudice.
  
6. In consideration of actual receipt of the Settlement Sum, FLS releases, waives and agrees to hold harmless the Debtors, Eastern Portland, Oldcastle, KeyBank, Huntington, BOA and the Committee and each of their respective parent, subsidiary and affiliated companies and all the foregoing's respective directors, officers, employees, shareholders, partners, co-venturers, joint ventures of which any of the foregoing may be a part, creditors, insurers, attorneys, agents, representatives, successors and assigns from all claims, disputes, motions, and causes of action, whether:
  - a. known or unknown,
  - b. arising at law or in equity,
  - c. sounding in contract, tort (including, but not limited to, misrepresentation, fraud or other intentional torts), or otherwise; or
  - d. accruing prior to, at or after the date when this Agreement takes effect,

that FLS had, has or may have which in any way concern, arise from or relate to the Bankruptcy Proceedings (including but not limited to the Motion, the Proof of Claim and all other claims as defined in section 101(5) of the Bankruptcy Code), the Florida Litigation and/or any prior contracts or other business dealings of any kind that FLS had with any of the Debtors or Eastern Portland.

7. In consideration of FLS' promises and releases as stated in this Agreement, each Debtor (on its own behalf and on behalf its parent, subsidiary and affiliated companies and all the foregoing's respective directors, officers, employees, agents, representatives, insurers and attorneys) releases, waives and agrees to hold

harmless FLS, its parent, subsidiary and affiliated companies and all the foregoing's respective directors, officers, employees, shareholders, partners, creditors, insurers, attorneys, agents, representatives, successors and assigns from all claims, disputes, motions, and causes of action, whether:

- a. known or unknown,
- b. arising at law or in equity,
- c. sounding in contract, tort (including, but not limited to, misrepresentation, fraud or other intentional torts), or otherwise; or
- d. accruing prior to, at or after the date when this Agreement takes effect,

that it had, has or may have which in any way concern, arise from or relate to the Bankruptcy Proceedings, the Motion, the Florida Litigation and/or any prior contracts or other business dealings of any kind that it had with FLS.

8. In consideration of FLS' promises and releases as stated in this Agreement, Oldcastle releases, waives and agrees to hold harmless FLS, its parent, subsidiary and affiliated companies and all the foregoing's respective directors, officers, employees, shareholders, partners, creditors, insurers, attorneys, agents, representatives, successors and assigns from all claims, disputes, motions, and causes of action, whether:

- a. known or unknown,
- b. arising at law or in equity,
- c. sounding in contract, tort (including, but not limited to, misrepresentation, fraud or other intentional torts), or otherwise; or
- d. accruing prior to, at or after the date when this Agreement takes effect,

that it had, has or may have which in any way concern, arise from or relate to the Bankruptcy Proceedings, the Motion, and/or the Florida Litigation.

9. In consideration of FLS' promises and releases as stated in this Agreement, KeyBank releases, waives and agrees to hold harmless FLS, its parent, subsidiary and affiliated companies and all the foregoing's respective directors, officers, employees, shareholders, partners, creditors, insurers, attorneys, agents, representatives, successors and assigns from all claims, disputes, motions, and causes of action, whether:

- a. known or unknown,
- b. arising at law or in equity,
- c. sounding in contract, tort (including, but not limited to, misrepresentation, fraud or other intentional torts), or otherwise; or
- d. accruing prior to, at or after the date when this Agreement takes effect,

that KeyBank had, has or may have which in any way concern, arise from or relate to the Bankruptcy Proceedings, the Motion, the Florida Litigation, and/or any prior contracts or other business dealings of any kind that any Debtor or Eastern Portland had with FLS.

10. In consideration of FLS' promises and releases as stated in this Agreement, Huntington releases, waives and agrees to hold harmless FLS, its parent, subsidiary and affiliated companies and all the foregoing's respective directors, officers, employees, shareholders, partners, creditors, insurers, attorneys, agents, representatives, successors and assigns from all claims, disputes, motions, and causes of action, whether:

- a. known or unknown,
- b. arising at law or in equity,
- c. sounding in contract, tort (including, but not limited to, misrepresentation, fraud or other intentional torts), or otherwise; or
- d. accruing prior to, at or after the date when this Agreement takes effect,

that Huntington had, has or may have which in any way concern, arise from or relate to the Bankruptcy Proceedings, the Motion, the Florida Litigation, and/or any prior contracts or other business dealings of any kind that any Debtor or Eastern Portland had with FLS.

11. In consideration of FLS' promises and releases as stated in this Agreement, BOA releases, waives and agrees to hold harmless FLS, its parent, subsidiary and affiliated companies and all the foregoing's respective directors, officers, employees, shareholders, partners, creditors, insurers, attorneys, agents, representatives, successors and assigns from all claims, disputes, motions, and causes of action, whether:
  - a. known or unknown,
  - b. arising at law or in equity,
  - c. sounding in contract, tort (including, but not limited to, misrepresentation, fraud or other intentional torts), or otherwise; or
  - d. accruing prior to, at or after the date when this Agreement takes effect,

that BOA had, has or may have which in any way concern, arise from or relate to the Bankruptcy Proceedings, the Motion, the Florida Litigation, and/or any prior contracts or other business dealings of any kind that any Debtor or Eastern Portland had with FLS.

12. In consideration of FLS' promises and releases as stated in this Agreement, the Committee releases, waives and agrees to hold harmless FLS, its parent, subsidiary and affiliated companies and all the foregoing's respective directors, officers, employees, shareholders, partners, creditors, insurers, attorneys, agents, representatives, successors and assigns from all claims, disputes, motions, and causes of action, whether:
  - a. known or unknown,

- b. arising at law or in equity,
- c. sounding in contract, tort (including, but not limited to, misrepresentation, fraud or other intentional torts), or otherwise; or
- d. accruing prior to, at or after the date when this Agreement takes effect,

that the Committee had, has or may have which in any way concern, arise from or relate to the Bankruptcy Proceedings, the Motion, and/or the Florida Litigation.

13. In consideration of FLS' promises and releases as stated in this Agreement, Eastern Portland releases, waives and agrees to hold harmless FLS, its parent, subsidiary and affiliated companies and all the foregoing's respective directors, officers, employees, shareholders, partners, creditors, insurers, attorneys, agents, representatives, successors and assigns from all claims, disputes, motions, and causes of action, whether:

- a. known or unknown,
- b. arising at law or in equity,
- c. sounding in contract, tort (including, but not limited to, misrepresentation, fraud or other intentional torts), or otherwise; or
- d. accruing prior to, at or after the date when this Agreement takes effect,

that Eastern Portland had, has or may have which in any way concern, arise from or relate to the Bankruptcy Proceedings, the Motion, the Florida Litigation and/or any prior contracts or other business dealings of any kind that it had with FLS.

14. This Agreement settles and compromises disputed claims. Nothing in this Agreement shall be construed as an admission of any of the allegations or claims that any Party made against one or more of the other Parties in the Bankruptcy Proceedings or the Florida Litigation, including without limitation that this Agreement shall not serve as an acknowledgement by the Debtors, KeyBank,

Huntington, BOA, Oldcastle or the Committee in any way that Eastern Portland exists distinct from Debtor Eastern Cement Corporation.

15. A Party's waiver or failure to object to another Party's failure to perform a particular activity within the time stated in this Agreement shall not excuse the other Party's duty to perform that activity.
16. A Party's waiver of a breach by another Party of this Agreement shall not excuse the other Party from performing or completing the obligation that was breached or any other obligation that it has under this Agreement.
17. Each Party represents that:
  - a. it has obtained all requisite approvals, authorizations and assents that are needed to enable it to enter into and perform its obligations under this Agreement, and
  - b. it shall take all steps necessary in cooperation with all other Parties to obtain an Authorizing Order.
18. The provisions, terms and conditions of this Agreement were negotiated and drafted by the Parties, acting through their respective attorneys. If any provision, term or condition is hereafter held to be ambiguous, the ambiguity shall not be resolved against any one Party as drafter of this Agreement.
19. Subject to the obligation to share this Agreement with the Court and subject to each Party's right and/or obligation to report the terms and existence of this Agreement to its attorneys, management, accountants, or auditors, or to any regulatory authority or governmental unit, each Party agrees to keep the terms and existence of this Agreement confidential.

20. This Agreement replaces and voids all previous offers, acceptances, agreements, representations and inducements concerning the subject matters of this Agreement.
21. This Agreement contains all the Parties' promises and agreements concerning the subject matters of this Agreement and may be amended only by way of a formal written amendment that is signed by the Parties' respective authorized representatives and authorized and approved by the Court. Notwithstanding any rule of law to the contrary, this Agreement shall not be amended (nor shall any court otherwise interpret or construe this Agreement to have been amended) orally, by informal writings, by conduct, by waiver, or by any combination of the foregoing.
22. This Agreement shall be interpreted, enforced and governed by and under the laws of Ohio, notwithstanding that applicable rules and principles of conflict of laws may require application of the laws of a different State.
23. This Agreement shall be binding upon the Parties and their predecessors, successors, agents and assigns.
24. This Agreement may be signed by the Parties in one or more faxed or e-mailed counterparts, all of which combined shall constitute a fully signed Agreement.

**THE REST OF THIS PAGE IS INTENTIONALLY LEFT BLANK.**



WHEREFORE, the Parties signify their assent to the foregoing Agreement through the signatures of their authorized representatives below:

FLSmith Inc.

By: [Signature]  
Date: 10/19/10

Schwab Industries, Inc.

By: D.A. [Signature] President  
Date: 10/26/10

Medina Cartage Co.

By: D.A. [Signature]  
Date: 10/26/10

Medina Supply Company

By: D.A. [Signature]  
Date: 10/26/10

Quality Block & Supply, Inc.

By: D.A. [Signature]  
Date: 10/26/10

O.I.S. Tire, Inc.

By: D.A. [Signature]  
Date: 10/26/10

Twin Cities Concrete Company

By: D.A. [Signature]  
Date: 10/26/10

Schwab Ready-Mix, Inc.

By: D.A. [Signature]  
Date: 10/26/10

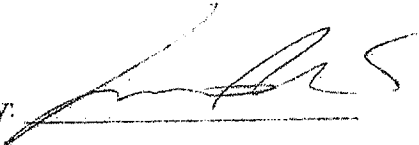
Schwab Materials, Inc.

By: D.A. [Signature]  
Date: 10/26/10

Eastern Cement Corp.

By: D.A. [Signature]  
Date: 10/26/10

**Oldcastle Materials, Inc., on its own  
behalf and on behalf of its subsidiary and  
affiliated companies and joint venturers**

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

Date: 10-19-10

**KeyBank National Association**

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

Date: \_\_\_\_\_

**The Huntington National Bank**

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

Date: \_\_\_\_\_

**Bank of America, N.A.**

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

Date: \_\_\_\_\_

**The Official Committee of  
Unsecured Creditors of Schwab  
Industries, Inc. et al**

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

Date: \_\_\_\_\_

**Eastern Portland Cement Corporation**

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

Date: \_\_\_\_\_

**Oldcastle Materials, Inc., on its own  
behalf and on behalf of its subsidiary and  
affiliated companies and joint venturers**

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

Date: \_\_\_\_\_

**The Huntington National Bank**

By: *B. M. ...*

Date: 11/2/10

**The Official Committee of  
Unsecured Creditors of Schwab  
Industries, Inc. et al**

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

Date: \_\_\_\_\_

**Eastern Portland Cement Corporation**

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

Date: \_\_\_\_\_

**KeyBank National Association**

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

Date: \_\_\_\_\_

**Bank of America, N.A.**

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

Date: \_\_\_\_\_

**Oldcastle Materials, Inc., on its own  
behalf and on behalf of its subsidiary and  
affiliated companies and joint venturers**

**KeyBank National Association**

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**The Huntington National Bank**

**Bank of America, N.A.**

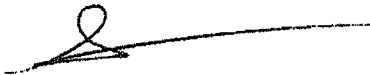
By: \_\_\_\_\_

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

**The Official Committee of  
Unsecured Creditors of Schwab  
Industries, Inc. et al**

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

Date: Oct. 27, 2010

**Eastern Portland Cement Corporation**

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

Date: \_\_\_\_\_

Oldcastle Materials, Inc., on its own  
behalf and on behalf of its subsidiary and  
affiliated companies and joint venturers

KeyBank National Association

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

The Huntington National Bank

Bank of America, N.A.

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

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

Date: \_\_\_\_\_

Date: \_\_\_\_\_

The Official Committee of  
Unsecured Creditors of Schwab  
Industries, Inc. et al

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

Date: \_\_\_\_\_

Eastern Portland Cement Corporation

By: D. A. [Signature] President

Date: 10/26/10

**Oldcastle Materials, Inc., on its own  
behalf and on behalf of its subsidiary and  
affiliated companies and joint venturers**

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

Date: \_\_\_\_\_

**KeyBank National Association**

By: [Signature], SVP

Date: 11/2/10

**The Huntington National Bank**

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

Date: \_\_\_\_\_

**Bank of America, N.A.**

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

Date: \_\_\_\_\_

**The Official Committee of  
Unsecured Creditors of Schwab  
Industries, Inc. et al**

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

Date: \_\_\_\_\_

**Eastern Portland Cement Corporation**

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

Date: \_\_\_\_\_

**Oldcastle Materials, Inc., on its own  
behalf and on behalf of its subsidiary and  
affiliated companies and joint venturers**

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

Date: \_\_\_\_\_

**The Huntington National Bank**

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

Date: \_\_\_\_\_

**The Official Committee of  
Unsecured Creditors of Schwab  
Industries, Inc. et al**

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

Date: \_\_\_\_\_

**Eastern Portland Cement Corporation**

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

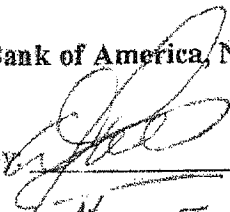
Date: \_\_\_\_\_

**KeyBank National Association**

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

Date: \_\_\_\_\_

**Bank of America, N.A.**

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

Date: Nov 5, 2010